

A. PUBLIC RECORDS STATUTES

As noted in the Introduction and Glossary of Terms, your state likely recognizes a distinction between “public records,” which may include correspondence, office records, personnel records, etc., and “government publications,” which may be compiled as a means to disseminate government information of educational or public interest. This section addresses statutes that concern public records and, in particular, those that focus on record keeping requirements and retention. The compilation of statutes for your state may combine record keeping requirements with public access provisions or freedom of information laws. Those statutes are addressed in Sections B & C.

1. Does your state have “public records statutes,” as referred to in the paragraph above?

Yes
 No

a. If “Yes,” cite your state’s public records statutes and the administrative regulations that supplement them.

§ 84-712 et seq. (Article 7 – General Provisions as to State Officers):

§ 84-712	Public records; free examination; memorandum and abstracts; copies; fees.
§ 84-712.01	Public records; right of citizen; full access; fee authorized.
§ 84-712.02	Public records; claimants before United States Department of Veteran’s Affairs; certified copies free of charge.
§ 84-712.03	Public records; denial of rights; remedies.
§ 84-712.04	Public records; denial of rights; public body; provide information.
§ 84-712.05	Records which may be withheld from the public; enumerated.
§ 84-712.06	Public record; portion provide; when.
§ 84-712.07	Public records; public access; equitable relief; attorney’s fees; costs.
§ 84-712.08	Records; federal government; exception.
§ 84-712.09	Violation; penalty.

§ 84-1201 et seq. (Article 12 –Public Records. (a) Records Management Act; (b) Electronic Records)

§ 84-1201	Legislative intent.
§ 84-1202	Terms defined.
§ 84-1203	Secretary of State; State Records Administrator; duties.
§ 84-1204	State Records Board; established; members; duties; meetings.
§ 84-1205	Board; network manager; duties.
§ 84-1205.01	Technical advisory committee; established; membership.
§ 84-1205.02	Board; establish fees.
§ 84-1205.03	State agency; electronic access to public records; approval required; when; one-time fee; courts; report; fees.
§ 84-1205.04	Contract; public bidding required; when.
§ 84-1205.05	Board; reports.

- § 84-1205.06 Public record; copies; media; denial of request; effect; appeal.
- § 84-1206 Administrator; duties; powers.
- § 84-1207 State executive head; duties.
- § 84-1207.01 Agency head; designate records officer; duties.
- § 84-1208 Administrator; preservation duplicates of essential records; process used; exception.
- § 84-1209 Administrator; storage of records and preservation duplicates; charges.
- § 84-1210 Administrator; records; maintain; temporary removal; inspection; copies certified.
- § 84-1211 Records; confidential; protection.
- § 84-1212. Program for selection and preservation of essential records; review, periodically.
- § 84-1212.01 Records retention and disposition schedule; review by State Archivist; approval; review by administrator.
- § 84-1212.02 Records retention and disposition schedule; disposal of records pursuant to schedule; report.
- § 84-1213 Records; property of government; protected; willfully mutilate, destroy, transfer, remove, damage, or otherwise dispose of; violation; penalty.
- § 84-1213.01 Records; violation; prosecute.
- § 84-1214 Agency; disposition of records; procedure.
- § 84-1214.01 State Archives; authority; duties.
- § 84-1215 Nonrecord material; destruction; procedure; personal and political papers; preservation.
- § 84-1216 Administrator; rules and regulations; promulgate.
- § 84-1217 Agencies; preservation of records; administrator; advise.
- § 84-1218 Political subdivisions; preservation of records; administrator; advise and assist; rules and regulations.
- § 84-1219 Administrator; biennial report; copies; furnish.
- § 84-1220 Act, how cited.
- § 84-1222 Purchase of microfilm system or equipment; approval; property of administrator; exception; credit.
- § 84-1223 Micrographic production, processing, and viewing equipment; property of administrator; exception; credit.
- § 84-1224 State Records Administrator; microfilm; micrographic equipment; powers.
- § 84-1225 State Records Administrator; micropublishing and computer output microfilm services; charges.
- § 84-1226 Records Management Micrographics Services Revolving Fund; created; credits; expenditures; rental.
- § 84-1227 Records Management Cash Fund; created; use; investment.
- § 84-1228 Electronic record constituting permanent record; requirements.

b. If "No," skip this whole section.

Additional comments:

§ 84-712 et seq. address the responsibility of state government officials to provide public records/access to public records.

§ 84-1201 et seq. encompass Article 12, Public Records. Section (a) of this article is the Records Management Act; section (b) addresses Electronic Records.

See also the Public Records Section of the Attorney General’s web page discussing the sections listed above with relevant Attorney General and/or cases discussing the code sections.
<http://www.ago.state.ne.us/public_records/public_records.html>

2. The public records statutes/regulations apply to which of the following branches?

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

The legislative intent of the Records Management Act addresses the record keeping aspects and the responsibilities of a variety of state and local government officials.

