

## LEGISLATIVE BILL 18

Approved by the Acting Governor January 27, 1989

Introduced by Labeledz, 5, Chairperson, Executive Board

AN ACT relating to preservation of history and records; to amend sections 19-3040, 32-845, 37-1304, 51-413, 72-810, 84-1204, 84-1212.01, and 84-1214.01, Reissue Revised Statutes of Nebraska, 1943, and section 72-815, Revised Statutes Supplement, 1988; to change references to the Nebraska State Historical Society, the State Archives, the State Archivist, the State Historic Preservation Officer, the State Records Board, and the State Records Administrator for consistency with other provisions of law; to eliminate a provision relating to the substitution of terms; and to repeal the original sections, and also section 84-1221, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 19-3040, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-3040. At a meeting to be held on Monday following any municipal election, the mayor and city council, or ~~chairman~~ chairperson and board of trustees, as the case may be, shall organize as a canvassing board and designate a ~~chairman~~ chairperson, and with the municipal clerk acting as clerk. The canvassing board shall thereof; and then open the list of voters books and the official summary of votes cast of each precinct in the municipality; and, from the returns therein, canvass all the votes cast at such election and make written abstracts of the votes cast for each candidate for office or for or against any measure, proposition, or issue that was voted upon at such election. Such canvass of the votes shall be conducted as nearly as possible according to the applicable provisions of Chapter 32 pertaining to the official canvass of election returns. All such abstracts of the canvassing board shall be certified by all the members of the board present at the meeting; and then be filed with the municipal clerk. Each abstract ; and the same shall be preserved in his the clerk's office as a public record

for the period of time specified by the State Records Administrator pursuant to sections 84-1201 to 84-1220 the Records Management Act, after which time it may be transferred to the State Archives, of the Nebraska State Historical Society, for permanent preservation. Upon completion of the canvass, all ballots and supplies shall be safely kept as provided for in section 32-499. A quorum of the canvassing board, determined as when the members sit as a council, or board of trustees, as the case may be, at a regular meeting, may transact its business.

Sec. 2. That section 32-845, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-845. After completion of action pursuant to section 32-842, the canvassing board shall proceed with the official canvass of the votes cast on election day. If, in the process of canvassing the votes for any candidate or measure in any election precinct or ward, the county clerk, election commissioner, or canvassing board determines that there is an obvious error in the certification of the votes, the error shall be corrected. The county canvassing board may open the ballots-cast sacks and recount the ballots of any candidate or any measure which appear to be in error. If the canvassing board finds and corrects any such error, it shall make the correction entry in the list of voters book number one and two and official summary of votes cast number one and two and attach a letter of explanation to each book where the correction was made. The letter shall be signed by all canvassing board members.

When it has been determined that the returns in all precincts are correct, the canvassing board shall enter the same in a permanent ledger which shall be preserved by the county clerk or election commissioner for the period of time specified by the State Records Administrator pursuant to sections 84-1201 to 84-1220 the Records Management Act, after which time it may be transferred to the State Archives, of the Nebraska State Historical Society, for permanent preservation.

Any recesses or adjournments of such canvassing board shall be to a fixed time and publicly announced. The and such board shall not act except at such times as shall have been so included in the public notice or announced, and the board shall meet continuously thereafter. When a recess is called for overnight, all ballots that have not been counted and all other supplies shall be locked in a fireproof safe

or other suitable location under lock and key until such board reconvenes.

Sec. 3. That section 37-1304, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-1304. (1) No appropriation shall be made from the Nebraska Outdoor Recreation Development Cash Fund until the Game and Parks Commission has presented a multiyear recreational development plan to the Legislature for its review, modification, and final approval. An updated version of such plan shall also be submitted to the Legislature annually for its modification and approval. The money in such fund shall be administered according to the provisions of this section by the Game and Parks Commission for the development, operation, and maintenance of areas of the state park system, except that expenditures may be authorized by the Legislature from the Nebraska Outdoor Recreation Development Cash Fund for the purpose of constructing a Nebraska Heritage Center in compliance with a program statement adopted by the Nebraska State Historical Society and the acquisition of properties near the Capitol and the erection of a parking structure thereon to replace state-owned parking facilities lost by the construction of such Nebraska Heritage Center. Such funds may be used in whole or in part for the matching of federal funds. All disbursements from the fund shall be made upon warrants drawn by the Director of Administrative Services.

