

## LEGISLATIVE BILL 410

Approved by the Governor May 26, 2003

Introduced by Speaker Bromm, 23; at the request of the Governor

AN ACT relating to state buildings; to amend section 81-1114, Reissue Revised Statutes of Nebraska, and sections 81-179, 81-180, 81-184, and 81-188.01 to 81-188.06, Revised Statutes Supplement, 2002; to change funding provisions under the Deferred Building Renewal Act; to change duties of the building division; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 81-179, Revised Statutes Supplement, 2002, is amended to read:

81-179. (1) 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.

(2) 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.

(3) 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.

(4) ~~Subject to appropriations approved by the Legislature, for any fiscal year an amount not to exceed two percent of the total revenue credited to the Building Renewal Allocation Fund in the second preceding fiscal year may be expended to meet the cost of administering the Deferred Building Renewal Act.~~

~~(5) 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.~~

Sec. 2. Section 81-180, Revised Statutes Supplement, 2002, is amended to read:

81-180. The Building Renewal Allocation Fund, State Building Renewal Assessment Fund, University Building Renewal Assessment Fund, and State College Building Renewal Assessment Fund shall only be expended for the purpose of building renewal work except as appropriated by the Legislature to meet the cost of administering the Deferred Building Renewal Act or as otherwise provided. In each fiscal year, expenditures for the cost of administering the act from any one of such funds shall be proportional to the revenue credited to such fund in the preceding fiscal year in comparison to the total revenue credited to all of such funds in such year. As applicable, each agency shall be allocated funds as directed by the Governor using the system of priorities established in section 81-178. In the making of allocations from such funds, the Governor shall follow a policy that first considers the use of private enterprise services for deferred maintenance projects while using state employees primarily for the performance of preventive maintenance. When such preventive maintenance is of a nature that only occasional highly technical attention is scheduled, primary consideration shall be given to using contractual services. The task force shall review all such contracts for such services from private enterprises.

Sec. 3. Section 81-184, Revised Statutes Supplement, 2002, is amended to read:

81-184. The cost of administration of the Deferred Building Renewal Act shall be paid from ~~the General Fund,~~ the Building Renewal Allocation Fund, the State Building Renewal Assessment Fund, the University Building Renewal Assessment Fund, and the State College Building Renewal Assessment Fund in such amounts as may be appropriated by the Legislature. The Governor shall

each odd-numbered year submit a specific itemized appropriation request to cover such administrative costs.

Sec. 4. Section 81-188.01, Revised Statutes Supplement, 2002, is amended to read:

81-188.01. (1) The State Building Renewal Assessment Fund is created. The fund shall be under the control of the Governor for allocation to building renewal projects of the various agencies and shall be administered in a manner consistent with the administration of the Building Renewal Allocation Fund pursuant to the Deferred Building Renewal Act. No amounts accruing to the State Building Renewal Assessment Fund shall be expended in any manner for purposes other than as provided in this section. ~~Subject to appropriations approved or as appropriated by the Legislature, for any fiscal year an amount not to exceed two percent of the total revenue credited to the fund in the second preceding fiscal year may be expended to meet the cost of administering the act.~~

(2) Revenue credited to the fund shall include amounts derived from charges assessed pursuant to subdivision (6)(b) of section 81-1108.17, depreciation charges remitted pursuant to section 81-188.02, and such other revenue as may be incident to the administration of the fund.

