

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1092

FINAL READING

Introduced by Mello, 5; Campbell, 25.

Read first time January 20, 2016

Committee: Appropriations

1 A BILL FOR AN ACT relating to state budgeting; to amend sections
2 2-15,106, 81-132, 81-8,239.03, 81-1113, 81-1113.01, 81-2227,
3 81-3133.01, 81-3133.02, 81-3133.03, and 85-1416, Reissue Revised
4 Statutes of Nebraska, and sections 81-3133 and 83-918, Revised
5 Statutes Supplement, 2015; to change budget request reporting
6 requirements; to change powers and duties of the Department of
7 Administrative Services; to harmonize provisions; and to repeal the
8 original sections.

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

1 Section 1. Section 2-15,106, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 2-15,106 On or before September 15 for each odd-numbered year and on
4 or before the date provided in subsection (1) of section 81-132 for each
5 even-numbered year, the director shall submit an annual report and plan
6 of work for the state water planning and review process to the
7 Legislature and Governor. The report submitted to the Legislature shall
8 be submitted electronically. The report shall include a listing of
9 expenditures for the past fiscal year, a summary and analysis of work
10 completed in the past fiscal year, funding requirements for the next
11 fiscal year, and a projection and analysis of work to be completed and
12 estimated funding requirements for such work for the next succeeding four
13 years. The explanation of future funding requirements shall include an
14 explanation of the proposed use of such funds and the anticipated results
15 of the expenditure of such funds. The report shall, to the extent
16 possible, identify such information as it affects each agency or other
17 recipient of program funds. The explanation of future funding
18 requirements shall be in a form suitable for providing an explanation of
19 that portion of the budget request pertaining to the state water planning
20 and review process.

21 Sec. 2. Section 81-132, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 81-132 (1) All departments, offices, and institutions, and
24 expending agencies of the state government requesting appropriations for
25 the next biennium shall file in the office of the Director of
26 Administrative Services the budget forms furnished them by the director
27 under the provisions of sections 81-1113 and 81-1113.01. Such ~~The~~ budget
28 forms ~~required by this section~~ shall be filed on or before September 15
29 of each even-numbered year. The forms shall show their total estimated
30 requirements for the next biennium for each unit of their organization
31 and activity classified as to object of expenditure. With such forms,

1 each department, office, institution, and expending agency shall file a
2 report showing all money received by such department, office,
3 institution, or expending agency together with the estimated receipts for
4 the ~~next coming~~ biennium. Such estimates shall be accompanied by a
5 statement in writing giving facts and explanations of reasons for each
6 item of increased appropriation requested. The report submitted by the
7 Department of Health and Human Services shall include, but not be limited
8 to, the key goals, benchmarks, and progress reports required pursuant to
9 sections 81-3133 to 81-3133.03.

10 (2) Any department, office, institution, or expending agency
11 proposing changes to its appropriation for the biennium in progress shall
12 file in the office of the Director of Administrative Services the budget
13 forms for requesting such changes furnished by the director under the
14 provisions of sections 81-1113 and 81-1113.01. Such forms shall be filed
15 on or before October 24 of each odd-numbered year.

16 Sec. 3. Section 81-8,239.03, Reissue Revised Statutes of Nebraska,
17 is amended to read:

18 81-8,239.03 The Risk Manager shall present a budget request as
19 provided in subdivision (1) of section 81-1113 for the Risk Management
20 Program which shall separately state the amount requested for the Tort
21 Claims Fund, State Insurance Fund, State Self-Insured Property Fund,
22 State Self-Insured Indemnification Fund, and Workers' Compensation Claims
23 Revolving Fund, and such budget shall be based on the projected needs for
24 such funds. If the Risk Manager does not assess state agencies for any of
25 the funds listed in this section, the amount of expenditures paid from
26 the fund on behalf of any non-general-fund agency shall be separately
27 stated and paid into the funds from an appropriation to such non-general-
28 fund agency. If the amount of money in any of such funds is not
29 sufficient to pay any awards or judgments authorized by sections 48-192
30 to 48-1,109 or the State Tort Claims Act, the Risk Manager shall
31 immediately advise the Legislature and request an emergency appropriation

1 to satisfy such awards and judgments. Any money in such funds available
2 for investment shall be invested by the state investment officer pursuant
3 to the Nebraska Capital Expansion Act and the Nebraska State Funds
4 Investment Act.

