

Assembly Bill No. 10–Committee
on Government Affairs

CHAPTER.....

AN ACT relating to governmental administration; requiring any interest and income earned on money in the Gift Fund for the State Library and Archives to be credited to the Fund; revising the requirements for saving images of public records before the records may be destroyed; eliminating the Fund for the Support of the Division of Museums and History of the Department of Cultural Affairs; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, any monetary gift made to the State Library and Archives or to the State of Nevada for its library or archives must be deposited in the Gift Fund for the State Library and Archives. Money deposited in the Fund does not revert to the State General Fund. (NRS 378.090) **Section 1** of this bill requires that any interest and income earned on money in the Gift Fund for the State Library and Archives must also be credited to that Fund.

The Legislature has declared that access by members of the public to public books and records is an important purpose. (NRS 239.001) Existing law prohibits a person with legal control over public records from destroying documents, instruments, papers, books and any other records or writings unless the records or writings have been placed on microphotographic film or the information contained in the records or writings has been entered into a computer system. (NRS 239.051)

Section 2 of this bill revises that prohibition to instead require that, before a public record or writing is destroyed by the custodian of the record or writing, the custodian must place an image of the record or writing on microfilm or save the image in an electronic recordkeeping system. **Section 2** also: (1) requires the microfilm or the saved image to be durable, accurate, complete and clear; (2) clarifies that a reproduction of that record or writing is considered the original, regardless of whether the actual original exists; and (3) requires the custodian of such records or writings to store the microfilm or the medium used to save the image in a manner complying with certain standards established in regulations adopted by the State Library and Archives Administrator relating to the management of records.

Finally, **section 2** requires microfilm used to save a public record to be made with film which complies with quality standards approved by the American National Standards Institute and the Association for Information and Image Management and requires the saving of a record or writing as an image to be done in a manner complying with certain standards established in regulations adopted by the State Library and Archives Administrator relating to the management of records.

Existing law creates the Fund for the Support of the Division of Museums and History of the Department of Cultural Affairs and provides that any money in the Fund in excess of \$300,000 each year reverts to the State General Fund. (NRS 381.0064) Because of recent economic conditions, the money remaining in the Fund has been depleted. **Section 7** of this bill therefore repeals the provision creating the Fund.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 378.090 is hereby amended to read as follows:

378.090 Any gift of money to the State Library and Archives or to the State of Nevada for its library or archives which the State Library and Archives Administrator is authorized to accept must be deposited in the State Treasury in a fund to be known as the Gift Fund for the State Library and Archives. This Fund is a continuing fund without reversion, and money in the Fund must be used for those purposes only and expended in accordance with the terms of the gift. *Any interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.*

Sec. 2. NRS 239.051 is hereby amended to read as follows:

239.051 1. Unless destruction of a particular record without reproduction is authorized by a schedule adopted pursuant to NRS 239.080 or 239.125, any custodian of public records in this State may destroy documents, instruments, papers, books and any other records or writings in the custodian's custody only if *an image of those records or writings ~~have~~ has been placed on ~~microphotographic film or if the information they contain has been entered into a computer system~~ microfilm or has been saved in an electronic recordkeeping system* which permits the retrieval *of the information contained in the records or writings* and the reproduction of ~~that information.~~ *the records or writings.* A reproduction of ~~that film or that information~~ *an image of a record or writing that has been placed on microfilm or saved pursuant to this section* shall be deemed to be the original ~~[-]~~ *record or writing, regardless of whether the original exists.*

2. ~~Microphotographs~~ *A microfilmed image* made pursuant to this section must be made on film which complies with minimum standards of quality approved by the American National Standards Institute ~~[-]~~ *and the Association for Information and Image Management.*

3. ~~The~~ *Any image of a record or writing which is saved in an electronic recordkeeping system pursuant to this section must comply with any applicable regulations adopted by the State Library and Archives Administrator pursuant to NRS 378.255 relating to the management of records.*



4. A microfilmed image of a record or writing made pursuant to this section or an image of the record or writing saved in an electronic recordkeeping system pursuant to this section must be durable, accurate, complete and clear.

5. If, pursuant to this section, an image of a record or writing is placed on microfilm or is saved in an electronic recordkeeping system, the custodian of the ~~[records]~~ record or ~~[writings]~~ writing shall:

(a) Promptly store at least one copy of the ~~[microphotographic film]~~ **microfilm** or ~~[the]~~ **any** tape, disc or other medium used for the storage of ~~[that information by the computer]~~ **the saved image** in ~~[such]~~ a manner and place ~~[as]~~ :

(1) Such as to protect it reasonably from loss or damage; **and**

(2) Which complies with any applicable regulations adopted by the State Library and Archives Administrator pursuant to NRS 378.255 relating to the management of records; and

(b) Maintain for the use of authorized persons a copy of a reproduction of the ~~[film or the information stored by the computer.]~~ **record or writing.**

Sec. 3. NRS 239.110 is hereby amended to read as follows:

239.110 1. The Clerk of the Supreme Court, a county clerk, deputy clerk of a justice court or clerk of a municipal court may destroy all documents, records, instruments, books, papers, depositions and transcripts in any action or proceeding in the Supreme Court, district court, justice court or municipal court, respectively, or otherwise filed in the clerk's office pursuant to law, including transcripts of coroners' inquests and depositions, if the records of the clerk do not show that the action or proceeding is pending on appeal or review in any court, except that:

(a) If the written consent of the district attorney is first obtained, transcripts of preliminary hearings may be destroyed as provided in this section; and

(b) Minutes of the Supreme Court, district court, justice court or municipal court, affidavits supporting applications for marriage licenses, after those licenses have been issued, and certificates of fictitious names of businesses may be destroyed immediately subject to the provisions of subsections 2 and 3.

