

# SURVEY REPORT: New Hampshire AALL Permanent Public Access Project

## A. PUBLIC RECORDS STATUTES

As noted in the Introduction and Glossary of Terms, your state likely recognizes a distinction between “public records,” which may include correspondence, office records, personnel records, etc., and “government publications,” which may be compiled as a means to disseminate government information of educational or public interest. This section addresses statutes that concern public records and, in particular, those that focus on record keeping requirements and retention. The compilation of statutes for your state may combine record keeping requirements with public access provisions or freedom of information laws. Those statutes are addressed in Sections B & C.

1. Does your state have “public records statutes,” as referred to in the paragraph above?

Yes  
 No

- a. If “Yes,” cite your state’s public records statutes and the administrative regulations that supplement them.

N.H. REV. STAT. ANN. § 5:29(a)

- b. If “No,” skip this whole section.

Additional comments:

2. The public records statutes/regulations apply to which of the following branches?

Executive  
 Legislative  
 Judicial  
 Administrative (applying to all agencies, no matter what branch of government)  
 Other “The director shall accept for permanent storage in the state archives such local records as the municipal records board established under RSA 33-A:4-a may require. Any material so stored may be withdrawn pursuant to rules adopted by the municipal records board.” N.H. REV. STAT. ANN. § 5:35

- a. Briefly explain your answer and cite to applicable statutes/regulations.

“Agency’ means any department, office, commission, board, or other unit, however designated, or the executive branch of state government.” N.H. REV. STAT. ANN. § 5:29

“Upon request, the director shall assist and advise in the establishment of records management programs in the legislative and judicial branches of state government and shall, as required by them, provide program services similar to those available to the executive branch of state government pursuant to the provisions of this subdivision.” N.H. REV. STAT. ANN. § 5:36

Additional comments:

Agency heads shall submit to the director, in accordance with the standards established by him in rules adopted under RSA 5:40, schedules proposing the length of time each state record series warrants retention for administrative, legal, or fiscal purposes after it has been received by the agency. The head of each agency shall submit lists of state records in his custody that are of permanent and historical value to the state. He shall likewise submit lists of state records in his custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal, or fiscal value to warrant their further keeping. “  
N.H. REV. STAT. ANN. § 5:33 (III)

3. Cite to public records statutes/regulations where “public record” is defined.

"Record" means document, book, paper, manuscript, drawing, photograph, map, sound recording, microform, or other material, regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official business. Library and museum material made or acquired and preserved solely for library use or exhibition purposes, extra copies of documents preserved only for convenience or reference, and stocks of publications and of processed documents are "nonrecord materials" and are not included within this definition of records. “ Traditional state publications are retained by the State Library.  
N.H. REV. STAT. ANN. § 5:29 (V)

"State record" means:

- (a) A record of a department, office, commission, board, or other agency, however designated, of the state government;
- (b) A record of the state legislature;
- (c) A record of any court of record, whether of statewide or local jurisdiction; or
- (d) Any other record designated or treated as a state record under state law.”  
N.H. REV. STAT. ANN. § 5:29 (VII a-d)

Additional comments:

4. Do the public records statutes/regulations address electronic records separately vis-à-vis print records?

Yes  
 No

- a. If “Yes,” cite to and briefly discuss statutes/regulations addressing electronic records; how are they treated differently?

Additional comments:

5. Do the public records statutes/regulations address retention of records?

Yes  
 No

- a. If “Yes,” cite to and briefly summarize the retention provisions.

“Unless otherwise provided by law with respect to particular departments or particular records, records not having a permanent or historical value may be destroyed at the end of 4 years from their making, provided that the rules of the director, as adopted under RSA 5:40, may provide that designated records may be destroyed at an earlier period or require their retention for a longer period.” N.H. REV. STAT. ANN. § 5:38

If “Yes,” also cite to and discuss any provisions/regulations that address retention of electronic records; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

6. Do the public records statutes/regulations or other sources of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to public records or acknowledge the state’s responsibility to permanently maintain public records?

Yes  
 No

- a. If “Yes,” cite to and provide relevant language.

“The legislature declares that a program for the efficient and economical management of state and local records will promote economy and efficiency in the day-to-day record-keeping activities of the state government and will facilitate and expedite government operations. The legislature further declares that the interests of the state and of posterity require the establishment of archives in which may be preserved records, papers, and documents having permanent and historical value.” N.H. REV. STAT. ANN. § 5:25

Additional comments:

7. Is a public records administrator, a public records commission or other officer/government entity responsible for administering the public records statutes/regulations?

Yes  
 No

- a. If “Yes,” cite to applicable statutes/regulations and identify the responsible officer/government entity.

The Director of the Division of Records Management and Archives shall establish standards and formulate procedures for the transfer of records having permanent and historical value to the archives. N.H. REV. STAT. ANN. § 5:30 (IV)

- b. If “Yes,” also cite to and discuss any source of law requiring the responsible officer/government entity to permanently maintain government information; cite attorney general opinions, court decisions, and administrative rules or guidelines.

Additional comments:

- 8. Has any public records legislation/administrative regulation been proposed calling for “permanent public access” to electronic public records?

Yes  
 No

- a. If “Yes,” cite to and briefly discuss the legislation/proposed regulation; what was the outcome?
- b. If “Yes,” also cite to documents from the legislative or regulatory history.