(3) Amounts appropriated from the fund shall be expended to conduct renewal work as defined in section 81-173 and to complete other improvements incident to such renewal work as deemed necessary or appropriate by the task force. From amounts accruing to the fund as the result of depreciation charges assessed pursuant to subdivision (6)(b) of section 81-1108.17, expenditures for capital improvements shall be limited to improvements to only those facilities for which such charges have been assessed and remitted. From amounts accruing to the fund as the result of depreciation charges assessed pursuant to section 81-188.02, expenditures for capital improvement projects shall be limited to exclude (a) capital improvement projects relating to facilities, structures, or buildings owned, leased, or operated by the (i) University of Nebraska, (ii) Nebraska state colleges, (iii) Department of Aeronautics, (iv) Department of Roads, (v) Game and Parks Commission, or (vi) Board of Educational Lands and Funds and (b) capital improvement projects relating to facilities, structures, or buildings for which depreciation charges are assessed pursuant to subdivision (6)(b) of section 81-1108.17. ~~Except to conduct renewal work of an emergency nature and to meet the cost of administering the act, no amounts accruing to the fund as the result of depreciation charges assessed pursuant to section 81-188.02 shall be expended prior to July 1, 2003. For each of fiscal years 2003-04 through 2008-09, expenditure of amounts accruing to the fund as the result of depreciation charges assessed pursuant to section 81-188.02 shall not exceed fifty percent of such revenue credited to the fund in the second preceding fiscal year. For fiscal year 2009-10 and each fiscal year, task force allocations from thereafter, expenditure of amounts accruing to the fund as the result of depreciation charges assessed pursuant to section 81-188.02 shall not exceed the total of such revenue credited to the fund in the second preceding fiscal year, except that if no revenue from depreciation charge assessments was credited to the fund in the preceding fiscal year, allocations shall not exceed fifty percent of revenue credited to the fund in the last preceding fiscal year in which depreciation charge assessments were credited to the fund.~~

(4) 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.

(5) The State Treasurer shall transfer one million nine hundred forty-seven thousand one hundred dollars from the State Building Renewal Assessment Fund to the Nebraska Capital Construction Fund within five days after January 1, 2003.

(6) The State Treasurer shall transfer one million nine hundred forty-seven thousand one hundred dollars from the State Building Renewal Assessment Fund to the Nebraska Capital Construction Fund within five days after May 1, 2003.

Sec. 5. Section 81-188.02, Revised Statutes Supplement, 2002, is amended to read:

81-188.02. (1) For purposes of this section, capital improvement project means (a) construction of a new facility, structure, or building, (b) construction of additions to an existing facility, structure, or building, (c) renovation of an existing facility, structure, or building if the total project cost of such renovation represents not less than fifteen percent of the value of the existing facility, structure, or building as determined by the Department of Administrative Services, (d) purchase of an existing facility, structure, or building, and (e) acquisition of a facility,

structure, or building through means of conveyance other than sale and purchase.

(2) Beginning with the fiscal year that commences subsequent to the calendar year in which has occurred substantial completion of a capital improvement project as defined in subdivisions (1)(a) through (1)(c) of this section or acquisition of a capital improvement project as defined in subdivisions (1)(d) and (1)(e) of this section, the department shall assess a capital improvement depreciation charge to the agency maintaining ownership or control of the related facility, structure, or building and shall assess such charge for each fiscal year thereafter, except that no depreciation charges shall be assessed or paid pursuant to this section for the period beginning July 1, 2003, and ending June 30, 2004, and depreciation charges in the amount of one-half of the amount otherwise assessed pursuant to this section shall be assessed and paid for the period beginning July 1, 2004, and ending June 30, 2005.

(3) The annual depreciation charge for a capital improvement project as defined in subdivisions (1)(a) through (1)(c) of this section shall be computed as two percent of the total project cost of the capital improvement project. The annual depreciation charge for a capital improvement project as defined in subdivision (1)(d) of this section shall be computed as two percent of the greater of the purchase price or the value, as determined by the department, of the capital improvement project at the time of acquisition. The annual depreciation charge for a capital improvement project as defined in subdivision (1)(e) of this section shall be computed as two percent of the value, as determined by the department, of the capital improvement project at the time of acquisition. The department may assess the charge annually or in monthly, quarterly, or semiannual installments.

~~(4)(a) Depreciation charges shall be assessed for capital improvement projects as defined in subdivisions (1)(a) through (1)(d) of this section (i) for which funds have been appropriated for fiscal year 1997-98 and fiscal years thereafter, excluding reappropriation of fiscal year 1996-97 or prior period undisbursed appropriation balances, or (ii) which are to be completed or acquired by means other than the expenditure of appropriated funds and which are either initiated or acquired in fiscal year 1997-98 and fiscal years thereafter.~~

~~(b) Depreciation charges shall be assessed for capital improvement projects as defined in subdivision (1)(e) of this section for capital improvement projects acquired, either by expenditure of appropriated funds or other means, in fiscal year 1997-98 and fiscal years thereafter.~~

