

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 867

FINAL READING

Introduced by Legislative Performance Audit Committee: Watermeier, 1,
Chairperson; Krist, 10; Kuehn, 38; Larson, 40; Mello, 5;
Scheer, 19.

Read first time January 11, 2016

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the Administrative Procedure Act; to amend
2 sections 84-901, 84-902, 84-906, 84-906.03, 84-906.04, 84-907,
3 84-907.06, 84-907.07, 84-907.09, 84-908, and 84-920, Reissue Revised
4 Statutes of Nebraska, and sections 83-173.03 and 83-1,135, Revised
5 Statutes Supplement, 2015; to state intent; to define and redefine
6 terms; to provide for issuance of guidance documents; to allow for
7 emergency rules and regulations; to provide, change, and eliminate
8 requirements for guidance documents, rules, and regulations; to
9 exempt security policies and procedures; to change powers and duties
10 of the Secretary of State; to require the Department of Correctional
11 Services to adopt and promulgate rules and regulations; to harmonize
12 provisions; to provide an operative date; to repeal the original
13 sections; and to outright repeal sections 84-907.01 and 84-907.02,
14 Reissue Revised Statutes of Nebraska.
15 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 83-173.03, Revised Statutes Supplement, 2015, is
2 amended to read:

3 83-173.03 (1) Beginning July 1, 2016, no inmate shall be held in
4 restrictive housing unless done in the least restrictive manner
5 consistent with maintaining order in the facility and pursuant to rules
6 and regulations adopted and promulgated by the department pursuant to the
7 Administrative Procedure Act.

8 (2) The department shall adopt and promulgate rules and regulations
9 pursuant to the Administrative Procedure Act establishing levels of
10 restrictive housing as may be necessary to administer the correctional
11 system. Rules and regulations shall establish behavior, conditions, and
12 mental health status under which an inmate may be placed in each
13 confinement level as well as procedures for making such determinations.
14 Rules and regulations shall also provide for individualized transition
15 plans, developed with the active participation of the committed offender,
16 for each confinement level back to the general population or to society.

17 ~~(3) Rules and regulations may authorize the director to issue~~
18 ~~written directives, guidance documents, and operational manuals not~~
19 ~~inconsistent with law and rules and regulations. Such directives,~~
20 ~~guidance documents, and operational manuals shall be made available to~~
21 ~~the public in the same manner that rules and regulations are made~~
22 ~~available unless the safety and security of a correctional institution~~
23 ~~would be placed at imminent and substantial risk by such publication. If~~
24 ~~any directive, guidance document, or operational manual is not made~~
25 ~~available to the public, notice shall be given to the deputy public~~
26 ~~counsel for corrections and to the Inspector General of the Nebraska~~
27 ~~Correctional System. The notice shall identify all documents not publicly~~
28 ~~available by title, number of pages, and date adopted. All directives,~~
29 ~~guidance documents, and operational manuals shall be made available to~~
30 ~~any member of the Legislature upon request. Security manuals shall be~~
31 ~~made available to the Legislature for inspection upon request, but shall~~

1 ~~not be copied or removed from secure locations as designated by the~~
2 ~~director.~~

3 Sec. 2. Section 83-1,135, Revised Statutes Supplement, 2015, is
4 amended to read:

5 83-1,135 Sections 83-170 to 83-1,135.02 and sections 17 and 18 of
6 this act shall be known and may be cited as the Nebraska Treatment and
7 Corrections Act.

8 Sec. 3. The Legislature finds that:

9 (1) The regulatory authority given to agencies has a significant
10 impact on the people of the state;

11 (2) When agencies create substantive standards by which Nebraskans
12 are expected to abide, it is essential that those standards be adopted
13 through the rules and regulations process to enable the public to be
14 aware of the standards and have an opportunity to participate in the
15 approval or repeal process; and

16 (3) Agencies should be encouraged to advise the public of current
17 opinions, interpretations, approaches, and likely courses of action by
18 means of guidance documents.