Additional comments:

A public record will be permanently maintained if it is determined to be of fiscal, legal or historical nature no matter what format the record is in.

- 9. Has litigation under the public records statutes resulted from the state’s failure to “permanently” maintain a public record?

Yes  
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

- 10. Discuss any unique circumstances in your state relevant to “permanent public access” of public records under public records statutes/regulations.

## **B. FREEDOM OF INFORMATION ACT**

A state’s freedom of information act (or law) generally addresses public access to “public records.” As noted under Section A above, the compilation of statutes for your state may combine record keeping requirements and public access provisions.

- 1. Does your state have a “freedom of information act,” as referred to in the paragraph above?

Yes  
 No

- a. If “Yes,” cite your state’s freedom of information act (or law) statutes and the administrative regulations that supplement them.

N.H. REV. STAT. ANN. §§ 91-A:1 - 91-A:8

b. If "No," skip this whole section.

Additional comments:

2. The freedom of information act statutes/regulations apply to which of the following branches?

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

"The term "public proceedings" as used in this chapter means the transaction of any functions affecting any or all citizens of the state by any of the following:

(a) The general court including executive sessions of committees; and including any advisory committee established by the general court;

(b) The governor's council and the governor with the governor's council; including any advisory committee established by the governor by executive order or by the governor's council.

(c) Any board or commission of any state agency or authority, including the board of trustees of the university system of New Hampshire and including any advisory committee established by such entities;

(d) Any board, commission, agency or authority, of any county, town, municipal corporation, school district, school administrative unit, charter school, or other political subdivision, or any committee, subcommittee or subordinate body thereto, or advisory committee thereof.

II. For the purposes of this section, "advisory committee" means any committee, council, commission, or other like body whose primary purpose is to consider an issue or issues designated by the appointing authority so as to provide such authority with advice or recommendations concerning the formulation of any public policy or legislation that may be promoted, modified, or opposed by such authority. " N.H. REV. STAT. ANN. § 91-A:1-a

Additional comments:

Each body or agency shall keep and maintain all public records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the public records pertaining to such body or agency shall be kept in an office of the political subdivision in which such body or agency is located or, in the case of a state agency, in an office designated by the secretary of state. N.H. REV. STAT. ANN. § 91-A:4 (III)

3. Cite to freedom of information law statutes/regulations where “public record” is defined.

There is no definition of “public record” within the freedom of information law. N.H. REV. STAT. ANN. § 91-A:4 discusses the availability of minutes and records for public inspection.

Additional comments:

4. Do the freedom of information act statutes/regulations address electronic records separately vis-à-vis print records?

Yes  
 No

- a. If “Yes,” discuss whether the freedom of information act statutes/regulations had been amended at any time to cover electronic records; cite to and provide amending language.
- b. If “Yes,” also cite to and briefly discuss statutes/regulations addressing electronic records; how are they treated differently?

“In the same manner as set forth in RSA 91-A:4, IV, any body or agency which maintains its records in a computer storage system may, in lieu of providing original documents, provide a printout of any record reasonably described and which the agency has the capacity to produce in a manner that does not reveal information which is confidential under this chapter or any other law. Access to work papers, personnel data and other confidential information under RSA 91-A:5, IV shall not be provided. “ N.H. REV. STAT. ANN. § 91-A:4

Additional comments:

5. Do any freedom of information act statutes/regulations assure “permanent public access” of electronic public records?

Yes  
 No

- a. If “Yes,” cite to and discuss any provisions/regulations that address “permanent public access”; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

6. Do the freedom of information act statutes/regulations or other sources of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to public records or acknowledge the state’s responsibility to permanently maintain public records?

Yes  
 No

- a. If “Yes,” cite to and provide relevant language.

Preamble. Openness in the conduct of public business is essential to a democratic society. The purpose of this chapter is to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people. N.H. REV. STAT. ANN. § 91-A:1

Additional comments:

7. Has any freedom of information legislation/administrative regulation been proposed calling for “permanent public access” of electronic public records?

Yes

No

- a. If “Yes,” cite to and briefly discuss the legislation/proposed regulation; what was the outcome?  
b. If “Yes,” also cite to documents from the legislative or regulatory history.

Additional comments:

8. Has litigation under the freedom of information act resulted from the state’s failure to “permanently” maintain a public record?

Yes

No

- a. If “Yes,” cite to and briefly discuss each case.

*Brent v. Paquette* 567 A.2d 976 (N.H.,1989)

“School superintendent's practice of routinely destroying tapes and notes used to prepare minutes of public meetings once those minutes were approved did not violate the right-to-know law, notwithstanding provision of Law giving citizens right to review source notes relied on to prepare minutes of meeting after meeting has been concluded.” RSA 91-A:4, subd. 2.

Additional comments:

*Hawkins v. New Hampshire Dept. of Health and Human Services*, 788 A.2d 255 (N.H.,2001)

“The issues in this case foreshadow the serious problems that requests for public records will engender in the future as a result of computer technology. Unless the legislature addresses the nature of computerized information and the extent to which the public will be provided access to stored data, we will be called upon to establish accessibility on a case-by-case basis. It is our hope that the legislature will promptly examine the Right to Know Law in the context of advancing computer technology.”

9. Discuss any unique circumstances in your state relevant to “permanent public access” of public records under freedom of information act statutes/regulations.

