

LEGISLATIVE BILL 719

Approved by the Governor April 10, 2012

Introduced by Price, 3.

FOR AN ACT relating to government; to amend sections 44-113, 50-114.03, 52-1313.01, 60-3,161, 77-2705.04, 84-712, 84-1201, 84-1202, 84-1204, 84-1205, 84-1205.01, 84-1205.02, 84-1205.03, 84-1205.05, 84-1206, 84-1207, 84-1209, 84-1212, 84-1213, 84-1214, 84-1214.01, 84-1215, 84-1216, 84-1217, 84-1218, 84-1219, 84-1222, 84-1224, and 84-1225, Reissue Revised Statutes of Nebraska, section 84-1227, Revised Statutes Cumulative Supplement, 2010, and section 9-523, Uniform Commercial Code, Reissue Revised Statutes of Nebraska; to define and redefine terms; to change provisions of the Records Management Act; to restate intent; to change powers and duties of the State Records Board and the network manager; to change provisions relating to the technical advisory committee, fees, agency procedures, reports, and a fund; to provide requirements for certain electronic information and services; to eliminate provisions relating to public bidding, certain public records requests, and obsolete provisions regarding equipment; to harmonize provisions; to repeal the original sections; and to outright repeal sections 84-1205.04, 84-1205.06, and 84-1223, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 44-113, Reissue Revised Statutes of Nebraska, is amended to read:

44-113 The Department of Insurance shall transmit to the Governor, ten days prior to the opening of each session of the Legislature, a report of its official transactions, containing in a condensed form the statements made to the department by every insurance company authorized to do business in this state pursuant to ~~the provisions of~~ Chapter 44, as audited and corrected by it, arranged in tabular form or in abstracts, in classes according to the kind of insurance, which report shall also contain (1) a statement of all insurance companies authorized to do business in this state during the year ending December 31 next preceding, with their names, locations, amounts of capital, dates of incorporation, and of the commencement of business and kinds of insurance in which they are engaged respectively; and (2) a statement of the insurance companies whose business has been closed since making the last report, and the reasons for closing ~~the same,~~ such businesses, with the amount of their assets and liabilities, so far as the ~~same amount of their~~ assets and liabilities are known or can be ascertained by the department. The report shall also be transmitted to the Clerk of the Legislature. Each member of the Legislature shall receive a copy of such report by making a request for it to the director. The department may transmit the report by electronic format through the ~~gateway or electronic network~~ portal established under section 84-1204 after notification of such type of delivery is given to the recipient. The department shall maintain the report in a form capable of accurate duplication on paper.

Sec. 2. Section 50-114.03, Reissue Revised Statutes of Nebraska, is amended to read:

50-114.03 (1) The Clerk of the Legislature shall periodically prepare and distribute to all members of the Legislature a list of all reports received from state agencies, boards, and commissions. Such lists shall be prepared and distributed to each legislator no less frequently than once during the first ten days of each legislative session. Upon request by a legislator, the clerk shall arrange for any legislator to receive a copy of any such report.

(2) A state agency, board, or commission or other public entity which is required to provide a report to the Legislature may present the report by electronic format through the ~~gateway or electronic network~~ portal established under section 84-1204 after notification of such type of delivery is given to the Clerk of the Legislature. Such report shall be listed by the clerk as provided in subsection (1) of this section, and a member of the Legislature may receive a paper copy of the report upon request to the clerk.

Sec. 3. Section 52-1313.01, Reissue Revised Statutes of Nebraska, is amended to read:

52-1313.01 (1) The record of effective financing statements maintained by the Secretary of State may be made available electronically through the ~~gateway or electronic network~~ portal established under section 84-1204. For batch requests, there shall be a fee of two dollars per requested

effective financing statement record accessed through the ~~electronic network, portal,~~ except that the fee for a batch request for one thousand or more effective financing statements shall be two thousand dollars. Effective financing statement data accessed through the gateway portal shall be for informational purposes only and shall not provide the protection afforded a buyer registered pursuant to section 52-1312.

(2) All fees collected pursuant to this section shall be deposited in the Records Management Cash Fund and shall be distributed as provided in any agreements between the State Records Board and the Secretary of State.

Sec. 4. Section 60-3,161, Reissue Revised Statutes of Nebraska, is amended to read:

60-3,161 (1) The department shall keep a record of each motor vehicle and trailer registered, alphabetically by name of the owner, with cross reference in each instance to the registration number assigned to such motor vehicle and trailer. The record may be destroyed by any public officer having custody of it after three years from the date of its issuance.