5 Sec. 4. Section 81-1113, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 81-1113 The budget division shall prepare the executive budget in
8 accordance with the wishes and policies of the Governor. The budget
9 division shall have the following duties, powers, and responsibilities:

10 (1) Shall prescribe the forms and procedures to be employed by all
11 departments and agencies of the state in compiling and submitting their
12 individual budget requests and shall set up a budget calendar which shall
13 provide for (a) the date, not later than July 15 of each even-numbered
14 year, for distribution of instructions, (b) the date by which time
15 requests for appropriations by each agency shall be submitted, and (c)
16 the period during which such public hearings as the Governor may elect
17 shall be held for each department and agency. The budget request shall be
18 submitted each even-numbered year no later than the date provided in
19 subsection (1) of section 81-132, shall include the intended receipts and
20 expenditures by programs, subprograms, and activities and such additional
21 information as the administrator may deem appropriate for each fiscal
22 year, including the certification described in subdivision (4) of this
23 section, shall be made upon a biennial basis, and shall include actual
24 receipts and actual expenditures for each fiscal year of the most
25 recently completed biennium and the first year of the current biennium
26 and estimates for the second year of the current biennium and each year
27 of the next ensuing biennium;

28 (2) Shall prescribe the forms and procedures to be employed by all
29 departments and agencies of the state in compiling and submitting their
30 proposed changes to existing appropriations for the biennium in progress.
31 The budget division shall distribute instructions and forms to all

1 departments and agencies no later than September 15 of each odd-numbered
2 year. Departments and agencies shall submit their proposed changes no
3 later than the date provided in subsection (2) of section 81-132;

4 (3 2) Shall work with each governmental department and agency in
5 developing performance standards for each program, subprogram, and
6 activity to measure and evaluate present as well as projected levels of
7 expenditures. The budget division shall also work with the Department of
8 Health and Human Services to develop key goals, benchmarks, and methods
9 of quantification of progress required pursuant to sections 81-3133 to
10 81-3133.03;

11 (4)(a) Shall develop a certification form and procedure to be
12 included in each budget request under subdivision (1) of this section
13 through which each department and agency shall certify, for each program
14 or practice it administers, whether such program or practice is an
15 evidence-based program or practice, or, if not, whether such program or
16 practice is reasonably capable of becoming an evidence-based program or
17 practice;

18 (b) For purposes of this subdivision (4):

19 (i) Evidence-based means that a program or practice (A) offers a
20 high level of research on effectiveness, determined as a result of
21 multiple rigorous evaluations, such as randomized controlled trials and
22 evaluations that incorporate strong comparison group designs or a single
23 large multisite randomized study and (B) to the extent practicable, has
24 specified procedures that allow for successful replication;

25 (ii) Program or practice means a function or activity that is
26 sufficiently identifiable as a discrete unit of service; and

27 (iii) Reasonably capable of becoming an evidence-based program or
28 practice means the program or practice is susceptible to quantifiable
29 benchmarks that measure service delivery, client or customer
30 satisfaction, or efficiency;

31 (5 3) Shall, following passage of legislative appropriations, be

1 responsible for the administration of the approved budget through
2 budgetary allotments;

3 (6 4) Shall be responsible for a monthly budgetary report for each
4 department and agency showing comparisons between actual expenditures and
5 allotments, which report shall be subject to review by the director and
6 budget administrator; and

7 (7 5) Shall be responsible for the authorization of employee
8 positions. Such authorizations shall be based on the following:

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

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

16 (c) A requirement that authorized positions accurately reflect
17 legislative intent contained in legislative appropriation and intent
18 bills; and

19 (d) Other relevant criteria as determined by the budget
20 administrator.

21 Sec. 5. Section 81-1113.01, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 81-1113.01 The forms and procedures required pursuant to
24 subdivisions (1) and (2) of section 81-1113 shall only be prepared and
25 distributed after:

26 (1) The final draft of the proposed budget forms and budget
27 instructions have been provided to the Legislative Fiscal Analyst and an
28 opportunity provided for recommendations from that office;

29 (2) The budget administrator ~~State Budget Administrator~~ and
30 Legislative Fiscal Analyst have met and discussed the recommended
31 changes; and

1 (3) A revised final draft of all proposed forms and instructions has
2 been provided to the Legislative Fiscal Analyst.

