

RECORDS RETENTION PROCEDURES OF LOCAL GOVERNMENTS



Bulletin No. 77-19

LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

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LEGISLATIVE COMMISSION

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Senate Concurrent Resolution No. 30—Committee on Government Affairs

FILE NUMBER 134

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study the records retention procedures of local governments.

WHEREAS, Chapter 239 of NRS provides records retention and management procedures for the state and local governments; and

WHEREAS, That chapter in large part dates from the last century with patchwork amendments over the years; and

WHEREAS, It is essential that certain local government records be retained and available to the public; and

WHEREAS, Technology now allows filming of records which facilitates storage as well as retention and which allows destruction of bulky, space-taking original records; and

WHEREAS, Chapter 239 of NRS is inconsistent with recognized records retention practice and technology; now, therefore, be it

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission study records retention in Nevada, such study to include a review of present local government records retention policy and a review of chapter 239 of NRS; and be it further

Resolved, That the results of the study and any recommended legislation be submitted to the 59th session of the legislature.

REPORT OF THE LEGISLATIVE COMMISSION

To the Members of the 59th Session of the Nevada Legislature:

This report is submitted in compliance with Senate Concurrent Resolution No. 30 of the 58th session of the Nevada legislature, which directed the legislative commission to study the records retention procedures of local governments.

The legislative commission designated the inquiry as a staff study assigned to the office of research of the legislative counsel bureau and requested the assistance of the state archives in completing the study.

The report is essentially a transmittal of the problems and needs in the area of records retention from many local government officials throughout the state. The problems and suggestions gathered from around the state have been analyzed and assessed by the staff carrying out the study. This analysis and assessment was facilitated primarily through the professional records management expertise of Mr. Frederick C. Gale, director of the division of state, county and municipal archives. Mr. Gale also took principal responsibility for arranging meetings and programs throughout the state.

Respectfully submitted,

Legislative Commission
Legislative Counsel Bureau
State of Nevada

Carson City, Nevada

SUMMARY OF RECOMMENDATIONS

1. Local governments should be provided with more specific guidelines concerning what public documents and records should be retained and for what lengths of time. (BDR 19-80)
2. A state microfilming service should be made available to local governments, especially small entities, and the service should be at cost. (BDR 19-80)
3. The state archives should be staffed and funded to provide regular technical assistance to local governments. (No BDR--action at budget consideration.)
4. Local governments should be guaranteed the right to reclaim any records that they have deposited in the state archives. (BDR 19-80)
5. The state archives should have the right to refuse records for storage which have no historic value and which are neither vital nor permanent. (BDR 19-80)

REPORT TO THE LEGISLATIVE COMMISSION FROM
THE STAFF ON THE RECORDS RETENTION
PROCEDURES OF LOCAL GOVERNMENTS

I. INTRODUCTION

The 58th session of the Nevada legislature, through Senate Concurrent Resolution No. 30, directed the legislative commission to "* * * study records retention in Nevada, such study to include a review of chapter 239 of NRS." The whereas clauses of the resolution make it clear that the primary concern of the resolution is the records retention practice of local governments as well as their records retention problems. The study, therefore, focused on this aspect of records retention.

The legislative commission determined that expertise in the technical aspects of records management, records retention and determination of historical value was required for the conduct of the study. This expertise was provided, upon request, by the division of state, county and municipal archives of the office of the secretary of state in the person of the division director, Mr. Frederick C. Gale. The division is hereafter referred to as the archives.

The archives and the office of research of the legislative counsel bureau determined that the study could logically be divided into three segments. The first segment was to consist of visits to every county seat in the state as well as several cities in addition to county seats. This phase had two purposes. The first was to inform local officials about the archives, about 1975 legislation that amended chapter 239 of NRS and about the resolution directing this study. The second purpose, and the more critical for the success of the study, was to elicit from local government officials their experience in working with chapter 239, the problems they have in managing local government records and their suggestions for improvements in the law.

The second segment of the study consisted of compiling the various problems and suggested solutions that we received in meetings throughout the state, putting them into a single questionnaire and sending them out to all of the participants from the various meetings for individual responses. This

effort insured that all interested local officials were confronted with the same suggestions and ideas, thereby giving valid comparability to the study.

The third segment operated concurrently with the other two. It was a detailed review of chapter 239 of NRS as directed in the resolution. This review was undertaken initially prior to any of the meetings. A pamphlet was assembled containing chapter 239, 1975 amendments and the study resolution. This pamphlet formed the focus of each meeting. After the meetings were completed, the chapter was reviewed again in light of comments from the meetings.

The 1975 session passed three pieces of legislation that directly affected records retention and records management for local governments. A.B. 260 changed the definition of "old records" in NRS 239.121 from those at least 5 years old to those at least 2 years old. That bill also added the requirement of a photographic or electronic record of all records destroyed. This requirement applies only to those records required by law to be filed and preserved.

