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Authority**

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Records Management Act

Chapter 84. State Officers

Legislative intent

Law 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 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; 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 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

(7) There is a need for a uniform policy regarding the management, operation, and oversight of systems providing electronic access to public records.

Terms defined

Law 84-1202

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

(1) 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 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) Local agency means an agency of a local political subdivision, including any entity created by local public agencies pursuant to the Interlocal Cooperation 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 by local public agencies pursuant to the Interlocal Cooperation 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) 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) 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) 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) 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) Preservation duplicate means a copy of an essential record which is used for the purpose of preserving the record pursuant to the act;

(11) 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) Administrator means the State Records Administrator;

(13) Board means the State Records Board;

(14) Electronic access means collecting, sharing, disseminating, and providing access to public records electronically;

(15) Gateway means any centralized electronic information system by which public records are provided through dial-in modem or continuous link;

(16) 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) Network manager means an individual, a private entity, a state agency, or any other governmental subdivision responsible for directing and supervising the day-to-day operations and expansion of a gateway.

Secretary of State
State Records Administrator,
duties

Law 84-1203

The Secretary of State is hereby designated the State Records Administrator, hereinafter called the administrator. The administrator shall establish and administer, within and for state and local agencies,

(1) a records management program which will apply efficient and economical methods to the creation, utilization, maintenance, retention, preservation, and disposal of state and local records,

(2) a program for the selection and preservation of essential state and local records,

(3) establish and maintain a depository for the storage and service of state records, and advise, assist, and govern by rules and regulations the establishment of similar programs in local political subdivisions in the state, and

(4) establish and maintain a central microfilm agency for state records and advise, assist, and govern by rules and regulations the establishment of similar programs in state agencies and local political subdivisions in the State of Nebraska.

State Records Board
established, members,
duties, meetings

Law 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 through a gateway;

(c) Develop and maintain a gateway or electronic network for accessing public records;

(d) Provide appropriate oversight of a network manager;

(e) Approve reasonable fees for electronic access to public records 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 in order to provide citizens with electronic access to public records;

(g) Explore ways and means of expanding the amount and kind of public records 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, and, if appropriate, implementing changes necessary for such purposes;

(h) Explore technological ways and means of improving citizen and business access to public records and, if appropriate, implement the technological improvements;

(i) Explore options of expanding the gateway or electronic network and its services to citizens and businesses; and

- (j) 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-

Board
network manager, duties

Law 84-1205

(1) The board may employ or contract with a network manager. A network manager may include 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 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 network manager shall attend meetings of the board, keep a record of all gateway, electronic network, and related operations, which shall be the property of the board, maintain and be the custodian of all financial and operational records, and annually update and revise the business plan for the gateway or electronic network, 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 from revenue generated pursuant to sections 52-1316, 60-483, and 84-1205.02 and section 9-411, Uniform Commercial Code.

Technical advisory committee
established, membership

Law 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 Department of Administrative Services, and a representative from the computer services group of the Legislative Council.

Board
establish fees

Law 84-1205.02

Except as provided in sections 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. The fees shall not exceed the statutory fee for distribution 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.

State agency
electronic access to public records, approval required; when, one-time fee, courts, report, fees

Law 84-1205.03

(1) Any state agency other than the courts desiring to enter into an agreement to or otherwise provide electronic access to public records through a gateway for a fee shall make a written request for approval to the board. The request shall include, but not be limited to,

(a) a copy of the contract under consideration if the electronic access is to be provided through a contractual arrangement,

(b) the public records 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 request in accordance with section 84-1205.02 and after a public hearing within thirty days after receipt. 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 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.

(3) Courts providing electronic access to public records through a gateway for a fee shall make a written report. The State Court Administrator shall file the report with the board. The report shall include, but not be limited to,

- (a) a copy of the contract under consideration if the electronic access is to be provided through a contractual arrangement,
- (b) the public records 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 may request a presentation or such other information as it deems necessary. The courts shall take into consideration any recommendation made by the board with respect to such fees.

(4) Courts 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.

