

LEGISLATIVE BILL 1129

Approved by the Governor April 18, 1998

Introduced by Robinson, 16; Schimek, 27

AN ACT relating to government; to amend sections 18-412.01, 70-637, 72-724, 72-725, 72-727 to 72-729.01, 81-173, 81-178, 81-187, 81-1108.10, 81-1108.26, 81-1114, 81-1114.01, 81-1712, and 81-1713, Reissue Revised Statutes of Nebraska, and sections 79-10,105, 81-174, 81-1108.43, and 81-1118, Revised Statutes Supplement, 1997; to change provisions relating to bidding requirements for municipalities and public power districts, the Nebraska Hall of Fame Commission, the Deferred Building Renewal Act, utilities, capital construction, and professional services contracts; to provide for energy financing contracts; to rename a bureau of the Department of Administrative Services; to provide for interfund borrowing and transfers of funds; to create the Governor's Residence Advisory Commission; to appropriate funds; to create the State College Facility Fee Fund; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 18-412.01, Reissue Revised Statutes of Nebraska, is amended to read:

18-412.01. Whenever any city or village in this state contracts with a public power district or an agency of the United States Government to operate, renew, replace, and add to the electric distribution, transmission, or generation system of the city or village, and in the performance of the contract the public power district shall or the United States Government agrees to comply with the laws relating to bidding for contracts entered into by public power districts or the United States Government, and the city or village shall not be required to advertise for or take bids for such renewals, replacements, or additions.

Sec. 2. Section 70-637, Reissue Revised Statutes of Nebraska, is amended to read:

70-637. Before any district enters into any contract for the construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement of any power plant or system, any ethanol producing or distributing system, any irrigation works, or any part or section thereof for the use of the district or for the purchase of any materials, machinery, or apparatus to be used in such construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement, such district shall cause estimates of the cost thereof to be made by some competent engineer or engineers. If such estimated cost exceeds the sum of fifty one hundred thousand dollars, no such contract shall be entered into without advertising for sealed bids, except that (1) the board may negotiate directly with sheltered workshops pursuant to section 48-1503 and (2) with respect to contracts entered into by a district in the exercise of its rights and powers relating to radioactive material or the energy therefrom or to any maintenance or repair contracts, if the engineer or engineers certify that by reason of the nature of the subject matter of the contract compliance with this section would be impractical and not in the public interest and the engineer's certification is approved by a two-thirds vote of the board, the provisions of sections 70-637 to 70-639 relating to sealed bids shall not apply and the district shall advertise notice of its intention to enter into such contract, the general nature of the proposed work, and the name of the person to be contacted for additional information by anyone interested in contracting for such work. Any contract for which the board has approved such engineer's certificate shall be advertised in three issues not less than seven days between issues in one or more newspapers of general circulation in the district and in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of its intention to enter into such contract, and any such contract shall not be entered into prior to twenty days after the last advertisement. With respect to contracts in excess of fifty one hundred thousand dollars entered into for the purchase of any materials, machinery, or apparatus to be used in the construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement of any power plant or system, any ethanol producing or distributing system, any irrigation works, or any part or section thereof when the contract does not

include onsite labor for the installation thereof, if, after advertising for sealed bids, no responsive bids are received or if the board of directors of such district determines that all bids received are in excess of the fair market value of the subject matter of such bids, sections 70-637 to 70-639 shall not apply.

Notwithstanding any other provision of sections 70-637 to 70-639, a district may, without advertising or sealed bidding, purchase replacement parts or services relating to such replacement parts for any generating unit, transformer, or other transmission and distribution equipment from the original manufacturer of such equipment upon certification by an engineer or engineers that such manufacturer is the only available source of supply for such replacement parts or services and that such purchase is in compliance with standards established by the board. A written statement containing such certification and a description of the resulting purchase of replacement parts or services from the original manufacturer shall be submitted to the board for its approval at the next scheduled meeting of the board by the engineer or engineers certifying the purchase. After such certification, but not necessarily before the board review, notice of any such purchase shall be published once a week for at least three consecutive weeks in one or more newspapers of general circulation in the district and published in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of such purchase.

