

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p><b>Section 1. Purpose.</b> The purpose of this chapter is to ensure efficient and effective management of public records and public information, in accordance with Article II, sections 8 through 10, of the Montana constitution, for the state of Montana and its political subdivisions.</p>	<p><b>2-6-201. Purpose.</b> The purpose of this part is to create an effective records management program for executive branch agencies of the state of Montana and political subdivisions by establishing guidelines and procedures for the efficient and economical control of the creation, utilization, maintenance, and preservation of state and local records.</p>	<p>Moves to new Part 1 so that purpose applies universally — all branches, state and local gov't.</p> <p>Emphasizes Montana Constitution.</p>
<p><b>Section 2. Definitions.</b> As used in this chapter, the following definitions apply:</p> <p>(1) "Constitutional officer" means the governor, lieutenant governor, attorney general, secretary of state, superintendent of public instruction, or auditor, who are the constitutionally designated and elected officials of the executive branch of government.</p> <p>(2) "Essential record" means a public record immediately necessary to:</p> <p>(a) respond to an emergency or disaster;</p> <p>(b) begin recovery or reestablishment of operations during and after an emergency or disaster;</p> <p>(c) protect the health, safety, and property of Montana citizens; or</p> <p>(d) protect the assets, obligations, rights, history, and resources of a public agency and its employees, customers, or Montana citizens.</p> <p>(3) "Executive branch agency" means a department, board, commission, office, bureau, or other public authority of the executive branch of state government.</p> <p>(4) "Historic record" means a public record found by the state archivist to have permanent administrative or historic value to the state.</p> <p>(5) "Local government" means any city, town, county, consolidated city-county, school district, or subdivision of one of these entities.</p> <p>(6) "Local government records committee" means the local government records committee provided for in [section</p>	<p><b>2-6-101. Definitions.</b> (1) Writings are of two kinds:</p> <p>(a) public; and</p> <p>(b) private.</p> <p>(2) Public writings are:</p> <p>(a) the written acts or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial, and executive, whether of this state, of the United States, of a sister state, or of a foreign country, except records that are constitutionally protected from disclosure;</p> <p>(b) public records, kept in this state, of private writings, including electronic mail, except as provided in <a href="#">22-1-1103</a> and <a href="#">22-3-807</a> and except for records that are constitutionally protected from disclosure.</p> <p>(3) Public writings are divided into four classes:</p> <p>(a) laws;</p> <p>(b) judicial records;</p> <p>(c) other official documents;</p> <p>(d) public records, kept in this state, of private writings, including electronic mail.</p> <p>(4) All other writings are private.</p> <p><b>2-6-202. Definitions.</b> As used in this part, the following definitions apply:</p> <p>(1) (a) "Public records" includes:</p> <p>(i) any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other document, including copies of the record</p>	<p>Definitions consolidated and universally applicable at the beginning of public records chapter.</p> <p>Archaic, confusing, and unnecessary definitions eliminated. Current and needed definitions revised for clarity. New definitions added for terms used throughout chapter.</p> <p>Acknowledges and distinguishes between public information and public record.</p> <p>Instead of listing various formats, recommends "regardless of format".</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>22].</p> <p>(7) "Permanent record" means a public record designated for long-term or permanent retention.</p> <p>(8) "Public agency" means any political subdivision, including a municipality, county, school district, and any agency or department of the state of Montana.</p> <p>(9) "Public information" means information, regardless of physical form or characteristics, relating to the conduct of the public's business and prepared, owned, used, or retained by any public agency.</p> <p>(10) "Public officer" means any person who has been elected or appointed as an officer of state or local government;</p> <p>(11) "Public record" means public information that is:</p> <p>(a) fixed in any medium and is retrievable in usable form for future reference; and</p> <p>(b) designated for retention by the state records committee, judicial branch, legislative branch, or local government records committee.</p> <p>(12) "State records committee" means the state records committee provided for in [section 15].</p>	<p>required by law to be kept as part of the official record, regardless of physical form or characteristics, that:</p> <p>(A) has been made or received by a state agency to document the transaction of official business;</p> <p>(B) is a public writing of a state agency pursuant to <a href="#">2-6-101</a>(2)(a); and</p> <p>(C) is designated by the state records committee for retention pursuant to this part; and</p> <p>(ii) all other records or documents required by law to be filed with or kept by any agency of the state of Montana.</p> <p>(b) The term includes electronic mail sent or received in connection with the transaction of official business.</p> <p>(c) The term does not include any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other type of document that is for reference purposes only, a preliminary draft, a telephone messaging slip, a routing slip, part of a stock of publications or of preprinted forms, or a superseded publication.</p> <p>(2) "State records committee" or "committee" means the state records committee provided for in <a href="#">2-6-208</a>.</p> <hr/> <p><b>2-6-301. Definitions.</b> As used in this part, the following definitions apply:</p> <p>(1) "Constitutionally designated and elected officials of the executive branch of government" means the governor, lieutenant governor, attorney general, secretary of state, superintendent of public instruction, and auditor.</p> <p>(2) (a) "Official records" means any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other document, including all copies of the record, regardless of physical form or characteristics, that has been made or received by a constitutionally designated and elected official of the executive branch of government in transacting official duties and preserved for informational value or as evidence of a</p>	

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
	<p>transaction.            (b) The term includes electronic mail sent or received in connection with the transaction of official duties.</p> <hr/> <p><b>2-6-401. Definitions.</b> For the purposes of this part, the following definitions apply:            (1) "Local government" means:            (a) any city, town, county, consolidated city-county, or school district; and            (b) any subdivision of an entity named in subsection (1)(a).            (2) (a) "Public records" includes:            (i) any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other document, including copies of the record required by law to be kept as part of the official record, regardless of physical form or characteristics, that:            (A) has been made or received by any local government to document the transaction of official business;            (B) is a public writing of the local government pursuant to <a href="#">2-6-101</a>(2)(a); and            (C) is designated for retention by the local government records committee established in <a href="#">2-6-402</a>; and            (ii) all other records or documents required by law to be filed with or kept by any local government in the state of Montana, except military discharge certificates filed under <a href="#">7-4-2614</a>.            (b) The term includes electronic mail sent or received in connection with the transaction of official duties.            (c) The term does not include any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other type of document that is for reference purposes only, a preliminary draft, a telephone messaging slip, a routing slip, part of a stock of publications or of preprinted forms, or a superseded publication.            (3) "Records custodian" means any individual responsible for the proper filing, storage, or safekeeping of any public records.</p>	

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p><b>Section 3. Access to public information -- privacy and security exceptions.</b> (1) Every [person] has a right to inspect and receive a copy of any public information of this state, except for information that is constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of public disclosure or as otherwise expressly prohibited by statute.</p> <p>(2) A [public officer] may withhold from public scrutiny information relating to individual privacy or individual or public safety or security of public facilities, including jails, correctional facilities, private correctional facilities, and prisons, if release of the information may jeopardize the safety of facility personnel, the public, or inmates of a facility. Security features that may be protected under this section include but are not limited to architectural floor plans, blueprints, designs, drawings, building materials, alarms system plans, surveillance techniques, and facility staffing plans, including staff numbers and locations. A [public officer] may not withhold from public scrutiny any more information than is required to protect an individual privacy interest or safety or security interest.</p> <p>(3) The provisions of this section do not apply to collections of the Montana historical society.</p>	<p><b>2-6-102. Citizens entitled to inspect and copy public writings.</b> (1) Every citizen has a right to inspect and take a copy of any public writings of this state, except as provided in <a href="#">22-1-1103</a>, <a href="#">22-3-807</a>, or subsection (3) of this section and as otherwise expressly provided by statute.</p> <p>(2) Every public officer having the custody of a public writing that a citizen has a right to inspect is bound to give the citizen on demand a certified copy of it, on payment of the legal fees for the copy, and the copy is admissible as evidence in like cases and with like effect as the original writing. The certified copy provision of this subsection does not apply to the public record of electronic mail provided in an electronic format.</p> <p>(3) Records and materials that are constitutionally protected from disclosure are not subject to the provisions of this section. Information that is constitutionally protected from disclosure is information in which there is an individual privacy interest that clearly exceeds the merits of public disclosure, including legitimate trade secrets, as defined in <a href="#">30-14-402</a>, and matters related to individual or public safety.</p> <p>(4) A public officer may withhold from public scrutiny information relating to individual privacy or individual or public safety or security of public facilities, including public schools, jails, correctional facilities, private correctional facilities, and prisons, if release of the information may jeopardize the safety of facility personnel, the public, students in a public school, or inmates of a facility. Security features that may be protected under this section include but are not limited to architectural floor plans, blueprints, designs, drawings, building materials, alarms system plans, surveillance techniques, and facility staffing plans, including staff numbers and locations. A public officer may not withhold from public scrutiny any more information than is required to protect an individual privacy interest or safety or security interest.</p>	<p>Current law addresses access and privacy in multiple sections for different types of information and records. Consolidates and simplifies access and privacy/safety/security protections in Part 1.</p> <p>Addresses right to copy and simplified fees allowable for public information requests in New Section 4.</p> <p><b>Policy consideration: current law alternately uses “person” and “citizen” throughout Title 2, Chapter 6. We used “person” as it is the word used in Article II, Section 9 of the Montana Constitution.</b></p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
