

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 851

FINAL READING

Introduced by McCollister, 20; Crawford, 45; Howard, 9.

Read first time January 08, 2016

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to state government; to amend sections 84-602
- 2 and 84-602.01, Reissue Revised Statutes of Nebraska, and section
- 3 84-602.02, Revised Statutes Supplement, 2015; to change the Taxpayer
- 4 Transparency Act; to define and redefine terms; to change provisions
- 5 relating to exempt contracts; to harmonize provisions; and to repeal
- 6 the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 84-602, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 84-602 It shall be the duty of the State Treasurer:

4 (1) To receive and keep all money of the state not expressly
5 required to be received and kept by some other person;

6 (2) To disburse the public money upon warrants drawn upon the state
7 treasury according to law and not otherwise;

8 (3) To keep a just, true, and comprehensive account of all money
9 received and disbursed;

10 (4) To keep a just account with each fund, and each head of
11 appropriation made by law, and the warrants drawn against them;

12 (5) To render a full statement to the Department of Administrative
13 Services of all money received by him or her from whatever source, and if
14 on account of revenue, for what year; of all penalties and interest on
15 delinquent taxes reported or accounted for to him or her, and of all
16 disbursements of public funds; with a list, in numerical order, of all
17 warrants redeemed, the name of the payee, amount, interest, and total
18 amount allowed thereon, and with the amount of the balance of the several
19 funds unexpended; which statement shall be made on the first day of
20 December, March, June, and September, and more often if required;

21 (6) To report electronically to the Legislature as soon as
22 practicable, but within ten days after the commencement of each regular
23 session, a detailed statement of the condition of the treasury and its
24 operations for the preceding fiscal year;

25 (7) To give information electronically to the Legislature, whenever
26 required, upon any subject connected with the treasury or touching any
27 duty of his or her office;

28 (8) To account for, and pay over, all money received by him or her
29 as such treasurer, to his or her successor in office, and deliver all
30 books, vouchers, and effects of office to him or her; and such successor
31 shall receipt therefor. In accounting for and paying over such money the

1 treasurer shall not be held liable on account of any loss occasioned by
2 any investment, when such investment shall have been made pursuant to the
3 direction of the state investment officer; and

4 (9) To develop and maintain the a single, searchable web site
5 required under the Taxpayer Transparency Act with information on state
6 tax receipts, expenditures, and contracts which is accessible by the
7 public at no cost to access as provided in section 84-602.02. The web
8 site shall be hosted on a server owned and operated by the State of
9 Nebraska or approved by the Chief Information Officer. The naming
10 convention for the web site shall identify the web site as a state
11 government web site. The web site shall not include the treasurer's name,
12 the treasurer's image, the treasurer's seal, or a welcome message.

13 Sec. 2. Section 84-602.01, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 84-602.01 Section 84-602.01 and sections 3 and 4 of this act The
16 establishment of the web site provided for in section 84-602 and
17 described in section 84-602.02 shall be known and may be cited as the
18 Taxpayer Transparency Act.

19 Sec. 3. For purposes of the Taxpayer Transparency Act:

20 (1)(a) Expenditure of state funds means all expenditures of state
21 receipts, whether appropriated or nonappropriated, by a state entity in
22 forms including, but not limited to:

23 (i) Grants;

24 (ii) Contracts;

25 (iii) Subcontracts;

26 (iv) State aid to political subdivisions;

27 (v) Tax refunds or credits that may be disclosed pursuant to the
28 Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit
29 Act, the Nebraska Advantage Research and Development Act, or the Nebraska
30 Advantage Rural Development Act; and

31 (vi) Any other disbursement of state receipts by a state entity in

1 the performance of its functions;

2 (b) Expenditure of state funds includes expenditures authorized by
3 the Board of Regents of the University of Nebraska, the Board of Trustees
4 of the Nebraska State Colleges, or a public corporation pursuant to
5 sections 85-403 to 85-411; and

6 (c) Expenditure of state funds does not include the transfer of
7 funds between two state entities, payments of state, federal, or other
8 assistance to an individual, or the expenditure of pass-through funds;

9 (2) Pass-through funds means any funds received by a state entity if
10 the state entity is acting only as an intermediary or custodian with
11 respect to such funds and is obligated to pay or otherwise return such
12 funds to the person entitled thereto;

