

# SENATE BILL No. 9

January 11, 1989, Introduced by Senators SEDERBURG and EHLERS and referred to the Committee on State Affairs, Tourism, and Transportation.

A bill to provide for the establishment of the state archives; to prescribe its powers and duties; to prescribe the powers and duties of certain state officers with respect to the state archives; to regulate public access to archival records; to provide for the establishment of designated archival depositories; to provide for the promulgation of rules; to prescribe penalties; and to repeal certain acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "Michigan archives act".

3       Sec. 2. As used in this act:

4       (a) "Agency" means a county; township; city; village; dis-  
5 trict; authority or municipal officer; state department; bureau;  
6 division; board or commission; an elected, appointed, or  
7 constitutional officer; any other unit or body, however

1 designated, of the executive, legislative, or judicial branches  
2 of state government, or any of its political subdivisions or  
3 other separate units of government created or established by law;  
4 and any other person, partnership, corporation, or business  
5 entity acting on behalf of a governmental unit. Agency does not  
6 include an individual member of the legislature.

7 (b) "Archival value" means to have enduring worth because  
8 the record documents the growth and development of Michigan from  
9 the earliest time, including the territorial period; the record  
10 evidences the creation, organization, development, operation,  
11 function, and effects of state agencies; or the record contains  
12 significant information about persons, things, problems, and con-  
13 ditions dealt with by state agencies.

14 (c) "Department" means the department of state.

15 (d) "General records schedule" means a retention and dis-  
16 posal schedule governing the disposition of a specified recurring  
17 record series that is common to more than 1 agency.

18 (e) "Public record" means a record made or received pursuant  
19 to law or under color of law or in connection with an activity  
20 relating to or having an effect upon the transaction of business  
21 by an agency, and that is kept by an agency on any basis other  
22 than loan as evidence of its organization, function, policy,  
23 decisions, operation, or other activity, or its informational  
24 value.

25 (f) "Record" means a document, paper, book, letter, or writ-  
26 ing, including documents, papers, books, letters, or writings  
27 prepared by handwriting, typewriting, printing, photostating, or

1 photocopying; a photograph, film, map, magnetic or paper tape,  
2 microform, magnetic or punch card, disc, drum, sound or video  
3 recording, electronic data processing material, or other record-  
4 ing medium, and includes individual letters, words, pictures,  
5 sounds, impulses or symbols, or combination thereof, regardless  
6 of physical form or characteristics. If applicable, record also  
7 means record series.

8 (g) "Record series" means a discrete file unit or documents  
9 arranged in a systematic manner or maintained as a discrete  
10 filing category because the records in the series relate to a  
11 particular subject or function, result from the same activity, or  
12 have a particular form, or because of some other relationship  
13 arising out of their creation, receipt, or use.

14 (h) "Retention and disposal schedule" means a records list-  
15 ing made in the manner set forth in the executive office public  
16 records act, describing all public records of an agency, specify-  
17 ing those public records to be preserved due to their archival  
18 value, and authorizing, on a continuing basis, the retention and  
19 ultimate disposition of 1 or more specified record series.

20 (i) "State archives" means the agency created by section 3  
21 to select, preserve, and make available to the public all public  
22 records that have archival value.

23 Sec. 3. (1) The department is the official archival agency  
24 of Michigan.

25 (2) There is created within the department, subject to the  
26 direction and control of the secretary of state, the Michigan  
27 state archives. The Michigan state archives shall operate and be

1 maintained as a records depository to ensure the permanent  
2 preservation of state and local public records that have archival  
3 value.

4 (3) The secretary of state shall designate a qualified civil  
5 servant as the state archivist. The state archivist shall admin-  
6 ister the state archives and archival programs.

7 Sec. 4. In administering the state archives, the secretary  
8 of state may do all of the following:

9 (a) Select and accept from an agency those public records  
10 that are not in current use but have archival value.