(2) The department shall issue a copy of the record of a registered or titled motor vehicle or trailer to any person after receiving from the person the name on the registration, the license plate number, the vehicle identification number, or the title number of a motor vehicle or trailer, if the person provides to the department verification of identity and purpose pursuant to section 60-2906 or 60-2907. A fee of one dollar shall be charged for the copy. An extract of the entire file of motor vehicles and trailers registered or titled in the state or updates to the entire file may be provided to a person upon payment of a fee of eighteen dollars per thousand records. Any fee received by the department pursuant to this subsection shall be deposited into the Department of Motor Vehicles Cash Fund.

(3) The record of each motor vehicle or trailer registration or title maintained by the department pursuant to this section may be made available electronically through the gateway or electronic network portal established under section 84-1204 so long as the Uniform Motor Vehicle Records Disclosure Act is not violated. There shall be a fee of one dollar per record for individual records. For batch requests for multiple motor vehicle or trailer title and registration records selected on the basis of criteria of the individual making the request, there shall be a fee of fifty dollars for every request under two thousand records and a fee of eighteen dollars per one thousand records for any number of records over two thousand, plus a reasonable programming fee not to exceed five hundred twenty dollars. All fees collected pursuant to this subsection for electronic access to records through the gateway portal shall be deposited in the Records Management Cash Fund and shall be distributed as provided in any agreements between the State Records Board and the department.

Sec. 5. Section 77-2705.04, Reissue Revised Statutes of Nebraska, is amended to read:

77-2705.04 The record of sales tax permits maintained by the Department of Revenue may be made available electronically through the gateway or electronic network portal established under section 84-1204. There shall be a fee of five dollars and fifty cents for a monthly listing of all new sales tax permits. All fees collected pursuant to this section for electronic access to records through the gateway portal shall be deposited in the Records Management Cash Fund and shall be distributed as provided in any agreements between the State Records Board and the department.

Sec. 6. Section 84-712, Reissue Revised Statutes of Nebraska, is amended to read:

84-712 (1) Except as otherwise expressly provided by statute, all citizens of this state, and all other persons interested in the examination of the public records, as defined in section 84-712.01, are hereby fully empowered and authorized to (a) examine ~~the same,~~ such records, and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (2) of this section, and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (3) of this section during the hours the respective offices may be kept open for the ordinary transaction of business.

(2) Copies made by citizens or other persons using their own copying or photocopying equipment pursuant to subdivision (1)(a) of this section shall be made on the premises of the custodian of the public record or at a location mutually agreed to by the requester and the custodian.

(3)(a) Copies may be obtained pursuant to subdivision (1)(b) of this section only if the custodian has copying equipment reasonably available. Such copies may be obtained in any form designated by the requester in which

the public record is maintained or produced, including, but not limited to, printouts, electronic data, discs, tapes, and photocopies.

(b) Except as otherwise provided by statute, the custodian of a public record may charge a fee for providing copies of such public record pursuant to subdivision (1)(b) of this section, which fee shall not exceed the actual cost of making the copies available. For purposes of this subdivision, (i) for photocopies, the actual cost of making the copies available shall not exceed the amount of the reasonably calculated actual cost of the photocopies, (ii) for printouts of computerized data on paper, the actual cost of making the copies available shall include the reasonably calculated actual cost of computer run time and the cost of materials for making the copy, and (iii) for electronic data, the actual cost of making the copies available shall include the reasonably calculated actual cost of the computer run time, any necessary analysis and programming, and the production of the report in the form furnished to the requester. State agencies which provide electronic access to public records through a gateway service portal established under section 84-1204 shall obtain approval of their proposed reasonable fees for such records pursuant to sections 84-1205.02 and 84-1205.03, if applicable, and the actual cost of making the copies available may include the approved fee for the gateway service portal.

(c) This section shall not be construed to require a public body or custodian of a public record to produce or generate any public record in a new or different form or format modified from that of the original public record.

(d) If copies requested in accordance with subdivision (1)(b) of this section are estimated by the custodian of such public records to cost more than fifty dollars, the custodian may require the requester to furnish a deposit prior to fulfilling such request.

(4) Upon receipt of a written request for access to or copies of a public record, the custodian of such record shall provide to the requester as soon as is practicable and without delay, but not more than four business days after actual receipt of the request, either (a) access to or, if copying equipment is reasonably available, copies of the public record, (b) if there is a legal basis for denial of access or copies, a written denial of the request together with the information specified in section 84-712.04, or (c) if the entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request.

