

House Bill 287 (AS PASSED HOUSE AND SENATE)

By: Representatives Hatchett of the 150<sup>th</sup>, Coomer of the 14<sup>th</sup>, Nimmer of the 178<sup>th</sup>, Ehrhart of the 36<sup>th</sup>, England of the 116<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To reassign the Division of Archives and History of the Office of the Secretary of State and  
2 transfer governance thereof to the Board of Regents of the University System of Georgia; to  
3 amend Article 2 of Chapter 3 of Title 20 and Chapter 13 of Title 45 of the Official Code of  
4 Georgia Annotated, relating to the board of regents and University System of Georgia and  
5 the Secretary of State, respectively, so as to transfer the Division of Archives and History  
6 from the office of the Secretary of State to the University System of Georgia; to provide for  
7 purposes of the division; to change certain provisions relating to management and duties of  
8 the division; to provide for historical documents; to rename the Historical Records Advisory  
9 Board and reassign it from advising the Secretary of State to advising the board of regents;  
10 to provide for disposition and archiving of surplus materials; to amend Code Section  
11 9-11-29.1 of the Official Code of Georgia Annotated, relating to the retention of depositions  
12 and other discovery materials, so as to change a reference to the Division of Archives and  
13 History of the Office of the Secretary of State; to amend Code Section 45-11-1 of the Official  
14 Code of Georgia Annotated, relating to offenses involving public records, documents, and  
15 other items, so as to enable the board of regents to initiate action to protect state property; to  
16 amend Article 5 of Chapter 18 of Title 50, relating to state records management, so as to  
17 include the chancellor of the University System of Georgia on the State Records Committee;  
18 to provide for the definition of the Division of Archives and History within the Georgia  
19 Records Act; to enable the board of regents to coordinate records management matters with  
20 local governments; to amend various provisions of the Official Code of Georgia Annotated  
21 so as to correct cross-references relating to said transfer; to provide for related matters; to  
22 repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

## PART I

## SECTION 1-1.

Chapter 13 of Title 45 of the Official Code of Georgia Annotated, relating to the Secretary of State, is amended by revising Article 3, relating to the Division of Archives and History, and redesignating it as new Part 1A of Article 2 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, which article relates to the Board of Regents of the University System of Georgia, as follows:

~~"ARTICLE 3~~ Part 1A

~~45-13-40~~ 20-3-41.

~~(a) There is established within~~ transferred to the office of the Secretary of State University System of Georgia a the Division of Archives and History formerly of the office of the Secretary of State in lieu of the office of compiler of state records which on and after July 1, 2013, shall also be known be the Division of Archives and History of the University System of Georgia and may also be referred to as the Georgia Archives. The Georgia Archives so transferred shall be under the management and control of the board of regents and shall be the successor to and a continuation of the former Division of Archives and History of the Office of the Secretary of State. All persons employed in the former division as of June 30, 2013, shall be transferred to the new division effective July 1, 2013.

(b) The change of the name and governance of the former Division of Archives and History of the Office of the Secretary of State and its continuation, as provided in this Code section, shall in no way affect any existing obligations, liabilities, or rights of the Georgia Archives, as such existed on June 30, 2013. All such obligations, liabilities, and rights are transferred to, vested in, and assumed by the board. All existing contracts and agreements between any party and the Georgia Archives shall not be affected by this Code section but shall continue in full force and effect, without interruption, as contracts or agreements of the board.

(c) All right, title, interest, and ownership of all assets, including all real estate, of the former Division of Archives and History of the Office of the Secretary of State are transferred to and vested in the board.

~~45-13-41~~ 20-3-41.1.

