

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 867

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 section 83-173.03, Revised Statutes
5 Supplement, 2015; to state intent; to define and redefine terms; to
6 provide for issuance of guidance documents; to allow for emergency
7 rules and regulations; to change powers and duties of the Secretary
8 of State; to require the Department of Correctional Services to
9 adopt and promulgate rules and regulations; to harmonize provisions;
10 to repeal the original sections; and to outright repeal sections
11 84-907.01 and 84-907.02, Reissue Revised Statutes of Nebraska.
12 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. The Legislature finds that:

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

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

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

14 Sec. 3. Section 84-901, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 84-901 For purposes of the Administrative Procedure Act:

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

24 (2) Rule or regulation shall mean any standard of general
25 application adopted by an agency in accordance with the authority
26 conferred by statute, and includes, but is not limited to, the amendment
27 or repeal of a rule or regulation ~~rule, regulation, or standard issued by~~
28 ~~an agency, including the amendment or repeal thereof whether with or~~
29 ~~without prior hearing and designed to implement, interpret, or make~~
30 ~~specific the law enforced or administered by it or governing its~~
31 ~~organization or procedure.~~ Rule or regulation shall not include (a)

1 internal procedural documents which provide guidance to staff on agency
2 organization and operations, lacking the force of law, and not relied
3 upon to bind the public, (b) guidance documents as issued by an agency in
4 accordance with section 3 of this act, and (c) forms and instructions
5 developed by an agency (a) rules and regulations concerning the internal
6 management of the agency not affecting private rights, private interests,
7 or procedures available to the public or (b) permits, certificates of
8 public convenience and necessity, franchises, rate orders, and rate
9 tariffs and any rules of interpretation thereof. For purposes of the act,
10 every standard rule and regulation which prescribes a penalty shall be
11 presumed to have general applicability. Nothing in this section shall be
12 interpreted to require an agency to adopt and promulgate rules and
13 regulations when statute authorizes but does not require it or to affect
14 private rights and interests;

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

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

24 (a) Communications which do not pertain to the merits of a contested
25 case;

26 (b) Communications required for the disposition of ex parte matters
27 as authorized by law;

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

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

30 (5) Guidance document shall mean any statement developed by an
31 agency which lacks the force of law but provides information or direction

1 of general application to the public to interpret or implement statutes
2 or such agency's rules or regulations. A guidance document is binding on
3 an agency until amended by the agency. A guidance document shall not give
4 rise to any legal right or duty or be treated as authority for any
5 standard, requirement, or policy. Internal procedural documents which
6 provide guidance to staff on agency organization and operations shall not
7 be considered guidance documents; and

8 (6 5) Hearing officer shall mean the person or persons conducting a
9 hearing, contested case, or other proceeding pursuant to the act, whether
10 designated as the presiding officer, administrative law judge, or some
11 other title designation.

12 Sec. 4. (1) Upon the issuance of a guidance document, an agency
13 shall make such document available at one public location and on the
14 agency's web site. The agency shall also publish on its web site an index
15 summarizing the subject matter of all currently applicable rules and
16 regulations and guidance documents. Such agency shall provide the index
17 electronically to the Executive Board of the Legislative Council by
18 December 31 of each year.

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

29 (3) A person may request in writing that an agency revise or repeal
30 a guidance document or convert a guidance document into a rule or
31 regulation. No later than sixty calendar days after the agency receives

1 such a request, the agency shall advise the requestor in writing of its
2 decision to (a) revise or repeal the guidance document, (b) initiate a
3 proceeding to consider a revision or repeal of a guidance document, (c)
4 initiate the rulemaking or regulationmaking process to convert the
5 guidance document into a rule or regulation, or (d) deny the request and
6 state the reason for the denial.

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

9 Sec. 5. (1) If an agency determines that the adoption, amendment,
10 or repeal of a rule or regulation is necessitated by an emergency
11 situation, the agency may adopt, amend, or repeal a rule or regulation
12 upon approval of the Governor. Such agency's request shall be submitted
13 to the Governor in writing and include a justification as to why the
14 emergency rule or regulation is necessary. Factors for the justification
15 shall include:

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

17 (b) Prevention of substantial and unforeseen financial loss to the
18 state; or

19 (c) The occurrence of an unforeseen event that necessitates the
20 adoption, amendment, or repeal of a rule or regulation to secure or
21 protect the best interests of the state or its residents.

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

26 (3) Rules and regulations adopted, amended, or repealed under this
27 section shall be exempted from the notice and hearings requirements of
28 section 84-907 and shall be valid upon approval of the Governor. An
29 emergency rule or regulation shall remain in effect for a period of
30 ninety calendar days and is renewable once for a period not to exceed
31 ninety calendar days.