Sec. 7. Section 84-1201, Reissue Revised Statutes of Nebraska, is amended to read:

84-1201 The Legislature declares that:

(1) Programs for the systematic and centrally correlated management of state and local records will promote efficiency and economy in the day-to-day record-keeping activities of state and local governments agencies and will facilitate and expedite governmental operations;

(2) Records containing information essential to the operations of government, and to the protection of the rights and interests of persons, must be safeguarded against the destructive effects of all forms of disaster and must be available as needed. It + wherefore it is necessary to adopt special provisions for the selection and preservation of essential state and local records, thereby insuring the protection and availability of such information;

(3) The increasing availability and use of computers is creating a growing demand for electronic access to public records, and state and local agencies should use new technology to enhance public access to public records;

(4) There must be public accountability in the process of collecting, sharing, disseminating, and accessing public records;

(5) The Legislature has oversight responsibility for the process of collecting, sharing, disseminating, and providing access, including electronic access, to public records and establishing fees for disseminating and providing access;

(6) Several state agencies, individually and collectively, are providing electronic access to public records through various means, including gateways, and the portal;

(7) New technology has allowed state agencies to offer electronic information and services through various means, including the portal;

(8) As technology becomes available, state and local agencies should continue to explore providing electronic information and services to individuals, businesses, and other entities; and

~~(7)~~ (9) There is a need for a uniform policy regarding the

management, operation, and oversight of systems providing electronic access to public records or electronic information and services.

Sec. 8. Section 84-1202, Reissue Revised Statutes of Nebraska, is amended to read:

84-1202 For purposes of the Records Management Act, unless the context otherwise requires:

(1) Agency State agency means any department, division, office, commission, court, board, or elected, appointed, or constitutional officer, except individual members of the Legislature, or any other unit or body, however designated, of the executive, judicial, and legislative branches of state government; ~~or of the government of any local political subdivision;~~

(2) Agency head means the chief or principal official or representative in any ~~such~~ state or local agency or the presiding judge of any court, by whatever title known. When an agency consists of a single official, the agency and the agency head are one and the same;

~~(3) State agency means an agency of the state government;~~

~~(4) (3) Local agency means an agency of a local political subdivision, including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act;~~ (5) Local political subdivision means any county, city, village, township, district, authority, or other public corporation or political entity, whether existing under charter or general law, including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. Local political subdivision does not include a city of the metropolitan class or a district or other unit which by law is considered an integral part of state government;

~~(6) (4) Record~~ means any book, document, paper, photograph, microfilm, sound recording, magnetic storage medium, optical storage medium, or other material regardless of physical form or characteristics created or received pursuant to law, charter, or ordinance or in connection with any other activity relating to or having an effect upon the transaction of public business;

~~(7) (5) State record~~ means a record which normally is maintained within the custody or control of a state agency or any other record which is designated or treated as a state record according to general law;

~~(8) (6) Local record~~ means a record of a local political subdivision or of any agency thereof unless designated or treated as a state record under general law;

~~(9) (7) Essential record~~ means a state or local record which is within one or the other of the following categories and which shall be preserved pursuant to the Records Management Act:

(a) Category A. Records containing information necessary to the operations of government under all conditions, including a period of emergency created by a disaster; or

(b) Category B. Records not within Category A but which contain information necessary to protect the rights and interests of persons or to establish or affirm the powers and duties of state or local governments in the resumption of operations after a disaster;

~~(10) (8) Preservation duplicate~~ means a copy of an essential record which is used for the purpose of preserving the record pursuant to the act;

~~(11) (9) Disaster~~ means any occurrence of fire, flood, storm, earthquake, explosion, epidemic, riot, sabotage, or other conditions of extreme peril resulting in substantial injury or damage to persons or property within this state, whether such occurrence is caused by an act of nature or of humans, including an enemy of the United States;

~~(12) (10) Administrator~~ means the State Records Administrator;

~~(13) (11) Board~~ means the State Records Board;

~~(14) (12) Electronic access~~ means electronically collecting, sharing, disseminating, and providing access to (a) public records electronically; or (b) electronic information and services;

(13) Electronic information and services means any data, information, or service that is created, generated, collected, maintained, or distributed in electronic form by a state agency or local agency through transactions with individuals, businesses, and other entities by means of electronic access;

~~(15) Gateway (14) Portal~~ means any the state's centralized electronic information system by which public records or electronic information and services are provided through dial-in modem or continuous link; using electronic access;

~~(16) (15) Public records~~ includes all records and documents, regardless of physical form, of or belonging to this state or any agency, branch, department, board, bureau, commission, council, subunit, or committee of this state except when any other statute expressly provides that particular

information or records shall not be made public. Data which is a public record in its original form shall remain a public record when maintained in computer files; and

