

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 16-0966.01 Nicole Myers x4326

HOUSE BILL 16-1368

HOUSE SPONSORSHIP

Tyler,

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CODIFICATION OF CURRENT PRACTICE FOR THE**
102 **MANAGEMENT OF RECORDS OF GOVERNMENTAL AGENCIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill clarifies and codifies the current practices of the department of personnel (department) and the state archivist concerning state archives and records. Specifically, the bill clarifies or codifies that:

- ! All governmental agencies, including state agencies and local governments, are subject to the requirements in law regarding state archives and records;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
2nd Reading Unamended
April 13, 2016

- ! The state archivist, rather than the executive director of the department, is charged with the day to day responsibilities specified in law concerning state archives and records, including promulgating rules and determining when records should be transferred to the department;
- ! The state archives, created in the department, consists of a permanent records program for records that the department will permanently keep and maintain and a records center for records that have been transferred to the department for storage;
- ! The state archivist may establish fees to cover the costs of storing records in the records center;
- ! Each state agency is required to have a records management program;
- ! The attorney general is no longer involved in determining the legal, administrative, or historical value of records;
- ! If a public officer intends to destroy or dispose of original records that are determined to be of legal, administrative, or historical value, the public officer is required to take specified actions to reproduce the record and ensure that copies of the record remain accessible; and
- ! The state archivist may convene a records advisory board to study the best practices for the retention and preservation of records, assist governmental agencies in the creation of a records management program, and perform other functions deemed necessary by the state archivist.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 24-80-101 as
 3 follows:

4 **24-80-101. Definitions.** As used in this part 1, unless the context
 5 otherwise requires:

6 (1) "GOVERNMENTAL AGENCY" MEANS ANY STATE AGENCY AND
 7 ANY OFFICE, DEPARTMENT, DIVISION, BOARD, BUREAU, COMMISSION,
 8 INSTITUTION, OR AGENCY OF ANY COUNTY, CITY, CITY AND COUNTY,
 9 SPECIAL DISTRICT OR OTHER DISTRICT IN THE STATE, OR ANY LEGAL
 10 SUBDIVISION THEREOF.

1 (+) (2) "Records" means all books, papers, maps, photographs, or
2 other documentary materials, regardless of physical form or
3 characteristics, made or received by any governmental agency in
4 pursuance of law or in connection with the transaction of public business
5 and preserved or appropriate for preservation by the agency or its
6 legitimate successor as evidence of the organization, functions, policies,
7 decisions, procedures, operations, or other activities of the government or
8 because of the value of the official governmental data contained therein.
9 As used in this part 1, the following are excluded from the definition of
10 records:

11 (a) Materials THAT ARE NOT MADE OR RECEIVED BY ANY
12 GOVERNMENTAL AGENCY IN PURSUANCE OF LAW OR IN CONNECTION WITH
13 THE TRANSACTION OF PUBLIC BUSINESS BUT THAT ARE preserved or
14 appropriate for preservation because of the value of the data contained
15 therein ~~other than that of an official governmental nature~~ or because of
16 the historical value of the materials themselves;

17 (b) Library books, pamphlets, newspapers, or museum material
18 made, acquired, or preserved for reference, historical, or exhibition
19 purposes;

20 (c) Private papers, manuscripts, letters, diaries, pictures,
21 biographies, books, and maps, including materials and collections
22 previously owned by persons ~~other than the state or any political~~
23 ~~subdivision thereof~~ WHO ARE NOT ASSOCIATED WITH A GOVERNMENTAL
24 AGENCY and THAT ARE transferred by ~~them~~ THE PREVIOUS OWNERS to the
25 state historical society;

26 (d) Extra copies of publications or duplicated documents
27 preserved for convenience of reference;

1 (e) Stocks of publications; AND

2 (f) Electronic mail messages, regardless of whether such messages
3 are produced or stored using state-owned equipment or software, unless
4 the recipient has previously segregated and stored such messages as
5 evidence of the organization, functions, policies, decisions, procedures,
6 operations, or other activities of the government or because of the value
7 of the official governmental data contained therein.

