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State governments have shifted their publication practices from producing mainly print-only formats to creating electronic publications. In 2003, the American Association of Law Libraries conducted a survey that indicated that few states were collecting and preserving these electronic documents. It also showed that few state laws reflected the change in publication formats. The purpose of this study is to examine the language used in state law regarding electronic government publications as of 2008. The results show that most states have a broad definition that does not mention electronic formats, but includes them by interpretation. Further studies regarding the relationship between these laws and collection, compliance from state agencies, and funding are suggested.

Headings:

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ELECTRONIC GOVERNMENT PUBLICATIONS AND DEFINITIONS IN STATE  
LEGISLATION

by  
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## TABLE OF CONTENTS

<b>INTRODUCTION .....</b>	<b>2</b>
PUBLIC RECORDS VS. GOVERNMENT PUBLICATIONS .....	3
<b>BACKGROUND.....</b>	<b>4</b>
<b>LITERATURE REVIEW .....</b>	<b>7</b>
IMPLICATIONS OF ELECTRONIC FORMATS .....	8
ACCESS TO GOVERNMENT INFORMATION .....	10
ROLE OF LIBRARIANS.....	10
THE NEED TO CHANGE THE LAW .....	11
TRACKING GOVERNMENT INFORMATION .....	12
<b>RESEARCH METHODS .....</b>	<b>14</b>
<b>FINDINGS .....</b>	<b>16</b>
TABLE OF FINDINGS .....	17
<b>CONCLUSION .....</b>	<b>23</b>
<b>REFERENCES .....</b>	<b>26</b>
<b>APPENDIX: COMPILATION OF STATE LAWS .....</b>	<b>30</b>

## Introduction

*"A popular government without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or, perhaps both. Knowledge will forever govern ignorance; and a people who mean to be their own governors, must arm themselves with the power which knowledge gives."*

*James Madison, 1822<sup>3</sup>*

The federal and state governments today publish and distribute an unprecedented amount of government information on the internet. (Lin & Eschenfelder, 2008)

Originally, government information was published entirely in print format. Libraries and archives collected the published documents and preserved them for future generations.

This system worked fairly well until the introduction of alternative formats to print. In the 1970s microprint formats began to be distributed. In the 1980s, advances in technology led the government to rely on the computer to store information. By the 1990s, it became clear that printed formats would no longer be the standard format for government publications and by 2008, the majority of new government publications are produced in an electronic format.

The shift from print to electronic has provided a challenge for depository libraries and archives that collect and preserve government information. With printed documents, the process of preserving a document is fairly straightforward. Electronic documents, however, are a bit more complicated. There are questions about authenticity, integrity and the longevity of the original format. Although electronic documents can be easily copied, there could be loss of data, or the document could be manipulated.

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<sup>3</sup> James Madison, *Writings* (New York: Penguin Putnam, 1999), 790.

When the federal government needed to implement an electronic records management program for federal government documents, part of the process involved changing the laws to become more inclusive of electronic formats. Although state governments were experiencing many of the same obstacles as the federal government, each state has had to take its own approach to the problem, since each state is its own entity. The transition to electronic documents has not been smooth, and each state has suffered its own problems. The American Association of Law Libraries conducted a survey in 2003 that assessed the progress each state was making in dealing with electronic records. In this study, it was concluded that very few states had any type of digital preservation or electronic records management program.

### ***Public Records vs. Government Publications***

There is an important distinction that needs to be made between public records and government publications. Public records generally involve recorded transactions between citizens and the government, and often include personal information. Government publications are produced by the government to inform the public about what an agency has been doing, such as an annual report, an annual budget, or statistics. For example, a report issued by a state agency listing census statistics is considered a publication, while the actual names and addresses of the people surveyed are considered public records. Often in the language of the law, public records and government publications are used interchangeably, although the ideas are separate. However, the purpose of this study is to focus on government publications specifically.

Citizens have a right to access government publications because it allows them to keep government agencies accountable. While public records may also be available to

citizens, these records bring their own set of complications. Any record that involves sensitive information requires an additional level of security to prevent undesired effects such as fraud and identity theft. As a result, public records are often not distributed the same way that government publications are. To avoid any confusion between public records and government publications in this paper, but to still capture the language of many of the laws, government produced information and records are referred to as government records.

## **Background**

Each state in the U.S. is an individual when it comes to its history and government. As such, it is challenging to examine the history of electronic government records in state government, because each state would require its own study. There is, however, a way to view this issue broadly; by learning the history of electronic records and the move towards “e-government” in the federal government.

The Government Printing Office (GPO) was created in 1860 to centralize government agency publishing, and by the 1900s had established the Federal Depository Library System (FDLP). (AALL, p. 7) The GPO distributed documents to the FDLP, who would then store, provide access and preserve the documents. (Lyons, 2006) Title 44 of the United States Code was written to require the GPO to provide permanent public access to documents in the FDLP.

The early use of technology by the government was intended to improve the efficiency and productivity of government processes. (Yildiz, 2007) The first effort by the federal government to collect non-traditional formats was in 1939 when punch cards were collected by the National Archives. In the 1960s the first electronic formats were

collected when the National Archives acquired and tried to preserve tapes from the Census Bureau. The National Archives continued to build its expertise in collecting government information in all formats in the 1970s (Lyons, 2006) when there was the first awareness of the need to preserve alternative formats. (Singer, 2003) By the 1980s, technology was being developed for the purpose of simplifying government processes, and eventually began to create information in electronic format instead of merely organizing it. For this reason, Title 44 was altered in 1982 to update the definition of government information to include electronic formats. (Singer, 2003)

By the 1990s, there was a huge shift towards using the internet as a means to make government information more easily accessible to the public. As the use of computers and the internet increased in the government, the concept of "e-government" emerged. The term e-government can be defined in a variety of different ways. Depending on the purpose of the initiative, e-government can refer to the use of technology in government applications, the use of the internet to deliver government information and services, or the application of an all-electronic system by a government agency. (Yildiz, 2007) Regardless of the specific definition in use, the main purpose of any e-government initiative is to "make government work better, faster, more convenient to use for its stakeholders and provide administrative and democratic channels that were not possible to open with the old technological tools." (Yildiz, 2007) E-government also always has another universal characteristic regardless of the definition; the creation of electronic records.

In 1993 the Government Printing Office Electronic Information Access Enhancement Act (Pub. L. No. 103-40, 107 Stat.112) became law. This law directed the

GPO to create a directory of electronic federal government information, and to archive electronic information and provide access to it. (Singer, 2003) At the federal level, the National Archives and Records Administration (NARA) and the Government Printing Office (GPO) are responsible for most of the digital preservation efforts that take place at the federal level. NARA created the Electronic Records Archive (ERA) in 1998. Meant to handle electronic records, the ERA is expected to develop a program that will serve as a long-term storage and preservation system for federal digital information. (Lyons, 2006) Preservation is a problem because of the need to ensure data integrity, avoid hardware and software obsolescence, and to keep up with the volume of information being produced continually. (Lyons, 2006)

Spurred on by laws such as the 1995 Paperwork Reduction Act (Pub. L. No. 104-13, 109 Stat. 163), the Electronic Freedom of Information Act Amendments of 1996, and the 2001 E-Government Act (Pub. L. No. 107-347, 116 Stat. 2899), government information has increasingly shifted towards electronic publication and distribution. -By the new millennium, more than 50% of the documents distributed through the FDLP were electronic. By 2005, 90% of newly published titles were electronic. (Staley, 2007) Meanwhile, demand for printed documents has decreased, and downloads of electronic government information have increased. An overwhelming number of Americans have access to the internet, and many use the internet to access government information. Many people, especially the younger generations, expect to find government information online. (Staley, 2007)“Americans search government Web sites looking for a variety of information or E-Government services, including tourist information, health and safety information, statistics, government forms or opportunities to do business with



government.” (AALL report, p. 2) Users, in general, appreciate electronic access because it is quick and convenient. This is supported by the number of downloads from government websites, as well as anecdotal evidence from library users. (Rawan, Malone, & Bender, 2004)

The wide availability of electronic documents has caused many depository libraries to substitute their print collections with electronic formats. Other libraries have decided to leave the depository program based on the belief that the wide availability of electronic documents decreases the need for individual libraries to collect these documents. (Rawan et al., 2004) This is a false assumption; for while there is greater access, there is still a need for individual libraries to preserve this information. There is also a need for librarians to assist patrons finding this information and to help them understand how to use it.

### **Literature Review**

In 2002, the American Association of Law Libraries (referred to hereafter as AALL) conducted a survey of the 50 states, as well as the District of Columbia and Puerto Rico, to determine what the current climate was on creating permanent public access to electronic government information. The report, which was published in 2003, has been cited by numerous articles regarding digital preservation, electronic government publications, and library legislation, and is the most thorough study of the subject to date. The weight of the study comes from the results; the study discovered that few states have implemented the kinds of changes necessary to support the collection and preservation of electronic government records. The key concepts from the AALL survey are the need for

comprehensive legislation to protect electronic government records, the need to provide permanent public access to government information, the importance of identifying the entities responsible for publishing, distributing, collecting and preserving electronic information, and the need to advocate to state policymakers and lawmakers for the desired legislative changes.

Martin, Chamberlin and Dmitrieva reviewed state laws in 2001 to determine how many states required the publication and distribution of government information via the internet. (Martin, Chamberlin, & Dmitrieva, 2001) Amazingly, the authors found that 41 states required some level of web posting for government information. (Martin et al., 2001) Electronic publishing seems to be preferred by the government because it saves time and money. (Martin et al., 2001)(Lin & Eschenfelder, 2008)(Spurlin, 2005) Given the usage of the internet to present government information to the public, it seems logical that electronic information would be required to be collected and preserved in the same way that printed publications are collected by depository libraries.

Electronic publishing also provides faster and more convenient access for citizens, who seem to prefer electronic access to government information over the traditional print forms. Journalists and researchers especially use electronic government information as their go-to sources (Bunker, 1996), since “government-created electronic documents are considered to be the most reliable”. (Spurlin, 2005)

### ***Implications of Electronic Formats***

In 1989, a lawsuit was filed to prevent the destruction of electronic data created and stored in the Professional Office System (PROFS) used by the Reagan Administration. While the center of the litigation related to controversial political

actions, the surrounding arguments highlighted an issue that had not previously been encountered. The PROFS litigation brought into focus the fact “that electronic records are not identical to analog copies and they must be preserved in electronic form.” In particular, an argument was made that it would be too difficult to save electronic records, so the records should be printed out and preserved as print materials. The difficulty with this idea lay in the fact that much of the surrounding metadata associated with the records (many of which were emails) was not available in the printed out versions. The metadata from the records provided important information about who, what and when, and could not be duplicated in print format. (Lyons, 2006)

Similar difficulties have been encountered in court cases in several states. Using the Freedom of Information Act, many journalists in the late 1980s and early 1990s who attempted to access government information were provided with information on different media than the originals. State governments often claimed that this was due to the burden of the cost of providing access to electronic records, and that printed or microfilm records were similar. Yet there is a significant difference between electronic records and printed records, especially when dealing with large data sets as journalists often do. Electronic records are much faster and easier for journalists to use, and help save them time.

(Bunker, 1996)

Electronic publications are different from their print counterparts because of their digital nature. This means that in order to access the data in electronic files they must rely on hardware and software to run. And in some instances the hardware or software can fail, or become obsolete. For example, WordPerfect was at one time a widely-used word processing program, but in 2008 it is difficult to open a WordPerfect document

because Microsoft Word has become the more widely used software program. While it is possible to open the WordPerfect file in Word, some of the formatting is lost. But imagine if that instead of merely losing a small bit of formatting, an agency report loses a paragraph or the numbers in a chart change. It could have implications in the future for anyone desiring to access that information.

### ***Permanent Access***

Historians and researchers know the importance of preserving electronic government records, because just like their printed counterparts, electronic publications hold information that is an integral part of the nation's history. (Spurlin, 2005) Access to government publications helps keep government officials accountable to citizens, and unless these documents are saved, valuable information will be lost. (Spurlin, 2005) When redesigning the New York State depository system, the New York State Library wanted to make sure that state government publications were easily accessible to both staff and the public. (Burton, 1992) Libraries are committed to providing information to patrons; libraries that are repositories for government documents have an even greater responsibility to the patrons, because as tax-payers members of the public have a right to access government information. (AALL, p. 2)

### ***Role of Librarians***

Another issue is that the education of government information librarians will need to change as well. Because of the growing trend in Web publishing and distribution, the role of government information librarians will change. (Lin & Eschenfelder, 2008) Librarians will need to become more proactive in their roles of collecting and preserving

electronic government information, which will require new skills. Training will become much more important for librarians to ensure that they can continue to provide access to patrons. Government information librarians must be highly trained because they deal with a range of questions and need to know where to locate specific information.(Block, 2003) Now that the majority of government publications are available on the internet, many users will not need to visit a library or archives to view the information they seek. To meet the needs of these online patrons, government information librarians will need to have a variety of technology-based skills, which may include internet applications and web site design, thorough knowledge of electronic resources of every variety, and knowledge of creating and executing search strategies.(Staley, 2007) Clearer, more comprehensive legislation will aide librarians in their responsibilities, and will provide useful guidance as their roles adjust to accommodate the shift to electronic information.

### ***The Need to Change the Law***

Many state legislators are relying on guidelines and “best practices” when it comes to collecting and preserving electronic information (Spurlin, 2005); however without legislation that is more specific about its definitions many publications will be lost forever. If electronic formats continue to be favored for government records, then the existing legislation will quickly become outdated to the point where it will not apply in the way it was originally intended. Electronic and print formats are not equivalent; which means that legislation that was drafted with print publications in mind cannot possibly provide for the special circumstances created by electronic publications. And now that electronic documents comprise the majority of newly published government documents, the law needs to change to support their unique qualities. For example, it may

be necessary to require certain metadata formats to identify government publications, or that publications be created in special preservation-friendly formats.