(4) Depreciation charges shall not be assessed pursuant to this section for capital improvement projects relating to facilities, structures, or buildings owned, leased, or operated by the: (i) University of Nebraska; (ii) Nebraska state colleges; (iii) Department of Aeronautics; (iv) Department of Roads; (v) Game and Parks Commission; or (vi) Board of Educational Lands and Funds or to other buildings or grounds owned, leased, or operated by the State of Nebraska which are specifically exempted by the Department of Administrative Services because the assessment of such depreciation charges would result in the ineligibility for federal funding or would result in hardship on an agency, board, or commission due to other exceptional or unusual circumstances. Depreciation charges shall not be assessed pursuant to this section for capital improvement projects relating to facilities, structures, or buildings of which the department is custodian pursuant to section 81-1108.17 and for which charges are assessed pursuant to subdivision (6)(b) of such section.

(5) Payment of depreciation charges assessed pursuant to this section shall be remitted to the State Treasurer for credit to the State Building Renewal Assessment Fund.

Sec. 6. Section 81-188.03, Revised Statutes Supplement, 2002, is amended to read:

81-188.03. (1) The University Building Renewal Assessment Fund is created. The fund shall be under the control of the Governor for allocation to building renewal projects of the University of Nebraska and shall be administered in a manner consistent with administration of the Building Renewal Allocation Fund pursuant to the Deferred Building Renewal Act. No amounts accruing to the University Building Renewal Assessment Fund shall be transferred to any other fund and no amounts accruing to the fund shall be expended in any manner for purposes other than as provided in this section. Subject to appropriations approved or as appropriated by the Legislature, for any fiscal year an amount not to exceed two percent of the total revenue credited to the fund in the second preceding fiscal year may be expended to meet the cost of administering the act.

(2) Revenue credited to the fund shall include amounts derived from

depreciation charges remitted pursuant to section 81-188.04 and such other revenue as may be incident to the administration of the fund.

(3) Amounts appropriated from the fund shall be expended to conduct renewal work as defined in section 81-173 and to complete other improvements incident to such renewal work as deemed necessary or appropriate by the task force. Expenditures from the fund for capital improvements shall be limited to exclude expenditures for capital improvement projects relating to facilities, structures, or buildings from which revenue is derived and pledged for the retirement of revenue bonds issued under sections 85-403 to 85-411. ~~Except to conduct renewal work of an emergency nature and to meet the cost of administering the act, no amounts shall be expended from the fund prior to July 1, 2003. For each of fiscal years 2003-04 through 2008-09, appropriations from the fund shall not exceed fifty percent of total revenue credited to the fund in the second preceding fiscal year. For fiscal year 2009-10 and~~ For each fiscal year, task force allocations thereafter, appropriations from the fund shall not exceed total revenue credited to the fund in the second preceding fiscal year, except that if no revenue from depreciation charge assessments was credited to the fund in the preceding fiscal year, allocations shall not exceed fifty percent of revenue credited to the fund in the last preceding fiscal year in which depreciation charge assessments were credited to the fund.

(4) 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.

Sec. 7. Section 81-188.04, Revised Statutes Supplement, 2002, is amended to read:

81-188.04. (1) For purposes of this section, capital improvement project means (a) construction of a new facility, structure, or building, (b) construction of additions to an existing facility, structure, or building, (c) renovation of an existing facility, structure, or building if the total project cost of such renovation represents not less than fifteen percent of the value of the existing facility, structure, or building as determined by the Department of Administrative Services, (d) purchase of an existing facility, structure, or building, and (e) acquisition of a facility, structure, or building through means of conveyance other than sale and purchase.

(2) Beginning with the fiscal year that commences subsequent to the calendar year in which has occurred substantial completion of a capital improvement project by the University of Nebraska as defined in subdivisions (1)(a) through (1)(c) of this section or acquisition of a capital improvement project by the University of Nebraska as defined in subdivisions (1)(d) and (1)(e) of this section, the department shall assess a capital improvement depreciation charge to the Board of Regents of the University of Nebraska and shall assess such charge for each fiscal year thereafter, except that no depreciation charges shall be assessed or paid pursuant to this section for the period beginning July 1, 2003, and ending June 30, 2004, and depreciation charges in the amount of one-half of the amount otherwise assessed pursuant to this section shall be assessed and paid for the period beginning July 1, 2004, and ending June 30, 2005.

