

PROPOSED REGULATION OF THE STATE LIBRARY AND ARCHIVES ADMINISTRATOR

LCB File No. R118-12

CHAPTER 239 - PUBLIC RECORDS

RECORDS OF LOCAL GOVERNMENTAL ENTITIES

NAC 239.011 Definitions. (NRS 239.125, 378.255) As used in NAC 239.011 to 239.165, inclusive, unless the context otherwise requires, the words and terms defined in NAC 239.022 to 239.121, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by St. Librarian, eff. 10-26-83; A 1-24-92; 3-30-94; 7-9-96; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.022 is hereby amended to read as follows:

NAC 239.022 “Division” defined. (NRS 239.125, 378.255) “Division” means the Division of State Library and Archives of the Department of ~~[Cultural Affairs]~~ *Administration*.

(Added to NAC by Library & Archives Admin'r by R090-06, eff. 6-1-2006)

NAC 239.031 is hereby amended to read as follows:

NAC 239.031 “~~[Duplicate]~~ Convenience copies” defined. (NRS 239.125, 378.255) “~~[Duplicate]~~ Convenience copies” means ~~[any accurate and unabridged copy of a record or series of records which is not an original]~~ *copies that are not official records but duplicate or reference copies of official records that are held in local government offices. These copies should not be retained after the authorized destruction of the official records.*

(Added to NAC by St. Librarian, eff. 10-26-83)

NAC 239.035 is hereby amended as follows:

NAC 239.035 “Electronic record” defined. (NRS 239.125, 378.255) “Electronic record” means a ~~[representation of a record of a local governmental entity in electronic format containing information, knowledge, facts, concepts or instructions which is being prepared or has been formally prepared and is intended to be processed, is being processed or has been processed in a system or network]~~ *record stored in a format that requires a computer or a machine to process it and meets the definition of an official record of a local governmental entity in NAC 239.101.*

(Added to NAC by Library & Archives Admin'r by R090-06, eff. 6-1-2006)

NAC 239.041 is hereby amended to read as follows:

NAC 239.041 “Legal custody” defined. (NRS 239.125, 378.255) “Legal custody” means all rights and responsibilities relating to the maintenance of and access to a record or *record* series ~~[of records]~~ are vested in an office or department of a local governmental entity and the official or head of the department is charged with the care, custody and control of that record or *record* series ~~[of records]~~. The term does not include the ownership of the record.

(Added to NAC by St. Librarian, eff. 10-26-83; A 7-9-96)

NAC 239.051 is hereby amended to read as follows:

NAC 239.051 “Nonrecord” defined. (NRS 239.125, 378.255) *For retention purposes only*, “Nonrecord” means published *materials* ~~[books and pamphlets, books and pamphlets]~~ *materials* printed by a governmental printer, worksheets ~~[used to collect or compile data after it has been included in a record, answer pads for a telephone or other informal notes]~~, unused *blank* forms except ballots, brochures, newsletters, magazines, *catalogues, pricelists, drafts, convenience copies, ad hoc reports, reference material not relating to specific projects, and any other documentation that does not serve as the record of official action.* ~~[newspapers except those newspapers received pursuant to the provisions of NRS 247.070 or parts of newspapers retained as evidence of publication, scrapbooks, and property left or deposited with an office or department which would otherwise be defined as a record except that the ownership of that property does not reside with a local governmental entity.]~~

(Added to NAC by St. Librarian, eff. 10-26-83; A by Library & Archives Admin’r by R090-06, 6-1-2006)

NAC 239.061 “Office or department” defined. (NRS 239.125, 378.255) “Office or department” means an office, department, board, commission, committee, agency or any other subdivision of a local governmental entity where records are made, received or kept.

(Added to NAC by St. Librarian, eff. 10-26-83)

NAC 239.091 is hereby repealed.

~~[NAC 239.091 “Public record” defined. (NRS 239.125, 378.255) “Public record” means a record of a local governmental entity that is created, received or kept in the performance of a duty and paid for with public money.~~

~~— (Added to NAC by St. Librarian, eff. 10-26-83; A by Library & Archives Admin’r by R090-06, 6-1-2006)]~~

NAC 239.101 is hereby amended to read as follows:

NAC 239.101 “[Record] Official Records of a local government” defined. (NRS 239.125, 378.255) *For retention purposes only*, “[Record] Official Records of a local government” means information that is created or received pursuant to a law or ordinance, or in connection with the transaction of the official business of any office or department of a local governmental entity, including, without limitation, all documents, papers, letters, ~~[unpublished books,]~~ *bound ledger volumes*, maps, charts, blueprints, drawings, photographs, films, ~~computer printouts,~~ newspapers received pursuant to NRS 247.070, *recorded media, financial statements, statistical tabulations, or other documentary materials or information,* ~~[artifacts entered as exhibits in any proceeding in any court, information stored on a magnetic tape, computer, laser disc or optical disc, or on material which is capable of being read by a machine, including microforms and audio and visual materials, and any other evidence, including all copies thereof]~~ *regardless of physical form or media.*

(Added to NAC by St. Librarian, eff. 10-26-83; A 7-9-96; A by Library & Archives Admin’r by R090-06, 6-1-2006)

NAC 239.106 “Records management” defined. (NRS 239.125, 378.255) “Records management” means the systematic control and management of information throughout the life

cycle of the information, including, without limitation, the creation, use, maintenance, retention and ultimate disposition of the information.

(Added to NAC by Library & Archives Admin'r by R090-06, eff. 6-1-2006)

NAC 239.121 is hereby amended to read as follows:

NAC 239.121 “*Record Series* ~~{of records}~~” defined. (NRS 239.125, 378.255) “*Record Series* ~~{of records}~~” means records that are kept or filed in a unified or sequential arrangement, having similar characteristics or relating to a similar function or activity.

(Added to NAC by St. Librarian, eff. 10-26-83)

NAC 239.131 Destruction of nonrecords. (NRS 239.125, 378.255) A nonrecord may, if not otherwise prohibited by law, be destroyed at any time by an official or the head of a department without being scheduled for destruction by the State Library and Archives Administrator.

(Added to NAC by St. Librarian, eff. 10-26-83; A 7-9-96; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.145 Records management program: Documentation and standards required. (NRS 239.125, 378.255) If a local governmental entity establishes a records management program pursuant to NRS 239.125, the program must:

1. Document its organization, functions, policies, decisions, procedures and essential transactions; and

2. Include the standards established in the Local Government Records Management Program Manual published by the State Library and Archives Administrator pursuant to NAC 239.161.

(Added to NAC by Library & Archives Admin'r by R090-06, eff. 6-1-2006)

NAC 239.155 is hereby amended to read as follows:

NAC 239.155 Disposal of ~~{public}~~ official record restricted; procedures for proposal and adoption of schedules for retention of ~~{public}~~ official records. (NRS 239.125, 378.255)

1. A local governmental entity shall not dispose of any ~~{public}~~ official record except in accordance with a schedule for the retention of such records approved by the State Library and Archives Administrator pursuant to this section.