In order to enhance the public's access to state publications, the South Dakota Legislature has changed the South Dakota statutes over the years. Unfortunately, the statutes have not been changed recently enough to include electronic formats. (Spurlin, 2005) Yet because of South Dakota's program to provide permanent preservation of electronic government documents, there is a need to revise the statutes to ensure that the State Government is in full support of that program.

### ***Tracking Government Information***

Electronic documents are easy to create and publish on the internet, and they also reduce the need for the government to use formal publishing methods for its documents. Unfortunately, without formal methods, often self-published government documents are not announced when they are created or posted, which makes them more difficult to locate. Electronic government records can be located in many different places; they can be scattered across a number of servers around the state, on different computers in an agency, or posted on different web pages on the agency website. (Spurlin, 2005) Some agencies also post their information outside of the dot-gov domain, which reduces the likelihood of these publications ever being found. (Lin & Eschenfelder, 2008) Clear legislation is not only important for permanent access, but also for "successful bibliographic control of state agency publications". (Langelier, 1989) With more a specific definition of what constitutes a government record, librarians will be better able to identify and collect these publications without needing to worry about the format.

The ease of self-publishing also means that a greater amount of information can

be published than was possible with paper printing. The more documents that are produced online, the harder it is to ensure that all of those documents are being collected, especially if they are not distributed to libraries. Documents that are not announced or distributed properly are often referred to as “fugitive documents”. (Block, 2003) These documents are at the highest risk of being missed by libraries and disappearing completely. Electronic documents increase the amount of fugitive documents, because of the increase in possibility for technical problems such as broken URLs and obsolescence of format. They can also cause a headache for anyone trying to locate the information in these publications.

To address problems locating newly published documents, the state of Colorado adjusted its legislation in 2003 to mandate that state agencies notify the depository program within ten days of publishing a document. (Spurlin, 2005) South Dakota has also worked hard to collect its government publications, and created a “one-stop database” for its citizens so that it is not necessary to even know which agency produced the document. (Spurlin, 2005)

Libraries have had to develop new methods for selection in order to collect electronic documents. Unfortunately these methods have their own drawbacks, which affect the resulting quality of the government documents collection. (Lin & Eschenfelder, 2008) Either the collection is too large, with a disproportionate amount of unnecessary information, or the collection is smaller and misses many important publications. Both of these problems are a result of trying to find a solution for collecting electronic government publications without having a clear definition of exactly what is essential to collect.

While many issues surround electronic government publications in order to examine these issues more closely, it is necessary to study smaller parts. Since the language in the definitions of the laws appears to be at the heart of many of the problems expressed above, it seems like a good place to begin. This research is meant to discover exactly what the definitions are in state legislation to determine whether or not electronic publications have been acknowledged.

### **Research Methods**

This study sought to discover whether each state has, in the library or records laws pertaining to government publications, a definition of a government publication or record that includes, either explicitly or implicitly, electronic formats. Using the results from this study, it may be possible in the future to study additional areas related to electronic state government publications, such as addressing access issues and improving depository library collection policies.

To collect the data for this study, the list of laws from each state was compiled by visiting the government website of 49 states in the United States. Hawaii was not included in the findings, due to technical problems experienced on the Hawaii state website. First, the area of the website that contained the laws, statutes, or code of the state was located. Next, informed browsing led the areas that dealt specifically with collecting government records. The most common location of this information was in the laws that dealt with libraries or records, though in some instances those laws were in the laws relating to the organization and administration of the state government. These laws were generally located in statutes that deal with libraries, archives and history, or under the education statutes. Another common location of records laws is under the general



administrative statutes that deal with state government. Certain words in the statutes indicated whether relevant laws would be located in that particular statute. Some of the key terms included: state library, archives, government records, public records, agency publications, and depository program. These laws were either depository library laws, library laws, or records laws. To help verify this information, the websites of the state library or archives were consulted, as they often list the relevant laws that pertain to their state depository collections. In instances where there were relevant definitions in two areas of the legislation, the definition referred to by depository or library section was preferred by the author over a definition in a public records section. The reason for this is mainly because the depository definition most often referred to the target government publications, whereas public records laws usually specifically referred to documentation of transactions between the government and citizens.

The texts of the laws were collected on a wiki, with each state constituting its own page. Each page was tagged according to whether or not the word “electronic” was used explicitly when defining records. Other synonyms and terms were accepted in lieu of the word electronic, such as digital and “machine-readable”. Pages were also tagged for the states in which the law provided an interesting example. The author used these tags to help tally the number of states that used the word electronic, those which could include electronic, and those which did not include it. Although these methods were used for purely organizational purposes for the author, the use of a wiki and tags demonstrates the pervasive nature of technology today.

It should be pointed out that often the version of state legislation posted on government websites carried a disclaimer about the accuracy of the information posted.

The versions available on the web are not considered official, and therefore do not carry the guarantee of accuracy that the printed versions do.

## **Findings**

This study began with the stated purpose of discovering what the specific language is regarding electronic publications in state legislation. In part, this study is also meant to build on the work completed in the AALL survey to see if any progress has been made in the legislation since 2003. The results conclude that all but one state does address, either directly or indirectly, electronic formats in the legislation, but it appears that little progress has been made in the legislation to address electronic formats since the AALL survey.

The table on the following pages lists each state and the specific wording pertaining to the format of government information in each state's law. The third column, titled "Law Type" refers to the section of the law in which the definition was found. This determination was made by using either the title of the particular statute or the text of the entirety of the law in which the definition was found. In this column there are four main categories: library, records, depository, and government. One state, Michigan, had its definition in the Freedom of Information Act. The final column in the table lists the tag that was used to organize and identify which states mentioned electronic formats explicitly, and which states only included electronic formats implicitly.

Sixteen states<sup>4</sup> have laws that explicitly use the word electronic in the definition of government records. Surprisingly, some of the laws were written to include formats

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<sup>4</sup> Arizona, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, New Hampshire, New Jersey, Ohio, Oregon, Rhode Island, South Carolina, Tennessee, Texas, and Vermont

other than print long before electronic formats were an issue. Unfortunately, that means that these laws were designed to include formats like microfilm and computer disks, which do not have the same complexity of the electronic formats that are available today.

<i>States</i>	<i>Language</i>	<i>Law Type</i>	<i>Tag</i>
Alabama	"Any document"	Library	implicit
Alaska	"any official document, compilation, journal, bill, law, resolution, bluebook, statute, code, register, pamphlet, list, book, report, study, hearing transcript, leaflet, order, regulation, directory, periodical, or magazine issued or contracted for by a state agency"	Library	implicit
Arizona	"regardless of physical form or characteristics, including prints or copies of such items produced or reproduced on film or electronic media"	Library	explicit
Arkansas	"any document issued or printed"	Library	implicit
California	"regardless of physical form or characteristics"	Records	implicit
Colorado	"'State publication' includes, without limitation, information available electronically by means of computer diskettes, compact discs, computer tapes, other electronic storage media, or a public telecommunications network."	Depository	explicit
Connecticut	"all publications printed or otherwise produced in tangible form, and all publications produced in electronic or other intangible form"	Library	explicit
Delaware	"including electronic records created or maintained in electronic information systems"	Records	explicit
Florida	"whether in print or nonprint format"	Library	implicit
Georgia	"regardless of physical form or characteristics"	Records	implicit
Hawaii	N/A		
Idaho	"all documents, reports, surveys, monographs, serial publications, compilations, pamphlets, bulletins, leaflets, circulars, maps, charts or broadsides of a public nature which it produces for public distribution"	Library	none
Illinois	"all books, papers, digitized electronic material, maps, photographs, databases, or other official documentary materials, regardless of physical form or characteristics"	Records	explicit
Indiana	"all documentation of the informational, communicative or decisionmaking processes of state government...which is generated on...magnetic or machine readable media"	Records	explicit
Iowa	"and all electronic information sources in all electronic formats."	Depository	explicit
Kansas	"regardless of physical form or characteristics, storage media or condition of use"	Records	implicit
Kentucky	"regardless of physical form or characteristics"	Records	implicit
Louisiana	"regardless of format, method of reproduction, source, or copyright"	Depository	implicit

<i>States</i>	<i>Language</i>	<i>Law Type</i>	<i>Tag</i>
Maine	"regardless of number of pages, number of copies ordered, physical size, publication medium or intended audience inside or outside the agency"	Records	implicit
Maryland	"regardless of format"	Library	implicit
Massachusetts	"regardless of physical form or characteristics"	Government	implicit
Michigan	"handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content."	FOIA	implicit
Minnesota	"regardless of physical form or characteristics, storage media or conditions of use"	Records	implicit
Mississippi	"regardless of physical form or characteristics"	Records	implicit
Missouri	"regardless of physical form or characteristics"	Records	implicit
Montana	"regardless of format or medium, source or copyright, license, or trademark"	Depository	implicit
Nebraska	"Print shall include all forms of printing and duplicating, regardless of format or purpose...State publications shall include any multiply produced publications printed or purchased for distribution"	Library	implicit
Nevada	"any information in any format or medium"	Library	implicit
New Hampshire	"conveyed in a tangible physical format including electronic media, or disseminated via a state government electronic information service"	Library	explicit
New Jersey	"any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device"	Records	explicit
New Mexico	"regardless of physical form or characteristics"	Records	implicit
New York	"regardless of physical form or characteristics"	Records	implicit
North Carolina	"regardless of whether the printed document is in paper, film, tape, disk, or any other format"	Depository	implicit
North Dakota	"regardless of format, method of reproduction, or source"	Library	implicit
Ohio	"regardless of physical form or characteristic, including an electronic record"	Records	explicit
Oklahoma	"regardless of format, method of reproduction, or source"	Depository	implicit
Oregon	"includes informational matter produced on computer diskettes, CD-ROMs, computer tapes, the Internet or in other electronic formats."	Library	explicit
Pennsylvania	"Any printed or otherwise reproduced item prepared for distribution to the public"	Library	implicit
Rhode Island	"any publication regardless of physical form or characteristics produced, made available electronically, printed, purchased, or authorized for distribution by a state agency"	Library	explicit
South Carolina	"'Electronic' means publication only in a computerized	Library	explicit

<i>States</i>	<i>Language</i>	<i>Law Type</i>	<i>Tag</i>
	format"		
South Dakota	"regardless of format or purpose"	Library	implicit
Tennessee	"all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics"	Records	explicit
Texas	"information in any format, including materials in a physical format or in an electronic format"	Library	explicit
Utah	"regardless of physical form or characteristics"	Records	implicit
Vermont	"'Electronic media' means computer files, CD-ROMs, diskettes, tapes and other media capable of storing electronic, optical, magnetic or machine-readable data."	Library	explicit
Virginia	"regardless of physical form or characteristics"	Depository	implicit
Washington	"regardless of format"	Records	implicit
West Virginia	"whether in print or an unprinted format"	Library	implicit
Wisconsin	"regardless of the format or process by which produced"	Government	implicit
Wyoming	"regardless of physical form or characteristics"	Archives	implicit

Some states, however, have made recent changes to the law. Connecticut, for example, has revised its law as recently as 2007 to ensure that electronic documents are included in the definition of government publications. Other states, such as Kansas, have amended their public records definitions to include electronic formats, but not their government publications definition. Since the stated objective of this study was to focus on government publications, states like Kansas were considered to not recognize electronic formats in legislation.

Thirty-two states<sup>5</sup> have laws that implicitly include electronic formats in the definition of government records. The most common phrases related to format in the definition was "any format" or "regardless of physical format or characteristics". The definitions in these states are broad enough that electronic formats can be included without having to list the potential formats. In fact, many of the laws used the broad "any

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<sup>5</sup> Alabama, Alaska, Arkansas, California, Florida, Georgia, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Dakota, Utah, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

format” language in lieu of listing specific formats, and used exemption definitions to exclude publications and formats that are not considered to be government records. Such broad definitions have the potential to cause problems, especially since even the term “electronic” could refer to one of thousands of types of electronic formats that are available today.

It appears also that many states have not been hindered by the lack of a specific definition in the law. The Maryland Digital State Publications Task Force published a report in April 2007 that reviewed the status of their electronic government records. In the report, the task force notes that some of the states that they have contacted<sup>6</sup> do not have explicit mention of electronic formats in the state laws, but that they have nonetheless created electronic publication initiatives for their state. It does not appear that clearly defined legislation is the key to collecting and preserving government records. Despite this, the Maryland task force still recommends changing the law to be openly inclusive of electronic formats, and reports from other states seem to indicate that changing the definitions in the law is highly desirable.

There are several reasons why it is important to be specific about the definition of what constitutes a government record. First, it is of the utmost importance to ensure that government publications are collected and preserved for future generations. Yet it is a difficult task to select which government publications to collect when legislation provides little to no guidance in the matter. The decision must then be made at the discretion of the collecting institution. But electronic publishing via the internet has created new types

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<sup>6</sup> Namely North Carolina, Connecticut, New Jersey, Wisconsin, Illinois, Texas, Alaska, Arizona, Michigan, New Mexico, and Oregon.

of resources that traditionally have not been collected before, such as press releases, directories and web pages. (Lin & Eschenfelder, 2008) Digital publications have a tendency to change or even disappear without any announcement at all, and this is a real challenge to collection. (Dallas & Thornton, 2004)

The lack of a clear definition does not only affect libraries and archives, it touches everyone involved with these publications. The publishing government agencies in particular need to have a clear understanding of what is a government record and what is not, or else it is difficult for them to know what they must distribute. If the laws are too vague, agencies might debate which electronic documents they are required to distribute, and they might even argue about what their exact responsibilities are regarding electronic publications. (Lin & Eschenfelder, 2008) Government agencies do not always have the same access and preservation issues in mind that government information librarians do. In a 2003 article in *Library Journal*, Carolyn Kohler, government publications librarian at the University of Iowa is quoted as saying, “The agencies do understand that people want the information right now...I’m just not sure they get that people may still want it 20 years from now.” (Block, 2003)

In one state, Idaho, the law does not provide for the possibility of electronic formats in the definition of government records. In a 2006 assessment of state government records, Idaho recognized the need to adjust the state law to reflect the changes in publication methods for government records. (Nancy Bolt & Associates, 2006) Specifically, one of the goals highlighted in the document is to change the law so that it includes electronic formats explicitly. The hope is that changing the definition to be more inclusive will assist in the collection of all government records produced,

especially those in electronic format. In turn, this could improve the function of the state depository program, and allow for increased access and organization of government information available to the public. It is worth noting that Idaho is one of the states that, according to the Idaho Commission for Libraries website<sup>7</sup>, has implemented a records program to collect and preserve born-digital government publications.

