

A. PUBLIC RECORDS STATUTES

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

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

Yes
 No

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

MONT. CODE ANN. § 2-6-101 –404 (2001)
MONT. ADMIN. R. § 44.14.101 (2002)

b. If “No,” skip this whole section.

Additional comments:

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

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

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

The Records Management Bureau may offer its services to the other branches of Montana state government but cannot require that the other branches follow its regulations. See MONT. CODE ANN. § 2-6-203(2) (2001).

Additional comments:

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

MONT. CODE ANN. § 2-6-202 (2001)

Additional comments:

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

Yes
 No

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

The Montana Records Management Bureau's rules specifically address digital media. See MONT. ADMIN. R. § 44.14.101 (2002)

Additional comments:

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

Yes
 No

- a. If "Yes," cite to and briefly summarize the retention provisions.

MONT. CODE ANN. § 2-6-205 (2001) states that all public records remain the property of the state, and shall be preserved.

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

MONT. ADMIN. R. § 44.14.101 (2002) specifically discusses digital records, dictates a retention schedule, a refreshing schedule, and a digital migration plan that must be completed and approved for each agency.

Additional comments:

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

Yes
 No

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

The MONT. CONST. art. 2, § 9 discusses the public's right to access documents. MONT. CODE ANN. § 2-6-205 (2001) addresses the preservation of these records.

Additional comments:

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

Yes
 No

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

MONT. CODE ANN. § 2-6-203 (2001) gives to the Secretary of State the authority to manage and safeguard public records.

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

MONT. CODE ANN. § 22-3-201 (2001) states, “{N}oncurrent records of permanent value shall be preserved and protected”, and gives that authority to the Archivist of the Montana Historical Society.

Additional comments:

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

Yes
 No

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

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

The guarantees provided in our Constitution for access to public records may be unique. See MONT. CONST. art. 2, § 9.

B. FREEDOM OF INFORMATION ACT

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

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

Yes
 No

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

MONT. CONST. art. II, § 9;

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

Additional comments:

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

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

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

The MONT. CONST. art. II, § 9 refers to the "documents . . . of **ALL** public bodies or agencies of state government and its subdivisions."

Additional comments:

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

MONT. CODE ANN. § 2-6-202 (2001)

Additional comments:

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

Yes
 No

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

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

MONT. CONST. Art. II, § 9;

MONT. CODE ANN. § 22-3-201 (2001) The legislature declares that it is the public policy of the state of Montana that noncurrent records of permanent value to the state and to local governments should be preserved and protected; that the operations of state government should be made more efficient, more effective, and more economical through current records management; and that to the end that the people may receive maximum benefit from a knowledge of state and local government affairs, the state and local governments should preserve noncurrent records of permanent value for study and research.; and MONT. CODE ANN. §2-6-206 (2001) (refers to protection of essential current records).

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Although our essential documents acknowledge the public's right to access public records, and the Administrative Rules are specific about retention and migration of digital information, nowhere are the two concepts linked. Whether or not that is "unique" remains to be seen. We suspect not.

C. PUBLIC ACCESS LAWS

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

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

Yes
 No

a. If "Yes," cite each of your state's public access law statutes and the administrative regulations that supplement them.

MONT. CODE ANN. § 22-1-213 (2001) "State agency publications to be deposited in state library -- interlibrary loan -- sale publications. Every state agency shall deposit upon release at least four copies of each of its state publications with the state library for record and depository purposes."

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

Additional comments:

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

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

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

The term “state agencies” in Montana statutes refers only to the Executive Branch of government.

Additional comments:

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

MONT. CONST. art II, § 9: Right to access documents.

MONT. CODE ANN. Title 2, Part 2 (2001) defines public records, addresses their protection, and gives some responsibilities to the Secretary of State, including rule-making authority. Consequently, that office adopted MONT. ADMIN. R. §44.14.101 (2002), which discusses the retention of digital media.

MONT. CODE ANN. § 22-1-213 (2001) requires a deposit of each state agency publication to the State Library.

MONT. CODE ANN. § 22-3-201(2001) states that the public policy of Montana is for “state and local governments (to) ...preserve noncurrent records of permanent value *for study and research.*”

Additional comments:

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

Yes

No

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

Additional comments:

The Montana laws and rules that address digital information only address the compatibility of information technology systems (MONT. CODE ANN. § 2-6-214) and digital retention schedules for materials that will not be kept in print format (MONT. ADMIN. R. § 44.14.101. Neither statute nor rule addresses public access.

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

Yes

No

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

MONT. CODE ANN. § 22-3-203 (2001) directs the state archivist to preserve noncurrent records of permanent value.

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

MONT. CODE ANN. § 22-3-201 (2002) declares it the state's public policy that noncurrent records of "permanent value" must be preserved for study and research purposes.