~~(17)~~ (16) Network manager means an individual, a private entity, a state agency, or any other governmental subdivision responsible for providing the infrastructure and services needed to implement and operate the portal and for directing and supervising the day-to-day operations and expansion of a gateway. ~~the portal.~~

Sec. 9. Section 84-1204, Reissue Revised Statutes of Nebraska, is amended to read:

84-1204 (1) The State Records Board is hereby established. The board shall:

(a) Advise and assist the administrator in the performance of his or her duties under the Records Management Act;

(b) Provide electronic access to public records or electronic information and services through a gateway, ~~the portal;~~

(c) Develop and maintain a gateway or electronic network ~~the portal~~ for accessing providing electronic access to public records or electronic information and services;

(d) Provide appropriate oversight of a network manager;

(e) Approve reasonable fees for electronic access to public records or electronic information and services pursuant to sections 84-1205.02 and 84-1205.03 and submit contracts for public bidding; ~~pursuant to section 84-1205.04;~~

(f) Have the authority to enter into or renegotiate agreements regarding the management of the network portal in order to provide citizens individuals, businesses, and other entities with electronic access to public records or electronic information and services;

(g) Explore ways and means of expanding the amount and kind type of public records or electronic information and services provided through the gateway or electronic network, increasing the utility of the public records provided and the form in which the public records are provided, expanding the base of users who access public records electronically, portal and, if when appropriate, implementing implement changes necessary for to effect such purposes;

(h) Explore technological ways and new technologies as a means of improving citizen and business access to public records or electronic information and services by individuals, businesses, and other entities and, if appropriate, implement the technological improvements; new technologies;

(i) Explore options of expanding the gateway or electronic network portal and its services to citizens and individuals, businesses, and other entities;

(j) Have the authority to grant funds to a state or local agency political subdivisions for the development of programs and technology to improve electronic access to public records by citizens and businesses or electronic information and services consistent with the act; and

(k) Perform such other functions and duties as the act requires.

(2) In addition to the administrator, the board shall consist of:

(a) The Governor or his or her designee;

(b) The Attorney General or his or her designee;

(c) The Auditor of Public Accounts or his or her designee;

(d) The State Treasurer or his or her designee;

(e) The Director of Administrative Services or his or her designee;

(f) Three representatives appointed by the Governor to be broadly representative of banking, insurance, and law groups; and

(g) Three representatives appointed by the Governor to be broadly representative of libraries, the general public, and professional members of the Nebraska news media.

(3) The administrator shall be chairperson of the board. Upon call by the administrator, the board shall convene periodically in accordance with its rules and regulations or upon call by the administrator.

(4) Six members of the board shall constitute a quorum, and the affirmative vote of six members shall be necessary for any action to be taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(5) The representatives appointed by the Governor shall serve staggered three-year terms as the Governor designates and may be appointed for one additional term. Members of the board shall be reimbursed for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 10. Section 84-1205, Reissue Revised Statutes of Nebraska, is amended to read:

84-1205 (1) The board may employ or contract with a network manager. A network manager may ~~include~~ be an individual, a private entity, a state agency, or another governmental subdivision. The board shall prepare criteria and specifications for the network manager in consultation with the Department of Administrative Services. Such criteria shall include procedures for submission of proposals by an individual, a private entity, a state agency, or another governmental subdivision. Selection of the network manager shall comply with all applicable procedures of the department. The board may negotiate and enter into a contract with the selected network manager which provides the duties, responsibilities, and compensation of the network manager.

(2) The network manager shall provide the infrastructure and services needed to implement and operate the portal and shall direct and supervise the day-to-day operations and expansion of a gateway or electronic network to make public records available electronically, including the initial phase of operations necessary to make the gateway operational. the portal. The network manager shall (a) attend meetings of the board, (b) keep a record of all ~~gateway, electronic network,~~ and related portal operations, which shall be the property of the board, (c) maintain and be the custodian of all financial and operational records, and (d) annually update and revise the business plan for the ~~gateway or electronic network,~~ portal in consultation with and under the direction of the board.

(3) The board shall finance the operation and maintenance of the ~~gateway or electronic network~~ portal from revenue generated pursuant to sections 52-1316, 60-483, and 84-1205.02 and subsection (d) of section 9-525, Uniform Commercial Code.

