

HB0414S01 compared with HB0414

~~{deleted text}~~ shows text that was in HB0414 but was deleted in HB0414S01.

inserted text shows text that was not in HB0414 but was inserted into HB0414S01.

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Representative Casey Snider proposes the following substitute bill:

RECORDS MANAGEMENT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to the management of certain records.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to the purposes and duties of the State Library Division;
- ▶ includes the Utah Code, the Laws of Utah, and biennial versions of the Utah Constitution within the digital library that the State Library Division is required to publish;
- ▶ requires the Office of Legislative Research and General Counsel to deposit digital copies of those publications with the State Library Division;
- ▶ provides for the Office of Legislative Research and General Counsel to be the

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repository and custodian of the official version of the Utah Constitution database, to update the constitution database as amendments are passed, and to maintain the bold face descriptive titles to sections of the Utah Constitution;

- ▶ modifies provisions relating to the Office of Legislative Research and General Counsel's management of certain legislative records;
- ▶ eliminates the responsibility of the Office of Legislative Research and General Counsel to maintain a legislative research library;
- ▶ modifies duties of and other provisions relating to the state archivist;
- ▶ requires the state archivist to retain and preserve certain legislative records;
- ▶ provides for the transmission of certain legislative records to the state archivist for retention and preservation; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

[This bill provides a coordination clause.](#)

Utah Code Sections Affected:

AMENDS:

9-7-101, as last amended by Laws of Utah 2019, Chapter 221

9-7-201, as renumbered and amended by Laws of Utah 1992, Chapter 241

9-7-203, as last amended by Laws of Utah 2017, Chapter 48

9-7-205, as last amended by Laws of Utah 2017, Chapter 48

9-7-207, as last amended by Laws of Utah 2006, Chapter 81

9-7-208, as repealed and reenacted by Laws of Utah 2006, Chapter 81

36-12-12, as last amended by Laws of Utah 2003, Chapter 92

63A-12-102, as last amended by Laws of Utah 2021, Chapter 344

63G-2-703, as last amended by Laws of Utah 2015, Chapter 258

ENACTS:

63A-12-102.5, Utah Code Annotated 1953

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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **9-7-101** is amended to read:

9-7-101. Definitions.

As used in this chapter:

(1) "Board" means the State Library Board created in Section 9-7-204.

(2) "Division" means the State Library Division.

(3) "Legislative staff office" means the Office of Legislative Research and General Counsel.

(4) "Legislative publication" means:

(a) the Utah Code after the legislative staff office prepares an updated Utah Code database incorporating amendments to the Utah Code;

(b) the Laws of Utah; and

(c) the Utah Constitution after the legislative staff office incorporates into the Utah Constitution amendments to the Utah Constitution that passed during the preceding regular general election.

~~[(3)]~~ (5) "Library board" means the library board of directors appointed locally as authorized by Section 9-7-402 or 9-7-502 and which exercises general policy authority for library services within a city or county of the state, regardless of the title by which the board is known locally.

~~[(4)]~~ (6) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.

~~[(5)]~~ (7) "Policy" means the public library online access policy adopted by a library board to meet the requirements of Section 9-7-215.

~~[(6)]~~ (8) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.

~~[(7)]~~ (9) "State agency" means:

(a) the state; or

(b) an office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.

~~[(8)]~~ (10) (a) "State publication" means a book, compilation, directory, document, contract or grant report, hearing memorandum, journal, law, legislative bill, magazine, map,

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monograph, order, ordinance, pamphlet, periodical, proceeding, public memorandum, resolution, register, rule, report, statute, audiovisual material, electronic publication, micrographic form and tape or disc recording regardless of format or method of reproduction, issued or published by a state agency or political subdivision for distribution.

(b) "State publication" does not include correspondence, internal confidential publications, office memoranda, university press publications, or publications of the state historical society.

Section 2. Section **9-7-201** is amended to read:

9-7-201. State Library Division -- Creation -- Purpose.

(1) There is created within the department the State Library Division under the administration and general supervision of the executive director or the designee of the executive director.

(2) The division shall be under the policy direction of the board.

(3) The division shall function as the library authority for the state and is responsible for:

(a) general library services[;];

(b) extension services[;];

(c) publishing legislative publications, as provided in this part, that the legislative staff office deposits with the division;

(d) the preservation, distribution and exchange of state publications[;];

(e) legislative reference[;]; and

(f) other services considered proper for a state library.

Section 3. Section **9-7-203** is amended to read:

9-7-203. Division duties.