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

D. STATE OFFICE FOR TECHNOLOGY AND CHIEF INFORMATION OFFICER

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

Yes
 No

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

Chief Information Officer MONT. CODE ANN. § 2-17-511 (2001)

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

Additional comments:

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

MONT. CODE ANN. § 2-17-505 through 513 (2002) Created in 2001.

Additional comments:

There was considerable discussion and debate as to whether to place this office within the Governor’s office as a separate cabinet-level position. However, when the dust settled, the position was located within the Department of Administration and the Officer reports to the director of that Department.

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

Yes
 No

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

None have been promulgated to date.

Additional comments:

Statutory authority for rule making is given in MONT. CODE ANN. § 2-17-518 (2001)

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

Executive
 Legislative
 Judicial

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

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

Under MONT. CODE ANN. § 2-17-512 (2001) the department may provide assistance to the other branches of government and the university system.

Additional comments:

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

- Yes
- No

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

There is no language addressing print information. This office deals only with information technology. See MONT. CODE ANN. § 5-17-512 (2001).

Additional comments:

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

- Yes
- No

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

Additional comments:

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

- Yes
- No

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

MONT. CODE ANN. § 2-6-202 through 214 (2001)

Additional comments:

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

- Yes

No

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

The Chief Information Officer accepts this responsibility, "with the appropriate filter that applies the correct business rules." (Interview with Brian Wolf, Montana Chief Information Officer, June 11, 2002)

Additional comments:

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

Yes
 No

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

Initial discussions with the Secretary of States office and its Records Management Bureau have taken place.

Montana has begun to address Permanent Public Access of state government web site information. The Information Technology Division has contracted to have an incremental backup 6 days a week in the early morning and a "virtual full back up" once a week. One full set of tapes is kept onsite at the Capitol and another is at the Records Management vault off site.

Additional comments:

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

Yes
 No

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

Additional comments:

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

This office has no responsibility for other agencies' hard copy documents. The Chief Information Officer believes Montana is a bit behind the continuum. Montana's statutes, however, are more advanced than most states'. It is felt that the Officer's control of the Information Technology Division is advantageous. In some states, the similarly positioned officer serves only in a policy-making capacity.

E. STATE TECHNOLOGY PLANS

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

Yes
 No

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

See § (d) of above enabling statute, which addresses the plan provided for in MONT. CODE ANN. § 2-17-521 (2001).

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

State of Montana Information Technology Services Division, State of Montana Strategic Plan for Information Technology (2002) Also available at <http://discoveringmontana.com/itsd/stratplan/statewideplan.asp>

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

Additional comments:

2. The technology plan covers which branches?

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

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

See MONT. CODE ANN. § 2-17-512 (2001).

Additional comments:

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

Yes
 No

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

The entire plan is concerned with a customer-focus for developing and deploying information technology, however it does not specifically address permanency of government information.

Additional comments:

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

During this first year of Montana’s Plan, agencies have the responsibility for creating individual technology plans. They will be threaded documents, in that each will point to the State’s Plan.

F. STATE PRINTING OFFICE AND STATE PRINTER

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

Yes
 No

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

Additional comments:

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

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

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

Additional comments:

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

G. STATE ARCHIVES AND STATE ARCHIVIST

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

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

Yes
 No

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

Montana State Archivist, MONT. CODE ANN. § 22-3-202 (2001)

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

Additional comments:

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

MONT. CODE ANN. § 22-3-202 (2001)

Additional comments:

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

Yes

No

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

Additional comments:

The State Archivist can set standards and policy only.

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

Executive

Legislative

Judicial

Administrative (applying to all agencies, no matter what branch of government)

Other

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

Statutes are not specific, but the Archivist states that her office is “working to add the university system, and judicial and legislative braches of government” to her office’s responsibilities. (Interview with Molly Miller, Montana State Archivist, June18, 2002).

Additional comments:

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

MONT. CODE ANN. § 22-3-203 (2001) “The state archivist shall preserve noncurrent records of permanent value to the state and is responsible for the ultimate preservation of local government records of permanent value. Upon request, the archivist shall assist and advise in the establishment of records management programs in the executive, legislative, and judicial branches of state government and in local governments, with due regard to the functions of the officers and agencies involved.”

Additional comments:

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

Yes

No

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

Additional comments:

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

Yes

No

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

MONT. CODE ANN. § 22-3-201 (2001).

Additional comments:

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

Yes

No

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

MONT. CODE ANN. § 22-3-203 (2001)

Additional comments:

In this statute, we infer that "preservation" means permanence.

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

Yes

No

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

1969. See MONT. CODE ANN. § 22-3-202 (2001)

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

The Montana State Archives is part of the Montana Historical Society, a quasi-private entity. Also, it is a very new archives, created by statute in 1969 (see above).