Contract
public bidding required,
when

Law 84-1205.04

By September 15, 1997, the board shall submit for public bidding any contract made by a state agency prior to June 7, 1997, for providing electronic access to public records for a fee through a gateway. Any such contract in existence on June 7, 1997, shall be terminated on January 31, 1998, unless sooner voided or terminated by order of a court of competent jurisdiction.

Board
reports

Law 84-1205.05

The board shall provide quarterly 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.

Public record
copies, media,
denial of request,
effect, appeal

Law 84-1205.06

(1) If a state agency is required to provide a copy of public records on request, a person requesting a copy of a public record may elect to obtain it in any and all media in which the agency is capable of providing it. No request for a copy of a public record in a particular medium shall be denied on the ground that the custodian has made or prefers to make the public record available in another medium. (2) A state agency may deny a request for a copy of a public record in a particular medium if:

- (a) The request is unreasonably complicated;
- (b) The request specifies a medium not regularly used by the state agency and would cause undue time or expense for the state agency to comply with the request; or
- (c) The public record is available in the requested medium from another source at a fee equal to or lower than any fee that would be charged by the state agency.

(3) A state agency may not deny a request for paper copies of public records.

(4) The requester may appeal a decision by a state agency to deny a request for a copy of a public record in a particular medium in writing to the board. The denial shall then be subject to the approval of the board based upon its determination of the state agency's compliance with this section.

(5) If a state agency provides copies of public records in a particular medium, the state agency shall provide notice not less than ninety calendar days prior to discontinuing such practice. The notice shall be published at least three times in a newspaper of general circulation.

Administrator
duties, powers

Law 84-1206

(1) With due regard for the functions of the 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 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 agencies in identifying essential records, and shall guide them 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.

State executive head
duties

Law 84-1207

In accordance with general law, and with such rules and regulations as shall be promulgated by the administrator and the board as provided in section 84-1216, such head of any state 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 recommendations as to which if any such records should be determined to be essential records. He shall review his inventory and report periodically and, as necessary, shall revise his 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.

Agency head
designate records
officer, duties

Law 84-1207.01

In addition to the duties enumerated in section 84-1207, each state agency head shall designate a records officer from the management or professional level who shall be responsible for the overall coordination of records management activities within the agency.

Administrator
preservation duplicates of
essential records,
process used, exception

Law 84-1208

(1) The administrator may make or cause to be made preservation duplicates of essential records or may designate as preservation duplicates existing copies thereof. A preservation duplicate shall be durable, accurate, complete, and clear and, if made by means of photography, microphotography, photocopying, film, microfilm, optical imagery, or similar processes, shall be prepared in conformity to standards prescribed and approved by the board.

(2) A preservation duplicate made by a photographic, photostatic, microfilm, microcard, miniature photographic, optical imagery, or similar process which accurately reproduces or forms a durable medium for so reproducing the original shall have the same force and effect for all purposes as the original record, whether the original is in existence or not. A transcript, exemplification, or certified copy of such preservation duplicate shall for all purposes be deemed a transcript, exemplification, or certified copy of the original record.

(3) No copy of an essential record shall be used as a preservation duplicate unless, under the general laws of the state, the copy has the same force and effect for all purposes as the original record.

Administrator
storage of records and
preservation duplicates,
charges

Law 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 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.

Administrator
records, maintain,
temporary removal,
inspection, copies certified

Law 84-1210

(1) The administrator shall properly maintain essential records and preservation duplicates stored by him.

(2) An essential record or preservation duplicate stored by the administrator may be removed by the regularly designated custodian for temporary use when necessary for the proper conduct of his office, and shall be returned to the administrator immediately after such use.

(3) When an essential record is stored by him, the administrator, upon the request of the regularly designated custodian thereof, shall provide for its inspection or for the making or certification of copies thereof, and such copies, when certified by the administrator, shall have the same force and effect for all purposes as if certified by the regularly designated custodian.

Records
confidential, protection

Law 84-1211

(1) When an essential record is required by law to be treated in a confidential manner, the administrator, in effectuating the purposes of sections 84-1201 to 84-1226, shall protect its confidential nature, as well as that of any preservation duplicate or other copy thereof. Any hospital or medical record submitted to the administrator for microfilming or similar processing shall be made accessible in a manner consistent with the access permitted similar records under sections 83-109 and 83-1068.

