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SENATE BILL 748

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

LEONARD LEE RAWSON

AN ACT

RELATING TO STATE AGENCIES; CREATING THE STATE LIBRARY AND ARCHIVES DIVISION OF THE OFFICE OF CULTURAL AFFAIRS; CREATING THE STATE LIBRARY AND ARCHIVES COMMISSION; CREATING THE PUBLIC RECORDS COMMITTEE; PROVIDING POWERS AND DUTIES; MERGING THE LIBRARY DIVISION AND THE RECORDS CENTER; PROVIDING FOR TRANSFERS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 9-6-9 NMSA 1978 (being Laws 1980, Chapter 151, Section 54, as amended) is amended to read:

"9-6-9. CREATION OF OFFICE. --The "office of cultural affairs" is created. The office [~~shall consist~~] consists of such divisions as are created by law or executive order, including but not limited to:

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- 1 A. the administrative services division;
- 2 B. the arts division;
- 3 C. the state library and archives division;
- 4 D. the museum division;
- 5 E. the space center division;
- 6 F. the New Mexico farm and ranch heritage museum
- 7 division;
- 8 G. the historic preservation division;
- 9 H. the natural history and science museum division;
- 10 and
- 11 I. the Hispanic cultural division. "

12 Section 2. [NEW MATERIAL] SHORT TITLE. --Sections 2
13 through 8 of this act may be cited as the "State Library and
14 Archives Division Act".

15 Section 3. [NEW MATERIAL] PURPOSE. --The purpose of the
16 State Library and Archives Division Act is to consolidate the
17 library division of the office of cultural affairs and the
18 records center functions into one division of the office of
19 cultural affairs so that the state's records, archives and
20 library services can be provided through one central agency.

21 Section 4. [NEW MATERIAL] DEFINITIONS. --As used in the
22 State Library and Archives Division Act:

- 23 A. "commission" means the state library and archives
- 24 commission;
- 25 B. "director" means the director of the division;

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1 C. "division" means the state library and archives
2 division of the office of cultural affairs; and

3 D. "public records" means all books, papers, maps,
4 photographs or other documentary materials, regardless of
5 physical form or characteristics, made or received by any agency
6 in pursuance of law or in connection with the transaction of
7 public business and preserved, or appropriate for preservation,
8 by the agency or its legitimate successor as evidence of the
9 organization, functions, policies, decisions, procedures,
10 operations or other activities of the government or because of
11 the informational and historical value of the material. Library
12 or museum material of the state library, state institutions and
13 state museums, extra copies of documents preserved only for
14 convenience of reference and stocks of publications and
15 processed documents are not included.

16 Section 5. [NEW MATERIAL] COMMISSION CREATED-- MEMBERS--
17 TERMS-- MEETINGS. --

18 A. The "state library and archives commission" is
19 created, consisting of seven members as follows:

- 20 (1) the attorney general or his designee;
21 (2) the supreme court law librarian or his
22 designee;
23 (3) the secretary of state or his designee; and
24 (4) four public members appointed by the
25 governor to represent library interests and who have knowledge

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1 of library issues and operations.

2 B. The initial public members shall be the public
3 members serving on the commission on the effective date of the
4 State Library and Archives Division Act, and their initial terms
5 on the commission shall be the same as what would be the
6 remainder of their terms on the state library commission.
7 Thereafter, as each public member's term expires, new public
8 members shall be appointed for terms of five years.

9 C. In making appointments of public members, due
10 consideration shall be given to geographic representation of the
11 members.

12 D. Vacancies on the commission shall be filled by
13 the original appointing authority for the remainder of the term
14 of the vacating member.

15 E. Members who are not employees of the state may be
16 reimbursed for per diem and travel expenses as provided in the
17 Per Diem and Mileage Act.

18 F. The commission shall elect annually a chairman,
19 vice chairman and such other officers as it deems necessary.

20 G. The designation of an alternate to serve on
21 behalf of an ex-officio member shall be done in writing and
22 filed with the director, subject to the condition that the
23 alternate appointed is the same one appointed under the
24 provisions of Section 14-3-3 NMSA 1978.

25 H. The commission shall meet not less than four

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1 times a year and may meet as often as necessary to carry out its
2 duties. A majority of the commission constitutes a quorum for
3 the transaction of business.

4 I. The director and deputy director shall serve as
5 staff to the commission.

6 Section 6 [NEW MATERIAL] COMMISSION-- POWERS AND DUTIES. --

7 A. The commission shall:

8 (1) provide to the state cultural affairs
9 officer a list of qualified applicants for the position of
10 director;

11 (2) provide to the director a list of qualified
12 applicants for the position of deputy director of the division;

13 (3) establish policies for the operation of the
14 division, subject to the approval of the state cultural affairs
15 officer and to the exemptions set forth in the Public Records
16 Act;

17 (4) oversee programs under its authority,
18 including administration of the State Library Act, the Public
19 Records Act and the State Rules Act; and

20 (5) prepare an annual report to the governor
21 and the legislature on the activities and plans of the
22 commission and the division.

23 B. The commission may:

24 (1) appoint advisory committees to assist in
25 carrying out its duties; and

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1 (2) adopt rules and regulations to carry out
2 its powers and duties pursuant to the State Library and Archives
3 Division Act.

4 Section 7. [NEW MATERIAL] DIVISION CREATED-- DIRECTOR--
5 DEPUTY DIRECTOR-- STAFF. --

6 A. The "state library and archives division" is
7 created as a division of the office of cultural affairs.

8 B. The division shall be administered by a director
9 appointed by the state cultural affairs officer from a list of
10 qualified applicants provided by the commission. The director
11 shall be a graduate of a library school accredited by the
12 American library association and shall have not less than five
13 years' experience in an administrative capacity. The director
14 shall serve as the state librarian. The director shall serve at
15 the pleasure of the state cultural affairs officer.