Sec. 11. Section 84-1205.01, Reissue Revised Statutes of Nebraska, is amended to read:

84-1205.01 The board shall establish a technical advisory committee to assist it in the performance of its duties. The committee shall consist of individuals who have technical experience and expertise in electronic access and information technology. The committee shall have three members. The members shall include a representative from a state agency that is responsible for providing public records, a representative from the ~~information management services division~~ of the office of Chief Information Officer, and a representative from the computer services group of the Legislative Council.

Sec. 12. Section 84-1205.02, Reissue Revised Statutes of Nebraska, is amended to read:

84-1205.02 ~~(1) Until July 1, 2001, except as provided in sections 49-509, 52-1316, and 60-483 and section 9-411, Uniform Commercial Code, the board may establish reasonable fees for electronic access to public records through the gateway.~~

~~(2) Beginning on July 1, 2001, except~~ Except as provided in sections 49-509, 52-1316, and 60-483 and article 9, Uniform Commercial Code, the board may establish reasonable fees for electronic access to (1) public records or (2) electronic information and services, through the gateway. ~~(3) The fees portal. Fees for electronic access to public records shall not exceed the statutory fee for distribution copies of the public records in other forms. Any fee established by the board under this section may be collected for an eighteen-month period and shall terminate at the end of such period unless enacted by the Legislature. Any fees collected under this section shall be deposited in the Records Management Cash Fund.~~

Sec. 13. Section 84-1205.03, Reissue Revised Statutes of Nebraska, is amended to read:

84-1205.03 (1) Any state agency other than the courts or the Legislature desiring to enter into an agreement with a private vendor or the network manager to ~~or otherwise~~ provide electronic access to public records or electronic information and services ~~through a gateway~~ for a fee shall make a written request for approval of such fee to the board. The request shall include (a) a copy of the contract under consideration if the electronic access is to be provided through a contractual arrangement, (b) the public records or electronic information and services which are the subject of the contract or proposed ~~electronic access~~ fee, (c) the anticipated or actual timeline for implementation, and (d) any security provisions for the protection of confidential or sensitive records. The board shall take action on such fee request in accordance with section 84-1205.02 and after a public hearing ~~within thirty days after receipt.~~ held at its next regularly scheduled meeting that is at least thirty days after receipt of the request. The board may request a presentation or such other information as it deems necessary from the requesting state agency.

(2) A state agency other than the courts or the Legislature may charge a fee for electronic access to public records without the board's

approval for a one-time sale in a unique format. The purchaser may object to the fee in writing to the board, and the one-time fee shall then be subject to approval by the board according to the procedures and guidelines established in sections 84-1205 to ~~84-1205.04, 84-1205.03.~~

(3) Courts or the Legislature providing electronic access to public records ~~through a gateway or electronic information and services~~ for a fee shall make a written report. The report shall be filed with the State Records Board by the State Court Administrator for the courts and the chairperson of the Executive Board of the Legislative Council for the Legislature. The report shall include (a) a copy of the contract under consideration if the electronic access is to be provided through a contractual arrangement, (b) the public records ~~or electronic information and services~~ which are the subject of the contract or proposed ~~electronic access~~ fee, (c) the anticipated or actual timeline for implementation, and (d) any security provisions for the protection of confidential or sensitive records. The State Records Board may request a presentation or such other information as it deems necessary. The courts and the Legislature shall take into consideration any recommendation made by the State Records Board with respect to such fees.

(4) Courts and the Legislature may charge a fee for electronic access to public records for a one-time sale in a unique format without providing a report to the board as required under subsection (3) of this section.

Sec. 14. Section 84-1205.05, Reissue Revised Statutes of Nebraska, is amended to read:

84-1205.05 The board shall provide ~~quarterly~~ annual reports to the Executive Board of the Legislative Council and Nebraska Information Technology Commission on its activities pursuant to sections 84-1205 to ~~84-1205.04, 84-1205.03.~~

Sec. 15. Section 84-1206, Reissue Revised Statutes of Nebraska, is amended to read:

84-1206 (1) With due regard for the functions of the state and local agencies concerned, and with such guidance and assistance from the board as may be required, the administrator shall:

(a) Establish standards, procedures, and techniques for the effective management of public records;

(b) Make continuing surveys of paperwork operations, and recommend improvements in current records management practices, including, but not limited to, the economical use of space, equipment, and supplies employed in creating, maintaining, storing, preserving, and servicing records;

(c) Establish standards for the preparation of schedules providing for the retention of records of continuing value, and for the prompt and orderly disposal of records no longer possessing sufficient administrative, legal, historical, or fiscal value to warrant their further retention; and

(d) Obtain from the state or local agencies concerned such reports and other data as are required for the proper administration of the records management program, including organizational charts of agencies concerned.

