

CHAPTER 231

GOVERNMENT - STATE

HOUSE BILL 16-1368

BY REPRESENTATIVE(S) Tyler, Kraft-Tharp, Lontine, Melton, Mitsch Bush, Pabon, Primavera, Ryden, Hullinghorst, Rosenthal;
also SENATOR(S) Martinez Humenik, Newell, Steadman.

AN ACT

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

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

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

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

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

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

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

nature or because of the historical value of the materials themselves;

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

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

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

(e) Stocks of publications; AND

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

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

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

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

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

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

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

(b) THE RECORDS CENTER CONSISTS OF RECORDS THAT HAVE BEEN TRANSFERRED, WITH THE APPROVAL OF THE STATE ARCHIVIST, TO THE DEPARTMENT OF PERSONNEL PURSUANT TO THIS PART 1 FOR STORAGE UNTIL THE FINAL DISPOSITION OF SUCH RECORDS HAS BEEN MET. THE STATE ARCHIVIST MAY DETERMINE WHETHER TO ACCEPT ANY RECORDS FROM A GOVERNMENTAL AGENCY PURSUANT TO THIS PARAGRAPH (b), AND THE STATE ARCHIVIST'S ACCEPTANCE OF ANY SUCH RECORDS SHALL BE PURSUANT TO A WRITTEN AGREEMENT BETWEEN THE STATE ARCHIVIST AND THE GOVERNMENTAL AGENCY FROM WHICH THE RECORDS ORIGINATED. THE GOVERNMENTAL AGENCY FROM WHICH THE RECORDS ORIGINATED SHALL REMAIN THE CUSTODIAN OF ANY RECORDS TRANSFERRED TO THE RECORDS CENTER PURSUANT TO THIS PARAGRAPH (b). THE STATE ARCHIVIST MAY ESTABLISH FEES, TO BE PAID BY GOVERNMENTAL AGENCIES THAT TRANSFER RECORDS TO THE RECORDS CENTER, AS NECESSARY, TO PAY FOR THE DIRECT AND INDIRECT COSTS OF STORING SUCH RECORDS. THE STATE ARCHIVIST SHALL TRANSMIT ALL FEES COLLECTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE STATE ARCHIVES AND RECORDS CASH FUND, CREATED IN SUBSECTION (10) OF THIS SECTION.

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

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

(4) To effectuate the purposes of this part 1, the governor may direct any political subdivision of the state to designate a records administrator to cooperate with and assist and advise the ~~executive director of the department of personnel~~ STATE ARCHIVIST in the performance of the duties and functions concerning state archives and public records and to provide such other assistance and data as will enable the department of personnel to properly carry out its activities and effectuate the purposes of this part 1.

(5) ~~Items in the present care, custody, and trusteeship of the executive director of~~

~~the department of personnel which are not records, as defined by section 24-80-101, because of their historical, library, or museum interest or value, shall be retained by the state historical society, and items which are not records which are in the future proposed for disposition under the provisions of this part 1, but determined to be of historical, library, or museum interest or value, shall be transferred to the state historical society with its consent in accordance with the provisions set forth in section 24-80-104.~~

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

(7) ~~In the event of disagreement between the state historical society and the department of personnel as to the custody of any records, as defined in section 24-80-101, the governor, with the advice of the attorney general, shall make a final and conclusive determination and order and direct custody accordingly.~~

(8) Repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

24-80-102.5. Custody of state property. The department of personnel shall have the charge, care, and custody of the property of the state when no other provision is made; EXCEPT THAT, IF THE DEPARTMENT OF PERSONNEL DETERMINES THAT ANY PROPERTY OF THE STATE FOR WHICH NO PROVISION IS MADE IS NOT A RECORD, THE DEPARTMENT IS NOT OBLIGATED TO HAVE THE CHARGE, CARE, OR CUSTODY OF THE PROPERTY.

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

24-80-102.7. Records management programs - records liaison officers.