16 C. The director shall appoint a deputy director from
17 a list of qualified applicants provided by the commission. The
18 deputy director shall have training and experience in archival
19 or records management and have not less than three years'
20 experience in an administrative capacity. The deputy director
21 shall serve as the state records administrator. The deputy
22 director shall serve at the pleasure of the director.

23 D. Subject to legislative appropriation and in
24 accordance with the Personnel Act, the director may appoint such
25 other professional and clerical assistants as necessary to carry

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1 out the duties of the division.

2 Section 8. [NEW MATERIAL] DIRECTOR-- POWERS AND DUTIES. --

3 A. Consistent with the policies adopted by the
4 commission and approved by the state cultural affairs officer,
5 the director shall:

6 (1) be responsible for the administration of
7 the division, including organizing the division to most
8 efficiently and effectively serve the interests of the state and
9 the public and the policies of the commission;

10 (2) serve as an ex-officio member of all
11 committees and other advisory groups of the division; and

12 (3) prepare the annual budget in consultation
13 with the commission and under the direction, control and
14 supervision of the state cultural affairs officer.

15 B. The director may accept gifts, grants, donations,
16 bequests and devices and may accept loans of or purchase
17 library, archival, historical and documentary materials in the
18 name of the state in accordance with policies of the commission.

19 Section 9. A new section of the Office of Cultural Affairs
20 Act is enacted to read:

21 "[NEW MATERIAL] PUBLIC RECORDS COMMITTEE-- EXEMPTIONS FROM
22 AUTHORITY OF STATE CULTURAL AFFAIRS OFFICER. --The powers, duties
23 and responsibilities of the committee relating to the State
24 Rules Act and the Public Records Act are explicitly exempt from
25 the authority of the state cultural affairs officer. The

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1 committee has sole and exclusive authority to determine policies
2 relating to the Public Records Act. Committee decisions
3 regarding public records shall be binding and final and are not
4 reviewable or amendable by the director or the state cultural
5 affairs officer. "

6 Section 10. Section 14-3-2 NMSA 1978 (being Laws 1959,
7 Chapter 245, Section 2, as amended) is amended to read:

8 "14-3-2. DEFINITIONS. --As used in the Public Records Act:

9 A. "commission" means the state library and archives
10 commission [~~of public records~~];

11 B. "administrator" means the state records
12 administrator;

13 C. "public records" means all books, papers, maps,
14 photographs or other documentary materials, regardless of
15 physical form or characteristics, made or received by any agency
16 in pursuance of law or in connection with the transaction of
17 public business and preserved, or appropriate for preservation,
18 by the agency or its legitimate successor as evidence of the
19 organization, functions, policies, decisions, procedures,
20 operations or other activities of the government or because of
21 the informational and historical value of [~~data contained~~
22 ~~therein~~] the material. Library or museum material of the state
23 library, state institutions and state museums, extra copies of
24 documents preserved only for convenience of reference and stocks
25 of publications and processed documents are not included;

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1 D. "agency" means any state agency, department,
2 bureau, board, commission, institution or other organization of
3 the state government, the territorial government and the Spanish
4 and Mexican governments in New Mexico;

5 E. "records center" means the central records
6 depository [~~which~~] that is the principal state facility for the
7 storage, disposal, allocation or use of noncurrent records of
8 agencies or materials obtained from other sources;

9 F. "microphotography system" means all
10 microphotography equipment, services and supplies; [~~and~~]

11 G. "microphotography" means the transfer of images
12 onto film and electronic imaging or other information storage
13 techniques that meet the performance guidelines for legal
14 acceptance of public records produced by information system
15 technologies pursuant to regulations adopted by the
16 commission;

17 H. "committee" means the public records committee;

18 I. "division" means the state library and archives
19 division of the office of cultural affairs;

20 J. "director" means the director of the division;

21 K. "records custodian" means the statutory head of
22 the agency using or maintaining public records or his designee;

23 L. "records liaison officer" means the person in an
24 agency who is responsible for authorizing the transfer,
25 withdrawal or destruction of public records and who acts on

1 behalf of the records custodian;

2 M. "records retention and disposition schedule"
3 means the inventory of a public records series that provides a
4 brief description of public records and lists the minimum period
5 the records series must be kept and the conditions that must be
6 met before the records series can be destroyed, if at all;

7 N. "records series" means file units or documents
8 arranged according to a filing system or kept together because
9 they relate to a particular subject or function; result from the
10 same activity; document a specific kind of transaction; take a
11 particular physical form; or have some other relationship
12 arising out of their creation, receipt or use, such as
13 restrictions on access and use; and

14 O. "records" means information preserved by any
15 technique, in any medium now known or later developed, that can
16 be recognized by ordinary human sensory capabilities either
17 directly or with the aid of technology."

18 Section 11. Section 14-3-3 NMSA 1978 (being Laws 1959,
19 Chapter 245, Section 3, as amended) is amended to read:

20 "14-3-3. [~~STATE COMMISSION OF~~] PUBLIC RECORDS COMMITTEE--
21 CREATION. --

22 A. A "[~~state commission of~~] public records
23 committee" is established consisting of:

- 24 (1) the secretary of state;
25 (2) the secretary of general services;

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1 (3) the ~~[state law]~~ librarian of the supreme
2 court law library;

3 (4) the director of the museum ~~[of New Mexico]~~
4 division of the office of cultural affairs;

5 (5) the state auditor;

6 (6) the attorney general; and

7 (7) a recognized, professionally trained
8 historian in the field of New Mexico history, resident in New
9 Mexico, appointed by the governor for a term of six years. Each
10 member of the ~~[commission]~~ committee may designate an alternate
11 to serve in his stead.

12 B. The ~~[commission]~~ committee shall elect one of its
13 members to be chairman and another to be secretary. The members
14 of the ~~[commission]~~ committee shall serve without compensation
15 other than actual expenses of attending meetings of the
16 ~~[commission]~~ committee or while in performance of their official
17 duties in connection with the business of the ~~[commission]~~
18 committee.