The second bill passed in 1975, A.B. 531, provides that the archives shall have the right to review any district court records or documents set for destruction before such destruction. Formerly, this right was given to the Nevada historical society. This change is consistent with the division of responsibility between archives and the society. Archives specializes in government records and documents while the society specializes in private ones.

The third piece of legislation from 1975 in the area of records was S.B. 535. That bill made it clear that records custodians may remove records to a facility other than their offices for storage or for duplication. This allows greater flexibility for all records custodians but is especially helpful for those with crowded facilities.

The review of chapter 239 of NRS, directed by S.C.R. 30, indicates that the chapter, though dating from many periods in Nevada history, is relatively coherent and understandable by those who use it. If it has any major weakness, it is its lack of specificity about records other than those few enumerated in NRS 239.100. To some local officials, however, this brevity is a strength. More will be noted on this subject in a later section.

The review of chapter 239 was carried out within a framework of assumptions about what public records acts should accomplish or insure. These assumptions included the idea that the basic purposes of such an act are to preserve the heritage of a state and its subdivisions and to guarantee the retention of legal documents necessary to the government and to individual citizens. In the absence of laws to carry out the preservation of a heritage, important records and papers will be lost, destroyed or pass from state ownership. At the same time it is very likely that great amounts of records and documents of little or no value will be retained, requiring expenditures of tax money to store and maintain. A public records law should facilitate and guide records review, records management, retention of valuable records and the destruction of useless and excess records. Such a law insures the preservation of a state's heritage without creating unmanageable and expensive storage problems.

Another assumption that guided the review of chapter 239 was that the law should contain no more mandates about local government records practices than are absolutely necessary to preserve the state's heritage and insure the availability of legal evidence.

Finally, it was assumed that chapter 239 should allow for the use of any technological advancements that can serve to ease the burdens of records retention and storage.

Based upon these assumptions, a review of the chapter led to the conclusion that Nevada has a sound, viable and usable public records law that needs no major overhaul or revision. There are, however, some amendments that would improve its usefulness for local governments in particular.

In subsequent sections of this report, there will be references to the questionnaire that was sent to all meeting participants. There were 144 people who attended one of the meetings conducted around the state. Each of these participants was sent a questionnaire and 60 of the 144 returned questionnaires. Of those, 58 were completed for a return rate of 40.3 percent. The questionnaire is attached as Appendix A. All future references to a questionnaire are to the one herein described.

II. CURRENT RECORDS RETENTION PRACTICES

It should be pointed out here that the practices involving records vary a good deal among the several types of local

governments and among the offices within a government. Generally, cities, towns, townships, school districts and special districts have minimal records management responsibilities and those that they do have are rather clearly specified in chapter 354 of NRS on County, Municipal and District Financial Administration.

The primary records management responsibility at the local level rests with the counties. Within counties, clerks and recorders-auditors manage the greatest volume of records and generally have the most problems in terms of storage and determinations about disposition. A great part of the records maintained by county clerks involves the district courts and the disposition of these records is controlled by district court judges within the guidelines of NRS 239.110-239.120. As clerks to the boards of county commissioners, county clerks are also responsible for the general records of the county government.

County recorders-auditors have the most comprehensive statutory records responsibilities. Chapter 247 of NRS lists 16 specific types of documents that recorders accept for filing and which they must maintain in some form for posterity. In addition, they must accept for filing almost anything for which a person is willing to pay a filing fee. In a populous county the recorder's task becomes massive. Even in less populous counties, document filings can be extensive since some filings have nothing to do with the size of the population, but amount of land instead. Mining claims are an example of this.

In the course of the several meetings around the state, it became apparent that records retention practices were problems only in counties and, within counties, almost entirely within the two offices of county clerk and county recorder-auditor. The reason that these two offices experience the greatest difficulties is that they have the greatest statutory responsibilities for maintaining official records but very little statutory guidance on how to do it. As might be expected, in the absence of clear guidance, these county officers exhibit great diversity in their approaches to records management and retention. In many instances, the attitudes of boards of county commissioners determine the approach to records retention. NRS 239.122 gives to the boards the authority to approve destruction of records. In some cases, clerks or recorders will request authority to destroy records but if questioned about the advisability, they have no statutory grounds to

provide support. This leads in some cases to a reluctance even to ask for permission to destroy records. In one county, there are complete check stubs dating from 1900 even though audits were completed decades ago.

In general, it appears that when clerks or recorders-auditors have been in office for quite awhile, they can manage their records as they see fit with boards of county commissioners willing to support their decisions. Where the incumbents of these offices are relatively new, boards of county commissioners are more reluctant to allow destruction or disposition of records.