(2) Nothing in the Records Management Act shall be construed to affect the laws and regulations dealing with the dissemination, security, and privacy of criminal history information under Chapter 29, article 35.

Program for selection and preservation of essential records
review, periodically

Law 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 are accomplished.

Records retention and disposition schedule

review by State Archivist, approval, review by administrator

Law 84-1212.01

(1) Each records retention and disposition schedule submitted to the administrator shall be reviewed by the State Archivist for purposes of selection of archival and historical material, and all such material shall be identified as such on the schedule. When the State Archivist has determined that all archival and historical material has been properly identified and that no disposition, except by transfer to the State Archives of the Nebraska State Historical Society, has been recommended for such material, the State Archivist shall approve such records retention and disposition schedule and return it to the administrator.

(2) The administrator shall review each records retention and disposition schedule submitted, and if the recommended retention periods and the recommended dispositions satisfy audit requirements and give proper recognition to administrative, legal, and fiscal value of the records listed therein and if the records retention and disposition schedule has been approved by the State Archivist, such records retention and disposition schedule shall be approved by the administrator.

Records retention and disposition schedule
disposal of records pursuant to schedule, report

Law 84-1212.02

All state agency heads and all local agency heads are hereby authorized to dispose of the records of their agencies in accordance with records retention and disposition schedules which are applicable to their agencies if such schedules have been approved by the administrator pursuant to section 84-1212.01. Each agency head shall report any such records disposition to the administrator on forms provided by the administrator.

Records
property of government, protected, willfully mutilate, destroy, transfer, remove, damage, or otherwise dispose of, violation, penalty

Law 84-1213

All records made or received by or under the authority of, or coming into the custody, control, or possession of 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 concerned, and shall not be mutilated, destroyed, transferred, removed, damaged, or otherwise disposed of, in whole or in part, except as provided by law. Any person who shall willfully mutilate, destroy, transfer, remove, damage, or otherwise dispose of such records or any part of such records, except as provided by law, and any person who shall retain and continue to hold the possession of any such records, or parts thereof, belonging to the state government or to any local political subdivision, and shall refuse 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.

Records
violation, prosecute

Law 84-1213.01

The State Records Administrator, or any official under whose authority such records belong, shall report to the proper county attorney any supposed violation of section 84-1213 that in its judgment warrants prosecution. It shall be the duty of the several county attorneys to investigate supposed violations of such section and to prosecute violations of such section.

Agency
disposition of records, procedure

Law 84-1214

Whenever any agency desires to dispose of records which are not listed on an approved records retention and disposition schedule applicable to that agency, the 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.

State Archives
authority, duties

Law 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 agency shall certify in writing to the society the transfer of the custody of such material to the State Archives. No agency shall dispose of, in any other manner ex-

cept 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 agency of origin, it shall be the prerogative of the State Archivist to petition the administrator and the 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 agency head from whom the records are obtained.

Nonrecord material

destruction, procedure,
personal and political papers,
preservation

Law 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 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.

Administrator

rules and regulations,
promulgate

Law 84-1216

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

Agencies

preservation of records,
administrator, advise

Law 84-1217

All provisions of the Records Management Act shall apply to all 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 branches, and, as required by such branches, shall provide program services pursuant to the provisions of sections 84-1201 to 84-1226.

Political subdivisions

preservation of records,
administrator, advise and
assist, rules and regulations

Law 84-1218

The governing bodies of all local political subdivisions in this state, with the advice and assistance of the administrator and pursuant to the rules and regulations established by him, 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 sec-

tions 84-1201 to 84-1226. 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.

Administrator
biennial report, copies, furnish

Law 84-1219

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

Act
how cited

Law 84-1220

Sections 84-1201 to 84-1227 shall be known and may be cited as the Records Management Act.

Repealed
Laws 1989, LB 18, s. 10

Law 84-1221

Purchase of microfilm system or equipment
approval; property of State Records Administrator

Law 84-1222

After May 18, 1977, no state agency shall purchase any microfilm system or equipment prior to the approval of the State Records 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.