19 C. The ~~[commission]~~ committee shall hold not less
20 than four meetings during each calendar year and may hold
21 special meetings as may be necessary to transact business of the
22 ~~[commission]~~ committee. All meetings shall be called by the
23 chairman or when requested in writing by any two members of the
24 ~~[commission]~~ committee. Four members of the ~~[commission]~~
25 committee shall constitute a quorum.

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1 D. The administrator shall attend all meetings of
2 the ~~[commission]~~ committee. "

3 Section 12. Section 14-3-4 NMSA 1978 (being Laws 1959,
4 Chapter 245, Section 4) is amended to read:

5 "14-3-4. DUTIES AND POWERS OF ~~[COMMISSION]~~ COMMITTEE--SOLE
6 AUTHORITY. -- ~~[It shall be the duty of the commission to:~~

7 A. ~~employ as state records administrator a~~
8 ~~competent, experienced person professionally trained as an~~
9 ~~archivist and records manager who shall serve at the pleasure of~~
10 ~~the commission. He need not be a resident of New Mexico at the~~
11 ~~time of his employment. His salary shall be fixed by the~~
12 ~~commission;~~

13 B. ~~approve the biennial budget covering costs of the~~
14 ~~operations set forth in this act, as prepared by the~~
15 ~~administrator for presentation to the state legislature;] The~~
16 committee shall:

17 ~~[C.]~~ A. decide, by majority vote, any disagreements
18 between the administrator and ~~[any state officer]~~ a records
19 custodian regarding the disposition of records; ~~[within the~~
20 ~~eustody of said officer, such decisions to have the effect of~~
21 ~~law;~~

22 D. ~~consider the recommendations of the administrator~~
23 ~~for the destruction of specifically reported records, and by~~
24 ~~unanimous vote either order or forbid such destruction;~~

25 E. ~~approve in writing, or reject, the written terms~~

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1 ~~and conditions of each proposed loan of documentary material to~~
2 ~~the records center, as agreed upon by the lender and the~~
3 ~~administrator;~~

4 B. adopt or reject records retention and disposition
5 schedules recommended by the administrator;

6 [F.] C. adopt and publish rules and regulations to
7 carry out the purposes of the Public Records Act; and

8 [G.] D. request any agency to designate a records
9 liaison officer to cooperate with, assist and advise the
10 administrator in the performance of his duties and to provide
11 such other assistance and data as will enable the [commission]
12 committee and administrator properly to carry out the purposes
13 of the Public Records Act [and

14 ~~H. prepare an annual report to the governor on the~~
15 ~~operations conducted under the terms of this act during the~~
16 ~~previous year, including a complete fiscal report on costs and~~
17 ~~effected savings, and cause same to be published]. "~~

18 Section 13. A new section of the Public Records Act is
19 enacted to read:

20 "[NEW MATERIAL] COMMITTEE-- EXEMPTIONS FROM AUTHORITY OR
21 STATE CULTURAL AFFAIRS OFFICER. --The powers, duties and
22 responsibilities of the committee relating to the Public Records
23 Act are explicitly exempt from the authority of the commission
24 and the state cultural affairs officer. The committee has sole
25 and exclusive authority to determine policies relating to the

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1 Public Records Act. Committee decisions regarding public
2 records shall be binding and final and are not reviewable or
3 amendable by the director, the commission or the state cultural
4 affairs officer. "

5 Section 14. Section 14-3-5 NMSA 1978 (being Laws 1959,
6 Chapter 245, Section 5) is amended to read:

7 "14-3-5. GIFTS, DONATIONS AND LOANS. --

8 A. The [~~commission~~] committee may receive from
9 private sources financial or other donations to assist in
10 building, enlarging, maintaining or equipping a records center
11 or for the acquisition by purchase of documentary material, in
12 accordance with plans made and agreed upon by the [~~commission~~]
13 committee and the administrator. [~~Funds thus received shall be~~
14 ~~administered by the commission separately from funds supplied by~~
15 ~~the state for the execution of this act, but shall be audited by~~
16 ~~the state. Such funds shall not be subject to reversion to the~~
17 ~~general fund if unexpended at the close of the fiscal year.]~~

18 Although all material acquired by expenditure of [~~such~~] donated
19 funds and all [~~such~~] donated material shall become the
20 unqualified and unrestricted property of the state, permanent
21 public acknowledgment of the names of the donors may in each
22 case be made in an appropriate manner.

23 B. The [~~commission~~] committee may receive either as
24 donations or loans from private sources, other state agencies,
25 counties, municipalities, the federal government and other

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1 states or countries documentary materials of any physical form
2 or characteristics [~~which~~] that are deemed to be of value to the
3 state and the general public for historical reference or
4 research purposes. Acceptance of both donations and loans shall
5 be [~~at the discretion of the commission upon advice~~] in
6 accordance with policies of the [~~administrator~~] committee.
7 Accepted donations shall become, without qualification or
8 restriction, the property of the state [~~of New Mexico~~]. Loans
9 shall be accepted only after a written agreement covering all
10 terms and conditions of each loan [~~shall have~~] has been signed
11 by the lender and the [~~administrator and approved by the~~
12 ~~commission~~] director."

13 Section 15. Section 14-3-6 NMSA 1978 (being Laws 1959,
14 Chapter 245, Section 6, as amended) is amended to read:

15 "14-3-6. ADMINISTRATOR--DUTIES.--

16 A. The administrator is the official custodian and
17 trustee for the state of all public records and archives of
18 whatever kind [~~which~~] that are transferred to him from any
19 public office of the state or from any other source. He shall
20 have overall administrative responsibility for carrying out the
21 purposes of the Public Records Act [~~and may employ necessary~~
22 ~~personnel, purchase equipment and provide facilities as may be~~
23 ~~required in the execution of the powers conferred and duties~~
24 ~~imposed upon him~~]. He shall keep the [~~commission~~] committee
25 advised throughout the year of operations conducted and future

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1 operations projected, and shall report annually to the
2 [~~commission~~] committee which records have been destroyed,
3 transferred or otherwise processed during the year.