Additional comments:

§ 84-712.01 identifies the government entities

§ 84-1201 details the legislative intent

3. Cite to public records statutes/regulations where “public record” is defined.

§ 81-1117.02 Computer file data; public records defined;

§ 84-1202(16) defines “public record”

Additional comments:

“Public records” are defined throughout the Revised Nebraska Statutes in different contexts; *see e.g.*, §§ 2-5409; 84-1202; 86-626; 86-639.

See also the Public Records Section of the Attorney General’s web page discussing the sections listed above with relevant Attorney General and/or cases discussing the code sections.

<http://www.ago.state.ne.us/public_records/public_records.html>

4. Do the public records statutes/regulations address electronic records separately vis-à-vis print records?

- Yes
- No

a. If “Yes,” cite to and briefly discuss statutes/regulations addressing electronic records; how are they treated differently?

The following sections specifically address electronic records:

§ 84-1201(3), (5), (6), (7); § 84-1202(6) “Records means any . . . magnetic storage medium, optical storage medium, or other material regardless of physical form or characteristic . . .”

§ 84-1204 State Records Board established to work with the administrator in creating/maintaining a gateway or network to access public records electronically.

§ 84-1205.03 establishes guidelines for state agencies regarding electronic access to public records.

Additional comments:

§ 84-1201(3) specifically directs state agencies to use new technology to “enhance public access to public records.”

§ 84-1205 et seq. set guidelines for a Network Manager

§ 84-1228 addresses the back up of electronic versions of permanent records

See also the recently enacted Uniform Electronic Transactions Act, §§ 86-621 et seq.

5. Do the public records statutes/regulations address retention of records?

Yes

No

a. If “Yes,” cite to and briefly summarize the retention provisions.

§ 84-1203 designates the Secretary of State as the State Records Administrator, making him/her responsible for records management of state and local records;

§ 84-1206(1)(c) establishment of standards by Administrator;

§ 84-1207(3) directs state executive heads to make and submit records retention proposals;

§ 84-1212 provides for periodic review;

§ 84-1212.01(1) provides for review by the State Archivist of each records retention and disposition schedule for selection of archival and historical materials;

§ 84-1212.01(2) calls for review of submitted records retention and disposal schedules by the administrator and procedures for approval;

§ 84-1212.02 addresses the disposal of records pursuant to retention schedules;

§ 84-1216 grants the administrator the authority to promulgate necessary rules and regulations for the effectuation of sections 84-1201 to 84-1226;

§ 84-1217 addresses the creation of programs for records management and the selection/preservation process;

§ 84-1218 addresses the preservation of records for local political subdivisions.

b. If “Yes,” also cite to and discuss any provisions/regulations that address retention of electronic records; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

§ 84-1228 addresses electronic versions of permanent records;

§ 86-639 addresses retention of electronic records and those generated originally in electronic formats.

Additional comments:

6. Do the public records statutes/regulations or other sources of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens' access to public records or acknowledge the state's responsibility to permanently maintain public records?

Yes
 No

- a. If "Yes," cite to and provide relevant language.

Although "YES" is checked, the answer to this question is "sort of." § 84-1201 declares the intent of the legislature regarding the importance of collecting, maintaining and managing public records. Different sections of Chapter 84, Article 12 address the issue in varying degrees. Many statutes refer to maintenance of "preservation copies" of public records, *see, e.g.*, §§ 84-1208; 84-1209.

Additional comments:

7. Is a public records administrator, a public records commission or other officer/government entity responsible for administering the public records statutes/regulations?

Yes
 No

- a. If "Yes," cite to applicable statutes/regulations and identify the responsible officer/government entity.

§ 84-1203 Designates the Secretary of State as the State Records Administrator. ". . . shall establish and administer, within and for state and local agencies, (1) a records management program which will apply efficient and economical methods to the creation, utilization, maintenance, retention, preservation, and disposal of state and local records, (2) a program for the selection and preservation of essential state and local records, (3) establish and maintain a depository for the storage and service of state records, and advise, assist, and govern by rules and regulations the establishment of similar programs in local political subdivisions in the state, and (4) establish and maintain a central microfilm agency for state records and advise, assist, and govern by rules and regulations the establishment of similar programs in state agencies and local political subdivisions in the State of Nebraska."

§ 84-1204 establishes a State Records Board to advise and assist the Administrator;

§ 84-1212.01 provides for review of record retention and disposition schedules submitted to the Administrator by the State Archivist.

See also §§ 84-1206; 84-1208; 84-1209; 84-1210; 84-1214.04.

- b. If "Yes," also cite to and discuss any source of law requiring the responsible officer/government entity to permanently maintain government information; cite attorney general opinions, court decisions, and administrative rules or guidelines.

Additional comments:

8. Has any public records legislation/administrative regulation been proposed calling for “permanent public access” to electronic public records?

Yes
 No

a. If “Yes,” cite to and briefly discuss the legislation/proposed regulation; what was the outcome?

§ 84-1228 sets forth what constitutes a permanent record and the requirements.

b. If “Yes,” also cite to documents from the legislative or regulatory history.

Additional comments:

9. Has litigation under the public records statutes resulted from the state’s failure to “permanently” maintain a public record?