(2) When a recreational plan is prepared for any state park system area or part of a state park system area cooperatively managed by the Game and Parks Commission and the Nebraska State Historical Society, such plan shall insure that adequate funds are appropriated to develop and maintain historical aspects.

Sec. 4. That section 51-413, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

51-413. Every state agency head or his or her appointed records officer shall notify the Nebraska Publications Clearinghouse of his or her identity. The records officer shall upon release of a state publication deposit four copies and a short summary, including author, title, and subject, of each of its state publications with the Nebraska Publications Clearinghouse for record purposes. One of these copies shall be forwarded by the clearinghouse to the Nebraska State Historical Society for archival purposes and one to the Library of Congress. Additional copies,

including sale items, shall also be deposited in the Nebraska Publications Clearinghouse in quantities certified to the agencies by the clearinghouse as required to meet the needs of the Nebraska publications depository system, with the exception that the University of Nebraska Press shall only be required to deposit four copies of its publications.

Sec. 5. That section 72-810, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-810. Improvements, alterations, or changes made by the state, its agencies, or departments on or to any historic structure owned by the State of Nebraska shall be in keeping with its historical or architectural significance. Such alterations shall be made according to standards set by the United States Department of the Interior. No alteration shall be made without review and comment by the ~~state historical preservation officer~~ State Historic Preservation Officer. If the state, its agencies, or departments do not agree with the review and comment of the ~~state historical preservation officer~~, a final determination as to what action must be followed by the state shall be made by the Governor. A state agency or department shall only be required to comply with this section if it has been notified in writing by the ~~state historical preservation officer~~ that a particular structure is a historic structure.

Sec. 6. That section 72-815, Revised Statutes Supplement, 1988, be amended to read as follows:

72-815. (1) The materiel division of the Department of Administrative Services shall be responsible for the sale, lease, or other disposal of the building, whichever is determined to be the appropriate action by the Vacant Building Committee.

(a) If the building is to be demolished, section 72-810 shall not apply, but the materiel division shall notify the ~~state historical preservation officer~~ State Historic Preservation Officer of such demolition at least thirty days prior to the beginning of the demolition or disassembly so that the ~~state historical preservation officer~~ may collect any photographic or other evidence he or she may find of historic value.

(b) If the building is to be sold or leased, the materiel division shall cause an appraisal to be made of the building and related lands. The sale, lease, or other disposal of the building and related lands shall comply with all relevant statutes pertaining to the sale or lease of surplus state property, except

that if the materiel division fails to receive an offer from a state agency in which the agency certifies that it intends to use the building for the purposes for which it was designed, intended, or remodeled or to remodel the building for uses which will serve the agency's purposes, the materiel division shall then notify the Department of Economic Development that the property is available for sale or lease so that the Department of Economic Development may refer to the materiel division any potential buyers or lessees of which the department may be aware. The materiel division may then sell or lease the property for at least its appraised price by such method as is to the best advantage of the State of Nebraska, including auction, sealed bid, private sale, or public sale. The materiel division may use the services of a real estate broker licensed under the Nebraska Real Estate License Act. Priority shall be given to other political subdivisions of state government and then to referrals from the Department of Economic Development. All sales and leases shall be in the name of the State of Nebraska. The materiel division may, upon the advice of the state building division, provide that a deed of sale include restrictions on the property to ensure that the use and appearance of the property remain compatible with any adjacent state-owned property.

The proceeds of the sale or lease shall be deposited with the State Treasurer and credited to the Vacant Building Fund unless the state agency formerly responsible for the building certifies to the materiel division that the property was purchased in part or in total from either cash accounts or federal funds, or from a percentage of such accounts or funds, in which event, after the costs of selling or leasing the property are deducted from the proceeds of the sale or lease and such amount is credited to the Vacant Building Fund, the remaining proceeds of the sale or lease shall be credited to the cash or federal account in the percentage used in originally purchasing the property.

