

## **Legislative Proposals for the 2014 General Assembly Session**

### **In Priority Order**

- 1) AN ACT REGARDING THE HISTORIC DOCUMENTS PRESERVATION ACCOUNT RECORDING FEES AND NOMINEE OF MORTGAGEE FILING - 111213\_CSL\_MERS**
- 2) AN ACT CONCERNING E-GOVERNMENT AND THE PRESERVATION AND MANAGEMENT OF ELECTRONIC RECORDS – 111213\_CSL\_EgovFund**
- 3) AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE STATE LIBRARIAN FOR THE PRESERVATION AND AUTHENTICATION OF ELECTRONIC DOCUMENTS – 111213\_CSL\_Essential Records**
- 4) ACCESS TO RESTRICTED RECORDS IN THE STATE ARCHIVES - 111213\_CSL\_Access**



## Agency Legislative Proposal - 2014 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**111213\_CSL\_MERS**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Connecticut State Library

Liaison: Kendall F. Wiggin

Phone: 860-757-6510

E-mail: Kendall.wiggin@ct.gov

Lead agency division requesting this proposal:

Office of the Public Records Administrator

Agency Analyst/Drafter of Proposal:

### Title of Proposal

**AN ACT REGARDING THE HISTORIC DOCUMENTS PRESERVATION ACCOUNT RECORDING FEES AND NOMINEE OF MORTGAGEE FILINGS**

Statutory Reference **CGS 49-10(h)**

### Proposal Summary

This proposal would redistribute the historic documents preservation account fees collected on nominees of mortgagee filings recorded on the land records to the Historic Documents Preservation Account.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

- **Reason for Proposal**

The Historic Documents Preservation Program was established with broad support under PA-146 to improve the preservation and management of important public records held by municipalities and at the State Library. As specified in Section 7-34a(d), the Historic Documents Preservation Account is funded through a two dollar fee on land recordings.

In the last legislative session, under HB 6704 and HB 6706, recording fees were increased for documents with nominees and new distribution requirements were set for those funds. Rather than maintaining the existing distribution requirement for the two dollar fee, it was folded into new state and local distributions. The State Library estimates that this change will result in a 25% to 30% drop in revenue to



the Historic Documents Preservation Account and will have a significant impact on the program.

It is critical that the previous fee distribution requirement for the two dollars be reinstated by amending Section 47-10(h). Language in this section already preserves the fee distribution for the Community Investment Account, another program funded through land recording fees by statute. Funding for the Historic Documents Preservation Account must be preserved in the same way. From its establishment, the legislature intended this program to be funded by a fee on all land recordings.

- **Origin of Proposal**       **New Proposal**       **Resubmission**

*If this is a resubmission, please share:*

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name:

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal     YES     NO     Talks Ongoing

### Summary of Affected Agency's Comments

Will there need to be further negotiation?     YES     NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

Amount of money available for grants under Sec. 11-8k would be restored to preFY14 levels.

**State**

The State Library would recover \$300,000 to \$360,000 for the Historic Documents Preservation Account.

**Federal**



Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

We estimate that the change in the recording fee distribution will result in a \$300,000 to \$360,000 revenue loss to the Historic Documents Preservation Account in the current fiscal year. As specified under Sec. 11-8k, 70% of this fund is returned to the towns as grants, while 30% is retained by the State Library to administer the fund and preserve and manage state records. Therefore, this projected decrease will result in a loss of \$210,000 to \$252,000 in grant funds for municipalities and a loss of \$90,000 to \$108,000 for our agency in this fiscal year.

These loss estimates are based on data provided to us by town clerks indicating that documents with nominees make up 25% to 30% of the total number of documents recorded each year. For August 2013, the first full month falling under this new legislation, we do not yet have complete figures, but lost revenue is currently at about 20%. Since real estate recordings vary from month to month, we expect that our estimates will prove accurate over time.