19 Sec. 4. Section 84-901, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 84-901 For purposes of the Administrative Procedure Act:

22 (1) Agency shall mean each board, commission, department, officer,
23 division, or other administrative office or unit of the state government
24 authorized by law to make rules and regulations, except the Adjutant
25 General's office as provided in Chapter 55, the courts including the
26 Nebraska Workers' Compensation Court, the Commission of Industrial
27 Relations, the Legislature, and the Secretary of State with respect to
28 the duties imposed by the act;

29 (2) Rule or regulation shall mean any standard of general
30 application adopted by an agency in accordance with the authority
31 conferred by statute and includes, but is not limited to, the amendment

1 ~~or repeal of a rule or regulation rule, regulation, or standard issued by~~
2 ~~an agency, including the amendment or repeal thereof whether with or~~
3 ~~without prior hearing and designed to implement, interpret, or make~~
4 ~~specific the law enforced or administered by it or governing its~~
5 ~~organization or procedure. Rule or regulation shall not include (a)~~
6 ~~internal procedural documents which provide guidance to staff on agency~~
7 ~~organization and operations, lacking the force of law, and not relied~~
8 ~~upon to bind the public, (b) guidance documents as issued by an agency in~~
9 ~~accordance with section 5 of this act, and (c) forms and instructions~~
10 ~~developed by an agency (a) rules and regulations concerning the internal~~
11 ~~management of the agency not affecting private rights, private interests,~~
12 ~~or procedures available to the public or (b) permits, certificates of~~
13 ~~public convenience and necessity, franchises, rate orders, and rate~~
14 ~~tariffs and any rules of interpretation thereof. For purposes of the act,~~
15 ~~every standard rule and regulation which prescribes a penalty shall be~~
16 ~~presumed to have general applicability. Nothing in this section shall be~~
17 ~~interpreted to require an agency to adopt and promulgate rules and~~
18 ~~regulations when statute authorizes but does not require it or to affect~~
19 ~~private rights and interests;~~

20 (3) Contested case shall mean a proceeding before an agency in which
21 the legal rights, duties, or privileges of specific parties are required
22 by law or constitutional right to be determined after an agency hearing;

23 (4) Ex parte communication shall mean an oral or written
24 communication which is not on the record in a contested case with respect
25 to which reasonable notice to all parties was not given. Filing and
26 notice of filing provided under subdivision (6)(d) of section 84-914
27 shall not be considered on the record and reasonable notice for purposes
28 of this subdivision. Ex parte communication shall not include:

29 (a) Communications which do not pertain to the merits of a contested
30 case;

31 (b) Communications required for the disposition of ex parte matters

1 as authorized by law;

2 (c) Communications in a ratemaking or rulemaking proceeding; and

3 (d) Communications to which all parties have given consent; ~~and~~

4 (5) Guidance document shall mean any statement developed by an
5 agency which lacks the force of law but provides information or direction
6 of general application to the public to interpret or implement statutes
7 or such agency's rules or regulations. A guidance document is binding on
8 an agency until amended by the agency. A guidance document shall not give
9 rise to any legal right or duty or be treated as authority for any
10 standard, requirement, or policy. Internal procedural documents which
11 provide guidance to staff on agency organization and operations shall not
12 be considered guidance documents; and

13 (6 5) Hearing officer shall mean the person or persons conducting a
14 hearing, contested case, or other proceeding pursuant to the act, whether
15 designated as the presiding officer, administrative law judge, or some
16 other title designation.

17 Sec. 5. (1) Upon the issuance of a guidance document, an agency
18 shall make such document available at one public location and on the
19 agency's web site. The agency shall also publish on its web site an index
20 summarizing the subject matter of all currently applicable rules and
21 regulations and guidance documents. Such agency shall provide the index
22 electronically to the Executive Board of the Legislative Council by
23 December 31 of each year.

24 (2) An agency shall ensure that the first page of each guidance
25 document includes the following notice: This guidance document is
26 advisory in nature but is binding on an agency until amended by such
27 agency. A guidance document does not include internal procedural
28 documents that only affect the internal operations of the agency and does
29 not impose additional requirements or penalties on regulated parties or
30 include confidential information or rules and regulations made in
31 accordance with the Administrative Procedure Act. If you believe that

1 this guidance document imposes additional requirements or penalties on
2 regulated parties, you may request a review of the document.

3 (3) A person may request in writing that an agency revise or repeal
4 a guidance document or convert a guidance document into a rule or
5 regulation. No later than sixty calendar days after the agency receives
6 such a request, the agency shall advise the requestor in writing of its
7 decision to (a) revise or repeal the guidance document, (b) initiate a
8 proceeding to consider a revision or repeal of a guidance document, (c)
9 initiate the rulemaking or regulationmaking process to convert the
10 guidance document into a rule or regulation, or (d) deny the request and
11 state the reason for the denial.

12 (4) All decisions made by an agency under this section shall be made
13 available at one public location and on the agency's web site.