The objects and purposes of the Georgia Archives shall be to:

- (1) Ensure the retention and preservation of the records of any state or local agency with historical and research value by providing for the application of modern and efficient

methods to the creation, utilization, maintenance, retention, preservation, and disposal of records;

(2) Provide an archival and records' depository in which to assemble and maintain the official archives and other inactive records of the state not in current and common use;

(3) Collect from the files of old newspapers, court records, church records, private collections, and other sources data of all kinds bearing upon the history of the state;

(4) Secure from private individuals, either by loan or gift, rare volumes, manuscripts, documents, and pamphlets for the use of this division;

(5) Obtain, either by loan or gift, historical trophies, souvenirs, and relics;

(6) Classify, edit, annotate, and publish in print or electronically from time to time such records as may be deemed expedient and proper, including messages of Governors, executive orders, state papers, and military rosters of the Revolutionary, Indian, Mexican, Civil, and European wars;

(7) Diffuse knowledge in regard to the state's history;

~~(8) Prepare biennially an official register giving the latest information of an official character in regard to the state, including a full list of state officers, legislators, judges, district attorneys, members of Congress, county officials, etc., together with other pertinent items of information~~ Reserved;

(9) Encourage the proper marking of battlefields, houses, and other places celebrated in the history of the state;

(10) Encourage the study of Georgia history in the public schools;

(11) Assist in the observance of patriotic occasions;

(12) Plan and coordinate celebrations and observations of events and anniversaries having historic or special significance to this state;

(13) Stimulate historical research, especially in the prosecution of local histories;

(14) Foster sentiment looking to the better protection, classification, and arrangement of records in the various courthouses of the state;

(15) Collect biographical information in regard to all public officials and to keep same on file, in a classified arrangement, for convenient reference by investigators; and

(16) Encourage the study of historical documents including but not limited to those which reflect our National Motto, the Declaration of Independence, the Ten Commandments, the Constitution of the United States, and such other nationally recognized documents which contributed to the history of the State of Georgia.

~~45-13-42~~

~~Reserved.~~

93 ~~45-13-43~~

94 ~~Reserved.~~

95 ~~45-13-44.~~

96 ~~The division shall be under the immediate management and control of a director who shall~~  
97 ~~be appointed by and serve at the pleasure of the Secretary of State. Such director shall take~~  
98 ~~an oath of office as other public officials are required to do and shall be commissioned in~~  
99 ~~like manner. Such director shall devote such director's time to the work of the division,~~  
100 ~~using such director's best efforts to develop and build it up so as to carry out the design of~~  
101 ~~its creation, and shall receive for such director's services a salary to be fixed by the~~  
102 ~~Secretary of State. Such director shall have control and direction of the various activities~~  
103 ~~of the division, preserve its collections, care for the official archives which may come into~~  
104 ~~its custody, and perform all of the duties enumerated in Code Section 45-13-41.~~

105 ~~45-13-45.~~

106 ~~(a) The Secretary of State is authorized to adopt rules for the government of the division;~~  
107 ~~to appoint a director and to provide for the selection or appointment of such other officials~~  
108 ~~or employees as may be authorized; to provide for the print or electronic publication, under~~  
109 ~~the supervision of the director, of historical material pertaining to the state; to control and~~  
110 ~~expend such appropriations as may be made for the maintenance of the Division of~~  
111 ~~Archives and History; and to do such other acts and things as may be necessary to carry out~~  
112 ~~the true intent and purpose of this article.~~

113 ~~(b) The Secretary of State is authorized to designate and establish, as a branch depository~~  
114 ~~of the Division of Archives and History, facilities occupied by any nonprofit historical~~  
115 ~~association organized for the purpose of collecting, preserving, and diffusing information~~  
116 ~~relating to the history of Georgia, which association has been in continuous existence for~~  
117 ~~a period of at least 100 years; provided, however, that no such designation and~~  
118 ~~establishment of a branch depository shall be made unless the Secretary of State shall~~  
119 ~~obtain the prior written approval of the historical association involved and unless the funds~~  
120 ~~are made available to the Secretary of State for the specific purpose of supporting such~~  
121 ~~branch depository. The Secretary of State may expend such funds as are necessary or~~  
122 ~~desirable for the maintenance and operation of any such facilities and for the preservation~~  
123 ~~and safeguarding of the contents thereof and for the employment of such persons as are~~  
124 ~~necessary or desirable for the accomplishment of same. The Secretary of State may enter~~  
125 ~~into such contractual arrangements as he or she deems to be in the public interest for~~  
126 ~~acquiring the title to or loan of any historical records for use in such branch depository or~~  
127 ~~any other depository of the Division of Archives and History. Such branch depository shall~~

be under the immediate management and control of the Secretary of State. The Secretary of State may abolish such branch depository at any time.