	<p><b>2-6-104. Records of officers open to public inspection.</b>            Except as provided in <a href="#">27-18-111</a> and <a href="#">42-6-101</a>, the public records and other matters, except records that are constitutionally protected from disclosure, in the office of any officer are at all times during office hours open to the inspection of any person.</p> <p><b>2-6-110. Electronic information and nonprint records -- public access -- fees.</b> (1) (a) Except as provided by law, each person is entitled to a copy of public information compiled, created, or otherwise in the custody of public agencies that is in electronic format or other nonprint media, including but not limited to videotapes, photographs, microfilm, film, or computer disk, subject to the same restrictions applicable to the information in printed form. All restrictions relating to confidentiality, privacy, business secrets, and copyright are applicable to the electronic or nonprint information. (b) The provisions of subsection (1)(a) do not apply to collections of the Montana historical society established pursuant to <a href="#">22-3-101</a>. ...[.]</p>	
<p><b>Section 4. Public information requests -- fees.</b> (1) Every [public officer] with custody of public information shall provide a [person] an accurate copy of the information at the [person's] request, except as provided in [section 3], on payment of the fees for the copy as provided for this section. A [public officer] must allow public information to be inspected at all times during office hours.</p> <p>(2) A [public agency] may charge a fee for providing copies of public information to a [person]. The fee may not exceed the actual costs directly incident to providing the [person] with a copy, including the time required to gather the public information.</p>	<p><b>2-6-110. Electronic information and nonprint records -- public access -- fees.</b>            ...            (2) Except as provided by law and subject to subsection (3), an agency may charge a fee, not to exceed:            (a) the agency's actual cost of purchasing the electronic media used for transferring data, if the person requesting the information does not provide the media;            (b) expenses incurred by the agency as a result of mainframe and midtier processing charges;            (c) expenses incurred by the agency for providing online computer access to the person requesting access;            (d) other out-of-pocket expenses directly associated with the request for information, including the retrieval or production</p>	<p>Current law addresses allowable fees for the "copying" of public information in multiple and confusing sections.</p> <p>Moves special fees for certain information to separate New Section 5.</p> <p><b>Policy consideration: how should public agencies/officers charge fees associated with fulfilling</b></p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
	<p>of electronic mail; and  (e) the hourly market rate for an administrative assistant in pay band 3 of the broadband pay plan, as provided for in <a href="#">2-18-301</a>, in the current fiscal year for each hour, or fraction of an hour, after one-half hour of copying service has been provided. ...[.]</p>	<p><b>public information requests?</b></p>
<p><b>Section 5. Special fees allowable for certain information.</b>  (1) In addition to the fees allowed under [section 4], the department of revenue may charge an additional fee as reimbursement for the cost of developing and maintaining the property valuation and assessment system database from which the information is requested. The fee must be charged to persons, federal agencies, state agencies, and other entities requesting the database or any part of the database from any department property valuation and assessment system. The fee may not be charged to the governor's office of budget and program planning, the state tax appeal board, or any legislative agency or committee.  (2) The department of revenue may not charge a fee for information provided from any department property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other governmental functions or to an individual taxpayer concerning the taxpayer's property.  (3) All fees received by the department of revenue under [section 4] and this section must be deposited in the property value improvement fund as provided in 15-1-521.  (4) In addition to the fees allowed under [section 4], the Montana historical society may charge additional fees for copies of materials contained in its collections.</p>	<p><b>2-6-110. Electronic information and nonprint records -- public access -- fees.</b>  ...  (3) (a) In addition to the allowable fees in subsection (2), the department of revenue may charge an additional fee as reimbursement for the cost of developing and maintaining the property valuation and assessment system database from which the information is requested. The fee must be charged to persons, federal agencies, state agencies, and other entities requesting the database or any part of the database from any department property valuation and assessment system. The fee may not be charged to the governor's office of budget and program planning, the state tax appeal board, or any legislative agency or committee.  (b) The department of revenue may not charge a fee for information provided from any department property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other governmental functions or to an individual taxpayer concerning the taxpayer's property.  (c) All fees received by the department of revenue under subsection (2) and this subsection (3) must be deposited in a state special revenue fund as provided in 15-1-521.  (d) Fees charged by the secretary of state pursuant to this section must be set and deposited in accordance with 2-15-405.  (4) For the purposes of this section, the term "agency"</p>	<p>Contains language from current law allowing additional fees for the Dept. of Revenue and the exception granted MHS to charge additional fees for materials curated as part of its collections.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
	<p>has the meaning provided in 2-3-102 but includes legislative, judicial, and state military agencies.</p> <p>(5) An agency may not charge more than the amount provided under subsection (2) for providing a copy of an existing nonprint record.</p> <p>(6) Subject to 15-1-103, an agency shall ensure that a copy of information provided to a requester is of a quality that reflects the condition of the original if requested by the requester.</p> <p>(7) This section does not authorize the release of electronic security codes giving access to private information.</p>	
<p><b>Section 6. Preservation of public records.</b> All public records are and remain the property of the state. The public records must be delivered by outgoing officials and employees to their successors and must be preserved, stored, transferred, destroyed, or disposed of and otherwise managed only in accordance with the provisions of this chapter.</p>	<p><b>2-6-205. Preservation of public records.</b> All public records are and shall remain the property of the state. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed, or disposed of and otherwise managed only in accordance with the provisions of this part.</p>	<p>Technical changes. Maintains emphasis on preservation.</p>
<p><b>Section 7. Possession of public records -- compelling delivery -- attachment and warrant to enforce.</b> (1) Each [public officer] is entitled to the possession of all [public records] pertaining to that office or in the custody of a former [public officer] by virtue of that office.</p> <p>(2) If any [person] refuses or neglects to deliver any [public records] pertaining to a [public office] to the current [public officer], the [public officer] may apply, by complaint, to any district court or judge of the county where the person refusing or neglecting resides and the court or judge must proceed in a summary way, after notice to the adverse party, to hear the allegations and proofs of the parties and to order any [public records] to be delivered to the petitioners.</p> <p>(3) The execution of the order and delivery of the [public records] may be enforced by attachment as for a</p>	<p><b>2-6-106. Possession of records.</b> Each public officer is entitled to the possession of all books and papers pertaining to that office or in the custody of a former incumbent by virtue of that office.</p> <p><b>2-6-107. Proceedings to compel delivery of records.</b> If any person, whether a former incumbent or another person, refuses or neglects to deliver to the actual incumbent any such books or papers, such actual incumbent may apply, by complaint, to any district court or judge of the county where the person so refusing or neglecting resides and the court or judge must proceed in a summary way, after notice to the adverse party, to hear the allegations and proofs of the parties and to order any such books and papers to be delivered to the petitioners.</p>	<p>Combines 3 current sections addressing the “passing on” of records upon succession of public officers and remedies for failure to do so.</p> <p>The language has not been updated and could be revised to reflect current practices if the committee so directs.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>witness and also, at the request of the plaintiff, by a warrant directed to the sheriff or a constable of the county, commanding the sheriff or constable to search for the [public records] and to take and deliver them to the plaintiff.</p>	<p><b>2-6-108. Attachment and warrant to enforce.</b> The execution of the order and delivery of the books and papers may be enforced by attachment as for a witness and also, at the request of the plaintiff, by a warrant directed to the sheriff or a constable of the county, commanding the sheriff or constable to search for the books and papers and to take and deliver them to the plaintiff.</p>	
<p><b>Section 8. [Historic records] and [constitutional officer records] -- certified copies.</b> (1) The Montana historical society shall reproduce and certify copies of [historic] records and [constitutional officer] records in its possession upon the request of any [citizen].</p> <p>(2) The certified copy of a [historic] record or [constitutional officer record] has the same force in law as if made by the original custodian.</p>	<p><b>2-6-207. Certified copies of public records.</b> (1) The Montana historical society shall reproduce and certify copies of public records in its possession upon application of any citizen of this state.</p> <p>(2) The certified copy of a public record has the same force in law as if made by the original custodian.</p> <hr/> <p><b>2-6-307. Certified copies of official records.</b> (1) The Montana historical society shall reproduce and certify copies of official records in its possession upon application of any citizen of this state.</p> <p>(2) The certified copy of an official record has the same force in law as if made by the original custodian.</p>	<p>Specifies the types of records in MHS' possession and combines two existing sections.</p>