3 If the budget administrator ~~State Budget Administrator~~ is unable to
4 accommodate any recommended changes, the Legislative Fiscal Analyst shall
5 be allowed to submit additional forms for the collection of information.
6 Such forms shall be included as an attachment to the forms required by
7 the Department of Administrative Services. All such forms shall be
8 completed and submitted as a part of the budget submission and amendment
9 process described in subdivisions (1) and (2) of section 81-1113.

10 Sec. 6. Section 81-2227, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 81-2227 Based upon the department-approved plan and budget for each
13 designated area agency on aging, the department shall submit a budget
14 request to the Department of Administrative Services, on or before ~~no~~
15 ~~later than September 15 for each even-numbered year, except for 2002, no~~
16 ~~later than~~ the date provided in subsection (1) of section 81-132 for each
17 even-numbered year, for the funds required to achieve the objectives of
18 the Nebraska Community Aging Services Act. Such request shall include all
19 federal funds available to the department for reimbursement to area
20 agencies on aging.

21 Sec. 7. Section 81-3133, Revised Statutes Supplement, 2015, is
22 amended to read:

23 81-3133 (1)(a) On or before July 30, 2012, the Division of Children
24 and Family Services of the Department of Health and Human Services shall
25 report in writing its expenditures between January 1, 2012, and June 30,
26 2012, and the outcomes relating to such expenditures to the
27 Appropriations Committee of the Legislature and the Health and Human
28 Services Committee of the Legislature. Such report shall identify any
29 changes or movement of funds in excess of two hundred fifty thousand
30 dollars relating to child welfare between subprograms within Budget
31 Program 347 and Budget Program 354.

1 (b) Beginning with the third calendar quarter of 2012, the division
2 shall report electronically its expenditures for each quarter and the
3 outcomes relating to such expenditures within thirty days after the end
4 of the quarter to the Appropriations Committee of the Legislature and the
5 Health and Human Services Committee of the Legislature. Such report shall
6 identify any changes or movement of funds in excess of two hundred fifty
7 thousand dollars relating to child welfare between subprograms within
8 Budget Program 347 and Budget Program 354.

9 (2)(a) For the biennium ending June 30, 2015, the biennium ending
10 June 30, 2017, and the biennium ending June 30, 2019, the Division of
11 Children and Family Services of the Department of Health and Human
12 Services shall, as part of the appropriations request process pursuant to
13 subsection (1) of section 81-132, include a strategic plan that
14 identifies the main purpose or purposes of each program, verifiable and
15 auditable key goals that the division believes are fair measures of its
16 progress in meeting each program's main purpose or purposes, and
17 benchmarks for improving performance on the key goals for the state as a
18 whole and for each Department of Health and Human Services service area
19 designated pursuant to section 81-3116. The division shall also report
20 whether the benchmarks are being met and, if not, the expected timeframes
21 for meeting them. Such key goals and benchmarks shall be developed by the
22 Division of Children and Family Services with the assistance of the
23 budget division of the Department of Administrative Services pursuant to
24 subdivision (3 ~~2~~) of section 81-1113.

25 (b) Not later than September 15, 2013, not later than September 15,
26 2015, and not later than September 15, 2017, the Division of Children and
27 Family Services of the Department of Health and Human Services shall
28 report electronically to the Health and Human Services Committee of the
29 Legislature and the Appropriations Committee of the Legislature on the
30 progress towards the key goals identified pursuant to this subsection
31 that occurred in the previous twelve months. The division shall annually

1 appear at a joint hearing of the two legislative committees and present
2 the report.

3 (3) On or before December 1, 2016, and each year thereafter, the
4 Division of Children and Family Services of the Department of Health and
5 Human Services shall report electronically to the Governor and the
6 Legislature the number of families in all transitional child care
7 assistance programs and the number of families no longer eligible for all
8 transitional child care assistance programs due to failure to meet income
9 guidelines.