14 Sec. 6. (1) If an agency determines that the adoption, amendment,
15 or repeal of a rule or regulation is necessitated by an emergency
16 situation, the agency may adopt, amend, or repeal a rule or regulation
17 upon approval of the Governor. Such agency's request shall be submitted
18 to the Governor in writing and include a justification as to why the
19 emergency rule or regulation is necessary. Factors for the justification
20 shall include:

21 (a) Imminent peril to the public health, safety, or welfare; or

22 (b) The unforeseen loss of federal funding for an agency program.

23 (2) Any agency may use the emergency rule or regulation procedure as
24 provided in this section. However, no agency shall use such procedure to
25 avoid the consequences for failing to timely adopt and promulgate rules
26 and regulations.

27 (3) Rules and regulations adopted, amended, or repealed under this
28 section shall be exempted from the notice and hearings requirements of
29 section 84-907 and the review process required under section 84-905.01
30 and shall be valid upon approval of the Governor. An emergency rule or
31 regulation shall remain in effect for a period of ninety calendar days

1 and is renewable once for a period not to exceed ninety calendar days.

2 (4) Any agency which adopts, amends, or repeals a rule or regulation
3 under this section shall file such rule or regulation with the Secretary
4 of State. The agency shall also publish such rule or regulation on the
5 agency's web site.

6 Sec. 7. Section 84-902, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 84-902 (1) Each agency shall file in the office of the Secretary of
9 State a certified copy of the rules and regulations in force and effect
10 in such agency. The Secretary of State shall keep a permanent file of all
11 such rules and regulations. Such file shall be updated and kept current
12 upon receipt of any rules and regulations adopted, amended, or repealed
13 and filed with the Secretary of State as provided in the Administrative
14 Procedure Act and shall be open to public inspection during regular
15 business hours of his or her office. The Secretary of State, in order to
16 maintain and keep such files current, shall be empowered to require new
17 and amended rules and regulations to be filed as complete chapters or
18 sections as directed by the Secretary of State file pages and to remove
19 all superseded pages to a separate file.

20 (2) Rules and regulations filed with the Secretary of State pursuant
21 to the Administrative Procedure Act shall be filed in the manner and form
22 prescribed by the Secretary of State including electronic filing if so
23 directed by the Secretary of State. The Secretary of State shall issue
24 instructions to all state agencies setting forth the format to be
25 followed by all agencies in submitting rules and regulations to the
26 Secretary of State. Such instructions shall provide for a uniform page
27 size, a generally uniform and clear indexing system, and annotations
28 including designation of enabling legislation and court or agency
29 decisions interpreting the particular rule or regulation. For good cause
30 shown, the Secretary of State may grant exceptions to the uniform page
31 size requirement and the general indexing instructions for any agency.

1 Sec. 8. Section 84-906, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 84-906 (1) No rule or regulation of any agency shall be valid as
4 against any person until five days after such rule or regulation has been
5 filed with the Secretary of State except for rules and regulations
6 adopted, amended, or repealed pursuant to section 6 of this act. No rule
7 or regulation required under the Administrative Procedure Act to be filed
8 with the Secretary of State shall remain valid as against any person
9 until the certified copy of the rule or regulation has been so filed on
10 the date designated and in the form prescribed by the Secretary of State.
11 The filing of any rule or regulation shall give rise to a rebuttable
12 presumption that it was duly and legally adopted.

13 (2) A rule or regulation adopted after August 1, 1994, shall be
14 invalid unless adopted in substantial compliance with the provisions of
15 the act, except that inadvertent failure to mail a notice of the proposed
16 rule or regulation to any person shall not invalidate a rule or
17 regulation.

18 (3) Any action to contest the validity of a rule or regulation on
19 the grounds of its noncompliance with any provision of the act shall be
20 commenced within four years after the effective date of the rule or
21 regulation.

22 (4) The changes made to the act by Laws 1994, LB 446, shall not
23 affect the validity or effectiveness of a rule or regulation adopted
24 prior to August 1, 1994, or noticed for hearing prior to such date.

25 (5) The changes made to the act by Laws 2005, LB 373, shall not
26 affect the validity or effectiveness of a rule or regulation adopted
27 prior to October 1, 2005, or noticed for hearing prior to such date.