11 (b) Provide for the preservation, arrangement, description,  
12 storage, indexing, and use of all accepted public records.

13 (c) Inventory, on a periodic basis, the records of local  
14 agencies and the trial courts of this state; examine the condi-  
15 tion of local public records, and, subject to the availability of  
16 funding and staff, provide advice and assistance to local govern-  
17 mental officials and agencies concerning the maintenance, preser-  
18 vation, and disposal of the public records in their custody; and  
19 provide training for records maintenance personnel.

20 (d) Review each proposed retention and disposal schedule  
21 submitted by a state or local agency; determine whether any  
22 listed record or record series has archival value; direct that  
23 each record and record series that has archival value be sched-  
24 uled for transfer to the state archives at the end of its admin-  
25 istrative, fiscal, or legal usefulness; disapprove retention and  
26 disposal schedules that fail to list each agency record or record  
27 series or that proposes the destruction of a record series that

1 has archival value; and approve retention and disposal schedules  
2 meeting the requirements set forth in the executive office public  
3 records act.

4 (e) Develop or assist in developing general records sched-  
5 ules pertaining to the public records customarily maintained by  
6 local governmental agencies and trial courts.

7 (f) Make available to the public for inspection and copying  
8 any public record that is not privileged or required by law to be  
9 confidential, if the record is not likely to be damaged by being  
10 available to the public.

11 (g) Conduct a program to store master negative microfilm and  
12 microforms that have archival value.

13 (h) Maintain a program of information, assistance, coordina-  
14 tion, and guidance for governmental officials, educational insti-  
15 tutions, libraries, the educational community, and the general  
16 public concerning archival practices in general and the state  
17 archives and its uses.

18 (i) Initiate legal action to recover public records that  
19 have been removed from state custody having archival value.

20 (j) Produce and sell microform and paper publications.

21 (k) Designate archival depositories of local public records  
22 as provided in section 9.

23 (l) Upon request, advise and assist members of the legisla-  
24 ture in the maintenance and disposition of their personal or  
25 political records that have archival value.

26 (m) Promulgate rules pursuant to the administrative  
27 procedures act of 1969, Act No. 306 of the Public Acts of 1969,

1 being sections 24.201 to 24.328 of the Michigan Compiled Laws, to  
2 prescribe registration procedures applicable to persons who use  
3 the state archives and designated archival depositories. The  
4 rules may require persons who use the state archives and design-  
5 ated archival depositories to disclose their name, business  
6 address, affiliation if applicable, type of use, and other infor-  
7 mation relevant to the operation and programs of the state  
8 archives or the security of the public records maintained at the  
9 state archives.

10 (n) Promulgate rules pursuant to Act No. 306 of the Public  
11 Acts of 1969 to regulate copying methods and storage standards  
12 for public records determined to have archival value.

13 (o) Promulgate rules pursuant to Act No. 306 of the Public  
14 Acts of 1969 to govern the operation of a designated archival  
15 depository for the public records of local government.

16 (p) Perform any other duty or activity necessary to fulfill  
17 the purposes of this act.

18 Sec. 5. (1) A public record transferred to the secretary of  
19 state by an agency that maintained the record on a confidential  
20 or privileged basis shall be kept confidential if a written  
21 agreement to that effect is executed concerning the transfer of  
22 the record. The agreement shall be signed by the state archivist  
23 and a representative of the agency, shall specify the terms and  
24 conditions under which the record is to be transferred, and shall  
25 include a provision providing for the release of the record for  
26 research purposes if the names of persons identified in the  
27 record are protected from disclosure.

1       (2) This section shall not apply to a public record that  
2 fails to qualify for an exemption from the disclosure require-  
3 ments of the freedom of information act, Act No. 442 of the  
4 Public Acts of 1976, being sections 15.231 to 15.246 of the  
5 Michigan Compiled Laws, before receipt by the secretary of  
6 state.