### C. PUBLIC ACCESS LAWS

The term “public access law” is intended to be a catchall for all other statutes that address the permanency and public accessibility of government information. The type of law appropriately falling under this section is most likely to be a statute that governs availability and access of *government publications*. An example of such a statute is the “Free Public Access to the Code of Maryland Regulations Act,” whose title alone explains much about its purpose.

1. Does your state have any “public access laws,” as referred to in the paragraph above?

Yes  
 No

- a. If “Yes,” cite each of your state’s public access law statutes and the administrative regulations that supplement them.
- b. If “No,” skip this whole section.

Additional comments:

2. For each public access law, specify the branches to which it applies.

Executive  
 Legislative  
 Judicial  
 Administrative (applying to all agencies, no matter what branch of government)  
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

3. For each public access law, cite to and discuss provisions/regulations addressing the particular form of government information addressed by the law.

Additional comments:

4. For each public access law, do the applicable statutes/regulations address electronic information separately vis-à-vis print information?

Yes  
 No

- a. If “Yes,” cite to and briefly discuss statutes/regulations addressing electronic information; how is it treated differently?

Additional comments:

5. For each public access law, do the applicable statutes/regulations specifically address permanency of the information?

Yes  
 No

- a. If “Yes,” for each public access law, cite to and briefly discuss the permanency provisions.

Additional comments:

6. For each public access law, do the applicable statutes/regulations specifically address accessibility of information?

Yes  
 No

- a. If “Yes,” cite to and briefly discuss the accessibility provisions.

Additional comments:

7. For each public access law, do the applicable statutes/regulations or any other source of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to government publications or acknowledge the state’s responsibility to permanently maintain government publications?

Yes  
 No

- a. If “Yes,” cite to and provide relevant language.

Additional comments:

8. Has any public access legislation/administrative regulation been proposed calling for “permanent public access” of electronic publications?

Yes  
 No

- a. If “Yes,” cite to and briefly discuss the legislation/proposed regulation; what was the outcome?  
b. If “Yes,” also cite to documents from the legislative or regulatory history.

Additional comments:

9. Has litigation under any public access law resulted from the state’s failure to “permanently” maintain a government publication?

Yes  
 No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

10. Discuss any unique circumstances in your state relevant to “permanent public access” of government publications under public access laws.

**D. STATE OFFICE FOR TECHNOLOGY AND CHIEF INFORMATION OFFICER**

1. Does your state have an office for technology (or department of information technology, department of information service, or equivalent) and/or a chief information officer (or equivalent)?

Yes  
 No

a. If “Yes,” provide the complete official name for the office and/or officer; cite to the statute giving that information.

Division of Information Technology Management, Department of Administrative Services  
N.H. REV. STAT. ANN. § 21-I:67

b. If “No,” skip this whole section.

Additional comments:

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the office/officer; when was the statute first enacted?

Division of Information Technology Management, Department of Administrative Services  
N.H. REV. STAT. ANN. §21-I:67 Statute first enacted in 1991

Additional comments:

“The Mission of the Division of Information Technology Management is to provide planning and technical consulting support for information technologies to all agencies for the purpose of improving the State's and individual agency's information technology resources.”  
(From agency website located at <http://admin.state.nh.us/ditm/>)

3. Does the office/officer have power to promulgate administrative regulations?

Yes  
 No

a. If “Yes,” cite the body of administrative regulations promulgated by the office/officer.

N.H. REV. STAT. ANN. § 21-I:70 Rulemaking. –“ Notwithstanding any other provision of law, the director shall have the authority to adopt rules, pursuant to RSA 541-A, and to enforce such rules.”  
(RSA 541-A is the Administrative Procedures Act)

Additional comments:

"Information technology' means the equipment and software used in electronic data processing and in voice and data communications. "Information technology management' means the management of the equipment, software, personnel, budgets, and other resources involved in the

operation of electronic data processing and voice and data communications.” N.H. REV. STAT. ANN. § 21-I:66

4. The office/officer has jurisdiction over which branches?

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

5. Are the powers/responsibilities of the office/officer defined differently for electronic government information vis-à-vis print government information?

- Yes
- No

a. If “Yes,” cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

6. Do applicable statutes/regulations for the office/officer set forth powers/responsibilities relating to “permanent public access” of government information?

- Yes
- No

a. If “Yes,” cite to and discuss any provisions/regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

7. Does any relevant source of law acknowledge in any way the state’s responsibility to permanently maintain government information?

- Yes
- No

a. If “Yes,” briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

8. Whether or not a supporting source of law can be identified, does the office/officer acknowledge responsibility to permanently maintain government information?

- Yes

No

- a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

9. Has the office/officer undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes

No

- a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

10. Has any litigation involving the office/officer resulted from the state's failure to "permanently" maintain government information?

Yes

No

- a. If "Yes," cite to and briefly discuss each case.

Additional comments:

11. Discuss any unique circumstances in your state relevant to the office for technology and/or chief information officer.

## **E. STATE TECHNOLOGY PLANS**

1. Does your state have a current official information technology plan (or equivalent)?

Yes

No

- a. If "Yes," describe what government entity was responsible for creating the plan; cite to the source of its authority.

Executive Order 2000-1 created an Information Technology Strategic Planning Commission to develop the first phase of New Hampshire's digital future.

Also, N.H. REV. STAT. ANN. § 21-I:69 delegates responsibility to the Division of Information Technology Management, subject to the approval of the Governor and the Legislature, the development and implementation of a long-range information technology plan for the State of New Hampshire.