28 Sec. 9. Section 84-906.03, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 84-906.03 It shall be the duty of the Secretary of State:

31 (1) To establish and cause to be compiled, indexed by subject, and

1 published a codification system for all rules and regulations filed to be
2 designated the Nebraska Administrative Code; -

3 (2) To cause the Nebraska Administrative Code to be computerized to
4 facilitate agencies in revision of their rules and regulations and
5 provide research capabilities; and

6 (3) To post ~~distribute~~ a current copy of existing rules and
7 regulations as accepted by him or her as filed on his or her web site ~~to~~
8 ~~the State Library and to each county law library of the State of Nebraska~~
9 ~~making a request for a copy of such rules and regulations; to distribute,~~
10 ~~on a regular basis, copies of all modifications or amendments to agency~~
11 ~~rules and regulations as accepted by him or her as filed to the State~~
12 ~~Library and to each county law library of the State of Nebraska which~~
13 ~~requests copies of all modifications or amendments; to distribute at~~
14 ~~least four current copies of any rules and regulations accepted by him or~~
15 ~~her as filed to the Nebraska Publications Clearinghouse to meet the needs~~
16 ~~of the Nebraska publications depository system; to distribute on a~~
17 ~~regular basis at least four copies of all modifications or amendments to~~
18 ~~agency rules and regulations accepted by him or her as filed to the~~
19 ~~Nebraska Publications Clearinghouse to meet the needs of the Nebraska~~
20 ~~publications depository system; to distribute a current copy of any~~
21 existing rules and regulations as accepted by him or her as filed to all
22 interested persons on request at a price fixed to cover costs of
23 printing, handling, and mailing; and to distribute, on a regular basis,
24 copies of any or all modifications or amendments to agency rules and
25 regulations as accepted by him or her as filed to all interested persons
26 on request at a price fixed to cover costs of printing, handling, and
27 mailing.

28 Sec. 10. Section 84-906.04, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 84-906.04 (1) The Secretary of State shall maintain a current public
31 rulemaking or regulationmaking docket for each pending rulemaking or

1 regulationmaking proceeding. A rulemaking or regulationmaking proceeding
2 is pending from the time it is commenced by publication of a notice of
3 proposed rule or regulation making to the time it is terminated by
4 publication of a notice of termination or the rule or regulation becoming
5 effective.

6 (2) For each rulemaking or regulationmaking proceeding, the docket
7 shall indicate:

8 (a) The subject matter of the proposed rule or regulation;

9 (b) The time, date, and location of the public hearing regarding the
10 proposed rule or regulation ~~A citation to all published notices relating~~
11 ~~to the proceeding;~~

12 (c) The name and address of agency personnel with whom people may
13 communicate regarding the proposed rule or regulation;

14 (d) Where written comments on the proposed rule or regulation may be
15 inspected;

16 (e) The time during which written comments may be made;

17 ~~(f) The names of persons who have submitted written comments on the~~
18 ~~proposed rule or regulation;~~

19 ~~(f g)~~ (g) Where the description of the fiscal impact may be inspected
20 and obtained;

21 ~~(g h)~~ (h) The current status of the proposed rule or regulation and any
22 agency determinations with respect thereto;

23 ~~(h i)~~ (i) Any known timetable for agency decisions or other action in
24 the proceeding;

25 ~~(i j)~~ (j) The date of the rule's or regulation's adoption;

26 ~~(j k)~~ (k) The date of the rule's or regulation's filing, indexing, and
27 publication; and

28 ~~(k l)~~ (l) The operative date of the rule or regulation if such date is
29 later than the effective date prescribed in sections 84-906 and 84-911.

30 Sec. 11. Section 84-907, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 84-907 (1) Except as provided in section 6 of this act, no ~~No~~ rule
2 or regulation shall be adopted, amended, or repealed by any agency except
3 after public hearing on the question of adopting, amending, or repealing
4 such rule or regulation. Notice of such hearing shall be given at least
5 thirty days prior thereto to the Secretary of State and by publication in
6 a newspaper having general circulation in the state. All such hearings
7 shall be open to the public.

8 (2) The public hearing on a rule or regulation that is required to
9 be adopted, amended, or repealed based upon a legislative bill shall be
10 held within twelve months after the effective or operative date of the
11 legislative bill. If there is more than one applicable effective or
12 operative date, the twelve-month period shall be calculated using the
13 latest date. In addition to the requirements of section 84-906.01, draft
14 copies or working copies of all rules and regulations to be adopted,
15 amended, or repealed by any agency shall be available to the public in
16 the office of the Secretary of State at the time of giving notice. The
17 notice shall include: (a) A declaration of availability of such draft or
18 work copies for public examination; (b) a short explanation of the
19 purpose of the proposed rule or regulation or the reason for the
20 amendment or repeal of the rule or regulation; and (c) a description,
21 including an estimated quantification, of the fiscal impact on state
22 agencies, political subdivisions, and persons being regulated or an
23 explanation of where the description of the fiscal impact may be
24 inspected and obtained. No person may challenge the validity of any rule
25 or regulation, the adoption, amendment, or repeal of any rule or
26 regulation, or any determination of the applicability of any rule or
27 regulation on the basis of the explanation or description provided
28 pursuant to subdivisions (b) and (c) of this subsection.