Yes
 No

a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

10. Discuss any unique circumstances in your state relevant to “permanent public access” of public records under public records statutes/regulations.

B. FREEDOM OF INFORMATION ACT

A state’s freedom of information act (or law) generally addresses public access to “public records.” As noted under Section A above, the compilation of statutes for your state may combine record keeping requirements and public access provisions.

1. Does your state have a “freedom of information act,” as referred to in the paragraph above?

Yes
 No

a. If “Yes,” cite your state’s freedom of information act (or law) statutes and the administrative regulations that supplement them.

Statutes:

- § 84-712 Public records; free examination; memorandum and abstracts; copies; fees.
- § 84-712.01 Public records; right of citizens; full access; fee authorized.
- § 84-712.02 Public records; claimants before United States Department of Veterans affairs; certified copies free of charge.
- § 84-712.03 Public records; denial of rights; remedies.
- § 84-712.04 Public records; denial of rights; public body; provide information.

- § 84-712.05 Records which may be withheld from the public; enumerated
- § 84-712.06 Public record; portion provide; when.
- § 84-712.07 Public records; public access; equitable relief; attorney's fees; costs.
- § 84-712.08 Records; federal government; exception.
- § 84-712.09 Violation; penalty.

b. If "No," skip this whole section.

Additional comments:

2. The freedom of information act statutes/regulations apply to which of the following branches?

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

§ 84-712.01 – except as expressly provided in other sections of the code, public records include all records and documents belonging to the state, any county, city, village, political subdivision or tax-supported district in the state or any agency, branch, department, board, bureau, commission, council, subunit or committee of any of the foregoing. “Data which is a public record in its original form shall remain a public record when maintained in computer files.”

Additional comments:

3. Cite to freedom of information law statutes/regulations where “public record” is defined.

§ 84-712.01 – “. . . public records shall include all records and documents, regardless of physical form, of or belonging to this state, any county, city, village, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing. Data which is a public record in its original form shall remain a public record when maintained in computer files.”

Additional comments:

“Public records” is also defined in Attorney General Opinion 97033, June 4, 1997.

4. Do the freedom of information act statutes/regulations address electronic records separately vis-à-vis print records?

- Yes
- No

a. If “Yes,” discuss whether the freedom of information act statutes/regulations had been amended at any time to cover electronic records; cite to and provide amending language.

- b. If “Yes,” also cite to and briefly discuss statutes/regulations addressing electronic records; how are they treated differently?

Additional comments:

Only to say that the records should retain their original form. *See* § 84-712.01(1) “. . . Data which is a public record in its original form shall remain a public record when maintained in computer files.”

See also § 84-1201(3) directing agencies to use new technology in response to the increased availability and usage of computers. “The increasing availability and use of computers is creating a growing demand for electronic access to public records, and agencies should use new technology to enhance public access to public records”

5. Do any freedom of information act statutes/regulations assure “permanent public access” of electronic public records?

Yes

No

- a. If “Yes,” cite to and discuss any provisions/regulations that address “permanent public access”; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

6. Do the freedom of information act statutes/regulations or other sources of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to public records or acknowledge the state’s responsibility to permanently maintain public records?

Yes

No

- a. If “Yes,” cite to and provide relevant language.

See § 84-1201 – Legislative Intent of the Records Management Act. Section (2) of this act addresses the importance of maintaining records “. . . must be safeguarded against the destructive effects of all forms of disaster and must be available as needed; wherefore it is necessary to adopt special provisions for the selection and preservation of essential state and local records, thereby insuring the protection and availability of such information . . .”

Additional comments:

7. Has any freedom of information legislation/administrative regulation been proposed calling for “permanent public access” of electronic public records?

Yes

No

- a. If “Yes,” cite to and briefly discuss the legislation/proposed regulation; what was the outcome?
- b. If “Yes,” also cite to documents from the legislative or regulatory history.

Additional comments:

8. Has litigation under the freedom of information act resulted from the state’s failure to “permanently” maintain a public record?

Yes
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

9. Discuss any unique circumstances in your state relevant to “permanent public access” of public records under freedom of information act statutes/regulations.

C. PUBLIC ACCESS LAWS

The term “public access law” is intended to be a catchall for all other statutes that address the permanency and public accessibility of government information. The type of law appropriately falling under this section is most likely to be a statute that governs availability and access of *government publications*. An example of such a statute is the “Free Public Access to the Code of Maryland Regulations Act,” whose title alone explains much about its purpose.

1. Does your state have any “public access laws,” as referred to in the paragraph above?

Yes
 No

- a. If “Yes,” cite each of your state’s public access law statutes and the administrative regulations that supplement them.

Statutes:

- § 84-712 Public records; free examination; memorandum and abstracts; copies; fees.
- § 84-712.01 Public records; right of citizens; full access; fee authorized.
- § 84-712.02 Public records; claimants before United States Department of Veterans Affairs; certified copies free of charge.
- § 84-712.03 Public records; denial of rights; remedies.
- § 84-712.04 Public records; denial of rights; public body; provide information.
- § 84-712.05 Records which may be withheld from the public; enumerated
- § 84-712.06 Public record; portion provide; when.
- § 84-712.07 Public records; public access; equitable relief; attorney's fees; costs.
- § 84-712.08 Records; federal government; exception.
- § 84-712.09 Violation; penalty.