Very few local government officials have taken advantage of NRS 239.123 which allows for preservation of old records in the state archives. Indeed, very few local officials were aware of this provision which was added in 1973. Some who were aware of it have chosen not to utilize it because they fear that they may want them back at a later date but they will not be able to get them. In fact, it is the policy of the archives to return, at the cost of the requester, anything the requester has deposited but this right is not guaranteed in law.

The discussion of methods of disposition of records presumes that custodians of records know what they have. This is not always the case. Here again, local government records custodians who have been in office for many years generally know what they have and where it is even if storage and access are problems. Those custodians newer to their offices often know only that a vault or attic is full but have little or no idea what is there.

Microfilming is being used in every county in the state. There are some problems in this regard however. First, several small counties have recognized the necessity of microfilming in terms of storage space. They have invested in microfilm camera equipment but cannot afford microfilm readers so they cannot view what they have. This situation poses a legal problem too, because the public is supposed to have access to these records. Another problem related to microfilming is the fact that most counties have neither the time nor the money to microfilm a century old backlog so the records in vaults, attics and basements remain untouched. Most of these old records in most counties would have to be reviewed and put in some sort of order prior to microfilming. This effort would require far more time and expertise than is generally available in a county courthouse.

Actual storage of records varies greatly also. In one county, the overflow of old records is in an underground vault built by the WPA. In another, they are in a basement room accessible only through the paint shop. In yet another, they are in the attic of the courthouse exposed to extreme changes in temperature. Not all counties have a storage problem. A few have microfilmed back into the last century and have no mass of uninventoried records left. Even in these cases, however, storage facilities for microfilm are not ideal and the useful life of the film is shortened.

Nevada's county officials are independently elected and run their offices independently of each other. The extent of cooperation among the elected officials varies considerably. Where there is little communication, there is often duplication in records retention with two or more offices keeping the same documents. NRS 239.125 authorizes any local government entity to set up a records management program. This was added to the law in 1973. The study revealed no working records management program to the extent that "program" means centralized records review, filming, storage and destruction. A records management program would provide continuity in practices so that when officeholders change, there would be less confusion about the proper disposition of records and documents. Except for the larger counties, there is uncertainty about how a records management program should work, who should operate it or what it is to accomplish. Fifty-nine percent of the questionnaire respondents felt that some sort of records retention board should be required for a government entity. This is actually a low figure compared to other responses where there was stronger consensus.

III. PROBLEMS AND SOLUTIONS

A recounting of current practices cannot avoid touching upon problems. In this section, specific problems will be defined and, where applicable, solutions recommended.

Storage

The leading problem in records retention for local governments is storage. Eighty-eight percent of the questionnaire respondents listed this as a problem. In this context, storage means size of facilities for storage and conditions of the

facilities. Conditions refers to heat, humidity and fire or water danger. It became apparent that the storage problem is related to other issues. For instance, as a result of not knowing which documents and records can be destroyed, some local officials play it safe and keep virtually everything. This creates an unnecessary storage problem. Similarly, the inability to microfilm old records contributes to storage problems. Finally, the lack of awareness of the storage capability for local records in the state archives has also contributed to storage problems. In all fairness, it should be pointed out that until 1975, the state archives had a statutory responsibility to store local government records but had no space. In 1975, an 11,000 square feet privately rented facility was occupied by the archives and, at that time, the storage of local government records became feasible.

No specific recommendation on the subject of local government storage problems is made. Several other recommendations, as well as the visits of Mr. Gale to every county, should provide assistance in this problem area.

Guidance on Retention

Eighty-four percent of the questionnaire respondents listed lack of guidance concerning what should be kept or for how long as problems in records management. As pointed out above, this lack of guidance results, in most cases, in keeping too much, thereby contributing to the storage problem. The law is very limited in providing guidance on what to keep and for how long. NRS 239.100 says that sheriff's requisition of licenses and duplicates, duplicate and triplicate bank checks, old claims against the county and old warrants superseded by checks may be destroyed after 5 years if they have been audited. County, city and school bonds may be destroyed 10 years after they are redeemed or retired. NRS 239.110 allows the county clerk to destroy all filings in a legal action 10 years after the last filing and other records after 5 years. Certain other court records may be destroyed immediately if they are microfilmed. Beyond these provisions, there is no guidance in chapter 239 on retention. NRS 239.121 defines "old records" as those at least 2 years old. NRS 239.122 then goes on to allow destruction of old records that " * * * are no longer necessary for the business of the local government entity and no longer of value to the general public." This is the point at which confusion and uncertainty arises. There is doubt about whether a document 2 years old

is necessary or not. In addition, even if a document is unnecessary to the business of local government, there is doubt about its historical value. Eighty-five percent of the questionnaire respondents said that lack of expertise in determining historical value was a problem.

