

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 719**

Introduced by Price, 3.

Read first time January 04, 2012

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to government; to amend sections 44-113,  
2 50-114.03, 52-1313.01, 60-3,161, 77-2705.04, 81-118.01,  
3 84-712, 84-1201, 84-1202, 84-1204, 84-1205, 84-1205.01,  
4 84-1205.02, 84-1205.03, 84-1205.05, 84-1206, 84-1207,  
5 84-1209, 84-1212, 84-1213, 84-1214, 84-1214.01, 84-1215,  
6 84-1216, 84-1217, 84-1218, 84-1219, 84-1222, 84-1224, and  
7 84-1225, Reissue Revised Statutes of Nebraska, section  
8 84-1227, Revised Statutes Cumulative Supplement, 2010,  
9 and section 9-523, Uniform Commercial Code, Reissue  
10 Revised Statutes of Nebraska; to change fee provisions  
11 relating to electronic payments; to change provisions of  
12 the Records Management Act relating to intent, the State  
13 Records Board, the network manager, the technical  
14 advisory committee, fees, reports, agency procedures, and  
15 a fund; to provide requirements for certain electronic  
16 information and services; to eliminate provisions  
17 relating to public bidding and certain public records

1 requests; to define and redefine terms; to harmonize  
2 provisions; to repeal the original sections; and to  
3 outright repeal sections 84-1205.04, 84-1205.06, and  
4 84-1223, Reissue Revised Statutes of Nebraska.

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

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

3           44-113 The Department of Insurance shall transmit to the  
4 Governor, ten days prior to the opening of each session of the  
5 Legislature, a report of its official transactions, containing in a  
6 condensed form the statements made to the department by every  
7 insurance company authorized to do business in this state pursuant to  
8 ~~the provisions of Chapter 44, as audited and corrected by it,~~  
9 arranged in tabular form or in abstracts, in classes according to the  
10 kind of insurance, which report shall also contain (1) a statement of  
11 all insurance companies authorized to do business in this state  
12 during the year ending December 31 next preceding, with their names,  
13 locations, amounts of capital, dates of incorporation, and of the  
14 commencement of business and kinds of insurance in which they are  
15 engaged respectively; and (2) a statement of the insurance companies  
16 whose business has been closed since making the last report, and the  
17 reasons for closing ~~the same, such businesses,~~ with the amount of  
18 their assets and liabilities, so far as the ~~same amount of their~~  
19 assets and liabilities are known or can be ascertained by the  
20 department. The report shall also be transmitted to the Clerk of the  
21 Legislature. Each member of the Legislature shall receive a copy of  
22 such report by making a request for it to the director. The  
23 department may transmit the report by electronic format through the  
24 ~~gateway or electronic network portal~~ established under section  
25 84-1204 after notification of such type of delivery is given to the

1 recipient. The department shall maintain the report in a form capable  
2 of accurate duplication on paper.

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

5           50-114.03 (1) The Clerk of the Legislature shall  
6 periodically prepare and distribute to all members of the Legislature  
7 a list of all reports received from state agencies, boards, and  
8 commissions. Such lists shall be prepared and distributed to each  
9 legislator no less frequently than once during the first ten days of  
10 each legislative session. Upon request by a legislator, the clerk  
11 shall arrange for any legislator to receive a copy of any such  
12 report.

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

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

23           52-1313.01 (1) The record of effective financing  
24 statements maintained by the Secretary of State may be made available  
25 electronically through the ~~gateway~~ or ~~electronic network~~ portal

1 established under section 84-1204. For batch requests, there shall be  
2 a fee of two dollars per requested effective financing statement  
3 record accessed through the ~~electronic network, portal,~~ except that  
4 the fee for a batch request for one thousand or more effective  
5 financing statements shall be two thousand dollars. Effective  
6 financing statement data accessed through the ~~gateway portal~~ shall be  
7 for informational purposes only and shall not provide the protection  
8 afforded a buyer registered pursuant to section 52-1312.

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

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

15           60-3,161 (1) The department shall keep a record of each  
16 motor vehicle and trailer registered, alphabetically by name of the  
17 owner, with cross reference in each instance to the registration  
18 number assigned to such motor vehicle and trailer. The record may be  
19 destroyed by any public officer having custody of it after three  
20 years from the date of its issuance.