Administrative Rules & Regulations:

NAC Title 236 Chapter 006.01C1 addresses accessibility of state depository libraries/collections.

- b. If “No,” skip this whole section.

Additional comments:

These are the same statutory sections found above in the freedom of information section.

The Legislative Intent section of the Records Management Act (§ 84-1201) also addresses the issue of public access to public records particularly in light of the increased computer availability and usage, and the demand for electronic access to public records.

2. For each public access law, specify the branches to which it applies.

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

Sections 84-712 et seq. addresses public access to government information and the Nebraska State Clearinghouse receives copies of agency materials; the combination of these statutory sections and regulations essentially cover all branches of state government.

Additional comments:

3. For each public access law, cite to and discuss provisions/regulations addressing the particular form of government information addressed by the law.

§ 84-712.01(1) – except as prohibited by statute – public records include all records and documents, regardless of physical form, from state, county, city, village, political subdivision, or tax-supported district, agency, branch, department, board, bureau, commission, council, subunit or committee.

§ 84-712.01(3) “. . . shall be liberally construed whenever any state, county, or political subdivision fiscal records, audit, warrant, voucher, invoice, purchase order, requisition, payroll, check, receipt, or other record of receipt, cash or expenditure involving public funds is involved . . .”

Additional comments:

4. For each public access law, do the applicable statutes/regulations address electronic information separately vis-à-vis print information?

Yes
 No

- a. If "Yes," cite to and briefly discuss statutes/regulations addressing electronic information; how is it treated differently?

Additional comments:

5. For each public access law, do the applicable statutes/regulations specifically address permanency of the information?

Yes
 No

- a. If "Yes," for each public access law, cite to and briefly discuss the permanency provisions.

Additional comments:

6. For each public access law, do the applicable statutes/regulations specifically address accessibility of information?

Yes
 No

- a. If "Yes," cite to and briefly discuss the accessibility provisions.

Statutes:

- § 84-712 Public records; free examination; memorandum and abstracts; copies; fees.
- § 84-712.01 Public records; right of citizens; full access; fee authorized.
- § 84-712.02 Public records; claimants before United States Department of Veterans Affairs; certified copies free of charge.
- § 84-712.03 Public records; denial of rights; remedies.
- § 84-712.04 Public records; denial of rights; public body; provide information.
- § 84-712.05 Records which may be withheld from the public; enumerated
- § 84-712.06 Public record; portion provide; when.
- § 84-712.07 Public records; public access; equitable relief; attorney's fees; costs.
- § 84-712.08 Records; federal government; exception.
- § 84-712.09 Violation; penalty.

Administrative Rules & Regulations:

NAC Title 236 Chapter 006.01C1 addresses accessibility of state depository libraries/collections.

Additional comments:

These sections detail the procedures for denial of access, the record keeping process of denials and the remedies when access is denied. The regulation discusses access to state depository collections.

7. For each public access law, do the applicable statutes/regulations or any other source of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens' access to government publications or acknowledge the state's responsibility to permanently maintain government publications?

Yes
 No

- a. If "Yes," cite to and provide relevant language.

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

Additional comments:

Although the language does not say "public policy," this statute addresses the accessibility of public records.

8. Has any public access legislation/administrative regulation been proposed calling for "permanent public access" of electronic publications?

Yes
 No

- a. If "Yes," cite to and briefly discuss the legislation/proposed regulation; what was the outcome?
b. If "Yes," also cite to documents from the legislative or regulatory history.

Additional comments:

But see the following sections of the Nebraska Revised Statutes which do not specifically address "permanent" public access but do discuss electronic access to public records:

§ 84-1202 (14) defining "electronic access;"

§ 84-1204 (b) and (c) discussing the development and maintenance of a gateway/electronic network to access to public records electronically;

§ 84-1205 directing the network manager to supervise the day-to-day operations and expansion of a gateway/electronic network making public records availability electronically;

9. Has litigation under any public access law resulted from the state's failure to "permanently" maintain a government publication?

Yes
 No

- a. If "Yes," cite to and briefly discuss each case.

Additional comments:

10. Discuss any unique circumstances in your state relevant to "permanent public access" of government publications under public access laws.

D. STATE OFFICE FOR TECHNOLOGY AND CHIEF INFORMATION OFFICER

1. Does your state have an office for technology (or department of information technology, department of information service, or equivalent) and/or a chief information officer (or equivalent)?

Yes
 No

- a. If "Yes," provide the complete official name for the office and/or officer; cite to the statute giving that information.

State Records Board given authority to employ/contract with NETWORK MANAGER (§ 84-1205); also have a TECHNICAL ADVISORY COMMITTEE (§ 84-1205.01).