<p><b>Section 9. Management of public records -- disposal and destruction.</b> Each [public officer] is responsible for properly managing the public records within the [public officer's] possession or control through an established records management plan. [Executive branch agencies] and [local governments?] shall manage [public records] according to the rules and guidelines established by the secretary of state, the state records committee, the local government records committee, and the Montana historical society. When a [public record] has reached the end of its retention period, the [public officer] shall ensure the record is disposed of, destroyed, or transferred according to the provisions of this chapter.</p>	<p>THIS LANGUAGE DOES NOT CURRENTLY EXIST IN STATUTE</p>	<p>Emphasizes management of records through disposition to address finding that many records are retained well past their designated retention.</p>



BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p><b>Section 10. Protection and storage of essential records.</b> (1) To provide for the continuity and preservation of civil government, each public officer shall designate certain public records as essential records. The list must be continually maintained by the public officers to ensure its accuracy. Each public officer shall collaborate with the appropriate continuity of government programs to ensure essential records are identified and maintained.</p> <p>(2) Each public officer shall ensure essential records are efficiently and effectively secured. Each public officer shall look to the guidance provided by the state records committee or the local government records committee in choosing appropriate methods to protect, store, back up, and recover essential records.</p>	<p><b>2-6-206. Protection and storage of essential records.</b> (1) In order to provide for the continuity and preservation of civil government, each elected and appointed officer of the executive branch shall designate certain public records as essential records needed for an emergency or for the reestablishment of normal operations after the emergency. A list of essential records must be forwarded to the secretary of state. The list must be reviewed from time to time by the elected or appointed officers to ensure its accuracy. Any changes or revisions must be forwarded to the secretary of state.</p> <p>(2) Each elected and appointed officer of state government shall ensure that the security of essential records is accomplished by the most economical means possible. Protection and storage of essential records may be by vaulting, planned or natural dispersal of copies, storage in the state archives or in an alternative location provided pursuant to 2-6-211(2), or any other method approved by the secretary of state.</p> <p>(3) Reproductions of essential records may be by photocopy, magnetic tape, microfilm, or other methods approved by the secretary of state.</p>	<p>Makes universally applicable the duty to designate essential records to ensure continuity of government.</p> <p>Removes requirement to forward list of essential records to SOS.</p> <p>Requires all public officers to work with appropriate continuity program and records committee to ensure proper management of essential records.</p>
<p><b>Section 11. Prohibition on dissemination or use of distribution lists -- exceptions -- penalties.</b> (1) Except as provided in subsections (3) through (9), to protect the privacy of those who deal with state and local government:</p> <p>(a) a public agency may not distribute or sell a distribution list without first securing the permission of those on the list; and</p> <p>(b) a list of persons prepared by the public agency may not be used as a distribution list except by the public agency or another public agency without first securing the permission of those on the list.</p> <p>(2) As used in this section, "distribution list" means</p>	<p><b>2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty.</b> (1) Except as provided in subsections (3) through (9), in order to protect the privacy of those who deal with state and local government:</p> <p>(a) an agency may not distribute or sell for use as a mailing list any list of persons without first securing the permission of those on the list; and</p> <p>(b) a list of persons prepared by the agency may not be used as a mailing list except by the agency or another agency without first securing the permission of those on the list.</p> <p>(2) As used in this section, "agency" means any board,</p>	<p>Closes identified "loophole" by broadening prohibition to include "distribution list" and provides a definition.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>any list of personal contact information collected by a public agency.</p> <p>(3) This section does not prevent an individual from compiling a distribution list by examination of records that are otherwise open to public inspection.</p> <p>(4) This section does not apply to the lists of:</p> <p>(a) registered electors and the new voter lists provided for in 13-2-115;</p> <p>(b) the names of employees governed by Title 39, chapter 31;</p> <p>(c) persons holding driver's licenses or Montana identification cards provided for under 61-5-127;</p> <p>(d) persons holding professional or occupational licenses governed by Title 23, chapter 3; Title 37, chapters 1 through 4, 6 through 20, 22 through 29, 31, 34 through 36, 40, 47, 48, 50, 51, 53, 54, 60, 65 through 69, 72, and 73; and Title 50, chapters 39, 72, 74, and 76; or</p> <p>(e) persons certified as claims examiners under 39-71-320.</p> <p>(5) This section does not prevent an agency from providing a list to persons providing prelicensing or continuing education courses subject to state law or subject to Title 33, chapter 17.</p> <p>(6) This section does not apply to the right of access by Montana law enforcement agencies.</p> <p>(7) This section does not apply to a corporate information list developed by the secretary of state containing the name, address, registered agent, officers, and directors of business, nonprofit, religious, professional, and close corporations authorized to do business in this state.</p> <p>(8) This section does not apply to the use by the public employees' retirement board of a mailing list of board-administered retirement system participants to send materials on behalf of a retiree organization formed for board-administered retirement system participants and with tax-</p>	<p>bureau, commission, department, division, authority, or officer of the state or a local government.</p> <p>(3) This section does not prevent an individual from compiling a mailing list by examination of records that are otherwise open to public inspection.</p> <p>(4) This section does not apply to the lists of:</p> <p>(a) registered electors and the new voter lists provided for in 13-2-115;</p> <p>(b) the names of employees governed by Title 39, chapter 31;</p> <p>(c) persons holding driver's licenses or Montana identification cards provided for under 61-5-127;</p> <p>(d) persons holding professional or occupational licenses governed by Title 23, chapter 3; Title 37, chapters 1 through 4, 6 through 29, 31, 34 through 36, 40, 47, 48, 50, 51, 53, 54, 60, 65 through 69, 72, and 73; and Title 50, chapters 39, 72, 74, and 76; or</p> <p>(e) persons certified as claims examiners under 39-71-320.</p> <p>(5) This section does not prevent an agency from providing a list to persons providing prelicensing or continuing educational courses subject to state law or subject to Title 33, chapter 17.</p> <p>(6) This section does not apply to the right of access by Montana law enforcement agencies.</p> <p>(7) This section does not apply to a corporate information list developed by the secretary of state containing the name, address, registered agent, officers, and directors of business, nonprofit, religious, professional, and close corporations authorized to do business in this state.</p> <p>(8) This section does not apply to the use by the public employees' retirement board of a mailing list of board-administered retirement system participants to send materials on behalf of a retiree organization formed for board-administered retirement system participants and with tax-</p>	

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>exempt status under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the mailing list is not released to the organization.</p> <p>(9) This section does not apply to a public school providing lists of graduating students to representatives of the armed forces of the United States or to the national guard for the purposes of recruitment.</p> <p>(10) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor.</p>	<p>exempt status under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the mailing list is not released to the organization.</p> <p>(9) This section does not apply to a public school providing lists of graduating students to representatives of the armed forces of the United States or to the national guard for the purposes of recruitment.</p> <p>(10) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor.</p>	
<p><b>Section 12. Concealment of public hazards prohibited -- concealment of information related to settlement or resolution of civil suits prohibited.</b> (1) This section may be cited as the "Gus Barber Antisecrecy Act".</p> <p>(2) As used in this section, "public hazard" means a device, instrument, or manufactured product, or a condition of a device, instrument, or manufactured product, that endangers public safety or health and has caused injury, as defined in 27-1-106.</p> <p>(3) Except as otherwise provided in this section, a court may not enter a final order or judgment that has the purpose or effect of concealing a public hazard.</p> <p>(4) Any portion of a final order or judgment entered or a written final settlement agreement entered into that has the purpose or effect of concealing a public hazard is contrary to public policy, is void, and may not be enforced. This section does not prohibit the parties from keeping the monetary amount of a written final settlement agreement confidential.</p> <p>(5) A party to civil litigation may not request, as a condition to the production of discovery, that another party stipulate to an order that would violate this section.</p> <p>(6) This section does not apply to:</p> <p>(a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected pursuant to</p>	<p><b>2-6-112. Concealment of public hazards prohibited -- concealment of information related to settlement or resolution of civil suits prohibited.</b> (1) This section may be cited as the "Gus Barber Antisecrecy Act".</p> <p>(2) As used in this section, "public hazard" means a device, instrument, or manufactured product, or a condition of a device, instrument, or manufactured product, that endangers public safety or health and has caused injury, as defined in 27-1-106.</p> <p>(3) Except as provided in this section, a court may not enter a final order or judgment that has the purpose or effect of concealing a public hazard.</p> <p>(4) Any portion of a final order or judgment entered or written final settlement agreement entered into that has the purpose or effect of concealing a public hazard is contrary to public policy, is void, and may not be enforced. This section does not prohibit the parties from keeping the monetary amount of a written final settlement agreement confidential.</p> <p>(5) A party to civil litigation may not request, as a condition to the production of discovery, that another party stipulate to an order that would violate this section.</p> <p>(6) This section does not apply to:</p> <p>(a) trade secrets, as defined in 30-14-402, that are not pertinent to public hazards and that are protected pursuant to</p>	<p>Unchanged.