There is widespread support among local officials for more specific guidance on records retention. Every questionnaire respondent agreed that there should be greater guidance in terms of minimum retention periods for certain categories of records. Some respondents, 19 percent, reflected ambivalence on the subject. Those officials were reluctant to have the state get any more involved in local affairs. Presumably, they wanted additional guidance from some other source.

Based upon the several meetings in the counties and upon discussion with the local government advisory committee of the department of taxation, it was determined by the investigators for the study that the archives, through the secretary of state, should be granted limited authority under the Administrative Procedure Act to define categories of records and to establish minimum retention periods for such records. It was found that most states with public documents laws do not attempt to specify retention schedules in the law but leave it to regulation by an agency with the expertise in the field.

The question of expertise in local government records retention has two aspects. First, there is the practical aspect of necessity for particular records in the operation of an office. The local official is best qualified to determine this but all officials felt there should be some standardization at least in terms of minimum retention periods. The other aspect is the historical and here, local officials have doubts.

Therefore, it is recommended that:

The division of state, county and municipal archives, through the secretary of state, be required to promulgate regulations providing for categories of local government records and documents and minimum retention periods for such documents. All such regulations shall be submitted to the local government advisory committee of the department of taxation for their advice and recommendations prior to being issued. (BDR 19-80)

The local government advisory committee is composed of 11 members: three representing cities, three, counties, three, school districts and two appointed by the state board of accountancy. This committee has broad local government management expertise and can provide the necessary complement to the state archivist's expertise in determining historical value.

Microfilming

The need for microfilming exists in every county in the state. The ability fully to utilize microfilm is limited. The limitation is essentially economic. It costs for equipment, film, processing, time of operators and proper storage facilities for microfilm. Small counties find it difficult to devote scarce resources to microfilming beyond the minimum capability required by law. This means that little or no microfilming of the century of old records is done. It means that no temperature and humidity controlled storage is available for microfilms. It may even mean that no microfilm reader is available with which to view the microfilms. All of these difficulties with microfilm are related to money. This study has produced no solution to this basic problem. The staff and facilities necessary for sound records retention must be supplied by the counties themselves. There are, however, some things the state can do to assist local governments to make better use of microfilming.

Eighty-eight percent of the questionnaire respondents said that a state microfilming capability available to local governments would be very helpful. This proposal would have the state do microfilming upon request of local governments and at the same cost charged state agencies. The state records manager in the state printing and records division of the department of general services has the necessary equipment and facilities to provide such a service on a limited basis.

Local governments are not always certain about which of their records, especially old ones, are worth preserving on microfilm. Virtually every questionnaire respondent felt that the visit of Mr. Gale was a very positive thing. They further hoped that his visits could be regularized. That will be discussed below. In addition, local officials were very supportive of the idea of being able to send records and documents to the archives for a professional review for

historical value. The local government would then be advised which records were valuable and which were not. The local government would then have several options. It could authorize the destruction of those records without value and storage of the others in the archives. It could also request that those records of value be microfilmed with the film returned to the locality and the originals stored in the archives. They could also ask that everything be microfilmed with the film returned and the original stored. Finally, they could store originals in the archives.

The archives has no microfilm capability. The extent to which local governments will request microfilming from the state is unknown. At the beginning of such a program, the state's existing service in the department of general services is adequate. If the demand increases significantly in the future, the existing state capability can be expanded or a new facility could be added in the archives. In any event, the program would be self-supporting and can be accomplished initially with no additional state funds.

Therefore, it is recommended that:

The division of state, county and municipal archives be authorized to provide microfilming to requesting local governments at cost. (BDR 19-80)

It is further recommended that the archives arrange for such microfilming through the records management unit of the division of state printing and records of the department of general services.
(No bill required.)

Regular Technical Assistance

Until the authorization of this study, the archives never had the funds to manage a trip to each county to inform local officials about the services of the archives. Ninety percent of the questionnaire respondents said that the visit of the director of archives by itself had clarified and assisted in solving some of their records retention problems. Prior to the visit, 77 percent said they were not aware of the services that the archives could provide for local governments.

There was not time at the several meetings to examine specifically records or documents or to get into the details of a records management program. Eighty-seven percent of the respondents felt that their efforts at records management could be greatly aided if it were possible for a representative of the archives to spend some time lending expert advice on a regular basis. It was generally agreed that a visit once a biennium would be sufficient to help in determining what to do with documents on hand and how to manage those yet to be produced.