The division shall:

(1) establish, operate, and maintain a state publications collection, a digital library of state publications and legislative publications, a bibliographic control system, and depositories as provided in this part;

(2) cooperate with:

(a) other agencies to facilitate public access to government information through electronic networks or other means;

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- (b) other state or national libraries or library agencies; and
- (c) the federal government or agencies in accepting federal aid whether in the form of funds or otherwise;
- (3) receive bequests, gifts, and endowments of money and deposit the funds with the state treasurer to be placed in the State Library Donation Fund, which funds shall be held for the purpose, if any, specifically directed by the donor; and
- (4) receive bequests, gifts, and endowments of property to be held, used, or disposed of, as directed by the donor, with the approval of the Division of Finance.

Section 4. Section **9-7-205** is amended to read:

9-7-205. Duties of board and director.

- (1) The board shall:
 - (a) promote, develop, and organize a state library and make provisions for its housing;
 - (b) promote and develop library services throughout the state in cooperation with other state or municipal libraries, schools, or other agencies wherever practical;
 - (c) promote the establishment of district, regional, or multicounty libraries as conditions within particular areas of the state may require;
 - (d) supervise the books and materials of the state library and require the keeping of careful and complete records of the condition and affairs of the state library;
 - (e) establish policies for the administration of the division and for the control, distribution, and lending of books and materials to those libraries, institutions, groups, or individuals entitled to them under this chapter;
 - (f) serve as the agency of the state for the administration of state or federal funds that may be appropriated to further library development within the state;
 - (g) aid and provide general advisory assistance in the development of statewide school library service and encourage contractual and cooperative relations between school and public libraries;
 - (h) give assistance, advice, and counsel to all tax-supported libraries within the state and to all communities or persons proposing to establish a tax-supported library and conduct courses and institutes on the approved methods of operation, selection of books, or other activities necessary to the proper administration of a library;
 - (i) furnish or contract for the furnishing of library or information service to state

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officials, state departments, or any groups that in the opinion of the director warrant the furnishing of those services, particularly through the facilities of traveling libraries to those parts of the state otherwise inadequately supplied by libraries;

(j) where sufficient need exists and if the director considers it advisable, establish and maintain special departments in the state library to provide services for the blind, visually impaired, persons with disabilities, and professional, occupational, and other groups;

(k) administer a depository library program by collecting state publications and legislative publications, and providing a bibliographic information system;

(l) require the collection of information and statistics necessary to the work of the state library and the distribution of findings and reports;

(m) make any report concerning the activities of the state library to the governor as the governor may require; and

(n) develop standards for public libraries.

(2) The director shall, under the policy direction of the board, carry out the responsibilities under Subsection (1).

Section 5. Section **9-7-207** is amended to read:

9-7-207. Deposit of state publications.

(1) (a) (i) Each state agency and political subdivision publishing a digital version of a state publication shall deposit a digital copy with the division.

(ii) (A) Upon the legislative staff office's production of a legislative publication, the legislative staff office shall deposit with the division a digital copy of the legislative publication.

(B) The legislative staff office's deposit of a legislative publication with the division for the division to publish online, as provided in this part, is a method for the legislative staff office to comply with Section 46-5-108.

(b) Each state agency and political subdivision shall deposit with the division copies of each state publication that it elects to publish in a physical format in the numbers specified by the state librarian.

(c) The division shall forward two copies of each state publication published in a physical format deposited with it by a state agency to the Library of Congress, one copy to the state archivist, at least one copy to each depository library, and retain two copies.

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(2) Each state agency or political subdivision shall deposit with the division a digital copy of each audio and video publication or recording issued by it for bibliographic listing and retention in the digital library.

(3) Each state agency or political subdivision shall deposit with the division copies of audio and video publications or recordings issued by it in physical formats in the numbers specified by the state librarian for bibliographic listing and retention in the state library collection.

(4) (a) The division shall publish or make available to the public through electronic networks a list of state agency publications.

(b) The list shall be published periodically and distributed to depository libraries and the state archivist.

(5) Materials the division considers not to be of major public interest will be listed, but no copies will be required for deposit.

Section 6. Section **9-7-208** is amended to read:

9-7-208. Digital library for permanent public access.

(1) The division shall manage and maintain an online, web-accessible digital library for state publications and legislative publications.

(2) The division shall provide for permanent public access to the publications in the digital library.

(3) The library shall be accessible by agency, author, title, subject, keyword, and such other means as provided by the division.

(4) (a) Each state agency publishing a digital version of a state publication shall deposit a digital copy of the publication with the division.