The grant program has awarded over \$13 million to municipalities since its inception in 2000. This program has enabled municipalities to make significant changes in the preservation and management of their most valuable records, improved access to these essential resources, and provided significant cost savings. The Connecticut State Library has used its portion of the preservation account to preserve records at the State Library and to fund the program's administration. The potential negative effects resulting from this legislation include, but are not limited to, reduced grants to municipalities, delayed preservation of valuable state historical documents, and loss of records management services to state agencies and municipalities if staffing is reduced. It is essential that we preserve this important grant program and restore it to full funding in the upcoming legislative session.

**Insert fully drafted bill here**



## **AN ACT REGARDING THE HISTORIC DOCUMENTS PRESERVATION ACCOUNT RECORDING FEES AND NOMINEE OF MORTGAGEE FILINGS**

Section 1. (NEW) (*Effective July 1, 2014*) Sec. 49-10. (h) Notwithstanding the provisions concerning remittance and retention of fees set forth in section 7-34a, as amended by this act, the recording fees paid in accordance with subsections (a), (d) and (e) of said section 7-34a by a nominee of a mortgagee, as defined in subdivision (2) of subsection (a) of said section 7-34a, shall be allocated as follows: (1) For fees collected upon a recording by a nominee of a mortgagee, except for the recording of (A) an assignment of mortgage in which the nominee of a mortgagee appears as assignor, and (B) a release of mortgage, as described in section 49-8, by a nominee of a mortgagee, the town clerk shall remit one hundred ten dollars of such fees to the state, such fees shall be deposited into the General Fund and, upon deposit in the General Fund, thirty-six dollars of such fees shall be credited to the community investment account established pursuant to section 4-66aa, two dollars of such fee shall be credited to the historic documents preservation account established pursuant to section 11-8i; the town clerk shall retain forty-nine dollars of such fees, thirty-nine dollars of which shall become part of the general revenue of such municipality and ten dollars of which shall be deposited into the town clerk fund; and the town clerk shall retain any fees for additional pages beyond the first page in accordance with the provisions of subdivision (2) of subsection (a) of said section 7-34a; and (2) for the fee collected upon a recording of (A) an assignment of mortgage in which the nominee appears as assignor, or (B) a release of mortgage by a nominee of a mortgagee, the town clerk shall remit one hundred twenty-seven dollars of such fee to the state, such fee shall be deposited into the General Fund and, upon deposit in the General Fund, thirty-six dollars of such fee shall be credited to the community investment account, two dollars of such fee shall be credited to the historic documents preservation account, and, until October 1, 2014, sixty dollars of such fee shall be credited to the State Banking Fund for purposes of funding the foreclosure mediation program established by section 49-31m; and the town clerk shall retain thirty-two dollars of such fee, which shall become part of the general revenue of such municipality.



## Agency Legislative Proposal - 2014 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**111213\_CSL\_EgovFund**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Connecticut State Library

Liaison: Kendall F. Wiggin

Phone: 860-757-6510

E-mail: kendall.wiggin@ct.gov

Lead agency division requesting this proposal: Office of Public Records Administrator

Agency Analyst/Drafter of Proposal:

Kendall F. Wiggin

**Title of Proposal**

**AN ACT CONCERNING E-GOVERNMENT AND THE PRESERVATION AND MANAGEMENT OF ELECTRONIC RECORDS**

**Statutory Reference** Sec. 7-34a and 11-8

**Proposal Summary**

Establish a seven dollar land recording fee to support the preservation and management of electronic government records at the state and municipal level.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

- **Reason for Proposal**

Connecticut, like many states, has been moving increasingly from paper records to electronic records. While the preservation and management of paper records has been well established, state and municipal governments have not yet implemented procedures and practices to ensure the authentication, access and preservation of electronic records. The State Librarian issued a report in 2012 calling for, among other measures, the establishment of a Connecticut Digital Archive. This digital archive is currently being planned by the University of Connecticut Libraries and the State Library. However, funding is needed to make this a viable trusted repository for state and local government information. State agencies and municipal governments also need assistance, both through training and funding for long term access to government information. The Historic Records Preservation Fund was established in 2000 and is funded with a three dollar fee on land recordings. This highly successful program is the model for the proposed e-Government records management program. The Town Clerks Association has been calling for funding to support electronic records management and state agencies



have been approaching the State Library for assistance in managing their move to electronic records.

