

LEGISLATIVE BILL 1092

Approved by the Governor March 30, 2016

Introduced by Mello, 5; Campbell, 25.

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

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

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

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

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

81-132 (1) All departments, offices, and institutions, and expending agencies of the state government requesting appropriations for the next biennium shall file in the office of the Director of Administrative Services the budget forms furnished them by the director under the provisions of sections 81-1113 and 81-1113.01. Such ~~The budget forms required by this section shall be filed on or before September 15 of each even-numbered year. The forms shall show their total estimated requirements for the next biennium for each unit of their organization and activity classified as to object of expenditure. With such forms, each department, office, institution, and expending agency shall file a report showing all money received by such department, office, institution, or expending agency together with the estimated receipts for the next coming biennium. Such estimates shall be accompanied by a statement in writing giving facts and explanations of reasons for each item of increased appropriation requested. The report submitted by the Department of Health and Human Services shall include, but not be limited to, the key goals, benchmarks, and progress reports required pursuant to sections 81-3133 to 81-3133.03.~~

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

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

81-8,239.03 The Risk Manager shall present a budget request as provided in subdivision (1) of section 81-1113 for the Risk Management Program which shall separately state the amount requested for the Tort Claims Fund, State Insurance Fund, State Self-Insured Property Fund, State Self-Insured Indemnification Fund, and Workers' Compensation Claims Revolving Fund, and such budget shall be based on the projected needs for such funds. If the Risk Manager does not assess state agencies for any of the funds listed in this section, the amount of expenditures paid from the fund on behalf of any non-general-fund agency shall be separately stated and paid into the funds from an appropriation to such non-general-fund agency. If the amount of money in any of such funds is not sufficient to pay any awards or judgments authorized by sections 48-192 to 48-1,109 or the State Tort Claims Act, the Risk Manager shall immediately advise the Legislature and request an emergency appropriation to satisfy such awards and judgments. Any money in such funds 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. 4. Section 81-1113, Reissue Revised Statutes of Nebraska, is amended to read:

81-1113 The budget division shall prepare the executive budget in accordance with the wishes and policies of the Governor. The budget division

shall have the following duties, powers, and responsibilities:

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

(2) Shall prescribe the forms and procedures to be employed by all departments and agencies of the state in compiling and submitting their proposed changes to existing appropriations for the biennium in progress. The budget division shall distribute instructions and forms to all departments and agencies no later than September 15 of each odd-numbered year. Departments and agencies shall submit their proposed changes no later than the date provided in subsection (2) of section 81-132;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If the budget administrator ~~State Budget Administrator~~ is unable to accommodate any recommended changes, the Legislative Fiscal Analyst shall be allowed to submit additional forms for the collection of information. Such forms shall be included as an attachment to the forms required by the

Department of Administrative Services. All such forms shall be completed and submitted as a part of the budget submission and amendment process described in subdivisions (1) and (2) of section 81-1113.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

81-3133.03 (1) For the biennium ending June 30, 2017, and the biennium ending June 30, 2019, the Division of Medicaid and Long-Term Care of the Department of Health and Human Services shall, as part of the appropriations request process pursuant to subsection (1) of section 81-132, include a strategic plan that identifies the main purpose or purposes of each program, verifiable and auditable key goals that the division believes are fair measures of its progress in meeting each program's main purpose or purposes, and benchmarks for improving performance on the key goals. The division shall also report whether the benchmarks are being met and, if not, the expected timeframes for meeting them. Such key goals and benchmarks shall be developed by the division with the assistance of the budget division of the Department of Administrative Services pursuant to subdivision (3 2) of section 81-1113.

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

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

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

(2) Not later than September 15 in 2017, 2018, 2019, 2020, and 2021, the Department of Correctional Services shall report electronically to the Judiciary Committee of the Legislature and the Appropriations Committee of the Legislature on the progress towards the key goals identified pursuant to this section that occurred in the previous twelve months. In calendar years 2017, 2018, 2019, 2020, and 2021, the department shall appear at a joint hearing of the Judiciary Committee and Appropriations Committee and present the report.

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

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

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

an institution to provide to the commission any other supporting information to assist the commission in its budget review process. An institution may comply with such requests pursuant to section 85-1417.

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

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

(3) At least thirty days prior to submitting to the Governor their biennial budget requests pursuant to subdivision (1) of section 81-1113 and any major deficit appropriation requests pursuant to instructions of the Department of Administrative Services, the Board of Regents of the University of Nebraska and the Board of Trustees of the Nebraska State Colleges shall each submit to the commission information the commission deems necessary regarding each board's capital construction budget requests. The commission shall review the capital construction budget request information and may recommend to the Governor and the Legislature modification, approval, or disapproval of such requests consistent with the statewide facilities plan and any project approval determined pursuant to subsection (10) of section 85-1414. The recommendations submitted to the Legislature shall be submitted electronically. The commission shall develop from a statewide perspective a unified prioritization of individual capital construction budget requests for which it has recommended approval and submit such prioritization to the Governor and the Legislature for their consideration. The prioritization submitted to the Legislature shall be submitted electronically. In establishing its prioritized list, the commission may consider and respond to the priority order established by the Board of Regents or the Board of Trustees in their respective capital construction budget requests.

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

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