Sec. 3. Section 72-724, Reissue Revised Statutes of Nebraska, is amended to read:

72-724. (1) There is hereby created a Nebraska Hall of Fame Commission, which shall consist of seven members, six of whom shall be appointed by the Governor. The Director of the Nebraska State Historical Society shall be the seventh member of the commission and shall serve as secretary of the commission. Not more than three members of the commission shall be appointed from the same political party. In making the initial appointments of the commission the Governor shall appoint two members for a term of two years, two members for a term of four years, and two members for a term of six years. As the terms of the members expire, the Governor shall appoint or reappoint a member of the commission for a term of six years to succeed the member whose term expires. The members shall serve without compensation. The Governor shall be an ex officio member of the commission.

(2) The Nebraska State Historical Society shall be responsible for the administration of the Nebraska Hall of Fame Commission.

Sec. 4. Section 72-725, Reissue Revised Statutes of Nebraska, is amended to read:

72-725. The Nebraska Hall of Fame shall be located in the State Capitol and other locations as approved by the Nebraska Hall of Fame Commission.

Sec. 5. Section 72-727, Reissue Revised Statutes of Nebraska, is amended to read:

72-727. The Nebraska Hall of Fame Commission shall adopt and promulgate rules and regulations to establish criteria of eligibility for inclusion in the Nebraska Hall of Fame and to establish standards for the creation, design, size, configuration, and placement of busts or other appropriate objects.

Sec. 6. Section 72-728, Reissue Revised Statutes of Nebraska, is amended to read:

72-728. (1) Except as provided in subsection (2) of this section, the Nebraska Hall of Fame Commission (a) shall not name any individual to the Nebraska Hall of Fame on or after the effective date of this act and before January 1, 2000, (b) shall not name more than two persons one person to the Nebraska Hall of Fame during the first two years after June 22, 1961, and not more than one person each two years thereafter except that, in honor of the United States Bicentennial, four members may be so named in calendar year 1976, and no five-year period beginning January 1, 2000, and ending December 31, 2004, and (c) on and after January 1, 2005, shall name not more than one person every five years thereafter. During the first two years of the five-year period required in subdivisions (b) and (c) of this subsection, the commission shall receive nominations of candidates to be named to the Nebraska Hall of Fame. The commission shall review the nominations and may select the finalists for induction. During the following two years, the commission shall review the finalists, if any, and may select one for induction. If a finalist is selected for induction, the commission shall name him or her to the Nebraska Hall of Fame during the final year of the five-year period. No individual shall be named to the Nebraska Hall of Fame until ten at least thirty-five years after such person's demise.

(2) Notwithstanding the limitations imposed by subsection (1) of

this section, the commission shall procure an appropriate plaque upon which shall be placed the names of each Nebraskan awarded the Medal of Honor as a result of such person's services in the armed forces of the United States. Such plaque shall have sufficient space for listing the names of persons who shall be awarded the Medal of Honor in the future. The plaque shall have a suitable place in the Hall of Fame State Capitol.

Sec. 7. Section 72-729, Reissue Revised Statutes of Nebraska, is amended to read:

72-729. The Nebraska Hall of Fame Commission shall have power:

(1) To contract for the making and placing of busts or other appropriate objects commemorating the persons chosen to be placed in the State Capitol or other location as approved by the commission. No busts or other appropriate objects commemorating the persons chosen shall be placed in the State Capitol except upon receiving the advice approval of the Nebraska Capitol Commission; and

(2) To receive and disburse gifts.

All funds to be expended shall be upon vouchers approved by the chairperson and secretary of the Nebraska Hall of Fame Commission.

Sec. 8. Section 72-729.01, Reissue Revised Statutes of Nebraska, is amended to read:

72-729.01. There is hereby created the Hall of Fame Trust Fund to be administered by the Nebraska Hall of Fame Commission for the purpose of the creation, design, size, configuration, and placement of busts or other appropriate objects as authorized in section 72-729. Deposits to such fund shall include money received from public donation for the use of the commission and from funds appropriated specifically for such purpose by the Legislature.

