

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 437

Introduced by Craighead, 6.

Read first time January 17, 2017

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the Taxpayer Transparency Act; to amend
2 sections 84-602.03 and 84-602.04, Revised Statutes Cumulative
3 Supplement, 2016; to define a term; to change provisions relating to
4 the provision and publication of certain information; to harmonize
5 provisions; to repeal the original sections; and to declare an
6 emergency.

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

1 Section 1. Section 84-602.03, Revised Statutes Cumulative
2 Supplement, 2016, is amended to read:

3 84-602.03 For purposes of the Taxpayer Transparency Act:

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

7 (i) Grants;

8 (ii) Contracts;

9 (iii) Subcontracts;

10 (iv) State aid to political subdivisions;

11 (v) Tax refunds or credits that may be disclosed pursuant to the
12 Nebraska Advantage Act, the Nebraska Advantage Microenterprise Tax Credit
13 Act, the Nebraska Advantage Research and Development Act, or the Nebraska
14 Advantage Rural Development Act; and

15 (vi) Any other disbursement of state receipts by a state entity in
16 the performance of its functions;

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

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

24 (2) Independent instrumentality means a body created by the laws of
25 this state which may sue and be sued and with respect to which the state,
26 by law, does not provide indemnification;

27 (3) (2) Pass-through funds means any funds received by a state
28 entity if the state entity is acting only as an intermediary or custodian
29 with respect to such funds and is obligated to pay or otherwise return
30 such funds to the person entitled thereto;

31 (4) (3) State entity means (a) any agency, board, commission, or

1 department of the state and (b) any other body created by state statute
2 that includes a person appointed by the Governor, the head of any state
3 agency or department, an employee of the State of Nebraska, or any
4 combination of such persons and that is empowered pursuant to such
5 statute to collect and disburse state receipts; and

6 (5) ~~(4)~~ State receipts means revenue or other income received by a
7 state entity from tax receipts, fees, charges, interest, or other sources
8 which is (a) used by the state entity to pay the expenses necessary to
9 perform the state entity's functions and (b) reported to the State
10 Treasurer in total amounts by category of income. State receipts does not
11 include pass-through funds.

12 Sec. 2. Section 84-602.04, Revised Statutes Cumulative Supplement,
13 2016, is amended to read:

14 84-602.04 (1) The State Treasurer shall develop and maintain a
15 single, searchable web site with information on state receipts,
16 expenditures of state funds, and contracts which is accessible by the
17 public at no cost to access as provided in this section. The web site
18 shall be hosted on a server owned and operated by the State of Nebraska
19 or approved by the Chief Information Officer. The naming convention for
20 the web site shall identify the web site as a state government web site.
21 The web site shall not include the treasurer's name, the treasurer's
22 image, the treasurer's seal, or a welcome message.

23 (2)(a) The web site established, developed, and maintained by the
24 State Treasurer pursuant to this section shall provide such information
25 as will document the sources of all state receipts and the expenditure of
26 state funds by all state entities.

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

29 (i) The identity, principal location, and amount of state receipts
30 received or expended by the State of Nebraska and all of its state
31 entities;

1 (ii) The funding or expending state entity;
2 (iii) The budget program source;
3 (iv) The amount, date, purpose, and recipient of all expenditures of
4 state funds; and

5 (v) Such other relevant information as will further the intent of
6 enhancing the transparency of state government financial operations to
7 its citizens and taxpayers. The web site shall include data for fiscal
8 year 2008-09 and each fiscal year thereafter, except that for any state
9 entity that becomes subject to this section due to the changes made by
10 Laws 2016, LB851, the web site shall include data for such state entity
11 for fiscal year 2016-17 and each fiscal year thereafter.

12 (3) The data shall be available on the web site no later than thirty
13 days after the end of the preceding fiscal year.