8 (3) "STATE AGENCY" MEANS ANY DEPARTMENT, DIVISION, BOARD,
9 BUREAU, COMMISSION, INSTITUTION, OR AGENCY OF THE STATE.

10 (4) "STATE ARCHIVIST" MEANS THE HEAD OF STATE ARCHIVES AND
11 RECORDS APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT
12 OF PERSONNEL.

13 **SECTION 2.** In Colorado Revised Statutes, **amend** 24-80-102 as
14 follows:

15 **24-80-102. State archives and records - personnel - duties -**
16 **cash fund - rules - definition.** (1) The department of personnel shall
17 succeed to all records of the state of Colorado or any political subdivision
18 thereof, as the same are defined in section 24-80-101 OF GOVERNMENTAL
19 AGENCIES, INCLUDING ANY STATE AGENCY AND ANY OFFICE,
20 DEPARTMENT, DIVISION, BOARD, BUREAU, COMMISSION, INSTITUTION, OR
21 AGENCY OF ANY COUNTY, CITY, CITY AND COUNTY, SPECIAL DISTRICT OR
22 OTHER DISTRICT IN THE STATE, OR ANY LEGAL SUBDIVISION THEREOF.
23 Except as provided in subsections (5), (6), and (7) SUBSECTION (6) of this
24 section, the department of personnel shall be the official custodian and
25 trustee for the state of all public records of whatever kind that are
26 transferred to it under this part 1 from any public office of the state or any
27 political subdivision thereof GOVERNMENTAL AGENCY, INCLUDING ANY

1 STATE AGENCY AND ANY OFFICE, DEPARTMENT, DIVISION, BOARD,
2 BUREAU, COMMISSION, INSTITUTION, OR AGENCY OF ANY COUNTY, CITY,
3 CITY AND COUNTY, SPECIAL DISTRICT OR OTHER DISTRICT IN THE STATE,
4 OR ANY LEGAL SUBDIVISION THEREOF.

5 (1.5) THE STATE ARCHIVES, CREATED IN THE DEPARTMENT OF
6 PERSONNEL, CONSISTS OF A PERMANENT RECORDS PROGRAM AND A
7 RECORDS CENTER AS FOLLOWS:

8 (a) THE PERMANENT RECORDS PROGRAM CONSISTS OF RECORDS
9 THAT HAVE BEEN TRANSFERRED TO THE DEPARTMENT OF PERSONNEL
10 PURSUANT TO THIS PART 1 AND THAT THE DEPARTMENT WILL
11 PERMANENTLY KEEP AND MAINTAIN DUE TO THE LEGAL, HISTORICAL, OR
12 ADMINISTRATIVE VALUE OR SIGNIFICANCE OF THE RECORD. RECORDS THAT
13 ARE IN THE PERMANENT RECORDS PROGRAM IN THE STATE ARCHIVES
14 SHALL BE ACCESSIBLE TO THE PUBLIC, SUBJECT TO THE REQUIREMENTS OF
15 THIS SECTION, BUT SHALL NOT BE REMOVED FROM THE ARCHIVES. THE
16 DEPARTMENT OF PERSONNEL IS THE CUSTODIAN OF ANY RECORDS IN THE
17 PERMANENT RECORDS PROGRAM.

18 (b) THE RECORDS CENTER CONSISTS OF RECORDS THAT HAVE BEEN
19 TRANSFERRED, WITH THE APPROVAL OF THE STATE ARCHIVIST, TO THE
20 DEPARTMENT OF PERSONNEL PURSUANT TO THIS PART 1 FOR STORAGE
21 UNTIL THE FINAL DISPOSITION OF SUCH RECORDS HAS BEEN MET. THE
22 STATE ARCHIVIST MAY DETERMINE WHETHER TO ACCEPT ANY RECORDS
23 FROM A GOVERNMENTAL AGENCY PURSUANT TO THIS PARAGRAPH (b), AND
24 THE STATE ARCHIVIST'S ACCEPTANCE OF ANY SUCH RECORDS SHALL BE
25 PURSUANT TO A WRITTEN AGREEMENT BETWEEN THE STATE ARCHIVIST
26 AND THE GOVERNMENTAL AGENCY FROM WHICH THE RECORDS
27 ORIGINATED. THE GOVERNMENTAL AGENCY FROM WHICH THE RECORDS