Sec. 9. For purposes of sections 9 to 13 of this act:

(1) Energy conservation measure means a training, service, or operations program or facility alteration designed to reduce energy consumption. Energy conservation measure includes:

(a) Repair or renovation of heating, ventilation, and air conditioning systems;

(b) Installation or repair of automated or computerized energy control systems;

(c) Replacement or modification of lighting fixtures;

(d) Insulation of a building structure or systems within that structure;

(e) Installation of energy recovery systems;

(f) Installation of cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(g) Replacement, weatherstripping, caulking, or other insulation of windows or doors; or

(h) Any other measure designed to reduce energy consumption;

(2) Energy financing contract means an agreement between an energy service company and a governmental unit for the implementation of one or more energy conservation measures in an existing facility in exchange for a portion of the energy cost savings produced. Energy financing contract includes, but is not limited to, a performance contract, shared-savings contract, guaranteed contract, and lease-purchase contract;

(3) Energy service company means a person or business experienced in the implementation and installation of energy conservation measures; and

(4) Governmental unit means a school district, village, city, county, or department or agency of the State of Nebraska.

Sec. 10. Notwithstanding the procedures for public lettings in sections 73-101 to 73-106 or any other statute of the State of Nebraska relating to the letting of bids by a governmental unit, a governmental unit may enter into an energy financing contract with an energy service company pursuant to sections 9 to 13 of this act.

Sec. 11. (1) Prior to entering into an energy financing contract, a governmental unit shall obtain a written opinion from a professional engineer licensed in the State of Nebraska whose interests are independent from the financial savings outcome of the contract. The opinion shall contain a review of recommendations proposed by an energy service company pertaining to energy conservation measures designed to reduce energy consumption to the governmental unit.

(2) At least fourteen days prior to entering into an energy financing contract, a governmental unit shall furnish public notice of its intention to enter into such contract, the general nature of the proposed work being considered under the contract, and the name and telephone number of a person to be contacted by any energy service company interested in submitting

a proposal to contract for such work. The governmental unit shall also directly solicit requests for qualifications from at least three energy service companies relating to the proposed contract.

(3) Upon receiving responses to its request for qualifications pursuant to subsection (2) of this section, the governmental unit may select the most qualified energy service company based on the company's experience, technical expertise, and financial arrangements, the overall benefits to the governmental unit, and other factors determined by the governmental unit to be relevant and appropriate. The governmental unit may thereafter negotiate and enter into an energy financing contract pursuant to section 12 of this act with the company selected based on the criteria established by the governmental unit.

Sec. 12. (1) Any energy financing contract entered into by a governmental unit shall:

(a) Detail the responsibilities of a Nebraska-licensed professional engineer in the design, installation, and commissioning of the energy conservation measures selected by the governmental unit. Any design shall conform to all statutes of the State of Nebraska pertaining to engineering design and public health, safety, and welfare;

(b) Set forth the calculated energy cost savings during the contract period attributable to the energy conservation measures to be installed by the energy service company. Operational savings may be included in the total savings amount, not guaranteed, but approved by the governmental unit;

(c) Estimate the useful life of each of the selected energy conservation measures;

(d) Provide that, except for obligations on termination of the contract prior to its expiration, payments on the contract are to be made over time, within a period not to exceed fifteen years after the date of the installation of the energy conservation measures provided for under the contract;

(e) Provide that the calculated savings for each year of the contract period will meet or exceed all payments to be made during each year of the contract;

(f) Disclose the effective interest rate being charged by the energy service company; and

(g) In the case of a guaranteed savings contract, set forth the method by which savings will be calculated and a method of resolving any dispute in the amount of the savings. The energy service company shall have total responsibility for the savings guarantee for each guaranteed savings contract.

(2) An energy service company entering into an energy financing contract shall provide a performance bond to the governmental unit in an amount equal to one hundred percent of the total cost of the contract to assure the company's faithful performance. The energy service company shall also supply a guarantee bond equal to one hundred percent of the guaranteed energy savings for the entire term of the contract. For purposes of this section, total cost means all costs associated with the design, installation, modification, commissioning, maintenance, and financing of all energy conservation measures contemplated under the contract.