Micrographic production
processing, and viewing equipment, property of administrator, exception, credit

Law 84-1223

On May 19, 1979, all micrographic production, processing, and viewing equipment currently owned or subsequently acquired under the provisions of section 84-1222 by any state executive, judicial, or legislative agency, except the University of Nebraska or the state colleges, shall become the property of the State Records Administrator, regardless of the fund source from which the equipment was originally purchased. Appropriate credit, against future charges, shall be given to all agencies for the fair market value of all equipment accepted which had been purchased with federal funds or trust funds. Equipment purchased with funds from the Highway Cash Fund shall not be deemed to have been purchased with federal funds or trust funds.

Records Management Cash Fund
created, use, investment

Law 84-1224

The State Records Administrator shall:

(1) Be empowered to review the microfilm systems within every 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 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 empowered to determine the operating locations of all micrographic equipment in his possession.

**State Records
Administrator**
microfilm, micrographic
equipment, powers

Law 84-1225

The State Records 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 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 shall extend this system of charges to include source document microfilming. The State Records 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.

**State Records
Administrator**
micropublishing and
computer output microfilm
services, charges

Law 84-1226

(1) There is hereby created a fund to be known as the Records Management Micrographics Services Revolving Fund. All charges received by the Secretary of State under sections 84-1209 and 84-1225 and legislative appropriations shall be credited to such fund. Whenever any micrographics equipment of any state agency, except the University of Nebraska or the state colleges, shall become surplus property and shall be sold pursuant to section 81-161.04, the proceeds from the sale of such equipment shall be deposited in the state treasury and shall be credited by the State Treasurer to the Records Management Micrographics Services Revolving Fund. Expenditures shall be made from such fund to finance the micropublishing services and the computer output microfilm services by the Secretary of State or his or her authorized agent in accordance with appropriations made by the Legislature, to receive and expend funds pursuant to section 84-1225 for the provision of source document microfilming and for procuring and replacing micrographic equipment provided to state agencies, and to receive and expend funds pursuant to section 84-1209 for the providing of records storage services for state agencies.

(2) By agreement between any state agency and the State Records Administrator, any state agency may be billed one full year's rental for equipment at the beginning of each fiscal year. The State Records Administrator may coordinate with the Director of Administrative Services to set up a separate subaccount within the fund for the purpose of accounting for micrographic equipment procurement and replacement.

**Records Management
Micrographics Services
Revolving Fund**
created, credits,
expenditures, rental

Law 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 and for development and maintenance of a gateway or electronic network for accessing public records. All fees and charges for the purpose of records management services and analysis received by the Secretary of State from the political subdivisions shall be remitted to the State Treasurer for credit to such fund. 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.

Records Access

Chapter 84. State Officers

Public records
free examination,
memorandum and abstracts

Law 84-712

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 examine the same, and to make memoranda and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business.

Public records
right of citizens, full access,
access by modem,
fee authorized

Law 84-712.01

(1) Except when any other statute expressly provides that particular information or records shall not be made public, public records shall include all records and documents, regardless of physical form, of or belonging to this state, any county, city, village, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing. Data which is a public record in its original form shall remain a public record when maintained in computer files.

(2) When a custodian of a public record of a county which has a population of one hundred thousand inhabitants or more as determined by the most recent federal decennial census provides to a member of the public, upon request, a copy of the public record by transmitting it from a modem to an outside modem, a reasonable fee may be charged for such specialized service. Such fee may include a reasonable amount representing a portion of the amortization of the cost of computer equipment, including software, necessarily added in order to provide such specialized service. This subsection shall not be construed to require a governmental entity to acquire computer capability to generate public records in a new or different form when that new form would require additional computer equipment or software not already possessed by the governmental entity.

(3) Sections 84-712 to 84-712.03 shall be liberally construed whenever any state, county, or political subdivision fiscal records, audit, warrant, voucher, invoice, purchase order, requisition, payroll, check, receipt, or other record of receipt, cash, or expenditure involving public funds is involved in order that the citizens of this state shall have the full right to know of and have full access to information on the public finances of the government and the public bodies and entities created to serve them.

