

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.

Nev. Rev. Stat. 239.005 – 239.330 (2001); Nev. Admin. Code ch. 239, §§ 011-850 (11/1998); Department of Administration, State Administrative Manual § 400 (2002).

b. If “No,” skip this whole section.

Additional comments:

The basic statute was added in 1911 and has resisted significant change since. Nev. Rev. Stat. 239.010 (2001). The regulations provide most of the detail of the public records law at this time. The State Administrative Manual (SAM) is a collection of policy statements from agencies of the executive branch based on statute. Less formal than regulations, the statements in SAM indicate agency practice and are particularly useful for policy statements regarding public records.

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.

Nev. Rev. Stat. 239.005 (2001) defines “governmental entity,” but does not specifically name the judicial branch. “Other” refers to local governments.

Additional comments:

The judicial branch often claims constitutional exemption from statutes, and for public records laws, it has stated in Whitehead v. Comm. on Judicial Discipline, 111 Nev. 70, 893 P.2d 866 (1995) that they do not apply where the court has lawfully declared a record not to be public.

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

“Public record” is not specifically defined in statute, but has several definitions in the administrative code.

Additional comments:

Nev. Admin. Code ch. 239, § 101 (11/1998) for local government records; § 570 (11/1998) for state records. "Official state record" is defined at Nev. Admin. Code ch. 239, § 705 (11/1998), and Nev. Rev. Stat. 239.080 (2001).

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?

Nev. Admin. Code ch. 239, § 698 (11/1998). The regulation requires more up front planning for agencies wishing to keep records in electronic format. They must provide a migration plan, as well. State Admin. Manual § 406.0 defines electronic records and outlines requirements for creation and maintenance. State Admin. Manual § 402.0(3) discusses state agency responsibilities in the creation of electronic records. State Admin. Manual § 409.0 provides for an Electronic Records Review Committee, consisting of representatives from the Dept. of Information Technology, the State Library and Archives and Purchasing, chaired by the Electronic Records Archivist of the State Library and Archives. Department of Administration, State Administrative Manual (2002).

Additional comments:

Nev. Admin. Code ch. 239, § 760 (11/1998) deals specifically with the physical treatment of electronic records, and requires that computer disks or tapes be transferred to bond paper or film for permanent storage. Subsequent sections provide standards for optical imaging systems and CD-ROMs.

The Electronic Records Archivist's position is currently vacant but the duties were reassigned to the State Records Manager late in 2002.

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

Yes
 No

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

Nev. Rev. Stat. 239.073 – 239.125 (2001); Local Government: Nev. Admin. Code ch. 239, §§ 155 – 551 (11/1998). These set up the approval process for state and local schedules.

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.

Nev. Admin. Code ch. 239, § 760 (11/1998) specifies that electronic records requiring long-term storage (i.e. transfer to the state records center) be transferred to bond paper or microfilm/fiche. Sections 770 – 845 discuss procedures for preserving and migrating optical images, including transfer to bond paper and film for permanent or long term storage. Sections 847-848 cover maintenance of records on CD-ROM, including transfer to bond paper and film for long-term or permanent storage.

Additional comments:

Nevada Local Government Records Manual (Carson City: Division of State Library and Archives, 1998). Local Courts Records Retention Manual. (2nd ed. Carson City: Admin. Office of the Courts, 1996). Supreme Court Rules on the Administrative Docket. Minimum Records Retention Schedules. (2001). The latter are the formally adopted schedules for local court records; the Supreme Court's records are covered by unpublished internal policy. Electronic records are treated like all other records for purposes of retention.

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.

Actually, there is nothing quite so clear-cut as the question suggests. In Donrey of Nevada v. Bradshaw, 106 Nev. 630, 798 P. 2d 144 (1990), the Supreme Court required a balancing test to determine whether a public record was confidential or not. In the opinion, the court mentions that the general policy is in favor of open government. 1986 Op. Att'y Gen. No.7 states that the application of a balancing test favors public disclosure and distinguishes "public records" from public records that are open to inspection. Nev. Rev. Stat. 239.010 (2001), the basic public records statute, states that "[a]ll public books and records of a governmental entity, the contents of which are not otherwise declared by law to be confidential, must be open at all times during office hours to inspection by any person ..." Nev. Rev. Stat. 378.230 (2001) concerning Archives and Records gives a statement of legislative intent to assure maximum accessibility for the general public by following accepted standards.