2. *A local governmental entity may adopt in whole or in part the retention schedules approved by the State Library and Archives Administrator in the Local Government Records Management Program Manual without further action required by the State Library and Archives Administrator.*

~~{2.}~~ 3. Before adopting a schedule for the retention of ~~{public}~~ official records *which lists official records not identified in the Local Government Records Management Program Manual*, a local governmental entity shall *first* submit ~~{a}~~ *the* proposed schedule to the State Library and Archives Administrator for review and approval.

~~{3.}~~ 4. The proposed schedule must include:

(a) The title of each *record* series ~~{of records}~~;

(b) A brief description of the contents and purpose of each *record* series ~~{of records}~~;

(c) The proposed minimum period of retention for *record* series ~~{of records}~~; and

~~{d} The proposed method of disposition.~~

~~{4.}~~ 5. After review, the State Library and Archives Administrator will return the proposed schedule to the local governmental entity with a signed and dated cover sheet.

~~[5-]~~ 6. The local governmental entity shall adopt the schedule approved pursuant to this section by ordinance or regulation.

(Added to NAC by St. Librarian, eff. 3-30-94; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.161 is hereby amended to read as follows:

NAC 239.161 Dissemination of schedules for retention of ~~[public]~~ official records; minimum period for retention of ~~[original]~~ official record; disposal of ~~[duplicates]~~ convenience copies. (NRS 239.125, 378.255)

1. The State Library and Archives Administrator will:

(a) Publish the schedules for the retention of ~~[public]~~ official records established pursuant to NRS 239.125 in the *Local Government Records Management Program Manual*; and

(b) Provide a current copy of the *Manual* to each local governmental entity.

2. The periods established in the *Local Government Records Management Program Manual* indicate the minimum length of time that an ~~[original]~~ official record of a local government must be retained in legal custody by the custodian of the record, regardless of its physical location.

3. All ~~[duplicates]~~ convenience copies ~~[of records]~~ maintained within a local governmental office ~~[or within the files of a department, except those that must be kept until completion of an annual audit,]~~ may be disposed ~~[of as provided by the local governmental entity or department]~~ when the administrative value of the copies is met, unless ~~[periods of minimum]~~ retention for the ~~[duplicates]~~ convenience copies ~~[are]~~ is specifically ~~[imposed by]~~ identified in the Local Government Records Management Program Manual.

(Added to NAC by St. Librarian, eff. 10-26-83; A 7-18-88; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.165 is hereby amended to read as follows:

NAC 239.165 Destruction of confidential records~~[, electronic records and copies of records]~~. (NRS 239.125, 378.255)

1. To protect the confidentiality of records of local governments that are declared by law to be confidential, such records must be destroyed in accordance with the applicable schedule *and in a secure manner that will prevent reconstruction of the information*

~~[(a) By shredding in a manner that ensures the information cannot be reconstructed;~~

~~—(b) By burning if allowed by federal, state and local regulations;]~~ or

~~[(c)]~~ As required by the laws, regulations, established standards, policies and procedures of the State or Federal Government.

2. ~~[An electronic record must be destroyed in accordance with the applicable schedule in a manner that ensures the information cannot be retrieved or reconstructed, including, without limitation, overwriting, degaussing and or the physical destruction of the storage media.~~

~~—3.]~~ All copies of a record must be destroyed at the same time without regard to the type of media used for the physical storage of such record.

(Added to NAC by St. Librarian, eff. 3-30-94; A by Library & Archives Admin'r by R090-06, 6-1-2006)

RECORDS OF STATE AGENCIES

NAC 239.570 Definitions. (NRS 378.255, 378.280) As used in NAC 239.570 to 239.764, inclusive, unless the context otherwise requires, the words and terms defined in NAC 239.575 to 239.695, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by St. Librarian, eff. 12-4-91; A 1-24-92; 3-30-94; 1-31-96; 3-12-96; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.575 is hereby amended to read as follows:

NAC 239.575 “Administrative value” defined. (NRS 378.255, 378.280) “Administrative value” means the ~~value found in records that help an agency perform its function. The~~ *usefulness or significance of records to support the management and operations of an agency.*

(Added to NAC by St. Librarian, eff. 12-4-91)

NAC 239.577 is hereby amended to read as follows:

NAC 239.577 “Committee” defined. (NRS 378.255, 378.280) “Committee” ~~has the meaning ascribed to it in~~ *means the Committee to Approve Schedules for the Retention and Disposition of Official State Records.* NRS 239.005, 239.073.

(Added to NAC by St. Librarian, eff. 3-30-94)

NAC 239.5xx is hereby adopted to read as follows:

NAC 239.5xx “Convenience copies” defined. (NRS 239.125, 378.255) “Convenience copies” *means copies that are not official records but duplicate or reference copies of official records that are held in local government offices. These copies should not be retained after the authorized destruction of the official records.*

NAC 239.5xx is hereby adopted to read as follows:

NAC.239.5xx “Disposition” defined. (NRS 378.255, 378.280) “Disposition” *means the final stage of the records life cycle in which a record is either destroyed or transferred to the State Archives for permanent retention.* NRS 239.080.

NAC 239.585 is hereby amended to read as follows:

NAC 239.585 “Division” defined. (NRS 378.255, 378.280) “Division” means the Division of State Library and Archives of the Department of ~~Cultural Affairs~~ *Administration.*

(Added to NAC by St. Librarian, eff. 12-4-91; A 3-30-94; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.590 is hereby repealed:

~~[NAC 239.590 “Duplicate” defined. (NRS 378.255, 378.280) “Duplicate” has the meaning ascribed to it in NRS 52.195.~~

~~—(Added to NAC by St. Librarian, eff. 12-4-91; A 3-30-94; A by Library & Archives Admin'r by R090-06, 6-1-2006)]~~

NAC 239.593 is hereby amended to read as follows:

NAC 239.593 “Electronic record” defined. (NRS 378.255, 378.280) “Electronic record” means a ~~representation of an official state record in electronic format containing information,~~

~~knowledge, facts, concepts or instructions which is being prepared or has been formally prepared and is intended to be processed, is being processed or has been processed in a system or network.] record stored in a format that requires a computer or a machine to process it and meets the legal definition of a state record in NRS 239.080(4).~~

(Added to NAC by Library & Archives Admin'r by R090-06, eff. 6-1-2006)

NAC 239.5xx is hereby adopted:

NAC 239.5xx "Electronic recordkeeping system" defined. (NRS 239.125, 378.255) "Electronic recordkeeping" means the operation of a records system in which a computer is required for the user to create, manipulate, or delete information. NRS 239.051.

NAC 239.600 is hereby repealed:

~~[NAC 239.600 "Fiscal value" defined. (NRS 378.255, 378.280) "Fiscal value" means the value found in a record relating to the financial transactions and the auditing, budgeting and accounting functions of a state agency.~~

~~—(Added to NAC by St. Librarian, eff. 12-4-91; A-3-30-94)]~~

NAC 239.6xx is hereby adopted:

NAC 239.6xx "Governmental entity" defined. (NRS 239.125, 378.255) "Governmental entity" means a state or local government or any of their political subdivisions and the Nevada System of Higher Education.