21           (2) The department shall issue a copy of the record of a  
22 registered or titled motor vehicle or trailer to any person after  
23 receiving from the person the name on the registration, the license  
24 plate number, the vehicle identification number, or the title number  
25 of a motor vehicle or trailer, if the person provides to the

1 department verification of identity and purpose pursuant to section  
2 60-2906 or 60-2907. A fee of one dollar shall be charged for the  
3 copy. An extract of the entire file of motor vehicles and trailers  
4 registered or titled in the state or updates to the entire file may  
5 be provided to a person upon payment of a fee of eighteen dollars per  
6 thousand records. Any fee received by the department pursuant to this  
7 subsection shall be deposited into the Department of Motor Vehicles  
8 Cash Fund.

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

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

3           77-2705.04 The record of sales tax permits maintained by  
4 the Department of Revenue may be made available electronically  
5 through the ~~gateway or electronic network~~ portal established under  
6 section 84-1204. There shall be a fee of five dollars and fifty cents  
7 for a monthly listing of all new sales tax permits. All fees  
8 collected pursuant to this section for electronic access to records  
9 through the ~~gateway~~ portal shall be deposited in the Records  
10 Management Cash Fund and shall be distributed as provided in any  
11 agreements between the State Records Board and the department.

12           Sec. 6. Section 81-118.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           81-118.01 (1) Any state official or state agency may  
15 accept credit cards, charge cards, or debit cards, whether presented  
16 in person or electronically, or electronic funds transfers as a  
17 method of cash payment of any tax, levy, excise, duty, custom, toll,  
18 interest, penalty, fine, license, fee, or assessment of whatever kind  
19 or nature, whether general or special, as provided by section  
20 77-1702.

21           (2) The total amount of such taxes, levies, excises,  
22 duties, customs, tolls, interest, penalties, fines, licenses, fees,  
23 or assessments of whatever kind or nature, whether general or  
24 special, paid for by credit card, charge card, debit card, or  
25 electronic funds transfer shall be collected by the state official or

1 state agency.

2 (3) Any state official or state agency operating a  
3 facility in a proprietary capacity may choose to accept credit cards,  
4 charge cards, or debit cards, whether presented in person or  
5 electronically, or electronic funds transfers as a means of cash  
6 payment, and may adjust the price for services to reflect the  
7 handling and payment costs.

8 (4) The state official or state agency shall obtain, for  
9 each transaction, authorization for use of any credit card, charge  
10 card, or debit card used pursuant to this section from the financial  
11 institution, vending service company, credit card or charge card  
12 company, or third-party merchant bank providing such service.

13 (5) The types of credit cards, charge cards, or debit  
14 cards accepted and the payment services provided for any state  
15 official or state agency shall be determined by the State Treasurer  
16 and the Director of Administrative Services with the advice of the  
17 committee convened pursuant to subsection (5) of section 13-609. The  
18 State Treasurer and the director shall contract with one or more  
19 credit card, charge card, or debit card companies or third-party  
20 merchant banks for services on behalf of the state and those  
21 counties, cities, and political subdivisions that choose to  
22 participate in the state contract for such services. Any negotiated  
23 discount, processing, or transaction fee imposed by a credit card,  
24 charge card, or debit card company or third-party merchant bank shall  
25 be considered, for purposes of this section, as an administrative

1 expense.

2 (6) A state official or state agency obtaining, for each  
3 transaction, authorization for use of any credit card or charge card  
4 used pursuant to this section may, but is not required to, impose a  
5 surcharge or convenience fee upon the person making a payment by  
6 credit card or charge card so as to wholly or partially offset the  
7 amount of any discount or administrative fees charged to the state  
8 agency, but the surcharge or convenience fee shall not exceed the  
9 surcharge or convenience fee imposed by the credit card or charge  
10 card companies or third-party merchant banks which have contracted  
11 under subsection (5) of this section. ~~The surcharge or convenience~~  
12 ~~fee shall be applied only when allowed by the operating rules and~~  
13 ~~regulations of the credit card or charge card involved or when~~  
14 ~~authorized in writing by the credit card or charge card company~~  
15 ~~involved.~~ Any surcharge or convenience fee imposed by a state  
16 official or state agency pursuant to this subsection shall have the  
17 force of law and shall be honored by the credit card or charge card  
18 company or third-party merchant bank. Any credit card or charge card  
19 company or third-party merchant bank doing business in the State of  
20 Nebraska shall not assess any fee or penalty against the state, state  
21 agency, state official, or merchant-processing bank if the state,  
22 state agency, or state official imposed a surcharge or convenience  
23 fee as a percentage of the transaction. When a person elects to make  
24 a payment to a state agency by credit card or charge card and such a  
25 surcharge or convenience fee is imposed, the payment of such

1 surcharge or convenience fee shall be deemed voluntary by such person  
2 and shall be in no case refundable. If a payment is made  
3 electronically by credit card, charge card, debit card, or electronic  
4 funds transfer as part of a system for providing or retrieving  
5 information electronically, the state official or state agency shall  
6 be authorized but not required to impose an additional surcharge or  
7 convenience fee upon the person making a payment.