(b) A state agency may not remove a state publication it posts to its public website until a copy is deposited into the digital library for permanent public access.

Section 7. Section **36-12-12** is amended to read:

36-12-12. Office of Legislative Research and General Counsel -- Established -- Powers, functions, and duties -- Organization of office -- Selection of director and general counsel.

(1) There is established an Office of Legislative Research and General Counsel as a permanent staff office for the Legislature.

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(2) The powers, functions, and duties of the Office of Legislative Research and General Counsel under the supervision of the director shall be:

(a) to provide research and legal staff assistance to all standing, special, and interim committees as follows:

(i) to assist each committee chairman in planning the work of the committee;

(ii) to prepare and present research and legal information in accordance with committee instructions or instructions of the committee chairman;

(iii) to prepare progress reports of committee work when requested; and

(iv) to prepare a final committee report in accordance with committee instructions, that includes relevant research information, committee policy recommendations, and recommended legislation;

(b) to collect and examine the acts and official reports of any state and report their contents to any committee or member of the Legislature;

(c) to provide research and legal analysis services to any interim committee, legislative standing committee, or individual legislator on actual or proposed legislation or subjects of general legislative concern;

~~[(d) to maintain a legislative research library that provides analytical, statistical, legal, and descriptive data relative to current and potential governmental and legislative subjects;]~~

~~[(e)]~~ (d) (i) to exercise under the direction of the general counsel the constitutional authority provided in Article VI, Sec. 32, Utah Constitution, in serving as legal counsel to the Legislature, majority and minority leadership of the House or Senate, any of the Legislature's committees or subcommittees, individual legislators, any of the Legislature's staff offices, or any of the legislative staff; and

(ii) to represent the Legislature, majority and minority leadership of the House or Senate, any of the Legislature's committees or subcommittees, individual legislators, any of the Legislature's staff offices, or any of the legislative staff in cases and controversies before courts and administrative agencies and tribunals;

~~[(f)]~~ (e) to prepare and assist in the preparation of legislative bills, resolutions, memorials, amendments, and other documents or instruments required in the legislative process and, under the direction of the general counsel, give advice and counsel regarding them to the Legislature, majority and minority leadership of the House or Senate, any of its members

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or members-elect, any of its committees or subcommittees, or the legislative staff;

~~[(g)]~~ (f) under the direction of the general counsel, to review, examine, and correct any technical errors and approve legislation that has passed both houses in order to enroll the legislation and prepare the laws for publication;

~~[(h) to keep on file records concerning all legislation and proceedings of the Legislature with respect to legislation referred to in Subsection (2)(g);]~~

(g) (i) to exercise control over and to act as the repository and custodian of the official copy and database of the current version of the Utah Constitution;

(ii) to incorporate into the Utah Constitution any amendments to the Utah Constitution that pass during a regular general election; and

(iii) to update and maintain the bold face descriptive titles to sections of the Utah Constitution;

(h) (i) to exercise control over and to act as the repository and custodian of the official copy and database of the Utah Code; and

(ii) to keep the Utah Code database current, including updating the database to reflect any duly enacted legislation making changes to the Utah Code;

(i) to formulate recommendations for the revision, clarification, classification, arrangement, codification, annotation, and indexing of Utah statutes, and to develop proposed legislation to effectuate the recommendations;

(j) to appoint and develop a professional staff within budget limitations; and

(k) to prepare and submit the annual budget request for the Office of Legislative Research and General Counsel.

(3) The statutory authorization of the Office of Legislative Research and General Counsel to correct technical errors provided in Subsection ~~[(2)(g)]~~ (2)(f) includes:

(a) adopting a uniform system of punctuation, capitalization, numbering, and wording;

(b) eliminating duplication and the repeal of laws directly or by implication, including renumbering when necessary;

(c) correcting defective or inconsistent section and paragraph structure in the arrangement of the subject matter of existing statutes;

(d) eliminating all obsolete and redundant words;

(e) correcting obvious errors and inconsistencies including those involving

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punctuation, capitalization, cross references, numbering, and wording;

(f) changing the boldface to more accurately reflect the substance of each section, part, chapter, or title; and

(g) merging or determining priority of any amendments, enactments, or repealers to the same code provisions that are passed by the Legislature.