Sec. 13. An energy financing contract may extend beyond the fiscal year in which it becomes effective and shall allow the governmental unit to cancel the contract for the nonappropriation of funds. An obligation created by an energy financing contract entered into or indebtedness incurred pursuant to this section shall not constitute or give rise to an indebtedness within the meaning of any constitutional, statutory, or board debt limitation.

Sec. 14. Section 79-10,105, Revised Statutes Supplement, 1997, is amended to read:

79-10,105. The school board or board of education of any public school district may enter into a lease or lease-purchase agreement for the exclusive use of its individual jurisdiction for such buildings or equipment as the board determines necessary. Such lease or lease-purchase agreements may not exceed a period of seven years, except that lease-purchase agreements entered into as part of an energy financing contract pursuant to section 12 of this act may not exceed a period of fifteen years. All payments pursuant to such leases shall be made from current building funds or general funds. No school district shall directly or indirectly issue bonds to fund any such lease-purchase plan for a capital construction project exceeding twenty-five thousand dollars in costs unless it first obtains a favorable vote of the legal voters pursuant to Chapter 10, article 7. This section does not prevent the school board or board of education of any public school district from refinancing a lease or lease-purchase agreement without a vote of the legal voters for the purpose of lowering finance costs regardless of whether such

agreement was entered into prior to July 9, 1988.

Sec. 15. Section 81-173, Reissue Revised Statutes of Nebraska, is amended to read:

81-173. For purposes of the Deferred Building Renewal Act and sections 81-191.01, 85-106, and 85-304, unless the context otherwise requires:

(1) Renewal work shall mean means any (a) deferred or preventive maintenance projects that will restore facilities and utility systems as closely as practicable to their original constructed condition as defined by the Task Force for Building Renewal, (b) projects that will bring facilities into compliance with current fire safety, life safety, and hazardous materials abatement requirements, and (c) projects that will bring facilities into compliance with the federal Americans with Disabilities Act of 1990. The standard of quality maintenance shall be set after consideration of the facility users, geographical location, condition, and physical analysis of each building;

(2) Deferred maintenance shall mean means any measures taken to: (a) correct or repair structural or mechanical defects that would endanger the integrity of a building or its components or allow unwanted penetration of the building by the outdoor elements; (b) correct or repair structural, mechanical, or other defects in a building or its components or utility systems which endanger the lives or health of state employees or the general public; (c) bring a building into compliance with the federal Americans with Disabilities Act of 1990; or (d) correct a waste of energy, including minor repairs, alteration and maintenance painting, cost of materials, hiring of building maintenance personnel, and other necessary expenses for the maintenance of roofs, exterior walls, retaining walls, foundations, flooring, ceilings, partitions, doors, building hardware, windows, plaster, structural ironwork, screens, plumbing, heating, air-handling, and air conditioning equipment, or electrical systems, but excluding decorative finish or furnishing, ~~or building additions; or installation of additional summer-winter air conditioning; except as it may be required to comply with the federal Americans with Disabilities Act of 1990;~~

(3) Preventive maintenance shall mean means any measures taken to maintain the structural or mechanical integrity of a building or its components including those measures listed in subdivision (2) of this section; and

(4) Task force shall mean means the Task Force for Building Renewal.

Sec. 16. Section 81-174, Revised Statutes Supplement, 1997, is amended to read:

81-174. There is hereby established the Task Force for Building Renewal to carry out the Deferred Building Renewal Act. The Governor Director of Administrative Services shall appoint an administrator as the chief officer of the task force. The administrator shall retain not more than four consultants to assist him or her in the administration of the Deferred Building Renewal Act. Each task force member shall be selected on the basis of his or her ability to administer and accomplish efficient building maintenance and shall have knowledge of and experience in the contracting of construction projects and the maintaining of buildings. Members shall be selected so that the task force represents diversified expertise needed for maintenance judgments and, if practical, each member should reside at a location that allows efficient visitation of state-owned buildings. ~~Voting membership of the task force shall be limited to the five members identified in this section.~~