NAC 239.605 is hereby repealed:

~~[NAC 239.605 "Image" defined. (NRS 378.255, 378.280) "Image" means an exact duplicate of an original document.~~

~~—(Added to NAC by St. Librarian, eff. 1-24-92)]~~

NAC 239.6xx is hereby adopted:

NAC 239.6xx "Inactive records" defined. (NRS 378.255, 378.280) "Inactive records" means records related to closed, completed, or concluded activities and are no longer routinely referenced.

NAC 239.620 is hereby amended to read as follows:

NAC 239.620 "Legal custody" defined. (NRS 378.255, 378.280) "Legal custody" means all rights and responsibilities of access to and maintenance of a record or *records* series ~~[of records]~~ which are vested in a state agency. The term does not mean the ownership of the record.

(Added to NAC by St. Librarian, eff. 12-4-91)

NAC 239.625 is hereby repealed:

~~[NAC 239.625 "Legal value" defined. (NRS 378.255, 378.280) "Legal value" means the value found in a record which contains proof of enforceable rights, obligations or other legal standing. The term includes any record establishing:~~

- ~~—1. Ownership, such as in titles or deeds;~~
- ~~—2. Rights or privileges, such as in marriage licenses or drivers' licenses;~~
- ~~—3. Obligations, such as in contracts, leases and agreements;~~
- ~~—4. Legal conditions, such as court rulings, approved laws and regulations; or~~

~~—5. Action taken by a governing body which affects the public, such as minutes of meetings or proclamations.—~~

~~—(Added to NAC by St. Librarian, eff. 12-4-91)]~~

NAC 239.630 “Long-term record” defined. (NRS 378.255, 378.280) “Long-term record” means a record which must be retained for more than 10 years.

(Added to NAC by St. Librarian, eff. 1-24-92; A 3-30-94; A by Library & Archives Admin’r by R090-06, 6-1-2006)

NAC 239.636 is hereby repealed:

~~[NAC 239.636 “Microform” defined. (NRS 378.255, 378.280) “Microform” means any form of micrographic material, including, without limitation, microfiche, microcards or microfilm contained on reels, cartridges or cassettes.~~

~~—(Added to NAC by St. Librarian, eff. 1-31-96)]~~

NAC 239.637 is hereby repealed:

~~[NAC 239.637 “Micrographics” defined. (NRS 378.255, 378.280) “Micrographics” means the production of printed information in miniature form.~~

~~—(Added to NAC by St. Librarian, eff. 1-31-96)]~~

NAC 239.638 is hereby repealed:

~~[NAC 239.638 “Micrographics equipment” defined. (NRS 378.255, 378.280) “Micrographics equipment” means any equipment used in micrographics, including, without limitation:~~

- ~~—1. Planetary or rotary cameras for microfilm;~~
- ~~—2. Machines for processing or duplicating microforms;~~
- ~~—3. Readers and printers of microforms; and~~
- ~~—4. Scanners used to convert microforms to an optical format or compact disc; and~~
- ~~—5. Systems used to convert microforms to digital or electronic images.~~

~~—(Added to NAC by St. Librarian, eff. 1-31-96)]~~

NAC 239.xxx is hereby adopted:

NAC 239.xxx “Migrate” defined. (NRS 378.255, 378.280) “Migrate” means to transfer electronic records and data from one hardware or software or database structure to another or from one generation of computer technology to another for the purpose of assuring preservation, usability, and integrity of the records and data.

NAC 239.655 is hereby repealed.

~~[NAC 239.655 “Preserved” defined. (NRS 378.255, 378.280) “Preserved” means the filing, storage or other method of systematically maintaining records by an agency. The term also applies to records while they are temporarily removed from established filing systems.~~

~~—(Added to NAC by St. Librarian, eff. 12-4-91; A 3-30-94)]~~

NAC 239.660 is hereby amended to read as follows:

NAC 239.660 “Received” defined. (NRS 378.255, 378.280) “Received” means the receipt of records by personnel of a state agency, whether in person, by messenger, mail, electronic transmission or by any other method. ~~[The term does not refer to misdirected materials.]~~

(Added to NAC by St. Librarian, eff. 12-4-91; A 3-30-94)

NAC 239.6xx is hereby adopted:

NAC 239.xxx “Records life cycle” defined. (NRS 378.255, 378.280) “Records life cycle” means the life span of a record from its creation or receipt to its final disposition. It is usually described in four stages: creation, use, storage, and final disposition.

NAC 239.665 is hereby amended to read as follows:

NAC 239.665 “Records center” defined. (NRS 378.255, 378.280) “Records center” means the ~~[center]~~ **facility** created pursuant to subsection 4 of NRS 378.255 for storing and retrieving *inactive* records of state agencies.

(Added to NAC by St. Librarian, eff. 12-4-91)

NAC 239.670 is hereby amended to read as follows:

NAC 239.668 “Records management” defined. (NRS 378.255, 378.280) “Records management” means the systematic control and management of information throughout the life cycle of the information, including, without limitation, the creation, use, maintenance, retention and ultimate disposition of the information.

(Added to NAC by Library & Archives Admin’r by R090-06, eff. 6-1-2006)

NAC 239.670 “Records officer” defined. (NRS 378.255, 378.280) “Records officer” means the person designated, pursuant to NAC 239.700, by *the head of* an agency to manage its records.

(Added to NAC by St. Librarian, eff. 12-4-91)

NAC 239.675 is hereby amended to read as follows:

NAC 239.675 “~~[Research or archival]~~ Historical value” defined. (NRS 378.255, 378.280) “~~[Research or archival]~~ Historical value” means the long-term ~~[historical]~~ **research or archival** value remaining in a record in which the administrative, ~~fiscal or legal~~ value **may have has** expired. *NRS 387.250*

(Added to NAC by St. Librarian, eff. 12-4-91; A 3-30-94)

NAC 239.6xx is hereby adopted:

NAC 239.6xx “Retention value” defined. (NRS 378.255, 0378.280) “Retention value” means the value of a record to a state agency records as determined by an appraisal of the record. The retention value time period is identified in a schedule for the retention and disposition of official state records.

NAC 239.680 is hereby amended as follows:

NAC 239.680 “Schedule” defined. (NRS 378.255, 378.280) “Schedule” means a schedule for the retention and disposition of official state records ~~[developed by a state agency and]~~ approved by the Committee pursuant to NRS 239.080.

(Added to NAC by St. Librarian, eff. 12-4-91; A 3-30-94; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.685 is hereby amended as follows:

NAC 239.685 “Record Series ~~[of records]~~” defined. (NRS 239.125, 378.255) “*Record Series ~~[of records]~~*” records that are kept or filed in a unified or sequential arrangement, having similar characteristics or relating to a similar function or activity.

(Added to NAC by St. Librarian, eff. 12-4-91)

NAC 239.690 “State agency” defined. (NRS 378.255, 378.280) “State agency” means an office, department, board, commission, committee, agency or any other subdivision of the Executive Branch of the Government of the State of Nevada where records are made, received or kept.

(Added to NAC by St. Librarian, eff. 12-4-91; A 1-31-96; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.692 is hereby amended to read as follows:

NAC 239.692 “State archives” defined. (NRS 378.255, 378.280) “State archives” means the program within the Division responsible for the selection, preservation and accessibility of records with ~~[research or archival]~~ *historical* value.