1 ORIGINATED SHALL REMAIN THE CUSTODIAN OF ANY RECORDS
2 TRANSFERRED TO THE RECORDS CENTER PURSUANT TO THIS PARAGRAPH
3 (b). THE STATE ARCHIVIST MAY ESTABLISH FEES, TO BE PAID BY
4 GOVERNMENTAL AGENCIES THAT TRANSFER RECORDS TO THE RECORDS
5 CENTER, AS NECESSARY, TO PAY FOR THE DIRECT AND INDIRECT COSTS OF
6 STORING SUCH RECORDS. THE STATE ARCHIVIST SHALL TRANSMIT ALL FEES
7 COLLECTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO
8 THE STATE ARCHIVES AND RECORDS CASH FUND, CREATED IN SUBSECTION
9 (10) OF THIS SECTION.

10 (2) ~~The chief administrative officer over state archives and public~~
11 ~~records shall be the executive director of the department of personnel.~~

12 (3) ~~The executive director of the department of personnel shall be~~
13 STATE ARCHIVIST IS responsible for the proper administration of ~~public~~
14 records under this part 1. ~~It is The executive director's duty to~~ STATE
15 ARCHIVIST SHALL determine and direct the administrative and technical
16 procedures concerning state archives and ~~public~~ records. ~~The executive~~
17 ~~director~~ STATE ARCHIVIST shall PERIODICALLY study the problems of
18 preservation and disposition of records, ~~as defined in section 24-80-101~~
19 INCLUDING DIGITAL RECORDS, and based on such study shall formulate
20 and put into effect ~~to the extent authorized by law, within the department~~
21 ~~of personnel or otherwise, such~~ A program as ~~the executive director~~
22 ~~deems advisable or necessary~~ for ~~public~~ records conservation by the state
23 of Colorado or political subdivisions thereof.

24 (4) To effectuate the purposes of this part 1, the governor may
25 direct any political subdivision of the state to designate a records
26 administrator to cooperate with and assist and advise the ~~executive~~
27 ~~director of the department of personnel~~ STATE ARCHIVIST in the

1 performance of the duties and functions concerning state archives and
2 ~~public~~ records and to provide such other assistance and data as will enable
3 the department of personnel to properly carry out its activities and
4 effectuate the purposes of this part 1.

5 (5) ~~Items in the present care, custody, and trusteeship of the~~
6 ~~executive director of the department of personnel which are not records,~~
7 ~~as defined by section 24-80-101, because of their historical, library, or~~
8 ~~museum interest or value, shall be retained by the state historical society,~~
9 ~~and items which are not records which are in the future proposed for~~
10 ~~disposition under the provisions of this part 1, but determined to be of~~
11 ~~historical, library, or museum interest or value, shall be transferred to the~~
12 ~~state historical society with its consent in accordance with the provisions~~
13 ~~set forth in section 24-80-104.~~

14 (6) ~~The state historical society, qualified students, and scholars~~
15 ~~approved by the society or the state archivist and other appropriate~~
16 ~~persons~~ GENERAL PUBLIC AND GOVERNMENTAL AGENCIES shall have the
17 right of reasonable access to all records in the custody of the ~~executive~~
18 ~~director of the department of personnel~~ STATE ARCHIVIST for purposes of
19 historical reference, research, and information. ~~and~~ The state historical
20 society shall have the privilege of museum display of original historical
21 records or facsimiles thereof, subject to the provisions of section
22 24-80-106. Copies of records ~~as defined in section 24-80-101,~~ having
23 historical, library, or museum interest or value shall be furnished to the
24 state historical society by the state archivist upon request of the society in
25 accordance with the provisions of sections 24-80-103 and 24-80-107.