Sec. 17. Section 81-178, Reissue Revised Statutes of Nebraska, is amended to read:

81-178. The report required by section 81-177 shall classify work items by urgency of need using three classes defined as follows:

Class I -- items for immediate action to (1) provide safety and protection against costly damage to buildings or their utility systems, (2) make structural, mechanical, or other repairs to buildings or their components or utility systems which are an immediate danger to the lives or health of state employees or the general public, or (3) bring buildings into compliance with the federal Americans with Disabilities Act of 1990;

Class II -- items of imperative need to correct problems that if neglected will quickly deteriorate further into Class I items that must be done to provide efficient and safe use of the facility or system; and

Class III -- additional items necessary to fully renew or provide efficient and safe use of the facility or system.

The task force shall recommend to the Governor the classification of projects and priorities to be established for grants within the classifications. The Governor shall make such classification of projects and establish such priorities as shall be best calculated to achieve the purposes

of the Deferred Building Renewal Act. Any energy conservation project shall be assigned a priority of Class II or higher.

Sec. 18. Section 81-187, Reissue Revised Statutes of Nebraska, is amended to read:

81-187. A copy of all estimates, reports, and allocation requests required by ~~sections 81-173 to 81-190, 85-186, and 85-194~~ the Deferred Building Renewal Act shall be submitted to the Legislative Fiscal Analyst upon his or her request.

Sec. 19. Section 81-1108.10, Reissue Revised Statutes of Nebraska, is amended to read:

81-1108.10. As used in sections 72-729, 81-1108, 81-1108.02, 81-1108.09 to 81-1108.43, 81-1118.01, 81-1118.02, and 81-1120.22, unless the context otherwise requires:

(1) Division shall mean the state building division charged with the responsibility of statewide facilities planning, facilities construction, and statewide facilities administration, which division shall be a part of and subject to the supervision of the office of the Director of Administrative Services; and

(2) Administrator shall mean the State Building Administrator.

Sec. 20. Section 81-1108.26, Reissue Revised Statutes of Nebraska, is amended to read:

81-1108.26. The heat and power plant of the University of Nebraska, together with tunnels and conduits appurtenant thereto, shall be operated and maintained under the immediate control of the Board of Regents of the University of Nebraska. Such plant shall supply heat, light, and power for use at the University of Nebraska, the State Capitol, including the executive mansion, and the Nebraska State Historical Society. At the sole discretion of the Director of Administrative Services, in consultation with the Board of Regents, alternative sources of heat, power, and light may be utilized, and in such event, adequate notice of any change shall be given to the Board of Regents. Cost of operation and maintenance of the plant and its appurtenances shall in the first instance be borne by the Board of Regents. The cost of operation, repairs, and maintenance shall be apportioned between the University of Nebraska, the State Capitol, including the executive mansion, and the Nebraska State Historical Society, upon the percentage of heat, light, and power received by each. At the end of each month, the Board of Regents ~~of the University of Nebraska~~ shall forward to the administrator a bill for the share of the cost of operation for such month chargeable to the State Capitol, including the executive mansion, and to the superintendent of the Nebraska State Historical Society for the share of the cost of operation for such month chargeable to the Nebraska State Historical Society. The Board of Regents shall forward annually to the administrator a statement for the share of the cost of repairs and maintenance chargeable to the State Capitol, including the executive mansion, and to the superintendent of the Nebraska State Historical Society for the share of the cost of repairs and maintenance chargeable to the Nebraska State Historical Society. If no objection in writing is made by the administrator or the superintendent of the Nebraska State Historical Society within ten days after the receipt of such statements, they shall constitute valid obligations to be paid in the manner prescribed by law for payment of operating expenses of the State Capitol and by the Nebraska State Historical Society from funds appropriated for that purpose by the Legislature. In case objection shall be made, the Board of Regents ~~of the University of Nebraska~~ and the administrator or the superintendent of the Nebraska State Historical Society, whichever shall object, shall endeavor to arrive at a proper charge and, in case of inability to do so, shall submit the matter to arbitration, one arbitrator to be named by each party and the third to be chosen by those so named. The amount fixed by the arbitrators shall constitute a valid obligation to be paid in the manner indicated above.