Public records
claimants before United States
Department of Veterans Affairs,
certified copies free of charge

Law 84-712.02

When it is requested by any claimant before the United States Department of Veterans Affairs or his or her agent or attorney that certified copies of any public record be furnished for the proper and effective presentation of any such claim in such department, the officer in charge of such public records shall furnish or cause to be furnished to such claimant or his or her agent or attorney a certified copy thereof free of charge.

Public records
denial of rights, remedies

Law 84-712.03

Any person denied any rights granted by sections 84-712 to 84-712.03 may elect to (1) file for speedy relief by a writ of mandamus in the district court within whose jurisdiction the state, county, or political subdivision officer who has custody of said public record can be served or (2) petition the Attorney General to review the record to determine whether it may be withheld from public inspection. This determination shall be made within fifteen calendar days of the submission of the petition. If the Attorney General determines that the record may not be withheld, the public body shall be ordered to disclose the record immediately. If the public body continues to withhold the record, the person seeking disclosure may (a) bring suit in the trial court of general jurisdiction or (b) demand in writing that the Attorney General bring suit in the name of the state in the trial court of general jurisdiction for the same purpose. If such demand is made, the Attorney General shall bring suit within fifteen calendar days of its receipt. The requester shall have an absolute right to intervene as a full party in the suit at any time. In any suit filed under this section, the court has jurisdiction to enjoin the public body from withholding records, to order the disclosure, and to grant such other equitable relief as may be proper. The court shall determine the matter de novo and the burden is on the public body to sustain its action. The court may view the records in controversy in camera before reaching a decision, and in the discretion of the court other persons, including the requester, counsel, and necessary expert witnesses may be permitted to view the records, subject to necessary protective orders. Proceedings arising under this section, except as to the cases the court considers of greater importance, shall take precedence on the docket over all other cases and shall be assigned for hearing, trial, or argument at the earliest practicable date and expedited in every way.

Public records
denial of rights, public body,
provide information

Law 84-712.04

(1) Any person denied any rights granted by sections 84-712 to 84-712.03 shall receive in written form from the public body which denied the request for records at least the following information:

- (a) A description of the contents of the records withheld and a statement of the specific reasons for the denial, correlating specific portions of the records to specific reasons for the denial, including citations to the particular statute and subsection thereof expressly providing the exception under section 84-712.01 relied on as authority for the denial;
- (b) The name of the public official or employee responsible for the decision to deny the request; and
- (c) Notification to the requester of any administrative or judicial right of review under section 84-712.03.

(2) Each public body shall maintain a file of all letters of denial of requests for records. This file shall be made available to any person on request.

**Records which may be
withheld from the public**
enumerated

Law 84-712.05

The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

- (1) Personal information in records regarding a student, prospective student, or former student of any tax-supported educational institution maintaining the records, other than routine directory information;
- (2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person, and also records of elections filed under section 44-2821;
- (3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;
- (4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are confidential communications as defined in section 27-503;
- (5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person;
- (6) Appraisals or appraisal information and negotiation records concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;
- (7) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;
- (8) Information solely pertaining to protection of the physical security of public property such as guard schedules; lock combinations; or the security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;
- (9) With respect to public utilities and except as provided in sections 43-512.06 and 70-101, personally identified private citizen account payment information, credit information on others supplied in confidence, and customer lists;
- (10) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;
- (11) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memo-

randa, and records of telephone calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

(12) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in Nebraska when necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act; and

(13) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act.

Public record
portion provide, when

Law 84-712.06

Any reasonably segregable public portion of a record shall be provided to the public as a public record upon request after deletion of the portions which may be withheld.

Public records
public access, equitable relief,
attorney fees, costs

Law 84-712.07

The provisions of sections 84-712, 84-712.01, 84-712.03 to 84-712.09, and 84-1413. pertaining to the rights of citizens to access to public records may be enforced by equitable relief, whether or not any other remedy is also available. In any case in which the complainant seeking access has substantially prevailed, the court may assess against the public body which had denied access to their records, reasonable attorney fees and other litigation costs reasonably incurred by the complainant.