(Added to NAC by Library & Archives Admin'r by R090-06, eff. 6-1-2006)

NAC 239.695 “[Vital] Essential record” defined. (NRS 378.255, 378.280) “[Vital] Essential record” means an official state record which contains information:

1. Required for a state agency to continue functioning during a disaster;
2. Required for a state agency to reestablish operations after a disaster has ended; or
3. Representing the particulars of an obligation incurred by the State Government.

(Added to NAC by St. Librarian, eff. 12-4-91)

NAC 239.696 is hereby amended to read as follows:

NAC 239.696 Records management program: Establishment. (NRS 378.255, 378.280) A state agency shall establish a records management program which documents its organization, functions, policies, decisions, procedures and essential transactions. *The head of the agency is responsible for an agency's records management program.*

(Added to NAC by St. Librarian, eff. 3-12-96; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.697 is hereby amended to read as follows:

NAC 239.697 Records management program: General requirements. (NRS 378.255, 378.280)

~~[(1)]~~ The records management program established pursuant to NAC 239.696 must include:

~~[(a)]~~ **1.** A directive which establishes the ~~[objectives, authority, standards, guidelines and instructions of]~~ the *agency* records management program.

~~[(b)]~~ **2.** Controls for the creation, maintenance, use, security and distribution of the records of the agency to ensure that the agency:

~~[(1)]~~ **a** Refrains from accumulating unnecessary records or gathering information which is not essential to the proper functioning of the agency;

~~[(2)]~~ **b** Adheres to the appropriate schedule developed and approved in accordance with NRS 239.080;

~~[(3)]~~ **c** ~~Refrains from creating any form or report which inefficiently or unnecessarily collects information;~~

~~— (4) Annually reviews each of its forms and reports to determine whether the form or report needs to be improved or eliminated;~~

~~— (5) Designs and revises each of its forms and reports so that the form or report:~~

~~— (I) Is easy to use;~~

~~— (II) Is easy to read and process;~~

~~— (III) Presents the information in a manner that provides for the easy retrieval of the information; and~~

~~— (IV) Refrains from requesting information which is not needed for the proper functioning of the agency;~~

~~— (6) To reduce cost, eliminates each unnecessary form and report and limits the distribution of a form or report to only those persons or other governmental agencies which need the information contained on that report;~~

~~— (7)~~ **d** Maintains its records in a manner which is cost-effective and which allows for the rapid retrieval and protection of the information contained within that record;

~~[(8) If the record is recorded by electronic means, provides for the security of the record in a manner which is consistent with established policies, standards and procedures for security and recovery of an electronic record in a disaster as established by the Information Technology Strategic Planning Committee or its successor;~~

~~— (9)~~ **d** Establishes ~~[a written organized]~~ **and documents the agency** filing system **standards** ~~[which:]~~

~~[(I) Is standardized for each of the divisions or bureaus within the state agency; and~~

~~— (II) Provides for an ongoing training program in the use of the filing system for the staff of the agency;~~

~~— (10)~~ **e** **Makes certain that all records of the agency are passed to the head of agency's successor in the position of head of agency.**

f Provides for the transfer of its records which are of ~~[research and archival]~~ **historical** value to the State Archives in accordance with NRS 239.080, 239.085, 239.090 and 378.250 and NAC 239.760; and

~~[(11)]~~ **g** Establishes written **policies and** procedures for the proper access or denial of access to the public or other governmental agencies to records which have been declared by law to be confidential **or restricted**.

~~[(e) Written policies and procedures to protect access to and the use of personal identifying information. Such written policies and procedures must:~~

~~— (1) Identify the use and need for collecting the personal identifying information in accordance with applicable state and federal law;~~

~~— (2) Restrict the access to personal identifying information within the agency to staff authorized to access such information;~~

~~— (3) Reduce the exposure of personal identifying information in electronic format in accordance with the policies, standards and procedures established by the Information Technology Strategic Planning Committee or its successor;~~

- ~~— (4) Reduce the exposure of personal identifying information in paper files by never leaving such information unattended by an authorized person except when in a secure storage area;~~
- ~~— (5) Store personal identifying information that is in paper files in a secure manner, including:
 - ~~— (I) A locked and monitored room;~~
 - ~~— (II) A locked file cabinet;~~
 - ~~— (III) A locked box; or~~
 - ~~— (IV) As otherwise required by a regulation or a law of this State or the Federal Government;~~~~
- ~~— (6) Create and maintain an access log detailing, for all unauthorized staff, the general public and representatives of other governmental entities, who accessed the personal identifying information, when access was granted and for what purpose the information was accessed;~~
- ~~— (7) Produce and maintain a procedure whereby a file containing personal identifying information must be replaced with an insert which indicates that the file is out, the person who took the file and the date on which the file was removed; and~~
- ~~— (8) Include any requirements of a law of this State and the Federal Government relating to who may access personal identifying information, how such information may be accessed and where access may be granted.~~
- ~~— 2. Each state agency shall establish a training program for all staff, to be provided on an ongoing basis, concerning all laws, regulations, policies and procedures relating to accessing, using, maintaining, storing and disposing of personal identifying information.~~
- ~~— 3. As used in this section, “confidential personal identifying information” has the meaning ascribed to it in NRS 205.4617.]~~

(Added to NAC by St. Librarian, eff. 3-12-96; A by Library & Archives Admin’r by R090-06, 6-1-2006)

NAC 239.698 is hereby repealed:

~~[NAC 239.698 Records management program: Electronic records. (NRS 378.255, 378.280) Before establishing a system for electronic records within the records management program pursuant to NAC 239.696, the head of the state agency shall:~~

- ~~— 1. Consult with the Department of Information Technology, in accordance with chapter 242 of NRS and chapter 242 of NAC, on the implementation of its system, including, but not limited to, a strategic plan for the use of information resources and information technology, the purchase and use of hardware and software, and the establishment of programs relating to training in the use of and security for the system.~~
- ~~— 2. Work with the Division to:
 - ~~— (a) Ensure the proper use, maintenance, retention, preservation and disposition of the records of the state agency; and~~
 - ~~— (b) Carry out the procedures required for the retention of records in accordance with the provisions of chapters 239 and 378 of NRS, and the regulations adopted pursuant thereto.~~~~
- ~~— 3. Establish in writing a strategy for migration. As used in this subsection, a “strategy for migration” means a plan which ensures that the:
 - ~~— (a) Records of the state agency will be preserved and accessible for a period of retention established in accordance with NRS 239.080;~~
 - ~~— (b) Long term records can be used with or transferred to updated technological advances; and~~~~

~~—(c) State agency adheres to all policies, standards and procedures adopted by the Information Technology Strategic Planning Committee or its successor.~~

~~—4. Establish measures which provide for access into and security backup of all of its electronic records.~~

~~—(Added to NAC by St. Librarian, eff. 3-12-96; A by Library & Archives Admin'r by R090-06, 6-1-2006)]~~

NAC 239.699 is hereby amended to read as follows:

NAC 239.699 Protection and preservation of records: General requirements; training for employees~~[- electronic records].~~ (NRS 378.255, 378.280)

1. A state agency shall take such measures as are necessary to ensure that the records in its legal custody are protected from unlawful removal, misuse, damage, alteration, destruction or loss. The state agency shall notify the appropriate prosecuting attorney or law enforcement agency of any actual, impending or threatened unlawful acts toward the records in the custody of the agency.