8 (7) For purposes of this section, electronic funds  
9 transfer means the movement of funds by nonpaper means, usually  
10 through a payment system, including, but not limited to, an automated  
11 clearinghouse or the Federal Reserve's Fedwire system.

12 Sec. 7. Section 84-712, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 84-712 (1) Except as otherwise expressly provided by  
15 statute, all citizens of this state~~7~~ and all other persons interested  
16 in the examination of the public records~~7~~ as defined in section  
17 84-712.01~~7~~ are hereby fully empowered and authorized to (a) examine  
18 ~~the same,~~ such records, and make memoranda, copies using their own  
19 copying or photocopying equipment in accordance with subsection (2)  
20 of this section, and abstracts therefrom, all free of charge, during  
21 the hours the respective offices may be kept open for the ordinary  
22 transaction of business and (b) except if federal copyright law  
23 otherwise provides, obtain copies of public records in accordance  
24 with subsection (3) of this section during the hours the respective  
25 offices may be kept open for the ordinary transaction of business.

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

6                   (3)(a) Copies may be obtained pursuant to subdivision (1)  
7 (b) of this section only if the custodian has copying equipment  
8 reasonably available. Such copies may be obtained in any form  
9 designated by the requester in which the public record is maintained  
10 or produced, including, but not limited to, printouts, electronic  
11 data, discs, tapes, and photocopies.

12                   (b) Except as otherwise provided by statute, the  
13 custodian of a public record may charge a fee for providing copies of  
14 such public record pursuant to subdivision (1)(b) of this section,  
15 which fee shall not exceed the actual cost of making the copies  
16 available. For purposes of this subdivision, (i) for photocopies, the  
17 actual cost of making the copies available shall not exceed the  
18 amount of the reasonably calculated actual cost of the photocopies,  
19 (ii) for printouts of computerized data on paper, the actual cost of  
20 making the copies available shall include the reasonably calculated  
21 actual cost of computer run time and the cost of materials for making  
22 the copy, and (iii) for electronic data, the actual cost of making  
23 the copies available shall include the reasonably calculated actual  
24 cost of the computer run time, any necessary analysis and  
25 programming, and the production of the report in the form furnished

1 to the requester. State agencies which provide electronic access to  
2 public records through a ~~gateway service~~ portal established under  
3 section 84-1204 shall obtain approval of their proposed reasonable  
4 fees for such records pursuant to sections 84-1205.02 and 84-1205.03,  
5 if applicable, and the actual cost of making the copies available may  
6 include the approved fee for the ~~gateway service~~ portal.

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

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

15 (4) Upon receipt of a written request for access to or  
16 copies of a public record, the custodian of such record shall provide  
17 to the requester as soon as is practicable and without delay, but not  
18 more than four business days after actual receipt of the request,  
19 either (a) access to or, if copying equipment is reasonably  
20 available, copies of the public record, (b) if there is a legal basis  
21 for denial of access or copies, a written denial of the request  
22 together with the information specified in section 84-712.04, or (c)  
23 if the entire request cannot with reasonable good faith efforts be  
24 fulfilled within four business days after actual receipt of the  
25 request due to the significant difficulty or the extensiveness of the

1 request, a written explanation, including the earliest practicable  
2 date for fulfilling the request, an estimate of the expected cost of  
3 any copies, and an opportunity for the requester to modify or  
4 prioritize the items within the request.

5           Sec. 8. Section 84-1201, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           84-1201 The Legislature declares that:

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

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

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

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

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

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

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

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

14           ~~(7)-(9)~~ There is a need for a uniform policy regarding  
15 the management, operation, and oversight of systems providing  
16 electronic access to public records or electronic information and  
17 services.