§ 86-519 creates the office of Chief Information Officer;
§ 86-520 outlines the duties of the Chief Information Officer.

- b. If "No," skip this whole section.

Additional comments:

2. Cite the "enabling" statute that created and defines the powers/responsibilities of the office/officer; when was the statute first enacted?

§ 84-1205 NETWORK MANAGER – Laws 1997, LB 590 §6; Laws 1999, LB 550 §48; Operative date July 1, 2001 (*See also* Laws 1997, LB 590 §7; Laws 1998, LB 924 §52);

§ 86-519 OFFICE OF CHIEF INFORMATION OFFICER; CREATED – Laws 1998, LB 924, § 9; R.S. 1943, (1999), § 86-1509; Laws 2002, LB 1105, § 289. Operative date January 1, 2003.

§ 86-520 CHIEF INFORMATION OFFICER; DUTES – Laws 1998, LB 924, § 10; R.S. 1943, (1999), § 86-1510; Laws 2002, LB 1105, § 290. Operative date January 1, 2003.

Additional comments:

3. Does the office/officer have power to promulgate administrative regulations?

Yes
 No

- a. If "Yes," cite the body of administrative regulations promulgated by the office/officer.

Additional comments:

Although the Chief Information Officer does not have the power to promulgate administrative regulations, the Officer is actively involved through the recommendation of policies and guidelines as well as advisement. Section 86-520 enumerates the duties of the Chief Information Officer.

4. The office/officer has jurisdiction over which branches?

- Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

The Network Manager works with State Records Board to maintain network/electronic records. *See* § 84-1205. The Chief Information Officer interacts with all branches. *See* § 86-520.

Additional comments:

5. Are the powers/responsibilities of the office/officer defined differently for electronic government information vis-à-vis print government information?

- Yes
 No

- a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

The focus of the Network Manager is electronic information; *see* § 84-1205. The Chief Information Officer works with all branches in the area of noneducation information technology. *See* § 86-520.

Additional comments:

6. Do applicable statutes/regulations for the office/officer set forth powers/responsibilities relating to "permanent public access" of government information?

- Yes
 No

- a. If "Yes," cite to and discuss any provisions/regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

7. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

Yes
 No

a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

§ 84-1201(2) discusses the need to safeguard certain records against the destructive effects of all disasters;

§ 84-1201(4) states there must be public accountability concerning public records;

§ 84-1203 designates the Secretary of State the State Records Administrator and discusses duties in the context of state records.

Additional comments:

8. Whether or not a supporting source of law can be identified, does the office/officer acknowledge responsibility to permanently maintain government information?

Yes
 No

a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

But see § 84-1203, State Records Administrator

9. Has the office/officer undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes
 No

a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

Again, *see* § 84-1203

10. Has any litigation involving the office/officer resulted from the state's failure to "permanently" maintain government information?

Yes
 No

a. If "Yes," cite to and briefly discuss each case.

Additional comments:

11. Discuss any unique circumstances in your state relevant to the office for technology and/or chief information officer.

E. STATE TECHNOLOGY PLANS

1. Does your state have a current official information technology plan (or equivalent)?

Yes
 No

- a. If “Yes,” describe what government entity was responsible for creating the plan; cite to the source of its authority.

Nebraska Legislature created the NEBRASKA INFORMATION TECHNOLOGY COMMISSION, *see* § 86-1501 et seq.

- b. If “Yes,” also provide complete bibliographic information about the plan; when was it published?

2002

- c. If “No,” skip this whole section.

Additional comments:

Nebraska’s Statewide Technology Plan is available on the Internet at <<http://www.nitc.state.ne.us/stp>>

2. The technology plan covers which branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

§ 86-1501 sets forth the legislative intent of this section of the code; the sections following provide more guidance of the legislature’s view of the importance of technology.

Additional comments:

The NITC Vision Statement – “Promote the use of information technology in education, health care, economic development, and all levels of government services to improve the quality of life of all Nebraskans.”

3. Does the current plan include a section on permanency and public accessibility of electronic government information?

Yes
 No

- a. If "Yes," cite to and provide relevant language of the plan.

Additional comments:

But see SGC-4 – Implementing appropriate policies for information technology related security and privacy. SGC 4.2 RECORDS RETENTION PROJECT – working with the Records Management Division, develop technical solutions for records retention.

4. Discuss any unique circumstances in your state relevant to technology planning or the current information technology plan.

F. STATE PRINTING OFFICE AND STATE PRINTER

1. Does your state have an official printing office (or equivalent) and/or an official printer (or equivalent)?

Yes
 No

- a. If "Yes," provide the complete official name for the printing office and/or official printer; cite to the statute giving that information.
b. If "No," skip this whole section.

Additional comments:

But see §§ 49-501 to 49-511 addressing the publication and distribution of session laws and journals; §§ 49-601 to 49-618 addressing printing and distribution of statutes; and § 49-704 granting the Revisor of Statutes the authority to enter into contracts for the printing of statutes. *See also* §§ 24-209; 85-176 and 85-177 addressing the distribution of case law to courts and public law school libraries.