(2) The administrator shall establish standards for designating essential records, shall assist state and local agencies in identifying essential records, and shall guide ~~them~~ such agencies in the establishment of programs for the preservation of essential records.

(3) The administrator may advise and assist members of the Legislature and other officials in the maintenance and disposition of their personal or political papers of public interest and may provide such other services as are available to state and local agencies, within the limitation of available funds.

Sec. 16. Section 84-1207, Reissue Revised Statutes of Nebraska, is amended to read:

84-1207 In accordance with general law, and with ~~such~~ the rules and regulations as shall be adopted and promulgated by the administrator and the board as provided in section 84-1216, ~~such~~ the head of any state or local agency, department, board, council, legislative or judicial branch, and political subdivision shall:

(1) Establish and maintain an active, continuing program for the efficient and economical management of the record-keeping activities of the agency;

(2) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency, designed to furnish information to protect the legal and financial rights of the state, and of persons directly affected by the agency's activities;

(3) Make, and submit to the administrator, schedules proposing the length of time each record series warrants retention for administrative,

legal, historical, or fiscal purposes, after it has been made in or received by the agency, and lists of records in the custody or under the control of the agency which are not needed in the transaction of current business, and do not possess sufficient administrative, legal, historical, or fiscal value to warrant their further retention;

(4) Inventory the records in the custody or under the control of the agency, and submit to the administrator a report thereon, containing such data as the administrator shall prescribe, and including his or her recommendations as to which if any of such records, if any, should be determined to be essential records. He or she shall review his the inventory and report periodically and, as necessary, shall revise his the report so that it is current, accurate, and complete; and

(5) Comply with the rules, regulations, standards, and procedures issued and set up by the administrator and the board, and cooperate in the conduct of surveys made by the administrator pursuant to sections 84-1201 to 84-1226, the Records Management Act.

Sec. 17. Section 84-1209, Reissue Revised Statutes of Nebraska, is amended to read:

84-1209 The administrator may establish storage facilities for essential records, preservation duplicates, and other state records and may provide for a system of charges to allocate the cost of providing such storage among the state agencies and departments utilizing the storage services. The system of charges shall, as nearly as may be practical, cover the actual costs of operating the storage facilities.

Sec. 18. Section 84-1212, Reissue Revised Statutes of Nebraska, is amended to read:

84-1212 The administrator shall review periodically, and at least once each year, the program for the selection and preservation of essential records, including the classification thereof and the provisions for preservation duplicates and for the safeguarding of essential records and preservation duplicates to insure that the purposes of sections 84-1201 to 84-1226 the Records Management Act are accomplished.

Sec. 19. Section 84-1213, Reissue Revised Statutes of Nebraska, is amended to read:

84-1213 (1) All records made or received by or under the authority of, or coming into the custody, control, or possession of state or local agencies in any of the three branches of the state government, or of any local political subdivision, in the course of their public duties, are the property of the government state or local agency concerned, and shall not be mutilated, destroyed, transferred, removed, damaged, or otherwise disposed of, in whole or in part, except as provided by law.

(2) Any person who shall willfully mutilate, destroy, transfer, remove, damage, mutilates, destroys, transfers, removes, damages, or otherwise dispose disposes of such records or any part of such records, except as provided by law, and any person who shall retain and continue retains and continues to hold the possession of any such records, or parts thereof, belonging to the state government or to any local political subdivision, agency and shall refuse refuses to deliver up such records, or parts thereof, to the proper official under whose authority such records belong, upon demand being made by such officer or, in cases of a defunct office, to the succeeding agency or to the State Archives of the Nebraska State Historical Society, shall be guilty of a Class III misdemeanor.

Sec. 20. Section 84-1214, Reissue Revised Statutes of Nebraska, is amended to read:

84-1214 Whenever any state agency desires to dispose of records which are not listed on an approved records retention and disposition schedule applicable to that such agency, the state agency head shall prepare and submit to the administrator, on forms provided by the administrator, a list of the records sought to be disposed of, and a request for approval of their disposition, which list and request shall be referred to the board for action at its next regular or special session. On consideration thereof, the board may approve such disposition thereof as may be legal and proper, or may refuse to approve any disposition, and the records as to which such determination has been made may thereupon be disposed of in accordance with the approval of the board.