(1) ~~As used in this section, unless the context otherwise requires, "state agency" means any department, division, board, bureau, commission, institution, or agency of the state.~~

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

(a) Establish and maintain a records management program for the state agency and document the policies and procedures of such program. The state agency shall ensure that such program satisfies the administrative and technical procedures for

records maintenance and management established by the ~~executive director of the department of personnel~~ STATE ARCHIVIST pursuant to ~~this part 1~~ SECTION 24-80-102 (12).

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

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

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

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

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

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

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

(3) Repealed.

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

24-80-103. Determination of value - disposition. (1) (a) ~~No later than January 1, 2005, and January 1 every two years thereafter,~~ Every public officer of a state agency as defined in ~~section 24-80-102.7,~~ who has public records in his or her custody shall consult with the department of personnel ~~and the attorney general of the state~~ and such ~~three~~ officers shall determine whether the records in question are of legal, administrative, or historical value.

(b) Every public officer of a political subdivision who has public records in his or her custody shall consult periodically with the department of personnel ~~and the attorney general of the state,~~ and such ~~three~~ officers shall determine whether the

records in question are of legal, administrative, or historical value.

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

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

24-80-104. Transfer of records to archives. ~~Those~~ Records deemed by the public officer having custody thereof to be unnecessary for the transaction of the business of his or her office and yet deemed by the ~~attorney general or the executive director of the department of personnel~~ STATE ARCHIVIST to be of legal, administrative, or historical value ~~may~~ SHALL be transferred ~~with the consent of the executive director,~~ to the custody of the department of personnel or a storage vendor approved by the ~~executive director~~ STATE ARCHIVIST IN ACCORDANCE WITH THE RULES PROMULGATED BY THE DEPARTMENT OF PERSONNEL PURSUANT TO SECTION 24-80-102 (12), AND THE STATE AGENCY'S RECORDS MANAGEMENT PROGRAM. A list of all records so transferred, together with a statement certifying compliance with this part 1, signed by ~~such three officers~~ THE PUBLIC OFFICER, shall be preserved in the files of the office from which the records were drawn and in the files of the department of personnel.

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

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

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

24-80-106. Protection of records. The department of personnel and every other custodian of ~~public~~ records shall carefully protect and preserve them from deterioration, mutilation, loss, or destruction and, whenever advisable, shall cause them to be properly repaired and renovated. All paper, ink, and other materials used in public offices for the purpose of ~~permanent~~ records shall be of durable quality.

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

24-80-107. Reproduction on film - evidence. (1) Any public officer of the state or any county, city, municipality, district, or legal subdivision thereof OF A GOVERNMENTAL AGENCY may cause any or all records, papers, or documents kept by him in his or her custody to be photographed, microphotographed, or reproduced on film. Such photographic film shall comply with the minimum standards of quality approved for permanent photographic records by the national bureau of standards DEPARTMENT OF PERSONNEL, and the device used to reproduce such records on such film shall be one which accurately reproduces the original thereof in all details. Such photographs, microphotographs, or photographic film shall be deemed to be original records for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification, or certified copy thereof, for all purposes recited in this section, shall be deemed to be a transcript, exemplification, or certified copy of the original.

(2)(a) Whenever such photographs, microphotographs, or reproductions on film properly certified are placed in conveniently accessible files and provisions made for preserving, examining, and using the same, any such public officer may cause the original records from which the photographs or microphotographs have been made, or any part thereof, to be disposed of according to methods prescribed by sections 24-80-103 to 24-80-106. Such copies shall be certified by their custodian as true copies of the originals before the originals are destroyed or lost, and the 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 SHALL:

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

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

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

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

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

(c) Copies so of records that are certified pursuant to paragraph (a) of this subsection (2) shall have the same force and effect as the originals ORIGINAL RECORDS. Copies of public records transferred from the office of their origin to the department of personnel, when certified by the executive director of the department