18           Sec. 9. Section 84-1202, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           84-1202 For purposes of the Records Management Act,  
21 unless the context otherwise requires:

22           (1) ~~Agency~~ State agency means any department, division,  
23 office, commission, court, board, or elected, appointed, or  
24 constitutional officer, except individual members of the Legislature,  
25 or any other unit or body, however designated, of the executive,

1 judicial, and legislative branches of state government; ~~or of the~~  
2 ~~government of any local political subdivision;~~

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

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

8 ~~(4) (3) Local agency means an agency of a local political~~  
9 ~~subdivision, including any entity created pursuant to the Interlocal~~  
10 ~~Cooperation Act or the Joint Public Agency Act;~~ (5) Local political  
11 ~~subdivision means~~ any county, city, village, township, district,  
12 authority, or other public corporation or political entity, whether  
13 existing under charter or general law, including any entity created  
14 pursuant to the Interlocal Cooperation Act or the Joint Public Agency  
15 Act. Local political subdivision does not include a city of the  
16 metropolitan class or a district or other unit which by law is  
17 considered an integral part of state government;

18 ~~(6) (4) Record~~ means any book, document, paper,  
19 photograph, microfilm, sound recording, magnetic storage medium,  
20 optical storage medium, or other material regardless of physical form  
21 or characteristics created or received pursuant to law, charter, or  
22 ordinance or in connection with any other activity relating to or  
23 having an effect upon the transaction of public business;

24 ~~(7) (5) State record~~ means a record which normally is  
25 maintained within the custody or control of a state agency or any

1 other record which is designated or treated as a state record  
2 according to general law;

3 ~~(8)~~ (6) Local record means a record of a local political  
4 subdivision or of any agency thereof unless designated or treated as  
5 a state record under general law;

6 ~~(9)~~ (7) Essential record means a state or local record  
7 which is within one or the other of the following categories and  
8 which shall be preserved pursuant to the Records Management Act:

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

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

16 ~~(10)~~ (8) Preservation duplicate means a copy of an  
17 essential record which is used for the purpose of preserving the  
18 record pursuant to the act;

19 ~~(11)~~ (9) Disaster means any occurrence of fire, flood,  
20 storm, earthquake, explosion, epidemic, riot, sabotage, or other  
21 conditions of extreme peril resulting in substantial injury or damage  
22 to persons or property within this state, whether such occurrence is  
23 caused by an act of nature or of humans, including an enemy of the  
24 United States;

25 ~~(12)~~ (10) Administrator means the State Records

1 Administrator;

2 ~~(13)~~(11) Board means the State Records Board;

3 ~~(14)~~(12) Electronic access means electronically  
4 collecting, sharing, disseminating, and providing access to (a)  
5 public records ~~electronically~~; or (b) electronic information and  
6 services;

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

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

16 ~~(16)~~(15) Public records includes all records and  
17 documents, regardless of physical form, of or belonging to this state  
18 or any agency, branch, department, board, bureau, commission,  
19 council, subunit, or committee of this state except when any other  
20 statute expressly provides that particular information or records  
21 shall not be made public. Data which is a public record in its  
22 original form shall remain a public record when maintained in  
23 computer files; and

24 ~~(17)~~(16) Network manager means an individual, a private  
25 entity, a state agency, or any other governmental subdivision

1 responsible for providing the infrastructure and services needed to  
2 implement and operate the portal and for directing and supervising  
3 the day-to-day operations and expansion of a gateway. the portal.

4 Sec. 10. Section 84-1204, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 84-1204 (1) The State Records Board is hereby  
7 established. The board shall:

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

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

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

15 (d) Provide appropriate oversight of a network manager;

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

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

25 (g) Explore ways and means of expanding the amount and

1 ~~kind type of public records or electronic information and services~~  
2 ~~provided through the gateway or electronic network, increasing the~~  
3 ~~utility of the public records provided and the form in which the~~  
4 ~~public records are provided, expanding the base of users who access~~  
5 ~~public records electronically, portal and, if when appropriate,~~  
6 ~~implementing implement changes necessary for to effect such purposes;~~

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

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

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

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

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

24 (a) The Governor or his or her designee;

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

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

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

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

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

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

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

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

20                  (5) The representatives appointed by the Governor shall  
21    serve staggered three-year terms as the Governor designates and may  
22    be appointed for one additional term. Members of the board shall be  
23    reimbursed for actual and necessary expenses as provided in sections  
24    81-1174 to 81-1177.

