

E AND R AMENDMENTS TO LB 1037

Introduced by McKinney, 11, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:

3           Section 1. (1) The Department of Administrative Services shall  
4 contract for the completion of an evaluation of the state's procurement  
5 practices. The evaluation shall analyze past procurement challenges and  
6 address potential areas for improvement, including, but not limited to:  
7 (a) Due diligence, (b) evaluation of cost, (c) accountability for  
8 decisionmaking, and (d) protest procedures.

9           (2) The department shall contract with an outside consultant with  
10 expertise in government procurement within sixty days after the operative  
11 date of this section for the purpose of conducting such evaluation. Such  
12 contract shall not be subject to any competitive bidding requirement.

13           (3) The evaluation shall be completed with input from (a) the  
14 chairpersons of the Government, Military and Veterans Affairs Committee  
15 of the Legislature and the Health and Human Services Committee of the  
16 Legislature and other members of the Legislature as such chairpersons  
17 deem appropriate, (b) the Department of Health and Human Services, and  
18 (c) any other using agencies, as defined in section 81-145, deemed  
19 appropriate to participate by the Department of Administrative Services.

20           (4) The Department of Administrative Services shall electronically  
21 submit a report with the results of the evaluation to the Legislature and  
22 the Governor on or before November 15, 2022. Such report shall include  
23 recommendations for improvements to the state's procurement policies and  
24 practices.

25           Sec. 2. Section 81-153, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27           81-153 The materiel division shall have the power and duty to:

1 (1) Purchase or contract for, in the name of the state, the personal  
2 property required by the using agencies and the state;

3 (2) Promulgate, apply, and enforce standard specifications  
4 established as provided in section 81-154;

5 (3) Sell and dispose of personal property that is not needed by the  
6 state or its using agencies as provided in section 81-161.04 or initiate  
7 trade-ins when determined to be in the best interest of the state;

8 (4) Determine the utility, quality, fitness, and suitability of all  
9 personal property tendered or furnished;

10 (5) Make rules and regulations consistent with sections 81-145 to  
11 81-171 and 81-1118 to 81-1118.06 to carry into effect the provisions  
12 thereof. Such rules and regulations shall include provisions for  
13 modifying and terminating purchase contracts and the cost principles to  
14 be used in such modification or termination;

15 (6) Employ such clerical, technical, and other assistants as may be  
16 necessary to properly administer such sections, fix their compensation,  
17 and prescribe their duties in connection therewith, subject to existing  
18 laws and appropriations;

19 (7) Allow the purchase of personal property without competitive  
20 bidding when the price has been established by the federal General  
21 Services Administration or to allow the purchase of personal property by  
22 participation in a contract competitively bid by another state or group  
23 of states, a group of states and any political subdivision of any other  
24 state, or a cooperative purchasing organization on behalf of a group of  
25 states. The division may also give consideration to a sheltered workshop  
26 pursuant to section 48-1503 in making such purchases;

27 (8) Enter into any personal property lease agreement when it appears  
28 to be in the best interest of the state;~~and~~

29 (9) Negotiate purchases and contracts when conditions exist to  
30 defeat the purpose and principles of public competitive bidding; and -

31 (10) Obtain an electronic procurement system, which shall be funded

1 or paid for by providing the system provider with, as determined by the  
2 materiel administrator, a percentage or portion of identified  
3 transactions. Such percentage or portion may be collected by the system  
4 provider from contractors and bidders.

5 Sec. 3. Section 81-1120, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 81-1120 (1) There is hereby created the Materiel Division Revolving  
8 Fund. The fund shall be administered by the materiel division of the  
9 Department of Administrative Services. The fund shall consist of (a) fees  
10 paid for printing, copying, central supply, and mailing services provided  
11 to state agencies and local subdivisions by the division, ~~and~~ (b)  
12 assessments charged by the materiel administrator to state agencies,  
13 boards, and commissions for purchasing services provided by the division,  
14 and (c) any money collected pursuant to subdivision (10) of section  
15 81-153. Such assessments shall be adequate to cover actual and necessary  
16 expenses that are associated with providing the service and not otherwise  
17 covered by the money collected pursuant to subdivision (10) of section  
18 81-153. The fund shall be used to pay for expenses incurred by the  
19 division to provide such services.

20 (2) State agencies, boards, and commissions shall make the materiel  
21 division assessment payments to the fund no later than August 1 of each  
22 year, or in four equal payments to be made no later than August 1,  
23 October 1, February 1, and April 1 of each year, at the discretion of the  
24 materiel administrator.

25 (3) Any money in the fund available for investment shall be invested  
26 by the state investment officer pursuant to the Nebraska Capital  
27 Expansion Act and the Nebraska State Funds Investment Act.

28 Sec. 4. Sections 2, 3, and 5 of this act become operative three  
29 calendar months after the adjournment of this legislative session. The  
30 other sections of this act become operative on their effective date.

31 Sec. 5. Original sections 81-153 and 81-1120, Reissue Revised

1 Statutes of Nebraska, are repealed.

2       Sec. 6. Since an emergency exists, this act takes effect when  
3 passed and approved according to law.

4       2. On page 1, strike lines 2 and 3 and insert "to amend sections  
5 81-153 and 81-1120, Reissue Revised Statutes of Nebraska; to require an  
6 evaluation of the state's procurement practices; to change powers and  
7 duties of the materiel division and provisions relating to the Materiel  
8 Division Revolving Fund; to provide operative dates; to repeal the  
9 original sections; and to declare an emergency."