

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 579

Introduced by Cavanaugh, M., 6.

Read first time January 22, 2025

Committee: Executive Board

1 A BILL FOR AN ACT relating to public records; to amend sections 84-712
2 and 84-712.01, Reissue Revised Statutes of Nebraska; to prohibit
3 charging a fee for official requests for public records by members
4 of the Legislature and establish a deadline for fulfilling such
5 requests; to harmonize provisions; and to repeal the original
6 sections.

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

1 **Section 1.** Section 84-712, Reissue Revised Statutes of Nebraska, is
2 amended to read:

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

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

20 (3)(a) Copies may be obtained pursuant to subdivision (1)(b) of this
21 section only if the custodian has copying equipment reasonably available.
22 Such copies may be obtained in any form designated by the requester in
23 which the public record is maintained or produced, including, but not
24 limited to, printouts, electronic data, discs, tapes, and photocopies.
25 This section shall not be construed to require a custodian to copy any
26 public record that is available to the requester on the custodian's
27 website on the Internet. The custodian of the public record is required
28 to provide the location of the public record on the Internet to the
29 requester. If the requester does not have reasonable access to the
30 Internet due to lack of computer, lack of Internet availability, or
31 inability to use a computer or the Internet, the custodian shall produce

1 copies for the requester as provided in this section.

2 (b) Except as provided subdivision (3)(i) of this section and as
3 otherwise provided by statute, the public body, public entity, or public
4 official which is the custodian of a public record may charge a fee for
5 providing copies of such public record pursuant to subdivision (1)(b) of
6 this section, which fee shall not exceed the actual added cost of making
7 the copies available. For purposes of this subdivision, (i) for
8 photocopies, the actual added cost of making the copies available shall
9 not exceed the amount of the reasonably calculated actual added cost of
10 the photocopies, which may include a reasonably apportioned cost of the
11 supplies, such as paper, toner, and equipment, used in preparing the
12 copies, as well as any additional payment obligation of the custodian for
13 time of contractors necessarily incurred to comply with the request for
14 copies, (ii) for printouts of computerized data on paper, the actual
15 added cost of making the copies available shall include the reasonably
16 calculated actual added cost of computer run time and the cost of
17 materials for making the copy, and (iii) for electronic data, the actual
18 added cost of making the copies available shall include the reasonably
19 calculated actual added cost of the computer run time, any necessary
20 analysis and programming by the public body, public entity, public
21 official, or third-party information technology services company
22 contracted to provide computer services to the public body, public
23 entity, or public official, and the production of the report in the form
24 furnished to the requester.

25 (c) For residents of Nebraska, the actual added cost used as the
26 basis for the calculation of a fee for records shall not include any
27 charge for the existing salary or pay obligation to the public officers
28 or employees with respect to the first eight cumulative hours of
29 searching, identifying, physically redacting, or copying. A special
30 service charge reflecting the calculated labor cost may be included in
31 the fee for time required in excess of eight cumulative hours, since that

1 large of a request may cause some delay or disruption of the other
2 responsibilities of the custodian's office, except that the fee for
3 records shall not include any charge for the services of an attorney or
4 any other person to review the requested public records seeking a legal
5 basis to withhold the public records from the public. No special service
6 charge or fee shall be charged for copies of blank forms or pages that
7 have all meaningful information redacted.

8 (d) For nonresidents of Nebraska, the actual added cost used as the
9 basis for the calculation of a fee for records may include a charge for
10 the proportion of the existing salary or pay obligation to the public
11 officers or employees, including a proportional charge for the services
12 of an attorney to review the requested public records, for the time spent
13 searching, identifying, physically redacting, copying, or reviewing such
14 records.

15 (e) State agencies which provide electronic access to public records
16 through a portal established under section 84-1204 shall obtain approval
17 of their proposed reasonable fees for such records pursuant to sections
18 84-1205.02 and 84-1205.03, if applicable, and the actual added cost of
19 making the copies available may include the approved fee for the portal.

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

24 (g) Except as provided in subdivision (3)(i) of this section, if If
25 copies requested in accordance with subdivision (1)(b) of this section
26 are estimated by the custodian of such public records to cost more than
27 fifty dollars, the custodian may require the requester to furnish a
28 deposit prior to fulfilling such request.

29 (h) The custodian may waive or reduce any fee described in this
30 section if the waiver or reduction of the fee would be in the public
31 interest. Waiver or reduction of the fee is in the public interest if

1 disclosure of the public record at issue is likely to contribute to the
2 understanding of the operations or activities of government and is not
3 primarily in the commercial interest of the person requesting such
4 records.

5 (i) No fee shall be charged under this section for a request made by
6 a member of the Legislature.

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

22 (b) The requester shall have ten business days to review the
23 estimated costs, including any special service charge, and request the
24 custodian to fulfill the original request, negotiate with the custodian
25 to narrow or simplify the request, or withdraw the request. If the
26 requester does not respond to the custodian within ten business days, the
27 custodian shall not proceed to fulfill the request.

28 (c) The four business days shall be computed by excluding the day
29 the request or response is received, after which the designated period of
30 time begins to run. Business day does not include a Saturday, a Sunday,
31 or a day during which the offices of the custodian of the public records

1 are closed.

2 (5) For purposes of sections 84-712 to 84-712.09, resident means a
3 person domiciled in this state and includes news media without regard to
4 domicile.

5 **Sec. 2.** Section 84-712.01, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 84-712.01 (1) Except when any other statute expressly provides that
8 particular information or records shall not be made public, public
9 records shall include all records and documents, regardless of physical
10 form, of or belonging to this state, any county, city, village, political
11 subdivision, or tax-supported district in this state, or any agency,
12 branch, department, board, bureau, commission, council, subunit, or
13 committee of any of the foregoing. Data which is a public record in its
14 original form shall remain a public record when maintained in computer
15 files.

16 (2) When a custodian of a public record of a county provides to a
17 member of the public, upon request, a copy of the public record by
18 transmitting it from a modem to an outside modem, a reasonable fee may be
19 charged for such specialized service except as provided in subsection (3)
20 of this section. Such fee may include a reasonable amount representing a
21 portion of the amortization of the cost of computer equipment, including
22 software, necessarily added in order to provide such specialized service.
23 This subsection shall not be construed to require a governmental entity
24 to acquire computer capability to generate public records in a new or
25 different form when that new form would require additional computer
26 equipment or software not already possessed by the governmental entity.

27 (3) No fee shall be charged under this section for a request made by
28 a member of the Legislature.

29 (4) {3} Sections 84-712 to 84-712.03 shall be liberally construed
30 whenever any state, county, or political subdivision fiscal records,
31 audit, warrant, voucher, invoice, purchase order, requisition, payroll,

1 check, receipt, or other record of receipt, cash, or expenditure
2 involving public funds is involved in order that the residents of this
3 state shall have the full right to know of and have full access to
4 information on the public finances of the government and the public
5 bodies and entities created to serve them.

6 **Sec. 3.** Original sections 84-712 and 84-712.01, Reissue Revised
7 Statutes of Nebraska, are repealed.