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>Title 30, chapter 14, part 4;</p> <p>(b) other information that is confidential under state or federal law; or</p> <p>(c) a health care provider, as defined in 27-6-103.</p> <p>(7) Any affected person, including but not limited to a representative of the news media, has standing to contest a final order or judgment or written final settlement agreement that violates this section by motion in the court in which the case was filed.</p> <p>(8) The court shall examine the disputed information or materials in camera. If the court finds that the information or materials or portions of the information or materials consist of information concerning a public hazard, the court shall allow disclosure of the information or materials. If allowing disclosure, the court shall allow disclosure of only that portion of the information or materials necessary or useful to the public concerning the public hazard.</p> <p>(9) This section has no applicability to a protective order issued under Rule 26(c) of the Montana Rules of Civil Procedure or to any materials produced under the order. Any materials used as exhibits may be publicly disclosed pursuant to the provisions of subsections (7) and (8).</p>	<p>Title 30, chapter 14, part 4;</p> <p>(b) other information that is confidential under state or federal law; or</p> <p>(c) a health care provider, as defined in 27-6-103.</p> <p>(7) Any affected person, including but not limited to a representative of the news media, has standing to contest a final order or judgment or written final settlement agreement that violates this section by motion in the court in which the case was filed.</p> <p>(8) The court shall examine the disputed information or materials in camera. If the court finds that the information or materials or portions of the information or materials consist of information concerning a public hazard, the court shall allow disclosure of the information or materials. If allowing disclosure, the court shall allow disclosure of only that portion of the information or materials necessary or useful to the public concerning the public hazard.</p> <p>(9) This section has no applicability to a protective order issued under Rule 26(c) of the Montana Rules of Civil Procedure or to any materials produced under the order. Any materials used as exhibits may be publicly disclosed pursuant to the provisions of subsections (7) and (8).</p>	
<p><b>Section 13. Secretary of state -- powers and duties -- rulemaking authority.</b> (1) To ensure the proper management and safeguarding of public records, the secretary of state shall:</p> <p>(a) establish guidelines and adopt industry standards for managing public records;</p> <p>(b) upon request of another executive branch agency, review, analyze, and make recommendations regarding executive branch agency filing systems and procedures;</p> <p>(c) establish and operate the state records center for the purpose of storing and servicing public records not retained in office space;</p> <p>(d) provide information and training materials for all</p>	<p><b>2-6-203. Secretary of state's powers and duties -- rulemaking authority.</b> (1) In order to ensure the proper management and safeguarding of public records, the secretary of state shall:</p> <p>(a) establish guidelines for inventorying, cataloging, retaining, and transferring all public records of state agencies;</p> <p>(b) review and analyze all state agency filing systems and procedures and approve filing system equipment requests;</p> <p>(c) establish and operate the state records center, as authorized by appropriation, for the purpose of storing and servicing public records not retained in office space;</p>	<p>Makes the central microfilm unit permissive instead of mandatory.</p> <p>Requires the Secretary of State to consult with the Dept. of Administration.</p> <p>Leaves the filing system review up to the request of the executive branch agency.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>phases of efficient and effective records management;</p> <p>(e) approve microfilming projects and microfilm equipment purchases undertaken by all state agencies;</p> <p>(f) consult with the department of administration pursuant to [section 14];</p> <p>(g) adopt rules regarding management of public records;</p> <p>(h) adopt rules to implement the objectives of the state records committee and local government records committee; and</p> <p>(i) upon request, assist and advise in the establishment of records management procedures in the legislative and judicial branches of state government and, as required by them, provide services similar to those available to the executive branch.</p> <p>(2) In addition to the requirements under subsection (1), the secretary of state may operate a central microfilm unit that will microfilm, on a cost recovery basis, all records approved for filming by the office of origin and the secretary of state.</p>	<p>(d) gather and disseminate information on all phases of records management, including current practices, methods, procedures, and devices for the efficient and economical management of records;</p> <p>(e) operate a central microfilm unit that will microfilm, on a cost recovery basis, all records approved for filming by the office of origin and the secretary of state;</p> <p>(f) approve microfilming projects and microfilm equipment purchases undertaken by all state agencies; and</p> <p>(g) adopt rules regarding management of public records.</p> <p>(2) Upon request, the secretary of state shall assist and advise in the establishment of records management procedures in the legislative and judicial branches of state government and shall, as required by them, provide services similar to those available to the executive branch.</p>	<p><b>Policy consideration:</b>  <b>should the Legislature grant rulemaking authority to the Secretary of State to adopt rules on behalf of the State Records Committee?</b></p>
<p><b>Section 14. Department of administration -- powers and duties.</b> (1) To ensure compatibility with the information technology systems of state government and to promote adherence to records management principles and best practices, the department of administration, in consultation with the secretary of state, shall establish standards for technological compatibility for state agencies for records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods.</p> <p>(2) The department of administration, in consultation with the secretary of state, shall approve all acquisitions of executive agency records management equipment or systems used to electronically capture, store, or retrieve public records</p>	<p><b>2-6-214. Department of administration -- powers and duties.</b> (1) In order to ensure compatibility with the information technology systems of state government, the department of administration shall develop standards for technological compatibility for state agencies for records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods.</p> <p>(2) The department of administration shall approve all acquisitions of executive agency records management equipment or systems used to electronically capture, store, or retrieve public records through computerized, optical, or other electronic methods to ensure compatibility with the standards developed under subsection (1).</p>	<p>Adds language "in consultation with the secretary of state" to subsections (1) and (2) to ensure collaboration between information technology and records management communities.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>through computerized, optical, or other electronic methods to ensure compatibility with the standards developed under subsection (1).</p> <p>(3) The department of administration is responsible for the management and operation of equipment, systems, facilities, or processes integral to the department's central computer center and statewide telecommunications system.</p>	<p>(3) The department of administration is responsible for the management and operation of equipment, systems, facilities, or processes integral to the department's central computer center and statewide telecommunications system.</p>	
<p><b>Section 15. State records committee -- composition and meetings.</b> (1) There is a state records committee composed of:</p> <ul style="list-style-type: none"> <li>(a) representatives of: <ul style="list-style-type: none"> <li>(i) the department of administration;</li> <li>(ii) the legislative auditor;</li> <li>(iii) the attorney general;</li> <li>(iv) the secretary of state;</li> <li>(v) the Montana historical society;</li> <li>(vi) the clerk of the supreme court; and</li> <li>(vii) the state chief information officer; and</li> </ul> </li> <li>(b) five members representing executive branch agencies designated pursuant to subsections (4) and (5).</li> </ul> <p>(2) The state records committee is administered by the secretary of state, and the secretary of state's representative serves as the presiding officer for the committee.</p> <p>(3) The committee members representing the agencies in subsection (1)(a) are designated by the head of the respective agencies, and their appointments must be submitted in writing to the secretary of state. These committee members serve at the pleasure of the head of their respective agencies.</p> <p>(4) To implement subsection (1)(b), the presiding officer shall develop a rotation by which each of the executive branch agencies is designated to select a representative to serve a 2-year term as a committee member. The rotation</p>	<p><b>2-6-208. Records committee -- composition and meetings.</b> (1) There is a committee to be known as the state records committee composed of representatives of:</p> <ul style="list-style-type: none"> <li>(a) the department of administration;</li> <li>(b) the legislative auditor;</li> <li>(c) the attorney general;</li> <li>(d) the secretary of state; and</li> <li>(e) the Montana historical society.</li> </ul> <p>(2) The representatives are to be designated by the head of the respective agencies, and their appointments must be submitted in writing to the secretary of state.</p> <p>(3) The committee shall meet at least quarterly.</p> <p>(4) Committee members shall serve without additional salary but are entitled to reimbursement for travel expense incurred while engaged in committee activities as provided for in 2-18-501 through 2-18-503. Expenses must be paid from the appropriations made for operation of their respective agencies.</p> <p>(5) The state records committee is administered by the secretary of state, and the secretary of state's representative serves as the presiding officer for the committee.</p>	<p>Expands membership to include representatives of clerk of supreme court, state CIO, and 5 executive branch agencies.</p> <p>Ensures participation from IT and legal communities as well as the records management community.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>must be adopted by administrative rule and published in the Administrative Rules of Montana.</p> <p>(5) The presiding officer shall establish guidelines for the heads of executive branch agencies to ensure the executive branch representatives provide a balance of perspectives from records management, information technology, and legal professionals.</p> <p>(6) The committee shall meet at least quarterly.</p> <p>(7) Committee members shall serve without additional salary but are entitled to reimbursement for travel expense incurred while engaged in committee activities as provided for in 2-18-501 through 2-18-503. Expenses must be paid from the appropriations made for operation of their respective agencies.</p>		