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

3 84-902 (1) Each agency shall file in the office of the Secretary of
4 State a certified copy of the rules and regulations in force and effect
5 in such agency. The Secretary of State shall keep a permanent file of all
6 such rules and regulations. Such file shall be updated and kept current
7 upon receipt of any rules and regulations adopted, amended, or repealed
8 and filed with the Secretary of State as provided in the Administrative
9 Procedure Act and shall be open to public inspection during regular
10 business hours of his or her office. The Secretary of State, in order to
11 maintain and keep such files current, shall be empowered to require new
12 and amended rules and regulations to be filed as complete chapters or
13 sections as directed by the Secretary of State file pages and to remove
14 all superseded pages to a separate file.

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

27 Sec. 7. Section 84-906, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 84-906 (1) No rule or regulation of any agency shall be valid as
30 against any person until five days after such rule or regulation has been
31 filed with the Secretary of State except for rules and regulations

1 adopted, amended, or repealed pursuant to section 5 of this act. No rule
2 or regulation required under the Administrative Procedure Act to be filed
3 with the Secretary of State shall remain valid as against any person
4 until the certified copy of the rule or regulation has been so filed on
5 the date designated and in the form prescribed by the Secretary of State.
6 The filing of any rule or regulation shall give rise to a rebuttable
7 presumption that it was duly and legally adopted.

8 (2) A rule or regulation adopted after August 1, 1994, shall be
9 invalid unless adopted in substantial compliance with the provisions of
10 the act, except that inadvertent failure to mail a notice of the proposed
11 rule or regulation to any person shall not invalidate a rule or
12 regulation.

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

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

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

23 Sec. 8. Section 84-906.03, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 84-906.03 It shall be the duty of the Secretary of State:

26 (1) To establish and cause to be compiled, indexed by subject, and
27 published a codification system for all rules and regulations filed to be
28 designated the Nebraska Administrative Code.

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

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

23 Sec. 9. Section 84-906.04, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 84-906.04 (1) The Secretary of State shall maintain a current public
26 rulemaking or regulationmaking docket for each pending rulemaking or
27 regulationmaking proceeding. A rulemaking or regulationmaking proceeding
28 is pending from the time it is commenced by publication of a notice of
29 proposed rule or regulation making to the time it is terminated by
30 publication of a notice of termination or the rule or regulation becoming
31 effective.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Sec. 10. Section 84-907, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 84-907 (1) Except as provided in section 5 of this act, no ~~No~~ rule
28 or regulation shall be adopted, amended, or repealed by any agency except
29 after public hearing on the question of adopting, amending, or repealing
30 such rule or regulation. Notice of such hearing shall be given at least
31 thirty days prior thereto to the Secretary of State and by publication in

1 a newspaper having general circulation in the state. All such hearings
2 shall be open to the public.

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

24 (3) A change to an existing rule or regulation to (a) alter the
25 style or form of such rule or regulation, (b) correct a technical error,
26 or (c) alter a citation or reference to make such citation or reference
27 consistent with state or federal law but which does not affect the
28 substance of the rule or regulation is exempt from the requirements of
29 this section.

30 (4) Agencies shall be exempt from promulgating security policies and
31 procedures which, if made public, would create a substantial likelihood

1 of endangering public safety or property.

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

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

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

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

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

17 Sec. 11. Section 84-907.06, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 84-907.06 Whenever an agency proposes to adopt, amend, or repeal a
20 rule or regulation, (1) at least thirty days before the public hearing,
21 when notice of a proposed rule or regulation is sent out, or (2) at the
22 same time the agency requests approval from the Governor for an emergency
23 rule or regulation under section 5 of this act applies to the Governor
24 ~~for a waiver of the notice of public hearing~~, the agency shall send to
25 the Executive Board of the Legislative Council if applicable, (a) a copy
26 of the hearing notice required by section 84-907, (b) ~~if applicable~~, a
27 draft copy of the rule or regulation, and (c) the information provided to
28 the Governor pursuant to section 84-907.09.

29 Sec. 12. Section 84-907.07, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 84-907.07 The chairperson of the Executive Board of the Legislative

1 Council or committee staff member of the board shall refer materials
2 received pursuant to section 84-907.06 for review (1) to the chairperson
3 of the standing committee of the Legislature which has subject matter
4 jurisdiction over the issue involved in the rule or regulation or which
5 has traditionally handled the issue and (2) if practicable, to the member
6 of the Legislature who was the primary sponsor of the legislative bill
7 that granted the agency the rulemaking authority if the member is still
8 serving or, if the legislative bill was amended to include the rulemaking
9 authority, to the primary sponsor of the amendment granting rulemaking
10 authority if the member is still serving. The committee or committee
11 chairperson of such standing committee of the Legislature having subject
12 matter jurisdiction may submit a written or oral statement at the public
13 hearing on the rule or regulation or, if the Governor approves an
14 emergency rule or regulation under section 5 of this act ~~authorizes a~~
15 ~~waiver of the notice of public hearing~~, may submit a written statement to
16 the agency and to the Secretary of State to be entered in the records
17 relating to the rule or regulation.