- b. If "Yes," also provide complete bibliographic information about the plan; when was it published?

New Hampshire Department of Administrative Services. Division of Information Technology Management. *State of New Hampshire Strategic Information Technology Plan Fiscal Years 2002-2005, Careful and Responsible Management of the State's IT Resources*. April 2002  
(Available on the web at: <http://admin.state.nh.us/ditm/docs.htm#swsitp>)

- c. If "No," skip this whole section.

Additional comments:

2. The technology plan covers which branches?

- Executive  
 Legislative  
 Judicial  
 Administrative (applying to all agencies, no matter what branch of government)  
 Other

- a. Briefly explain your answer and cite to applicable statutes/regulations.

From Executive Summary: "The State of New Hampshire's statewide Strategic Information Technology Plan 2002-2005 is designed to serve as a guideline for all levels of state government."

Additional comments:

3. Does the current plan include a section on permanency and public accessibility of electronic government information?

- Yes  
 No

- a. If "Yes," cite to and provide relevant language of the plan.

E-Government Architecture: Action Items for Group 1 services: Web Content Management  
Identify standards for retaining electronic information (p.39)

Enterprise Document Management System

"The public will seek EDMS information through a State portal and will expect a consistent indexing and naming convention to search for State documents." (p. 46)

Action Item for Group 2 Services: Identify and establish common metadata, records retention requirements and auditing standards." (p. 47)

Additional comments:

4. Discuss any unique circumstances in your state relevant to technology planning or the current information technology plan.

## F. STATE PRINTING OFFICE AND STATE PRINTER

1. Does your state have an official printing office (or equivalent) and/or an official printer (or equivalent)?

Yes  
 No

- a. If "Yes," provide the complete official name for the printing office and/or official printer; cite to the statute giving that information.

N.H. REV. STAT. ANN. § 21-I:12: New Hampshire Department of Administrative Services, Bureau of Graphic Services:

- b. If "No," skip this whole section.

Additional comments:

"The secretary of state is authorized to contract for printing in connection with his duties under the election laws. The provisions of RSA 8 relative to competitive bidding for state purchases shall not apply to contracts entered into by the secretary of state hereunder." N.H. REV. STAT. ANN. § 5:6-c

2. Cite the "enabling" statute that created and defines the powers/responsibilities of the printing office/official printer.

N.H. REV. STAT. ANN. § 21-I:12: New Hampshire Department of Administrative Services, Bureau of Graphic Services:

IV. (a) A bureau of graphic services under the supervision of a classified administrator of graphic services who shall be responsible for the following functions:

- (1) Supervising all state printing and its procurement.  
(2) Ensuring that all legislative printing within the capability of the bureau of graphic services shall, at all times, have priority over other work of the bureau.

He shall exercise no management or other authority over the printing, duplication, photocopying, photographic or other graphic services equipment or personnel of the university system of New Hampshire, the department of transportation, the department of employment security, and the general court.

Additional comments:

3. Does the printing office/official printer have power to promulgate administrative regulations?

Yes  
 No

- a. If "Yes," cite the body of administrative regulations promulgated by the printing office/official printer.

Additional comments:

4. The printing office/official printer has jurisdiction over which branches?

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

The Printing Office is responsible for all state printing, however, according to Mr. Daniel Ostroth, Creative Services Manager of the Printing Office, the major client of the Printing Office is the legislature. The Office does some print work for the Executive branch, and does little printing for the judicial branch. Within the Executive branch, the Department of Employment Security and the Department of Transportation have their own in-house printing facilities. (Phone conversation between author and Mr. Daniel Ostroth, March 31, 2003)

Additional comments:

5. Briefly discuss the functions of the printing office/official printer. Then:

- a. Describe your state's use of in-house agency publishing and/or commercial publishing of government information.
- b. What percentage of official state government documents are printed by the printing office/official printer?

For fiscal year 2002:

64% printed in-house

4% printed at correctional facilities

32% printed by outside vendors

(Ostroth phone conversation)

c. To what extent is the printing office/official printer involved in the electronic dissemination of government information?

The Printing Office has contracted for the production of a few CD-ROMs. (Ostroth phone conversation)

Additional comments:

6. Are the powers/responsibilities of the printing office/official printer defined differently for electronic government information vis-à-vis print government information?

- Yes
- No

a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

7. Do applicable statutes/regulations for the printing office/official printer set forth powers/responsibilities relating to “permanent public access” of government information?

Yes

No

- a. If “Yes,” cite to and discuss any provisions/regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Additional comments:

8. Does any relevant source of law acknowledge in any way the state’s responsibility to permanently maintain government information?

Yes

No

- a. If “Yes,” briefly discuss that recognition; cite to and provide relevant language.

Additional comments:

9. Whether or not a supporting source of law can be identified, does the printing office/official printer acknowledge responsibility to permanently maintain government information?

Yes

No

- a. If “Yes,” briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Additional comments:

10. Has the printing office/official printer undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes

No

- a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the printing office/official printer resulted from the state’s failure to “permanently” maintain government information?

Yes

No

- a. If “Yes,” cite to and briefly discuss each case.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the official printing office and/or official printer.

## G. STATE ARCHIVES AND STATE ARCHIVIST

This section addresses your state's official archives and state archivist. If these responsibilities are by law under the auspices of your state library and state librarian, please move on to Section H.