Mr. Gale is undertaking a pilot technical assistance program at the request of Mr. Matt Bernard, Douglas County clerk. Mr. Gale will evaluate a mass of documents and records currently stored in boxes and cartons in several parts of the courthouse and he will also assist in establishing a records management program for the clerk's office. A proposed local government records management form is attached as Appendix B. This pilot program will provide data on the amount of time and effort required to provide useful assistance. The results of this effort will be clear prior to the session.

The archives' 1976-77 budget for instate travel is \$400. An expansion of this to \$2,000 per year for the 1977-79 biennium would enable the archives to render expert onsite assistance to local government records managers.

Therefore, it is recommended that:

The archive's budget for instate travel for the next biennium be increased to \$4,000. (No bill-- action in budget consideration.)

Ownership of Stored Records

The discussions with local officials revealed that those who were aware that they could send their old records to the archives were reluctant to do so because they did not want to irrevocably relinquish control. In fact, the archives considers all stored records to be the property of the depositing agency and returnable to that agency upon request. This is only a policy, not the law. If this policy is a good one, and there is every reason to assume that it is, it should be guaranteed in the law. Such a guarantee should end the reluctance of a number of local officials to send materials to the archives.

Therefore, it is recommended that:

Chapter 239 of NRS be amended to show that ownership of local government documents placed in the archives remains with the local government and that such documents will be returned upon request, costs of transportation being borne by the requester. (BDR 19-80)

Historic Value

Under NRS 239.123, the archives must accept any local government documents. The archives is given no discretion in what it accepts for storage. The archives is intended as the depository for the state's governmental heritage, not just a paper warehouse. Materials deposited should have historical value or be permanent and vital records. Other materials should be destroyed.

Therefore, it is recommended that:

NRS 239.123 be amended to allow the archives to reject materials that are not historic, permanent or vital. (BDR 19-80)

IV. CREDITS

The following persons attended one of the meetings held pursuant to this study. They are listed by county. If the person is not a county official or employee, his association is indicated. An asterisk before a name indicates that the person also completed the followup questionnaire.

Carson City

- *JACK BLAIKIE, Carson City School District
- *HARRY DICKSON, Carson City School District
- HENRY ETCHEMENDY, Carson City Manager
- BARBARA J. JOHNSON, Carson City Planning Office
- *HOMER RODRIGUEZ, Carson City Assessor
- VAUGHN L. SMITH, Carson City Clerk-Treasurer
- PETE SUPERA, Carson City Recorder-Auditor
- MILAN TRESNIT, Carson City School District
- *MARIE WESTENHOEFER, Carson City Public Works

Churchill County

ROBERT O. BARKLEY, County Assessor
*MANUEL BARRENCHEA, County Clerk-Treasurer
*JANE HANKS, County Recorder-Auditor
*JOHN R. McCORMICK, District Attorney
*DELORES STENNETT, Recorder-Auditor's Office
JANICE YOUNG, Clerk-Treasurer's Office

Fallon

*EMILIE IRVINE, Justice's Court
LAWRENCE THOMPSON, Justice of the Peace

Clark County

LORETTA BOWMAN, County Clerk
DARRELL DAINES, Comptroller
WILLIAM GALLOWAY, County Treasurer
JOAN L. SWIFT, County Recorder-Auditor

Boulder City

MARTI CORDERMAN, Engineering and Planning Department
LORRAINE H. KAUTZ, City Clerk
DAVID M. PATRICK, Finance Division
*CLIFFORD E. SEGERBLOM, Municipal Judge and Justice of the Peace

Henderson

SUE BLAIR, City Attorney's Office
*ROBERT W. DIETRICH, Planning Department
LUCILLE KUBIC, Municipal Court
LT. DON RICHARD, Fire Chief
*DOROTHY VONDENBRINK, City Clerk
*BETTY WAGNER, Office of Police Records

Las Vegas

EDWINA M. COLE, City Clerk

North Las Vegas

OSSIE DUNGAN, Chief Deputy City Clerk
SHIRLEY HANSELL, City Clerk
LT. BOBBY HARTMAN, Police Department
JACKIE HAUPT

Douglas County

*MATT BERNARD, Clerk-Treasurer
*GRACE DANGBERG, Carson Valley Historical Society
KATHY LAWALLEN, Sheriff's Office
KYLENE REDFORD MISER, Recorder-Auditor's Office
NORMAN SAFERITE, Sheriff's Office

Elko County

THEODORE N. McPHEE, Auditor, City of Wells and Elko General Hospital
JOHN W. MOSCHETTI, County Assessor
*JERRY REYNOLDS, County Recorder-Auditor
*CEASAR E. SALICCHI, County Treasurer

Carlin

KAREN E. BENNETT, City Clerk
WANDA BORDEN, Mayor of Carlin

Esmeralda County

L. G. COZART, County Assessor
ALLEN HARTER, District Attorney
*KATHRYN L. MURROW, Clerk-Treasurer's Office
*ORA ROPER, County Recorder-Auditor
KENNETH SIRI, County Sheriff