<p><b>Section 16. State records committee duties and responsibilities.</b> The purpose of the state records committee is to act as a resource for executive branch agencies and others by staying at the forefront of records management best practices. The committee shall:</p> <p>(1) gather and disseminate information on all phases of records management;</p> <p>(2) advise the secretary of state in developing records management standards, guidelines, and training materials;</p> <p>(3) develop guidelines to help agencies identify, maintain, and secure their essential records;</p> <p>(4) serve as a forum for continuing collaboration among records management, information technology, and legal professionals throughout state agencies;</p> <p>(5) make recommendations to the secretary of state for rulemaking regarding public records management; and</p> <p>(6) regularly review existing public records laws and make recommendations to the secretary of state regarding pursuing statutory change.</p>	<p><b>2-6-204. State records committee approval.</b> The committee shall approve, modify, or disapprove the recommendations on retention schedules of all public records to determine which documents not included in the provisions of this part are to be designated public records and approve agency requests to dispose of such public records.</p>	<p>Broadens the duties of the SRC as a resource for information and guidance, as well as strengthening the committee’s advisory role in decisions related to records management.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p><b>Section 17. Retention and disposition subcommittee -- approval required for record disposal.</b> (1) There is a subcommittee of the state records committee to be known as the retention and disposition subcommittee. The subcommittee is composed of the members of the state records committee who represent the following offices:</p> <ul style="list-style-type: none"> <li>(a) the department of administration;</li> <li>(b) the legislative auditor;</li> <li>(c) the attorney general;</li> <li>(d) the secretary of state; and</li> <li>(e) the Montana historical society.</li> </ul> <p>(2) The subcommittee shall approve, modify, or disapprove the recommendations on retention schedules of all public records.</p> <p>(3) Except as provided in subsection (4), no public record may be disposed of or destroyed without the unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction must be submitted to the subcommittee by the agency concerned.</p> <p>(4) The subcommittee may by unanimous approval establish categories of records for which no disposal request is required, providing those records are retained for the designated retention period.</p>	<p><b>2-6-212. Disposal of public records.</b> (1) Except as provided in subsection (2), no public record may be disposed of or destroyed without the unanimous approval of the state records committee. When approval is required, a request for the disposal or destruction must be submitted to the state records committee by the agency concerned.</p> <p>(2) The state records committee may by unanimous approval establish categories of records for which no disposal request is required, providing those records are retained for the designated retention period.</p>	<p>Maintains the current SRC's composition and role in approving retention schedules and disposal requests by establishing a subcommittee of the current members for these duties.</p>
<p><b>Section 18. Historic records -- Montana historical society - powers and duties.</b> To ensure the proper management and safeguarding of historic records, the Montana historical society shall:</p> <ul style="list-style-type: none"> <li>(1) establish and operate the state archives as authorized by appropriation for the purpose of storing, preserving, and providing access to historic records transferred to the custody of the state archives;</li> <li>(2) in cooperation with the secretary of state, the local government records committee, and the state records committee, establish guidelines to inventory, catalog, retain,</li> </ul>	<p><b>2-6-302. Official records management -- powers and duties.</b> In order to insure the proper management and safeguarding of official records, the Montana historical society shall:</p> <ul style="list-style-type: none"> <li>(1) establish and operate the state archives as authorized by appropriation for the purpose of storing and servicing official records transferred to the custody of the state archives;</li> <li>(2) in cooperation with the secretary of state, the local government records committee provided for in 2-6-402, and the state records committee provided for in 2-6-208, establish</li> </ul>	<p>Clarifies MHS' role by explicitly including now-defined "historic records," because existing law is currently limited to "official records."</p>



BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>transfer, and provide access to all historic records;</p> <p>(3) maintain and enforce restrictions on access to historic records in the custody of the state archives in accordance with the provisions of this part; and</p> <p>(4) in accordance with the guidelines established pursuant to subsection (2), remove and destroy duplicate records and records considered to have no historical value.</p>	<p>guidelines for the inventorying, cataloging, retention, and transfer of all official records;</p> <p>(3) maintain and enforce restrictions on access to official records in the custody of the state archives in accordance with the provisions of this part;</p> <p>(4) provide adequate housing and care of official records in the custody of the state archives to insure their proper preservation and use by the public;</p> <p>(5) in accordance with the guidelines established pursuant to subsection (2), remove and destroy duplicate official records and official records of insignificant historical value from the records deposited in the state archives.</p>	
<p><b>Section 19. Constitutional officer records -- Montana historical society.</b> (1) All constitutional officer records remain the property of the state. The records must be delivered by outgoing constitutional officers to their successors, who shall preserve, store, transfer, destroy, or dispose of and otherwise manage them in accordance with the provisions of this section.</p> <p>(2) Within 2 years after taking office as a constitutional officer, the current constitutional officer shall consult with staff members of the Montana historical society and transfer to the Montana historical society all of the constitutional officer records of the prior officeholder that are not necessary to the current operation of that office and considered worthy of preservation.</p> <p>(3) An outgoing constitutional officer, in consultation with staff members of the Montana historical society, shall review constitutional officer records and isolate any items of a purely personal nature. The personal papers are not subject to this section, but they may be deposited with the constitutional officer records at the officer's discretion.</p> <p>(4) An outgoing constitutional officer, in consultation with staff members of the Montana historical society, may</p>	<p><b>2-6-304. Outgoing officials -- records management duties.</b> (1) Within 2 years after the completion of the final term of office of a constitutionally designated and elected official of the executive branch of government, all of the official records not necessary to the current operation of that office are subject to storage, disposal, or transfer in accordance with the provisions of this part.</p> <p>(2) All official records of a retiring constitutionally designated and elected official not necessary to the current operation of that office and considered worthy of preservation by the Montana historical society must be transferred to the custody of the state archives within that 2-year period.</p> <p>(3) An outgoing official, in consultation with staff members of the Montana historical society, shall review official records and isolate any items of a purely personal nature. The personal papers are not subject to this part, but they may be deposited with the official papers at the official's discretion.</p> <p>(4) An outgoing official, in consultation with staff members of the Montana historical society, may restrict access to certain segments of official records. Restrictions may not be longer than the lifetime of the depositing official. Restricted access may be imposed only to protect the confidentiality of</p>	<p>Consolidates several current sections to address the unique concerns related to managing these specific records.</p> <p>Replaces "official record" with "constitutional officer record" to lessen confusion; otherwise much of the language in current law remains.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>restrict access to certain segments of that officer's records. Restrictions may not be longer than the lifetime of the depositing official. Restricted access may be imposed only to protect the confidentiality of personal information contained in the records. Restricted access may not be imposed unless the demand of individual privacy clearly exceeds the merits of public disclosure.</p> <p>(5) Any question concerning the transfer or other status of constitutional officer records arising between the state archives and a constitutional officer's office must be decided by a four-fifths vote of the members of the retention and disposition subcommittee.</p> <p>(6) (a) In accordance with [section 8], the Montana historical society shall reproduce and certify copies of constitutional officer records in its possession upon application of any person.</p> <p>(b) The certified copy of a constitutional officer record has the same force in law as if made by the original custodian.</p>	<p>personal information contained in the records. Restricted access may not be imposed unless the demand of individual privacy clearly exceeds the merits of public disclosure.</p> <p>(5) Any question concerning the transfer or other status of official records arising between the state archives and an elected official's office must be decided by a four-fifths vote of the members of the state records committee.</p> <hr/> <p><b>2-6-303. Ownership of records -- transfer.</b> (1) All official records remain the property of the state. They must be delivered by outgoing officials to their successors and must be preserved, stored, transferred, destroyed, or disposed of and otherwise managed only in accordance with the provisions of this part.</p> <p>(2) A public officer may, with the concurrence of the Montana historical society, transfer to the state archives official records that the officer has been specifically directed by statute to preserve or keep in that office.</p>	