(3) The annual depreciation charge for a capital improvement project as defined in subdivisions (1)(a) through (1)(c) of this section shall be computed as two percent of the total project cost of the capital improvement project. The annual depreciation charge for a capital improvement project as defined in subdivision (1)(d) of this section shall be computed as two percent of the greater of the purchase price or the value, as determined by the department, of the capital improvement project at the time of acquisition. The annual depreciation charge for a capital improvement project as defined in subdivision (1)(e) of this section shall be computed as two percent of the value, as determined by the department, of the capital improvement project at the time of acquisition. The department may assess the charge annually or in monthly, quarterly, or semiannual installments.

(4) ~~Depreciation charges shall be assessed for capital improvement projects as defined in subdivisions (1)(a) through (1)(d) of this section (a) for which funds have been appropriated for fiscal year 1997-98 and fiscal years thereafter, excluding reappropriation of fiscal year 1996-97 or prior period undisbursed appropriation balances, or (b) which are to be completed or acquired by means other than the expenditure of appropriated funds and which are either initiated or acquired in fiscal year 1997-98 and fiscal years thereafter. Depreciation charges shall be assessed for capital improvement projects as defined in subdivision (1)(e) of this section for capital improvement projects acquired, either by expenditure of appropriated funds or other means, in fiscal year 1997-98 and fiscal years thereafter. Depreciation~~

charges shall not be assessed pursuant to this section for capital improvement projects relating to facilities, structures, or buildings from which revenue is derived and pledged for the retirement of revenue bonds issued under sections 85-403 to 85-411.

(5) Payment of depreciation charges assessed pursuant to this section shall be remitted to the State Treasurer for credit to the University Building Renewal Assessment Fund.

Sec. 8. Section 81-188.05, Revised Statutes Supplement, 2002, is amended to read:

81-188.05. (1) The State College Building Renewal Assessment Fund is created. The fund shall be under the control of the Governor for allocation to building renewal projects of the Nebraska state colleges and shall be administered in a manner consistent with the administration of the Building Renewal Allocation Fund pursuant to the Deferred Building Renewal Act. No amounts accruing to the State College Building Renewal Assessment Fund shall be transferred to any other fund and no amounts accruing to the fund shall be expended in any manner for purposes other than as provided in this section. ~~Subject to appropriations approved or as appropriated by the Legislature, for any fiscal year an amount not to exceed two percent of the total revenue credited to the fund in the second preceding fiscal year may be expended to meet the cost of administering the act.~~

(2) Revenue credited to the fund shall include amounts derived from depreciation charges remitted pursuant to section 81-188.06 and such other revenue as may be incident to administration of the fund.

(3) Amounts appropriated from the fund shall be expended to conduct renewal work as defined in section 81-173 and to complete other improvements incident to such renewal work as deemed necessary or appropriate by the task force. Expenditures from the fund for capital improvements shall be limited to exclude expenditures for capital improvement projects relating to facilities, structures, or buildings from which revenue is derived and pledged for the retirement of revenue bonds issued under sections 85-403 to 85-411. ~~Except to conduct renewal work of an emergency nature and to meet the cost of administering the act, no amounts shall be expended from the fund prior to July 1, 2003. For each of fiscal years 2003-04 through 2008-09, appropriations from the fund shall not exceed fifty percent of total revenue credited to the fund in the second preceding fiscal year. For fiscal year 2009-10 and For each fiscal year, task force allocations thereafter, appropriations from the fund shall not exceed total revenue credited to the fund in the second preceding fiscal year, except that if no revenue from depreciation charge assessments was credited to the fund in the preceding fiscal year, allocations shall not exceed fifty percent of revenue credited to the fund in the last preceding fiscal year in which depreciation charge assessments were credited to the fund.~~

(4) 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.

Sec. 9. Section 81-188.06, Revised Statutes Supplement, 2002, is amended to read:

81-188.06. (1) For purposes of this section, capital improvement project means (a) construction of a new facility, structure, or building, (b) construction of additions to an existing facility, structure, or building, (c) renovation of an existing facility, structure, or building if the total project cost of such renovation represents not less than fifteen percent of the value of the existing facility, structure, or building as determined by the Department of Administrative Services, (d) purchase of an existing facility, structure, or building, and (e) acquisition of a facility, structure, or building through means of conveyance other than sale and purchase.