2. A state agency shall provide for ongoing training for its employees on the measures which the agency has taken pursuant to subsection 1. The training must include:

(a) Instruction in procedures which ensure that the records in the legal custody of the agency will not be destroyed or otherwise disposed of except in accordance with the provisions of NRS 239.080; and

(b) A review of the penalties for the unlawful removal, misuse, damage, alteration, destruction or loss of records, as set forth in chapter 205 of NRS and NRS 239.300 to 239.330, inclusive, 281.180, 281.190, 603.080 and 603.090.

3. The head of the state agency is responsible for taking such measures as are possible to protect the records in the legal custody of the agency from any natural or other disaster. The head of the state agency shall notify the State Library and Archives Administrator of any damage to a record in the legal custody of the state agency as a result of a natural or other disaster.

~~[4. A state agency shall protect and preserve an electronic record in its legal custody by:~~
~~—(a) Ensuring that an official record in electronic format remains accessible and unalterable during the period required for retention of the record; and~~
~~—(b) Making provisions for an electronic record with research or archival value to be reproduced pursuant to NRS 239.051 or placed on alkaline reserve paper.]~~

~~(Added to NAC by St. Librarian, eff. 3-12-96; A by Library & Archives Admin'r by R090-06, 6-1-2006)~~

NAC 239.700 is hereby amended to read as follows:

NAC 239.700 Records officer: Designation and replacement; ~~[-cooperation of Division] Responsibilities.~~ (NRS 378.255, 378.280)

1. ~~[Each state agency shall designate a records officer and notify the Division, in writing, when its records officer has been replaced.]~~ *The head of the agency shall designate a records officer to oversee the operations of the agency records management program and act as a liaison between the agency and the Division. The head of the agency may change the designation at any time by writing the Division and naming a new records officer. The Division maintains a file of current records management officers of all agencies. In the absence of the head of the agency designating a records officer, the head of the agency shall oversee the program.*

2. ~~[The Division shall cooperate with the agency's records officer and shall keep him informed concerning all phases of the scheduling of the agency's records.]~~ *The agency head determines who is most qualified to be the records officer and how the responsibilities are to be distributed within the agency. The Division directs all publications and correspondence to the designated records officer.*

3. *The responsibilities of the records officer is to control records activity within the agency which may include the following functions:*

- (a) *administer the records management program within the agency.*
- (b) *assist the Division in the preparation and maintenance of the agency records retention schedule.*
- (c) *approve all documentation for transfer of records to the State Records Center.*
- (d) *approve all requests to dispose of official records in accordance with approved records retention and disposition schedules. NRS 239.080 (1)*
- (e) *attend records retention and disposition schedules training classes offered by the Division.*
- (f) *coordinate records management training for agency staff, as needed.*

(Added to NAC by St. Librarian, eff. 12-4-91; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.705 is hereby amended to read as follows:

NAC 239.705 "Official state record" interpreted. (NRS 378.255, 378.280)

1. For ~~[the]~~ *retention* purposes of NRS 239.080, an "official state record" means information created or received by a state agency under authority of law, regulation or other legal mandate or in connection with the transaction of public business that is ~~[preserved or appropriate for preservation]~~ *maintained* by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the state agency, including, without limitation, all papers, ~~[unpublished books,]~~ maps, photographs, *recorded media, financial statements, statistical tabulations, or other documentary materials or information,* ~~[machine readable materials including audio and audiovisual materials, or other documentary materials,]~~ regardless of physical form or ~~[characteristics]~~ *media*.

2. The phrase does not include nonrecord materials. Nonrecord materials include, without limitation:

~~[(a)]~~ Published *materials* ~~[books and pamphlets, books and pamphlets]~~ *materials* printed by a governmental printer, ~~[answer pads for a telephone or other]~~ informal notes, ~~[desk calendars, stenographers' notebooks after the information contained therein has been transcribed,]~~ unused *blank* forms except ballots ~~[and as indicated in a retention schedule],~~ *brochures, newsletters, magazines, catalogues, pricelists, drafts, convenience copies, ad hoc reports, reference material not relating to specific projects, and any other documentation that does not serve as the basis for official action.* ~~[newspapers except those excerpts used as evidence of publication, scrapbooks, physical property, artifacts, library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, or stocks of publications and processed documents.]~~

~~— (b) Workpapers used to collect or compile data, or drafts developed from those workpapers, unless an appraisal conducted by the Division indicates that the workpapers or drafts have legal, fiscal, research or archival value.]~~

(Added to NAC by St. Librarian, eff. 12-4-91; A by Library & Archives Admin'r by R007-98, 4-10-98; R090-06, 6-1-2006)

NAC 239.711 is hereby amended to read as follows:

NAC 239.711 Destruction of nonrecords. (NRS 378.255, 378.280) A nonrecord may, if not otherwise prohibited by law, be destroyed at any time by a state agency without being scheduled for destruction by the ~~[State Library and Archives Administrator]~~ **Committee. NRS 239.080.**

(Added to NAC by Library & Archives Admin'r by R090-06, eff. 6-1-2006)

NAC 239.721 is hereby amended to read as follows:

NAC 239.721 Procedure for sealing of records; disposal of sealed records. (NRS 378.255, 378.280)

1. A ~~[state agency]~~ **governmental entity** which is required by any statute or court of competent jurisdiction to seal a record which is in the legal custody of the agency shall ~~[seal the record by physically removing the record from the filing system of the agency and:]~~ **make the record accessible only to authorized personnel, those who have a court order to see the record or those who by law have a right to access to the record. The record may be protected from unauthorized access by:**

(a) Placing the record **regardless of physical format** in a separate file which is not accessible to the general public, including, but not limited to, a filing cabinet or drawer which can be locked; or

(b) Sending the record to ~~[the]~~ **a records center [in accordance with NAC 239.725, 239.730 and 239.735] or other secure off-site facility (See NAC 239.740) or;**

(c) **Tagging the record either through the index or with a physical label with a special easily identifiable notice that it has been sealed and may be only accessed by authorized personnel.**

2. **Electronic records may be protected in a similar manner by transferring the electronic file to:**

(i) **a separate protected directory or;**

(ii) **an off-line media format, such as a CD, tape, etc., or;**

(iii) **a remote computer system preferably in a different physical location, or;**

(iv) **Tagging the file with a notice as in (c) above and providing increased security measures to prevent unauthorized access.**

3. **Paper records that are sealed may be converted to an electronic record (including digital imaging) or microfilmed and the paper copy destroyed in accordance with NRS 52.247, NRS 239.051 or NRS 719.290.**

~~[2.]~~ 4. The ~~[state agency]~~ **governmental entity** shall make a notation in its filing system that the record has been ~~[removed]~~ **sealed**. The notation must include the name of the record ~~[which has been removed]~~, the date that it was ~~[removed]~~ **sealed** and a ~~[cite]~~ **citation** of the legal authority for its ~~[removal]~~ **sealing**. The agency shall place ~~[the record to be sealed and]~~ **a copy of the court order or a copy of the statutory authority pursuant to which the record is being sealed with the record. [into an envelope or closable file and place on the outside of the envelope or file a statement which is substantially in the following form:**

~~Sealed by the authority of (cite the court order or statutory authority pursuant to which the record has been sealed). Access by authorized personnel or by court order only.~~

=

~~—3.] 5. [The state agency shall establish within its filing system a separate confidential file for the purpose of locating and retrieving the sealed records in the legal custody of the agency. The separate file may contain only such information as may be necessary to facilitate the location and retrieval of the sealed record.]~~ The authorized personnel of the agency may disclose to the public whether a record is in the legal custody of the ~~[state agency]~~ **governmental entity and is sealed and may be accessed only through a court order**, but no other details relating to the sealed record may be disclosed to the public.