14 (4)(a) The web site described in this section shall include a link
15 to the web site of the Department of Administrative Services. The
16 department's web site shall contain:

17 (i) A data base that includes a copy of each active contract that is
18 a basis for an expenditure of state funds, including any amendment to
19 such contract and any document incorporated by reference in such
20 contract. For purposes of this subdivision, amendment means an agreement
21 to modify a contract which has been reduced to writing and signed by each
22 party to the contract, an agreement to extend the duration of a contract,
23 or an agreement to renew a contract. The data base shall be accessible by
24 the public and searchable by vendor, by state entity, and by dollar
25 amount. All state entities shall provide to the Department of
26 Administrative Services, in electronic form, copies of such contracts for
27 inclusion in the data base beginning with contracts that are active on
28 and after January 1, 2014, except that:

29 (A) For ~~for~~ any state entity that becomes subject to this section
30 due to the changes made by Laws 2016, LB851, such state entity shall
31 provide copies of such contracts for inclusion in the data base beginning

1 with contracts that are active on and after January 1, 2017; and

2 (B) In lieu of providing copies of such contracts, an independent
3 instrumentality may provide a link to copies of such contracts that are
4 stored on a server owned or managed by the independent instrumentality;
5 and

6 (ii) A data base that includes copies of or, if permitted by
7 subdivision (4)(a)(i)(B) of this section, links to copies of all expired
8 contracts which were previously included in the data base described in
9 subdivision (4)(a)(i) of this section and which have not been disposed of
10 pursuant to policies and procedures adopted under subdivision (4)(e) of
11 this section. The data base required under this subdivision shall be
12 accessible by the public and searchable by vendor, by state entity, and
13 by dollar amount.

14 (b) The following shall be redacted or withheld from any contract
15 before such contract is included in a data base or linked to pursuant to
16 subdivision (4)(a) of this section:

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

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

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

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

26 (c) The following contracts shall be exempt from the requirements of
27 subdivision (4)(a) of this section:

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

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

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

8 (iv) Contracts entered into by the State Energy Office for the
9 purpose of providing financing from the Dollar and Energy Saving Loan
10 program;

11 (v) Contracts entered into by the State Department of Education
12 under sections 79-11,121 to 79-11,132 for the purpose of providing
13 specific goods, services, or financial assistance on behalf of or to a
14 specifically named individual;

15 (vi) Contracts of employment for employees of any state entity. The
16 exemption provided in this subdivision shall not apply to contracts
17 entered into by any state entity to obtain the services of an independent
18 contractor; and

19 (vii) Contracts entered into by the Nebraska Investment Finance
20 Authority for the purpose of providing a specific service or financial
21 assistance, including, but not limited to, a grant or loan, to a
22 specifically named individual and his or her family.

23 (d) No state entity shall structure a contract to avoid any of the
24 requirements of subdivision (4)(a) of this section.

25 (e) The Department of Administrative Services shall adopt policies
26 and procedures regarding the creation, maintenance, and disposal of
27 records pursuant to section 84-1212.02 for the contracts or links to
28 contracts contained in the data bases required under this section and the
29 process by which state entities provide copies of or links to the
30 contracts required under this section.

31 (5) All state entities shall provide to the State Treasurer, at such

1 times and in such form as designated by the State Treasurer, such
2 information as is necessary to accomplish the purposes of the Taxpayer
3 Transparency Act, except that an independent instrumentality may provide
4 such information by providing the State Treasurer with a link to a web
5 site or document containing such information that is stored on a server
6 owned or managed by the independent instrumentality. Such provision of
7 information by an independent instrumentality shall also satisfy the
8 publication requirements of subdivision (2)(b) of this section.

9 (6) Nothing in this section requires the disclosure of information
10 which is considered confidential under state or federal law or is not a
11 public record under section 84-712.05.

12 Sec. 3. Original sections 84-602.03 and 84-602.04, Revised Statutes
13 Cumulative Supplement, 2016, are repealed.

14 Sec. 4. Since an emergency exists, this act takes effect when
15 passed and approved according to law.