- **Origin of Proposal**       **New Proposal**       **Resubmission**

The agency had proposed this and a related bill last year. Both requests were approved and the agency proceeded to have them introduced. While the agency wanted two separate bills, the two proposals were combined and SB 1075 AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE STATE LIBRARIAN CONCERNING E-GOVERNMENT AND THE PRESERVATION, AUTHENTICATION AND MANAGEMENT OF ELECTRONIC RECORDS was introduced by the Joint Committee on Government Administration and Elections on 3/7/13 and a public hearing was held on 3/11/13. The bill was never reported out of committee. The bill had the support of the Secretary of State, the Connecticut Conference of Municipalities, the Connecticut Town Clerks Association, the University of Connecticut and others.

### PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name:

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal     YES     NO     Talks Ongoing

#### Summary of Affected Agency's Comments

Will there need to be further negotiation?     YES     NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)



<b>Municipal</b> (please include any municipal mandate that can be found within legislation)+ Revenue gain of \$2,775,000
<b>State</b> Revenue gain of \$1,110,000
<b>Federal</b>
Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

The proposal builds on previous legislation to use fees from land recordings to support municipal and state electronic preservation activities. This proposal would establish a new \$7.00 recording fee and a non-lapsing fund to be known as the e-Government records management account. This proposal would allow municipalities to retain \$5.00 of the new \$7.00 fee. Two dollars would be remitted to the state library and deposited in the new account for (1) the preservation and management of records in electronic format maintained by the State Library, and (2) development and implementation of a statewide electronic records management initiative for electronic records created and maintained by state agencies, municipalities and quasi-public agencies. Unlike the Historic Documents Preservation program (Sec. 11-8i-1) there would be no administrative overhead.

## **An Act Concerning eGovernment and the Preservation and Management of Electronic Records**

Section 1. (NEW) (*Effective July 1, 2014*) Sec. 7-34a. Fees (g) In addition to the fees for recording a document under subsection (a) of this section, town clerks shall receive a fee of seven dollars for each document recorded in the land records of the municipality. Not later than the fifteenth day of each month, town clerks shall remit two dollars of the fees paid pursuant to this subsection during the previous calendar month to the State Librarian for deposit in a bank account of the State Treasurer and crediting to the eGovernment records management account established under section 11-8o. Five dollars of the amount paid for fees pursuant to this subsection shall be retained by town clerks in a separate and non-lapsing fund and used for the preservation and management of electronic records in accordance with section 11-8p. The provisions of this subsection shall not apply to any document recorded on the land records by an employee of the state or of a municipality in conjunction with said employee's official duties. As used in this section "municipality" includes each town, consolidated town





and city, city, consolidated town and borough, borough, district, as defined in chapter 105 or chapter 105a, and each municipal board, commission and taxing district not previously mentioned.

Section 2. (NEW) (*Effective July 1, 2014*) Sec. 11-8o. eGovernment records management account. There is established, within the General Fund, a separate and non-lapsing account to be known as the "eGovernment records management account." The account shall contain any moneys required by law to be deposited in the account. Investment earnings credited to the assets of the account shall become part of the assets of the account. Any balance remaining in the account at the end of any fiscal year shall be carried forward for the fiscal year next succeeding. The moneys in said account shall be used for the purposes of preservation and management of electronic records as defined in section 11-8p.

Section 3. (NEW) (*Effective July 1, 2014*) Sec. 11-8p. Definitions. (a) As used in sections 11-8o to 11-8q, inclusive, "preservation and management of electronic records" means activities that include, but are not limited to, the following: (1) the use of technology to facilitate the performance of duties integral to the maintenance and tracking of electronic records; (2) the development of best practices and standards concerning the creation, maintenance and preservation of electronic records; (3) the assessment, implementation or upgrading of electronic records management systems; (4) the development of an essential records program including disaster recovery; (5) the development and implementation of a real property electronic recording system; and (6) the training of personnel to perform duties integral to the maintenance and tracking of electronic records.