~~[4.] 6. Once a record is sealed, the authorized personnel of the [state agency] governmental entity may review the record for administrative purposes only. [The actual contents of a sealed record may be disclosed only upon the order of a court of competent jurisdiction.]~~

~~—5.] 7. The [state agency] governmental entity shall keep a log to monitor the access to the sealed record. The log must include, without limitation:~~

- ~~(a) The name of each person who accesses the sealed record;~~
- ~~(b) The time and date on which that access was made;~~
- ~~(c) The purpose for accessing the sealed record; and~~
- ~~(d) The authority pursuant to which the person is accessing the sealed record.~~

~~[6. If the record to be sealed is on microfiche, a microfilm jacket, an aperture card or a microcard, the state agency shall:~~

~~—(a) Remove the microfiche, microfilm jacket, aperture card or microcard and place it into an envelope or a closable file in accordance with this section; and~~

~~—(b) Replace the microfiche, microfilm jacket, aperture card or microcard removed pursuant to paragraph (a) with an index or other similar card which includes the name of the record which has been removed and the date that it was removed and cites the legal authority for its removal.~~

~~—7. If the record to be sealed is on a roll of microfilm, including, without limitation, a reel, cartridge or cassette of microfilm, the state agency shall:~~

~~—(a) Remove the entire roll of microfilm and place the roll into an envelope or closable file in accordance with this section; or~~

~~—(b) Cut from the roll of microfilm that portion of the record which is to be sealed and place the portion of the record which has been removed into an envelope or closable file in accordance with this section. A target, a certification and a copy of the court order or statutory citation pursuant to which the record is being removed must be spliced between the ends of the cut roll of microfilm, in accordance with the following standards of the American National Standards Institute (ANSI) and the Association for Information and Image Management (AIIM):~~

~~—(1) ANSI/AIIM MS18-1992, Micrographics—Splices for Imaged Film—Dimensions and Operational Constraints;~~

~~—(2) ANSI/AIIM MS19-1993, Identification of Microforms, Recommended Practice for Identification of Microforms; and~~

~~—(3) ANSI/AIIM MS42-1989, Information and Image Management—Recommended Practice for the Expungement, Deletion, Correction or Amendment of Records on Microforms.~~

~~—8. A state agency shall not dispose of a sealed record unless the record appears on a schedule for retention and disposition approved pursuant to NRS 239.080] **Sealed records may be disposed of only through a records retention and disposition schedule approved in accordance with NRS 239.080 or NRS 239.125.**~~

9. As used in this section, “authorized personnel” includes, without limitation:

(a) The records officer, the legal counsel ~~[and]~~ **or** the appointing authority of the ~~[state agency]~~ **governmental entity**;

(b) Any person who is so designated by the appointing authority of the ~~[state agency]~~ *governmental entity*; and

(c) For the purpose of creating a schedule for retention and disposition pursuant to NRS 239.080 or ~~[NAC 239.710, 239.715 or 239.720]~~ **NRS 239.125**, the state library and archives administrator or his designated agent.

(Added to NAC by St. Librarian, eff. 1-31-96; A by Library & Archives Admin'r by R007-98, 4-10-98)

NAC 239.722 is hereby amended to read as follows:

NAC 239.722 Disposal of confidential public books and records~~[- destruction of electronic records]~~ and of copies of records. (NRS 378.255, 378.280)

1. A public book or public record which has been declared confidential pursuant to NRS 239.010 must be disposed of only in accordance with a schedule approved pursuant to NRS 239.080 and *in a secure manner that will prevent reconstruction of the information.* ~~[-~~

~~—(a) By shredding in a manner that ensures the information cannot be reconstructed;~~

~~—(b) By burning if allowed by federal, state and local regulations; or~~

~~—(c)]~~ As required by the laws, regulations, established standards, policies and procedures of the State or Federal Government.

2. ~~[An electronic record must be destroyed in accordance with:~~

~~—(a) The applicable schedule in a manner which ensures that the information cannot be retrieved or reconstructed, including, without limitation, overwriting, degaussing and the physical destruction of the storage media; and~~

~~—(b) The established standards, policies and procedures of the Information Technology Strategic Planning Committee or its successor.~~

~~—3.]~~ All copies of a record must be destroyed at the same time without regard to the type of media used for the physical storage of such record.

(Added to NAC by St. Librarian, eff. 3-30-94; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.740 is hereby amended to read as follows:

NAC 239.740 Facilities for storage of records: Standards; private facilities; preference. (NRS 378.255, 378.280)

1. To the extent allowed by legislative appropriation, *agencies are responsible for ensuring that records in their legal custody are stored in appropriate space as outlined in this section.*

The Division operates a records center for storing inactive records for state agencies. NRS 378.255(4). Records that meet the storage policies established by the Division may be transferred by state agencies to the state records center for retention, access, and disposition.

~~[a state agency shall store official state records in a facility which meets the standards set forth in the most recently adopted edition of NFPA 232: Standards for the Protection of Records, which is hereby adopted by reference, unless the Division gives notice that the most recent revision is not suitable for this State pursuant to this subsection. The publication is available from the National Fire Protection Association at 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, at the Internet address <http://www.nfpa.org> or by telephone at (800) 344-3555, for the price of \$28.80 for members and \$32 for nonmembers. The Division shall review each revision of NFPA 232: Standards for the Protection of Records to ensure its suitability for this State. If the Division determines that a revision is not suitable for this State, the Division shall hold a~~

~~public hearing to review its determination within 180 days after the date of the publication of the revision and give notice of that hearing. If, after the hearing, the Division does not revise its determination, the Division shall give notice within 30 days after the hearing that the revision is not suitable for this State. If the Division does not give such notice, the revision becomes part of the publication adopted by reference pursuant to this subsection.}~~

2. A state agency shall not store ~~[such]~~ records in a facility not owned by the State without the written permission of the person designated by the State Library and Archives Administrator to manage official state records. He shall determine whether the private facility meets with the standards set forth in this section.

3. ~~[If a state agency stores official state records at a facility which is not located at the same physical location as the state agency and which is not owned by the State, the state agency shall ensure that the security system used by the facility:~~

~~—(a) Is connected to a central station for fire and intrusion monitoring that monitors the facility 24 hours a day;~~

~~—(b) Has audible alarms for fire and intrusion;~~

~~—(c) Has physical intrusion protection devices, including, without limitation, high grade locks, gates and window bars on all entries, including, without limitation, all doors, windows, stairwells, ramps, docks and roof ports; and~~

~~—(d) Has motion detectors on the interior of the building.~~

~~□ When choosing a facility for the storage of official state records, a state agency shall give preference to a facility that has a system for the detection of leaks of water.]~~

Agency records shall be stored in a facility that provides the appropriate environmental and records management resources for storing them.