The Lin article brings up an intriguing question; should legislation, in addition to including electronic formats, also further define and limit the types of electronic formats for government publications? With paper formats, there is no need to be more specific about the variety of paper formats available. But there are countless electronic formats that include not only text, but graphics, audio, video, relational databases and other dynamic elements that cannot ever be equated by printed formats. Consequently, simply adding the word "electronic" to the definition may actually create new problems, because there will inevitably be electronic formats that cannot be supported in the long term. This is a very interesting problem, because it appears that the legislation needs to be not only adjusted to include electronic formats explicitly, but to also expand that legislation to prevent possible complications from the distribution and preservation of electronic publications. Any new legislation might be better served if it is carefully researched to avoid problems with compatibility and preservation. And part of the solution may require the definition to be more specific than merely adding the word "electronic".

It may actually be the case that if the laws don't change now, there will be even larger problems down the road than just whether or not to collect electronic formats. There may be issues with poor program structure, no penalties for non-compliant

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<sup>7</sup> <http://libraries.idaho.gov>



agencies, and loss of access to important government information. Alternately, the lack of a more rigid definition could result in broad collection policies that would create a serious overload of information. Too much information is just as devastating as too little information, because it could overwhelm depository programs and make it difficult for citizens to find what they are looking for.

### **Conclusion**

The AALL report is extremely ambitious in one aspect; there is an expectation to discover not only if state legislation includes electronic formats, but to see if it also provides for permanent public access to the information. The author of this paper intended only to see if state legislatures have acknowledged the existence of electronic government records in legislation. As noted in the AALL report, more extensive legislation will be necessary to build a framework for permanent public access to electronic records. However, as a famous quote from Confucius says, “A journey of a thousand miles begins with a single step.”

It appears that on a legislative level not much progress has occurred since the AALL survey was published, though it is possible that the number of states involved in an electronic records program has increased given the awareness that the survey created. If indeed this is the case, it may be worth discovering why legislation has not been changed. Perhaps at a sufficiently distant date the AALL will complete an in-depth follow up on its survey to determine whether progress is being made in the area of electronic government records and permanent access, as well as the progress made in addressing new laws.

There is still plenty of room for further study involving legislation and electronic

government publications. Two specific areas of study that would be helpful are the implications that laws have on funding for programs that collect and preserve electronic publications, and agency compliance with depositing electronic publications. The first area is important because although electronic publishing saves a government money from publishing and distribution costs, the cost of collecting and preserving long-term access to those same electronic publications might not be proportionate. (Lavoie, 2003) Therefore some in-depth studies about the costs versus the benefits may be in order. It would also be interesting to see whether or not legislation would allow state depository programs, archives, or other institutions that serve as state publications repositories, to receive more government funding.

Compliance will also continue to be an interesting topic related to electronic government publications, because it is closely intertwined with the ability to provide access. If electronic publications are not being submitted as they should, then they are at risk of being lost forever. As pointed out by Langelier, “[a] successful depository system depends on the full cooperation of state agencies.” (Langelier, 1989) Even at the federal level, compliance from agencies is a big problem. In fact, “fugitive publications”, which are documents published by government agencies that are not sent to depository libraries (Block, 2003), comprise about half of all U.S. government printing. (Staley, 2007) It also brings up the question of what to do when agencies are not cooperating. For example, in Texas agencies are required to post their publications on their website, however there is no specific penalty for agencies that are not complying with the law. And there is no easy way of knowing what the compliance rate is to begin with.

In the past some states have confronted non-compliance by restructuring their depository programs. In 1984, North Carolina conducted a survey of its state government agencies to determine what their publishing practices were. The results of that survey indicated that less than one-fourth of state agency publications were being sent to the State Library, and that only half of the agencies were retaining copies of their printed publications. (Langelier, 1989) New York found a similar problem with its government publications system in 1986. While North Carolina and New York have since redesigned their depository systems, there will likely be the need to be updated to include provisions for electronic publications.

Unfortunately, legislation alone will not solve all of the issues involved with electronic government records. It is merely a component of what needs to be addressed to form a comprehensive solution. Perhaps armed with well-formed legislation, a well-planned depository program, good librarians and archivists, some government funding, and public support, electronic government records will continue to be readily available to all citizens, no matter which state they live in. In the interim, it will be the continued efforts of librarians and archivists that will hopefully fill the void until the governments of each state catch up with the growing issues of the electronic era.

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## **Appendix – List of State Laws**

This appendix includes the text of the specific state laws that were used in this study. In some instances more than one section or chapter was included if it enhanced the definition.

### **Alabama**

#### ***Title 41 - State Government - Chapter 8 - Alabama Public Library Service***

##### ***Section 41-8-41***

###### *Definitions.*

As used in this article, the following words shall have the following meanings:

- (1) DEPOSITORY. An institution which contracts with the Alabama Public Library Service to participate in the state publications depository system.
- (2) STATE AGENCY. Any permanent or temporary state office, department, division or unit, bureau, board, commission, task force, authority, institution, state college or university, or other unit of state government, whether executive, legislative, or judicial.
- (3) STATE PRINTER. The state print shop, a commercial printer under contract with a state agency, or a state agency print shop.
- (4) STATE PUBLICATION. Any document issued by a state agency which the agency may legally release for public distribution, but does not include any of the following:
  1. Code of Alabama.
  2. Bound volumes of the Acts of Alabama.
  3. Legislative bills, journals, and slip laws.
  4. The Alabama Digest.
  5. Alabama Reporter.
  6. Any other items prepared for commercial sales.
  7. Correspondence, interoffice or intraoffice memoranda, routine forms, other internal records, or any other item of a strictly administrative nature.
  8. Any document published pursuant to the Administrative Procedure Act.
  9. Indices prepared by the Legislative Reference Service.

Ala. Code § 41-8-41 (2008).

#### ***Chapter 13 - Public Records - Section 41-13-1***

###### *Public records defined.*

As used in this article, the term "public records" shall include all written, typed or printed books, papers, letters, documents and maps made or received in pursuance of law by the public officers of the state, counties, municipalities and other subdivisions of government in the transactions of public business and shall also include any record authorized to be made by any law of this state belonging or pertaining to any court of record or any other public record authorized by law or any paper, pleading, exhibit or other writing filed with, in or by any such court, office or officer.

Ala. Code § 41-13-1 (2008).



## **Alaska**

### ***Title 14. Education, Libraries, And Museums - Chapter 14.56. State And Community Libraries***

#### ***Sec. 14.56.180.***

##### Definitions.

In AS 14.56.090 - 14.56.180, unless the context otherwise requires,

- (1) "center" means the state library distribution and data access center;
- (2) "research data" or "data" means a representation of facts, concepts or instructions in a formalized manner suitable for communication, interpretation, or processing by humans or by automatic means that was prepared to serve as a basis for reasoning, calculation, discussion, or decision and that is determined appropriate for indexing by the state librarian;
- (3) "state agency" includes state departments, divisions, agencies, boards, associations, commissions, corporations, and offices, and the University of Alaska and its affiliated research institutes;
- (4) "state publication" includes any official document, compilation, journal, bill, law, resolution, bluebook, statute, code, register, pamphlet, list, book, report, study, hearing transcript, leaflet, order, regulation, directory, periodical, or magazine issued or contracted for by a state agency determined by the state librarian to be appropriate for retention in the center.

Alaska Stat. § 14.56.180 (2008).

## **Arizona**

### ***Title 41 - State Government - Chapter 8 - Agencies of the Legislative Department***

#### ***Article 3 - Arizona State Library, Archives and Public Records***

##### *41-1350. Definition of records*

In this chapter, unless the context otherwise requires, "records" means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, including prints or copies of such items produced or reproduced on film or electronic media pursuant to section 41-1348, 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 informational and historical value of data contained therein. Library or museum material made or acquired solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference and stocks of publications or documents intended for sale or distribution to interested persons are not included within the definition of records as used in this chapter. Ariz. Rev. Stat. Ann. § 41-1350 (2008).

## **Arkansas**

### ***Title 13 - Libraries, Archives, and Cultural Resources - Chapter 2 - Libraries***

#### ***Subchapter 2 — Arkansas State Library***

*13-2-201.* State and local publications defined — Exemptions.

(a) As used in this subchapter, the terms “state publication” and “local publication” shall include any document issued or printed by any state agency or local government which may be released for distribution, but these terms do not include:

- (1) The bound volumes of the printed acts of each of the sessions of the General Assembly;
- (2) The bound volumes of the Arkansas Supreme Court Reports;
- (3) Printed copies of the Arkansas Statutes Annotated of 1947 or pocket part supplements thereto;
- (4) Any other printed document which may be obtained from the office of the Secretary of State upon the payment of a charge or fee therefor;
- (5) Correspondence and intraoffice or interoffice or agency communications or documents which are not of vital interest to the public;
- (6) (A) Publications of state or local agencies intended or designed to be of limited distribution to meet the requirements of educational, cultural, scientific, professional, or similar use of a limited or restricted purpose and which are not designed for general distribution.  
(B) Similarly, other publications or printed documents which are prepared to meet the limited distribution requirements of a governmental grant or use which are not intended for general distribution shall also be deemed exempt from the provisions of this subchapter unless funds have been provided for printing of a quantity of such publications sufficient for distribution.

(b) A depository copy of each document noted in subdivisions (a)(1), (2), (3), and (6) shall be made available to the Arkansas State Library.

Ark. Code Ann. § 13-2-201 (2008).

## **California**

### ***Government Code - Section 14741***

*14740.* This chapter shall be known as the "State Records Management Act."

*14741.* As used in this chapter "record" or "records" means all papers, maps, exhibits, magnetic or paper tapes, photographic films and prints, punched cards, and other documents produced, received, owned or used by an agency, regardless of physical form or characteristics. Library and museum materials made or acquired and preserved solely for reference or exhibition purposes, and stocks of publications and of processed documents are not included within the definition of the term "record" or "records" as used in this chapter.

Cal. Gov't Code § 14741 (West 2008).

## **Colorado**

### ***Title 24, Article 80 - State History, Archives, And Emblems***

*24-90-202*. Definitions.

As used in this part 2, unless the context otherwise requires:

- (1) "Center" means that section of the state library responsible for the state publications depository and distribution functions.
- (2) "Depository library" means a library designated to collect, maintain, and make available to the general public state agency publications.
- (3) "State agency" means every state office, whether legislative, executive, or judicial, and all of its respective officers, departments, divisions, bureaus, boards, commissions, and committees, all state-supported colleges and universities which are defined as state institutions of higher education, and other agencies which expend state-appropriated funds.
- (4) "State publication" means any information for public distribution, regardless of format, method of reproduction, source, or copyright that is produced, purchased for distribution, or authorized, with the imprint of, or at the total or partial expense of the agency, with the exception of correspondence, interoffice memoranda, or those items detailed by section 24-72-204. "State publication" includes, without limitation, information available electronically by means of computer diskettes, compact discs, computer tapes, other electronic storage media, or a public telecommunications network. Colo. Rev. Stat. § 24-90-202 (2008).

## **Connecticut**

### ***Title 11 - Chapter 188 - State Library***

*Sec. 11-9b*. Definitions. As used in this section and sections 11-9c and 11-9d:

- (a) "State publications" means all publications printed or otherwise produced in tangible form, and all publications produced in electronic or other intangible form, by or under the direction of the state or any officer thereof, or any other agency supported wholly or in part by state funds;
- (b) "Publication" means any document issued by a state agency that is available to the public, regardless of format or purpose, including legislatively mandated reports, with the exception of routine correspondence;
- (c) "State agency" means every state office, officer, department, division, bureau, board and commission, permanent or temporary in nature, whether legislative, executive or judicial, and any subdivisions of each, including state-supported institutions of higher education;
- (d) "Depository library" means the designated library for collecting, maintaining and making available to the general public Connecticut state agency publications. Conn. Gen. Stat. § 11-9b (2008).

## **Delaware**

***Title 29 - State Government - General Provisions - Chapter 5. State Archives And Historical Objects***

***Subchapter I. Public Records***

§ 502. Definitions.