13 (3) State entity means (a) any agency, board, commission, or
14 department of the state and (b) any other body created by state statute
15 that includes a person appointed by the Governor, the head of any state
16 agency or department, an employee of the State of Nebraska, or any
17 combination of such persons and that is empowered pursuant to such
18 statute to collect and disburse state receipts; and

19 (4) State receipts means revenue or other income received by a state
20 entity from tax receipts, fees, charges, interest, or other sources which
21 is (a) used by the state entity to pay the expenses necessary to perform
22 the state entity's functions and (b) reported to the State Treasurer in
23 total amounts by category of income. State receipts does not include
24 pass-through funds.

25 Sec. 4. Section 84-602.02, Revised Statutes Supplement, 2015, is
26 amended to read:

27 ~~84-602.02~~ (1) The State Treasurer shall develop and maintain a
28 single, searchable web site with information on state receipts,
29 expenditures of state funds, and contracts which is accessible by the
30 public at no cost to access as provided in this section. The web site
31 shall be hosted on a server owned and operated by the State of Nebraska

1 or approved by the Chief Information Officer. The naming convention for
2 the web site shall identify the web site as a state government web site.
3 The web site shall not include the treasurer's name, the treasurer's
4 image, the treasurer's seal, or a welcome message.

5 ~~(2)(a) The (1)(a) Not later than January 1, 2010, the web site~~
6 ~~established, developed, and maintained by the State Treasurer pursuant to~~
7 ~~this section subdivision (9) of section 84-602 shall provide such~~
8 ~~information as will document the sources of all state tax receipts and~~
9 ~~the expenditure of state funds by all agencies, boards, commissions, and~~
10 ~~departments of the state entities.~~

11 (b) The State Treasurer shall, in appropriate detail, cause to be
12 published on the web site:

13 (i) The identity, principal location, and amount of state receipts
14 funds received or expended by the State of Nebraska and all of its state
15 entities agencies, boards, commissions, and departments;

16 (ii) The funding or expending state entity agency, board,
17 commission, or department;

18 (iii) The budget program source;

19 (iv) The amount, date, purpose, and recipient of all expenditures of
20 state funds disbursed funds; and

21 (v) Such other relevant information as will further the intent of
22 enhancing the transparency of state government financial operations to
23 its citizens and taxpayers. The web site shall include data for fiscal
24 year 2008-09 and each fiscal year thereafter, except that for any state
25 entity that becomes subject to this section due to the changes made by
26 this legislative bill, the web site shall include data for such state
27 entity for fiscal year 2016-17 and each fiscal year thereafter.

28 ~~(3 2) The Beginning July 1, 2010, the data shall be available on the~~
29 ~~web site no later than thirty days after the end of the preceding fiscal~~
30 ~~year.~~

31 ~~(4)(a) The (3)(a) Beginning July 1, 2014, the web site described in~~

1 this section shall include a link to the web site of the Department of
2 Administrative Services. The department's web site shall contain:

3 (i) A data base that includes a copy of each active contract that is
4 a basis for an expenditure of state funds, including any amendment to
5 such contract and any document incorporated by reference in such
6 contract. For purposes of this subdivision, amendment means an agreement
7 to modify a contract which has been reduced to writing and signed by each
8 party to the contract, an agreement to extend the duration of a contract,
9 or an agreement to renew a contract. The data base shall be accessible by
10 the public and searchable by vendor, by state entity agency, board,
11 commission, or department, and by dollar amount. All agencies, boards,
12 commissions, and departments of the state entities shall provide to the
13 Department of Administrative Services, in electronic form, copies of such
14 contracts for inclusion in the data base beginning with contracts that
15 are active on and after January 1, 2014, except that for any state entity
16 that becomes subject to this section due to the changes made by this
17 legislative bill, such state entity shall provide copies of such
18 contracts for inclusion in the data base beginning with contracts that
19 are active on and after January 1, 2017; and

20 (ii) A data base that includes copies of all expired contracts which
21 were previously included in the data base described in subdivision (4)(a)
22 (i) (3)(a)(i) of this section and which have not been disposed of
23 pursuant to policies and procedures adopted under subdivision (4)(e) (3)
24 (e) of this section. The data base required under this subdivision shall
25 be accessible by the public and searchable by vendor, by state entity
26 agency, board, commission, or department, and by dollar amount.