1. Does your state have an official archives (or equivalent) and/or an official archivist (or equivalent)?

Yes  
 No

- a. If "Yes," provide the complete official name for the archives and/or archivist; cite the statute giving that information.

"There shall be a division of records management and archives in the department of state, under the executive direction of the state archivist." N.H. REV. STAT. ANN. § 5:27

- b. If "No," skip this whole section.

Additional comments:

2. Cite the "enabling" statute that created and defines the powers/responsibilities of the archives/archivist.

N.H. REV. STAT. ANN. § 5:30

Additional comments:

3. Does the archive/archivist have power to promulgate administrative regulations?

Yes  
 No

- a. If "Yes," cite the body of administrative regulations promulgated by the archive/archivist.

Additional comments:

N.H. REV. STAT. ANN. § 5:31 Records Center; Rules. – "The director, subject to the supervision of the secretary of state, shall have charge of the records center. He shall, subject to the provisions of RSA 5:40, adopt rules governing:

- I. The organization of the records center.
- II. Transfer of records to the records center.
- III. The inventory of materials in the records center.
- IV. The means of access and reference to records and archives at the records center."

4. The archive/archivist has defined responsibilities for which branches?

- Executive
- Legislative
- Judicial
- Administrative (applying to all agencies, no matter what branch of government)
- Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

Archives retains original records that have economic, legal, or historical value for the state.  
(Phone conversation with Frank Mevers, State Archivist, March 31, 2003)

Additional comments:

4. Briefly discuss the functions of the archive/archivist.

“The director shall, with due regard for the functions of the agencies concerned, and subject to the approval of the secretary of state:

I. Establish standards, procedures, and techniques for effective management of records.

II. Make continuing surveys of paperwork operations and recommend improvements in current records management practices including the use of space, equipment, and supplies employed in creating, maintaining, storing, and servicing records.

III. Establish standards for the preparation of schedules providing for the retention of state records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, legal, or fiscal value to warrant their further keeping.

IV. Establish standards and formulate procedures for the transfer of records having permanent and historical value to the archives.

V. Require such reports from agencies as are required for the administration of the program.

VI. Provide guidance to municipal officials in the arrangement, description, conservation, preservation, and accessibility of municipal archives.

VII. Collect, arrange, transcribe, and cause to be printed such portions of the early state and provincial records as he may deem expedient in such style, form, and printed quality as he may determine.

VIII. Provide for the deposit at the records center of photo reproductions of unrecorded documents pertaining to the affairs of public importance of any town or division of the state prior to 1975 which are accompanied by an affidavit recording the source of the document.

IX. Require town officials having custody of town or parish records, plans, documents, or public papers from prior to the year 1910, to deposit the same at the archives for the purpose of being copied and indexed as specified in RSA 41:64.

X. Maintain a descriptive inventory and photographic reproduction collection of all portraits and artifacts that belong to the state.

XI. Maintain, publish, and edit documents which encourage the study of the history of New Hampshire and its constitution through its documented and artifactual heritage.

XII. Establish and maintain a central microfilming laboratory and establish micrographic standards for public records.

XIII. Determine which records deposited at the records center shall be microfilmed.

XIV. Determine the original records to be destroyed upon review and approval of the microfilm of such records. .

Additional comments:

6. Are the powers/responsibilities of the archive/archivist defined differently for electronic government information vis-à-vis print government information?

Yes

No

- a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

Additional comments:

Archives has received a few CD-ROMs from agencies that produce original records in that format. (Mevers conversation)

7. Do applicable statutes/regulations for the archive/archivist set forth powers/responsibilities relating to "permanent public access" of government information?

Yes

No

- a. If "Yes," cite to and discuss any provisions /regulations that address those powers/responsibilities; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

Archives works with directors of state agencies to create agency retention schedules based on the fiscal, legal or historical value of the record.

Additional comments:

8. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

Yes

No

- a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

"The legislature declares that a program for the efficient and economical management of state and local records will promote economy and efficiency in the day-to-day record-keeping activities of the state government and will facilitate and expedite government operations. The legislature further declares that the interests of the state and of posterity require the establishment of archives in which may be preserved records, papers, and documents having permanent and historical value." N.H. REV. STAT. ANN. § 5:25

Additional comments:

N.H. REV. STAT. ANN. § 5:19 Preservation. – The records of all the courts of the province of New Hampshire and all the records of deeds and all the probate records, and all the original papers of the province of New Hampshire prior to the time the act for the division of said province into counties took effect, shall be kept by the secretary of state in the division of records management and archives.

9. Whether or not a supporting source of law can be identified, does the archive/archivist acknowledge responsibility to permanently maintain government information?

Yes  
 No

- a. If “Yes,” briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

Acknowledge responsibility for permanently maintaining original records of government agencies that have economic, legal or historical value for the state. (Mevers conversation)

Additional comments:

10. Has the archive/archivist undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes  
 No

- a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

11. Has any litigation involving the archive/archivist resulted from the state’s failure to “permanently” maintain government information?

Yes  
 No

- a. If “Yes,” briefly discuss the circumstances of each case and its outcome, and provide citations to any court decisions.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the official archive and/or official archivist.

## H. STATE LIBRARY AND STATE LIBRARIAN

This section addresses your state’s official library and state librarian. There is no separate section that addresses the official law library and state law librarian, if any. If your state has an official library *and* an

official law library (and/or official librarian *and* official law librarian), it may be appropriate to address those government entities and/or persons separately.