<p><b>Section 20. Permanent records -- agency responsibilities - state records center.</b> (1) All permanent records no longer required in the current operation of the office where they are made or kept and all records of each agency or activity of the executive branch of state government that has been abolished or discontinued must be maintained by the agency or transferred to the state records center in accordance with approved records retention schedules.</p> <p>(2) When records are transferred to the state records center, the transferring agency does not lose its rights of control and access. The state records center is merely a custodian of the agency records, and access is only by agency approval. Agency records for which the state records center acts as custodian may not be subpoenaed from the state records center but must be subpoenaed from the agency to which the records belong. Fees may be charged to cover the</p>	<p><b>2-6-211. Transfer and storage of public records.</b> (1) All public records not required in the current operation of the office where they are made or kept and all records of each agency, commission, committee, or any other activity of the executive branch of state government that may be abolished or discontinued must be, in accordance with approved records retention schedules, either transferred to the state records center or transferred to the custody of the state archives if the records are considered to have permanent administrative or historical value.</p> <p>(2) Subject to approval by the secretary of state pursuant to 2-6-206, the state records center and the state archives may store transferred permanent public records in locations other than in the buildings occupied by the state records center or the state archives when it is in the best interests of the state.</p>	<p>Addresses the management of "noncurrent" or "inactive" records with lasting value using current language, but eliminates current subsection (2) to avoid confusion regarding records stored in electronic format.</p> <p>Addresses the need for the state archivist to review these records to determine historic value.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>cost of records storage and servicing.</p> <p>(3) Prior to transferring a permanent record to the state records center, the transferring agency shall first consult with the state archivist to determine whether the record is also a historic record. If the record is found to be a historic record, it must be transferred to the Montana historical society in accordance with the provisions of [section 18].</p> <p>(4) If an agency does not wish to transfer records as provided in an approved retention schedule, the agency shall, within 30 days, notify the secretary of state and request a change in the schedule.</p>	<p>(3) When records are transferred to the state records center, the transferring agency does not lose its rights of control and access. The state records center is only a custodian of the agency records, and access is only by agency approval. Agency records for which the state records center acts as custodian may not be subpoenaed from the state records center but must be subpoenaed from the agency to which the records belong. Fees may be charged to cover the cost of records storage and servicing.</p> <p>(4) If an agency does not wish to transfer records as provided in an approved retention schedule, the agency shall, within 30 days, notify the secretary of state and request a change in the schedule.</p>	
<p><b>Section 21. Agency records management duties.</b> Each department head shall administer the executive branch agency's records management function and shall:</p> <p>(1) coordinate all aspects of the agency records management function, including disposition, scheduling, and transfer in accordance with procedures prescribed by the secretary of state and the state records committee;</p> <p>(2) analyze records inventory data and examine and compare all inventories within the agency to minimize duplication of records;</p> <p>(3) review and approve records disposal requests for submission to the retention and disposition subcommittee;</p> <p>(4) review established records retention schedules to ensure they are complete and current and make recommendations to the secretary of state and the state records committee regarding minimal retentions for all copies of public records within the agency;</p> <p>(5) incorporate records management requirements into the agency information technology plan provided for in 2-17-523;</p> <p>(6) ensure that all agency employees receive</p>	<p><b>2-6-213. Agency responsibilities and transfer schedules.</b> Each executive branch agency of state government shall administer its records management function and shall:</p> <p>(1) coordinate all aspects of the agency records management function;</p> <p>(2) manage the inventorying of all public records within the agency for disposition, scheduling, and transfer action in accordance with procedures prescribed by the secretary of state and the state records committee;</p> <p>(3) analyze records inventory data, examine and compare divisional or unit inventories for duplication of records, and recommend to the secretary of state and the state records committee minimal retentions for all copies of public records within the agency;</p> <p>(4) approve all records disposal requests that are submitted by the agency to the state records committee;</p> <p>(5) review established records retention schedules to ensure that they are complete and current; and</p> <p>(6) officially designate an agency records custodian to manage the functions provided for in this section.</p>	<p>Names the department head as the individual responsible to ensure proper management of agency records as part of the effort to make records management a higher priority.</p> <p>Updates language and adds requirements to provide records management training and designate a qualified records custodian.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>appropriate and ongoing records management training; and            (7) after considering guidance from the state records committee, officially designate a qualified agency records custodian to manage the functions provided for in this section.</p>		
<p><b>Section 22. Local government records committee -- composition and meetings.</b> (1) There is a local government records committee.            (2) The committee consists of the following eight members:            (a) the state archivist;            (b) the state records manager;            (c) a representative of the department of administration;            (d) two local government records custodians appointed by the director of the Montana historical society;            (e) two local government records custodians appointed by the secretary of state; and            (f) a person representing the Montana state genealogical society, appointed by the secretary of state, who shall serve as a volunteer.            (3) Committee members subject to appointment shall hold office for a period of 2 years beginning on January 1 of the year following their appointment.            (4) Any vacancies must be filled in the same manner they were filled originally.            (5) The committee shall elect a presiding officer and a vice presiding officer.            (6) The committee shall meet at least twice a year upon the call of the secretary of state or the presiding officer.            (7) Except as provided in subsection (2)(f), members of the committee not serving as part of their compensated government employment must be compensated in accordance with 2-18-501 through 2-18-503 for each day in committee attendance. Members who serve as part of their compensated</p>	<p><b>2-6-402. Local government records committee -- creation.</b>            (1) There is a local government records committee.            (2) The committee consists of the following eight members:            (a) the state archivist;            (b) the state records manager;            (c) a representative of the department of administration;            (d) two local records custodians, appointed by the director of the Montana historical society;            (e) two additional local records custodians, appointed by the secretary of state; and            (f) a citizen representing the Montana state genealogical society, appointed by the secretary of state, who shall serve as a volunteer.            (3) Committee members subject to appointment shall hold office for a period of 2 years beginning on January 1 of the year following their appointment.            (4) Any vacancies must be filled in the same manner that they were filled originally.            (5) The committee shall elect a presiding officer and a vice presiding officer.            (6) The committee shall meet twice a year upon the call of the secretary of state or the presiding officer.            (7) Except as provided in subsection (2)(f), members of the committee not serving as part of their compensated government employment must be compensated in accordance with 2-18-501 through 2-18-503 for each day in committee attendance. Members who serve as part of their compensated government employment may not receive additional</p>	<p>Minor changes for clarification.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>government employment may not receive additional compensation, but the employing governmental entity shall furnish, in accordance with the prevailing per diem rates, a reasonable allowance for travel and other expenses incurred in attending committee meetings.</p>	<p>compensation, but the employing governmental entity shall furnish, in accordance with the prevailing per diem rates, a reasonable allowance for travel and other expenses incurred in attending committee meetings.</p>	
<p><b>Section 23. Local government records committee -- duties and responsibilities.</b> The local government records committee shall:</p> <p>(1) approve, modify, or disapprove proposals for local government records retention and disposition schedules;</p> <p>(2) appoint a subcommittee, known as the local government records destruction subcommittee, to handle requests for disposal of records. The subcommittee consists of the state archivist, one of the local government records custodians, and the representative of the department of administration. Unless specifically authorized by statute or by the retention and disposition schedule, a local government public record may not be destroyed or otherwise disposed of without the unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction of any local government records must be submitted to the subcommittee by the entity concerned. If there is not unanimous approval of the subcommittee, the issue of the disposition of a record must be referred to the local government records committee for approval. When approval is obtained from the subcommittee or from the local government records committee for the disposal of a record, the local government records committee shall consider the inclusion of a new category of record for which a disposal request is not required and shall update the schedule as necessary.</p> <p>(3) establish a retention and disposition schedule for categories of records for which a disposal request is not required. The committee shall publish the retention and</p>	<p><b>2-6-403. Duties and responsibilities.</b> (1) The local government records committee shall approve, modify, or disapprove proposals for local government records retention and disposition schedules.</p> <p>(2) The local government records committee shall appoint a subcommittee, known as the local government records destruction subcommittee, to handle requests for disposal of records. The subcommittee consists of the state archivist and a representative of the department of administration. Unless specifically authorized by statute or by the retention and disposition schedule, a local government public record may not be destroyed or otherwise disposed of without the unanimous approval of the subcommittee. When approval is required, a request for the disposal or destruction of any local government records must be submitted to the subcommittee by the entity concerned. If there is not unanimous approval of the subcommittee, the issue of the disposition of a record must be referred to the local government records committee for approval. When approval is obtained from the subcommittee or from the local government records committee for the disposal of a record, the local government records committee shall consider the inclusion of a new category of record for which a disposal request is not required and shall update the schedule.</p> <p>(3) The local government records committee shall establish a retention and disposition schedule for categories of records for which a disposal request is not required. The committee shall publish the retention and disposition schedules. Updates to those schedules, if any, must be</p>	<p>Adds a local government records custodian to the destruction subcommittee.</p> <p>Adds a duty to provide guidance to local governments regarding essential records.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>disposition schedules. Updates to those schedules, if any, must be published at least annually.</p> <p>(4) develop guidance for local governments to identify, maintain, and secure their essential records;</p> <p>(5) respond to requests for technical advice on matters relating to local government records; and</p> <p>(6) provide leadership and coordination in matters affecting the records of multiple local governments.</p>	<p>published at least annually.</p> <p>(4) The committee shall respond to requests for technical advice on matters relating to local government records.</p> <p>(5) The committee shall provide leadership and coordination in matters affecting the records of multiple local governments.</p>	