~~(c) The Secretary of State is authorized to designate and establish, as a branch depository of the Division of Archives and History for the storage and retention of permanent records, temporary records, or security backup media in any format, facilities occupied by any government agency; provided, however, that no such designation and establishment of a branch depository shall be made unless the Secretary of State shall obtain the prior written approval of the government agency involved. Records in the custody of such depositories shall be subject to the same laws, standards, and policies as any records in the physical custody of the Division of Archives and History including, but not limited to, Code Section 50-18-98. The Secretary of State may expend such funds as are necessary or desirable for the maintenance and operation of any such facilities; for the preservation and safeguarding of the contents thereof; and for the employment of such persons as are necessary and desirable for the accomplishment of such maintenance, operation, preservation, and safeguarding. Such depositories may be operated on a cost recovery basis. The Secretary of State may enter into such contractual arrangements as he or she deems to be in the public interest for creating and operating such branch depositories. The records or digital content maintained in such branch depositories shall be under the immediate management and control of the Division of Archives and History. The Secretary of State may abolish such branch depository at any time.~~

~~45-13-46~~ 20-3-41.2.

(a) Any state, county, or other official is authorized, in his or her discretion, to turn over for permanent preservation in the Division of Archives and History any official books, records, documents, original papers, manuscript files, newspaper files, portraits, and printed volumes not in current use in his or her office. Any record created or received by a state agency, constitutional officer, or Speaker of the House of Representatives in the performance of a public duty or paid for by public funds and certified by the director of the Division of Archives and History as necessary to document the history, organization, functions, policies, decisions, and procedures of the agency or office shall be placed for permanent preservation in the Division of Archives and History when no longer in current use by the agency or officer. The ~~Secretary of State~~ board shall provide for the preservation of said materials; and, when so surrendered, copies thereof shall be made and certified by the director upon the application of any person interested, ~~which~~ and such certification shall have the same force and effect as if made by the officers originally in custody of them and for which the same fees shall be charged.

(b) The Division of Archives and History shall own and operate any equipment necessary to manage and retain control of electronic archival records in its custody but may, at its discretion, contract with third-party entities to provide any or all services related to managing archival records on equipment owned by the contractor, by other third parties, or by the Division of Archives and History.

(c) Personal and official records and papers of the Lieutenant Governor and the Speaker of the House of Representatives shall be exempt from the provisions of subsection (a) of this Code section when such records and papers are deposited in a repository that meets the minimum archival and public access standards promulgated by the Division of Archives and History.

(d) As used in this Code section, the term 'constitutional officer' means any officer enumerated in Article V, Section I, Paragraph I; Article V, Section I, Paragraph III; or Article V, Section III, Paragraph I of the Constitution of the State of Georgia.

~~45-13-47.~~

~~(a) An official and statistical register of the state shall be compiled every two years by the director and shall contain:~~

~~(1) Brief sketches of the several state officials, the members of Congress from Georgia, the Supreme Court Justices, the Judges of the Court of Appeals, members of the Senate and the House of Representatives, and judges and district attorneys of the superior courts;~~

~~(2) Rosters of all state and county officials;~~

~~(3) Lists of all state institutions and all official boards;~~

~~(4) State and county population and election statistics; and~~

~~(5) Miscellaneous statistics bearing upon related matters of current interest or likely to be of value to the future historian.~~

~~(b) The Secretary of State is authorized to print and distribute not less than one copy of such register to each member of the General Assembly, to each state department head, to each high school in this state, and to each unit of the University System of Georgia.~~