26 (7) ~~In the event of disagreement between the state historical~~
27 ~~society and the department of personnel as to the custody of any records,~~

1 ~~as defined in section 24-80-101, the governor, with the advice of the~~
2 ~~attorney general, shall make a final and conclusive determination and~~
3 ~~order and direct custody accordingly.~~

4 (8) Repealed.

5 (9) Publications of the department concerning state archives and
6 ~~public~~ records circulated in quantity outside the executive branch shall be
7 issued in accordance with the provisions of section 24-1-136.

8 (10) (a) Except as set forth in paragraph (b) of this subsection
9 ~~(10), the executive director of the department of personnel~~ STATE
10 ARCHIVIST shall establish any fees as are necessary to pay for the direct
11 and indirect costs of responding to requests for information and research
12 from ~~state~~ GOVERNMENTAL agencies and the general public. The
13 ~~executive director~~ STATE ARCHIVIST shall transmit all fees collected to the
14 state treasurer, who shall credit the same to the state archives and ~~public~~
15 records cash fund, which fund is hereby created. The moneys in the fund
16 are subject to annual appropriation by the general assembly for the direct
17 and indirect costs of responding to requests for information and research
18 from ~~state~~ GOVERNMENTAL agencies and the general public AND FOR THE
19 DIRECT AND INDIRECT COSTS OF STORING RECORDS IN THE RECORDS
20 CENTER. All interest derived from the deposit and investment of moneys
21 in the fund is credited to the fund. Any unexpended and unencumbered
22 moneys remaining in the fund at the end of a fiscal year remain in the
23 fund and shall not be credited or transferred to the general fund or any
24 other fund.

25 (b) (I) The department of personnel shall not charge any fees for
26 responding to a request for information or research from a member of the
27 general assembly or his or her agent or anyone from a legislative service

1 agency if the request:

2 (A) Relates to an audio recording of a legislative proceeding or
3 any document provided to the department of personnel by the legislative
4 branch of the state; and

5 (B) Is made in the performance of the requester's official duties.

6 (II) As used in this paragraph (b), "legislative service agency"
7 means the office of legislative legal services, legislative council staff,
8 office of the state auditor, or staff of the joint budget committee.

9 (11) The powers, duties, and functions OF THE STATE ARCHIVIST
10 AND THE DEPARTMENT OF PERSONNEL concerning state archives and
11 ~~public~~ records shall be administered as if transferred by a **type 2** transfer
12 to the department of personnel.

13 (12) THE STATE ARCHIVIST MAY PROMULGATE RULES IN
14 ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT",
15 ARTICLE 4 OF THIS TITLE, AS NECESSARY TO IMPLEMENT THIS PART 1. SUCH
16 RULES MAY INCLUDE, BUT NEED NOT BE LIMITED TO:

17 (a) CRITERIA AND GUIDELINES FOR DETERMINING WHETHER A
18 RECORD IS SUBJECT TO THE REQUIREMENTS OF THIS PART 1;

19 (b) ADMINISTRATIVE AND TECHNICAL PROCEDURES FOR RECORDS
20 MAINTENANCE AND MANAGEMENT;

21 (c) PROCEDURES FOR THE PRESERVATION, PROTECTION, TRANSFER,
22 AND DISPOSAL OF RECORDS; AND

23 (d) PROCEDURES FOR THE GENERAL PUBLIC AND GOVERNMENTAL
24 AGENCIES TO ACCESS RECORDS.

25 **SECTION 3.** In Colorado Revised Statutes, **amend** 24-80-102.5
26 as follows:

27 **24-80-102.5. Custody of state property.** The department of

1 personnel shall have the charge, care, and custody of the property of the
2 state when no other provision is made; EXCEPT THAT, IF THE DEPARTMENT
3 OF PERSONNEL DETERMINES THAT ANY PROPERTY OF THE STATE FOR
4 WHICH NO PROVISION IS MADE IS NOT A RECORD, THE DEPARTMENT IS NOT
5 OBLIGATED TO HAVE THE CHARGE, CARE, OR CUSTODY OF THE PROPERTY.