As used in this subchapter, the following terms shall have the meanings indicated:

- (1) "Agency" means any office, department, board, commission or other separate unit of government of this State, including all branches of government: Executive, legislative and judicial.
  - (2) "Archival record" means those records that contain significant information about the past or present or provide significant evidence of the organization, policies, procedures, decisions and essential transactions of public business and are therefore worthy of long-term preservation and systematic management for historical and other research.
  - (3) "Custodian of public records" means the person designated, pursuant to § 520 of this title, or who is otherwise responsible for the creation or maintenance of public records.
  - (4) "Electronic record" means a public record that is stored, generated, received or communicated by electronic means for use by, or storage in, an information system or for transmission from one information system to another.
  - (5) "Governing body" means the county council, levy court, city or town council, board or commission or other body authorized by law to govern the affairs of local government.
  - (6) "Local government" means any county, city, town, municipality or other government, created by an act of the General Assembly, that is not a state agency, department, board or commission.
  - (7) "Public record" means any document, book, photographic image, electronic data recording, paper, sound recording or other material regardless of physical form or characteristics, including electronic records created or maintained in electronic information systems, made, used, produced, composed, drafted or otherwise compiled or collected or received in connection with the transaction of public business or in any way related to public purposes by any officer or employee of this State or any political subdivision thereof.
  - (8) "Political subdivision" includes counties, cities, towns, districts, authorities and other public corporations and entities whether mandated by the Constitution or formed by an act of the General Assembly.
  - (9) "Records officer" means any person or persons designated according to the provisions of this chapter, whose responsibilities include the development and oversight of agency or local government records management programs.
  - (10) "Records retention and disposition schedule" means a list or other instrument describing records and their minimum retention periods which is issued by the Delaware Public Archives.
  - (11) "Vital records" means those records which contain information required for government to continue functioning during a disaster, protect the rights of Delaware citizens and document the obligations of Delaware government, and reestablish operations after a calamity has ended.
- Del. Code Ann. tit. 29, § 502 (2008).

## Florida

### *Title XVIII - Public Lands And Property - Chapter 257 - Public Libraries And State Archives*

257.05 Public documents; delivery to, and distribution by, division.-

(1) The term "public document" as used in this section means any document, report, directory, bibliography, rule, newsletter, pamphlet, brochure, periodical, or other publication, whether in print or nonprint format, that is paid for in whole or in part by funds appropriated by the Legislature and may be subject to distribution to the public; however, the term excludes publications for internal use by an executive agency as defined in s. 283.30.

(2)(a) Each state official, state department, state board, state court, or state agency issuing public documents shall furnish the Division of Library and Information Services of the Department of State 35 copies of each of those public documents, as issued, for deposit in and distribution by the division. However, if the division so requests, as many as 15 additional copies of each public document shall be supplied to it.

(b) If any state official, state department, state board, state court, or state agency has fewer than 40 copies of any public document, it shall supply the division with 2 copies of each such public document for deposit in the State Library.

(c) By December 31 of each year, any state official, state department, state board, state court, or state agency issuing public documents shall furnish to the division a list of all public documents, including each publication that is on the agency's website, issued by the official, department, board, court, or agency during that calendar year.

(d) As issued, daily journals and bound journals of each house of the Legislature; slip laws and bound session laws, both general and special; and Florida Statutes and supplements thereto shall be furnished to the division by the state official, department, or agency having charge of their distribution. The number of copies furnished shall be determined by requests of the division, which number in no case may exceed 35 copies of the particular publication.

(3) It is the duty of the division to:

(a) Designate university, college, and public libraries as depositories for public documents and to designate certain of these depositories as regional centers for full collections of public documents.

(b) Provide a system of distribution of the copies furnished to it under subsection (2) to such depositories.

(c) Publish a periodic bibliography of the publications of the state.

The division may exchange copies of public documents for those of other states, territories, and countries. Depositories receiving public documents under this section shall keep them in a convenient form accessible to the public.

Fla. Stat. § 257.05 (2008).

## Georgia

### *Title 50 - State Government - Chapter 18 - State Printing and Documents*

### ***Article 5. State Records Management***

*O.C.G.A. § 50-18-91 (2007)*

§ 50-18-91. Definitions

As used in this article, the term:

- (1) "Agency" means any state office, department, division, board, bureau, commission, authority, or other separate unit of state government created or established by law.
  - (2) "Court record" means all documents, papers, letters, maps, books (except books formally organized in libraries), microfilm, magnetic tape, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or, in the necessary performance of any judicial function, created or received by an official of the Supreme Court, Court of Appeals, and any superior, state, juvenile, probate, or magistrate court. "Court record" includes records of the offices of the judge, clerk, prosecuting attorney, public defender, court reporter, or any employee of the court.
  - (3) "Division" means the Division of Archives and History of the Office of the Secretary of State.
  - (4) "Georgia State Archives" means an establishment maintained by the division for the preservation of those records and other papers that have been determined by the division to have sufficient historical and other value to warrant their continued preservation by the state and that have been accepted by the division for deposit in its custody.
  - (5) "Records" means all documents, papers, letters, maps, books (except books in formally organized libraries), microfilm, magnetic tape, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in performance of functions by any agency.
  - (6) "Records center" means an establishment maintained by the division primarily for the storage, processing, servicing, and security of public records that must be retained for varying periods of time but need not be retained in an agency's office equipment or office space.
  - (7) "Record series" means documents or records having similar physical characteristics or relating to a similar function or activity that are filed in a unified arrangement.
  - (8) "Records management" means the application of management techniques to the creation, utilization, maintenance, retention, preservation, and disposal of records undertaken to reduce costs and improve efficiency of record keeping. "Records management" includes management of filing and microfilming equipment and supplies; filing and information retrieval systems; files, correspondence, reports, and forms management; historical documentation; micrographics; retention programming; and vital records protection.
  - (9) "Retention schedule" means a set of disposition instructions prescribing how long, where, and in what form a record series shall be kept.
  - (10) "Vital records" means any record vital to the resumption or continuation of operations, or both; to the re-creation of the legal and financial status of government in the state; or to the protection and fulfillment of obligations to citizens of the state.
- Ga. Code Ann. § 50-18-91 (West 2008).

**Idaho**

***Title 33 - Education - Chapter 25 - Commission for Libraries***

33-2505. State Librarian - Depository for Public Documents - Distribution. It shall be the duty of the head of every agency, board, bureau, commission or department of the state of Idaho, including all state supported institutions of higher education in Idaho, to deposit with the librarian of the Idaho commission for libraries twenty (20) copies of all documents, reports, surveys, monographs, serial publications, compilations, pamphlets, bulletins, leaflets, circulars, maps, charts or broadsides of a public nature which it produces for public distribution. The deposit of information with the state librarian is intended to allow the information to be used and distributed to academic, regional, public, and special libraries in Idaho, the Library of Congress, and to others within the discretion of the state librarian.

Idaho Code Ann. § 33-2505 (2008).

**Illinois**

***General Provisions - (5 ILCS 160/) State Records Act.***

***(5 ILCS 160/2) (from Ch. 116, par. 43.5)***

Sec. 2. For the purposes of this Act:

"Secretary" means Secretary of State.

"Record" or "records" means all books, papers, digitized electronic material, maps, photographs, databases, or other official documentary materials, regardless of physical form or characteristics, made, produced, executed or received by any agency in the State in pursuance of state law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its successor as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the State or of the State Government, or because of the informational data contained therein. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of blank forms are not included within the definition of records as used in this Act. Reports of impaired physicians under Section 16.04 of the Medical Practice Act or Section 23 of the Medical Practice Act of 1987 are not included within the definition of records as used in this Act.

"Agency" means all parts, boards, and commissions of the executive branch of the State government including but not limited to State colleges and universities and their governing boards and all departments established by the "Civil Administrative Code of Illinois," as heretofore or hereafter amended.

"Public Officer" or "public officers" means all officers of the executive branch of the State government, all officers created by the "Civil Administrative Code of Illinois," as heretofore or hereafter amended, and all other officers and heads, presidents, or chairmen of boards, commissions, and agencies of the State government.

"Commission" means the State Records Commission.

"Archivist" means the Secretary of State.

5 Ill. Comp. Stat. 160/2 (2008).

## **Indiana**

### ***IC 5-15-5.1 - Chapter 5.1. State Commission on Public Records***

#### *IC 5-15-5.1-1*

##### Definitions

Sec. 1. As used in this chapter:

"Commission" means the commission on public records created by this chapter.

"Record" means all documentation of the informational, communicative or decisionmaking processes of state government, its agencies and subdivisions made or received by any agency of state government or its employees in connection with the transaction of public business or government functions, which documentation is created, received, retained, maintained, or filed by that agency or its successors as evidence of its activities or because of the informational value of the data in the documentation, and which is generated on:

- (1) paper or paper substitutes;
- (2) photographic or chemically based media;
- (3) magnetic or machine readable media; or
- (4) any other materials, regardless of form or characteristics.

"Nonrecord materials" means all identical copies of forms, records, reference books, and exhibit materials which are made, or acquired, and preserved solely for reference use, exhibition purposes, or publication and which are not included within the definition of record.

"Personal records" means:

- (1) all documentary materials of a private or nonpublic character which do not relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of a public official, including: diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal which are not prepared or utilized for, or circulated or communicated in the course of, transacting government business; or
- (2) materials relating to private political associations, and having no relation to or effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of a public official and are not deemed public records.

"Form" means every piece of paper, transparent plate, or film containing information, printed, generated, or reproduced by whatever means, with blank spaces left for the entry of additional information to be used in any transaction involving the state.

"Agency" means any state office, department, division, board, bureau, commission, authority, or other separate unit of state government established by the constitution, law, or by executive or legislative order.

"Public official" means an individual holding a state office created by the Constitution of Indiana, by act or resolution of the general assembly, or by the governor; all officers of the executive and administrative branch of state government; and all other officers, heads, presidents, or chairmen of agencies of state government.

"Indiana state archives" means the program maintained by the commission for the preservation of those records and other government papers that have been determined by



the commission to have sufficient permanent values to warrant their continued preservation by the state.

"Forms management" means the program maintained by the commission to provide continuity of forms design procedures from the form's origin up to its completion as a record by determining the form's size, style and size of type; format; type of construction; number of plies; quality, weight and type of paper and carbon; and by determining the use of the form for data entry as well as the distribution.

"Information management" means the program maintained by the commission for the application of management techniques to the purchase, creation, utilization, maintenance, retention, preservation, and disposal of forms and records undertaken to improve efficiency and reduce costs of recordkeeping; including management of filing and microfilming equipment and supplies, filing and information retrieval systems, files, correspondence, reports and forms management, historical documentation, micrographic retention programming, and critical records protection.

"Records center" means a program maintained by the commission primarily for the storage, processing, retrieving, servicing, and security of government records that must be retained for varying periods of time but should not be maintained in an agency's office equipment or space.

"Critical records" means records necessary to resume or continue governmental operations, the reestablishing of the legal and financial responsibilities of government in the state, or to protect and fulfill governmental obligations to the citizens of the state.

"Retention schedule" means a set of instructions prescribing how long, where, and in what form a record series shall be kept.

"Records series" means documents or records that are filed in a unified arrangement, and having similar physical characteristics or relating to a similar function or activity.

"Records coordinator" means a person designated by an agency to serve as an information liaison person between the agency and the commission.

Ind. Code § 5-15-5.1-1 (2008).

## **Iowa**

286—3.9(256) Iowa Depository for Iowa Publications Purpose. The depository library center is established within the state library to serve as the central agency for the collection and distribution of publications issued by state agencies to depository libraries.

3.9(1) Definitions.

“Core depository” shall receive only those publications found on the periodically compiled core list.

“Core list” of Iowa state documents is a selected list intended to meet the basic document needs of libraries.

“Depository library” means a library designated for the deposit of state publications.

“Depository library center” shall be the headquarters for the state documents depository program and shall also be referred to as the “state documents center.”

“Full depository” shall be a library receiving everything collected by the depository library center.

“Permanent depository” shall be a library receiving and permanently maintaining two copies of each state publication.

“State agency” means a legislative, executive, or judicial office of the state and all of its respective offices, departments, divisions, bureaus, boards, commissions, committees, and state institutions of higher education governed by the state board of regents.

“State publications” are defined as any multiply produced informational products or materials regardless of format, method of reproduction, or source, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. The definition incorporates those publications that may or may not be financed by state funds but are released by private bodies such as research and consultant firms under contract with or supervision of any state agency. State information products specifically include, but are not limited to, public documents appearing as reports, directories, statistical compendiums, bibliographies, lists, state plans, statutes, codes, laws and bills, rules, regulations, transcripts of public hearings, journals, newsletters, bulletins, periodicals, books, pamphlets, brochures, charts, maps, surveys, other printed matter, audiovisual materials, microfilm, microfiche, and all electronic information sources in all electronic formats. State information products do not include correspondence and memoranda intended solely for internal use within the agency or between agencies, materials designated by law as being confidential, materials excluded from this definition by the department through the adoption and enforcement of rules, and materials determined by the depository library center staff to be exempt. Iowa Code § 256.3 (2008).

## **Kansas**

### ***Chapter 45 - Public Records, Documents and Information - Article 4 - Public Records Preservation***

45-402. Definitions. As used in this act:

- (a) "State agency" means any department, board, commission, or authority of the executive branch of state government.
- (b) "Local agency" means any department, board, commission, officer or authority of a county, city, township, school district or other tax-supported governmental subdivision of the state.
- (c) "Board" means the state records board established pursuant to K.S.A. 75-3502 and amendments thereto.
- (d) "Government records" means all volumes, documents, reports, maps, drawings, charts, indexes, plans, memoranda, sound recordings, microfilms, photographic records and other data, information or documentary material, regardless of physical form or characteristics, storage media or condition of use, made or received by an agency in pursuance of law or in connection with the transaction of official business or bearing upon the official activities and functions of any governmental agency. Published material acquired and preserved solely for reference purposes, extra copies of documents preserved only for convenience of reference and stocks of publications, blank forms and duplicated documents are not included within the definition of government records.
- (e) "Noncurrent government records" means all government records which no longer are necessary for the handling of ordinary official public business by the agency and which are not required by law to be retained in the immediate custody of the agency for a longer

period of time.

(f) "Government records with enduring value" means all government records which merit preservation for historical, legal, fiscal or administrative reasons, or for research purposes.