~~45-13-48.~~

~~The Secretary of State shall fix a fair price for publications published pursuant to this article, the revenue arising from such sales to be devoted to extending the work contemplated in this article, provided that at least one copy of such publications shall be furnished free of charge to any state institution making application for same through its constituted authorities. The Secretary of State is also authorized, in his discretion, either by sale or otherwise, to dispose of such excess copies of such publications as may from~~

197 ~~time to time accumulate and, in like manner, to dispose of any editions heretofore~~  
198 ~~published, of which there may be an excess on hand.~~

199 ~~45-13-49.~~

200 ~~All circulars, notices, or forms which may be needed for the use of the division and all~~  
201 ~~official communications, reports, or any other printing of the division shall be printed and~~  
202 ~~paid for as other printing of the state.~~

203 ~~45-13-50.~~

204 ~~The Division of Archives and History shall make accessible to the general public for not~~  
205 ~~less than the hours of 9:30 A.M. to 3:30 P.M. on every Saturday, except legal holidays and~~  
206 ~~such days as may be required to relocate the division and the records therein, such records~~  
207 ~~and facilities as are ordinarily available to the public during regular office hours on~~  
208 ~~weekdays.~~

209 ~~45-13-51~~ 20-3-41.3.

210 (a) The General Assembly finds and determines:

211 (1) ~~The General Assembly has directed~~ One of the purposes of the Division of Archives  
212 and History ~~of the State of Georgia~~ is to encourage the study of historical documents;

213 (2) There is a need to educate and inform the public about the history and background  
214 of American law;

215 (3) The public buildings of this state are an ideal forum in which to display educational  
216 and informational material about the history and background of American law; and

217 (4) A basic knowledge of American constitutional history is important to the formation  
218 of civic virtue in our society.

219 (b) The state and each municipality and political subdivision of this state shall be  
220 authorized to post the Foundations of American Law and Government display, as described  
221 in subsection (c) of this Code section, in a visible, public location in the public facilities of  
222 the state and such municipality or political subdivision.

223 (c) The Foundations of American Law and Government display shall include:

224 (1) The Mayflower Compact, 1620;

225 (2) The Ten Commandments as extracted from Exodus Chapter 20;

226 (3) The Declaration of Independence;

227 (4) Magna Carta;

228 (5) 'The Star-Spangled Banner' by Francis Scott Key;

229 (6) The national motto;

230 (7) The Preamble to the Georgia Constitution;

(8) The Bill of Rights of the United States Constitution; and

(9) The description on the image of Lady Justice.

(d) Public displays of the Foundations of American Law and Government shall contain the documents set forth in paragraphs (1) through (9) of subsection (c) of this Code section together with a context for acknowledging formative, historically significant documents in America's heritage as follows:

#### ***FOUNDATIONS OF AMERICAN LAW AND GOVERNMENT DISPLAY***

The Foundations of American Law and Government display contains documents that played a significant role in the foundation of our system of law and government. The display contains (1) the Mayflower Compact; (2) the Ten Commandments; (3) the Declaration of Independence; (4) Magna Carta; (5) 'The Star-Spangled Banner'; (6) the national motto of the United States of America; (7) the Preamble to the Georgia Constitution; (8) the Bill of Rights of the United States Constitution; and (9) a picture of Lady Justice.

##### ***The Mayflower Compact***

The Mayflower Compact was penned by William Bradford on November 11, 1620, on the *Mayflower* before the Pilgrims made landfall at Plymouth, Massachusetts. The Compact was the first written constitution in the New World. William Bradford described the reasoning behind the Compact when he stated in the Compact, 'This day, before we came to harbour, observing some not well affected to unity and concord, but gave some appearance of faction, it was thought good there should be an association and agreement, that we should combine together in one body, and to submit to such government and governors as we should by common consent agree to make and choose, and set our hands to this that follows, word for word.'