Sec. 21. Section 81-1108.43, Revised Statutes Supplement, 1997, is amended to read:

81-1108.43. No state agency or department shall perform for itself any of the services normally performed by a professional engineer or architect in the preparation of plans and specifications for the construction, reconstruction, or alteration of any building or in the administration of the construction documents and final approval of the project when the total project cost is ~~one~~ four hundred thousand dollars or more, and no state agency shall employ its own work force for any such construction, reconstruction, or alteration of capital facilities when the total project cost is fifty thousand dollars or more. The Department of Administrative Services shall adjust the dollar amounts in this section every four years beginning January 1, 2002, to account for inflationary and market changes. The adjustments 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.

This section shall not apply to section 83-134, to the Department of Roads, or to any public power district, public power and irrigation district, irrigation district, or metropolitan utilities district. If, during the program statement review provided for under section 81-1108.41, it is determined that existing or standard plans and specifications are available or required for the project, the division may authorize an exemption from this section. The Director of Administrative Services shall not issue any warrant in payment for any work on a capital construction project unless the state agency or department files a certificate that it has complied with the provisions of this section.

Sec. 22. 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 ~~one~~ 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 copies of such contracts in the office of the Legislative Fiscal Analyst.

Sec. 23. Section 81-1114.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-1114.01. ~~After May 23, 1981, each~~ Each department and agency of the state prior to submitting a capital construction project request in excess of ~~one~~ four hundred thousand dollars shall cause to be prepared a comprehensive capital facilities plan. Such plan shall include, but not be limited to, a projection of future programmatic needs, analysis of existing facilities and the utilization of such facilities, and identification of projects to meet those projected programmatic needs, including addition to, or renovation or replacement of, existing space, parking, streets, and utilities. The comprehensive capital facilities plan shall be updated or revised when a major capital construction project requested for funding is not in compliance with such plan, or when revisions in projected programmatic needs would significantly affect the comprehensive capital facilities plan. Such plans and any updates or revisions shall be submitted to the state building division and the Legislative Fiscal Analyst. Such plans and revisions or updates shall be prepared in accordance with rules and regulations adopted and promulgated by the state building division. 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.

Sec. 24. Section 81-1118, Revised Statutes Supplement, 1997, is amended to read:

81-1118. The materiel division of the Department of Administrative Services is hereby established and shall be managed by the materiel administrator who, except with respect to real property, shall assume the former role of Purchasing Agent.

There are hereby established the following five bureaus of the materiel division of the Department of Administrative Services which shall have the following duties, powers, and responsibilities:

(1) ~~Central stores~~ The office supplies bureau shall be responsible for general stores, ~~feed,~~ scientific, photo, visual aids material, and the book stores. In addition, the ~~central stores~~ office supplies bureau shall keep inventory-control records, requisition material from the purchasing bureau, and dispose of surplus material;

(2) The traffic bureau shall be responsible for the transportation of material, tracking shipments, and making freight claims;

(3) The reproduction services bureau shall be responsible for specifications and for receiving bids and placing orders to the lowest and best commercial bidder for all printing, reproduction, and mailing operations for the state. The reproduction services bureau shall also be responsible for coordinating all existing printing, reproduction, and mailing operations of the state which shall be limited to existing state facilities;

(4) The standards and specifications bureau shall be responsible for establishing guidelines as to the quality of items purchased unless otherwise provided for by law; and

(5) The purchasing bureau shall be responsible for all purchases by all state agencies other than the University of Nebraska. The materiel division shall administer the public notice and bidding procedures and any other areas designated by the Director of Administrative Services to carry out the lease or purchase of personal property. All purchases of and contracts for materials, supplies, or equipment and all leases of personal property shall be made in the following manner except in emergencies approved by the Governor:

(a) By a competitive formal sealed bidding process through the materiel division in all cases in which the purchases are of estimated value in the amount of ten thousand dollars or more;

(b) By a competitive informal bidding through the materiel division in all cases in which the purchases are of estimated value equal to or exceeding five thousand dollars but less than ten thousand dollars;

(c) By unrestricted open market purchases through the materiel division in all cases in which purchases are of estimated value of less than five thousand dollars;

(d) All requisitions for whatever purpose coming to the purchasing bureau shall be in conformance with the approved budget of the requisitioning department or agency; and

(e) All contracts for purchases and leases shall be bid as a single whole item. In no case shall contracts be divided or fractionated in order to produce several contracts which are of an estimated value below that required for competitive bidding.