Section 4. (NEW) (*Effective July 1, 2014*) Sec. 11-8q. Allocation of moneys in e-Government records management account. (a) The State Librarian shall allocate moneys in the e-Government records management account, established under section 11-8o, for (1) the preservation and management of records in electronic format maintained by the State Library, and (2) development and implementation of a statewide electronic records management initiative for electronic records created and maintained by state agencies, municipalities and quasi-public agencies.



## Agency Legislative Proposal - 2014 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**111213\_CSL\_Essential Records**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Connecticut State Library

Liaison: Kendall F. Wiggin

Phone: 860-757-6510

E-mail: [kendall.wiggin@ct.gov](mailto:kendall.wiggin@ct.gov)

Lead agency division requesting this proposal:

Office of the Public Records Administrator

Agency Analyst/Drafter of Proposal:

Kendall Wiggin

**Title of Proposal**

**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE STATE LIBRARIAN FOR THE PRESERVATION AND AUTHENTICATION OF ELECTRONIC DOCUMENTS**

**Statutory Reference** Sec. 1-9; Sec. 1-14a; Sec. 1-14b; Sect. 11-8d

**Proposal Summary**

Extends the definition of permanent records to include electronic records; defines “official record copy” and “essential records” and calls for the protection of essential records to provide for the continuity of government by adding back prior statutory requirement for State Library cooperation with emergency management and preparedness authorities in carrying out an essential records program.

*Please attach a copy of fully drafted bill (required for review)*

### PROPOSAL BACKGROUND

- **Reason for Proposal**

Pursuant to Sec. 11-8(a), the State Library is responsible for carrying out a program for the identification and preservation of essential records of the state and of its political subdivisions. The statutes provide no additional information or requirements regarding essential records including what constitutes an essential record.



P.A. No. 495 [1967] revised the State Library’s oversight authority for public records to reflect modern records management practices and included an essential records program in cooperation with the Civil Defense Advisory Council. The act did not define “essential record,” but the inclusion of the Civil Defense Advisory Council clearly shows the intent was oversight of records vital to the continuity of operations in the event of a serious natural disaster or enemy attack, sabotage or other hostile action. In 1977, the council, renamed the Civil Preparedness Advisory Council in 1973, was eliminated as part of an effort to consolidate and reorganize state government. Reference to the council was eliminated from Sec. 11-8 in 1980. Without this context, a definition, and the use of the term “preservation,” many agencies assumed the program referred to historical records rather than critical operating records. Therefore, state agency and political subdivisions have not identified these records nor taken measures for their protection.

- **Origin of Proposal**       **New Proposal**       **Resubmission**

This is a slightly revised proposal from the one the agency had proposed last year along with a related bill. Both proposals were approved and the agency proceeded to have them introduced. While the agency wanted two separate bills, the two proposals were combined and SB 1075, AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE STATE LIBRARIAN CONCERNING E-GOVERNMENT AND THE PRESERVATION, AUTHENTICATION AND MANAGEMENT OF ELECTRONIC RECORDS was introduced by the Joint Committee on Government Administration and Elections on 3/7/13 and a public hearing was held on 3/11/13. The bill was never reported out of committee. The Bill had the support of the Secretary of State, the Connecticut Conference of Municipalities, the Connecticut Town Clerks Association, the University of Connecticut and others. The agency believes that combining this proposal with the one to establish a new filing fee on land recordings to support the authentication and preservation of electronic records was part of the problem in getting the bill out of committee. The agency strongly recommends if this proposal is allowed to move forward that it be kept separate.

### PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Agency Contact (name, title, phone): Date Contacted:
Approve of Proposal <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Talks Ongoing
<b>Summary of Affected Agency’s Comments</b>



Will there need to be further negotiation? ___ YES ___ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

<b>Municipal</b> (please include any municipal mandate that can be found within legislation)  Undetermined.
<b>State</b> Undetermined
<b>Federal</b>
Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

As state and municipal government increasingly conduct business electronically, it is essential that the authentication and preservation of electronic records be handled as effectively as paper records have been to insure the orderly conduct of state and local government, to insure public access and to aid in the administration of justice. The proposed statutory changes would extend the State Library’s role beyond the management of electronic government records to include authentication and preservation.