Additional comments:

Assem. Con. Res. 90, 1991 Nev. Stat. 2643 directing the Legislative Commission to study the laws governing public records and books, states, "... There is a growing need to identify, preserve and maintain public access to significant electronic records along with maintenance of our documentary heritage[.]" This resulted in the Legislative Commission's Subcommittee to Study Laws Governing Public Books and Records publication Study of Nevada Laws Governing Public Books and Records (Legislative Counsel Bureau Bulletin 93-9, 1992), which incorporated recommendations of a prior study done pursuant to an executive order (Margaret Hedstrom, Management and Preservation of Nevada's Electronic Public Records; a Report to the Nevada State Historical Records Advisory Board. (Albany: 1990)). Several recommendations of these studies were adopted by the legislature, but controversy over the exemptions (of which there were about 250 in 1993) resulted in little change to the basic statute, Nev. Rev. Stat. 239.010 (2001).

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.

The State Library and Archives Administrator is not specifically identified as the officer responsible, but all relevant statutes and regulations refer to that person or someone under him/her, such as the State Archivist, as carrying out those duties. There is a “committee to approve schedules for the retention and disposition of state records,” authorized at Nev. Rev. Stat. 239.073 (2001). Local records are governed by a Local Government Advisory Committee, Nev. Rev. Stat. 354.594 (2001), pursuant to regulations adopted by the State Library and Archives Administrator. Nev. Rev. Stat. 239.125 (2001). See, generally, Nev. Admin. Code ch. 239, §§ 696-760 (11/98).

- 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.

Once records are found to have permanent or historical value by the State Library and Archives, a state agency may not reclaim them. 1981 Op. Att’y Gen. No.13.

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.

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.
- 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.

Additional comments:

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

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.

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.

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.

Nev. Rev. Stat. 239.101, 378.150-378.210 (2001): no regulations.

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

Additional comments:

Nev. Rev. Stat. 378.150 (2001) is a statement of legislative intent that "[A]ll state and local government publications be distributed to designated depository libraries for use by all inhabitants of the state[.]" This statute establishes the State Publications Distribution Center within the State Library and Archives.

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.

Nev. Rev. Stat. 378.160 (2001) specifies publications of "the legislature, constitutional officers or any department, division, bureau, board, commission or agency of the State of Nevada." "Other" above would include publications of local governmental agencies, including school districts. Nev. Rev. Stat. 378.160 (2001) exempts the code, statutes, court reports and press items from the University of Nevada from distribution.

Additional comments:

Public access is implied, but not specifically stated, in Nev. Rev. Stat. 380.170 (2001) which permits director of the Legislative Counsel Bureau to distribute specified legislative publications without charge to law libraries; these include several exempted by Nev. Rev. Stat. 378.160 (2001).

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

The statute refers only to "publications;" the form is not specified.

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:

Nev. Rev. Stat. 218.684 (2001) provides that the director of the Legislative Counsel Bureau may make computerized texts of LCB publications available for access to any person or government.

A fee may be prescribed, but in actuality, most LCB publications are free on the Internet. One may subscribe to tailored legislative bill services, which usually entail a fee.

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.

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:

Besides the basic public records statute, Nev. Rev. Stat. 239.010 (2001), only the statutes for the State Publications Distribution Center, Nev. Rev. Stat. 378.150 (2001), and for the State Archives, Nev. Rev. Stat. 378.230 (2001) specify accessibility. The presumption is that wide distribution to public libraries will create necessary accessibility to the public.

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.

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.

It seems to be presumed that by making government publications available to libraries, accessibility will be provided. The State Library and Archives’ internal policy is to retain permanent copies of all state and local publications.

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.

Department of Information Technology (DoIT). Nev. Rev. Stat. 242.031 (2001).
“Director.” Nev. Rev. Stat. 242.041 (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?

Nev. Rev. Stat. 242.071 (2001). The statute was first enacted in 1965, but its current form dates to 1981.

Additional comments:

The department was originally known as the Department of Data Processing. It was an organizational attempt to centralize data processing functions in state government to prevent the inefficient proliferation of systems at the agency level. It was based on the “main frame” concept and has had to evolve with the widespread adoption and use of desktop applications.

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.

Nev. Admin. Code ch. 242

Additional comments:

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.

It is an executive branch agency, and the judicial and legislative branches are not required to use its services.

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?

Additional comments:

DoIT is not an information provider, but more a provider of technical support of agencies in programming security, equipment standardization and telecommunications. It partners with the State Library and Archives and Purchasing on the Electronic Records Review Committee. Department of Administration, State Administrative Manual § 409 (2002).

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.

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.

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.