Nothing in this section shall be construed to require that works of art must be procured through the materiel division.

Sec. 25. Section 81-1712, Reissue Revised Statutes of Nebraska, is amended to read:

81-1712. (1) Public notice shall be given by each agency, in a uniform and consistent manner, when professional services are required to be contracted for a project whose basic construction cost is estimated by the agency to be more than ~~one~~ four hundred thousand dollars and for professional services when the estimated fee for such professional services exceeds ~~ten~~ forty thousand dollars, except in cases of public emergencies so certified by the agency head. The Department of Administrative Services shall adjust the dollar amounts in this section every four years beginning January 1, 2002, to account for inflationary and market changes. The adjustments 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. The public notice shall include a general description of the project and shall indicate how interested firms can apply for consideration for such contract.

(2) Each agency shall encourage firms engaged in the lawful practice of their profession who desire to provide professional services to the agency to submit annually a statement of qualifications and performance data. The agency may request a firm to update the file statement before the anniversary date to reflect changed conditions of the firm.

(3) Any firm desiring to provide professional services to an agency must first be certified by the agency as qualified pursuant to law and the regulations of the agency. The agency shall make a finding that the firm to be employed is fully qualified to render the required service. Factors to be considered in making this finding shall include capabilities to perform, adequacy of personnel, past record and performance, and experience.

(4) The Department of Administrative Services shall, with the advice of each agency, adopt administrative procedures for the evaluation of professional services, including capabilities to perform, adequacy of personnel, past record and performance, experience, and such other factors as may be determined by the agency to be applicable to its particular requirements.

(5) The public shall not be excluded from the meetings or proceedings under this section in accordance with Chapter 84, article 14.

Sec. 26. Section 81-1713, Reissue Revised Statutes of Nebraska, is amended to read:

81-1713. (1) For each proposed project, the agency or a committee designated by the agency shall evaluate current statements of qualifications and performance data of firms as are on file with the agency, together with those that may be submitted by firms regarding the proposed project, and shall conduct discussions with, and may require public presentations by no less than three firms, regarding their qualifications, approach to the project, and ability to furnish the required service.

(2) Any committee designated by the agency shall have among its membership at least one person whose profession represents that particular field of endeavor being considered.

(3) The agency or committee designated by the agency shall select, in order of preference, no less than three firms deemed to be most highly qualified to perform the required services after considering such factors as the ability of professional personnel, past performance, willingness to meet time and budget requirements, location, recent, current and projected workloads of the firms, and the volume of work previously awarded to the firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, as long as such distribution does not violate the principle of selection of the most highly qualified firms.

(4) This section shall not apply to professional service contracts for (a) a project whose basic construction cost is estimated by the agency to be one four hundred thousand dollars or less, or (b) a planning or study activity when the estimated fee for professional services is ten forty thousand dollars or less. The Department of Administrative Services shall adjust the dollar amounts in this section every four years beginning January 1, 2002, to account for inflationary and market changes. The adjustments 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.

Sec. 27. The Director of Administrative Services may (1) initiate interfund borrowing among the Vacant Building and Excess Land Fund and the various revolving funds within the Department of Administrative Services, except that at no time shall aggregate advances from all lending funds to any given borrowing fund exceed one million five hundred thousand dollars, and (2) through June 30, 1999, initiate transfers from the Vacant Building and Excess Land Fund to the State Building Revolving Fund and the Building Renewal Allocation Fund, except that the cumulative transfers to the State Building Revolving Fund shall not exceed seven hundred fifty thousand dollars and the cumulative transfers to the Building Renewal Allocation Fund shall not exceed seven hundred fifty thousand dollars.