##### ***The Ten Commandments***

The Ten Commandments have profoundly influenced the formation of Western legal thought and the formation of our country. That influence is clearly seen in the Declaration of Independence, which declared that 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.' The Ten Commandments provide the moral background of the Declaration of Independence and the foundation of our legal tradition.



## 262 *The Declaration of Independence*

263 Perhaps the single most important document in American history, the Declaration of  
264 Independence was, as Abraham Lincoln stated, the 'frame' into which the Framers placed the  
265 Constitution. The Declaration's fundamental premise is that one's right to 'Life, Liberty and  
266 the pursuit of Happiness' is not a gift of government. Government is not a giver of rights,  
267 but a protector of God-given rights. Moreover, government is a creation of 'the governed'  
268 and derives all its power from the consent of its people. As the Preamble to the United States  
269 Constitution states, 'We the People' are the government.

## 270 *Magna Carta*

271 In 1215, King John of England consented to the demands of his barons and agreed for  
272 Magna Carta to be publicly read throughout the land. By this act he bound himself and 'our  
273 heirs, in all things and all places for ever' to grant to the people of his kingdom the rights  
274 pronounced in Magna Carta. By signing Magna Carta, King John brought himself and  
275 England's future rulers within the rule of law. The rule of law places a restraint on the  
276 exercise of arbitrary government power, and it places all people and civil government under  
277 law. The American patriots, therefore, waged war against England to preserve liberties  
278 originating in thirteenth century England. A distinction, however, is noted between Magna  
279 Carta and the American concept of liberty. While Magna Carta is a guarantee from a king  
280 that he will follow the law, the Constitution of the United States is the establishment of a  
281 government consisting of, and created for, 'We the People.'

## 282 *'The Star-Spangled Banner'*

283 Guarding the entrance to Baltimore harbor via the Patapsco River during the War of 1812,  
284 Fort McHenry faced almost certain attack by British forces. Major George Armistead, the  
285 stronghold's commander, was ready to defend the fort, but he wanted a flag that would  
286 identify his position, one whose size would be visible to the enemy from a distance. The flag  
287 that was made for the fort was 30 feet by 42 feet. Anxiously awaiting news of the battle's  
288 outcome was a Washington, D.C., lawyer named Francis Scott Key. Key had visited the  
289 enemy's fleet to secure the release of a Maryland doctor who had been abducted by the  
290 British after they left Washington. The lawyer had been successful in his mission, but he  
291 could not escort the doctor home until the attack ended. So he waited on a flag-of-truce  
292 sloop anchored eight miles downstream from Fort McHenry.

293 During the night, there had been only occasional sounds of the fort's guns returning fire.  
294 At dawn, the British bombardment tapered off. Had the fort been captured? Placing a  
295 telescope to his eye, Key trained it on the fort's flagpole. There he saw the large garrison  
296 flag catch the morning breeze. It had been raised as a gesture of defiance, replacing the wet  
297 storm flag that had flown through the night. Thrilled by the sight of the flag and the  
298 knowledge that the fort had not fallen, Key took a letter from his pocket and began to write  
299 some verses on the back of it. Later, after the British fleet had withdrawn, Key checked into  
300 a Baltimore hotel and completed his poem on the defense of Fort McHenry. He then sent it  
301 to a printer for duplication on handbills, and within a few days the poem was put to the music  
302 of an old English song. Both the new song and the flag became known as 'The Star-Spangled  
303 Banner' and became a rallying cry for the American Patriots during the rest of the war.

#### 304 *The National Motto*

305 The motto was derived from the line 'And this be our motto, "In God is our trust"' in the  
306 U.S. national anthem, 'The Star-Spangled Banner.' The phrase first appeared on U.S. coins  
307 in 1864 and became obligatory on all U.S. currency in 1955. In accordance with Public Law  
308 No. 851 passed at the Second Session of the 84th Congress of the United States, July 30,  
309 1956, the national motto of the United States became 'In God We Trust.'