1. Does your state have an official library (or equivalent) and/or an official librarian (or equivalent)?

Yes  
 No

a. If “Yes,” provide the complete official name for the library and/or librarian; cite to the statute giving that information.

“There shall be a state library as provided for in RSA 21-K:5. The state library shall be the official clearinghouse of state government information.” N.H. REV. STAT. ANN. § 201-A:1

b. If “No,” skip this whole section.

Additional comments:

2. Cite the “enabling” statute that created and defines the powers/responsibilities of the library/librarian.

N.H. REV. STAT. ANN. § 201-A:2 ; § 201-A:9; § 201-A:10, § 201-A-18, § 201-A:25

Additional comments:

3. Does the library/librarian have power to promulgate administrative regulations?

Yes  
 No

a. If “Yes,” cite the body of administrative regulations promulgated by the library/librarian.

“To adopt rules, pursuant to RSA 541-A, relative to the functioning and maintenance of the system and the definition and accreditation of each regional system established under RSA 201-A:22.” (ed. note: system refers to the New Hampshire Automated Information System)  
N.H. REV. STAT. ANN. § 201-A:25

Additional comments:

4. The library/librarian has defined responsibilities for which branches?

Executive  
 Legislative  
 Judicial  
 Administrative (applying to all agencies, no matter what branch of government)  
 Other

a. Briefly explain your answer and cite to applicable statutes/regulations.

Additional comments:

5. Briefly discuss the functions of the library/librarian.

The State Library is responsible for providing the following services:

1. Legislative Reference Service: For members of the legislature
2. General Reference Service: This collection shall include:
  - (a) Materials especially relating to the work of the several departments;
  - (b) Books, manuscripts and other material concerning the state, including all the official publications of the state and its political subdivisions; and
  - (c) Books and related materials to supplement and reinforce the resources of public libraries and school libraries.
3. Advisory and Planning Assistance
4. Preserving a sufficient number of copies of all official reports, documents, and records to be deposited in the State Library
5. Receiving from:
  - (a) The head of every state department and institution, every legislative commission and any commission operating under executive authority shall deliver to the state library 3 copies of all reports and all other publications issued under the authority of the state department or institution.
  - (b) The head of each state supported institution of learning, including the University of New Hampshire, shall deliver 2 copies of all reports and all other publications issued under the authority of the state department or institution,
  - (c) The county commissioners of each county shall forward to the state library 2 copies of the report of the county for the previous fiscal year.
  - (d) The clerk in each town and city shall forward to the state library 2 copies each, and to the library of the University of New Hampshire one copy each, of the city or town report for the previous fiscal year.
6. Establishing objectives and policies designed to guide the development of electronic data processing systems, procedures and techniques for a statewide information network involving libraries and state agencies
7. To develop policies and plans which will enhance the use of electronic data processing for resource management of books, documents, and other materials within state government and among all New Hampshire libraries which will encompass both short-term and long-range needs, and which shall be continually updated.

Additional comments:

6. Are the powers/responsibilities of the library/librarian defined differently for electronic government information vis-à-vis print government information?

Yes  
 No

a. If "Yes," cite to and briefly discuss applicable statutes/regulations addressing electronic government information; how is it treated differently?

New Hampshire Automated Information System.

"I. There shall be a section as part of the state library operated by the division of libraries in the department of cultural resources. The network services section shall oversee the functioning and maintenance of the system. N.H. REV. STAT. ANN. § 201-A:22

II. The system shall consist of an integrated automated data processing and information retrieval system, regional systems, and an integrated statewide information network. The information network shall include public, academic, school, and special libraries, organizations, and government departments, agencies, and their subdivisions. The system shall include the following elements and operations as rapidly as funds and circumstances permit:

- (a) General and governmental reference and research capabilities
- (b) Unique indexing and retrieval capabilities for New Hampshire state documents
- (c) A union catalog of statewide library holdings
- (d) A directory of information concerning state agencies and their services
- (e) Cataloging, electronic mail, and electronic interlibrary functions for the libraries included in the information network
- (f) Any other operation considered desirable, necessary or feasible

Additional comments:

7. Do applicable statutes/regulations for the library/librarian set forth powers/responsibilities relating to "permanent public access" of government information?

Yes  
 No

a. If "Yes," cite to and discuss any provisions/regulations that address those powers/responsibilities ; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

The state librarian shall coordinate with each component of state government, the program libraries, and the state archivist to establish a system whereby state government information products available via state government electronic information services shall be maintained permanently for program library and general public access. N.H. REV. STAT. ANN. § 202-B:7

Additional comments:

According to Teresa Pave, Head of Electronic and Government Information Resources at the New Hampshire State Library, the State Librarian has been insuring that access to agency websites is

available for program libraries, however, the issue of archiving older versions of website content has been yet been addressed. (Author conversation with Teresa Pare, New Hampshire State Library)

8. Does any relevant source of law acknowledge in any way the state's responsibility to permanently maintain government information?

Yes  
 No

- a. If "Yes," briefly discuss that recognition; cite to and provide relevant language.

"The state librarian shall coordinate with each component of state government, the program libraries, and the state archivist to establish a system whereby state government information products available via state government electronic information services shall be maintained permanently for program library and general public access." N.H. REV. STAT. ANN. § 202-B:7

Additional comments:

9. Whether or not a supporting source of law can be identified, does the library/librarian acknowledge responsibility to permanently maintain government information?