Sec. 28. The Governor's Residence Advisory Commission is created. The commission shall conduct an inspection of the Governor's residence in June of each year. A report on the inspection shall be submitted to the Governor within thirty days after the day of the inspection. The report shall include recommendations for major maintenance or repair projects, if needed. Implementation and priority of an approved major maintenance or repair project shall be determined by the Governor in cooperation with the Director of Administrative Services. Additionally, no changes, additions, deletions, or other alterations to the residence, including its exterior, interior, decorative objects, contents, or grounds shall be made without the prior approval of the commission, except for the Governor's private living quarters located on the second floor of the residence.

Sec. 29. The Governor's Residence Advisory Commission consists of the following members: (1) The Governor's spouse; (2) the Director of Administrative Services or his or her designee; (3) the administrator of the Task Force for Building Renewal; (4) six at-large members, two from each congressional district, with no more than three of the six members being from the same political party; (5) the Director of the Nebraska State Historical Society; and (6) a current professional member of the American Society of Interior Designers. The Governor's spouse is designated the chairperson of the Governor's Residence Advisory Commission. If the Governor is unmarried or the Governor's spouse is unable to fulfill his or her duties on the

commission, the Governor shall appoint an at-large member to fill that seat on the commission. The at-large member shall have the same duties as the Governor's spouse would have had. The Director of Administrative Services or his or her designee is designated the vice-chairperson of the commission. The administrator of the Task Force for Building Renewal is designated the secretary of the commission and is responsible for the submission of the annual report and any other reports or correspondence from the commission.

Sec. 30. The members of the Governor's Residence Advisory Commission shall serve without compensation. The members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 31. The Governor's spouse shall remain on the Governor's Residence Advisory Commission as chairperson during the time his or her spouse is Governor, but in the case of an at-large member appointed in place of the Governor's spouse, the at-large member shall serve at the pleasure of the Governor. The agency directors and task force administrator on the commission shall serve as long as such persons hold those positions. The remaining members of the commission shall serve four-year terms, subject to removal by the Governor for cause. Vacancies on the commission caused by the death, removal, or resignation of a member shall be filled by the Governor for the remainder of the unexpired term.

Sec. 32. The Governor's Residence Advisory Commission shall meet at the direction of the chairperson of the commission. At least one meeting shall be held after the annual June inspection. A simple majority of the commission shall constitute a quorum for the transaction of business.

Sec. 33. There is hereby appropriated (1) \$1,500 from the General Fund for FY1998-99 and (2) \$1,500 from the General Fund for FY1999-00 to the Department of Administrative Services, for Program 573, to aid in carrying out the provisions of sections 28 to 32 of this act.

No expenditures for permanent and temporary salaries and per diems for state employees shall be made from funds appropriated in this section.

Sec. 34. The State College Facility Fee Fund is created. Revenue credited to the fund shall include amounts generated through assessment of a facilities fee under authority of the Board of Trustees of the Nebraska State Colleges. Amounts accumulated in the fund are authorized to be expended for the purpose of paying the cost of capital improvement projects approved by the board of trustees for any facilities on campuses or lands owned or controlled by the board, except that no such amounts shall be expended for capital improvement projects relating to facilities from which revenue is derived and pledged for the retirement of revenue bonds issued under the provisions of sections 85-403 to 85-411. All money accruing to the fund is appropriated to the board of trustees and shall be used for capital improvement projects authorized by the board. No expenditure may be made from the fund without prior approval by a resolution of the board of trustees. 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. All revenue, fund balances, and expenditures shall be recorded in the Nebraska State Accounting System.

Sec. 35. Original sections 18-412.01, 70-637, 72-724, 72-725, 72-727 to 72-729.01, 81-173, 81-178, 81-187, 81-1108.10, 81-1108.26, 81-1114, 81-1114.01, 81-1712, and 81-1713, Reissue Revised Statutes of Nebraska, and sections 79-10.105, 81-174, 81-1108.43, and 81-1118, Revised Statutes Supplement, 1997, are repealed.

Sec. 36. Since an emergency exists, this act takes effect when passed and approved according to law.