Eureka County

M. T. CUNNINGHAM, County Sheriff
*DANETTE HAMMOND, District Attorney's Office
TOM PASTORINO, County Assessor
ALICE SARA, County Recorder-Auditor's Office
JOAN SHANGLE, County Clerk-Treasurer

Humboldt County

GLADYS A. AUL, County Recorder
MILFORD EDDIE, County Sheriff
*LYLE MATTICE, Public Administrator
PAUL PAULON, County Sheriff's Office

Winnemucca

NORMAN L. DOUGHERTY, Justice of the Peace
*JOSEPH A. JAMELLO, Mayor of Winnemucca

Lander County

*DON BRUCE, County Treasurer
*EMMA GANDOLFO, County Clerk
ESTELLE SARALEGUI, County Recorder-Auditor
GEORGE E. SCHWIN, County Sheriff

Lincoln County

*DOMINICK BELINGHERI, County Recorder-Auditor
ESTHER F. COLE, County Deputy Clerk
J. ROSS HARRISON, County Commissioner
E. EDWIN HIGBEE, County Commissioner
*RUBY LISTER, County Treasurer
WILLIAM T. LLOYD, County Assessor

Caliente

ARNOLD E. BOND, Municipal Judge
CHARLES JORDAN, Police Department
TED R. OLSON, Public Works Director
*INEZ C. THOMAS, City Clerk

Lyon County

GEORGE W. ALLEN, County Sheriff
*BEATRICE DeHAVEN, County Recorder
WILLIAM J. PARR, County Clerk-Treasurer

Yerington

MARVIN CARR, Fire Department and Fire Marshal
FRANK M. MCGOWAN, City Manager
VAUGHN B. SILVA, Mayor of Yerington

Mineral County

MARTHA G. BARLOW, County Clerk-Treasurer
GARY L. BARTON, County Recorder-Auditor
*MARY J. WAGNER, County Assessor

Nye County

JOHN H. GILMAN, Juvenile Division, County Sheriff's Department
*MARGARET JEFFREY, County Sheriff's Office
*BERNIE MERLINO, County Assessor
ALEXANDRIA METSCHER, County Clerk
DONNA MOTIS, Recorder-Auditor's Office
R. M. NEIGHBORS, County Administrator
MARILYN D. PASTORINO, County Clerk's Office
DARLENE QUAS, Juvenile Division, County Sheriff's Department
KAREN QUILTER, County Administrator's Office
HELEN REED, County Recorder-Auditor's Office

Pershing County

*MARGARET FRAZIER, County Assessor's Office
*JOHN LACA, County Recorder-Auditor
GLADYS NELSEN, County Clerk-Treasurer
*LOUISE SIMILEY, County Sheriff's Office
*RICHARD A. WAGNER, District Attorney

Lovelock

JANET L. WESNER, Justice of the Peace
LYLE WILCOX, Mayor of Lovelock

Storey County

SHIRLEY ANDREASEN, County Clerk
*JACK FLANAGAN, Assessor
INEZ SOLOGA, County Recorder-Auditor

Washoe County

*RICHARD ALLEN, Director, Washoe County Regional Planning Commission
ROBERT R. BOGGS, Washoe County Manager's Office
*THOMAS A. BRASFIELD, District Attorney's Office
*LT. ROBERT CAVAKIS, County Sheriff's Department
*ALEX COON, County Clerk
DONALD E. GLADSTONE, Court Administrator
*JOHN A. MacINTYRE, Assistant County Manager

*STANLEY SMITH, County Treasurer's Office
DAVID TARNER, County Treasurer's Office
FLOYD VICE, County Engineer
JAMES R. WRIGHT, County Recorder's Office

Reno

PAUL A. FERRARI, Building Department

Sparks

*GEORGE CHAVEZ, Director, Personnel and Services
*CALVIN J. DODSON, Public Works Director
*F. W. (Bill) FARR, Chief, Sparks Fire Department
*RUTH FOSTER, Purchasing Division
*CHLORIS GOODWIN, City Clerk
CHARLOTTE HENDRIX, City Clerk's Office
JOHN E. HODGSON, Supervisor, Garage and Equipment Division
*JEAN NORFLEET, Personnel Division
JOHN R. SINKEY, Finance Division
*JUNE VARNUM, Data Processing

White Pine County

CONSTANTINE (Tino) CHARCHALIS, County Assessor
DARLENE GAMBOA, County Sheriff's Department
BEATRICE HALL, County Deputy Auditor
*NIEL B. JENSEN, County Clerk
BESSIE LLEWELLYN, County Treasurer
FRANCIS SANKOVICH, County Assessor's Office