7       Sec. 6. A public record in the custody of the state  
8 archives shall not be destroyed before consultation with the  
9 agency that originally transferred the record to the state  
10 archives.

11       Sec. 7. The state archivist shall, upon request, produce  
12 and furnish a copy of any public record maintained in the state  
13 archives upon payment of a copying fee as described in section 4  
14 of the freedom of information act, Act No. 442 of the Public Acts  
15 of 1976, being section 15.234 of the Michigan Compiled Laws. A  
16 copy, when certified by the secretary of state or the state  
17 archivist, has the same legal force and effect as if made by the  
18 agency from which the record was transferred. A fee of \$1.00 per  
19 page shall be charged for providing a certified copy of a public  
20 record. If a public record is provided in other than a page  
21 format, the secretary of state shall establish and charge a rea-  
22 sonable fee for the special reproduction service.

23       Sec. 8. (1) In addition to the other duties prescribed in  
24 this act, the secretary of state may accept from any nongovern-  
25 mental person or entity a record donated to the state archives if  
26 the record is determined to have archival value. A written

1 agreement may be executed concerning the terms and conditions of  
2 acceptance, maintenance, and the availability of the record.

3       (2) A record obtained by the secretary of state under a  
4 written agreement specifying that the record is for retention in  
5 the state archives but is confidential shall be kept confidential  
6 and shall not be open to public inspection or copying for a  
7 period set forth in the agreement. The period set forth in the  
8 agreement shall be not longer than 20 years from the date of the  
9 agreement or until the death of the donor, whichever occurs  
10 first.

11       Sec. 9. (1) The secretary of state may designate an archi-  
12 val depository for public records produced or maintained by a  
13 local agency in a geographic area of the state where a public  
14 institution exists meeting the qualifications set forth in this  
15 section.

16       (2) To qualify as a designated archival depository, a public  
17 institution shall meet all of the following qualifications:

18       (a) Maintain a fire resistant and waterproof records' stor-  
19 age area.

20       (b) Have the means of maintaining and documenting mainte-  
21 nance of a prescribed temperature and humidity in the records'  
22 storage area.

23       (c) Operate a security and alarm system.

24       (d) Have adequate space for the processing and storage of  
25 records, including a public access area.

26       (e) Use steel shelving.



1 (f) Comply with all rules adopted by the secretary of state  
2 governing the operation of a designated archival depository for  
3 public records of a local agency.

4 (3) To receive designation as an archival depository for  
5 public records of a local agency, a public institution shall  
6 apply to the secretary of state on a form approved by the secre-  
7 tary of state. The applicant shall provide all information and  
8 documentation requested by the secretary of state.

9 (4) The secretary of state may revoke an archival depository  
10 designation if he or she determines that the depository no longer  
11 meets the qualifications set forth in subsection (2), or that the  
12 depository wishes to voluntarily relinquish its designation.  
13 Upon revocation, the archival depository shall transfer the  
14 public records in its custody to the state archives, or, upon  
15 direction from the secretary of state, to another designated  
16 depository.

17 Sec. 10. The secretary of state may accept a gift, grant,  
18 donation, devise, or endowment of money or personal or real prop-  
19 erty for use in fulfilling a power or duty prescribed in this  
20 act.

21 Sec. 11. The secretary of state may adopt rules pursuant to  
22 the administrative procedures act of 1969, Act No. 306 of the  
23 Public Acts of 1969, being sections 24.201 to 24.328 of the  
24 Michigan Compiled Laws, to implement the powers and duties pre-  
25 scribed in this act.

1       Sec. 12. Sections 4a and 5 of Act No. 271 of the Public  
2 Acts of 1913, being sections 399.4a and 399.5 of the Michigan  
3 Compiled Laws, are repealed.

4       Sec. 13. This act shall not take effect unless Senate Bill  
5 No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request no. 00351'89) of the  
6 85th Legislature is enacted into law.