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

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

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

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

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

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

24-80-110. Disagreement as to value of records. (1) ~~In the event the attorney general and the executive director of the department of personnel determine~~ IF THE STATE ARCHIVIST DETERMINES that any records in the custody of a public officer ~~including the executive director of the department of personnel, but not those in the custody of a public officer of any county, city, municipality, district, or political subdivision thereof~~ OF A STATE AGENCY, INCLUDING THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL, are of no legal, administrative, or, subject to section 24-80-211 (1) (b), historical value, but the public officer having custody of said records or from whose office records originated fails to agree with such determination or refuses to dispose of said records, the ~~attorney general and the executive director of the department of personnel~~ STATE ARCHIVIST may request the governor to make his or her determination as to whether said records should be disposed of in the interests of conservation of space, economy, or safety. THIS SUBSECTION (1) SHALL NOT APPLY TO RECORDS IN THE CUSTODY OF A PUBLIC OFFICER OF ANY COUNTY, CITY, MUNICIPALITY, DISTRICT, OR POLITICAL SUBDIVISION THEREOF.

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

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

24-80-113. State archives - available storage space - report. (1) ~~As the chief administrative officer over state archives and public records pursuant to section 24-80-102 (2), the executive director of the department of personnel or the director's designee~~ THE STATE ARCHIVIST shall be responsible for reviewing and assessing the use and amount of space available for records storage in state archives and public records every three years.

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

24-80-115. State archivist - review of best practices - records advisory board.

(1) THE STATE ARCHIVIST MAY CONVENE A RECORDS ADVISORY BOARD, CONSISTING OF REPRESENTATIVES FROM GOVERNMENTAL AGENCIES THAT HAVE AN INTEREST IN THE PRESERVATION OF RECORDS. IF THE STATE ARCHIVIST CONVENES THE BOARD, THE STATE ARCHIVIST SHALL ENSURE THAT TECHNICAL EXPERTS FROM THE FOLLOWING GOVERNMENTAL AGENCIES AND NONPROFIT ENTITIES HAVE AN OPPORTUNITY TO PARTICIPATE IN THE WORK OF THE BOARD:

- (a) EXECUTIVE BRANCH AGENCIES UNDER THE GOVERNOR'S PURVIEW;
- (b) THE OFFICE OF THE ATTORNEY GENERAL;
- (c) THE OFFICE OF THE SECRETARY OF STATE;
- (d) THE GENERAL ASSEMBLY;
- (e) THE JUDICIAL BRANCH;
- (f) A NONPROFIT ORGANIZATION THAT REPRESENTS COUNTIES AND A NONPROFIT ORGANIZATION THAT REPRESENTS COUNTY CLERKS;
- (g) A NONPROFIT ORGANIZATION THAT REPRESENTS MUNICIPALITIES AND A NONPROFIT ORGANIZATION THAT REPRESENTS MUNICIPAL CLERKS; AND
- (h) A NONPROFIT ORGANIZATION THAT REPRESENTS SPECIAL DISTRICTS.

(2) EACH GOVERNMENTAL AGENCY AND NONPROFIT ENTITY THAT IS ASKED TO PARTICIPATE IN THE RECORDS ADVISORY BOARD PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL DESIGNATE THE APPROPRIATE PERSON FROM THE AGENCY OR ENTITY TO PARTICIPATE IN THE WORK OF THE BOARD.

(3) IF THE STATE ARCHIVIST CONVENES A RECORDS ADVISORY BOARD, THE BOARD SHALL HAVE THE FOLLOWING GOALS:

- (a) IDENTIFY, RESEARCH, AND PRIORITIZE RECORDS MANAGEMENT, PRESERVATION, AND ACCESS PROBLEMS;
- (b) ASSIST IN THE DEVELOPMENT OF RECORDS MANAGEMENT POLICIES AND PROCEDURES;

(c) COLLECT AND SHARE ACCEPTED PRESERVATION AND ARCHIVAL BEST PRACTICES;

(d) ASSIST IN THE APPRAISAL OF RECORDS FOR HISTORICAL VALUE;

(e) REVIEW RECORDS RETENTION SCHEDULES; AND

(f) STUDY AND DEVELOP STANDARDS AND MANAGEMENT PROGRAMS TO ADDRESS THE CREATION, MAINTENANCE, ARCHIVING, AND ACCESS OF PERMANENT DIGITAL RECORDS.

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

SECTION 16. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 6, 2016