4 B. The administrator shall establish a records
5 management program for the application of efficient and
6 economical management methods to the creation, utilization,
7 maintenance, retention, preservation and disposal of [~~official~~]
8 public records.

9 C. [~~It shall be the duty of~~] The administrator [~~in~~
10 ~~cooperation with and with the approval of the general services~~
11 ~~department, to~~] shall establish standards, procedures and
12 techniques for effective management of public records; [~~to~~] make
13 continuing surveys of paperwork operations; and [~~to~~] recommend
14 improvements in current records management practices, including
15 the use of space, equipment and supplies employed in creating,
16 maintaining and servicing records.

17 D. [~~It shall be the duty of the head of~~] Each
18 [~~state~~] agency [~~to~~] shall cooperate with the administrator in
19 conducting surveys and [~~to establish and maintain~~] in
20 establishing and maintaining an active, continuing program for
21 the economical and efficient management of the agency's records.

22 E. The administrator shall [~~establish~~] develop
23 records [~~disposal~~] retention and disposition schedules for the
24 orderly retirement of records [~~and adopt regulations necessary~~
25 ~~for the carrying out of the Public Records Act~~]. Records

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1 ~~[disposal]~~ retention and disposition schedules shall be filed
2 ~~[with the librarian of the supreme court library]~~ in accordance
3 with the State Rules Act and shall not become effective until
4 thirty days after the date of filing. Records so scheduled may
5 be transferred to the records center at regular intervals, in
6 accordance with the regulations of the ~~[administrator]~~
7 committee. "

8 Section 16. Section 14-3-7 NMSA 1978 (being Laws 1959,
9 Chapter 245, Section 7) is amended to read:

10 "14-3-7. INSPECTION AND SURVEY OF PUBLIC RECORDS. -- The
11 administrator ~~[is authorized to]~~ may inspect or survey the
12 public records of any agency and ~~[to]~~ make surveys of records
13 management and records ~~[disposal]~~ retention and disposition
14 practices in the various agencies, and he shall be given the
15 full cooperation of ~~[officials and employees]~~ records custodians
16 of the agencies in such inspections and surveys. Records, the
17 use of which is restricted by or pursuant to law or for reasons
18 of security or the public interest, may be inspected or surveyed
19 by the administrator, subject to the same restrictions imposed
20 upon employees of the agency holding the public records. "

21 Section 17. Section 14-3-8 NMSA 1978 (being Laws 1959,
22 Chapter 245, Section 8) is amended to read:

23 "14-3-8. RECORDS CENTER. --

24 A. [A] The "records center" is ~~[established in Santa~~
25 ~~Fe under the supervision and control of the administrator]~~

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1 created in the division. The records center shall be located at
2 the state capital. The administrator shall direct the
3 operations of the records center pursuant to policies and
4 procedures adopted by the committee.

5 B. The records center [~~in accordance with the~~
6 ~~regulations established by the administrator and the commission,~~
7 ~~shall be~~] is the facility for the receipt, storage or
8 disposition of all inactive and infrequently used records of
9 present or former state agencies or former territorial agencies
10 [~~which at or after the effective date of this act~~] that may be
11 in custody of any [~~state~~] agency or instrumentality and [~~which~~]
12 that are not required by law to be kept elsewhere or [~~which~~]
13 that are not ordered destroyed by the [~~commission~~] committee.

14 C. Records [~~required to be~~] that are confidential by
15 law and [~~which~~] that are stored in the records center shall be
16 available promptly when called for by the originating agency,
17 but shall not be made available for public inspection except as
18 provided by law. All other records retained by the records
19 center shall be open to the inspection of the general public,
20 subject to reasonable rules and regulations [~~prescribed by the~~
21 ~~administrator~~] adopted pursuant to the Public Records Act.
22 Facilities for the use of these records in research by the
23 public shall be provided in the records center. "

24 Section 18. Section 14-3-9 NMSA 1978 (being Laws 1959,
25 Chapter 245, Section 9) is amended to read:

1 "14-3-9. DISPOSITION OF PUBLIC RECORDS. --

2 A. Upon completion of an inspection or survey of the
3 public records of any agency by the administrator, or at the
4 request of the [~~commission~~] committee or the [~~head of any agen-~~
5 ~~ey~~] records custodian, the administrator, attorney general and
6 the [~~agency official in charge of the records of that agency~~]
7 records custodian shall together make a determination as to
8 whether:

9 (1) the public records shall be retained in the
10 custody of the agency;

11 (2) the public records shall be transferred to
12 the records center; or

13 [~~(3) a recommendation for destruction of the~~
14 ~~records shall be made to the commission.~~]

15 (3) the public records shall be destroyed
16 pursuant to the records retention and disposition schedule.

17 B. If it is determined that the public records are
18 to be retained in the custody of the agency, no further action
19 shall be taken.

20 C. If it is determined that the records are to be
21 transferred to the records center, they shall be transferred
22 within a reasonable time [~~so transferred~~]. A list of the
23 transferred public records [~~so transferred~~] shall be retained in
24 the files of the agency from which the public records were
25 transferred.