25                  Sec. 11. Section 84-1205, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           84-1205 (1) The board may employ or contract with a  
3 network manager. A network manager may ~~include~~be an individual, a  
4 private entity, a state agency, or another governmental subdivision.  
5 The board shall prepare criteria and specifications for the network  
6 manager in consultation with the Department of Administrative  
7 Services. Such criteria shall include procedures for submission of  
8 proposals by an individual, a private entity, a state agency, or  
9 another governmental subdivision. Selection of the network manager  
10 shall comply with all applicable procedures of the department. The  
11 board may negotiate and enter into a contract with the selected  
12 network manager which provides the duties, responsibilities, and  
13 compensation of the network manager.

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

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

5                   Sec. 12. Section 84-1205.01, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7                   84-1205.01 The board shall establish a technical advisory  
8 committee to assist it in the performance of its duties. The  
9 committee shall consist of individuals who have technical experience  
10 and expertise in electronic access and information technology. The  
11 committee shall have three members. The members shall include a  
12 representative from a state agency that is responsible for providing  
13 public records, a representative from ~~the information management~~  
14 ~~services division of~~ the office of Chief Information Officer, and a  
15 representative from the computer services group of the Legislative  
16 Council.

17                   Sec. 13. Section 84-1205.02, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19                   84-1205.02 ~~(1) Until July 1, 2001, except as provided in~~  
20 ~~sections 49-509, 52-1316, and 60-483 and section 9-411, Uniform~~  
21 ~~Commercial Code, the board may establish reasonable fees for~~  
22 ~~electronic access to public records through the gateway.~~

23                   ~~(2) Beginning on July 1, 2001, except~~ Except as provided  
24 in sections 49-509, 52-1316, and 60-483 and article 9, Uniform  
25 Commercial Code, the board may establish reasonable fees for

1 electronic access to (1) public records or (2) electronic information  
2 and services, through the gateway. ~~(3) The fees portal. Fees for~~  
3 electronic access to public records shall not exceed the statutory  
4 fee for distribution copies of the public records in other forms. Any  
5 fee established by the board under this section may be collected for  
6 an eighteen month period and shall terminate at the end of such  
7 period unless enacted by the Legislature. Any fees collected under  
8 this section shall be deposited in the Records Management Cash Fund.

9           Sec. 14. Section 84-1205.03, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           84-1205.03 (1) Any state agency other than the courts or  
12 the Legislature desiring to enter into an agreement with a private  
13 vendor or the network manager to ~~or otherwise~~ provide electronic  
14 access to public records or electronic information and services  
15 ~~through a gateway~~ for a fee shall make a written request for approval  
16 of such fee to the board. The request shall include (a) a copy of the  
17 contract under consideration if the electronic access is to be  
18 provided through a contractual arrangement, (b) the public records or  
19 electronic information and services which are the subject of the  
20 contract or proposed ~~electronic access~~ fee, (c) the anticipated or  
21 actual timeline for implementation, and (d) any security provisions  
22 for the protection of confidential or sensitive records. The board  
23 shall take action on such fee request in accordance with section  
24 84-1205.02 and after a public hearing ~~within thirty days after~~  
25 receipt. ~~held at its next regularly scheduled meeting that is at~~

1 least thirty days after receipt of the request. The board may request  
2 a presentation or such other information as it deems necessary from  
3 the requesting state agency.

4 (2) A state agency other than the courts or the  
5 Legislature may charge a fee for electronic access to public records  
6 without the board's approval for a one-time sale in a unique format.  
7 The purchaser may object to the fee in writing to the board, and the  
8 one-time fee shall then be subject to approval by the board according  
9 to the procedures and guidelines established in sections 84-1205 to  
10 ~~84-1205.04.~~ 84-1205.03.

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

1 the State Records Board with respect to such fees.

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

6 Sec. 15. Section 84-1205.05, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 84-1205.05 The board shall provide ~~quarterly~~ annual  
9 reports to the Executive Board of the Legislative Council and  
10 Nebraska Information Technology Commission on its activities pursuant  
11 to sections 84-1205 to ~~84-1205.04.~~ 84-1205.03.