1. The facility shall:

(a) Have storage areas that meet all applicable building, fire, and safety codes.

(b) Contain no dust, dirt, insects, birds, mold, mildew, rodents or other environmental hazards to records.

(c) Ensure the facility is constructed and maintained to minimize the risk of damage from floods, fires, earthquakes, winds and other natural disasters.

(d) Not share space with occupants who store combustible materials, food or industrial supplies.

(e) Prohibit smoking, use of open flame devices, or the presence of flammable materials in storage facilities.

(f) Have insulated and wrapped any existing water-carrying pipes;

(g) Have stable temperature controls to maintain paper and microfilm records at a temperature range of 70°F +/- 5°F;

(h) Ensure the facility is secure from unauthorized access. Restrict access to the records to agency designees;

(i) Provide a 24-hour security system (either manual or automated) linked to the local police and fire department;

(j) Have a zoned sprinkler system that is monitored 24 hours a day.

2. The agency shall maintain:

(a) A list of all the records maintained in the storage facility.

(b) Procedures for accessing and retrieving records.

(c) Procedures to meet records retention and disposition schedule requirements of the records maintained in the storage facility. NRS 239.080.

(Added to NAC by St. Librarian, eff. 12-4-91; A 3-30-94; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.745 is hereby amended to read as follows:

NAC 239.745 Duties of Board of Regents. (NRS 378.255, 378.280)

1. The Board of Regents shall establish a records management program. The Board of Regents shall provide a facility for the storage of the records on each campus of the Nevada System of Higher Education. The records of each institution must remain with and be ~~preserved~~ ***maintained*** by that institution. ~~The Board of Regents shall furnish the Division with general information relating to the operation of the facilities, such as the names, addresses and telephone numbers of the persons managing the program on each campus.~~ Under such a program, each ***records*** series ~~of records~~ produced and stored by an institution of the Nevada System of Higher Education must be inventoried, appraised and scheduled on forms approved by the ~~Division~~ ***Committee***. ~~The results of the inventory and appraisal must be submitted to the Division for review. The Division~~ ***Each institution of the Nevada System of Higher Education shall submit*** ~~the~~ schedules ~~of the Nevada System of Higher Education~~ to the Committee for approval. NRS 239.080

2. The Board of Regents shall provide for the preservation of records from the Nevada System of Higher Education with ~~legal, research or archival~~ ***retention and historical*** value. Except as otherwise provided in this subsection, these records must be stored in facilities which meet the standards set forth in NAC 239.740 or transferred to the State Archives.

3. Records of the Board of Regents with ~~legal, research or archival~~ ***historical*** value ~~must~~ ***shall*** be transferred to the State Archives.

(Added to NAC by St. Librarian, eff. 12-4-91; A 3-30-94; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.7xx is hereby adopted to read as follows:

NAC 239.7xx Duties of Department of Transportation. (NRS 378.255, 378.280)

1. The Department of Transportation shall establish a records management program. NRS 239.085 NRS 378.280. Under such a program, each record series produced and stored by the Department of Transportation must be inventoried, appraised and scheduled on forms approved by the Committee. The Department of Transportation shall submit the schedules to the Committee for approval. NRS 239.080

2. The Department of Transportation shall provide for the maintenance of records with retention value. Except as otherwise provided in this subsection, these records must be stored in facilities which meet the standards set forth in NAC 239.740.

3, Records of the Department of Transportation with historical value shall be transferred to the State Archives. NRS 239.085(2).

NAC 239.750 is hereby amended to read as follows:

NAC 239.750 Procedure upon abolishment or disbanding of state agency; procedure upon reorganization or reinstatement of defunct state agency. (NRS 378.255, 378.280)

1. Upon receiving notice that a state agency is being abolished or disbanded, the head of the agency, whether elected or appointed, shall take such actions as may be necessary to transfer the records of the agency to the Division for appraisal and preservation. Upon receipt, the Division

acquires legal custody of these records. The records center shall maintain the records of defunct state agencies which have administrative, fiscal or legal value until the scheduled period for retention has passed. Thereafter, any long-term record or record with research or archival value must be transferred to the State Archives.

2. If a defunct state agency is reorganized or reinstated, the Division shall transfer the agency's records with ~~[administrative, fiscal or legal]~~ **retention** value into the legal custody of that state agency. Records with research or archival value must remain with the State Archives.

(Added to NAC by St. Librarian, eff. 12-4-91; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 230.755 is hereby repealed:

~~[NAC 239.755 Priority for microfilming and protection of long term records and vital records. (NRS 378.255, 378.280) Each state agency shall give priority to the microfilming and protection of its long term records and vital records within the limits of the agency's budget. If money has been appropriated for the microfilming or storage of records, the microfilming of long term records and vital records must be given priority.~~

~~—(Added to NAC by St. Librarian, eff. 12-4-91; A by Library & Archives Admin'r by R090-06, 6-1-2006)]~~

NAC 239.760 is hereby amended to read as follows:

NAC 239.760 [Treatment] Management of electronic records. (NRS 378.255, 378.280)

~~[1. A state agency which produces an electronic record shall include the entire record or image. Each electronic record must include:~~

~~—(a) The date the record was produced;~~

~~—(b) The date any alteration was produced;~~

~~—(c) Evidence that the record was authorized for issue or signature;~~

~~—(d) The name of the person who authorized the record for issue or signature; and~~

~~—(e) The name of any person, business, organization, governmental agency or any other entity to which the record was sent by the state agency.~~

~~—2. The temperature in the area used to store an electronic record must be maintained at or above 50 degrees Fahrenheit, but not more than 75 degrees Fahrenheit.~~

~~—3. The agency's personnel shall transfer electronic mail records to a medium which will ensure retention until the minimum period for retention has passed.~~

~~—4. Except as otherwise provided in this subsection, an electronic record that has been appraised and scheduled to be transferred to the State Archives must not be sent via electronic communication or on electronic storage media. The agency shall transfer the electronic record onto alkaline reserve paper, microfilm or microfiche before transferring it to the State Archives. Audio and audiovisual recordings may be transferred in their original storage media.]~~

All governmental entities, as defined in NRS 239.121(3) and NAC 239.6xx shall take action to manage and protect electronic records and follow stringent standards to assure official records maintained in electronic format are available for as long as required and in accordance with an approved records retention and disposition schedules NRS 239.080, NRS 239.125(2). Electronic recordkeeping systems shall meet the following criteria:

1. Life cycle management. The system must manage records throughout their life cycle and be able to:

(a) distinguish between official record and nonrecord material;