29 (3) A change to an existing rule or regulation to (a) alter the
30 style or form of such rule or regulation, (b) correct a technical error,
31 or (c) alter a citation or reference to make such citation or reference

1 consistent with state or federal law but which does not affect the
2 substance of the rule or regulation is exempt from the requirements of
3 this section. Such change shall not alter the rights or obligations of
4 the public.

5 (4) Agencies shall be exempt from promulgating security policies and
6 procedures which, if made public, would create a substantial likelihood
7 of endangering public safety or property.

8 ~~(3) Any agency adopting, amending, or repealing a rule or regulation~~
9 ~~may make written application to the Governor who may, upon receipt of a~~
10 ~~written showing of good cause, waive the notice of public hearing. For~~
11 ~~purposes of this subsection, good cause shall include, but not be limited~~
12 ~~to, a showing by the agency that:~~

13 ~~(a) Compliance with the requirements of this section would result in~~
14 ~~extreme hardship on the citizens of this state;~~

15 ~~(b) An emergency exists which must be remedied immediately; or~~

16 ~~(c) A timely filing or publication of notice of a public hearing or~~
17 ~~the public hearing was prevented by some unforeseeable event beyond the~~
18 ~~immediate control of the agency and that the parties affected have not~~
19 ~~and will not suffer material injury as a result of the agency's action.~~

20 ~~(4) Whenever public notice is waived, the agency shall, so far as~~
21 ~~practicable, give notice to the public of the proposed rule or regulation~~
22 ~~change and of the rule or regulation as finally adopted or changed.~~

23 Sec. 12. Section 84-907.06, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 84-907.06 Whenever an agency proposes to adopt, amend, or repeal a
26 rule or regulation, (1) at least thirty days before the public hearing,
27 when notice of a proposed rule or regulation is sent out, or (2) at the
28 same time the agency requests approval from the Governor for an emergency
29 rule or regulation under section 6 of this act applies to the Governor
30 ~~for a waiver of the notice of public hearing, the agency shall send to~~
31 ~~the Executive Board of the Legislative Council, if applicable, (a) a copy~~

1 of the hearing notice required by section 84-907, (b) ~~if applicable,~~ a
2 draft copy of the rule or regulation, and (c) the information provided to
3 the Governor pursuant to section 84-907.09.

4 Sec. 13. Section 84-907.07, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 84-907.07 The chairperson of the Executive Board of the Legislative
7 Council or committee staff member of the board shall refer materials
8 received pursuant to section 84-907.06 for review (1) to the chairperson
9 of the standing committee of the Legislature which has subject matter
10 jurisdiction over the issue involved in the rule or regulation or which
11 has traditionally handled the issue and (2) if practicable, to the member
12 of the Legislature who was the primary sponsor of the legislative bill
13 that granted the agency the rulemaking authority if the member is still
14 serving or, if the legislative bill was amended to include the rulemaking
15 authority, to the primary sponsor of the amendment granting rulemaking
16 authority if the member is still serving. The committee or committee
17 chairperson of such standing committee of the Legislature having subject
18 matter jurisdiction may submit a written or oral statement at the public
19 hearing on the rule or regulation or, if the Governor approves an
20 emergency rule or regulation under section 6 of this act ~~authorizes a~~
21 ~~waiver of the notice of public hearing,~~ may submit a written statement to
22 the agency and to the Secretary of State to be entered in the records
23 relating to the rule or regulation.