2. Cite the "enabling" statute that created and defines the powers/responsibilities of the printing office/official printer.

Additional comments:

3. Does the printing office/official printer have power to promulgate administrative regulations?

Yes
 No

- a. If "Yes," cite the body of administrative regulations promulgated by the printing office/official printer.

Additional comments:

4. The printing office/official printer has jurisdiction over which branches?

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

5. Briefly discuss the functions of the printing office/official printer. Then:

- a. Describe your state's use of in-house agency publishing and/or commercial publishing of government information.
- b. What percentage of official state government documents are printed by the printing office/official printer?
- c. To what extent is the printing office/official printer involved in the electronic dissemination of government information?

Additional comments:

6. Are the powers/responsibilities of the printing office/official printer defined differently for electronic government information vis-à-vis print government information?

- Yes
- No

a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

7. Do applicable statutes/regulations for the printing office/official printer set forth powers/responsibilities relating to "permanent public access" of government information?

- Yes
- No

a. If "Yes," cite to and discuss any provisions/regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

8. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

Yes
 No

a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

9. Whether or not a supporting source of law can be identified, does the printing office/official printer acknowledge responsibility to permanently maintain government information?

Yes
 No

a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

10. Has the printing office/official printer undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes
 No

a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the printing office/official printer resulted from the state's failure to "permanently" maintain government information?

Yes
 No

a. If "Yes," cite to and briefly discuss each case.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the official printing office and/or official printer.

G. STATE ARCHIVES AND STATE ARCHIVIST

This section addresses your state's official archives and state archivist. If these responsibilities are by law under the auspices of your state library and state librarian, please move on to Section H.

1. Does your state have an official archives (or equivalent) and/or an official archivist (or equivalent)?

Yes
 No

a. If "Yes," provide the complete official name for the archives and/or archivist; cite the statute giving that information.

§ 84-1214.01 State Archives of the Nebraska State Historical Society

b. If "No," skip this whole section.

Additional comments:

2. Cite the "enabling" statute that created and defines the powers/responsibilities of the archives/archivist.

§ 84-1214.01

§ 84-1212.01

Additional comments:

3. Does the archive/archivist have power to promulgate administrative regulations?

Yes
 No

a. If "Yes," cite the body of administrative regulations promulgated by the archive/archivist.

Additional comments:

4. The archive/archivist has defined responsibilities for which branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

§ 84-1214.01 grants the Archives the authority to acquire any record – total or part – deemed of archival or historical significance and further directs procedures for disposal of agency materials through contact/review by the State Archives.

Additional comments:

5. Briefly discuss the functions of the archive/archivist.

Maintains materials; makes determinations about the retention/disposal of materials; petitions the administrator to have materials transferred to the state historical society; prepares invoices and receipts. *See* § 84-1214.01

Additional comments:

6. Are the powers/responsibilities of the archive/archivist defined differently for electronic government information vis-à-vis print government information?

Yes

No (doesn't distinguish)

- a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

The statutes do not differentiate between print and electronic records/government information.

7. Do applicable statutes/regulations for the archive/archivist set forth powers/responsibilities relating to "permanent public access" of government information?

Yes

No

- a. If "Yes," cite to and discuss any provisions /regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

8. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

Yes

No

- a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

9. Whether or not a supporting source of law can be identified, does the archive/archivist acknowledge responsibility to permanently maintain government information?

Yes
 No

a. If “Yes,” briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

But see § 84-1212.01 addressing records retention and disposition schedule and review by the State Archivist; § 84-1214.01 addressing the State Archives duties and authority.

10. Has the archive/archivist undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes
 No

a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the archive/archivist resulted from the state’s failure to “permanently” maintain government information?

Yes
 No

a. If “Yes,” briefly discuss the circumstances of each case and its outcome, and provide citations to any court decisions.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the official archive and/or official archivist.

H. STATE LIBRARY AND STATE LIBRARIAN

This section addresses your state’s official library and state librarian. There is no separate section that addresses the official law library and state law librarian, if any. If your state has an official library *and* an official law library (and/or official librarian *and* official law librarian), it may be appropriate to address those government entities and/or persons separately.

1. Does your state have an official library (or equivalent) and/or an official librarian (or equivalent)?

Yes
 No

- a. If “Yes,” provide the complete official name for the library and/or librarian; cite to the statute giving that information.

State Library and Librarian as outlined in §§ 51-101 et seq. of the Nebraska Revised Statutes.

See also the Rules Relating to use of the Nebraska State Library found in the Nebraska Supreme Court Rules online <http://court.nol.org/rules/rulesindex.htm>

For more practical information concerning the State Library, *see* Sam Shaw, *Some Further Advice on Researching Legislative History*, *The Nebraska Lawyer*, Sept. 2002 at 48.

- b. If “No,” skip this whole section.

Additional comments:

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the library/librarian.

§ 51-102

Additional comments:

3. Does the library/librarian have power to promulgate administrative regulations?

Yes
 No

- a. If “Yes,” cite the body of administrative regulations promulgated by the library/librarian.