(4) In carrying out the duties provided for in this section, the director of the Office of Legislative Research and General Counsel may obtain access to all records, documents, and reports necessary to the scope of the director's duties according to the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

(5) In organizing the management of the Office of Legislative Research and General Counsel, the Legislative Management Committee may either:

(a) select a person to serve as both the director of the office and as general counsel. In such case, the director of the office shall be a lawyer admitted to practice in Utah and shall have practical management experience or equivalent academic training; or

(b) select a person to serve as director of the office who would have general supervisory authority and select another person to serve as the legislative general counsel within the office. In such case, the director of the office shall have a master's degree in public or business administration, economics, or the equivalent in academic or practical experience and the legislative general counsel shall be a lawyer admitted to practice in Utah.

Section 8. Section **63A-12-102** is amended to read:

63A-12-102. State archivist -- Duties.

(1) (a) With the approval of the governor, the executive director shall appoint the state archivist to serve as director of the state archives.

(b) The state archivist shall be qualified by archival training, education, and experience.

(2) The state archivist is charged with ~~[custody of the following]:~~

(a) the custody and permanent retention and preservation of:

~~[(a)]~~ (i) the enrolled copy of the original 1895 Utah ~~[constitution]~~ Constitution;

~~[(b) the acts and resolutions passed by the Legislature;]~~

~~[(c) all records kept or deposited with the state archivist as provided by law;]~~

~~[(d) the journals of the Legislature and all bills, resolutions, memorials, petitions, and~~

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claims introduced in the Senate or the House of Representatives;]

~~(e)~~ (ii) Indian war records; [and]

~~(f)~~ (iii) oaths of office of all state officials[-], including legislative officials, required under Article IV, Section 10 of the Utah Constitution to take an oath of office;

(iv) all other records, excluding legislative records described in Section 63A-12-102.5, kept by or deposited with the state archivist for permanent preservation as provided by law; and

(b) the retention and preservation of legislative records, as provided in Section 63A-12-102.5.

(3) (a) The state archivist is the official custodian of all noncurrent records of permanent or historic value that are not required by law to remain in the custody of the originating governmental entity.

(b) Upon the termination of any governmental entity, its records shall be transferred to the state archives.

Section 9. Section **63A-12-102.5** is enacted to read:

63A-12-102.5. Preservation of legislative records.

(1) As used in this section:

(a) "Historical legislative record" means a permanent legislative record or a supplemental legislative record that a legislative office transmitted to the state archivist before the effective date of this section for retention and preservation.

(b) "Legislative office" means:

(i) the Senate, the House of Representatives, or a staff office of the Legislature; or

(ii) as applicable, a body designated by the Legislative Management Committee to be responsible for:

(A) the retention of a legislative record; or

(B) the transmission of a legislative record to the division, as provided in this section, if the body chooses to transmit the legislative record to the division.

(c) "Legislative retention schedule" means the retention schedule attached as Appendix A to the Legislative Management Committee Policy L. Legislative Records.

(d) "Permanent legislative record" means:

(i) a joint proclamation issued by the president of the Senate and the speaker of the House of Representatives convening a session of the Legislature under Article VI, Section 2 of

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the Utah Constitution:

(ii) a session journal of the Senate or House of Representatives;

(iii) a recording of Senate or House of Representatives floor proceedings;

(iv) a numbered bill or resolution of the Senate or House of Representatives, including:

(A) a public substitute or amendment;

(B) a fiscal note or other information required to accompany a numbered bill or

resolution; and

(C) an enrolled bill or resolution;

(v) an introduced article of impeachment or amendment to an article of impeachment;

(vi) as prepared by the Legislature and provided to the public, a list of actions taken on legislation during a legislative session or descriptions of the status of legislation considered during a legislative session;

(vii) a notice, agenda, handout or other public meeting material, recording, or minutes of the Legislative Management Committee, Executive Appropriations Committee, standing and interim committees of the Legislature, appropriations subcommittees of the Legislature, audit subcommittees of the Legislature, and other legislative committees, task forces, or commissions, excluding a rules or sifting committee of the Legislature;

(viii) a statutorily required budget or appropriations report;

(ix) an audit or review report of the Office of the Legislative Auditor General and a record that supports the conclusions and findings of the audit or review report;

(x) a version of the Utah Code after the Office of Legislative Research and General Counsel prepares an updated Utah Code database incorporating any duly enacted legislation making changes to the Utah Code;

(xi) the Laws of Utah;

(xiii) a biennial version of the Utah Constitution after the Office of Legislative Research and General Counsel incorporates into the Utah Constitution amendments that passed during the preceding regular general election; or

(xiv) a notice of appeal under Section 63G-9-401 relating to a decision of the board of examiners and a record accompanying a notice of appeal.

(e) "Supplemental legislative record" means a legislative record that is not a permanent legislative record.