10 Sec. 8. Section 81-3133.01, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 81-3133.01 (1) For the biennium ending June 30, 2017, and the
13 biennium ending June 30, 2019, the Division of Behavioral Health of the
14 Department of Health and Human Services shall, as part of the
15 appropriations request process pursuant to subsection (1) of section
16 81-132, include a strategic plan that identifies the main purpose or
17 purposes of each program, verifiable and auditable key goals that the
18 division believes are fair measures of its progress in meeting each
19 program's main purpose or purposes, and benchmarks for improving
20 performance on the key goals. The division shall also report whether the
21 benchmarks are being met and, if not, the expected timeframes for meeting
22 them. Such key goals and benchmarks shall be developed by the division
23 with the assistance of the budget division of the Department of
24 Administrative Services pursuant to subdivision (3 2) of section 81-1113.

25 (2) Not later than September 15, 2015, and not later than September
26 15, 2017, the Division of Behavioral Health of the Department of Health
27 and Human Services shall report electronically to the Health and Human
28 Services Committee of the Legislature and the Appropriations Committee of
29 the Legislature on the progress towards the key goals identified pursuant
30 to this section that occurred in the previous twelve months. The division
31 shall annually appear at a joint hearing of the two legislative

1 committees and present the report.

2 Sec. 9. Section 81-3133.02, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-3133.02 (1) For the biennium ending June 30, 2017, and the
5 biennium ending June 30, 2019, the Division of Developmental Disabilities
6 of the Department of Health and Human Services shall, as part of the
7 appropriations request process pursuant to subsection (1) of section
8 81-132, include a strategic plan that identifies the main purpose or
9 purposes of each program, verifiable and auditable key goals that the
10 division believes are fair measures of its progress in meeting each
11 program's main purpose or purposes, and benchmarks for improving
12 performance on the key goals. The division shall also report whether the
13 benchmarks are being met and, if not, the expected timeframes for meeting
14 them. Such key goals and benchmarks shall be developed by the division
15 with the assistance of the budget division of the Department of
16 Administrative Services pursuant to subdivision (3 2) of section 81-1113.

17 (2) Not later than September 15, 2015, and not later than September
18 15, 2017, the Division of Developmental Disabilities of the Department of
19 Health and Human Services shall report electronically to the Health and
20 Human Services Committee of the Legislature and the Appropriations
21 Committee of the Legislature on the progress towards the key goals
22 identified pursuant to this section that occurred in the previous twelve
23 months. The division shall annually appear at a joint hearing of the two
24 legislative committees and present the report.

25 Sec. 10. Section 81-3133.03, Reissue Revised Statutes of Nebraska,
26 is amended to read:

27 81-3133.03 (1) For the biennium ending June 30, 2017, and the
28 biennium ending June 30, 2019, the Division of Medicaid and Long-Term
29 Care of the Department of Health and Human Services shall, as part of the
30 appropriations request process pursuant to subsection (1) of section
31 81-132, include a strategic plan that identifies the main purpose or

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

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

17 Sec. 11. Section 83-918, Revised Statutes Supplement, 2015, is
18 amended to read:

19 83-918 (1) For the biennium ending June 30, 2019, and the biennium
20 ending June 30, 2021, the Department of Correctional Services shall, as
21 part of the appropriations request process pursuant to subsection (1) of
22 section 81-132, include a strategic plan that identifies the main purpose
23 or purposes of each program, verifiable and auditable key goals that the
24 department believes are fair measures of its progress in meeting each
25 program's main purpose or purposes, and benchmarks for improving
26 performance on the key goals. The department shall also report whether
27 the benchmarks are being met and, if not, the expected timeframes for
28 meeting them.

29 (2) Not later than September 15 in 2017, 2018, 2019, 2020, and 2021,
30 the Department of Correctional Services shall report electronically to
31 the Judiciary Committee of the Legislature and the Appropriations

1 Committee of the Legislature on the progress towards the key goals
2 identified pursuant to this section that occurred in the previous twelve
3 months. In calendar years 2017, 2018, 2019, 2020, and 2021, the
4 department shall appear at a joint hearing of the Judiciary Committee and
5 Appropriations Committee and present the report.

6 Sec. 12. Section 85-1416, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 85-1416 (1) Pursuant to the authority granted in Article VII,
9 section 14, of the Constitution of Nebraska and the Coordinating
10 Commission for Postsecondary Education Act, the commission shall, in
11 accordance with the coordination function of the commission pursuant to
12 section 85-1403, review and modify, if needed to promote compliance and
13 consistency with the comprehensive statewide plan and prevent unnecessary
14 duplication, the budget requests of the governing boards.