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1 ~~[Public records in the custody of the administrator may be~~
2 ~~transferred or destroyed only upon order of the commission.]"~~

3 Section 19. Section 14-3-10 NMSA 1978 (being Laws 1959,
4 Chapter 245, Section 10) is amended to read:

5 "14-3-10. DISAGREEMENT AS TO VALUE OF RECORDS. --In the
6 event the attorney general and the administrator determine that
7 any records in the custody of a ~~[public officer]~~ records
8 custodian, including the administrator, are of no legal,
9 administrative or historical value, but the ~~[public officer~~
10 ~~having custody of the records or from whose office the records~~
11 ~~originated]~~ records custodian fails to agree with such
12 determination or refuses to dispose of the records, the attorney
13 general and the administrator may request the ~~[state commission~~
14 ~~of public records]~~ committee to make its determination as to
15 whether the records should be disposed of in the interests of
16 conservation of space, economy or safety."

17 Section 20. Section 14-3-11 NMSA 1978 (being Laws 1959,
18 Chapter 245, Section 11, as amended) is amended to read:

19 "14-3-11. DESTRUCTION OF RECORDS. --

20 A. ~~[If it is determined by]~~ On recommendation of the
21 administrator, attorney general and ~~[agency head that~~
22 ~~destruction of records will be recommended, the administrator~~
23 ~~shall have prepared a list of records, together with a brief~~
24 ~~description of their nature, and shall place upon the agenda of~~
25 ~~the next meeting of the commission the matter of destruction of~~

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1 ~~the]~~ records custodian, the committee shall adopt record
2 retention and disposition schedules for the agency, and the
3 records of the agency shall be destroyed in accordance with the
4 adopted retention and disposition schedule. The records may be
5 stored in the records center awaiting [~~decision of the~~
6 ~~commission.~~

7 ~~The commission's decision with reference to destruction of~~
8 ~~the records]~~ destruction.

9 B. Any records proposed for destruction other than
10 in accordance with an approved records retention and disposition
11 schedule shall be reported by the administrator to the committee
12 for review. If the committee determines that a record shall be
13 destroyed, that decision shall be entered [on its] into the
14 committee's minutes, together with [the date of its order to
15 destroy the records and] a general description of the records
16 [which it orders] to be destroyed. [A copy of the commission's
17 order shall be filed with the librarian of the supreme court
18 library.]

19 C. No public records shall be destroyed if the law
20 or the committee prohibits their destruction. "

21 Section 21. Section 14-3-12 NMSA 1978 (being Laws 1959,
22 Chapter 245, Section 12) is amended to read:

23 "14-3-12. TRANSFER OF RECORDS UPON TERMINATION OF [STATE]
24 AGENCIES. --

25 A. All public records of [any] an agency, upon the

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1 termination of the existence and functions of that agency, shall
2 be checked by the administrator and the attorney general and
3 either transferred to the custody of another agency having a use
4 for the records or to the custody of the administrator at the
5 records center in accordance with the procedure of the Public
6 Records Act.

7 B. When an agency is terminated or reduced by the
8 transfer of its powers and duties to another agency or to other
9 agencies, its appropriate public records shall pass with the
10 powers and duties so transferred."

11 Section 22. Section 14-3-15 NMSA 1978 (being Laws 1959,
12 Chapter 245, Section 15, as amended) is amended to read:

13 "14-3-15. REPRODUCTION ON FILM - EVIDENCE - REVIEW,
14 INVENTORY AND APPROVAL OF SYSTEMS. --

15 A. Any public officer of the state or of any
16 district or political subdivision may cause any public records,
17 papers or documents kept by him to be photographed,
18 microphotographed or reproduced on film.

19 B. The [~~state records~~] administrator shall review
20 any proposed [~~state~~] agency microphotography system and shall
21 advise and consult with the agency. The administrator has the
22 authority to approve or disapprove the system of any [~~state~~]
23 agency.

24 C. The microphotography system used pursuant to this
25 section shall comply with the minimum standards approved by the

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1 ~~[New Mexico commission of public records]~~ committee. The
2 microphotography system used to reproduce such records on film
3 shall be one ~~[which]~~ that accurately reproduces the original in
4 all details.

5 D. The administrator shall establish and maintain an
6 inventory of all microfilm equipment owned or leased by ~~[state]~~
7 agencies. The administrator ~~[is authorized to]~~ may arrange the
8 transfer of microphotography equipment from ~~[a state]~~ an agency
9 ~~[which]~~ that does not use it, and ~~[which]~~ that has released it,
10 to ~~[a state]~~ an agency needing ~~[such]~~ the equipment for a
11 current microphotography system.

12 E. Photographs, microphotographs or photographic
13 film made pursuant to this section shall be deemed to be
14 original records for all purposes, including introduction in
15 evidence in all courts and administrative agencies. A
16 transcript, exemplification or certified copy, for all purposes,
17 shall be deemed to be a transcript, exemplification or certified
18 copy of the original.

19 F. Whenever such photographs, microphotographs or
20 reproductions on film are properly certified and are placed in
21 conveniently accessible files and provisions are made for
22 preserving, examining and using them, any public officer may
23 cause the original records from which the photographs or
24 microphotographs have been made, or any part thereof, to be
25 disposed of according to methods prescribed by Sections ~~[71-6-9~~

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1 ~~through 71-6-11 NMSA 1953]~~ 14-3-9 through 14-3-11 NMSA 1978.

2 Copies shall be certified by their custodian as true copies of
3 the originals before the originals are destroyed or lost, and
4 the certified copies shall have the same effect as the
5 originals. Copies of public records transferred from the office
6 of origin to the administrator, when certified by the
7 administrator or his [deputy] designee, shall have the same
8 legal effect as if certified by the original custodian of the
9 records.

10 G. For the purposes of this section, "[state]
11 agency" [~~shall include~~] includes the district courts. "

12 Section 23. Section 14-3-15.1 NMSA 1978 (being Laws 1986,
13 Chapter 81, Section 9, as amended) is amended to read:

14 "14-3-15.1 RECORDS OF [STATE] AGENCIES--PUBLIC RECORDS--
15 COPY FEES--COMPUTER DATABASES--CRIMINAL PENALTY.--

16 A. Except as otherwise provided by federal or state
17 law, information contained in information systems databases
18 shall be a public record and shall be subject to disclosure in
19 printed or typed format by the [state] agency that has inserted
20 that information into the database, in accordance with the
21 Public Records Act, upon the payment of a reasonable fee for the
22 service.