18 Sec. 13. Section 84-907.09, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 84-907.09 Whenever an agency proposes to adopt, amend, or repeal a
21 rule or regulation, (1) at least thirty days before the public hearing,
22 when notice of a proposed rule or regulation is sent out, or (2) at the
23 same time the agency requests approval from the Governor for an emergency
24 rule or regulation under section 5 of this act ~~applies to the Governor~~
25 ~~for a waiver of the notice of public hearing under section 84-907~~, the
26 agency shall provide to the Governor for review (a) a description of the
27 proposed rule or regulation and the entity or entities it will impact,
28 (b) an explanation of the necessity of the proposed rule or regulation,
29 including the identification of the specific legislative bill if
30 applicable, or the authorizing statute when there is no legislative bill
31 applicable, (c) a statement that the proposed rule or regulation is

1 consistent with legislative intent, (d) a statement indicating whether
2 the proposed rule or regulation is the result of a state mandate on a
3 local governmental subdivision and if the mandate is funded, (e) a
4 statement indicating if the proposed rule or regulation is the result of
5 a federal mandate on state government or on a local governmental
6 subdivision and if the mandate is funded, (f) a description, including an
7 estimated quantification, of the fiscal impact on state agencies,
8 political subdivisions, and regulated persons, (g) a statement that the
9 agency will solicit public comment on the proposed rule or regulation
10 before the public hearing, and (h) a statement indicating whether or not
11 the agency has utilized the negotiated rulemaking process as provided for
12 in the Negotiated Rulemaking Act with respect to the proposed rule or
13 regulation.

14 Sec. 14. Section 84-908, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 84-908 (1) Except as provided in section 5 of this act, no ~~No~~
17 adoption, amendment, or repeal of any rule or regulation shall become
18 effective until the same has been approved by the Governor and filed with
19 the Secretary of State after a hearing has been set on such rule or
20 regulation pursuant to section 84-907. When determining whether to
21 approve the adoption, amendment, or repeal of any rule or regulation
22 relating to an issue of unique interest to a specific geographic area,
23 the Governor's considerations shall include, but not be limited to: (a)
24 Whether adequate notice of hearing was provided in the geographic area
25 affected by the rule or regulation. Adequate notice shall include, but
26 not be limited to, the availability of copies of the rule or regulation
27 at the time notice was given pursuant to section 84-907; and (b) whether
28 reasonable and convenient opportunity for public comment was provided for
29 the geographic area affected by the rule or regulation. If a public
30 hearing was not held in the affected geographic area, reasons shall be
31 provided by the agency to the Governor. Any rule or regulation properly

1 adopted by any agency shall be filed with the Secretary of State.

2 (2) Except as provided in section 5 of this act, no ~~No~~ agency shall
3 utilize, enforce, or attempt to enforce any rule or regulation or
4 proposed rule or regulation unless the rule, regulation, or proposed rule
5 or regulation has been approved by the Governor and filed with the
6 Secretary of State after a hearing pursuant to section 84-907.

7 Sec. 15. Section 84-920, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 84-920 Sections 84-901 to 84-920 and sections 2, 4, and 5 of this
10 act shall be known and may be cited as the Administrative Procedure Act.

11 Sec. 16. Rules and regulations may authorize the Director of
12 Correctional Services to issue guidance documents and internal procedural
13 documents not inconsistent with law and rules and regulations. Such
14 guidance documents and internal procedural documents shall be made
15 available to the public at one public location and on the department's
16 web site unless the safety and security of a correctional institution
17 would be placed at imminent and substantial risk by such publication. If
18 any guidance document or internal procedural document is not made
19 available to the public, notice shall be given to the deputy public
20 counsel for corrections and to the Inspector General of the Nebraska
21 Correctional System. The notice shall identify all documents not publicly
22 available by title, number of pages, and date adopted. All guidance
23 documents and internal procedural documents shall be made available to
24 any member of the Legislature upon request. Security manuals shall be
25 made available to the Legislature for inspection upon request, but shall
26 not be copied or removed from secure locations as designated by the
27 director.

28 Sec. 17. The Department of Correctional Services shall adopt and
29 promulgate rules and regulations pursuant to the Administrative Procedure
30 Act regarding any procedures or polices used by the department for any
31 situation where an inmate, under the authority of the department, is

1 outside a correctional facility operated by the department unless the
2 safety and security of a correctional institution would be placed at
3 imminent and substantial risk by such publication.

4 Sec. 18. Original sections 84-901, 84-902, 84-906, 84-906.03,
5 84-906.04, 84-907, 84-907.06, 84-907.07, 84-907.09, 84-908, and 84-920,
6 Reissue Revised Statutes of Nebraska, and section 83-173.03, Revised
7 Statutes Supplement, 2015, are repealed.

8 Sec. 19. The following sections are outright repealed: Sections
9 84-907.01 and 84-907.02, Reissue Revised Statutes of Nebraska.