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 always been focused on the nuts and bolts of technology, while the State Library has taken the lead in information preservation, beginning with taking over the responsibilities of the State Archives from the Secretary of State in 1979 and with Micrographics from State Printing in 1994.

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.

While not directly stated, it appears to be the Planning and Research Unit of the Department. Nev. Rev. Stat. 242.115 (2001).

b. If "Yes," also provide complete bibliographic information about the plan; when was it published? Nevada Information Systems Policies & Standards Manual, (Carson City: Nevada Department of Data Processing, 1992).

- 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.

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.

Section 3 refers to regulations and statutes discussed elsewhere regarding public records and electronic records, but does not add anything new.

Additional comments:

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

State Printing Division of the Dept. of Administration. Nev. Rev. Stat. 344.015 (2001); “Superintendent” means the chief of the division. Nev. Rev. Stat. 344.019 (2001).

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.

1969 Nev. Stat. 1512

Additional comments:

This statute re-organized the office of the Superintendent of State Printing to create a department of state printing. The office dates from 1865, when the printer was an elected official.

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.

The Legislature has absolute priority of print projects over any agency projects (Nev. Rev. Stat. 344.053), but is not listed under the jurisdiction of the printer, nor is the judiciary (Nev. Rev. Stat. 344.050). Both use the printer for almost all of their official publishing, though. Nev. Rev. Stat. 344.053 & 344.050 (2001).

Additional comments:

5. Briefly discuss the functions of the printing office/official printer. Then:
All state officers, boards, commissions, etc. are required by law to make reports, public circulars, bulletins, printed books, and stationery using the services of the state printer, or do it in-house. Nev. Rev. Stat. 344.050 (2001).

- a. Describe your state's use of in-house agency publishing and/or commercial publishing of government information.

Use of commercial publishers is prohibited by statute, unless authorized by the printer, but in-house publication is permitted. Nev. Rev. Stat.344.050 (2001).

- b. What percentage of official state government documents are printed by the printing office/official printer?

75%

- c. To what extent is the printing office/official printer involved in the electronic dissemination of government information?

At this time, the printer does not disseminate electronic information, only print.

Additional comments:

The printer uses union labor, so projects are frequently more expensive than those done by commercial publishers; frequent admonitions to use the state printer imply that frustration over service and cost drive some agencies to use outside sources. The rationale for forcing agencies to use the state service is based on the volume needed to sustain the service so that it can print judicial and legislative documents.

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:

The printer receives publication information in electronic format (from the Supreme Court and the Legislature, particularly) and prints from it, but there are no published provisions for its retention in electronic format.

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:

The printer is required to supply 12 copies of each agency publication to the Nevada State Library and Archives to deposit in specified libraries statewide, but this is not addressed in the printer's statutes. See State Publications Distribution Center, Nev. Rev. Stat. 378.180 (2001).

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.

See 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.
- 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.

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:

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.

Additional comments:

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

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.

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 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.

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.

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.

Dept. of Cultural Affairs, Division of State Library & Archives; State Library & Archives Administrator. Nev. Rev. Stat. 378.010 (2001).

- 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.
1951 Nev. Stat. 206

Additional comments:

The position of State Librarian dates from 1865 and was initially *ex officio* the Secretary of State. The State Library was an autonomous agency until a government reorganization in 1993, when it became a Division of the Dept. of Museums, Library and the Arts; this department was renamed the Dept. of Cultural Affairs in 2001. The archives function was moved from the Secretary of State to create the State Library and Archives in 1979.

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.

Nev. Admin. Code ch. 378, §§ 010-235 (11/1998).

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. Nev. Rev. Stat. 378.080 – 378.087 (2001). “Other” refers to local government agencies for some things such as the deposit of publications to the State Distribution Center, the support of local libraries, and statewide library services.

Additional comments:

The legislative and judicial branches may request records management assistance, but they are not bound by the statutes and regulations of the State Library and Archives Administrator.

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

The library serves as a research center for state government, a selective federal depository, and a state and local government publications depository. It administers LSTA grants and supports statewide library development efforts. It includes the state archives and records management functions, and state micrographics.

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.

In the archival role, material of historical value may be added to the state archives, and if non-confidential, a copy can be provided (which may involve a fee). Nev. Rev. Stat. 378.250, 378.270 (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.

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.

The archives exists to preserve government records of historical value. Nev. Rev. Stat. 378.245 (2001) itemizes the records to be preserved. Nev. Admin. Code ch. 378, § 020 (11/1998) states the Archivist will assist state and local agencies in preserving records of historical value and in retrieval of non-confidential information from those records to researchers and the general public.