Ely

YVONNE DESCHAMPS, City Clerk's Office
NICK ORPHAN, City Clerk

LOCAL GOVERNMENT ADVISORY COMMITTEE
DEPARTMENT OF TAXATION

<u>Name</u>	<u>Representing</u>
Al Ashley	Nevada Society of CPA's
**Jim Bartley	Chief Legal Counsel, Clark County
*George Chavez	City of Sparks
Darrell R. Daines	Counties
David M. Ebner	Nevada Society of CPA's
Henry Etchemendy	Cities
*E. A. Greer	School Districts
John Hawkins	School Districts
Marvin Leavitt	Cities
*James Lien	Department of Taxation
*Lincoln Liston	School Districts
*John MacIntyre	Cities
Evelyn Mathis	Department of Taxation
Russell W. McDonald	Counties
Ed Regalado	Department of Taxation
*Lorraine Wilcox	Department of Taxation

**Signature not on attendance sheet. Name supplied by
Evelyn Mathis.

+ One unknown

SUGGESTED LEGISLATION

SUMMARY--Provides for disposition of local government records.
(BDR 19-80)

Fiscal Note: Local Government Impact: Yes.

State or Industrial Insurance Impact: Yes.

AN ACT relating to public records; providing for the disposition of certain records by local government entities; prescribing the powers and duties of the division of state, county and municipal archives within the office of the secretary of state regarding such records; and providing other matters properly relating thereto.

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

Section 1. Chapter 239 of NRS is hereby amended by adding thereto a new section which shall read as follows:

As used in this chapter "division of archives" means the division of state, county and municipal archives within the office of the secretary of state.

Sec. 2. NRS 239.070 is hereby amended to read as follows:

239.070 1. In lieu of or in addition to the method of recording required or allowed by statute, the county recorder may use the microfilm method of recording.

2. The division of archives shall provide microfilming service to any local government entity. The charge for the service shall not exceed the actual cost.

3. If such microfilm method be used:

(a) The microphotographs or micronegative films shall be properly indexed and placed in conveniently accessible files.

(b) Each film shall be designated and numbered.

(c) Provision shall be made for preserving, examining and using the same.

[3.] 4. A duplicate of such film shall be made and kept safely in a separate place.

[4.] 5. Duplicates of such film shall be made available by the county recorder for sale at a price not exceeding cost upon request of any person, firm or organization. Subject to the approval of the board of county commissioners, the county recorder may, at any time, make additional duplicates of such film available for sale to the public at a price not exceeding cost.

Sec. 3. NRS 239.090 is hereby amended to read as follows:

239.090 1. Subject to the provisions of subsection 2, any state official [, or a custodian of records of a local governmental entity, as defined in NRS 239.121, or any other official is authorized to turn over to the secretary of state for permanent preservation in the archives, all] may submit any obsolete official books, records, documents, original papers, newspaper files and printed books not in current use in his office [.] to the division of archives.

2. A state officer shall first obtain the consent and approval of the governor. [A custodian of records of a local governmental entity shall first comply with NRS 239.123, and any other officer] Any other state official shall obtain the consent of the department head under which he operates.

3. [When so surrendered, copies therefrom shall be made and certified by the secretary of state upon the application of any person interested, which certification shall have all the force and effect as if made by the officer originally in the custody of such records, and for which the same fees shall be charged, to be collected in advance.] The division of archives may return a submission or any part thereof, if the submission has no historical or permanent value.

4. A submission of a local government entity may be reclaimed, in whole or in part, by that entity by serving written notice upon the division of archives and paying the cost of transportation for the return.

Sec. 4. NRS 239.121 is hereby amended to read as follows:

239.121 [The terms defined in this section, wherever used or referred to] As used in NRS 239.121 to 239.125, inclusive : [, have the following meanings unless a different meaning clearly appears in the context:]

1. "Custodian of records" means any person authorized to have the care, custody and control of any documents, instruments, papers,

books, pamphlets or any other records or writings of a local governmental entity.

2. "Governing body" means the governing body of a local governmental entity.

3. "Local governmental entity" means a county, an incorporated city, an unincorporated town, a township, a school district or any other public district or agency designed to perform local governmental functions.

4. "Old records" means documents, instruments, papers, books, pamphlets or any other records or writings of a local governmental entity which are [at least 2 years old and have been] retained for any purpose by the local governmental entity [.] beyond the minimum retention period established by the division of archives.

Sec. 5. NRS 239.123 is hereby amended to read as follows:

239.123 1. As an alternative to the destruction of old records [in the manner] as provided by NRS 239.122, such records, with the consent of the governing body, may be [presented by the custodian of records to the secretary of state for permanent preservation in the division of state, county and municipal archives.] submitted to the division of archives.