6 **SECTION 4.** In Colorado Revised Statutes, **amend** 24-80-102.7
7 as follows:

8 **24-80-102.7. Records management programs - records liaison**
9 **officers.** (1) ~~As used in this section, unless the context otherwise~~
10 ~~requires, "state agency" means any department, division, board, bureau,~~
11 ~~commission, institution, or agency of the state.~~

12 (2) ~~No later than January 1, 2004,~~ Each state agency shall:

13 (a) Establish and maintain a records management program for the
14 state agency and document the policies and procedures of such program.
15 The state agency shall ensure that such program satisfies the
16 administrative and technical procedures for records maintenance and
17 management established by the ~~executive director of the department of~~
18 ~~personnel~~ STATE ARCHIVIST pursuant to ~~this part~~ SECTION 24-80-102
19 (12).

20 (b) Designate a records liaison officer or officers from the state
21 agency's existing personnel to cooperate with and assist and advise the
22 ~~executive director of the department of personnel~~ STATE ARCHIVIST in the
23 performance of the duties and functions concerning state archives and
24 ~~public~~ records and to provide such other assistance and data that will
25 enable the department of personnel to properly carry out its activities and
26 implement the purposes of this part 1. The duties of a records liaison
27 officer shall include the following:

1 (I) Reviewing the policies and procedures of the state agency's
2 records management program CREATED PURSUANT TO THIS SECTION to
3 ensure that such program efficiently manages the state agency's records
4 and complies with all state and federal law;

5 (II) Establishing an inventory of the state agency's records;

6 (III) Establishing retention and disposition schedules for the state
7 agency's records that are consistent with this part 1 and the administrative
8 and technical procedures established by the ~~executive director of the~~
9 ~~department of personnel~~ STATE ARCHIVIST;

10 (IV) Providing information about the storage of the state agency's
11 records to the ~~executive director of the department of personnel~~ STATE
12 ARCHIVIST, including the number of records stored, the amount of storage
13 space used, and the cost of such storage; and

14 (V) Ensuring adequate security, public access, and proper storage
15 of the state agency's records.

16 (c) Notify the ~~executive director of the department of personnel~~
17 STATE ARCHIVIST of the appointment of the records liaison officer or
18 officers. Any subsequent change in the designation of a records liaison
19 officer shall be reported in writing to the ~~executive director~~ STATE
20 ARCHIVIST within thirty days.

21 (3) Repealed.

22 **SECTION 5.** In Colorado Revised Statutes, **amend** 24-80-103 as
23 follows:

24 **24-80-103. Determination of value - disposition.** (1) (a) ~~No~~
25 ~~later than January 1, 2005, and January 1 every two years thereafter,~~
26 Every public officer of a state agency as defined in section 24-80-102.7,
27 who has ~~public~~ records in his or her custody shall consult with the

1 department of personnel ~~and the attorney general of the state~~ and such
2 ~~three~~ officers shall determine whether the records in question are of legal,
3 administrative, or historical value.

4 (b) Every public officer of a political subdivision who has ~~public~~
5 records in his or her custody shall consult periodically with the
6 department of personnel ~~and the attorney general of the state~~, and such
7 ~~three~~ officers shall determine whether the records in question are of legal,
8 administrative, or historical value.

9 (2) Those records unanimously determined to be of no legal,
10 administrative, or historical value shall be disposed of by such method as
11 such ~~three~~ officers may specify. A list of all records so disposed of,
12 together with a statement certifying compliance with this part 1, signed
13 by ~~these three~~ THE officers, shall be filed and preserved in the office from
14 which the records were drawn and in the files of the department of
15 personnel. ~~Public Records in the custody of the executive director of the~~
16 ~~department of personnel~~ STATE ARCHIVIST may be disposed of upon a
17 similar determination by the ~~attorney general, the executive director, of~~
18 ~~the department of personnel~~, STATE ARCHIVIST and the head of the ~~state~~
19 ~~agency or political subdivision~~ GOVERNMENTAL AGENCY from which the
20 records were received, or its legal successor.