Section 1. Sec. 1-9 requires permanent paper for recording purposes. However, a number of other statutes allow records in electronic and other formats. The Connecticut Uniform Electronic Transactions Act (CUETA) establishes the legal recognition of electronic records in Sec. 1-272. Public Act 08-56 established the Uniform Real Property Electronic Recording Act (Sec. 7-35aa-gg), which allowed for electronic recording. Land records are considered permanent records. As a result, Sec. 1-9 needs to be updated to accommodate the preservation of permanent records in formats other than paper.

Section 2. For purposes of authentication, it is necessary to designate an official record copy. The statutory change is necessary to define “official record copy.”

Section 3, 4 and 5. Pursuant to Sec. 11-8(a), the State Library is responsible for carrying out a



program for the identification and preservation of essential records of the state and of its political subdivisions. The statutes provide no additional information or requirements regarding essential records including what constitutes an essential record.

## ***AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE STATE LIBRARIAN FOR THE PRESERVATION AND AUTHENTICATION OF ELECTRONIC DOCUMENTS***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2014*) Sec. 1-9. [Alkaline paper for] Permanent records. No person having custody of any permanent record or register in any department or office of the state, or of any political subdivision thereof, or of any probate district, shall use or permit to be used for recording purposes any paper other than alkaline paper that meets or exceeds the American National Standards Institute standards for permanent paper and meets such additional specifications as may be issued by the Public Records Administrator, unless such paper is not available. [Said administrator shall furnish to each person having custody of any such permanent record a list of such papers.] Permanent electronic records shall be maintained in accordance with electronic authentication and preservation standards issued by the Public Records Administrator. Any person who violates any provision of this section shall be fined not more than one hundred dollars.

Section 2. (NEW) (*Effective July 1, 2014*) Sec. 1-14a. "Official record copy" defined. "Official record copy" means the specific copy of a public record, as provided in section 1-200(5), designated by the public agency as the legally recognized copy that must be maintained for records retention, preservation and authentication."

Section 3. (NEW) (*Effective July 1, 2014*) Sec. 1-14b. "Essential records" defined. "Essential records" means those records necessary to respond to an emergency; to reestablish normal operations after any such emergency; to protect the rights and interests of the agency and the individuals or entities served by the agency; to



document the history of Connecticut, its communities and its citizens; or that would require massive resources to reconstruct.

Section 4. (NEW) (*Effective July 1, 2014*) Sec. 11-8. Records management program. Public Records Administrator. (a) Under the direction of the State Library Board, the State Librarian shall be responsible for developing and directing a records management program for the books, records, papers and documents of all state agencies within the executive department, and the books, records, papers and documents of the several towns, cities, boroughs, districts and other political subdivisions of the state, pursuant to the provisions of section 11-8a. The State Librarian shall also supervise the operation of state records centers; [provide photoduplication and microfilming service and document repair and restoration service for state and local records;] approve security storage facilities, within or without the state, or establish and operate such facilities within the state, for the safe storage of original public records or security copies thereof; and carry out a program for the identification and [preservation] protection of essential records of the state and of its political subdivisions in cooperation with the appropriate state and local emergency preparedness and response authorities. The State Librarian shall, with the approval of the State Library Board, and in accordance with the provisions of chapter 54, adopt regulations for the creation and preservation of the records of the several towns, cities, boroughs and districts of the state. Such regulations shall establish the physical characteristics required for papers, inks, [typewriter ribbons, carbon papers, loose-leaf binders], photographic films, electronic file formats, or other supplies and materials required for [including] photographic or other processes for recording documents, used in the creation of public records; and the design, construction and degree of fire resistance required for safes, cabinets, and vaults [and file rooms] in which public records are housed. The State Librarian shall ascertain from time to time whether the provisions of the general statutes and of such regulations relating to the recording, filing, indexing, maintenance and disposition of such records are being carried out. The State Librarian may order any person having the care and custody of such records to comply with such statutes or with such regulations. The State Librarian shall send a copy of such order to the chief administrative officer of the town, city, borough or district to which the records relate. The order shall specify the time within which the order shall be complied with. In setting such time for compliance, the State Librarian shall take into consideration the availability of facilities or