(g) "Retention and disposition schedules" means lists of series of government records, prepared pursuant to K.S.A. 45-404 and subsections (c) and (d) of K.S.A. 45-406, and amendments thereto, specifying which series of records have enduring value, authorizing disposition of certain other series of records, and indicating how long certain series of records should be retained before disposition of them.

Kan. Stat. Ann. § 45-402 (2008).

### ***Article 5 - Miscellaneous Provisions***

#### ***45-501.***

Records made on electronically-accessed media; authorization; conditions and procedures, application; notice to state records board. (a) Whenever any state agency or local agency is required by law to make a record or to record any transaction or any instrument, paper or document, the making of such record on computer disk, tape or other electronically accessed media, in accordance with this section, shall be deemed to be recording or the making of the record as required by law.

Kan. Stat. Ann. § 45-501 (2008).

### **Kentucky**

#### ***171.410 Definitions for KRS 171.420 to 171.740.***

As used in KRS 171.420 to 171.740:

(1) "Public record or record" means all books, papers, maps, photographs, cards, tapes, disks, diskettes, recordings, and other documentary materials, regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency. "Public record" shall not include any records owned by a private person or corporation that are not related to functions, activities, programs or operations funded by state or local authority;

(2) "Department" means the Department for Libraries and Archives;

(3) "Commission" means the State Archives and Records Commission; and

(4) "Public agency" means every state or local office, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city governing body, council, school district board, special district board, municipal corporation, and any board, department, commission, committee, subcommittee, ad hoc committee, council or agency thereof; and any other body which is created by state or local authority and which derives at least twenty-five percent (25%) of its funds from state or local authority.

Ky. Rev. Stat. Ann. § 171.410 (West 2008).

### **Louisiana**

***Louisiana Revised Statutes - Title 25 - Public Documents Depository System***

***§121. Policy***

Freedom of Access to public documents is a basic right of citizenship. Therefore, it is the policy of the state of Louisiana that public documents shall be made available to the public. In order to obtain maximum efficient distribution and maximum availability of these documents, a depository system is hereby established.

***§121.1 Definitions***

As used in this Chapter, the following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) "Public document" means any informational matter, for public distribution regardless of format, method of reproduction, source, or copyright, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. Correspondence and inter-office or intra-office memoranda and records of an archival nature are excluded.

(2) "State agency" means an office, department, board, bureau, commission, council, institution, college or university, division, officer, or other person or group authorized to exercise or that exercises any of the functions of the government of the state of Louisiana.

(3) "Depository" means an institution which contracts with the State Librarian to participate in the Public Document Depository System. §122. Establishment of depositories; administration of depository system; documents; rules and regulations.

A. The State Librarian shall be responsible for establishing a system of depositories for state public documents, and for the deposit and distribution of state public documents to the depositories.

B. The State Librarian shall adopt and promulgate rules and regulations, and enter into agreements with depositories, as necessary to implement the provisions of this Chapter.

La. Rev. Stat. Ann. § 25:121.1 (2008).

**Maine**

***Title 1: General Provisions - Chapter 13: Public Records and Proceedings Heading: PL 1975, c. 758 (rpr)***

***Subchapter 3: Printing and Purchase of Documents and Laws***

***§501-A. Publications of state agencies***

1. Definitions. As used in this section, the term "publications" includes periodicals; newsletters; bulletins; pamphlets; leaflets; directories; bibliographies; statistical reports; brochures; plan drafts; planning documents; reports; special reports; committee and commission minutes; informational handouts; and rules and compilations of rules, regardless of number of pages, number of copies ordered, physical size, publication medium or intended audience inside or outside the agency. [ 1997, c. 299, §1 (NEW) .]

2. Production and distribution. The publications of all agencies, the University of Maine System and the Maine Maritime Academy may be printed, bound and distributed, subject to Title 5, sections 43 to 46. The State Purchasing Agent may determine the style in which publications may be printed and bound, with the approval of the Governor. [ 1997,

*c. 299, §1 (NEW) .]*

3. Annual or biennial reports. Immediately upon receipt of any annual or biennial report that is not included in the Maine State Government Annual Report provided for in Title 5, sections 43 to 46, the State Purchasing Agent shall deliver at least 55 copies of that annual or biennial report to the State Librarian for exchange and library use. The State Purchasing Agent shall deliver the balance of the number of each such report to the agency that prepared the report. [ *1997, c. 299, §1 (NEW) .]*

4. State agency and legislative committee publications. Except as provided in subsection 5, any agency or legislative committee issuing publications, including publications in an electronic format, shall deliver 18 copies of the publications in the published format to the State Librarian. These copies must be furnished at the expense of the issuing agency. Publications not furnished upon request will be reproduced at the expense of the issuing agency. The agency or committee preparing a publication may determine the date on which a publication may be released, except as otherwise provided by law. [ *1997, c. 299, §1 (NEW) .]*

5. Electronic publishing. An agency or committee that electronically publishes information to the public is only required to provide the State Librarian with one printed copy of an electronically published publication. An electronically published publication is not required to be provided to the State Librarian if the publication is also published in print or in an electronic format and is provided to the State Librarian in compliance with subsection 4 or the publication is:

A. Designed to provide the public with current information and is subject to frequent additions and deletions, such as current lists of certified professionals, daily updates of weather conditions or fire hazards; or [ *1997, c. 299, §1 (NEW) .]*

B. Designed to promote the agency's services or assist citizens in use of the agency's services, such as job advertisements, application forms, advertising brochures, letters and memos. [ *1997, c. 299, §1 (NEW) .]* [ *1997, c. 299, §1 (NEW) .]*

6. Forwarding of requisitions. The State Purchasing Agent, Central Printing and all other printing operations within State Government shall forward to the State Librarian upon receipt one copy of all requisitions for publications to be printed. [ *1997, c. 299, §1 (NEW) .]*

Me. Rev. Stat. Ann. tit. 1, § 501 (2008).

## **Maryland**

### ***Maryland Code - Education - Title 23 - Libraries***

#### ***Subtitle 3. State Publications Depository and Distribution Program.***

§ 23-301. Definitions.

(a) In general.- In this subtitle the following words have the meanings indicated.

(b) Depository library.-

(1) "Depository library" means a library designated for the receipt and maintenance of State publications.

(2) "Depository library" includes:

(i) The State Library Resource Center;

- (ii) The Maryland Department of Legislative Services Library;
  - (iii) The State Archives;
  - (iv) The Maryland State Law Library;
  - (v) The McKeldin Library of the University of Maryland;
  - (vi) The Library of Congress; and
  - (vii) Any other library designated by the Commission on State Publications Depository and Distribution Program as a depository library.
- (c) Program.- "Program" means the State Publications Depository and Distribution Program.
- (d) State agency.- "State agency" means any permanent or temporary State office, department, division or unit, bureau, board, commission, task force, authority, institution, State college or university, and any other unit of State government, whether executive, legislative, or judicial, and includes any subunits of State government.
- (e) State publication.-
- (1) "State publication" means informational materials produced, regardless of format, by the authority of, or at the total or partial expense of any State agency.
  - (2) "State publication" includes a publication sponsored by a State agency, issued in conjunction with, or under contract with the federal government, local units of government, private individuals, institutions, corporations, research firms, or other entities.
  - (3) "State publication" does not include correspondence, interoffice and intraoffice memoranda, routine forms or other internal records, publications of bicounty agencies which comply with this program as required in § 23-304 of this subtitle, or any informational listing which any State statute provides shall be sold to members of the public for a fee.
- Md. Code Ann., Educ. § 23-101 (West 2008).

## **Massachusetts**

### ***Part I. Administration of the Government - Title I. Jurisdiction and Emblems of the Commonwealth, the General Court, Statutes and Public Documents***

#### ***Chapter 4. Statutes***

##### *Chapter 4: Section 7. Definitions of statutory terms; statutory construction*

Twenty-sixth, "Public records" shall mean all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, unless such materials or data fall within the following exemptions in that they are:

- (a) specifically or by necessary implication exempted from disclosure by statute;
- (b) related solely to internal personnel rules and practices of the government unit, provided however, that such records shall be withheld only to the extent that proper performance of necessary governmental functions requires such withholding;

- (c) personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy;
- (d) inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this subclause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based;
- (e) notebooks and other materials prepared by an employee of the commonwealth which are personal to him and not maintained as part of the files of the governmental unit;
- (f) investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest;
- (g) trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy and upon a promise of confidentiality; but this subclause shall not apply to information submitted as required by law or as a condition of receiving a governmental contract or other benefit;
- (h) proposals and bids to enter into any contract or agreement until the time for the opening of bids in the case of proposals or bids to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or to award a contract to, a particular person;
- (i) appraisals of real property acquired or to be acquired until (1) a final agreement is entered into; or (2) any litigation relative to such appraisal has been terminated; or (3) the time within which to commence such litigation has expired;
- (j) the names and addresses of any persons contained in, or referred to in, any applications for any licenses to carry or possess firearms issued pursuant to chapter one hundred and forty or any firearms identification cards issued pursuant to said chapter one hundred and forty and the names and addresses on sales or transfers of any firearms, rifles, shotguns, or machine guns or ammunition therefor, as defined in said chapter one hundred and forty and the names and addresses on said licenses or cards;  
[State Library Laws. There is no subclause (k)]
- (l) questions and answers, scoring keys and sheets and other materials used to develop, administer or score a test, examination or assessment instrument; provided, however, that such materials are intended to be used for another test, examination or assessment instrument;
- (m) contracts for hospital or related health care services between (i) any hospital, clinic or other health care facility operated by a unit of state, county or municipal government and (ii) a health maintenance organization arrangement approved under chapter one hundred and seventy-six I, a nonprofit hospital service corporation or medical service corporation organized pursuant to chapter one hundred and seventy-six A and chapter one hundred and seventy-six B, respectively, a health insurance corporation licensed under chapter one hundred and seventy-five or any legal entity that is self insured and provides health care benefits to its employees.
- (n) records, including, but not limited to, blueprints, plans, policies, procedures and

schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (b) of section 10 of chapter 66, is likely to jeopardize public safety.

(o) the home address and home telephone number of an employee of the judicial branch, an unelected employee of the general court, an agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of a political subdivision thereof or of an authority established by the general court to serve a public purpose, in the custody of a government agency which maintains records identifying persons as falling within those categories; provided that the information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180, or a criminal justice agency as defined in section 167 of chapter 6.

(p) the name, home address and home telephone number of a family member of a commonwealth employee, contained in a record in the custody of a government agency which maintains records identifying persons as falling within the categories listed in subclause (o).

Subclause (q) of clause Twenty-sixth added by 2007, 109, Sec. 1 effective December 5, 2007.

(q) Adoption contact information and indices therefore of the adoption contact registry established by section 31 of chapter 46.

Any person denied access to public records may pursue the remedy provided for in section ten of chapter sixty-six.

Mass. Gen. Laws ch. 4, § 7 (2008).

## **Michigan**

### ***Freedom Of Information Act - Act 442 of 1976***

15.232 Definitions.

Sec. 2. As used in this act:

(a) "Field name" means the label or identification of an element of a computer data base that contains a specific item of information, and includes but is not limited to a subject heading such as a column header, data dictionary, or record layout.

(b) "FOIA coordinator" means either of the following:

(i) An individual who is a public body.

(ii) An individual designated by a public body in accordance with section 6 to accept and process requests for public records under this act.

(c) "Person" means an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity. Person does not include an individual serving a sentence of imprisonment in a state or county correctional facility in this state or any other state, or in a federal correctional facility.

(d) "Public body" means any of the following:



(i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of the state government, but does not include the governor or lieutenant governor, the executive office of the governor or lieutenant governor, or employees thereof.

(ii) An agency, board, commission, or council in the legislative branch of the state government.

(iii) A county, city, township, village, intercounty, intercity, or regional governing body, council, school district, special district, or municipal corporation, or a board, department, commission, council, or agency thereof.

(iv) Any other body which is created by state or local authority or which is primarily funded by or through state or local authority.

(v) The judiciary, including the office of the county clerk and employees thereof when acting in the capacity of clerk to the circuit court, is not included in the definition of public body.

(e) "Public record" means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. Public record does not include computer software. This act separates public records into the following 2 classes:

(i) Those that are exempt from disclosure under section 13.

(ii) All public records that are not exempt from disclosure under section 13 and which are subject to disclosure under this act.

(f) "Software" means a set of statements or instructions that when incorporated in a machine usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result. Software does not include computer-stored information or data, or a field name if disclosure of that field name does not violate a software license.

(g) "Unusual circumstances" means any 1 or a combination of the following, but only to the extent necessary for the proper processing of a request:

(i) The need to search for, collect, or appropriately examine or review a voluminous amount of separate and distinct public records pursuant to a single request.

(ii) The need to collect the requested public records from numerous field offices, facilities, or other establishments which are located apart from the particular office receiving or processing the request.

(h) "Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content.

(i) "Written request" means a writing that asks for information, and includes a writing transmitted by facsimile, electronic mail, or other electronic means.

Mich. Comp. Laws § 15.232 (2008).

## **Minnesota**

### ***138.17 Government Records; Administration.***

*Subdivision 1.* Destruction, preservation, reproduction of records; prima facie evidence.

(a) The attorney general, legislative auditor in the case of state records, state auditor in the case of local records, and director of the Minnesota Historical Society, hereinafter director, shall constitute the Records Disposition Panel. The members of the panel shall have power by majority vote to direct the destruction or sale for salvage of government records determined to be no longer of any value, or to direct the disposition by gift to the Minnesota Historical Society or otherwise of government records determined to be valuable for preservation. The Records Disposition Panel may by majority vote order any of those records to be reproduced by photographic or other means, and order that photographic or other reproductions be substituted for the originals of them. It may direct the destruction or sale for salvage or other disposition of the originals from which they were made. Photographic or other reproductions shall for all purposes be deemed the originals of the records reproduced when so ordered by the records disposition panel, and shall be admissible as evidence in all courts and in proceedings of every kind. A facsimile, exemplified or certified copy of a photographic, optical disk imaging, or other reproduction, or an enlargement or reduction of it, shall have the same effect and weight as evidence as would a certified or exemplified copy of the original. The Records Disposition Panel, by majority vote, may direct the storage of government records, except as herein provided, and direct the storage of photographic or other reproductions. Photographic or other reproductions substituted for original records shall be disposed of in accordance with the procedures provided for the original records.