21 **SECTION 6.** In Colorado Revised Statutes, **amend** 24-80-104 as
22 follows:

23 **24-80-104. Transfer of records to archives.** ~~Those~~ Records
24 deemed by the public officer having custody thereof to be unnecessary for
25 the transaction of the business of his or her office and yet deemed by the
26 ~~attorney general or the executive director of the department of personnel~~
27 STATE ARCHIVIST to be of legal, administrative, or historical value ~~may~~

1 SHALL be transferred ~~with the consent of the executive director~~, to the
2 custody of the department of personnel or a storage vendor approved by
3 the ~~executive director~~ STATE ARCHIVIST IN ACCORDANCE WITH THE RULES
4 PROMULGATED BY THE DEPARTMENT OF PERSONNEL PURSUANT TO
5 SECTION 24-80-102 (12), AND THE STATE AGENCY'S RECORDS
6 MANAGEMENT PROGRAM. A list of all records so transferred, together with
7 a statement certifying compliance with this part 1, signed by ~~such three~~
8 ~~officers~~ THE PUBLIC OFFICER, shall be preserved in the files of the office
9 from which the records were drawn and in the files of the department of
10 personnel.

11 **SECTION 7.** In Colorado Revised Statutes, **amend** 24-80-105 as
12 follows:

13 **24-80-105. Disposal of records.** All ~~public~~ records of any ~~public~~
14 ~~office~~ GOVERNMENTAL AGENCY, upon the termination of the existence
15 and functions of that ~~office~~ AGENCY, shall be ~~checked~~ REVIEWED by the
16 ~~executive director of the department of personnel and the attorney general~~
17 STATE ARCHIVIST and either disposed of or transferred to the custody of
18 the department of personnel, in accordance with the procedure ~~of~~
19 SPECIFIED IN this part 1 and ~~the findings of such two officers~~ THE RULES
20 PROMULGATED BY THE DEPARTMENT OF PERSONNEL PURSUANT TO
21 SECTION 24-80-102 (12). When a ~~public office~~ GOVERNMENTAL AGENCY
22 is terminated or reduced by the transfer of its powers and duties to
23 another ~~office or to other offices~~ GOVERNMENTAL AGENCY, its appropriate
24 ~~public~~ records shall pass with the powers and duties so transferred.

25 **SECTION 8.** In Colorado Revised Statutes, **amend** 24-80-106 as
26 follows:

27 **24-80-106. Protection of records.** The department of personnel

1 and every other custodian of public records shall carefully protect and
2 preserve them from deterioration, mutilation, loss, or destruction and,
3 whenever advisable, shall cause them to be properly repaired and
4 renovated. All paper, ink, and other materials used in public offices for
5 the purpose of permanent records shall be of durable quality.

6 **SECTION 9.** In Colorado Revised Statutes, **amend** 24-80-107 as
7 follows:

8 **24-80-107. Reproduction on film - evidence.** (1) Any public
9 officer of the state or any county, city, municipality, district, or legal
10 subdivision thereof OF A GOVERNMENTAL AGENCY may cause any or all
11 records, papers, or documents kept by him IN HIS OR HER CUSTODY to be
12 photographed, microphotographed, or reproduced on film. Such
13 photographic film shall comply with the minimum standards of quality
14 approved for permanent photographic records by the national bureau of
15 standards DEPARTMENT OF PERSONNEL, and the device used to reproduce
16 such records on such film shall be one which accurately reproduces the
17 original thereof in all details. Such photographs, microphotographs, or
18 photographic film shall be deemed to be original records for all purposes,
19 including introduction in evidence in all courts or administrative agencies.
20 A transcript, exemplification, or certified copy thereof, for all purposes
21 recited in this section, shall be deemed to be a transcript, exemplification,
22 or certified copy of the original.