Records
federal government, exception

Law 84-712.08

If it is determined by any federal department or agency or other federal source of funds, services, or essential information, that any provision of sections 84-712, 84-712.01, 84-712.03 to 84-712.09, and 84-1413 would cause the denial of any funds, services, or essential information from the United States Government which would otherwise definitely be available to an agency of this state, such provision shall be suspended as to such agency, but only to the extent necessary to prevent denial of such funds, services, or essential information.

Violation
penalty

Law 84-712.09

Any official who shall violate the provisions of sections 84-712, 84-712.01, and 84-712.03 to 84-712.08 shall be subject to removal or impeachment and in addition shall be deemed guilty of a Class III misdemeanor.

Nebraska State Historical Society Authority

Chapter 82. State Culture and History

Nebraska State Historical Society
state agency, board membership in society, purpose, acceptance of gifts, operation of historical sites and museums

Law 82-101

The Nebraska State Historical Society, operated in the public interest since 1878, is hereby declared to be and does hereby consent to be a state agency on and after July 16, 1994. The society shall hold, in trust for the people of the State of Nebraska, all of the society's present and future collections of property. The agency shall be under the direction of a board of trustees who shall be elected in part by the members of the society and in part appointed by the Governor as provided in section 82-101.01. Membership in the society shall be open to all persons interested in the accomplishment of the purposes of the society. In addition to all other objects and purposes provided by law, the object of the society shall be to promote historical knowledge and research, awaken public interest, and popularize historical study throughout the state in a nonpolitical manner. The society's headquarters and museum in Lincoln shall be used by the society for the preservation, care, research, and exhibition of and research into documents, books, newspapers, weapons, tools, pictures, relics, scientific specimens, farm and factory products, and all other collections pertaining to the history of the world, particularly to that of Nebraska and the West. The society shall have the power to accept gifts and to own, control, and dispose of property, real and personal. It shall, either alone or in cooperation with other agencies, operate historical sites and museums as agreed to with appropriate state agencies or as directed by the Governor and the Legislature.

Board of trustees
membership, terms, nominating committee, election, expenses

Law 82-101.01

(1) The initial board of trustees shall be comprised of the current members of the society's board of directors. As their terms expire under the society's presently existing bylaws, their successors shall be selected. Those outgoing board members who were elected shall be replaced by trustees elected by the society's membership as provided in this section. Those outgoing board members who were gubernatorial appointments shall be replaced by trustees appointed by the Governor. The trustees who are elected shall be elected for three-year terms from the same congressional district as the trustees whose terms have expired. The trustees selected by the Governor shall be appointed for three-year terms from the same congressional district as the trustees whose terms have expired.

(2) A nominating committee comprised of society members, one from each of the congressional districts, shall be appointed each year by the president of the board of trustees with the approval of the board of trustees. Such appointments shall be made at least one hundred twenty days prior to the date of the annual meeting of the members. The nominating committee shall file, in writing, its slate of nominees for trustee with the secretary of the society not later than ninety days prior to the date of the annual meeting. Thereafter, additional nominations may be made for trustee by written petition filed by not less than twenty-five active members of the society, which petition shall be filed with the secretary of the society not later than sixty days prior to the annual meeting. Candidates nominated by the nominating committee shall file a similar

petition. Not later than thirty days prior to the date of the annual meeting, the secretary of the society shall mail a ballot listing the names of the nominees to the active members of the society eligible to vote, to be marked by the members and returned to the secretary. Such returned ballots must be received by the secretary at least ten days prior to the date of the annual meeting in order to be counted. The board of trustees shall adopt a system of ballot certification insuring a secret ballot and that the person submitting the ballot is a society member entitled to vote. The returned ballots shall be counted by the secretary of the society, and the names of the successful candidates shall be announced at the annual meeting. The ballots shall be retained until after the annual meeting and shall be available for inspection by any member prior to the annual meeting. All members of the nominating committee, all members signing a nominating petition, and all members who are entitled to cast a ballot must be active members of the society who are in good standing. A member shall be considered in good standing when the member has fulfilled all requirements for membership. All general and other specified classes of members shall be eligible to vote for election or to be chosen as an officer or trustee or to serve as a member of the nominating committee. Only nominees named on the ballot shall be eligible for election. The candidate for a particular trustee post receiving the highest number of votes shall be declared elected even though such votes do not constitute a majority of the votes cast for such post. When two trustees are elected from a congressional district for a certain term, those declared elected shall be the two receiving the highest number of votes cast for such term, even though one or both fail to receive a majority of the votes cast for such term.