(2) Beginning with the fiscal year that commences subsequent to the calendar year in which has occurred substantial completion of a capital improvement project by the Nebraska state colleges as defined in subdivisions (1)(a) through (1)(c) of this section or acquisition of a capital improvement project by the Nebraska state colleges as defined in subdivisions (1)(d) and (1)(e) of this section, the department shall assess a depreciation charge to the Board of Trustees of the Nebraska State Colleges and shall assess such charge for each fiscal year thereafter, except that no depreciation charges shall be assessed or paid pursuant to this section for the period beginning July 1, 2003, and ending June 30, 2004, and depreciation charges in the amount of one-half of the amount otherwise assessed pursuant to this section shall be assessed and paid for the period beginning July 1, 2004, and ending June 30, 2005.

(3) The annual depreciation charge for a capital improvement project

as defined in subdivisions (1)(a) through (1)(c) of this section shall be computed as two percent of the total project cost of the capital improvement project. The annual depreciation charge for a capital improvement project as defined in subdivision (1)(d) of this section shall be computed as two percent of the greater of the purchase price or the value, as determined by the department, of the capital improvement project at the time of acquisition. The annual depreciation charge for a capital improvement project as defined in subdivision (1)(e) of this section shall be computed as two percent of the value, as determined by the department, of the capital improvement project at the time of acquisition. The department may assess the charge annually or in monthly, quarterly, or semiannual installments.

(4) ~~Depreciation charges shall be assessed for capital improvement projects as defined in subdivisions (1)(a) through (1)(d) of this section (a) for which funds have been appropriated for fiscal year 1997-98 and fiscal years thereafter, excluding reappropriation of fiscal year 1996-97 or prior period undisbursed appropriation balances, or (b) which are to be completed or acquired by means other than the expenditure of appropriated funds and which are either initiated or acquired in fiscal year 1997-98 and fiscal years thereafter. Depreciation charges shall be assessed for capital improvement projects as defined in subdivision (1)(e) of this section for capital improvement projects acquired, either by expenditure of appropriated funds or other means, in fiscal year 1997-98 and fiscal years thereafter. Depreciation charges shall not be assessed pursuant to this section for capital improvement projects relating to facilities, structures, or buildings from which revenue is derived and pledged for the retirement of revenue bonds issued under sections 85-403 to 85-411.~~

(5) Payment of depreciation charges assessed pursuant to this section shall be remitted to the State Treasurer for credit to the State College Building Renewal Assessment Fund.

Sec. 10. Section 81-1114, Reissue Revised Statutes of Nebraska, is amended to read:

81-1114. The building division shall have the following powers, duties, and responsibilities:

(1) Shall prepare, for submittal to the Governor and to the office of the Legislative Fiscal Analyst, analyses of the cost of every desired land and building acquisition, new building construction, either underway or proposed, major repair or remodeling of new, newly acquired, or existing buildings, and each and every structural improvement to land, utilities, roads, walks, and parking lots, costing four hundred thousand dollars or more, but excluding right-of-way projects of the Department of Roads. The Department of Administrative Services shall adjust the dollar amount in this section every four years beginning January 1, 2002, to account for inflationary and market changes. The adjustment shall be based on percentage changes in a construction cost index and any other published index relevant to operations and utilities costs, as selected by the department;

(2) Shall record the relationship between the proposed capital facilities and the individual or departmental agencies' operating programs with particular attention to needs of immediate or future operations of the department or agency submitting such plan;

(3) Shall make recommendations to the Governor, the committee of the Legislature which shall from time to time have responsibility for preparing recommendations for appropriations, and the individual department or agency concerned, on the probable costs of such acquisition, construction, repair, or remodeling; and

(4) Shall require the submission by each department and agency of the state of copies of all written contracts for acquisition, construction, repair, or remodeling, including federal contracts, before such contracts are executed by the executive officer of the state authorized to execute such contracts, and shall ~~file~~ maintain copies of such contracts ~~in the office of~~ on file for inspection by the Legislative Fiscal Analyst.

Sec. 11. This act becomes operative on July 1, 2003.

Sec. 12. Original section 81-1114, Reissue Revised Statutes of Nebraska, and sections 81-179, 81-180, 81-184, and 81-188.01 to 81-188.06, Revised Statutes Supplement, 2002, are repealed.

Sec. 13. Since an emergency exists, this act takes effect when passed and approved according to law.