(b) For the purposes of this chapter:

(1) the term "government records" means state and local records, including all cards, correspondence, discs, maps, memoranda, microfilms, papers, photographs, recordings, reports, tapes, writings, optical disks, and other data, information, or documentary material, regardless of physical form or characteristics, storage media or conditions of use, made or received by an officer or agency of the state and an officer or agency of a county, city, town, school district, municipal subdivision or corporation or other public authority or political entity within the state pursuant to state law or in connection with the transaction of public business by an officer or agency;

(2) the term "state record" means a record of a department, office, officer, commission, commissioner, board or any other agency, however styled or designated, of the executive branch of state government; a record of the state legislature; a record of any court, whether of statewide or local jurisdiction; and any other record designated or treated as a state record under state law;

(3) the term "local record" means a record of an agency of a county, city, town, school district, municipal subdivision or corporation or other public authority or political entity;

(4) the term "records" excludes data and information that does not become part of an official transaction, library and museum material made or acquired and kept solely for reference or exhibit purposes, extra copies of documents kept only for convenience of reference and stock of publications and processed documents, and bonds, coupons, or other obligations or evidences of indebtedness, the destruction or other disposition of which is governed by other laws;

(5) the term "state archives" means those records preserved or appropriate for preservation as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of government or because of the value of the information

contained in them, when determined to have sufficient historical or other value to warrant continued preservation by the state of Minnesota and accepted for inclusion in the collections of the Minnesota Historical Society.

(c) If the decision is made to dispose of records by majority vote, the Minnesota Historical Society may acquire and retain whatever they determine to be of potential historical value.

Minn. Stat. § 138.17 (2008).

## **Mississippi**

### § 25-59-3. Definitions.

For the purposes of this chapter:

(a) "Department" shall mean the Mississippi Department of Archives and History.

(b) "Public records" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings or other materials regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency or by any appointed or elected official. Books, periodicals and other published material normally found in a library are excluded from this definition.

(c) "State record" shall mean a record which normally is maintained within the custody or control of a state agency or by any appointed or elected state official or any other record which is designated or treated as a state record according to general law.

(d) "Vital record" shall mean any record vital to the resumption of the legal and financial status of government in the state or to the protection and fulfillment of obligations to the citizens of the state of Mississippi.

(e) "Agency" shall mean any state office, department, division, board, bureau, commission, institution of higher learning or other separate unit or institution of state government created or established by law.

(f) "Mississippi State Archives" shall mean an establishment maintained by the department for the preservation of those public records and other documentary materials that have been determined by the department to have sufficient historical or other enduring value to warrant their continued preservation by the state and that have been accepted by the department for deposit in its custody.

(g) "Records center" shall mean an establishment maintained by the department primarily for the processing, servicing and security of public records that must be retained for varying periods of time but need not be retained in an agency's office, equipment or space.

(h) "Records control schedule" shall mean a set of instructions prescribing how long, where or in what form records shall be kept.

(i) "Records management" shall mean the application of management techniques to the creation, utilization, maintenance, retention, preservation and disposal of records undertaken to reduce costs and improve efficiency of record-keeping. Records management includes management of filing and microfilm equipment and supplies, filing and information retrieval systems, historical documentation, micrographics, records system scheduling and vital records protection.

(j) "Director" shall mean the director of the Mississippi Department of Archives and

History.

(k) "State records committee" shall mean a committee established by this chapter whose duties are to review, approve, disapprove, amend or modify records control schedules submitted by agency heads.

Miss. Code Ann. § 25-59-3 (2008).

## **Missouri**

### ***Chapter 109 - Public and Business Records***

*Section 109.210 - August 28, 2007*

Definitions.

109.210. As used in sections 109.200 to 109.310 the following words and terms have the meanings indicated, unless the context clearly requires otherwise:

- (1) "Agency", any department, office, commission, board or other unit of state government or any political or administrative subdivisions created for any purpose under the authorities of or by the state of Missouri;
- (2) "Boards", the local records board;
- (3) "Commission", the state records commission;
- (4) "Local record", any record not a state record;
- (5) "Record", document, book, paper, photograph, map, sound recording or other material, regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official business. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of records as used in sections 109.200 to 109.310, and are hereinafter designated as "nonrecord" materials;
- (6) "Secretary", the secretary of state;
- (7) "State record", any record designated or treated as a state record under state law.

Mo. Rev. Stat. § 109.210 (2008).

## **Montana**

*22-1-211*. Definitions. As used in this part, the following definitions apply:

- (1) "Depository library" means a library contracted by the state library under 22-1-212(2) to provide the general public access to state publications.
- (2) "State agency" means any entity established or authorized by law to govern operations of the state, such as a state office, officer, department, division, section, bureau, board, commission, council, and agency of the state and all subdivisions of each.
- (3) (a) "State publication" means any information originating in or produced by the authority of a state agency or at the total or partial expense of a state agency that the agency intends to distribute outside the agency, regardless of format or medium, source or copyright, license, or trademark.  
 (b) The term does not include information intended only for distribution to contractors or grantees of the agency, persons within the agency, or members of the public under 2-6-102 or information produced by a state agency that is intended strictly for internal

administrative or operational purposes.  
Mont. Code Ann. § 22-1-211 (2008).

## **Nebraska**

### ***Chapter 51. Libraries and Museums***

*51-411.* Terms, defined. As used in sections 51-411 to 51-418, unless the context otherwise requires:(1) Print shall include all forms of printing and duplicating, regardless of format or purpose, with the exception of correspondence and interoffice memoranda;(2) State publications shall include any multiply produced publications printed or purchased for distribution by the state, the Legislature, constitutional officers, any state department or committee, or any other state agency supported wholly or in part by state funds;(3) State agency shall include every state office, officer, department, division, bureau, board, commission, and agency of the state and, when applicable, all subdivisions of each, including state institutions of higher education defined as all state-supported colleges and universities; and(4) Governmental publications shall include any publications of associations, regional organizations, intergovernmental bodies, federal agencies, boards, and commissions, or other publishers that may contribute supplementary materials to support the work of the state Legislature and state agencies. Neb. Rev. Stat. § 51-411 (2008).

## **Nevada**

### ***Title 33 - Libraries; Museums; Historic Preservation***

#### ***Chapter 378 - Department of Cultural Affairs; State Library and Archives***

*NRS 378.160* Definitions. As used in NRS 378.150 to 378.210, inclusive:

1. Center” means the State Publications Distribution Center created by NRS 378.170.
2. “Depository library” means a library with which the Center has entered into an agreement pursuant to NRS 378.190.
3. “Local government” means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes the Nevada Rural Housing Authority.
4. “Publication” includes any information in any format or medium that is produced pursuant to the authority of or at the total or partial expense of a state agency or local government, is required by law to be distributed by a state agency or local government, or is distributed publicly by a state agency or local government outside that state agency or local government. The term does not include:
  - (a) Nevada Revised Statutes with annotations;
  - (b) Nevada Reports;
  - (c) Bound volumes of the Statutes of Nevada;
  - (d) Items published by the University of Nevada Press and other information

disseminated by the Nevada System of Higher Education which is not designed for public distribution; or

(e) Official state records scheduled for retention and disposition pursuant to NRS 239.080.

5. "State agency" includes the Legislature, constitutional officers or any department, division, bureau, board, commission or agency of the State of Nevada. Nev. Rev. Stat. § 378.160 (2008).

## **New Hampshire**

### ***Title XVI - Libraries - Chapter 202-B - New Hampshire State Government Information Dissemination and Access Act***

*202-B:1* Policy Statement; Short Title. – The legislature finds that providing citizens with access to public documents will allow increased citizen involvement in state policies and empower citizens to participate in state policy decision making. To this end, the legislature hereby declares that a system of dissemination and access to state government information be administered by the state library. This chapter may be referred to as the "New Hampshire State Government Information Dissemination and Access Act." N.H. Rev. Stat. Ann. § 202-B:1 (2008).

*202-B:2* Definitions. – In this chapter: I. "Component of state government" means any state government department, independent regulatory agency, state government corporation, state controlled corporation, or other establishment in the executive, legislative, or judicial branch.

II. "Dissemination" means the act of distributing tangible state government information products to program libraries, or the act of making state government information products accessible to program libraries and the general public via a state government electronic information service.

III. "Program library" means a library designated under the provisions of this chapter which maintains tangible state government information products for use by the general public, offers professional assistance in locating and using state government information, and provides local capability for the general public to access state government electronic information services. These libraries shall be known as "New Hampshire state government information access libraries."

IV. "State government electronic information service" means the system or method by which a component of state government or its authorized agent disseminates state government information products to the public via a telecommunications network or successor technology.

V. "State government information" means that information, regardless of form or format, which is created or compiled by employees of the judicial, legislative, and executive branches of government, or at state expense, or as required by law; except that information which is required for official use only, is for strictly administrative or operational purposes having no public interest or educational value or otherwise excluded by state law.

VI. "State government information product" means a state publication or other discrete

compilation of state government information of general public interest, either conveyed in a tangible physical format including electronic media, or disseminated via a state government electronic information service.

VII. "Tangible state government information product" means any state information product that can be distributed to program libraries in a physical format.

N.H. Rev. Stat. Ann. § 202-B:2 (2008).

## **New Jersey**

### ***Title 47 - Public Records***

*47:1A-1.1* Definitions.

1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented:

"Biotechnology" means any technique that uses living organisms, or parts of living organisms, to make or modify products, to improve plants or animals, or to develop micro-organisms for specific uses; including the industrial use of recombinant DNA, cell fusion, and novel bioprocessing techniques.

"Custodian of a government record" or "custodian" means in the case of a municipality, the municipal clerk and in the case of any other public agency, the officer officially designated by formal action of that agency's director or governing body, as the case may be.

"Government record" or "record" means any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business by any officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of his or its official business by any such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material...

N.J. Stat. Ann. § 47:1A-1.1 (West 2008).

## **New Mexico**

Definitions.

As used in the Public Records Act [State Library Laws.14-3-1 NMSA 1978]:

A. "administrator" means the state records administrator;

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

C. "commission" means the state commission of public records;

D. "microphotography" means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records produced by information system technologies pursuant to

regulations adopted by the commission;

E. "microphotography system" means all microphotography equipment, services and supplies;

F. "personal identification information" means the name, social security number, military identification number, home address, telephone number, email address, fingerprint, photograph, identifying biometric data, genetic identification, personal financial account number, state identification number, including driver's license number, alien registration number, government passport number, personal taxpayer identification number, or government benefit account number of a natural person;

G. "public records" means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any 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 informational and historical value of data contained therein. Library or museum material of the state library, state institutions and state museums, extra copies of documents preserved only for convenience of reference and stocks of publications and processed documents are not included;

H. "records center" means the central records depository that is the principal state facility for the storage, disposal, allocation or use of noncurrent records of agencies or materials obtained from other sources;

I. "records custodian" means the statutory head of the agency using or maintaining the records or the custodian's designee; and

J. "records retention and disposition schedules" means rules adopted by the commission pursuant to Section 14-3-6 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.

N.M. Stat. § 14-3-2 (2008).

## **New York**

### ***Arts and Cultural Affairs Law Chapter 11-C of the Consolidated Laws - Title U - Divisions of History and Public Records - Article 57 - Divisions of History and Public Records***

#### ***Sec. 57.05. State Archives***

1. There shall be continued within the education department the state archives. The state archives shall acquire, appraise, preserve either in original or duplicate form, catalog, display, duplicate and make available for reference and use by state officials and others those official records that have been determined to have sufficient historical value or other value to warrant their continued preservation by the state.

2. For the purposes of this section, official records shall include all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the state or by the legislature or the judiciary in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or



other activities, or because of the information contained therein.

3. Library or museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents shall not be deemed to constitute official records for the purposes of this section.

4. Except as otherwise provided by law, the state archives shall acquire and assume the official custody and responsibility for preserving and making available for reference and use those official records of the legislature, the judiciary and the civil departments of the state government which are deemed to have sufficient historical value or other value to warrant their continued preservation by the state.

5. The state archives shall acquire and assume the official custody and responsibility for preserving and making available for reference and use the official records of any public office, body or board now extinct, or hereafter becoming extinct, which are deemed to have sufficient historical value, or other value to warrant their continued preservation by the state, if the custody and preservation of such records are not otherwise provided for by law.

6. The state archives may accept records, or copies of records, of a municipal, district or public benefit corporation, providing the records have sufficient historical significance to warrant continued preservation by the state.

7. The commissioner of education may request the attorney general to institute legal action for the return to the custody of the state of any record which has not legally been released from state custody.

8. The state archives may duplicate records in its custody, and certify under its own official seal to the authenticity of the copies of such records. The state archives with the approval of the commissioner of education and in accordance with existing state statutes may dispose of original records in its custody that have been duplicated.

9. The commissioner of education shall have the power to promulgate rules and regulations to carry out the purposes of this section, providing no objection to those rules and regulations is made within thirty days prior to the effective date of the proposed rules and regulations by the following: the speaker of the assembly for rules and regulations relating to the records of the assembly; the president pro-tem of the senate for rules and regulations relating to the records of the senate; the director of the division of the budget for rules and regulations relating to records of the civil departments; and the chief administrator of the courts for rules and regulations relating to records of the judiciary.