Yes  
 No

- a. If "Yes," briefly discuss when and how that responsibility was acknowledged; cite to any supporting source of law.

"The state librarian shall coordinate with each component of state government, the program libraries, and the state archivist to establish a system whereby state government information products available via state government electronic information services shall be maintained permanently for program library and general public access." N.H. REV. STAT. ANN. § 202-B:7

Additional comments:

10. Has the library/librarian undertaken any special initiatives or projects involving "permanent public access" of government information?

Yes  
 No

- a. If "Yes," briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

There have been very preliminary discussions about archiving websites.

11. Has any litigation involving the library/librarian resulted from the state's failure to "permanently" maintain government information?

Yes  
 No

a. If "Yes," cite to and briefly discuss each case.

Additional comments:

12. Discuss any unique circumstances in your state relevant to the state library and/or state librarian.

## I. STATE DEPOSITORY LIBRARY LAWS

States often have a depository library program patterned after the federal model for disseminating federal government publications.

1. Does your state have a "depository library program," as referred to in the paragraph above?

Yes  
 No

a. If "Yes," cite your state's depository library law statutes and the administrative regulations that supplement them.

N.H. REV. STAT. ANN. §§ 202-B:1 through 202-B:5

b. If "No," skip this whole section.

Additional comments:

2. Do the depository library statutes/regulations address electronic government information separately vis-à-vis print government information?

Yes  
 No

a. If "Yes," cite to and briefly discuss statutes/regulations addressing electronic government information; how is it treated differently?

"State government electronic information service" means the system or method by which a component of state government or its authorized agent disseminates state government information products to the public via a telecommunications network or successor technology." N.H. REV. STAT. ANN. § 202-B:2

"State government information product" means a state publication or other discrete compilation of state government information of general public interest, either conveyed in a tangible physical format including electronic media, or disseminated via a state government electronic information service. N.H. REV. STAT. ANN. § 202-B:2

- b. If "No," explain whether or not the statutes/regulations have been construed to cover electronic government information?

.Additional comments:

"Dissemination" means the act of distributing tangible state government information products to program libraries, or the act of making state government information products accessible to program libraries and the general public via a state government electronic information service." N.H. REV. STAT. ANN. § 202-B:2

"State government information" means that information, regardless of form or format, which is created or compiled by employees of the judicial, legislative, and executive branches of government, or at state expense, or as required by law; except that information which is requested for official use only, is for strictly administrative or operational purposes having no public interest or educational value or otherwise excluded by state law. N.H. REV. STAT. ANN. § 202-B:2

"I. Each agency component of state government shall produce 25 copies of its tangible state government information products for deposit with the state librarian. The state librarian shall make tangible products available through distribution to program libraries and shall ensure program libraries and general public access to state information products available via state electronic information services as soon as practicable.

II. Each agency component of state government shall provide the state librarian with access to all state government electronic information services falling within the scope of this section.

III. The state library shall provide cataloging and locator services that shall assist program libraries and the general public in accessing all government information products, regardless of form or format.

IV. All government information products which are required by law to be deposited with the state library shall be deposited without cost or charge to the state library. " N.H. REV. STAT. ANN. § 202-B:4

3. Do any depository library statutes/regulations assure "permanent public access" of electronic government information?

Yes  
 No

- a. If "Yes," cite to and discuss any provisions/regulations that address "permanent public access"; cite to any other source of law supplementing them: attorney general opinions, court decisions, administrative rules or guidelines.

"The state librarian shall coordinate with each component of state government, the program libraries, and the state archivist to establish a system whereby state government information products available via state government electronic information services shall be maintained permanently for program library and general public access. " N.H. REV. STAT. ANN. § 202-B:7

Additional comments:

Although the statement “maintained permanently” appears in the statute, the issue of providing access to older versions of agency websites has not been achieved as yet. (Conversation with Teresa Pare, New Hampshire State Library)

4. Do the depository library statutes/regulations or any other source of law supplementing them (particularly a declaration of legislative intent or a relevant attorney general opinion) declare the public policy of the state and address the scope of citizens’ access to government information or acknowledge the state’s responsibility to permanently maintain public records?

Yes  
 No

- a. If “Yes,” cite to and provide relevant language.

Additional comments:

“The legislature finds that providing citizens with access to public documents will allow increased citizen involvement in state policies and empower citizens to participate in state policy decision making. To this end, the legislature hereby declares that a system of dissemination and access to state government information be administered by the state library.” N.H. REV. STAT. ANN. § 202-B:1

“I. The state librarian shall, in cooperation with all branches and agencies of state government, develop and publish annually a plan to increase the quality and quantity of state government information available in electronic format incrementally beginning with information that is most used and readily available. A copy of the plan shall be delivered to the governor, president of the senate, speaker of the house, and the chief justice.

II. All components of state government within the executive branch shall cooperate with the state librarian providing public information, access to public information and assistance as may be requested for achieving the purposes of this chapter. All other components of state government may cooperate with the state librarian in providing public information, access to public information and assistance as may be requested. “ N.H. REV. STAT. ANN. § 202-B:8

5. Have depository libraries as a whole undertaken any special initiatives or projects involving “permanent public access” of government information?

Yes  
 No

- a. If “Yes,” briefly describe those special initiatives or projects; discuss their effectiveness and actual accomplishments.