23 B. The administrator shall recommend to the
24 [~~commission~~] committee the procedures, schedules and technical
25 standards for the retention of computer databases.

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1 C. The [state] agency that has inserted data in a
2 database may authorize a copy to be made of a computer tape or
3 other medium containing a computerized database of a public
4 record for any person if the person agrees:

5 (1) not to make unauthorized copies of the
6 database;

7 (2) not to use the database for any political
8 or commercial purpose unless the purpose and use is approved in
9 writing by the [state] agency that created the database;

10 (3) not to use the database for solicitation or
11 advertisement when the database contains the name, address or
12 telephone number of any person unless such use is otherwise
13 specifically authorized by law;

14 (4) not to allow access to the database by any
15 other person unless the use is approved in writing by the
16 [state] agency that created the database; and

17 (5) to pay a royalty or other consideration to
18 the state as may be agreed upon by the [state] agency that
19 created the database.

20 D. If more than one [state] agency is responsible
21 for the information inserted in the database, the agencies shall
22 enter into an agreement designating a lead agency. If the
23 agencies cannot agree as to the designation of a lead [state]
24 agency, the [commission] committee shall designate one of the
25 [state] agencies as the lead agency to carry out the

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1 responsibilities set forth in this section.

2 E. Subject to any confidentiality provisions of law,
3 [~~any state~~] an agency may permit another [~~state~~] agency access
4 to all or any portion of a computerized database created by [~~a~~
5 ~~state~~] the agency.

6 F. If information contained in a database is
7 searched, manipulated or retrieved or a copy of the database is
8 made for any private or nonpublic use, a fee shall be charged by
9 the [~~state~~] agency permitting access or use of the database.

10 G. Except as authorized by law or rule of the
11 [~~commission~~] committee, any person who reveals to any
12 unauthorized person information contained in a computer database
13 or who uses or permits the unauthorized use or access of any
14 computer database is guilty of a misdemeanor, and upon
15 conviction the court shall sentence that person to jail for a
16 definite term not to exceed one year or to payment of a fine not
17 to exceed five thousand dollars (\$5,000) or both. That person
18 shall not be employed by the state for a period of five years
19 after the date of conviction. "

20 Section 24. Section 14-3-15.2 NMSA 1978 (being Laws 1995,
21 Chapter 27, Section 1) is amended to read:

22 "14-3-15.2. ELECTRONIC AUTHENTICATION--SUBSTITUTION FOR
23 SIGNATURE.--Whenever there is a requirement for a signature on any
24 document, electronic authentication that meets the standards
25 promulgated by the [~~commission~~] committee may be substituted. "

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1 Section 25. Section 14-3-19 NMSA 1978 (being Laws 1968,
2 Chapter 14, Section 1) is amended to read:

3 "14-3-19. STORAGE EQUIPMENT, SUPPLIES AND MATERIALS--
4 MICROFILM SERVICES AND SUPPLIES--PURCHASE [~~BY STATE RECORDS~~
5 ~~COMMISSION~~] FOR RESALE. --

6 A. The "records center revolving fund" is created in the
7 state treasury. The fund consists of all receipts from the sale of
8 equipment, supplies, materials and services provided for in
9 Subsection C of this section and interest earned on investment of
10 the fund. Money in the fund shall not revert at the end of any
11 fiscal year.

12 B. Money in the fund is appropriated to the division to
13 carry out the provisions of this section. Expenditures from the
14 fund shall be made upon vouchers submitted to the department of
15 finance and administration by the director or his authorized
16 representative and by warrants signed by the secretary of finance
17 and administration.

18 C. The [~~state records commission~~] division may purchase
19 for resale such storage boxes, forms, microfilm supplies necessary
20 to the providing of microfilm services and other supplies and
21 materials as [~~in its judgment are~~] necessary to facilitate [~~the~~
22 various aspects of] its programs. The [~~commission~~] division may
23 sell such items and services at [a] cost plus a five percent
24 handling charge. [~~All receipts from such sales shall go into the~~
25 special revolving fund established by Laws 1961, Chapter 111, which

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1 ~~is hereby continued. In addition to any moneys in the special~~
2 ~~revolving fund, there is hereby appropriated the sum of five~~
3 ~~hundred dollars (\$500).]~~"

4 Section 26. Section 14-3-21 NMSA 1978 (being Laws 1965,
5 Chapter 154, Section 1) is amended to read:

6 "14-3-21. STATE PUBLICATIONS--RULES--REPORTS--UNIFORMITY. --

7 A. The ~~[state records]~~ administrator shall develop and
8 recommend to the ~~[state commission of public records]~~ committee
9 uniform standards of style and format for the following:

10 ~~[A.]~~ (1) manuals of procedure prepared and
11 published by ~~[state]~~ agencies for the guidance of public officers
12 and employees engaged in operations required for the efficient
13 operation of state and local government, including ~~[but not limited~~
14 ~~to]~~ acquiring space, budgeting, accounting, purchasing,
15 contracting, vouchering, printing, appointment and dismissal of
16 employees and record maintenance;

17 ~~[B.]~~ (2) manuals of procedures prepared and
18 published by ~~[state]~~ agencies for the guidance of their own
19 employees and for their own operations;

20 ~~[C.]~~ (3) official rules and regulations and
21 reprints of laws published by ~~[state]~~ agencies, excluding session
22 laws published by the secretary of state; and

23 ~~[D.]~~ (4) official reports of ~~[state]~~ agencies
24 required by law, excluding the budget document presented to the
25 legislature.