12 Sec. 16. Section 84-1206, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 84-1206 (1) With due regard for the functions of the  
15 state and local agencies concerned, and with such guidance and  
16 assistance from the board as may be required, the administrator  
17 shall:

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

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

25 (c) Establish standards for the preparation of schedules

1 providing for the retention of records of continuing value, and for  
2 the prompt and orderly disposal of records no longer possessing  
3 sufficient administrative, legal, historical, or fiscal value to  
4 warrant their further retention; and

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

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

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

19 Sec. 17. Section 84-1207, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 84-1207 In accordance with general law, and with ~~such the~~  
22 rules and regulations ~~as shall be~~ adopted and promulgated by the  
23 administrator and the board as provided in section 84-1216, ~~such the~~  
24 head of any state or local agency, ~~department, board, council,~~  
25 ~~legislative or judicial branch, and political subdivision~~ shall:

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

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

10                  (3) Make~~7~~ and submit to the administrator~~7~~ schedules  
11 proposing the length of time each record series warrants retention  
12 for administrative, legal, historical~~4~~ or fiscal purposes, after it  
13 has been made in or received by the agency, and lists of records in  
14 the custody or under the control of the agency which are not needed  
15 in the transaction of current business~~7~~ and do not possess sufficient  
16 administrative, legal, historical~~4~~ or fiscal value to warrant their  
17 further retention;

18                  (4) Inventory the records in the custody or under the  
19 control of the agency~~7~~ and submit to the administrator a report  
20 thereon, containing such data as the administrator shall prescribe,  
21 ~~and~~ including his or her recommendations as to which ~~if any of~~ such  
22 records, if any, should be determined to be essential records. He or  
23 she shall review his or her inventory and report periodically and, as  
24 necessary, shall revise his or her report so that it is current,  
25 accurate~~4~~ and complete; and

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

5           Sec. 18. Section 84-1209, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           84-1209 The administrator may establish storage  
8 facilities for essential records, preservation duplicates, and other  
9 state records and may provide for a system of charges to allocate the  
10 cost of providing such storage among the state agencies ~~and~~  
11 ~~departments~~ utilizing the storage services. The system of charges  
12 shall, as nearly as may be practical, cover the actual costs of  
13 operating the storage facilities.

14          Sec. 19. Section 84-1212, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16          84-1212 The administrator shall review periodically, and  
17 at least once each year, the program for the selection and  
18 preservation of essential records, including the classification  
19 thereof and the provisions for preservation duplicates and for the  
20 safeguarding of essential records and preservation duplicates to  
21 insure that the purposes of ~~sections 84-1201 to 84-1226~~ the Records  
22 Management Act are accomplished.

23          Sec. 20. Section 84-1213, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25          84-1213 (1) All records made or received by or under the

1 authority of, or coming into the custody, control, or possession of  
2 state or local agencies in any of the three branches of the state  
3 government, or of any local political subdivision, in the course of  
4 their public duties, are the property of the ~~government~~ state or  
5 local agency concerned, and shall not be mutilated, destroyed,  
6 transferred, removed, damaged, or otherwise disposed of, in whole or  
7 in part, except as provided by law.

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

20 Sec. 21. Section 84-1214, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 84-1214 Whenever any state agency desires to dispose of  
23 records which are not listed on an approved records retention and  
24 disposition schedule applicable to ~~that~~ such agency, the state agency  
25 head shall prepare and submit to the administrator, on forms provided

1 by the administrator, a list of the records sought to be disposed of,  
2 and a request for approval of their disposition, which list and  
3 request shall be referred to the board for action at its next regular  
4 or special session. On consideration thereof, the board may approve  
5 such disposition thereof as may be legal and proper, or may refuse to  
6 approve any disposition, and the records as to which such  
7 determination has been made may thereupon be disposed of in  
8 accordance with the approval of the board.

9           Sec. 22. Section 84-1214.01, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           84-1214.01 The State Archives of the Nebraska State  
12 Historical Society has the authority to acquire, in total or in part,  
13 any document, record, or material which has been submitted to the  
14 board for disposition or transfer when such material is determined to  
15 be of archival or historical significance by the State Archivist or  
16 the board. The head of any state or local agency shall certify in  
17 writing to the society the transfer of the custody of such material  
18 to the State Archives. No state or local agency shall dispose of, in  
19 any other manner except by transfer to the State Archives, that  
20 material which has been appraised as archival or historical without  
21 the written consent of the State Archivist and the administrator. If  
22 such material is determined to be in jeopardy of destruction or  
23 deterioration and such material is not necessary to the conduct of  
24 daily business in the state or local agency of origin, it shall be  
25 the prerogative of the State Archivist to petition the administrator

1 and the state or local agency of origin for the right to transfer  
2 such material into the safekeeping of the State Archives. It shall be  
3 the responsibility of the administrator to hear arguments for or  
4 against such petition and to determine the results of such petition.  
5 The State Archivist shall prepare invoices and receipts in triplicate  
6 for materials acquired under this section, shall retain one copy, and  
7 shall deliver one copy to the administrator and one copy to the state  
8 or local agency head from whom the records are obtained.