(3) The term of each trustee shall begin on January 1 of the year following the year of his or her election or appointment and shall end on December 31 of the final year of the term to which the member was elected or appointed.

(4) No trustee shall be eligible to serve for more than two full consecutive three-year terms but may be eligible for election or appointment to the board of trustees after having not served for at least a period of three years.

(5) In the event a vacancy occurs on the board of trustees, the board of trustees shall fill the position of an elected trustee for the remainder of the unexpired term and the Governor shall fill the position of an appointed trustee for the remainder of the unexpired term.

(6) In the event the boundaries of the congressional districts are altered or increase or decrease in number, the trustees shall continue to serve the term for which they were elected or appointed. Thereafter, the board of trustees shall be adjusted so as to be in accordance with the boundaries and number of congressional districts.

(7) Members of the board of trustees shall serve without pay. The trustees shall receive remuneration for travel and expenses incurred while engaged in the business of the society.

Board of trustees

powers and duties, Nebraska
State Historical Society
Collections Trust Fund, created

Law 82-101.02

In accordance with applicable law, the powers and duties of the board of trustees shall be as follows:

(1) To establish a date, time, and location for an annual meeting of the

society and promulgate same and to elect annually from among their number a president, a first vice president, a second vice president, and a treasurer;

(2) To adopt bylaws not inconsistent with state statutes for their own governance and to administer the society in the interests of preserving the rich heritage of this state and its people;

(3) To select a director or chief executive officer who shall also serve as secretary to the board of trustees, and to prescribe the director's duties and responsibilities;

(4) To create a general membership class which shall be open to all persons interested in the accomplishment of the purposes of the society, and the active members of such class shall be eligible to vote and shall not be required to pay membership dues;

(5) To create such other classes of membership in the society as the board deems desirable, to determine the qualifications for such classes of membership, and to set the fees to be paid for such memberships;

(6) To create such committees as the board deems advisable and delegate to the committees those functions which aid in the efficient administration of the affairs of the society;

(7) To, according to appropriate museum and archival standards, collect, assemble, preserve, classify, and exhibit, where appropriate, all books, pamphlets, maps, manuscripts, newspapers, photographs, business records, personal papers, diaries, architectural records, works of art, films, videotapes, machine-readable records, museum, archeological, and ethnographic specimens, and all other objects regardless of physical form that serve to illustrate the history of Nebraska and the Great Plains in particular, or of western America in general;

(8) To ensure that the collections and properties of the society are maintained in good order and repair;

(9) To accept, receive, and administer in the name of the society any gifts, donations, properties, securities, bequests, and legacies that may be made to the society. Notwithstanding any provisions to the contrary, the Nebraska State Historical Society may accept a gift of any property other than real estate without prior permission of any other governmental entity, including the Governor;

(10) To contract and enter into agreements necessary to effectuate the objects and purposes of the society;

(11) To sell, exchange, or otherwise dispose of books, museum objects, or other property in the society's collections that are surplus, duplicate, outside the scope of the society's mission, or which lack research, educational, or exhibit value on account of damage or insufficient documentation. Such sums as are derived from the sale or disposition of property that is surplus, duplicate, outside the scope of the society's mission, or which lacks research, educational, or exhibit value on account of damage or insufficient documentation shall be remitted to the State Treasurer for credit to the Nebraska State Historical Society Collections Trust Fund, which fund is hereby established. The fund shall be administered by the society. The fund shall be used, in accordance with appropriate museum and archival standards, exclusively for the acquisition,

preservation, or restoration of the society collections;

(12) To disseminate and interpret the results of the society's research through publications, exhibitions, reports, public programs, and all other appropriate methods which will promote the study, understanding, and appreciation of Nebraska history; and

(13) To adopt and promulgate all policies, rules, and regulations, not inconsistent with law, that are necessary to implement the objects and purposes of the society.