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1 B. The [~~state commission of public records~~] committee,
2 after consultation with the affected agencies [~~and with the~~
3 ~~approval of the governor~~], shall adopt and promulgate uniform
4 standards of style and format for the [~~above~~] publications set
5 forth in this section and a schedule of distribution for each class
6 of publication, which shall be binding upon all [~~state~~] agencies.
7 "Agencies" means, for the purposes of this section, all state
8 departments, bureaus, commissions, committees, institutions and
9 boards, except those agencies of the legislative and judicial
10 branches and those educational institutions listed in Article 12,
11 Section 11 of the [~~New Mexico~~] constitution of New Mexico."

12 Section 27. Section 14-3-22 NMSA 1978 (being Laws 1977,
13 Chapter 209, Section 1, as amended) is amended to read:

14 "14-3-22. PUBLIC POLICY ON CERTAIN PUBLICATIONS-- [~~STATE~~
15 ~~COMMISSION OF PUBLIC RECORDS~~] COMMITTEE DUTIES.--

16 A. It is the intent of the legislature and the public
17 policy of this state to reduce unnecessary expense to the taxpayers
18 of this state in connection with publications of [~~state~~] agencies
19 designed primarily for the purpose of reporting to or the informing
20 of the governor, the legislature, other [~~state~~] agencies or the
21 political subdivisions of this state.

22 B. The [~~state commission of public records~~] committee
23 shall develop and adopt regulations [~~which~~] that shall be binding
24 upon all [~~state~~] agencies. The regulations shall provide for
25 uniform standards for those publications set forth in Subsection A

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1 of this section and shall include [~~but be not limited to~~]:

2 (1) a standard size format to accommodate paper of
3 the most economical type available;

4 (2) prohibiting the use of expensive covers,
5 binders and fasteners;

6 (3) prohibiting the use of photographs, art work
7 and design, unless absolutely necessary for clarification of the
8 report;

9 (4) limiting the use of color stock paper, where
10 [~~such~~] color stock would be more expensive than the use of white
11 paper; and

12 (5) requiring offset or mimeograph or other means
13 of duplication when it cannot be demonstrated that printing of such
14 publication would be equal to or less than the cost of offset,
15 mimeograph or other means of duplication.

16 C. The [~~state commission of public records~~] committee
17 shall maintain constant and continuing supervision of such
18 publications by [~~state~~] agencies and shall report persistent
19 violations of the regulations made pursuant to this [~~aet~~] section
20 to the [~~secretary of general services~~] attorney general. "

21 Section 28. Section 14-3-23 NMSA 1978 (being Laws 1965,
22 Chapter 154, Section 3) is amended to read:

23 "14-3-23. MANUALS OF PROCEDURE--PREPARATION--REVIEW
24 --PUBLICATION.--Each [~~state~~] agency [~~which~~] that has an official
25 duty to establish methods and procedures involved in the internal

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1 structure and operation of state government, including [~~but not~~
2 ~~limited to~~] acquiring space, budgeting, accounting, purchasing,
3 contracting, vouchering, printing, appointment and dismissal of
4 employees and record-keeping, shall prepare, within the means
5 provided by current operating budgets, manuals of procedure for the
6 guidance of public officers and employees engaged in such work.
7 [~~Such manual or~~] The manuals shall be reviewed and ordered
8 published by the [~~state records~~] administrator [~~and~~] in accordance
9 with uniform standards of style and format promulgated by the
10 [~~state commission of public records~~] committee."

11 Section 29. Section 14-4-3 NMSA 1978 (being Laws 1967,
12 Chapter 275, Section 3, as amended) is amended to read:

13 "14-4-3. FORMAT OF RULES--FILING--DISTRIBUTION. --Each agency
14 promulgating [~~any~~] a rule shall place the rule in the format and
15 style required by rule of the [~~records center~~] public records
16 committee and shall deliver one original paper copy and one
17 electronic copy to the records center. The records center shall
18 note thereon the date and hour of filing. The records center shall
19 maintain the original copy as a permanent record open to public
20 inspection during office hours and shall have the rule published in
21 a timely manner in the New Mexico register and compiled into the
22 New Mexico Administrative Code. At the time of filing, an agency
23 may submit to the records center an additional paper copy to be
24 returned to the agency, for annotation with the date and hour of
25 filing [~~to be returned to the agency~~]. "

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1 Section 30. Section 14-4-7.1 NMSA 1978 (being Laws 1989,
2 Chapter 38, Section 1, as amended) is amended to read:

3 "14-4-7.1. NEW MEXICO REGISTER. --

4 A. The state records administrator shall provide for
5 publication of a New Mexico register at least twice a month. The
6 New Mexico register shall be published in such a way as to minimize
7 the cost to the state. To accomplish this, the state records
8 administrator is authorized to provide for charges for
9 subscriptions and for publication of notice and other items,
10 including advertising, in the register.

11 B. The New Mexico register shall be the official
12 publication for all notices of rule makings and filings of adopted
13 rules, including emergency rules, by agencies. [~~(1)~~] The register
14 shall include the full text of any adopted rules, including
15 emergency rules. Proposed rules may be published in full or in
16 part at the discretion of the issuing agency. [~~(2)~~] Upon request
17 of an issuing agency, the state records administrator may determine
18 that publication in the register of the full text of an adopted
19 rule would be unduly cumbersome, expensive or otherwise inexpedient
20 and may publish instead a synopsis of the adopted rule and a
21 statement that a copy of the rule is available from the issuing
22 agency.

23 C. The New Mexico register shall be available by
24 subscription and single copy purchase to any person, including
25 agencies of the executive, judicial and legislative branches of

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1 state government and its political subdivisions, at a reasonable
2 charge approved by the state records administrator. The
3 administrator may authorize distribution of a certain number of
4 copies of the register without charge to agencies or political
5 subdivisions as deemed economically feasible and appropriate.