2. The clerk shall maintain for the use of the public ~~[a microphotographic film print]~~ **an image on microfilm** or copy of each document, record, instrument, book, paper, deposition or transcript so destroyed, if the print or copy is placed and kept in a sealed container under certificate of the clerk and properly indexed. This print or copy shall be deemed to be the original.



3. The clerk shall promptly seal and store at least one original negative of each ~~[microphotographic film]~~ *microfilmed image* in such manner and place as may reasonably ensure its preservation indefinitely against loss, theft, defacement or destruction.

4. The Supreme Court may provide by rule for the destruction, without prior microfilming, of such other documents of the several courts of this State as are held in the offices of the clerks but which:

(a) No longer serve any legal, financial or administrative purpose; and

(b) Do not have any historical value.

5. The Court Administrator may request the Division to advise and assist the Supreme Court in its establishment of the rules.

Sec. 4. NRS 408.215 is hereby amended to read as follows:

408.215 1. The Director has charge of all the records of the Department, keeping records of all proceedings pertaining to the Department and keeping on file information, plans, specifications, estimates, statistics and records prepared by the Department, except those financial statements described in NRS 408.333 and the financial or proprietary information described in paragraph (c) of subsection 6 of NRS 408.3886, which must not become matters of public record.

2. The Director may photograph, ~~[microphotograph or]~~ film, *place an image of on microfilm, save as an image in an electronic recordkeeping system* or dispose of the records of the Department referred to in subsection 1 as provided in NRS 239.051, 239.080 and 239.085.

3. The Director shall maintain an index or record of deeds or other references of title or interests in and to all lands or interests in land owned or acquired by the Department.

4. The Director shall adopt such regulations as may be necessary to carry out and enforce the provisions of this chapter.

Sec. 5. NRS 612.260 is hereby amended to read as follows:

612.260 1. Each employing unit shall keep true and accurate work records, containing such information as the Administrator may prescribe. Such records must be open to inspection and may be copied by the Administrator or the Administrator's authorized representatives or the Department of Taxation at any reasonable time and as often as may be necessary.

2. The Administrator, the Board of Review, or any Appeal Tribunal may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Administrator or the Board of Review deems necessary for the effective administration of this chapter.



3. Except as limited by this subsection, the Administrator may:

(a) Destroy any letter of the Unemployment Compensation Service or Employment Service and any form, benefit determination or redetermination, ruling, employer's status or contribution report, wage slip report, claim record, wage list or any auxiliary computer file related thereto at the expiration of 4 years after the record was originated or filed with the Service; or

(b) Destroy such records at any time after having ~~microphotographed~~ *microfilmed* them in the manner and on film or paper that complies with the minimum standards of quality approved for such ~~photographic~~ *microfilmed* records by the American National Standards Institute. The ~~microphotographed~~ *microfilmed* records must be retained for not less than 4 years.

↳ This subsection does not apply to records pertaining to grants, accounts or expenditures for administration, or to the records of the Unemployment Compensation Administration Fund.

Sec. 6. NRS 665.165 is hereby amended to read as follows:

665.165 1. Every state bank shall retain its business records for such periods as are or may be prescribed by or in accordance with the terms of this section.

2. Each state bank shall retain permanently the minute books of meetings of its stockholders and directors, any analogous formal proceedings of its members or managers, its stock ledger and stock certificate ledger or stubs, its general ledger, its investment ledger, its copies of bank examination reports, and all records which the Commissioner in accordance with this section requires to be retained permanently.

3. All other bank records must be retained for such periods as the Commissioner may in accordance with this section prescribe.

4. The Commissioner shall, from time to time, adopt regulations classifying all records kept by state banks and prescribe the period for which records in each class must be retained. The periods may be permanent or for a lesser term of years. The Commissioner shall keep such regulations current and shall review them at least once every 3 years. In issuing and revising such regulations, the Commissioner shall consider:

(a) Actions at law and administrative proceedings in which the production of bank records may be necessary or desirable.

(b) State and federal statutes of limitation applicable to such actions or proceedings.

(c) The availability of information contained in bank records from other sources.



(d) Such other matters as the Commissioner deems pertinent to ensure that the regulations will require banks to retain their records for as short a period as is commensurate with the interests of bank customers and stockholders or members and of the people of this state in having bank records available.

5. Any state bank may dispose of any record which has been retained for the period prescribed by or in accordance with the terms of this section for retention of records of its class, and thereafter is under no duty to produce the record in any action or proceeding.

6. Any state bank may cause any or all records required to be kept pursuant to this section to be reproduced by the ~~microphotographic~~ *microfilming* process, optical disc imaging or any other equivalent technique designed to ensure an accurate reproduction of the original. Any such reproduction has the same effect as the original. Upon completion of such a duplication, the original of any record may be destroyed.

7. To the extent that they are not in contravention of any law of the United States, the provisions of this section apply to all banks doing business in this state.

Sec. 7. NRS 381.0064 is hereby repealed.

Sec. 8. This act becomes effective on July 1, 2011.