27 (b) The following shall be redacted or withheld from any contract
28 before such contract is included in a data base pursuant to subdivision
29 (4)(a) (3)(a) of this section:

30 (i) The social security number or federal tax identification number
31 of any individual or business;

1 (ii) Protected health information as such term is defined under the
2 federal Health Insurance Portability and Accountability Act of 1996, as
3 such act existed on January 1, 2013;

4 (iii) Any information which may be withheld from the public under
5 section 84-712.05; or

6 (iv) Any information that is confidential under state or federal
7 law, rule, or regulation.

8 (c) The following contracts shall be exempt from the requirements of
9 subdivision (4)(a) ~~(3)(a)~~ of this section:

10 (i) Contracts entered into by the Department of Health and Human
11 Services that are letters of agreement for the purpose of providing
12 specific services to a specifically named individual and his or her
13 family;

14 (ii) Contracts entered into by the University of Nebraska or any of
15 the Nebraska state colleges for the purpose of providing specific
16 services or financial assistance to a specifically named individual and
17 his or her family;

18 (iii) Contracts entered into by the Department of Veterans' Affairs
19 under section 80-401 or 80-403 for the purpose of providing aid to a
20 specifically named veteran and his or her family;

21 (iv) Contracts entered into by the State Energy Office for the
22 purpose of providing financing from the Dollar and Energy Saving Loan
23 program; ~~and~~

24 (v) Contracts of employment for employees of any ~~agency, board,~~
25 ~~commission, or department of the state~~ entity. The exemption provided in
26 this subdivision shall not apply to contracts entered into by any ~~agency,~~
27 ~~board, commission, or department of the state~~ entity to obtain the
28 services of an independent contractor; ~~and~~ -

29 (vi) Contracts entered into by the Nebraska Investment Finance
30 Authority for the purpose of providing a specific service or financial
31 assistance, including, but not limited to, a grant or loan, to a

1 specifically named individual and his or her family.

2 ~~(d) No agency, board, commission, or department of the state entity~~
3 shall structure a contract to avoid any of the requirements of
4 subdivision ~~(4)(a) (3)(a)~~ of this section.

5 (e) The Department of Administrative Services shall adopt policies
6 and procedures regarding the creation, maintenance, and disposal of
7 records pursuant to section 84-1212.02 for the contracts contained in the
8 data bases required under this section and the process by which ~~agencies,~~
9 ~~boards, commissions, and departments of the state entities~~ provide copies
10 of the contracts required under this section.

11 ~~(5 4) All agencies, boards, commissions, and departments of the~~
12 state entities shall provide to the State Treasurer, at such times and in
13 such form as designated by the State Treasurer, such information as is
14 necessary to accomplish the purposes of the Taxpayer Transparency Act.

15 ~~(6 5) Nothing in this section requires the disclosure of information~~
16 which is considered confidential under state or federal law or is not a
17 public record under section 84-712.05.

18 ~~(6)(a) For purposes of this section, expenditure of state funds~~
19 ~~means all expenditures of appropriated or nonappropriated funds by an~~
20 ~~agency, board, commission, or department of the state from the state~~
21 ~~treasury in forms including, but not limited to:~~

22 ~~(i) Grants;~~

23 ~~(ii) Contracts;~~

24 ~~(iii) Subcontracts;~~

25 ~~(iv) State aid to political subdivisions; and~~

26 ~~(v) Tax refunds or credits that may be disclosed pursuant to the~~
27 ~~Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit~~
28 ~~Act, the Nebraska Advantage Research and Development Act, or the Nebraska~~
29 ~~Advantage Rural Development Act.~~

30 ~~(b) Expenditure of state funds does not include the transfer of~~
31 ~~funds between two agencies, boards, commissions, or departments of the~~

1 ~~state or payments of state or federal assistance to an individual.~~

2 Sec. 5. Original sections 84-602 and 84-602.01, Reissue Revised
3 Statutes of Nebraska, and section 84-602.02, Revised Statutes Supplement,
4 2015, are repealed.