6 D. The New Mexico register may include a summary or the
7 text of any governor's executive order; a summary, listing or the
8 text of any attorney general's opinion; a calendar listing the
9 date, time and place of all or selected agency rule-making
10 hearings; a list of gubernatorial appointments of state officials
11 and board and commission members; or other material related to
12 administrative law and practice.

13 E. The state [~~records administrator~~] library and
14 archives commission shall adopt and promulgate rules necessary for
15 the implementation and administration of this section."

16 Section 31. A new Section 18-2-3.1 NMSA 1978 is enacted to
17 read:

18 "18-2-3.1. [NEW MATERIAL] SHORT TITLE. -- Sections 18-2-3.1
19 through 18-2-18 NMSA 1978 may be cited as the "State Library Act". "

20 Section 32. Section 18-2-4 NMSA 1978 (being Laws 1961,
21 Chapter 126, Section 4, as amended) is amended to read:

22 "18-2-4. DUTIES OF THE STATE LIBRARIAN. -- The state librarian
23 shall:

24 [~~A. administer the state library;~~]

25 A. have overall administrative responsibility for

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1 carrying out the provisions of the State Library Act:

2 B. administer grants-in-aid and encourage local library
3 service and generally promote an effective statewide library
4 system;

5 C. make studies and surveys of public library needs;

6 D. supply advice and information to existing libraries
7 and aid in the establishment of new libraries;

8 E. obtain each year, from all libraries in the state,
9 reports showing the conditions, growth and development together
10 with such other facts and statistics regarding them as ~~[is]~~ are of
11 public interest;

12 F. cooperate with other educational services and
13 governmental agencies of the state and with library agencies of
14 other states and with national library agencies;

15 G. cooperate with the administrative services division
16 of the office of cultural affairs in preparing the budget for the
17 state library;

18 H. administer the library extension service;

19 ~~[I. make rules and regulations necessary to administer
20 the division and as provided by law and to perform other duties as
21 provided by law; and~~

22 ~~J.]~~ I. establish and administer a library depository and
23 distribution system for state documents and publications; and

24 J. promote public education about available library
25 services and facilitate public access to and use of public library

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1 services. "

2 Section 33. Section 18-2-5 NMSA 1978 (being Laws 1941,
3 Chapter 129, Section 3, as amended) is amended to read:

4 "18-2-5. STATE LIBRARY ADMINISTRATIVE AGENCY. --The state
5 library and archives division of the office of cultural affairs is
6 designated a state library administrative agency and is empowered
7 to accept gifts or grants of any nature from federal, state,
8 county, local or private agencies for the purpose of carrying on
9 its work. Any grant of money so received shall be deposited in the
10 state treasury to the credit of the state library and archives
11 division and shall be used only for the purpose for which it is
12 given or granted. "

13 Section 34. Section 18-2-7 NMSA 1978 (being Laws 1941,
14 Chapter 129, Section 5, as amended) is amended to read:

15 "18-2-7. CONSTRUCTION OF PROVISIONS OF ACT. --The provisions
16 of [~~this~~] the State Library Act shall not divest any state, county,
17 municipal or other governing board or agency of its control and
18 supervision of any library under its jurisdiction except as the
19 provisions of [~~this~~] that act apply to the control and management
20 of the state library. Specifically, nothing [~~herein~~] in that act
21 is intended to alter or amend the provisions of [~~Sections 4-10-1~~
22 ~~through 4-10-20 New Mexico Statutes Annotated, 1953 Compilation~~]
23 Chapter 18, Article 1 NMSA 1978. "

24 Section 35. Section 18-2-7.1 NMSA 1978 (being Laws 1978,
25 Chapter 140, Section 3) is amended to read:

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1 "18-2-7.1. DISTRIBUTION SYSTEM - LIMITATION. -- The state
2 library depository shall not engage in the direct distribution of
3 state publications to the general public except in those cases
4 where the state library and archives division does so in the course
5 of operating as a library or a state extension service. "

6 Section 36. Section 18-2-18 NMSA 1978 (being Laws 1947,
7 Chapter 91, Section 9, as amended) is amended to read:

8 "18-2-18. LIST OF CERTIFICATED LIBRARIANS. -- The state
9 library and archives division of the office of cultural affairs
10 shall issue annually a list of all persons holding [~~librarians'~~
11 librarian's certificates. "

12 Section 37. TEMPORARY PROVISION-- TRANSFERS OF FUNCTIONS,
13 PERSONNEL, MONEY, APPROPRIATIONS, PROPERTY, REFERENCES AND
14 OBLIGATIONS. --

15 A. On the effective date of this act, functions,
16 personnel, appropriations, money, records, furniture, equipment,
17 supplies and other property of the library division of the office
18 of cultural affairs are transferred to the state library and
19 archives division of the office of cultural affairs. All contracts
20 and other agreements of the library division are binding on the
21 state library and archives division.

22 B. On the effective date of this act, functions,
23 personnel, appropriations, money, records, furniture, equipment,
24 supplies and other property of the records center are transferred
25 to the state library and archives division of the office of

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1 cultural affairs. All contracts and other agreements of the
2 records center are transferred to the state library and archives
3 division.

4 C. References in the law to the state commission of
5 public records shall be construed as references to the public
6 records committee. References in the law to the New Mexico state
7 library commission shall be construed as references to the state
8 library and archives commission. References in the law to the
9 library division shall be construed as references to the state
10 library and archives division. References in the law to the
11 records center shall be construed as references to the records
12 center of the state library and archives division of the office of
13 cultural affairs.

14 Section 38. REPEAL. -- Sections 18-2-1 through 18-2-3 and
15 18-2-6 NMSA 1978 (being Laws 1941, Chapter 129, Section 1, Laws
16 1977, Chapter 246, Sections 9 and 10 and Laws 1941, Chapter 129,
17 Section 4, as amended) are repealed.

18 Section 39. EFFECTIVE DATE. -- The effective date of the
19 provisions of this act is July 1, 1997.