Additional comments:

6. Please determine the absolute number or percentage of titles:

- Formerly distributed in print, now distributed exclusively in electronic format.
- Never before distributed, now distributed in electronic format.

Additional comments:

7. Discuss the depository library program's effectiveness and actual accomplishments in disseminating, preserving and providing access of electronic government information?

Additional comments:

## J. COOPERATIVE ARRANGEMENTS

One can imagine any number of cooperative arrangements to assure "permanent public access." A well-known example is the partnership between the Texas Electronic Depository program (involving the Texas State Library and Archives Commission) and the University of North Texas Libraries (see description for program C304 at Computers in Libraries 2002 on the Information Today website). A hypothetical example of a less formalized cooperative arrangement is where a state's highest court relies on the state bar association to publish the court's decisions.

1. To secure PPA, has any state agency or other government entity (judicial, legislative or executive) partnered with any not for profit, educational, or for profit organization outside of government?

- Yes
- No

- a. If "Yes," describe each partnership, noting whether it is funded by a grant or through a government appropriation; give a brief history and summary of accomplishments.

"As the oldest State Library in the country, dating from 1717, the New Hampshire State Library has an impressive collection of items that chronicle the State's history. Recognizing its responsibility to protect these items, the Library is undertaking a program to safeguard them so they will be available for future generations. We will be working with the Northeast Documents Conservation Center in Andover, MA on a planning process for the work needing to be done to ensure these valuable pieces do not deteriorate any further. Mindful that we also should provide access to this collection, we have engaged in discussions with Dartmouth College and the University of New Hampshire to develop a plan to provide access to our maps through a web site to which all three of us would contribute. The New Hampshire Political Library, which is housed in the State Library, has received a federal grant to put its materials in digital form and mount them on the web. Using the technology of digitization, it is now possible to share resources in ways not conceived of just a few years ago. Our efforts to protect these valuable materials and make them available electronically will benefit many people in New Hampshire needing to do research on our rare and unique resources." (*FY 2002 State Library Annual Report*)

Additional comments:

2. Does the state rely on any cooperative activities that are not actually formalized?

Yes

No

- a. If “Yes,” describe each relationship and cooperative activity; give a brief history and a summary of accomplishments.

Additional comments:

3. Does any state agency or other government entity secure “permanent public access” through any other type of cooperative arrangement?

Yes

No

- a. Describe each cooperative arrangement; give a brief history and a summary of accomplishments.

Additional comments:

#### **K. FACTORS TO BE CONSIDERED IN FUTURE ADVOCACY OR REFORM EFFORTS**

1. If “permanent public access” is neglected in your state, carefully examine existing public records statutes, freedom of information statutes, public access laws, etc., and respond to the following:

- a. If possible, cite to and discuss one or two specific places in statutes or other sources of law where the state legislature or a responsible agency might naturally insert basic reform language.
- b. If specific places to insert reform language are not obvious, very briefly discuss what state agency or other government entity might naturally be made responsible for “permanent public access.”

Additional comments:

2. Discuss known failed efforts in your state to achieve “permanent public access”; how might new efforts succeed?

Additional comments:

#### **L. DIRECTORY**

This section asks you to collect directory-type information for important state officials involved in the dissemination of government information.

Provide official contact information for:

1. State Chief Information Officer (or equivalent)  
Thomas N. Towle, Director  
Division of Information Technology Management  
Department of Administrative Services

4 Hazen Dr., Room. 112  
Concord, NH 03301  
Telephone: (603) 271-3764  
Fax: (603) 271-6531  
E-mail: ttowle@admin.state.nh.us

2. State Printer

James R. Dufour, Administrator  
Bureau of Graphic Services  
Department of Administrative Services  
12 Hills Avenue  
Concord, NH 03301-4803  
Telephone: (603) 271- 3205  
Fax: (603) 271-1949  
E-mail: jrd@graphics.state.nh.us

3. State Archivist

Frank C. Mevers, PhD  
Director/State Archivist  
Bureau of Records Management and Archives  
71 South Fruit Street  
Concord, NH 03301  
Telephone: (603) 271-2236  
Fax: (603) 271-2272

4. State Librarian and/or State Law Librarian

Michael York  
State Librarian  
New Hampshire State Library  
20 Park Street  
Concord, NH 03301  
Telephone: (603) 271-2397  
Fax: (603) 271-6826  
E-mail: myork@library.state.nh.us

5. State Attorney General (on freedom of information act issues, etc.)

Peter W. Heed  
Attorney General  
33 Capitol Street  
Concord, NH 03301-6397  
Telephone: (603) 271-3658  
Fax: (603) 271-2110

**M. IMPORTANT STATE RESOURCES**

Provide URLs or other finding information for:

1. Official state home page <http://www.state.nh.us/>

2. State agency portal <http://www.state.nh.us/>

a. Does the portal have a searching capability similar to FirstGov?

Yes

3. Legislative website <http://www.gencourt.state.nh.us>

a. Does the website cover the current year only?

No

b. Are services free or fee-based?

Free

4. Judicial websites <http://www.courts.state.nh.us/>

5. Regulatory agency websites <http://www.state.nh.us/government/agencies.html>

6. Freedom of Information Service Hotline

a. Does the state have an ombudsman for freedom of information act issues?

No

b. Is the state attorney general's office the public's contact for freedom of information act issues?

Yes