Sec. 21. Section 84-1214.01, Reissue Revised Statutes of Nebraska, is amended to read:

84-1214.01 The State Archives of the Nebraska State Historical Society has the authority to acquire, in total or in part, any document, record, or material which has been submitted to the board for disposition or transfer when such material is determined to be of archival or historical significance by the State Archivist or the board. The head of any state or

local agency shall certify in writing to the society the transfer of the custody of such material to the State Archives. No state or local agency shall dispose of, in any other manner except by transfer to the State Archives, that material which has been appraised as archival or historical without the written consent of the State Archivist and the administrator. If such material is determined to be in jeopardy of destruction or deterioration and such material is not necessary to the conduct of daily business in the state or local agency of origin, it shall be the prerogative of the State Archivist to petition the administrator and the state or local agency of origin for the right to transfer such material into the safekeeping of the State Archives. It shall be the responsibility of the administrator to hear arguments for or against such petition and to determine the results of such petition. The State Archivist shall prepare invoices and receipts in triplicate for materials acquired under this section, shall retain one copy, and shall deliver one copy to the administrator and one copy to the state or local agency head from whom the records are obtained.

Sec. 22. Section 84-1215, Reissue Revised Statutes of Nebraska, is amended to read:

84-1215 (1) If not otherwise prohibited by law, nonrecord materials, not included within the definition of records as contained in section 84-1202, may be destroyed at any time by the state or local agency in possession thereof, without the prior approval of the administrator or board. The administrator may formulate procedures and interpretations to guide in the disposal of nonrecord materials, but nothing therein shall be contrary to any provision of law relating to the transfer of materials of historical value to the State Archives of the Nebraska State Historical Society.

(2) Members of the Legislature and other officials are encouraged to offer their personal and political papers of public interest to the State Archives for preservation subject to any reasonable restrictions concerning their use by other persons.

Sec. 23. Section 84-1216, Reissue Revised Statutes of Nebraska, is amended to read:

84-1216 The administrator shall adopt and promulgate such rules and regulations as may be necessary or proper to effectuate the purposes of ~~sections 84-1201 to 84-1226.~~ the Records Management Act. Those portions thereof which relate to functions specifically delegated to the board shall be approved and concurred in by the board.

Sec. 24. Section 84-1217, Reissue Revised Statutes of Nebraska, is amended to read:

84-1217 ~~All provisions of the~~ The Records Management Act shall apply to all state and local agencies, ~~as defined in subdivision (1) of section 84-1202~~ and the administrator shall advise and assist in the establishment of programs for records management and for the selection and preservation of essential records of ~~such~~ the executive, judicial, and legislative branches, and, as required by such branches, shall provide program services pursuant to the ~~provisions of sections 84-1201 to 84-1226.~~ act.

Sec. 25. Section 84-1218, Reissue Revised Statutes of Nebraska, is amended to read:

84-1218 The governing bodies of all ~~local political subdivisions~~ local agencies in this state, with the advice and assistance of the administrator and pursuant to the rules and regulations ~~established by him,~~ adopted and promulgated pursuant to the Records Management Act, shall establish and maintain continuing programs to promote the principles of efficient records management for local records, and for the selection and preservation of essential local records, which programs, insofar as practicable, shall follow the patterns of the programs established for state records as provided in ~~sections 84-1201 to 84-1226.~~ the act. Each such governing body shall promulgate ~~such~~ rules and regulations as are necessary or proper to effectuate and implement the programs so established, but nothing therein shall be in violation of the provisions of general law relating to the destruction of local records.

Sec. 26. Section 84-1219, Reissue Revised Statutes of Nebraska, is amended to read:

84-1219 The administrator shall prepare a biennial report on the status of programs established by ~~him~~ the administrator as provided in ~~sections 84-1201 to 84-1226,~~ the Records Management Act and on the progress made during the preceding biennium in implementing and effectuating such programs. Copies of this report shall be furnished to the Governor, the Speaker of the Legislature, and such other officials and state and local agencies as the Governor or the board shall direct.

Sec. 27. Section 84-1222, Reissue Revised Statutes of Nebraska, is amended to read:

84-1222 ~~After May 18, 1977, no~~ No state agency shall purchase any microfilm system or equipment prior to the approval of the ~~State Records Administrator, administrator.~~ administrator. The administrator shall not approve internal microfilm activities of any state agency unless such activities may not be feasibly provided by the central microfilming agency and are necessary to a particular operation within the state agency. Any equipment purchased under this section shall become the property of the ~~State Records Administrator and shall be subject to the provisions of section 84-1223, administrator.~~

Sec. 28. Section 84-1224, Reissue Revised Statutes of Nebraska, is amended to read:

84-1224 ~~The State Records Administrator~~ administrator shall:

- (1) Be empowered to review the microfilm systems within every state agency; ~~of the state;~~
- (2) Be empowered to cause such systems to be merged with a central microfilm agency in the event that a cost analysis shows that economic advantage may be achieved;
- (3) Be empowered to permit the establishment of microfilming services within any state agency or department of the state if a potential economy or a substantial convenience for the state would result; and
- (4) ~~After July 1, 1978, be~~ Be empowered to determine the operating locations of all micrographic equipment in his or her possession.