Additional comments:

The State Admin. Manual § 2002.0 states the State Library and Archives exists to preserve, maintain and coordinate State and local government records and archives. Department of Administration, State Administrative Manual § 2002 (2002).

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.

The State Librarian, from at least the 1970s, appears to have been one of several parties which lobbied or encouraged the legislature to study library, governmental records and public access to information, as evidenced by at least three interim legislative study committees (Libraries and Other Systems for Storing Information, Legislative Counsel Bureau Bulletin 81-15, 1980; Access to Governmental Records, Legislative Counsel Bureau Bulletin 83-2, 1982; and Study of Nevada Laws Governing Public Books and Records, Legislative Counsel Bureau Bulletin 93-9, 1992), all of which proposed legislation to improve public access to government information and/or provided for better retention of records by expanding and clarifying the law. Many of these reform efforts were unsuccessful as legislation for various reasons, although some were passed. Where legislation failed, the State Library & Archives Administrator (as currently designated) has promulgated regulations to fill in some of the gaps or expressed policies in the State Administrative Manual under sections 400 (records) and 2000 (State Library and Archives).

Additional comments:

The State Library took the lead in making government information available through its state government documents program, its State Publications Distribution Program, and through the systematic acquisition (transfer) of the archives function, followed by micrographics and records management functions. These transfers were achieved legislatively to achieve the goal of a central

agency responsible for the collection, preservation and accessibility of government publications and records.

Nevada has begun to address Permanent Public Access of state government web site information. It is still in the planning stages as of early 2003, however. The State Library and Archives has a State Publications Committee which has begun to address this issue. They want to develop a priority core collection of materials and use their current collection development policy as a standard to go by in selection criteria.

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.

State Publications Distribution Center, Nev. Rev. Stat. 378.150 – 378.210 (2001); there are no published regulations.

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

Additional comments:

According to the person in charge of this program, a regulation governing it was drafted and apparently adopted in 1972, but it was not included in the Nevada Administrative Code, which compiled all independent agency publications into one official publication, effective 1981.

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?

There have been attempts to cover electronic government information, but there is no systematic way to identify it and capture it.

Additional comments:

A bill has been drafted for the 2003 legislative session whose justifications reads, 'The State Publications Center is charged with the responsibility for ensuring that "all state and local government publications be distributed to designated depository libraries for use by all inhabitants of the state.'" State and local governments are increasingly publishing documents only in an electronic format on the World Wide Web which limits access to persons with computers and Internet access and does not allow for any method for organization and access of these publications.' The bill would specifically include electronic records and publications in the Center's statutes, Nev. Rev. Stat. 378.150 et seq., and require state and local governments to provide the State Library and Archives access to any electronic publications so they can be distributed to depository libraries.

- 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:

There is no mechanism for determining such a figure.

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

Additional comments:

This program was virtually abandoned even for print materials after staff cuts in the 1990s. It is only just beginning to be revived. Current staffing is insufficient to seek out and acquire most electronic publications, although sporadic attempts are made. The proposed legislation above may vastly improve the capture of electronic information and make it more accessible through cataloging and cataloging links to the issuing agencies' web sites. The State Archives Manager also attempts to save significant on-line records and store them in a permanent format, but, again, this is sporadic at this time.

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.

The Conference of Nevada State Historical and Informational Agencies has recently been revived because of interest in preserving historic records of any kind, with a focus on digitizing such materials for accessibility. An LSTA grant has also been obtained to set standards for a Nevada Digital Archives. The participants include the State Library and Archives, a public library, the Nevada Historical Society, and the two University of Nevada campuses. It has not yet begun to meet as of this writing.

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.

Reform language would naturally go in the statutes for the State Library and Archives, Nev. Rev. Stat. 378.010-378.320, and in the general statutes for public records 239.010 et seq.

- 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:

The State Library and Archives has considered access to and preservation of governmental information central to its mission, and most efforts at improving access and preservation arise from there.

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

There was a very significant legislative effort made following the Study of Nevada Laws Governing Public Books and Records, Legislative Counsel Bureau Bulletin 93-9, 1992. There

were a great many parties interested in improving the public records laws and many improvements were proposed. Unfortunately, a battle between the press association, which wanted access to all records, and police and firemen, who were concerned about the privacy of their records, resulted in the failure of most of the revisions at the committee stage. Where possible, the State Library and Archives subsequently adopted the improvements relevant to its role as policies in the State Administrative Manual.