15 (2)(a) At least thirty days prior to submitting to the Governor
16 their biennial budget requests pursuant to subdivision (1) of section
17 81-1113 and any major deficit appropriation requests pursuant to
18 instructions of the Department of Administrative Services, the Board of
19 Regents of the University of Nebraska and the Board of Trustees of the
20 Nebraska State Colleges shall each submit to the commission an outline of
21 its proposed operating budget. The outline of its proposed operating
22 budget or outline of proposed state aid request shall include those
23 information summaries provided to the institution's governing board
24 describing the respective institution's budget for the next fiscal year
25 or biennium. The outline shall contain projections of funds necessary for
26 (i) the retention of current programs and services at current funding
27 levels, (ii) any inflationary costs necessary to maintain current
28 programs and services at the current programmatic or service levels, and
29 (iii) proposed new and expanded programs and services. In addition to the
30 outline, the commission may request an institution to provide to the
31 commission any other supporting information to assist the commission in

1 its budget review process. An institution may comply with such requests
2 pursuant to section 85-1417.

3 (b) On September 15 of each biennial budget request year, the boards
4 of governors of the community colleges or their designated
5 representatives shall submit to the commission outlines of their proposed
6 state aid requests.

7 (c) The commission shall analyze institutional budget priorities in
8 light of the comprehensive statewide plan, role and mission assignments,
9 and the goal of prevention of unnecessary duplication. The commission
10 shall submit to the Governor and Legislature by October 15 of each year
11 recommendations for approval or modification of the budget requests
12 together with a rationale for its recommendations. The recommendations
13 submitted to the Legislature shall be submitted electronically. The
14 analysis and recommendations by the commission shall focus on budget
15 requests for new and expanded programs and services and major statewide
16 funding issues or initiatives as identified in the comprehensive
17 statewide plan. If an institution does not comply with the commission's
18 request pursuant to subdivision (a) of this subsection for additional
19 budget information, the commission may so note the refusal and its
20 specific information request in its report of budget recommendations. The
21 commission shall also provide to the Governor and the Appropriations
22 Committee of the Legislature on or before October 1 of each even-numbered
23 year a report identifying public policy issues relating to student
24 tuition and fees, including the appropriate relative differentials of
25 tuition and fee levels between the sectors of public postsecondary
26 education in the state consistent with the comprehensive statewide plan.
27 The report submitted to the committee shall be submitted electronically.

28 (3) At least thirty days prior to submitting to the Governor their
29 biennial budget requests pursuant to subdivision (1) of section 81-1113
30 and any major deficit appropriation requests pursuant to instructions of
31 the Department of Administrative Services, the Board of Regents of the

1 University of Nebraska and the Board of Trustees of the Nebraska State
2 Colleges shall each submit to the commission information the commission
3 deems necessary regarding each board's capital construction budget
4 requests. The commission shall review the capital construction budget
5 request information and may recommend to the Governor and the Legislature
6 modification, approval, or disapproval of such requests consistent with
7 the statewide facilities plan and any project approval determined
8 pursuant to subsection (10) of section 85-1414. The recommendations
9 submitted to the Legislature shall be submitted electronically. The
10 commission shall develop from a statewide perspective a unified
11 prioritization of individual capital construction budget requests for
12 which it has recommended approval and submit such prioritization to the
13 Governor and the Legislature for their consideration. The prioritization
14 submitted to the Legislature shall be submitted electronically. In
15 establishing its prioritized list, the commission may consider and
16 respond to the priority order established by the Board of Regents or the
17 Board of Trustees in their respective capital construction budget
18 requests.

19 (4) Nothing in this section shall be construed to affect other
20 constitutional, statutory, or administrative requirements for the
21 submission of budget or state aid requests by the governing boards to the
22 Governor and the Legislature.

23 Sec. 13. Original sections 2-15,106, 81-132, 81-8,239.03, 81-1113,
24 81-1113.01, 81-2227, 81-3133.01, 81-3133.02, 81-3133.03, and 85-1416,
25 Reissue Revised Statutes of Nebraska, and sections 81-3133 and 83-918,
26 Revised Statutes Supplement, 2015, are repealed.