9           Sec. 23. Section 84-1215, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           84-1215 (1) If not otherwise prohibited by law, nonrecord  
12 materials, not included within the definition of records as contained  
13 in section 84-1202, may be destroyed at any time by the state or  
14 local agency in possession thereof, without the prior approval of the  
15 administrator or board. The administrator may formulate procedures  
16 and interpretations to guide in the disposal of nonrecord materials,  
17 but nothing therein shall be contrary to any provision of law  
18 relating to the transfer of materials of historical value to the  
19 State Archives of the Nebraska State Historical Society.

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

24           Sec. 24. Section 84-1216, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           84-1216 The administrator shall adopt and promulgate such  
2 rules and regulations as may be necessary or proper to effectuate the  
3 purposes of ~~sections 84-1201 to 84-1226.~~ the Records Management Act.  
4 Those portions thereof which relate to functions specifically  
5 delegated to the board shall be approved and concurred in by the  
6 board.

7           Sec. 25. Section 84-1217, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           84-1217 ~~All provisions of the~~ The Records Management Act  
10 shall apply to all state and local agencies ~~as defined in subdivision~~  
11 ~~(1) of section 84-1202~~ and the administrator shall advise and assist  
12 in the establishment of programs for records management and for the  
13 selection and preservation of essential records of ~~such~~ the  
14 executive, judicial, and legislative branches, and, as required by  
15 such branches, shall provide program services pursuant to the  
16 ~~provisions of sections 84-1201 to 84-1226.~~ act.

17           Sec. 26. Section 84-1218, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           84-1218 The governing bodies of all ~~local political~~  
20 ~~subdivisions~~ local agencies in this state, with the advice and  
21 assistance of the administrator and pursuant to the rules and  
22 regulations ~~established by him,~~ adopted and promulgated pursuant to  
23 the Records Management Act, shall establish and maintain continuing  
24 programs to promote the principles of efficient records management  
25 for local records, and for the selection and preservation of

1 essential local records, which programs, insofar as practicable,  
2 shall follow the patterns of the programs established for state  
3 records as provided in ~~sections 84-1201 to 84-1226.~~ the act. Each  
4 such governing body shall promulgate ~~such~~ rules and regulations as  
5 are necessary or proper to effectuate and implement the programs so  
6 established, but nothing therein shall be in violation of the  
7 provisions of general law relating to the destruction of local  
8 records.

9           Sec. 27. Section 84-1219, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           84-1219 The administrator shall prepare a biennial report  
12 on the status of programs established by him or her as provided in  
13 ~~sections 84-1201 to 84-1226,~~ the Records Management Act and on the  
14 progress made during the preceding biennium in implementing and  
15 effectuating such programs. Copies of this report shall be furnished  
16 to the Governor, the Speaker of the Legislature, and such other  
17 officials and state and local agencies as the Governor or the board  
18 shall direct.

19           Sec. 28. Section 84-1222, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           84-1222 ~~After May 18, 1977, no~~ No state agency shall  
22 purchase any microfilm system or equipment prior to the approval of  
23 the State Records Administrator. The administrator shall not approve  
24 internal microfilm activities of any state agency unless such  
25 activities may not be feasibly provided by the central microfilming

1 agency and are necessary to a particular operation within the state  
2 agency. Any equipment purchased under this section shall become the  
3 property of the State Records Administrator, ~~and shall be subject to~~  
4 ~~the provisions of section 84-1223.~~

5           Sec. 29. Section 84-1224, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           84-1224 The State Records Administrator shall:

8           (1) Be empowered to review the microfilm systems within  
9 every state agency; ~~of the state~~;

10           (2) Be empowered to cause such systems to be merged with  
11 a central microfilm agency in the event that a cost analysis shows  
12 that economic advantage may be achieved;

13           (3) Be empowered to permit the establishment of  
14 microfilming services within any state agency ~~or department of the~~  
15 ~~state~~ if a potential economy or a substantial convenience for the  
16 state would result; and

17           (4) ~~After July 1, 1978, be~~ Be empowered to determine the  
18 operating locations of all micrographic equipment in his or her  
19 possession.