23 (2) (a) ~~Whenever such photographs, microphotographs, or~~
24 ~~reproductions on film properly certified are placed in conveniently~~
25 ~~accessible files and provisions made for preserving, examining, and using~~
26 ~~the same, any such public officer may cause the original records from~~
27 ~~which the photographs or microphotographs have been made, or any part~~

1 ~~thereof, to be disposed of according to methods prescribed by sections~~
2 ~~24-80-103 to 24-80-106. Such copies shall be certified by their custodian~~
3 ~~as true copies of the originals before the originals are destroyed or lost,~~

4 ~~and the~~ IF A PUBLIC OFFICER INTENDS TO DESTROY OR DISPOSE OF
5 ORIGINAL RECORDS THAT ARE DETERMINED TO BE OF LEGAL,
6 ADMINISTRATIVE, OR HISTORICAL VALUE, THE PUBLIC OFFICER SHALL:

7 (I) ENSURE THAT THE RECORDS ARE PHOTOGRAPHED,
8 MICROPHOTOGRAPHED, OR REPRODUCED ON PHOTOGRAPHIC FILM;

9 (II) PROPERLY CERTIFY THAT THE PHOTOGRAPHED,
10 MICROPHOTOGRAPHED, OR FILM REPRODUCTIONS OF THE RECORDS ARE
11 TRUE COPIES OF THE ORIGINAL RECORDS;

12 (III) ENSURE THAT THE CERTIFIED COPIES OF THE RECORDS ARE
13 PLACED IN CONVENIENTLY ACCESSIBLE FILES; AND

14 (IV) MAKE PROVISIONS FOR PRESERVING, EXAMINING, AND USING
15 THE CERTIFIED COPIES OF THE RECORDS.

16 (b) AFTER THE PUBLIC OFFICER HAS SATISFIED THE REQUIREMENTS
17 OF PARAGRAPH (a) OF THIS SUBSECTION (2), THE PUBLIC OFFICER MAY
18 CAUSE THE ORIGINAL RECORDS FROM WHICH THE PHOTOGRAPHS,
19 MICROPHOTOGRAPHS, OR FILM REPRODUCTIONS HAVE BEEN MADE TO BE
20 DESTROYED OR DISPOSED OF ACCORDING TO METHODS SPECIFIED IN
21 SECTIONS 24-80-103 TO 24-80-106 AND THE RULES PROMULGATED BY THE
22 DEPARTMENT OF PERSONNEL PURSUANT TO SECTION 24-80-102 (12).

23 (c) Copies ~~so~~ OF RECORDS THAT ARE certified PURSUANT TO
24 PARAGRAPH (a) OF THIS SUBSECTION (2) shall have the same force and
25 effect as the ~~originals~~ ORIGINAL RECORDS. Copies of public records
26 transferred from the office of their origin to the department of personnel,
27 when certified by the ~~executive director of the department of personnel~~

1 ~~or the assistant to the executive director~~ STATE ARCHIVIST, shall have the
2 same legal force and effect as if certified by the original custodian of the
3 records.

4 **SECTION 10.** In Colorado Revised Statutes, **amend** 24-80-108
5 as follows:

6 **24-80-108. Access to records.** The ~~executive director of the~~
7 ~~department of personnel, in person or through a deputy~~ STATE ARCHIVIST
8 shall have the right of reasonable access to all nonconfidential ~~public~~
9 records ~~in the state, or any public office of the state of Colorado, or any~~
10 ~~county, city, municipality, district, or political subdivision thereof,~~
11 CREATED BY A GOVERNMENTAL AGENCY because of the historical and
12 research value of data contained therein, with a view to securing their
13 safety and determining their need for preservation or disposal.

14 **SECTION 11.** In Colorado Revised Statutes, **amend** 24-80-109
15 as follows:

16 **24-80-109. Records may be replevined.** On behalf of the state
17 and the department of personnel, the attorney general may replevin any
18 ~~public~~ records which were formerly part of the records or files of any
19 public office of the territory or state of Colorado.