- (b) *match each official record to the applicable records retention and disposition schedule;*
 - (c) *indicate whether the record, or the file containing the record, is closed and the date of closure;*
 - (d) *identify the final disposition date, which is calculated from the date of closure;*
 - (e) *ensure that official records authorized for destruction are deleted in accordance with approved records retention and disposition schedules NRS 239.080(1), 239.125(2), 239.123, and NAC 239.155 and are not recoverable following their deletion;*
 - (f) *allow for the removal of records with historical value for transfer to the State Archives.*
2. *Metadata. The system must capture metadata about the records it manages and be able to:*
 - (a) *identify each record sufficiently to enable authorized personnel to retrieve, protect, and carry out the disposition of the records in the system;*
 - (b) *correlate records maintained in the system with related records on paper, microform, or other media;*
 - (c) *preserve transmission and receipt data of any e-mail managed by the system.*
 3. *Retrieval. The system must retrieve records and be able to:*
 - (a) *permit easy retrieval in a timely fashion;*
 - (b) *ensure that records are accessible only to individuals who have a business need for information in the records;*
 - (c) *provide a method for all authorized users of the system to retrieve desired documents, such as an indexing or text search system.*
 4. *Integrity. The system must ensure the integrity of the records it manages and be able to:*
 - (a) *minimize the risk of unauthorized alteration or erasure of the records;*
 - (b) *allow only authorized personnel access to the records in the system;*
 - (c) *allow only authorized personnel to perform administrative functions such as creating or deleting directories, altering the parameters of metadata fields, and assigning access rights.*
 5. *Security. The system must provide an appropriate level of security for the records its manages and be able to comply with all security policies, standards and procedures.*
 6. *Backup. The system must allow for records to be backed up to protect against information loss and be able to:*
 - (a) *be backed up on a regular basis to safeguard against the loss of information;*
 - (b) *allow for the recovery of records from the backup.*
 7. *Migration. The system must allow records to be migrated and be able to:*
 - (a) *ensure that information is not lost because of changing technology or deterioration;*
 - (b) *retain the records in a usable format for their required retention period and until their authorized disposition date;*
 - (c) *ensure that the authorized disposition of the records can be implemented after conversion.*

8. *Records with historical value. The system must provide an alternative to the use of floppy disks, compact disks (CD) or digital versatile disks (DVD) for the long-term storage of historical records and permit historical records to be transferred to an archival repository for continued preservation and public access.*
 - (a) *State agencies and the Board of Regents are to transfer historical electronic records to the State Archives, in compliance with NRS 378.250 and with transfer procedures established by the State Archives.*
 - (b) *Other governmental entities may transfer electronic records to an archival repository that meets the criteria described in NAC 239.850(1)(b).*
9. *Procedures. Governmental entities shall implement procedures to establish the trustworthiness of their electronic records and their records disposition practices. These procedures should include:*
 - (a) *the system's operation and the controls imposed upon it;*
 - (b) *regular recopying, reformatting, and other necessary maintenance to ensure the retention, usability and completeness of electronic records throughout their authorized life cycle;*
 - (c) *a standardized approach to creation and retrieval for similar kinds of records generated and stored electronically;*
 - (d) *security processes to prevent unauthorized addition, modification or deletion of a record and to ensure system protection against such problems as power interruptions.*
 - (e) *identification of the electronic media on which the records are stored throughout their life cycle, the maximum time span that records remain on each storage medium, and the approved records disposition instructions;*
 - (f) *removal of deleted records from backup storage;*
 - (g) *identification of unscheduled records for which a new records schedule should be requested.*
10. *Training. Governmental entities shall train staff on the electronic recordkeeping system, including:*
 - (a) *the operation, care, and handling of the equipment, software, and media used in the system;*
 - (b) *the distinction between official records and nonrecord materials;*
 - (c) *safeguarding confidential, restricted or sensitive records;*
 - (d) *managing e-mail.*

(Added to NAC by St. Librarian, eff. 12-4-91; A 3-30-94; 1-31-96; A by Library & Archives Admin'r by R090-06, 6-1-2006)

NAC 239.762 is hereby repealed:

~~[NAC 239.762 Micrographies and imaging: Written approval required for acquisition and upgrading of equipment and for contracts for conversion of records. (NRS 378.255, 378.280) A state agency shall obtain the written approval of the State Library and Archives Administrator before the agency:~~

- ~~—1. Purchases micrographies and imaging equipment;~~
- ~~—2. Leases micrographies and imaging equipment;~~
- ~~—3. Rents micrographies and imaging equipment;~~
- ~~—4. Upgrades any micrographies or imaging equipment; or~~

~~—5. Contracts with any person for the conversion of the records of that agency to microform or digital image.~~

~~—(Added to NAC by St. Librarian, eff. 1-31-96; A by Library & Archives Admin'r by R090-06, 6-1-2006)}~~

NAC 239.764 is hereby repealed:

~~[NAC 239.764 Program for converting records to microform: Written policy and program of training required. (NRS 378.255, 378.280) A state agency which operates a program for converting its records to microform shall:~~

~~—1. Prepare and maintain a written policy relating to the program which includes, without limitation:~~

~~—(a) The procedure for the preparation of records to be converted to microform;~~

~~—(b) Any procedure required to ensure that the quality of the records is maintained during conversion of the records to microform;~~

~~—(c) An explanation of the operation of the micrographies equipment maintained by the agency; and~~

~~—(d) The procedure for the storage and use of microforms.~~

~~—2. Establish a program of training for those members of the agency who convert the agency's records to microform which includes instruction relating to the requirements of the written policy set forth in subsection 1.~~

~~—3. Review the written policy and program of training annually to ensure that the program for converting the agency's records to microform complies with the requirements of this chapter.~~

~~—(Added to NAC by St. Librarian, eff. 1-31-96)}~~

MINUTES OF PUBLIC BODIES

NAC 239.850 is hereby amended as follows:

NAC 239.850 Transfer for archival preservation and public access; maintenance in Nevada; legal custody; return from archival repository. (NRS 378.255, 378.280)

1. For the purposes of subsection 2 of NRS 241.035, the minutes of a ~~{public body}~~ **governmental entity**, including agendas, exhibits and other related records, may be transferred for archival preservation and continued public access to:

(a) For a state agency, the State Archives.

(b) For the Nevada System of Higher Education and each local governmental entity:

(1) The Nevada Historical Society;

(2) The Nevada State Museum Las Vegas;

(3) An archival program or special collections of the Nevada System of Higher Education;

or

(4) An archival repository that:

(I) Complies with the requirements set forth in NAC 239.740;

(II) Has been approved by the governing body that created the minutes or its successor;

and

(III) Is located in this State.

2. Except for the purposes of display or special exhibits, minutes created in accordance with NRS 241.035 must remain in this State.

3. An archival repository that accepts minutes from a public body pursuant to subsection 1 receives legal custody of the minutes.

4. If an archival repository has accepted minutes from a public body pursuant to subsection 1 and finds itself no longer able to retain those minutes, the archival repository shall return the minutes to the public body from which the minutes originated or to the successor of that public body. If the public body or its successor ceases to exist, the records must be transferred to an archival repository pursuant to the provisions of subsection 1.

5. As used in this section, “archival repository” means a facility, professional staff and written program established to select, preserve and provide access to records containing research or archival value.

(Added to NAC by St. Librarian, eff. 3-30-94; A by Library & Archives Admin’r by R090-06, 6-1-2006)