**Nebraska State
Historical Society**

reports, contents

Law 82-102

The president and secretary of the Nebraska State Historical Society shall make biennial reports to the Governor of its transactions. The report shall include the transactions and expenditures of the society, together with all historical addresses which have been read before the society during the preceding two years, or which furnish historical matter on data of the state and adjacent western regions.

**Nebraska State
Historical Society**

publications

Law 82-103

The reports, addresses and papers mentioned in section 82-102 shall be published at the expense of the state and distributed as other similar official reports are distributed. The state and society shall decide upon a reasonable number of the published reports, which shall be furnished to the society for its use and distribution.

**Nebraska State
Historical Society**

public documents, records,
relics, custodian

Law 82-104

The Nebraska State Historical Society shall be the custodian of all public records, documents, relics, and other material which the society may consider to be of historic value or interest, and which may be in any of the offices or vaults of the several departments of the state, in any of the institutions which receive appropriations of money from the Legislature of Nebraska, or in any of the county courthouses, city halls, or other public buildings within the State of Nebraska.

**Nebraska State
Historical Society**

public documents, records,
relics, obtaining possession,
procedure

Law 82-105

The Nebraska State Historical Society shall obtain possession of the historical material mentioned in section 82-104 whenever it is not in active use in any department, institution or building, or whenever it is liable to damage and destruction because of a lack of proper means to care for, or safe and adequate place to preserve it. The officer or board having the care and management of the department, institution or building shall consent in writing to the custody of the documents, records and materials by the society. The society shall prepare invoices and receipts in triplicate for the material turned over to the society, and shall deliver one copy to the Secretary of State, one copy to the officer or board turning over the material, and one copy shall be retained by the secretary of the society.

**Nebraska State
Historical Society**

public documents, records,
relics, notice to be given

Law 82-106

Every officer or board having control or management of any state department, institution or building shall notify the secretary of the Nebraska State Historical Society whenever any of the historical material mentioned in sections 82-104 and 82-105 shall be in his or their care.

**Nebraska State
Historical Society**

public documents, records,
relics, procedure after notice

Law 82-107

Whenever the secretary of the Nebraska State Historical Society has received notice as provided for in section 82-106, the society shall, by its officers or employees, examine the material and remove and receipt for whatever material the society may deem to be of historic value. The society shall transport the material at its own cost to its museum, and shall catalog, arrange and display the material for the free use of the public.

**Nebraska State
Historical Society**

documents and records,
certified copies, fees

Law 82-108

The secretary or curator of the Nebraska State Historical Society shall prepare certified copies of any record, document or other material, of which the society is the custodian, whenever application shall be made to the society. Such certified copies shall be received in courts and elsewhere as being of the same legal validity as similar copies prepared by the original custodian of the record, document or other material. The secretary or curator of the society shall be entitled to the same fees for making certified copies as the original custodian would be.

Repealed

Laws 1994, LB 1236, s. 4

Law 82-108.01

Historical Society Fund

created, use, investment

Law 82-108.02

All funds received by the Nebraska State Historical Society for services rendered shall be remitted to the State Treasurer for credit to the Historical Society Fund which is hereby established. Funds to the credit of the fund shall only be expended, as and when appropriated by the Legislature, by the Nebraska State Historical Society for the general purposes of such society. 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.

**Nebraska State
Historical Society**

documents relating to General
Land Office; agreement with
United States Land Office

Law 82-109

The Nebraska State Historical Society is authorized to enter into an agreement with the General Land Office at Washington, D.C., for the reception, preservation, organization and arrangement for public use of all documents relating to the former United States Land Offices in Nebraska that may be transferred from the custody of the General Land Office at Washington, D.C., to the custody of the society.

**Documents relating
to General Land Office**

preservation and maintenance,
federal authorities, free access

Law 82-110

All documents obtained from the General Land Office at Washington, D.C., shall be preserved and maintained as a part of the public records of Nebraska by the Nebraska State Historical Society, and by all other persons in such manner as shall secure the chief objects of their use and preservation, their care, custody and service, under proper library regulations. The authorities of the United States shall have free access to such documents.