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(2) A legislative office may, but is not required to, transmit a legislative record to the state archivist for retention and preservation as provided in this section.

(3) (a) A legislative office shall consult with the state archivist as the legislative office determines the method and timing of transmitting a legislative record that the legislative office chooses to transmit to the state archivist for the state archivist's retention and preservation as provided in this section.

(b) The transmission of a digital copy of a legislative record is sufficient for purposes of the transmission of the legislative record to the state archivist.

(4) (a) A legislative record that a legislative office transmits to the state archivist for retention and preservation remains in the control and legal custody of the legislative office and, although retained and preserved by the state archivist, does not become subject to the control or legal custody of the state archivist.

(b) The state archivist shall allow a legislative office full and continuing access to any legislative record transmitted to the state archivist for retention and preservation under this section.

(5) (a) The state archivist may not disclose a supplemental legislative record without the prior written consent of the legislative office that transmitted the supplemental legislative record to the state archivist.

(b) If the state archivist receives a subpoena or other request for a supplemental legislative record, the state archivist shall immediately provide written notice of the subpoena or other request to:

(i) the legislative office that transmitted the supplemental legislative record to the state archivist; and

(ii) legislative general counsel.

(6) The state archivist shall:

(a) permanently retain and preserve a historical legislative record;

(b) permanently retain and preserve a permanent legislative record that a legislative office chooses to transmit to the state archivist after the effective date of this section; and

(c) retain and preserve, according to the legislative retention schedule, a supplemental legislative record that a legislative office chooses to transmit to the state archivist for retention and preservation after the effective date of this section.

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Section 10. Section **63G-2-703** is amended to read:

63G-2-703. Applicability to the Legislature.

(1) The Legislature and its staff offices shall designate and classify records in accordance with Sections 63G-2-301 through 63G-2-305 as public, private, controlled, or protected.

(2) (a) The Legislature and its staff offices are not subject to Section 63G-2-203 or to Part 4, Appeals, Part 5, State Records Committee, or Part 6, Collection of Information and Accuracy of Records.

(b) The Legislature is subject to only the following sections in Title 63A, Chapter 12, Division of Archives and Records Service: Sections 63A-12-102, 63A-12-102.5, and 63A-12-106.

(3) The Legislature, through the Legislative Management Committee:

(a) shall establish policies to handle requests for classification, designation, fees, access, denials, segregation, appeals, management, retention, and amendment of records; and

(b) may establish an appellate board to hear appeals from denials of access.

(4) Policies shall include reasonable times for responding to access requests consistent with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.

(5) Upon request, the state archivist shall:

(a) assist with and advise concerning the establishment of a records management program in the Legislature; and

(b) as required by the Legislature, provide program services similar to those available to the executive branch of government, as provided in this chapter and Title 63A, Chapter 12, Division of Archives and Records Service.

Section 11. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 12. Coordinating H.B. 414 with H.B. 302 -- Substantive and technical amendments.

If this H.B. 414 and H.B. 302, Cultural and Community Engagement Amendments,

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both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication on July 1, 2023, by:

(1) amending Subsection 9-7-101(4) to read:

"(4) "Legislative publication" means:

(a) the Utah Code after the legislative staff office prepares an updated Utah Code database incorporating amendments to the Utah Code;

(b) the Laws of Utah; and

(c) the Utah Constitution after the legislative staff office incorporates into the Utah Constitution amendments to the Utah Constitution that passed during the preceding regular general election.";

(2) amending Subsection 9-7-201(3) to read:

"(3) (a) The division shall function as the library authority for [the state and is responsible for general library services, extension services, the preservation, distribution and exchange of state publications, legislative reference, and other services considered proper for a state library.]:

(i) general library services;

(ii) mobile library services;

(iii) providing for permanent public access to state publications; and

(iv) other services considered proper for a state library.

(b) The division is responsible for publishing legislative publications, as provided in this part, that the legislative staff office deposits with the division.";

(3) amending Subsection 9-7-205(1)(k) to read:

"(k) administer a [depository] state publications and legislative publications library program by collecting state publications and legislative publications , providing access to state publications and legislative publications through the digital library, and providing a bibliographic information system;" and

(4) amending Subsection 9-7-207(3), as enacted in H.B. 302, to read:

"(3)(a) Upon the legislative staff office's production of a legislative publication, the legislative staff office shall deposit with the division a digital copy of the legislative publication.

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(b) The legislative staff office's deposit of a legislative publication with the division for the division to publish online, as provided in this part, is a method for the legislative staff office to comply with Section 46-5-108."