Sec. 29. Section 84-1225, Reissue Revised Statutes of Nebraska, is amended to read:

84-1225 ~~The State Records Administrator~~ administrator shall provide for a system of charges for micropublishing services and computer output microfilm services rendered by the central microfilming agency to any other ~~department or state agency of the state~~ when these charges are allocable to a particular project carried on by such microfilming agency. Such charges shall, as nearly as may be practical, reflect the actual cost of services provided by the central microfilming agency. ~~On July 1, 1978, and thereafter the State Records Administrator~~ The administrator shall extend this system of charges to include source document microfilming. ~~The State Records Administrator~~ administrator shall extend this system of charges and user fees for all micrographic equipment which is the property of the administrator and which is used by any other state agency. ~~or department.~~

Sec. 30. Section 84-1227, Revised Statutes Cumulative Supplement, 2010, is amended to read:

84-1227 There is hereby established in the state treasury a special fund to be known as the Records Management Cash Fund which, when appropriated by the Legislature, shall be expended by the Secretary of State for the purposes of providing records management services and assistance to ~~political subdivisions,~~ local agencies, for development and maintenance of a ~~gateway or electronic network for accessing the portal for providing electronic access to public records or electronic information and services,~~ and for grants to a state or local agency ~~political subdivisions~~ as provided in subdivision (1)(j) of section 84-1204. All fees and charges for the purpose of records management services and analysis received by the Secretary of State from the ~~political subdivisions~~ local agencies shall be remitted to the State Treasurer for credit to such fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Records Management Cash 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.

Sec. 31. Section 9-523, Uniform Commercial Code, Reissue Revised Statutes of Nebraska, is amended to read:

9-523 Information from filing office; sale or license of records.

(a) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to section 9-519(a)(1) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

- (1) note upon the copy the number assigned to the record pursuant to section 9-519(a)(1) and the date and time of the filing of the record; and
 - (2) send the copy to the person.
- (b) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:
- (1) the information in the record;
 - (2) the number assigned to the record pursuant to section 9-519(a)(1); and
 - (3) the date and time of the filing of the record.
- (c) The filing office shall communicate or otherwise make available

in a record the following information to any person that requests it:

(1) whether there is on file on a date and time specified by the filing office, but not a date earlier than three business days before the filing office receives the request, any financing statement that:

(A) designates a particular debtor;

(B) has not lapsed under section 9-515 with respect to all secured parties of record; and

(C) if the request so states, has lapsed under section 9-515 and a record of which is maintained by the filing office under section 9-522(a);

(2) the date and time of filing of each financing statement; and

(3) the information provided in each financing statement.

(d) In complying with its duty under subsection (c), the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate.

(e) The filing office shall perform the acts required by subsections (a) through (d) at the time and in the manner prescribed by filing-office rule, but not later than two business days after the filing office receives the request.

(f) (1) The Secretary of State shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in the office of the Secretary of State under this part, in every medium from time to time available to the filing office.

(2) Records filed in the office of the Secretary of State under this part may be made available electronically through the ~~gateway or electronic network~~ portal established under section 84-1204, Reissue Revised Statutes of Nebraska. For batch requests, the fee is two dollars per record accessed through the ~~electronic network,~~ portal, except that the fee for a batch request for one thousand or more records is two thousand dollars. All fees collected pursuant to this subdivision shall be deposited in the Records Management Cash Fund and shall be distributed as provided in any agreements between the State Records Board and the Secretary of State.

Sec. 32. Original sections 44-113, 50-114.03, 52-1313.01, 60-3,161, 77-2705.04, 84-712, 84-1201, 84-1202, 84-1204, 84-1205, 84-1205.01, 84-1205.02, 84-1205.03, 84-1205.05, 84-1206, 84-1207, 84-1209, 84-1212, 84-1213, 84-1214, 84-1214.01, 84-1215, 84-1216, 84-1217, 84-1218, 84-1219, 84-1222, 84-1224, and 84-1225, Reissue Revised Statutes of Nebraska, section 84-1227, Revised Statutes Cumulative Supplement, 2010, and section 9-523, Uniform Commercial Code, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 33. The following sections are outright repealed: Sections 84-1205.04, 84-1205.06, and 84-1223, Reissue Revised Statutes of Nebraska.