(2) The state building division of the Department of Administrative Services shall be responsible for the maintenance of the building if maintenance is determined to be the appropriate action by the committee and shall be responsible for maintenance of the building pending sale or lease of the building. The state agency formerly responsible for the building shall continue to be responsible for the maintenance of the related land of the building.

Sec. 7. That section 84-1204, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

84-1204. A State Records Board, hereinafter called the board, is hereby established to advise and assist the administrator in the performance of the duties enjoined upon him or her by ~~sections 84-1201 to 84-1226~~, the Records Management Act and to perform such other functions and duties as ~~sections 84-1201 to 84-1226 require~~ the act requires. In addition to the administrator, the board shall consist of the Governor, the Attorney General, the Auditor of Public Accounts, ~~the Chairman of the Judicial Council~~ Chief Justice, the Clerk of the Legislature, the Director of Administrative Services, ~~and the Director of the Nebraska State Historical Society, the state archivist~~ State Archivist, and the director of the records management program, who shall be appointed by the administrator with the approval of the board, or their personally designated representatives. The administrator or his or her representative shall be ~~chairman~~ chairperson of the board, and the director of the records management program ~~shall be~~ its secretary. Upon call by the administrator, the board shall convene periodically in accordance with its rules ~~and regulations~~; or upon call by the administrator or his or her personally designated representative.

Sec. 8. That section 84-1212.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1212.01. (1) Each records retention and disposition schedule submitted to the administrator shall be reviewed by the State Archivist ~~state archivist of the Nebraska State Historical Society~~ for purposes of selection of archival and historical material, and all such material shall be identified as such on the schedule. When the ~~state archivist~~ State Archivist has determined that all archival and historical material has been properly identified and that no disposition, except by transfer to the ~~state archives~~ State Archives of the Nebraska State Historical Society, has been recommended for such material, the ~~state archivist~~ State Archivist shall approve such records retention and disposition schedule and return it to the administrator.

(2) The administrator shall review each records retention and disposition schedule submitted, and if the recommended retention periods and the recommended dispositions satisfy audit requirements and give proper recognition to administrative, legal, and fiscal value of the records listed therein; and if the

records retention and disposition schedule has been approved by the ~~state archivist~~ State Archivist, such records retention and disposition schedule shall be approved by the administrator.

Sec. 9. That section 84-1214.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1214.01. The ~~state archives~~, a division State Archives of the Nebraska State Historical Society, has the authority to acquire, in total or in part, any document, record, or material, which has been submitted to the ~~records~~ board for disposition or transfer, when such material is determined to be of archival or historical significance by the ~~state archivist~~ State Archivist or ~~records~~ the board. The head of any agency shall certify in writing to the State Historical Society, ~~society~~ the transfer of the custody of such material to the ~~state archives~~ State Archives. No agency shall dispose of, in any other manner except by transfer to the ~~state archives~~ State Archives, that material which has been appraised as archival or historical without the written consent of the ~~state archivist~~ State Archivist and the ~~records~~ administrator. ~~in any case where~~ If such material ~~of archival or historical significance~~ is determined to be in jeopardy of destruction or deterioration, and such material is not necessary to the conduct of daily business in the agency of origin, it shall be the prerogative of the ~~state archivist~~ State Archivist to petition the State Records Administrator ~~administrator~~ and the agency of origin, for the right to transfer such material into the safekeeping of the ~~state archives~~ State Archives. It shall be the responsibility of the State Records Administrator ~~administrator~~ to hear arguments for or against such petition and to determine the results of such petition. The ~~state archivist~~ State Archivist shall prepare invoices and receipts in triplicate for materials acquired under the ~~provisions of~~ this section, shall retain one copy, and shall deliver one copy to the State Records Administrator ~~administrator~~ and one copy to the agency head from ~~which~~ whom the records are obtained, and retain one copy.

Sec. 10. That original sections 19-3040, 32-845, 37-1304, 51-413, 72-810, 84-1204, 84-1212.01, and 84-1214.01, Reissue Revised Statutes of Nebraska, 1943, and section 72-815, Revised Statutes Supplement, 1988, and also section 84-1221, Reissue Revised Statutes of Nebraska, 1943, are repealed.