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)

Terry Savage
Director
Nevada Department of Information Technology
505 E. King. St. Rm. 403
Carson City, NV 89701
Telephone: (775) 684-5801
Fax: (775) 684-5846
E-Mail: tsavage@doit.state.nv.us

2. State Printer

Don Bailey
Superintendent
Nevada State Printing Division
301 S. Stewart St.
Carson City, NV 89701
Telephone: (775) 687-4860
Fax: (775)687-6951
E-Mail: dbailey@govmail.state.nv.us

3. State Archivist

Guy Louis Rocha
Assistant Administrator for Archives & Records
State Library and Archives Division
100 N. Stewart St.
Carson City, NV 89701
Telephone: (775) 684-3317
Fax: (775) 684-3330
E-Mail: glrocha@clan.lib.nv.us

4. State Librarian and/or State Law Librarian

Sara Jones
Nevada State Library and Archives Administrator
100 N. Stewart St.
Carson City, NV 89701
Telephone: (775) 684-3315
Fax: (775) 684-3311
E-Mail: sfjones@clan.lib.nv.us

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

Brian Sandoval
Nevada Attorney General
100 North Carson Street
Carson City, NV 89701
Telephone: (775) 684-1100
Fax: (775) 684-1108
E-Mail: AGINFO@ag.state.nv.us

For Records Questions:
Melanie Meehan-Crossley
Deputy Attorney General
Nevada Attorney General's Office
100 N. Carson St.
Carson City, NV 89701
Telephone: (775) 684-1208
Fax: (775) 684-1108
E-Mail : mmcrossl@ag.state.nv.us

M. IMPORTANT STATE RESOURCES

Provide URLs or other finding information for:

1. Official state home page

<<http://silver.state.nv.us>>

2. State agency portal

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

3. Legislative website

<<http://leg.state.nv.us>>

a. Does the website cover the current year only?

no

b. Are services free or fee-based?

almost entirely free; there are some fee-based bill-tracking services during sessions

4. Judicial websites

Nevada Supreme Court <<http://nvcourtaoc.state.nv.us/>> under construction.

Nevada – 1st Judicial District Court <<http://www.carson-city-nv.us/departments/districtcourt/>>

Nevada – 2d Judicial District Court <<http://www.washoecourts.com>>

Nevada – 3d Judicial District Court <<http://www.churchillcounty.org/dcourt/>>

Nevada – 4th Judicial District Court <<http://www.elkonv.com/~fourjdc1/>>

Nevada – 6th Judicial District Court <http://www.pershingnv.com/the_sixth_judicial.htm>

Nevada – 8th Judicial District Court <http://www.co.clark.nv.us/district_court/courthome.htm>

Nevada – 9th Judicial District Court <<http://cltr.co.douglas.nv.us/CourtClerk>>

Churchill County New River Township <<http://www.churchillcounty.org/jcourt/>>

Eureka County Justice Courts <<http://www.co.eureka.nv.us/court/justice.htm>>

Humboldt County Justice Courts <<http://www.humboldt-county-nv.net/justice/>>

Incline Village Justice Court <<http://207.228.25.168/justice/>>

Lake Township Justice Court <http://www.pershingnv.com/justice_of_tge_peace.htm>

Las Vegas Justice Court <http://www.co.clark.nv.us/justicecourt_lv/welcome.htm>

Mesquite Justice Court <<http://mesquitenv.com/depts/depts.cfm?dept=MCT>>

North Las Vegas Justice Court <<http://www.ci.north-las-vegas.nv.us/Departments/MunicipalCourt/MunicipalCourt.cfm>>

Pershing County Lake Justice Court <http://www.pershingnv.com/justice_of_tge_peace.htm>

Reno Justice Court <<http://www.co.washoe.nv.us/rjc/>>

White Pine County Justice Court <http://www.whitepinecounty.net/justice_court.htm>

Boulder City Municipal Court <<http://www.bcnv.org/departments/court/departmentscourt.html>>

Henderson Municipal Court <<http://www.ci.henderson.nv.us/muni/munibody.html>>

Las Vegas Municipal Court <http://www.ci.las-vegas.nv.us/municipal_court/default.htm>

Reno Municipal Court <<http://www.cityofreno.com/municipal/>>

Sparks Municipal Court <<http://www.ci.sparks.nv.us/departments/municipal/>>

Yerington Municipal Court <<http://www.yerington.net/citycourt.html>>

5. Regulatory agency websites

Official state home page has links to all agencies' websites.

6. Freedom of Information Service Hotline

none

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

no

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

Nevada does not have a Freedom of Information Act, per se, but there is a deputy attorney general assigned to public/government information access (Melanie Meehan-Crossley, telephone (775) 684-1208)