20           Sec. 30. Section 84-1225, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           84-1225 The State Records Administrator shall provide for  
23 a system of charges for micropublishing services and computer output  
24 microfilm services rendered by the central microfilming agency to any  
25 other ~~department or state agency of the state~~ when these charges are

1 allocable to a particular project carried on by such microfilming  
2 agency. Such charges shall, as nearly as may be practical, reflect  
3 the actual cost of services provided by the central microfilming  
4 agency. ~~On July 1, 1978, and thereafter the~~ The State Records  
5 Administrator shall extend this system of charges to include source  
6 document microfilming. The State Records Administrator shall extend  
7 this system of charges and user fees for all micrographic equipment  
8 which is the property of the administrator and which is used by any  
9 other state agency. ~~or department.~~

10 Sec. 31. Section 84-1227, Revised Statutes Cumulative  
11 Supplement, 2010, is amended to read:

12 84-1227 There is hereby established in the state treasury  
13 a special fund to be known as the Records Management Cash Fund which,  
14 when appropriated by the Legislature, shall be expended by the  
15 Secretary of State for the purposes of providing records management  
16 services and assistance to ~~political subdivisions,~~ local agencies,  
17 for development and maintenance of a ~~gateway or electronic network~~  
18 ~~for accessing the portal for providing electronic access to public~~  
19 records or electronic information and services, and for grants to a  
20 state or local agency ~~political subdivisions~~ as provided in  
21 subdivision (1)(j) of section 84-1204. All fees and charges for the  
22 purpose of records management services and analysis received by the  
23 Secretary of State from the ~~political subdivisions~~ local agencies  
24 shall be remitted to the State Treasurer for credit to such fund.  
25 Transfers may be made from the fund to the General Fund at the

1 direction of the Legislature. Any money in the Records Management  
2 Cash Fund available for investment shall be invested by the state  
3 investment officer pursuant to the Nebraska Capital Expansion Act and  
4 the Nebraska State Funds Investment Act.

5           Sec. 32. Section 9-523, Uniform Commercial Code, Reissue  
6 Revised Statutes of Nebraska, is amended to read:

7           9-523 Information from filing office; sale or license of  
8 records.

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

15           (1) note upon the copy the number assigned to the record  
16 pursuant to section 9-519(a)(1) and the date and time of the filing  
17 of the record; and

18           (2) send the copy to the person.

19           (b) If a person files a record other than a written  
20 record, the filing office shall communicate to the person an  
21 acknowledgment that provides:

22           (1) the information in the record;

23           (2) the number assigned to the record pursuant to section  
24 9-519(a)(1); and

25           (3) the date and time of the filing of the record.

1                   (c) The filing office shall communicate or otherwise make  
2 available in a record the following information to any person that  
3 requests it:

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

8                   (A) designates a particular debtor;

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

11                   (C) if the request so states, has lapsed under section  
12 9-515 and a record of which is maintained by the filing office under  
13 section 9-522(a);

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

16                   (3) the information provided in each financing statement.

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

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

25                   (f)(1) The Secretary of State shall offer to sell or

1 license to the public on a nonexclusive basis, in bulk, copies of all  
2 records filed in the office of the Secretary of State under this  
3 part, in every medium from time to time available to the filing  
4 office.

5 (2) Records filed in the office of the Secretary of State  
6 under this part may be made available electronically through the  
7 ~~gateway or electronic network portal~~ established under section  
8 84-1204, Reissue Revised Statutes of Nebraska. For batch requests,  
9 the fee is two dollars per record accessed through the ~~electronic~~  
10 ~~network, portal,~~ except that the fee for a batch request for one  
11 thousand or more records is two thousand dollars. All fees collected  
12 pursuant to this subdivision shall be deposited in the Records  
13 Management Cash Fund and shall be distributed as provided in any  
14 agreements between the State Records Board and the Secretary of  
15 State.

16 Sec. 33. Original sections 44-113, 50-114.03, 52-1313.01,  
17 60-3,161, 77-2705.04, 81-118.01, 84-712, 84-1201, 84-1202, 84-1204,  
18 84-1205, 84-1205.01, 84-1205.02, 84-1205.03, 84-1205.05, 84-1206,  
19 84-1207, 84-1209, 84-1212, 84-1213, 84-1214, 84-1214.01, 84-1215,  
20 84-1216, 84-1217, 84-1218, 84-1219, 84-1222, 84-1224, and 84-1225,  
21 Reissue Revised Statutes of Nebraska, section 84-1227, Revised  
22 Statutes Cumulative Supplement, 2010, and section 9-523, Uniform  
23 Commercial Code, are repealed.

24 Sec. 34. The following sections are outright repealed:  
25 Sections 84-1205.04, 84-1205.06, and 84-1223, Reissue Revised

1 Statutes of Nebraska.