24 Sec. 14. Section 84-907.09, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 84-907.09 Whenever an agency proposes to adopt, amend, or repeal a
27 rule or regulation, (1) at least thirty days before the public hearing,
28 when notice of a proposed rule or regulation is sent out, or (2) at the
29 same time the agency requests approval from the Governor for an emergency
30 rule or regulation under section 6 of this act ~~applies to the Governor~~
31 ~~for a waiver of the notice of public hearing under section 84-907,~~ the

1 agency shall provide to the Governor for review (a) a description of the
2 proposed rule or regulation and the entity or entities it will impact,
3 (b) an explanation of the necessity of the proposed rule or regulation,
4 including the identification of the specific legislative bill if
5 applicable, or the authorizing statute when there is no legislative bill
6 applicable, (c) a statement that the proposed rule or regulation is
7 consistent with legislative intent, (d) a statement indicating whether
8 the proposed rule or regulation is the result of a state mandate on a
9 local governmental subdivision and if the mandate is funded, (e) a
10 statement indicating if the proposed rule or regulation is the result of
11 a federal mandate on state government or on a local governmental
12 subdivision and if the mandate is funded, (f) a description, including an
13 estimated quantification, of the fiscal impact on state agencies,
14 political subdivisions, and regulated persons, (g) a statement that the
15 agency will solicit public comment on the proposed rule or regulation
16 before the public hearing, and (h) a statement indicating whether or not
17 the agency has utilized the negotiated rulemaking process as provided for
18 in the Negotiated Rulemaking Act with respect to the proposed rule or
19 regulation.

20 Sec. 15. Section 84-908, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 84-908 (1) Except as provided in section 6 of this act, no ~~No~~
23 adoption, amendment, or repeal of any rule or regulation shall become
24 effective until the same has been approved by the Governor and filed with
25 the Secretary of State after a hearing has been set on such rule or
26 regulation pursuant to section 84-907. When determining whether to
27 approve the adoption, amendment, or repeal of any rule or regulation
28 relating to an issue of unique interest to a specific geographic area,
29 the Governor's considerations shall include, but not be limited to: (a)
30 Whether adequate notice of hearing was provided in the geographic area
31 affected by the rule or regulation. Adequate notice shall include, but

1 not be limited to, the availability of copies of the rule or regulation
2 at the time notice was given pursuant to section 84-907; and (b) whether
3 reasonable and convenient opportunity for public comment was provided for
4 the geographic area affected by the rule or regulation. If a public
5 hearing was not held in the affected geographic area, reasons shall be
6 provided by the agency to the Governor. Any rule or regulation properly
7 adopted by any agency shall be filed with the Secretary of State.

8 (2) Except as provided in section 6 of this act, no ~~No~~ agency shall
9 utilize, enforce, or attempt to enforce any rule or regulation or
10 proposed rule or regulation unless the rule, regulation, or proposed rule
11 or regulation has been approved by the Governor and filed with the
12 Secretary of State after a hearing pursuant to section 84-907.

13 Sec. 16. Section 84-920, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 84-920 Sections 84-901 to 84-920 and sections 3, 5, and 6 of this
16 act shall be known and may be cited as the Administrative Procedure Act.

17 Sec. 17. Rules and regulations may authorize the Director of
18 Correctional Services to issue guidance documents and internal procedural
19 documents not inconsistent with law and rules and regulations. Such
20 guidance documents and internal procedural documents shall be made
21 available to the public at one public location and on the department's
22 web site unless the safety and security of a correctional institution
23 would be placed at imminent and substantial risk by such publication. If
24 any guidance document or internal procedural document is not made
25 available to the public, notice shall be given to the deputy public
26 counsel for corrections and to the Inspector General of the Nebraska
27 Correctional System. The notice shall identify all documents not publicly
28 available by title, number of pages, and date adopted. All guidance
29 documents and internal procedural documents shall be made available to
30 any member of the Legislature upon request. Security manuals shall be
31 made available to the Legislature for inspection upon request, but shall

1 not be copied or removed from secure locations as designated by the
2 director.

3 Sec. 18. The Department of Correctional Services shall adopt and
4 promulgate rules and regulations pursuant to the Administrative Procedure
5 Act regarding any procedures or policies used by the department for any
6 situation where an inmate, under the authority of the department, is
7 outside a correctional facility operated by the department or a contract
8 facility as defined in section 83-1,119 unless the safety and security of
9 a correctional institution would be placed at imminent and substantial
10 risk by such publication.

11 Sec. 19. This act becomes operative on January 1, 2017.

12 Sec. 20. Original sections 84-901, 84-902, 84-906, 84-906.03,
13 84-906.04, 84-907, 84-907.06, 84-907.07, 84-907.09, 84-908, and 84-920,
14 Reissue Revised Statutes of Nebraska, and sections 83-173.03 and
15 83-1,135, Revised Statutes Supplement, 2015, are repealed.

16 Sec. 21. The following sections are outright repealed: Sections
17 84-907.01 and 84-907.02, Reissue Revised Statutes of Nebraska.