H. STATE LIBRARY AND STATE LIBRARIAN

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

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

Yes
 No

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

MONT. CODE ANN. § 22-1-102 (2001) State Librarian

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

Additional comments:

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

MONT. CODE ANN. § 22-1-102 (2001)

Additional comments:

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

Yes
 No

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

MONT. ADMIN. R. §§ 10.101.101 through 6102

Additional comments:

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

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

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

MONT. CODE ANN. § 22-1-103 (2001)

Additional comments:

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

The State Librarian of Montana is the executive officer of the State Library Commission, which may:

“(1) [G]ive assistance and advice to all tax-supported or public libraries in the state and to all counties, cities, towns, or regions in the state that propose to establish libraries and improving those libraries;

(2) maintain and operate the state library and make provision for its housing;

(3) (a) accept and expend in accordance with the terms of a grant any grant of federal funds that is available to the state for library purposes;

(b) accept, receive, and administer any gifts, donations, bequests, and legacies made to the Montana state library. Unless otherwise provided by the donor, gifts, donations, bequests, and legacies must be deposited in the Montana state library trust established in MONT CODE ANN. § 22-1-225.

(4) make rules and establish standards for the administration of the state library and for the control, distribution, and lending of books and materials;

(5) serve as the agency of the state to accept and administer any state, federal, or private funds or property appropriated for or granted to it for library service or foster libraries in the state and establish regulations under which funds must be disbursed;

(6) provide library services for the blind and for individuals with physical

disabilities;

(7) furnish, by contract or otherwise, library assistance and information services to state officials, state departments, and residents of those parts of the state inadequately serviced by libraries;

(8) act as a state board of professional standards and library examiners, develop standards for public libraries, and adopt rules for the certification of librarians;

(9) designate areas for the establishment of federations of libraries and designate the headquarters library for the federations. MONT. CODE ANN. §22-1-103.

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

I. STATE DEPOSITORY LIBRARY LAWS

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

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

Yes
 No

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

MONT. CODE ANN. § 22-1-211.

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

Additional comments:

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

Yes

No

- a. If "Yes," cite to and briefly discuss statutes/regulations addressing electronic government information; how is it treated differently?
- b. If "No," explain whether or not the statutes/regulations have been construed to cover electronic government information?

Additional comments:

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

Yes

No

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

Additional comments:

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

Yes

No

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

Additional comments:

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

Yes

No

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

Additional comments:

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

Formerly distributed in print, now distributed exclusively in electronic format.

Never before distributed, now distributed in electronic format.

Additional comments:

No information is available to answer this question.

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

Additional comments:

This is a program that is only partially successful, in that not all agencies deposit their publications with the State Library, and of those that do, not all of their publications go in for deposit. No agencies are considering sending electronic documents to the State Library for maintenance on a central server.

J. COOPERATIVE ARRANGEMENTS

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

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

Yes
 No

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

Additional comments:

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

1. If “permanent public access” is neglected in your state, carefully examine existing public records statutes, freedom of information statutes, public access laws, etc., and respond to the following:
 - a. If possible, cite to and discuss one or two specific places in statutes or other sources of law where the state legislature or a responsible agency might naturally insert basic reform language.
 - b. If specific places to insert reform language are not obvious, very briefly discuss what state agency or other government entity might naturally be made responsible for “permanent public access.”

Additional comments:

This is addressed in the Executive Summary. The stakeholders who have helped to contribute to this report acknowledge that Montana has a problem, and that they are the appropriate parties to propose statutory reform. A study has begun of other states’ solutions with the intent that legislation be introduced to ensure that Montanans will have permanent, public access to their state’s governmental electronic records and publications. At this time we are not prepared to offer suggested statutory changes.

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

Additional comments:

L. DIRECTORY

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

Provide official contact information for:

1. State Chief Information Officer (or equivalent)

Brian Wolf, CIO, Information Technology Services Division, Department of Administration,
PO Box 200113, Helena, MT 59620. 406/444-2700.
bwolf@state.mt.us

2. State Printer

NA

3. State Archivist

Molly Miller, State Archivist, Montana Historical Society Library, PO Box 201201, Helena,
MT 59620 momiller@state.mt.us

3. State Librarian and/or State Law Librarian

Karen Strege, State Librarian, PO Box 201800, Helena, MT 59620. 406/444-3115.
kstrege@state.mt.us

Judith Meadows, State Law Librarian, PO Box 203004, Helena, MT 59620. 406/444-3660
jmeadows@state.mt.us

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

Attorney General Mike McGrath, PO Box 201401, Helena, MT 59620 406/444-2026
mmcgrath@state.mt.us

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page

<http://www.discoveringmontana.com>

2. State agency portal

<http://www.discoveringmontana.com>

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

Yes

3. Legislative website

<http://www.leg.state.mt>

a. Does the website cover the current year only?

No, several years.

b. Are services free or fee-based?

Free

4. Judicial websites

<http://www.montanacourts.org>

5. Regulatory agency websites

<http://www.discoveringmontana.com>

6. Freedom of Information Service Hotline

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

No one has been designated as such.

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

Yes