<p><b>Section 24. Disposal of local government public records prohibited prior to offering -- central registry -- notification.</b> (1) A local government public record more than 10 years old may not be destroyed without it first being offered to the Montana historical society, the state archives, Montana public and private universities and colleges, local historical museums, local historical societies, Montana genealogical groups, and the general public.</p> <p>(2) The availability of a public record to be destroyed must be noticed to the entities listed in subsection (1) at least 60 days prior to disposal.</p> <p>(3) (a) Claimed records must be given to entities in the order of priority listed in subsection (1).</p> <p>(b) All expenses for the removal of claimed records must be paid by the entity claiming the records.</p> <p>(c) The local government records committee shall establish procedures by which public records must be offered and claimed pursuant to this section.</p> <p>(d) The local government records committee shall develop and maintain a central registry of the entities identified in subsection (1) who are interested in receiving notice of the potential destruction of public records pursuant to this section. The registry must be constructed to allow a local government entity to notify the local government records committee when the entity intends to destroy documents covered under this section and allows the local government</p>	<p><b>2-6-405. Destruction of local government public records prohibited prior to offering -- central registry -- notification.</b> (1) A local government public record more than 10 years old may not be destroyed without it first being offered to the Montana historical society, the state archives, Montana public and private universities and colleges, local historical museums, local historical societies, Montana genealogical groups, and the general public.</p> <p>(2) The availability of a public record to be destroyed must be noticed to the entities listed in subsection (1) at least 180 days prior to disposal.</p> <p>(3) (a) Claimed records must be given to entities in the order of priority listed in subsection (1).</p> <p>(b) All expenses for the removal of claimed records must be paid by the entity claiming the records.</p> <p>(c) The local government records committee, provided for in 2-6-402, shall establish procedures by which public records must be offered and claimed pursuant to this section.</p> <p>(d) The local government records committee shall develop and maintain a central registry of the entities identified in subsection (1) who are interested in receiving notice of the potential destruction of public records pursuant to this section. The registry must be constructed to allow a local government entity to notify the local government records committee when the entity intends to destroy documents</p>	<p>Reduces the notice requirement from 180 days to 60 days.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>records committee to subsequently notify the entities in the registry. A local government entity's notice to the local government records committee pursuant to this subsection and the record committee's notice to the entities listed on the registry fulfills the notification requirements of this section.</p>	<p>covered under this section and that allows the local government records committee to subsequently notify the entities in the registry. A local government entity's notice to the local government records committee pursuant to this subsection and the record committee's notice to the entities listed on the registry fulfills the notification requirements of this section.</p>	
<p><b>Section 25. Definitions.</b> As used in [sections 25 through 27], the following definitions apply:</p> <p>(1) "Breach of the security of a data system" or "breach" means the unauthorized acquisition of computerized data that:</p> <p>(a) materially compromises the security, confidentiality, or integrity of the personal information maintained by a state agency or by a third party on behalf of a state agency; and</p> <p>(b) causes or is reasonably believed to cause loss or injury to a person.</p> <p>(2) "Individual" means a human being.</p> <p>(3) "Person" means an individual, a partnership, a corporation, an association, or a public organization of any character.</p> <p>(4) (a) "Personal information" means a first name or first initial and last name in combination with any one or more of the following data elements when the name and data elements are not encrypted:</p> <p>(i) a social security number or tax identification number;</p> <p>(ii) a driver's license number, an identification number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; or</p> <p>(iii) an account number or credit or debit card number</p>	<p><b>2-6-501. Definitions.</b> For the purposes of this part, the following definitions apply:</p> <p>(1) "Breach of the security of a data system" or "breach" means unauthorized acquisition of computerized data that:</p> <p>(a) materially compromises the security, confidentiality, or integrity of the personal information maintained by a state agency or by a third party on behalf of the state agency; and</p> <p>(b) causes or is reasonably believed to cause loss or injury to a person.</p> <p>(2) "Individual" means a human being.</p> <p>(3) "Person" means an individual, a partnership, a corporation, an association, or a public organization of any character.</p> <p>(4) (a) "Personal information" means a first name or first initial and last name in combination with any one or more of the following data elements when the name and the data elements are not encrypted:</p> <p>(i) a social security number or tax identification number;</p> <p>(ii) a driver's license number, an identification number issued pursuant to 61-12-501, a tribal identification number or enrollment number, or a similar identification number issued by any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or American Samoa; or</p> <p>(iii) an account number or credit or debit card number</p>	<p>Makes a minor to subsection (4)(b).</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>in combination with any required security code, access code, or password that would permit access to a person's financial account.</p> <p>(b) The term does not include publicly available information from federal, state, local, or tribal government records.</p> <p>(5) "Redaction" means the alteration of personal information contained within data to make all or a significant part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data.</p> <p>(6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment.</p> <p>(b) The term does not include an entity of the judicial branch.</p> <p>(7) "Third party" means:</p> <p>(a) a person with a contractual obligation to perform a function for a state agency; or</p> <p>(b) a state agency with a contractual or other obligation to perform a function for another state agency.</p>	<p>in combination with any required security code, access code, or password that would permit access to a person's financial account.</p> <p>(b) The term does not include publicly available information that is lawfully made available to the general public from federal, state, local, or tribal government records.</p> <p>(5) "Redaction" means the alteration of personal information contained within data to make all or a significant part of the data unreadable. The term includes truncation, which means that no more than the last four digits of an identification number are accessible as part of the data.</p> <p>(6) (a) "State agency" means an agency, authority, board, bureau, college, commission, committee, council, department, hospital, institution, office, university, or other instrumentality of the legislative or executive branch of state government. The term includes an employee of a state agency acting within the course and scope of employment.</p> <p>(b) The term does not include an entity of the judicial branch.</p> <p>(7) "Third party" means:</p> <p>(a) a person with a contractual obligation to perform a function for a state agency; or</p> <p>(b) a state agency with a contractual or other obligation to perform a function for another state agency.</p>	
<p><b>Section 26. Protection of personal information -- compliance -- extensions.</b> (1) Each state agency that maintains the personal information of an individual shall develop procedures to protect the personal information while enabling the state agency to use the personal information as necessary for the performance of its duties under federal or state law.</p> <p>(2) The procedures must include measures to:</p> <p>(a) eliminate the unnecessary use of personal information;</p>	<p><b>2-6-502. Protection of social security numbers -- compliance.</b> (1) Each state agency that maintains the social security number of an individual shall develop procedures to protect the social security number while enabling the state agency to use the social security number as necessary for the performance of its duties under federal or state law.</p> <p>(2) The procedures must include measures to:</p> <p>(a) eliminate the unnecessary use of social security numbers;</p> <p>(b) identify the person or state agency authorized to</p>	<p>Changes references from "social security number" to "personal information."</p> <p>Updates the deadline for newly-created agencies.</p> <p>Combines this section with the section allowing the State CIO to grant extensions.</p>



BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>(b) identify the person or state agency authorized to have access to personal information;</p> <p>(c) restrict access to personal information by unauthorized persons or state agencies;</p> <p>(d) identify circumstances when redaction of personal information is appropriate;</p> <p>(e) dispose of documents that contain personal information in a manner consistent with other record retention requirements applicable to the state agency;</p> <p>(f) eliminate the unnecessary storage of personal information on portable devices; and</p> <p>(g) protect data containing personal information if that data is on a portable device.</p> <p>(3) Except as provided in subsection (4), each state agency that is created after [the effective date of this act] shall complete the requirements of this section within 1 year of its creation.</p> <p>(4) The chief information officer provided for in 2-17-511 may grant an extension to any state agency subject to the provisions of the Montana Information Technology Act provided for in Title 2, chapter 17, part 5. The chief information officer shall inform the information technology board, the office of budget and program planning, and the legislative finance committee of all extensions that are granted and of the rationale for granting the extensions. The chief information officer shall maintain written documentation that identifies the terms and conditions of each extension and the rationale for the extension.</p>	<p>have access to a social security number;</p> <p>(c) restrict access to social security numbers by unauthorized persons or state agencies;</p> <p>(d) identify circumstances when redaction of social security numbers is appropriate;</p> <p>(e) dispose of documents that contain social security numbers in a manner consistent with other record retention requirements applicable to the state agency;</p> <p>(f) eliminate the unnecessary storage of social security numbers on portable devices; and</p> <p>(g) protect data containing social security numbers if that data is on a portable device.</p> <p>(3) Except as provided in 2-6-503, each state agency in existence on October 1, 2009, shall complete the requirements of this section by September 1, 2012. A state agency that is created after October 1, 2009, shall complete the requirements of this section within 1 year of its creation.</p> <p><b>2-6-503. Extensions.</b> The chief information officer provided for in 2-17-511 may grant an extension to any state agency subject to the provisions of the Montana Information Technology Act provided for in Title 2, chapter 17, part 5. The chief information officer shall inform the information technology board, the office of budget and program planning, and the legislative finance committee of all extensions that are granted and of the rationale for granting the extensions. The chief information officer shall maintain written documentation that identifies the terms and conditions of each extension and the rationale for the extension.</p>	
<p><b>Section 27. Notification of breach of security of data system.</b> (1) (a) Upon discovery or notification of a breach of the security of a data system, a state agency that maintains computerized data containing personal information in the data system shall make reasonable efforts to notify any person</p>	<p><b>2-6-504. Notification of breach of security of data system.</b> (1) (a) Upon discovery or notification of a breach of the security of a data system, a state agency that maintains computerized data containing personal information in the data system shall make reasonable efforts to notify any person</p>	<p>Minor changes for style.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person.</p> <p>(b) The notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.</p> <p>(2) (a) A third party that receives personal information from a state agency and maintains that information in a computerized data system to perform a state agency function shall:</p> <p>(i) notify the state agency immediately following discovery of the breach if the personal information is reasonably believed to have been acquired by an unauthorized person; and</p> <p>(ii) make reasonable efforts upon discovery or notification of a breach to notify any person whose unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as part of the breach. This notification must be provided in the same manner as the notification required in subsection (1).</p> <p>(b) A state agency notified of a breach by a third party has no independent duty to provide notification of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a) but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third party its reasonable costs for providing the notice.</p> <p>(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay of notification. The notification required by this section must be made after the law enforcement agency determines that the notification will not compromise the investigation.</p> <p>(4) All state agencies and third parties to whom</p>	<p>whose unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person.</p> <p>(b) The notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection (3) or with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.</p> <p>(2) (a) A third party that receives personal information from a state agency and maintains that information in a computerized data system in order to perform a state agency function shall:</p> <p>(i) notify the state agency immediately following discovery of the breach of the security of a data system if the personal information is reasonably believed to have been acquired by an unauthorized person; and</p> <p>(ii) make reasonable efforts upon discovery or notification of a breach of the security of a data system to notify any person whose unencrypted personal information is reasonably believed to have been acquired by an unauthorized person as part of the breach of the security of a data system. This notification must be provided in the same manner as the notification required in subsection (1).</p> <p>(b) A state agency notified of a breach by a third party has no independent duty to provide notification of the breach if the third party has provided notification of the breach in the manner required by subsection (2)(a) but shall provide notification if the third party fails to do so in a reasonable time and may recover from the third party its reasonable costs for providing the notice.</p> <p>(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and requests a delay of notification. The notification required by this section must be made after the law enforcement agency determines that the notification will not compromise the investigation.</p>	

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>personal information is disclosed by a state agency shall develop and maintain:</p> <p>(a) an information security policy designed to safeguard personal information; and</p> <p>(b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2).</p>	<p>(4) All state agencies and third parties to whom personal information is disclosed by a state agency shall develop and maintain:</p> <p>(a) an information security policy designed to safeguard personal information; and</p> <p>(b) breach notification procedures that provide reasonable notice to individuals as provided in subsections (1) and (2).</p>	
<p><b>Section 28. Custody and reproduction of certain records by secretary of state.</b> (1) The secretary of state is charged with the custody of:</p> <p>(a) the enrolled copy of the constitution;</p> <p>(b) all the acts and resolutions passed by the legislature;</p> <p>(c) the journals of the legislature;</p> <p>(d) the great seal;</p> <p>(e) all books, records, parchments, maps, and papers kept or deposited in the secretary of state's office pursuant to law.</p> <p>(2) All records included in subsection (1) may be kept and reproduced in accordance with rules adopted by the secretary of state in consultation with the state records committee provided for in [Section 15].</p> <p>(3) The state records committee may approve the disposal of original records once those records are reproduced as provided for in subsection (2), unless disposal takes the form of transfer of records. Reproduction is not necessary for transferred records. The reproduction or certified copy of a record may be used in place of the original for all purposes, including as evidence in any court or proceeding, and has the same force and effect as the original record.</p> <p>(4) The secretary of state shall prepare enlarged typed or photographic copies of the records whenever their production is required by law.</p>	<p><b>2-6-111. Custody and reproduction of records by secretary of state.</b> (1) The secretary of state is charged with the custody of:</p> <p>(a) the enrolled copy of the constitution;</p> <p>(b) all the acts and resolutions passed by the legislature;</p> <p>(c) the journals of the legislature;</p> <p>(d) the great seal;</p> <p>(e) all books, records, parchments, maps, and papers kept or deposited in the secretary of state's office pursuant to law.</p> <p>(2) All records included in subsection (1) may be kept and reproduced in accordance with rules adopted by the secretary of state in consultation with the state records committee provided for in 2-6-208.</p> <p>(3) The state records committee created by 2-6-208 may approve the disposal of original records once those records are reproduced as provided for in subsection (2), unless disposal takes the form of transfer of records. Reproduction is not necessary for transferred records. The reproduction or certified copy of a record may be used in place of the original for all purposes, including as evidence in any court or proceeding, and has the same force and effect as the original record.</p> <p>(4) The secretary of state shall prepare enlarged typed or photographic copies of the records whenever their</p>	<p>Updates references updated and recommends recodifying in Title 2, Chapter 15, Part 4.</p>

BILL DRAFT LANGUAGE	EXISTING STATUTORY LANGUAGE	EXPLANATION OF CHANGES
<p>(5) At least two copies must be made of all records reproduced as provided for in subsection (2). The secretary of state shall place one copy in a fireproof storage place and shall retain the other copy in the office with suitable equipment for displaying a record by projection to not less than its original size and for preparing copies of the record for persons entitled to copies.</p> <p>(6) All duplicates of records must be identified and indexed.</p>	<p>production is required by law.</p> <p>(5) At least two copies must be made of all records reproduced as provided for in subsection (2). The secretary of state shall place one copy in a fireproof storage place and shall retain the other copy in the office with suitable equipment for displaying a record by projection to not less than its original size and for preparing copies of the record for persons entitled to copies.</p> <p>(6) All duplicates of records must be identified and indexed.</p>	
<p><b>Section 29. Filing and copying fees.</b> (1) The secretary of state shall charge and collect fees for filing and copying services.</p> <p>(2) A member of the legislature or state or county officer may not be charged for any search relative to matters pertaining to the duties of the member's office or for a certified copy of any law or resolution passed by the legislature relative to the member's official duties.</p> <p>(3) The secretary of state may not charge a fee, other than as authorized in [section 4], for providing electronic information.</p> <p>(4) Fees must be collected in advance and, when collected by the secretary of state, are not refundable.</p> <p>(5) Fees authorized by this section must be set and deposited in accordance with 2-15-405.</p>	<p><b>2-6-103. Filing and copying fees.</b> (1) The secretary of state shall charge and collect fees for filing and copying services.</p> <p>(2) A member of the legislature or state or county officer may not be charged for any search relative to matters appertaining to the duties of the member's office or for a certified copy of any law or resolution passed by the legislature relative to the member's official duties.</p> <p>(3) The secretary of state may not charge a fee, other than the fees authorized in 2-6-110, for providing electronic information.</p> <p>(4) Fees must be collected in advance and, when collected by the secretary of state, are not refundable.</p> <p>(5) Fees authorized by this section must be set and deposited in accordance with 2-15-405.</p>	<p>Updates references and recommends recodifying in Title 2, Chapter 15, Part 4.</p>
<p>NO SECTION INCLUDED IN BILL DRAFT</p>	<p><b>2-6-105. Removal of public records.</b> Any record, a transcript of which is admissible in evidence, must not be removed from the office where it is kept, except upon the order of a court or judge in cases where the inspection of the record is shown to be essential to the just determination of the cause or proceeding pending or where the court is held in the same building with such office.</p>	<p>Removes this existing section because the work group felt it was outdated and unnecessary to keep in statute, is inherent in the legal hold process, and is duplicative of civil procedure.</p>