20 **SECTION 12.** In Colorado Revised Statutes, **amend** 24-80-110
21 as follows:

22 **24-80-110. Disagreement as to value of records.** (1) ~~In the~~
23 ~~event the attorney general and the executive director of the department of~~
24 ~~personnel determine~~ IF THE STATE ARCHIVIST DETERMINES that any
25 records in the custody of a public officer ~~including the executive director~~
26 ~~of the department of personnel, but not those in the custody of a public~~
27 ~~officer of any county, city, municipality, district, or political subdivision~~

1 ~~thereof~~ OF A STATE AGENCY, INCLUDING THE EXECUTIVE DIRECTOR OF THE
2 DEPARTMENT OF PERSONNEL, are of no legal, administrative, or, subject
3 to section 24-80-211 (1) (b), historical value, but the public officer having
4 custody of said records or from whose office records originated fails to
5 agree with such determination or refuses to dispose of said records, the
6 ~~attorney general and the executive director of the department of personnel~~
7 STATE ARCHIVIST may request the governor to make his or her
8 determination as to whether said records should be disposed of in the
9 interests of conservation of space, economy, or safety. THIS SUBSECTION
10 (1) SHALL NOT APPLY TO RECORDS IN THE CUSTODY OF A PUBLIC OFFICER
11 OF ANY COUNTY, CITY, MUNICIPALITY, DISTRICT, OR POLITICAL
12 SUBDIVISION THEREOF.

13 (2) IF THE STATE ARCHIVIST DETERMINES THAT ANY RECORDS IN
14 THE CUSTODY OF A PUBLIC OFFICER OF A STATE AGENCY, INCLUDING THE
15 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL, ARE OF LEGAL,
16 ADMINISTRATIVE, OR, SUBJECT TO SECTION 24-80-211 (1) (b), HISTORICAL
17 VALUE, BUT THE PUBLIC OFFICER HAVING CUSTODY OF SAID RECORDS OR
18 FROM WHOSE STATE AGENCY RECORDS ORIGINATED FAILS TO AGREE WITH
19 SUCH DETERMINATION AND WANTS TO PROCEED WITH THE DISPOSAL OF
20 SUCH RECORDS, THE STATE ARCHIVIST MAY REQUEST THE GOVERNOR TO
21 MAKE HIS OR HER DETERMINATION AS TO WHETHER SAID RECORDS SHOULD
22 BE TRANSFERRED TO THE STATE ARCHIVES. THIS SUBSECTION (2) SHALL
23 NOT APPLY TO RECORDS IN THE CUSTODY OF A PUBLIC OFFICER OF ANY
24 COUNTY, CITY, MUNICIPALITY, DISTRICT, OR POLITICAL SUBDIVISION
25 THEREOF.

26 **SECTION 13.** In Colorado Revised Statutes, 24-80-113, **amend**
27 (1) as follows:

1 **24-80-113. State archives - available storage space - report.**

2 ~~(1) As the chief administrative officer over state archives and public~~
3 ~~records pursuant to section 24-80-102 (2), the executive director of the~~
4 ~~department of personnel or the director's designee~~ THE STATE ARCHIVIST
5 shall be responsible for reviewing and assessing the use and amount of
6 space available for records storage in state archives and ~~public~~ records
7 every three years.

8 **SECTION 14.** In Colorado Revised Statutes, **add** 24-80-115 as
9 follows:

10 **24-80-115. State archivist - review of best practices - records**
11 **advisory board.** THE STATE ARCHIVIST MAY CONVENE A RECORDS
12 ADVISORY BOARD, CONSISTING OF REPRESENTATIVES FROM
13 GOVERNMENTAL AGENCIES THAT HAVE AN INTEREST IN THE
14 PRESERVATION OF RECORDS. THE RECORDS ADVISORY BOARD MAY STUDY
15 THE BEST PRACTICES FOR THE RETENTION AND PRESERVATION OF
16 RECORDS, ASSIST GOVERNMENTAL AGENCIES IN THE CREATION OF A
17 RECORDS MANAGEMENT PROGRAM, AND PERFORM ANY OTHER FUNCTIONS
18 AS DEEMED NECESSARY AND APPROPRIATE BY THE STATE ARCHIVIST.

19 **SECTION 15.** In Colorado Revised Statutes, **repeal** 24-80-112
20 and 24-80-114.

21 **SECTION 16. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2016 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.