equipment or the need for the construction or purchase thereof. The State Librarian may cause the enforcement of any such order by application to the Superior Court, or to any judge thereof if said court is not then sitting, to issue an appropriate decree or process, which application shall be brought and the proceedings thereon conducted by the Attorney General.

Section 5. (NEW) (*Effective July 1, 2014*) 11-8d. Protection of essential records. (a) In order to provide for the continuity of government during and following a disaster or emergency situation, the administrative heads of all state agencies within the executive branch and of the several towns, cities, boroughs, districts and other political subdivisions of the state shall identify their essential records as defined in Sec. 1-14b. The administrative head shall forward a list of essential records to the Public Records Administrator in a form prescribed by the Public Records Administrator. Each administrative head or a designee must review the list at least annually to ensure its completeness. The administrative head or a designee must forward any changes or revisions to the Public Records Administrator.

(b) Each administrative head shall ensure the protection of all essential records by any method approved by the Public Records Administrator. All state agencies within the executive branch and the several towns, cities, boroughs, districts and other political subdivisions of the state shall incorporate the protection of essential records into any adopted continuity of operations plan or emergency operations plan.



## Agency Legislative Proposal - 2014 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**111213\_CSL\_Access**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Connecticut State Library

Liaison: Kendall F. Wiggin

Phone: 860-757-6510

E-mail: kendall.wiggin@ct.gov

Lead agency division requesting this proposal:

State Archives

Agency Analyst/Drafter of Proposal:

Kendall F. Wiggin

**Title of Proposal**

**ACCESS TO RESTRICTED RECORDS IN THE STATE ARCHIVES**

**Statutory Reference**

**Sec. 11-c**

**Proposal Summary**

All restrictions placed on records (other than medical) that are transferred to the State Archives shall be lifted after 75 years from the date of their creation. Restrictions to protected health information would be lifted 50 years after the death of the patient.

*Please attach a copy of fully drafted bill (required for review)*

### PROPOSAL BACKGROUND

- **Reason for Proposal**

In recent years exemptions to the FOI statutes have created barriers and confusion over the access to historical records in the State Archives. When exemptions are created there is often little consideration given to the future historical importance of accessing the record. A uniform time period for accessing records, as is the case in many states and with the National Archives, increases transparency and the agencies efficiency. Limiting access to historical records impedes research, historical inquiry and government transparency. Recently the U.S. Department of Health & Human Services ruled that the HIPAA Privacy Rule applies to the individually identifiable health information of a decedent for 50 years following the date of death of the individual. The Rule explicitly excludes from the definition of "protected health information" individually identifiable health information regarding a person who has been deceased for more than 50 years. relating to





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- **Origin of Proposal**       **New Proposal**       **Resubmission**

*If this is a resubmission, please share:*

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name:

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal     YES     NO     Talks Ongoing

### Summary of Affected Agency's Comments

Will there need to be further negotiation?     YES     NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

None

**State**

None

**Federal**

None

Additional notes on fiscal impact



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- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

**Insert fully drafted bill here**

**(New) Sec 11-1e. Access to restricted records in the state archives.** (a) Records of historical value which are transferred to the state archives shall be retained for posterity and title shall vest in the state archives. (b) All restrictions on access to government records, other than medical records, which have been deposited in the state archives, whether confidential, classified, or private, shall be lifted and removed seventy-five years after the creation of the record. (c) Any restrictions on “protected health information,” as defined in 45 CFR 160.103, transferred to the state archives shall be lifted and removed fifty years after the death of the patient. (d) Subdivision (b) and (c) shall apply to any item currently in the custody of the State Archives and any item deposited in the State Archives after the effective date of this section.