Additional comments:

4. The library/librarian has defined responsibilities for which branches?

Executive
 Legislative
 Judicial
 Administrative (applying to all agencies, no matter what branch of government)
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

Not clearly defined by the statute; § 51-101 states what comprises the State Library – “The books, pamphlets, maps and charts belonging to the state, now in the State Library, or which shall hereafter be added to the same, shall constitute the State Library.”

Additional comments:

5. Briefly discuss the functions of the library/librarian.

The duties are detailed in § 51-104 (“register of all books issued and returned at the time they shall be so issued and returned”) and § 51-107 (labeling of books).

Additional comments:

6. Are the powers/responsibilities of the library/librarian defined differently for electronic government information vis-à-vis print government information?

Yes

No (no mention of electronic)

- a. If “Yes,” cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

7. Do applicable statutes/regulations for the library/librarian set forth powers/responsibilities relating to “permanent public access” of government information?

Yes

No

- a. If “Yes,” cite to and discuss any provisions/regulations that address those powers/responsibilities ; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

8. Does any relevant source of law acknowledge in any way the state’s responsibility to permanently maintain government information?

Yes

No

- a. If “Yes,” briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

9. Whether or not a supporting source of law can be identified, does the library/librarian acknowledge responsibility to permanently maintain government information?

Yes

No

- a. If “Yes,” briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

10. Has the library/librarian undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes
 No

- a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the library/librarian resulted from the state’s failure to “permanently” maintain government information?

Yes
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the state library and/or state librarian.

I. STATE DEPOSITORY LIBRARY LAWS

States often have a depository library program patterned after the federal model for disseminating federal government publications.

1. Does your state have a “depository library program,” as referred to in the paragraph above?

Yes
 No

- a. If “Yes,” cite your state’s depository library law statutes and the administrative regulations that supplement them.

Statutes:

§ 51-401, et seq. establish the Nebraska Library Commission.

§ 51-411 defines the terms used in the sections that follow.

§ 51-412 creates the Nebraska Publications Clearinghouse, outlines the duties, rules and regulations.

§ 51-413 directs state agencies to notify the Nebraska Publications Clearinghouse of their identity and prescribes the procedure and number of copies of publications to be deposited/filed with the Clearinghouse.

§ 51-414 grants the Nebraska Publications Clearinghouse authority to enter into depository contracts and to set the eligibility requirements and standards for those contracts.

§ 51-415 directs the Clearinghouse to regularly publish and distribute an official list of state publications.

§ 51-416 directs state agencies to furnish the Clearinghouse a complete list of their current state publications upon request;

§ 51-417 addresses the distribution of state publications;

§ 51-418 provides for interlibrary loan service.

Administrative Rules & Regulations:
NAC Title 236 Chapter 2-006

b. If “No,” skip this whole section.

Additional comments:

The Nebraska Library Commission Publications Clearinghouse Service also has information/rules/regulations concerning the state depository program on its website:
<<http://www.nlc.state.ne.us/docs/stclear.html>>

2. Do the depository library statutes/regulations address electronic government information separately vis-à-vis print government information?

Yes
 No

a. If “Yes,” cite to and briefly discuss statutes/regulations addressing electronic government information; how is it treated differently?

b. If “No,” explain whether or not the statutes/regulations have been construed to cover electronic government information?

There is no indication that the statutes have NOT been construed to cover electronic government information; in fact, based on resources such as State Government Publications ONLINE <<http://www.nlc.state.ne.us/docs/>>, it can be argued that the statutes/regulations are being construed to cover electronic resources.

Additional comments:

3. Do any depository library statutes/regulations assure “permanent public access” of electronic government information?

Yes
 No

- a. If "Yes," cite to and discuss any provisions/regulations that address "permanent public access"; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

4. Do the depository library statutes/regulations or any other source of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens' access to government information or acknowledge the state's responsibility to permanently maintain public records?

Yes
 No

- a. If "Yes," cite to and provide relevant language.

Although the statutes and regulations do not explicitly say the state has a responsibility to permanently maintain public records, NAC Title 236 Chapter 2-006.01C3f discusses the disposal of depository items. The last sentence of that section reads: "The Clearinghouse and Nebraska State Historical Society will permanently retain all items."

Additional comments:

5. Have depository libraries as a whole undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes
 No

- a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

6. Please determine the absolute number or percentage of titles:

Formerly distributed in print, now distributed exclusively in electronic format.
 Never before distributed, now distributed in electronic format.

Additional comments:

Author unable to ascertain.

7. Discuss the depository library program's effectiveness and actual accomplishments in disseminating, preserving and providing access of electronic government information?

Through such initiatives as State Government Publications ONLINE, the Library Commission web page (including an FAQ section with links to other state agency pages and information) and online reference services (e.g., govref@nlc.ne.state.us), the Nebraska Library Commission

Publications Clearinghouse Service continues to be very proactive in making government information available in both print and electronic formats.

