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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 317

01/17/2017 Authored by Lucero, Drazkowski, Newberger, McDonald and Bahr, C., The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to record retention; providing retention requirements for electronic
1.3 communications; amending Minnesota Statutes 2016, section 138.17, subdivisions
1.4 1, 7.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2016, section 138.17, subdivision 1, is amended to read:

1.7 Subdivision 1. Destruction, preservation, reproduction of records; prima facie
1.8 evidence. (a) The attorney general, legislative auditor in the case of state records, state
1.9 auditor in the case of local records, and director of the Minnesota Historical Society,
1.10 hereinafter director, shall constitute the Records Disposition Panel. The members of the
1.11 panel shall have power by majority vote to direct the destruction or sale for salvage of
1.12 government records determined to be no longer of any value, or to direct the disposition by
1.13 gift to the Minnesota Historical Society or otherwise of government records determined to
1.14 be valuable for preservation. The Records Disposition Panel may by majority vote order
1.15 any of those records to be reproduced by photographic or other means, and order that
1.16 photographic or other reproductions be substituted for the originals of them. It may direct
1.17 the destruction or sale for salvage or other disposition of the originals from which they were
1.18 made. Photographic or other reproductions shall for all purposes be deemed the originals
1.19 of the records reproduced when so ordered by the records disposition panel, and shall be
1.20 admissible as evidence in all courts and in proceedings of every kind. A facsimile,
1.21 exemplified or certified copy of a photographic, optical disk imaging, or other reproduction,
1.22 or an enlargement or reduction of it, shall have the same effect and weight as evidence as
1.23 would a certified or exemplified copy of the original. The Records Disposition Panel, by
1.24 majority vote, may direct the storage of government records, except as herein provided, and

2.1 direct the storage of photographic or other reproductions. Photographic or other reproductions
2.2 substituted for original records shall be disposed of in accordance with the procedures
2.3 provided for the original records.

2.4 (b) For the purposes of this chapter:

2.5 (1) the term "government records" means state and local records, including all cards,
2.6 correspondence, discs, maps, memoranda, microfilms, papers, photographs, recordings,
2.7 reports, tapes, writings, optical disks, and other data, information, or documentary material,
2.8 regardless of physical form or characteristics, storage media or conditions of use, made or
2.9 received by an officer or agency of the state and an officer or agency of a county, city, town,
2.10 school district, municipal subdivision or corporation or other public authority or political
2.11 entity within the state pursuant to state law or in connection with the transaction of public
2.12 business by an officer or agency;

2.13 (2) the term "state record" means a record of a department, office, officer, commission,
2.14 commissioner, board or any other agency, however styled or designated, of the executive
2.15 branch of state government; a record of the state legislature; a record of any court, whether
2.16 of statewide or local jurisdiction; and any other record designated or treated as a state record
2.17 under state law;

2.18 (3) the term "local record" means a record of an agency of a county, city, town, school
2.19 district, municipal subdivision or corporation or other public authority or political entity;

2.20 (4) the term "records" excludes data and information that does not become part of an
2.21 official transaction, library and museum material made or acquired and kept solely for
2.22 reference or exhibit purposes, extra copies of documents kept only for convenience of
2.23 reference and stock of publications and processed documents, and bonds, coupons, or other
2.24 obligations or evidences of indebtedness, the destruction or other disposition of which is
2.25 governed by other laws;

2.26 (5) the term "state archives" means those records preserved or appropriate for preservation
2.27 as evidence of the organization, functions, policies, decisions, procedures, operations or
2.28 other activities of government or because of the value of the information contained in them,
2.29 when determined to have sufficient historical or other value to warrant continued preservation
2.30 by the state of Minnesota and accepted for inclusion in the collections of the Minnesota
2.31 Historical Society; and

2.32 (6) the term "electronic record" means a record of any communication whose creation,
2.33 storage, transmission, or access requires the use of an automated information system or a
2.34 similar electronic device. An electronic record includes the content of the communication,

3.1 transactional information related to the communication, and any attachments to the body
3.2 of the communications message.

3.3 (c) If the decision is made to dispose of records by majority vote, the Minnesota Historical
3.4 Society may acquire and retain whatever they determine to be of potential historical value.

3.5 Sec. 2. Minnesota Statutes 2016, section 138.17, subdivision 7, is amended to read:

3.6 Subd. 7. **Records management.** It shall be the duty of the head of each state agency
3.7 and the governing body of each county, municipality, and other subdivision of government
3.8 to establish and maintain an active, continuing program for the economical and efficient
3.9 management of the records of each agency, county, municipality, or other subdivision of
3.10 government. Public officials shall prepare an inclusive inventory of records in their custody,
3.11 to which shall be attached a schedule, approved by the head of the governmental unit or
3.12 agency having custody of the records, establishing a time period for the retention or disposal
3.13 of each series of records. A record retention schedule established under this subdivision
3.14 must provide that an electronic record be retained for the same retention period as similar
3.15 records in other formats, but in no instance may an electronic record be retained for a period
3.16 that is less than one year from the date the electronic record is created or received. When
3.17 the schedule is unanimously approved by the records disposition panel, the head of the
3.18 governmental unit or agency having custody of the records may dispose of the type of
3.19 records listed in the schedule at a time and in a manner prescribed in the schedule for
3.20 particular records which were created after the approval. A list of records disposed of
3.21 pursuant to this subdivision shall be maintained by the governmental unit or agency. When
3.22 records containing not public data as defined in section 13.02, subdivision 8a, are being
3.23 disposed of under this subdivision, the records must be destroyed in a way that prevents
3.24 their contents from being determined.