N.Y. Arts & Cult. Aff. Law § 57.05 (2008).

## **North Carolina**

§ 125-11.6. Definitions.

As used in this Article:

(1) "Depository library" means a library designated to receive and maintain State publications and make them available to the public.

(2) "Document" means any printed document including any report, directory, statistical compendium, bibliography, map, regulation, newsletter, pamphlet, brochure, periodical, bulletin, compilation, or register, regardless of whether the printed document is in paper, film, tape, disk, or any other format.

(3) "State agency" means every State department, institution, board, and commission.

(4) "State publication" means any document prepared by a State agency or private organization, consultant, or research firm, under contract with or under the supervision of a State agency: Provided, however, the term "State publication" does not include administrative documents used only within the issuing agency, documents produced for instructional purposes that are not intended for sale or publication, appellate division reports and advance sheets distributed by the Administrative Office of the Courts, the S.B.I. Investigative "Bulletin", documents that will be reproduced in the Senate or House of Representatives Journals, or documents that are confidential pursuant to Article 17 of Chapter 120 of the General Statutes.

N.C. Gen. Stat. § 125-11.6 (2008).

## **North Dakota**

### ***Title 54 - State Government - Chapter 54-24 - State Library Commission***

#### *54-24-09.*

Distribution of certain state publications for certain libraries required. The office of management and budget shall arrange to deposit with the state library eight copies of all publications issued by all executive, legislative, and judicial agencies of state government intended for general public distribution. These publications must be provided to the state library without charge. If expense and limited supply of state publications, particularly audiovisual items, make compliance with the depository requirement impossible, the state library shall accept as many copies as an agency can afford to provide. However, each agency shall provide no less than two copies to the state library. State publications refer to any informational materials regardless of format, method of reproduction, or source, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. The definition incorporates those publications that may or may not be financed by state funds but are released by private bodies such as research and consultant firms under contract with or supervision of any state agency. In circumstances not directly involving the office of management and budget, a state agency shall comply with the depository requirement by arranging with the necessary parties for the printing and deposit of eight copies of any state publication issued. State publications are specifically defined as public documents appearing as reports, directories, statistical compendiums, bibliographies, laws or bills, rules, regulations, newsletters, bulletins, state plans, brochures, periodicals, committee minutes, transcripts of public hearings, other printed matter, audiotapes, videotapes, films, filmstrips, or slides, but not those administrative or training materials used only within the issuing agency. As the document acquisition and distribution agency, the state library shall retain for its document collection two copies of every state document received and transmit the remaining copies to the depository libraries. These are the libraries of the state historical society, the university of North Dakota, North Dakota state university, library of Congress, and two others to be designated by the state library. All nondepository North Dakota libraries may receive state documents under an optional selection program developed by the state library. The state library shall catalog state publications and arrange for their conversion to microfilm or to optical disk storage prescribed by the state records administrator and

shall make available for distribution the same to the designated depository libraries.  
N.D. Cent. Code § 54-24-09 (2008).

## **Ohio**

### ***Title 1 - State Government - Chapter 149: Documents, Reports, And Records***

*149.011* Documents, reports, and records definitions. As used in this chapter, except as otherwise provided:

(A) "Public office" includes any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government.

(B) "State agency" includes every department, bureau, board, commission, office, or other organized body established by the constitution and laws of this state for the exercise of any function of state government, including any state-supported institution of higher education, the general assembly, any legislative agency, any court or judicial agency, or any political subdivision or agency of a political subdivision.

(C) "Public money" includes all money received or collected by or due a public official, whether in accordance with or under authority of any law, ordinance, resolution, or order, under color of office, or otherwise. It also includes any money collected by any individual on behalf of a public office or as a purported representative or agent of the public office.

(D) "Public official" includes all officers, employees, or duly authorized representatives or agents of a public office.

(E) "Color of office" includes any act purported or alleged to be done under any law, ordinance, resolution, order, or other pretension to official right, power, or authority.

(F) "Archive" includes any public record that is transferred to the state archives or other designated archival institutions because of the historical information contained on it.

(G) "Records" includes any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the Revised Code, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

Ohio Rev. Code Ann. § 149.011 (2008).

## **Oklahoma**

§65-3-113.2. Definitions.

As used in Sections 3-113.1 through 3-115 of this title:

1. "Agency" means any office, officer, department, division, unit, bureau, board, commission, authority, institution, substate planning district, or agency in any branch of the state government, and all subdivisions of each when applicable, including state institutions of higher education, defined as all state-supported colleges, universities, junior colleges, and technology center schools; and

2. "State publications" means any informational materials, regardless of format, method of reproduction, or source, which originate in or are produced with the imprint, by the

authority, or at the total or partial expense of an agency supported wholly or in part by state funds and which are distributed to persons outside of the creating agency or are required by law. "State publication" incorporates those publications that may or may not be financed by state funds but are released by private entities pursuant to a contract with or subject to the supervision of any agency.  
Okla. Stat. tit. 65, § 113.2 (2008).

## Oregon

### *Chapter 357 — Libraries; Archives; Poet Laureate*

357.004 Definitions for ORS 357.001 to 357.200. As used in ORS 357.001 to 357.200, unless the context requires otherwise:

- (1) "Depository library" means a library that is designated as such under ORS 357.095.
  - (2)(a) "Issuing agency" means state government, as that term is defined in ORS 174.111.
  - (b) "Issuing agency" does not include the State Board of Higher Education or any institution, division or department under the control of the board.
  - (3)(a) "Public document" means informational matter produced for public distribution or access regardless of format, medium, source or copyright, originating in or produced with the imprint of, by the authority of or at the total or partial expense of any state agency. "Public document" includes informational matter produced on computer diskettes, CD-ROMs, computer tapes, the Internet or in other electronic formats.
  - (b) "Public document" does not include:
    - (A) Correspondence, forms, interoffice or intraoffice memoranda;
    - (B) Legislative bills;
    - (C) Oregon Revised Statutes or any edition thereof; or
    - (D) Reports and publications of the Oregon Supreme Court, the Oregon Court of Appeals and the Oregon Tax Court.
- Or. Rev. Stat. § 357.004 (2008).

## Pennsylvania

Authority - The provisions of this Chapter 143 issued under The Library Code (24 P. S. §§ 4101-4503), unless otherwise noted.

Source - The provisions of this Chapter 143 adopted April 21, 1972, 2 PA B. 721, unless otherwise noted.

§ 143.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Depository collection* - A gathering of official Commonwealth publications in a formally organized library organized either for public use under The Library Code, (24 P. S. § 4101-4503, et seq.), or for academic use in a state accredited institution of higher education.

*Publication* - Any printed or otherwise reproduced item prepared for distribution to the public, or used within any state agency as a regulatory instrument, including but not limited to documents, pamphlets, studies, brochures, books, annual reports, codes,

regulations, journals, periodicals or magazines printed by or for the Commonwealth, its legislature, its courts, its constitutional offices, or any authority, board, commission, department or other State governmental agency or issued in conjunction with, or under contract with, the Federal government, local units of government, private individuals, institutions or corporations.

24 Pa. Cons. Stat. § 4101 (2008).

## **Rhode Island**

### ***Title 29 - Libraries - Chapter 29-7***

State Publications Clearinghouse

#### ***SECTION 29-7-1***

§ 29-7-1 Purpose. – The purpose of this chapter is to establish a state publications clearinghouse for libraries which will systematically collect and distribute state publications to libraries throughout the state in order to facilitate public access to publications issued by state agencies and for exchange of publications with agencies outside of the state under the direction of the state librarian as provided in § 29-1-5.

R.I. Gen. Laws § 29-7-1 (2008).

#### ***SECTION 29-7-2***

§ 29-7-2 Definitions. – As used in this chapter:

- (1) "Depository library" means a library designated to collect, maintain, and make available state publications to the general public. The clearinghouse director shall consider the geography of the state when designating depository libraries;
- (2) "Printed" means any form of printing and duplicating, regardless of format, with the exception of correspondence, and interoffice and intraoffice memoranda;
- (3) "State agency" means any state office, whether legislative, executive, or judicial, including, but not limited to, any constitutional officer, department, division, bureau, board, commission, and/or any other agency which expends state appropriated funds; and
- (4) "State publication" means any publication regardless of physical form or characteristics produced, made available electronically, printed, purchased, or authorized for distribution by a state agency, except those determined by the issuing agency to be required for official use only for administrative or operational purposes.

R.I. Gen. Laws § 29-7-2 (2008).

## **South Carolina**

### ***Title 60 - Libraries, Archives, Museums and Arts - Chapter 2 - State Documents Depository***

*Section 60-2-10. Definitions.*

As used in this chapter, unless the context clearly indicates otherwise:

- (1) "Complete depository" means a place, usually a library, that requests and receives at least one copy of all state publications;
- (2) "Depository system" means a system established by the State Library in which copies

of all state publications are deposited in one central depository or library for distribution to other designated depositories or libraries;

(3) "Electronic" means publication only in a computerized format;

(4) "Print" means publication in a format other than an electronic or computerized format;

(5) "Selective depository" means a place, usually a library, that requests and receives one copy of selected state publications;

(6) "State publication" means any document, compilation, register, book, pamphlet, report, map, leaflet, order, regulation, directory, periodical, magazine, or other similar written material excluding interoffice and intraoffice communications issued in any format by the State, any state agency or department, or any state-supported college or university intended for public distribution, or distribution to the General Assembly, agencies, political subdivisions, or nonprofit organizations and to the general public. State publication includes publications that may or may not be financed by state funds and are released by private bodies, such as research and consultant firms under contract with or supervision of a state agency.

S.C. Code Ann. § 60-2-10 (2008).

## **South Dakota**

### ***Title 14 - Libraries - Chapter 14-1A - State Publications Library Distribution Center***

*14-1A-1.* Definition of terms. Terms used in this chapter mean: (1) "Center," the State Publications Library Distribution Center; (2) "Print," all forms of printing and duplicating, including audio-visual materials, regardless of format or purpose, with the exception of correspondence and interoffice memoranda; (3) "State agency," includes, but is not limited to, the Legislature, constitutional officers, and any department, division, bureau, board, commission, committee, or agency of the State of South Dakota; (4) "State publication," any document, compilation, journal, law, resolution, bluebook, statute, code, register, pamphlet, list, microphotographic form, tape or disk recording, compact disc, floppy diskette, book, proceedings, report, memorandum, hearing, legislative bill, leaflet, order, regulation, directory, periodical or magazine published, issued, in print, or purchased for distribution, by the state, the Legislature, constitutional officers, any state department, committee, or other state agency supported wholly or in part by public funds. S.D. Codified Laws § 14-1A-1 (2008).

## **Tennessee**

### ***Title 10 - Public Libraries, Archives and Records - Chapter 7 - Public Records - Part 3 - Public Records Commission***

*10-7-301.* Definitions.

As used in this part, unless the context otherwise requires:

(1) "Agency" means any department, division, board, bureau, commission, or other separate unit of government created or established by the constitution, by law or pursuant to law, including the legislative branch and the judicial branch;

(2) "Confidential public record" means any public record which has been designated

confidential by statute and includes information or matters or records considered to be privileged and any aspect of which access by the general public has been generally denied;

(3) "Disposition" means preservation of the original records in whole or in part, preservation by photographic or other reproduction processes, or outright destruction of the records;

(4) "Essential records" means any public records essential to the resumption or continuation of operations, to the re-creation of the legal and financial status of government in the state or to the protection and fulfillment of obligations to citizens of the state;

(5) "Permanent records" means those records which have permanent administrative, fiscal, historical or legal value;

(6) "Public record(s)" or "state record(s)" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency;

(7) "Records creation" means the recording of information on paper, printed forms, punched cards, tape, disk, or any information transmitting media. "Records creation" includes preparation of forms, reports, state publications, and correspondence;

(8) "Records disposition authorization" means the official document utilized by an agency head to request authority for the disposition of records. The public records commission shall determine and order the proper disposition of state records through the approval of records disposition authorizations;

(9) "Records management" means the application of management techniques to the creation, utilization, maintenance, retention, preservation, and disposal of records in order to reduce costs and improve efficiency of recordkeeping. "Records management" includes records retention schedule development, essential records protection, files management and information retrieval systems, microfilm information systems, correspondence and word processing management, records center, forms management, analysis, and design, and reports and publications management;

(10) "Records of archival value" means any public record which may promote or contribute toward the preservation and understanding of historical, cultural, or natural resources of the state of Tennessee;

(11) "Records officer" means an individual designated by an agency head to assume responsibility for implementation of the agency's records management program;

(12) "Section" and "division" means the records management division of the department of general services;

(13) "Temporary records" means material which can be disposed of in a short period of time as being without value in documenting the functions of an agency. Temporary records will be scheduled for disposal by requesting approval from the public records commission utilizing a records disposition authorization; and

(14) "Working papers" means those records created to serve as input for final reporting documents, including electronic data processed records, and/or computer output microfilm, and those records which become obsolete immediately after agency use or publication.

Tenn. Code Ann. § 10-7-301 (West 2008).

## **Texas**

### ***Subchapter G. State Publications***

§ 441.101. Definitions.

In this subchapter:

- (1) "Commission" means the Texas State Library and Archives Commission.
- (2) "Depository library" means the Texas State Library, the Legislative Reference Library, the Library of Congress, the Center for Research Libraries, or any other library that the commission designates as a site for retaining and allowing public access to state publications.
- (3) "State agency" means a state office, officer, department, division, bureau, board, commission, legislative committee, authority, institution, substate planning bureau, university system, institution of higher education as defined by Section 61.003, Education Code, or a subdivision of one of those entities.
- (4) "State publication":
  - (A) means information in any format, including materials in a physical format or in an electronic format, that:
    - (i) is produced by the authority of or at the total or partial expense of a state agency or is required to be distributed under law by the agency; and
    - (ii) is publicly distributed outside the agency by or for the agency; and
  - (B) does not include information the distribution of which is limited to:
    - (i) contractors with or grantees of the agency;
    - (ii) persons within the agency or within other government agencies; or
    - (iii) members of the public under a request made under the open records law, Chapter 552.