2. The custodian of records shall maintain an accounting of all old records disposed of pursuant to this section, indicating the nature or identity of such records as well as the date of

[delivery to the secretary of state.] submission to the division of archives.

Sec. 6. NRS 239.125 is hereby amended to read as follows:

239.125 1. A local governmental entity may establish a records management program, including the adoption of record retention schedules and microfilming procedures which shall be approved by the governing body and [consistent with the provisions of NRS 239.121 to 239.125, inclusive.] comply with applicable law.

2. The division of archives shall adopt regulations providing for categories of old records and minimum retention periods for local government records. The proposed regulations or any amendment thereto shall be submitted to the local government advisory committee, established pursuant to NRS 354.594, for advice and recommendations.

[The following list of problems and solutions was sent to each meeting participant with the request to indicate if a problem listed pertained to them and if a solution listed was favored by them.]

January 7, 1976

STATUS REPORT TO
LOCAL GOVERNMENT ADVISORY COMMITTEE
OF THE DEPARTMENT OF TAXATION

S.C.R. 30
RECORDS RETENTION STUDY

I. Problems Identified.

Yes	<u>84%</u>	A. Lack of guidance concerning what should be kept.
No	<u>16%</u>	
n=58		

Yes	<u>84%</u>	B. Lack of guidance concerning how long which things should be kept.
No	<u>16%</u>	
n=58		

Yes	<u>69%</u>	C. Expense of microfilming.
No	<u>31%</u>	
n=51		

Yes	<u>88%</u>	D. Lack of adequate storage facilities.
No	<u>12%</u>	
n=56		

Yes	<u>83%</u>	(1) Inadequate size.
No	<u>17%</u>	
n=48		

Yes	<u>85%</u>	(2) Inadequate conditions for storage.
No	<u>15%</u>	
n=46		

Yes	<u>67%</u>	E. Duplication of same documents by two or more offices in a courthouse. No internal records management.
No	<u>33%</u>	
n=45		

- Yes 41% F. Reluctance of county commissioners to authorize
No 59% destruction.
n=39
- Yes 52% (1) Reluctance of local officials to ask commis-
No 48% sioners for authorization to destroy.
n=25
- Yes 85% G. Lack of expertise in determining historical
No 15% value.
n=55
- Yes 78% H. General lack of familiarity with NRS chapter 239.
No 22%
n=50
- Yes 74% (1) Lack of awareness of the existence of or
No 26% the role of the state archives.
n=54
- Yes 77% (2) Especially, lack of awareness of the services
No 23% provided by the archives or how it works,
n=53 particularly, retention of control.

II. Solutions Discussed.

- Yes 90% A. The travel and communication brought about by
No 10% the study in getting the archivist around the
n=52 state has been a solution to several problems.
- Yes 96% (1) A number of local government officials now
No 4% know there is help on storage.
n=53
- Yes 96% (2) They also know that the state archives
No 4% can render technical assistance.
n=54
- Yes 100% B. The law should contain minimum time periods
No 0% for the retention of certain categories of
n=51 records.

Yes 98%
No 2%
n=50

- (1) Anyone is free to keep anything for as long as he wants, but the minimums could be used to convince county commissioners that certain things can be destroyed.

Yes 19%
No 81%
n=42

- (2) The opposite viewpoint heard here is that the state ought to stay out of local business even if it is an attempt to be helpful.

Yes 59%
No 41%
n=46

- C. The law should require the establishment of local records retention authorities, either individuals or boards, which could provide centralized review.

Yes 80%
No 20%
n=38

- (1) This would reduce duplication of records retention.

Yes 82%
No 18%
n=39

- (2) It would also standardize records procedures for all offices to some extent.

Yes 88%
No 12%
n=49

- D. The state archives should establish a self-supporting microfilming capability.

Yes 83%
No 17%
n=48

- (1) Local governments could send documents to the archives, they would microfilm, return the microfilm to the entity and file the originals in the archives.

Yes 93%
No 7%
n=45

- (2) Originals could be returned at the discretion of the local government.

Yes 91%
No 9%
n=43

- (3) Local governments would pay for microfilming at cost.

/A Yes _____
No _____

- (4) This idea is designed especially to assist the small counties.

Yes 80%
No 20%
n=45

E. The archives should establish and budget for specific and regular assistance to local governments.

Yes 87%
No 13%
n=45

(1) Funding to allow the archivist to visit each county at least once a biennium.

Yes 98%
No 2%
n=48

(2) Availability of the archives' personnel to provide technical assistance to local governments.

ANDREW P. GROSE
Research Director

FREDERICK C. GALE
Assistant State Archivist

COMMENTS AND RECOMMENDATIONS:

NAME: _____

TITLE: _____