Additional comments:

J. COOPERATIVE ARRANGEMENTS

One can imagine any number of cooperative arrangements to assure “permanent public access.” A well-known example is the partnership between the Texas Electronic Depository program (involving the Texas State Library and Archives Commission) and the University of North Texas Libraries (see description for program C304 at Computers in Libraries 2002 on the Information Today website). A hypothetical example of a less formalized cooperative arrangement is where a state’s highest court relies on the state bar association to publish the court’s decisions.

1. To secure PPA, has any state agency or other government entity (judicial, legislative or executive) partnered with any not for profit, educational, or for profit organization outside of government?

Yes
 No

- a. If “Yes,” describe each partnership, noting whether it is funded by a grant or through a government appropriation; give a brief history and summary of accomplishments.

Additional comments:

2. Does the state rely on any cooperative activities that are not actually formalized?

Yes
 No

- a. If “Yes,” describe each relationship and cooperative activity; give a brief history and a summary of accomplishments.

Additional comments:

3. Does any state agency or other government entity secure “permanent public access” through any other type of cooperative arrangement?

Yes
 No

- a. Describe each cooperative arrangement; give a brief history and a summary of accomplishments.

Additional comments:

K. FACTORS TO BE CONSIDERED IN FUTURE ADVOCACY OR REFORM EFFORTS

1. If “permanent public access” is neglected in your state, carefully examine existing public records statutes, freedom of information statutes, public access laws, etc., and respond to the following:
 - a. If possible, cite to and discuss one or two specific places in statutes or other sources of law where the state legislature or a responsible agency might naturally insert basic reform language.

There are a number of places where basic reform language might naturally be inserted: § 84-712 discussing public records; § 84-712.01 discussing the right of citizens to access to public records; § 84-1201 declaring legislative intent in connection with the Records Management Act; § 84-1202 defining terms used in the Records Management Act. Title 236, Chapter 006 of the Nebraska Administrative Code deals with the Library Commission, particularly the Nebraska Publications Clearinghouse (state depository); inserting language here would also be appropriate.

- b. If specific places to insert reform language are not obvious, very briefly discuss what state agency or other government entity might naturally be made responsible for “permanent public access.”

Additional comments:

While permanent public access may be implied and be in practice under the auspices of the sections discussed above, this author sees no language that specifically states “permanent public access.”

2. Discuss known failed efforts in your state to achieve “permanent public access”; how might new efforts succeed?

Additional comments:

L. DIRECTORY

This section asks you to collect directory-type information for important state officials involved in the dissemination of government information.

Provide official contact information for:

1. State Chief Information Officer (or equivalent)

Secretary of State is the State Records Administrator:

John A. Gale

Suite 2300

State Capitol

Lincoln, NE 68509

Telephone: 402.471.2555

Fax: (402) 471-3237

E-Mail: sos08@nol.org

<<http://www.sos.state.ne.us>>

State Chief Information Officer:
Steve Schafer
521 S. 14th Street
Suite 200
Lincoln, NE 68508-2707
Telephone: 402.471.4385
Fax: (402) 471-4608
E-Mail: slschafe@notes.state.ne.us
<<http://www.cio.state.ne.us>>

2. State Printer
n/a

3. State Archivist

Andrea Faling
P.O. Box 82554
Lincoln, NE 68501-2554
Telephone: 402.471.4785
Fax: (402) 471-8922
E-Mail: lanshs@nebraskahistory.org
<<http://www.nebraskahistory.org>>

4. State Librarian and/or State Law Librarian

Marie Wiechman
P.O. Box 98931
Lincoln, NE 68509-8931
Telephone: 402.471.3189
Fax: (402) 471-1011
E-Mail: lawlib@nsc.state.ne.us
<<http://court.nol.org/library/lawlibindex.htm>>

5. State Attorney General (on freedom of information act issues, etc.)

Donald B. Stenberg
P.O. Box 98920
Lincoln, NE 68509-8920
Telephone: 402.471.2682
Fax: (402) 471-3297
E-Mail (form): <http://www.ago.state.ne.us/contact/contact_us.html>
<<http://www.ago.state.ne.us>>

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page

<<http://www.nol.org>>

2. State agency portal

- a. Does the portal have a searching capability similar to FirstGov?

No, currently the only state portal available is a Business Portal, Nebraska@Online for Business <<http://www.nol.org/business/>>. Discussions are ongoing to create a Citizen's Portal.

3. Legislative website

<<http://www.unicam.state.ne.us/index.htm>>

- a. Does the website cover the current year only?

Current session and statutes

- b. Are services free or fee-based?

Free

4. Judicial websites

<<http://court.nol.org>>

5. Regulatory agency websites

Agency websites:

<http://www.nol.org/state_sites.html>

SOS/Administrative Code:

<<http://www.sos.state.ne.us/Rules/rules.htm>>

6. Freedom of Information Service Hotline

- a. Does the state have an ombudsman for freedom of information act issues?

Nebraska does have an ombudsman; this person deals with a variety of issues including the retrieval of information. <<http://www.unicam.state.ne.us/offices/ombud.htm>>

- b. Is the state attorney general's office the public's contact for freedom of information act issues?