Tex. Gov't Code Ann. § 441.101 (Vernon 2008).

## **Utah**

### ***Utah Code - Title 63G - Chapter 02 - Government Records Access and Management Act***

63G-2-103. Definitions.

As used in this chapter:

- (1) "Audit" means:
  - (a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or
  - (b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.
- (2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:



- (a) the time and general nature of police, fire, and paramedic calls made to the agency; and
- (b) any arrests or jail bookings made by the agency.
- (3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).
- (4) (a) "Computer program" means:
  - (i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and
  - (ii) any associated documentation and source material that explain how to operate the computer program.
- (b) "Computer program" does not mean:
  - (i) the original data, including numbers, text, voice, graphics, and images;
  - (ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or
  - (iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.
- (5) (a) "Contractor" means:
  - (i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or
  - (ii) any private, nonprofit organization that receives funds from a governmental entity.
- (b) "Contractor" does not mean a private provider.
- (6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.
- (7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.
- (8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.
- (10) "Government audit agency" means any governmental entity that conducts an audit.
- (11) (a) "Governmental entity" means:
  - (i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Board, the State Board of Education, the State Board of Regents, and the State Archives;
  - (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;
  - (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

- (iv) any state-funded institution of higher education or public education; or
  - (v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.
- (b) "Governmental entity" also means every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business.
- (12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.
- (13) "Individual" means a human being.
- (14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:
- (i) the date, time, location, and nature of the complaint, the incident, or offense;
  - (ii) names of victims;
  - (iii) the nature or general scope of the agency's initial actions taken in response to the incident;
  - (iv) the general nature of any injuries or estimate of damages sustained in the incident;
  - (v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or
  - (vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.
- (b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).
- (15) "Legislative body" means the Legislature.
- (16) "Notice of compliance" means a statement confirming that a governmental entity has complied with a records committee order.
- (17) "Person" means:
- (a) an individual;
  - (b) a nonprofit or profit corporation;
  - (c) a partnership;
  - (d) a sole proprietorship;
  - (e) other type of business organization; or
  - (f) any combination acting in concert with one another.
- (18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.
- (19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity in the employee's or officer's private capacity;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301; or

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(b)(ii).

(23) "Record series" means a group of records that may be treated as a unit for purposes

of designation, description, management, or disposition.

(24) "Records committee" means the State Records Committee created in Section 63G-2-501.

(25) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(26) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(27) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(28) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(29) "State archivist" means the director of the state archives.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Utah Code Ann. § 63G-2-103 (West 2008).

## **Vermont**

### ***Title 1: General Provisions***

#### ***Chapter 5: Common Law; General Rights***

§ 317. Definitions; public agency; public records and documents

(a) As used in this subchapter, "public agency" or "agency" means any agency, board, department, commission, committee, branch, instrumentality, or authority of the state or any agency, board, committee, department, branch, instrumentality, commission, or authority of any political subdivision of the state.

(b) As used in this subchapter, "public record" or "public document" means all papers, documents, machine readable materials, or any other written or recorded matters, regardless of their physical form or characteristics, that are produced or acquired in the course of agency business. Individual salaries and benefits of and salary schedules relating to elected or appointed officials and employees of public agencies shall not be exempt from public inspection and copying.

Vt. Stat. Ann. tit 1, § 317 (2008).

***Title 22: Libraries, History, and Information Technology***

***Chapter 11: Public Records***

§ 451. Definitions

For purposes of this chapter:

(1) "Disposal" of public records includes transferal of records to the custody of the secretary of state for archival purposes.

(2) "Electronic capture" means reproduction of records by electronic, optical or digital imaging; transmittal of records by computer via intranet or internet; and downloading of records onto diskettes, CD-ROMs, optical disks, tapes, or servers for the purpose of storing or archiving such records.

(3) "Electronic media" means computer files, CD-ROMs, diskettes, tapes and other media capable of storing electronic, optical, magnetic or machine-readable data.

Vt. Stat. Ann. tit 22, § 451 (2008).

**Virginia**

***Title 42.1 - Libraries - Chapter 7 - Virginia Public Records Act***

§ 42.1-77. Definitions.

As used in this chapter:

"Agency" means all boards, commissions, departments, divisions, institutions, authorities, or parts thereof, of the Commonwealth or its political subdivisions and includes the offices of constitutional officers.

"Archival quality" means a quality of reproduction consistent with established standards specified by state and national agencies and organizations responsible for establishing such standards, such as the Association for Information and Image Management, the American National Standards Institute, and the National Institute of Standards and Technology.

"Archival record" means a public record of continuing and enduring value useful to the citizens of the Commonwealth and necessary to the administrative functions of public agencies in the conduct of services and activities mandated by law that is identified on a Library of Virginia approved records retention and disposition schedule as having sufficient informational value to be permanently maintained by the Commonwealth.

"Archives" means the program administered by The Library of Virginia for the preservation of archival records.

"Board" means the State Library Board.

"Conversion" means the act of moving electronic records to a different format, especially data from an obsolete format to a current format.

"Custodian" means the public official in charge of an office having public records.

"Disaster plan" means the information maintained by an agency that outlines recovery techniques and methods to be followed in case of an emergency that impacts the agency's records.

"Electronic record" means a public record whose creation, storage, and access require the

use of an automated system or device. Ownership of the hardware, software, or media used to create, store, or access the electronic record has no bearing on a determination of whether such record is a public record.

"Essential public record" means records that are required for recovery and reconstruction of any agency to enable it to resume its core operations and functions and to protect the rights and interests of persons.

"Librarian of Virginia" means the State Librarian of Virginia or his designated representative.

"Lifecycle" means the creation, use, maintenance, and disposition of a public record.

"Metadata" means data describing the context, content, and structure of records and their management through time.

"Migration" means the act of moving electronic records from one information system or medium to another to ensure continued access to the records while maintaining the records' authenticity, integrity, reliability, and usability.

"Original record" means the first generation of the information and is the preferred version of a record. Archival records should to the maximum extent possible be original records.

"Preservation" means the processes and operations involved in ensuring the technical and intellectual survival of authentic records through time.

"Private record" means a record that does not relate to or affect the carrying out of the constitutional, statutory, or other official ceremonial duties of a public official, including the correspondence, diaries, journals, or notes that are not prepared for, utilized for, circulated, or communicated in the course of transacting public business.

"Public official" means all persons holding any office created by the Constitution of Virginia or by any act of the General Assembly, the Governor and all other officers of the executive branch of the state government, and all other officers, heads, presidents or chairmen of boards, commissions, departments, and agencies of the state government or its political subdivisions.

"Public record" or "record" means recorded information that documents a transaction or activity by or with any public officer, agency or employee of an agency. Regardless of physical form or characteristic, the recorded information is a public record if it is produced, collected, received or retained in pursuance of law or in connection with the transaction of public business. The medium upon which such information is recorded has no bearing on the determination of whether the recording is a public record.

For purposes of this chapter, "public record" shall not include nonrecord materials, meaning materials made or acquired and preserved solely for reference use or exhibition purposes, extra copies of documents preserved only for convenience or reference, and stocks of publications.

"Records retention and disposition schedule" means a Library of Virginia-approved timetable stating the required retention period and disposition action of a records series. The administrative, fiscal, historical, and legal value of a public record shall be considered in appraising its appropriate retention schedule. The terms "administrative," "fiscal," "historical," and "legal" value shall be defined as:

1. "Administrative value": Records shall be deemed of administrative value if they have continuing utility in the operation of an agency.
2. "Fiscal value": Records shall be deemed of fiscal value if they are needed to document

and verify financial authorizations, obligations, and transactions.

3. "Historical value": Records shall be deemed of historical value if they contain unique information, regardless of age, that provides understanding of some aspect of the government and promotes the development of an informed and enlightened citizenry.

4. "Legal value": Records shall be deemed of legal value if they document actions taken in the protection and proving of legal or civil rights and obligations of individuals and agencies.

Va. Code Ann. § 42.1-77 (West 2008).

### ***Chapter 8 - State Publications Depository Program***

§ 42.1-93. Definitions.

As used in this chapter:

"Local or regional agency" means all political subdivisions, including counties, cities, and towns, and other governmental agencies in the Commonwealth, other than state agencies.

"Publication" means all documents, regardless of physical form or characteristics and issued by or for a state, local, or regional agency, in full or in part at government expense, that are created for the research or informational use of the public. "Publication" shall not include documents that are developed solely for the agency's administrative and internal operations.

"State agency" means every agency, institution, collegial body, or other state governmental entity of any branch of government.

Va. Code Ann. § 42.1-93 (West 2008).

### **Washington**

#### ***Title 40 - Public documents, records, and publications - Chapter 40.06 - State publications distribution center.***

*RCW 40.06.010* - Definitions.

As used in this chapter:

(1) "Electronic repository" means a collection of publicly accessible electronic publications stored in a secure digital environment with redundant backup to preserve the collection.

(2) "Format" includes any media used in the publication of state information including electronic, print, audio, visual, and microfilm.

(3) "State agency" includes every state office, officer, department, division, bureau, board, commission and agency of the state, and, where applicable, all subdivisions of each.

(4) "State publication" means information published by state agencies, regardless of format, intended for distribution to state government or the public. Examples may include annual, biennial, and special reports required by law, state agency newsletters, periodicals, and magazines, and other informational material intended for general dissemination to state agencies, the public, or the legislature.

Wash Rev. Code § 40.06.010 (2008).

## West Virginia

### ***Chapter 10 - Public Libraries; Public Recreation; Athletic Establishments; Monuments and Memorials; Roster of Servicemen; Educational Broadcasting Authority.***

#### ***Article 1 - Public Libraries.***

*§10-1-18a.* Establishment of state publications clearinghouse; definitions; powers of West Virginia library commission; designations by state agencies.

(a) There is hereby established the state depository library clearinghouse which shall be under the direction of the state library commission.

(b) As used in this section, the following terms have the following meanings:

(1) "Public document" means any document, report, directive, bibliography, rule, newsletter, pamphlet, brochure, periodical, request for proposal, or other publication, whether in print or an unprinted format, that is paid for, in whole or in part, by funds appropriated by the Legislature and may be subject to distribution to the public;

(2) "Depository library" means a library designated to collect, catalog, maintain and make available all or particular selected state publications to the general public; and

(3) "State agency" means any state office, whether legislative, executive or judicial, including, but not limited to, any constitutional officer, department, division, bureau, board, commission or other agency which expends state appropriated funds.

(c) The state library commission shall establish a state depository library clearinghouse to receive and distribute all state public documents to the depository libraries around the state.

(d) The commission shall designate a state library staff member as director of the state publications clearinghouse for librarians. The director shall hold a graduate degree in library science from an accredited institution of higher learning. The clearinghouse shall establish requirements for eligibility to become and remain a depository library.

(e) In designating a library as a depository library the clearinghouse shall consider the geography of the state and the existing federal depository libraries. West Virginia University library, Marshall University library and the state department of archives shall be designated as complete depository libraries that shall receive two copies of all public documents. The clearinghouse shall also, pursuant to the requirements it establishes hereunder, designate other libraries around the state as depository libraries, upon request from a library.

(f) Each state agency shall designate one person as its documents officer while notifying the clearinghouse of his or her identity. The documents officer shall, prior to the public release of any state public document, deposit with the clearinghouse a minimum of fifteen copies as required to meet the needs of the depository library system. If fewer than forty copies of a public document are produced, no more than two such copies are required to be deposited with the clearinghouse.

W. Va. Code § 10-1-18a (2008).

## Wisconsin



***Chapter 35 - Publication and Distribution of Laws and Public Documents - Subchapter II - Public Documents Distribution and Sales***

35.81 Definitions. In ss. 35.81 to 35.91:

35.81(1) (1) "Division" means the division for libraries, technology, and community learning in the department of public instruction.

35.81(1m) (1m) "Legislative service agency" has the meaning given under s. 16.70 (6).

35.81(2) (2) "State agency" has the meaning given for "agency" in s. 13.172 (1), and for purposes of ss. 35.81 to 35.835 includes a committee, as defined in s. 15.01 (3), and a committee established by executive order under s. 14.019.

35.81(3) (3) "State document" includes every publication produced by a state agency in multiple copies or prepared for a state agency in multiple copies by a private individual or organization that is supported wholly or partly by any funds appropriated by this state, regardless of the format or process by which produced and regardless of the source of funds provided to the publisher, which is intended by the publisher to be disseminated or made accessible to the public or is required by law to be published, but does not include any publication of a state agency intended by the state agency to be used solely for internal purposes within the state agency or between that state agency and other state agencies.

35.81(4) (4) "State document depository library" means a library designated under s. 35.82.

Wis. Stat. § 35.81 (2008).

**Wyoming**

***Title 9 - Administration of the Government - Chapter 2 - Agencies, Boards, Commissions and Departments Generally - Article 4. State Archives, Museums and Historical Department***

§ 9-2-401. Definitions.

(a) As used in W.S. 9-2-401 through 9-2-415:

(i) Repealed by Laws 1991, ch. 55, § 2.

(ii) "Department" means the department of state parks and cultural resources;

(iii) "Director" means the director of the department;

(iv) "Political subdivision" means a county, municipality, special district or other local government entity;

(v) "Public record" includes the original and all copies of any paper, correspondence, form, book, photograph, photostat, film, microfilm, sound recording, map, drawing or other document, regardless of physical form or characteristics, which have been made or received in transacting public business by the state, a political subdivision or an agency of the state.

Wyo. Stat. Ann. § 9-2-401 (2008).