#### 310 *The Preamble to the Georgia Constitution*

311 The Preamble to the Georgia Constitution celebrates the ideas of free government, justice,  
312 peace, happiness, and liberty. Government is a creation of 'the governed' and derives all its  
313 power from the consent of its people. The people, therefore, desiring a civilized society,  
314 created and ordained the Constitution of the State of Georgia.

#### 315 *The Bill of Rights of the United States Constitution*

316 During the debates on the adoption of the U.S. Constitution, its opponents repeatedly  
317 charged that the Constitution as drafted would open the way to tyranny by the central  
318 government. Fresh in their minds was the memory of the British violation of civil rights  
319 before and during the Revolution. They demanded a 'bill of rights' that would spell out the  
320 immunities of individual citizens. Several state conventions in their formal ratification of the  
321 Constitution asked for such amendments; others ratified the Constitution with the  
322 understanding that the amendments would be offered. The Bill of Rights is still a vital and

323 powerful force in American government, shaping our laws and serving as a check on the  
324 exercise of government power.

325 *Lady Justice*

326 Lady Justice has become a symbol of the fair and equal administration of the law, without  
327 corruption, avarice, prejudice, or favor. The blindfold represents a system of justice that is  
328 blinded to all prejudices or favor. The scales represent justice that is administered fairly and  
329 the sword represents justice that is authoritative. Lady Justice is a symbol of the American  
330 system of justice and the ideals it embodies.

331 (e) All documents which are included in the Foundations of American Law and  
332 Government displays shall be posted on paper not less than 11 x 14 inches in dimension  
333 and shall be framed in identically styled frames. No one document shall be displayed more  
334 prominently than another.

335 (f) In no event shall any state funding be used for a display of the Foundations of  
336 American Law and Government."

337 **SECTION 1-2.**

338 Said chapter is further amended by revising Article 3A, relating to the Historical Records  
339 Advisory Board, and redesignating it as new Part 1B of Article 2 of Chapter 3 of Title 20,  
340 which article relates to the Board of Regents and the University System of Georgia, as  
341 follows:

342 **"ARTICLE 3A Part 1B**

343 ~~45-13-55~~ 20-3-45.

344 (a) As used in this ~~article part~~, the term:

345 (1) ~~'Board'~~ 'Council' means the Georgia Historical Records Advisory ~~Board~~ Council  
346 created under this ~~article part~~.

347 (2) 'Division' means the Division of Archives and History of the University System of  
348 Georgia.

349 (b) There is created and established the Georgia Historical Records Advisory ~~Board~~  
350 Council with such powers and duties as are set forth in this ~~article part~~. The council shall  
351 be a continuation of and successor in interest to the former Georgia Historical Records  
352 Advisory Board.

353 (c) The purpose of the ~~board~~ council shall be to advise the ~~Secretary of State board~~ and the  
354 Division of Archives and History; to serve as the state advisory body required by federal

granting agencies; and to encourage cooperative efforts to improve the condition of Georgia's historical records.

(d) The ~~board~~ council shall consist of 12 members to be appointed by the Governor. A majority of the members shall have recognized experience in the administration of government records, historical records, or archives or in a field of research or activity that makes extensive use of historical records. The ~~board~~ council shall be as broadly representative as possible of the public and private archival and research communities and organizations in the state.

(e) The Governor shall designate the initial terms of the members of the ~~board~~ council as follows: four members shall be appointed for one year; four members shall be appointed for two years; and four members shall be appointed for three years. Thereafter, all succeeding appointments shall be for three-year terms, except that each member shall serve until a successor is appointed. Members shall be eligible for reappointment.

(f) Whenever any vacancy in the membership of the ~~board~~ council occurs, the Governor shall appoint a qualified person to fill the unexpired term.

(g) Members of the ~~board~~ council shall serve without compensation, except that each member who is not a state officer or state employee shall receive the same expense allowance per day as that received by a member of the General Assembly for each day that such member of the ~~board~~ council is in attendance at a meeting of such ~~board~~ council, plus reimbursement for actual transportation costs while traveling by public carrier or the same mileage allowance as state government employees for use of a personal car in connection with such attendance.

(h) The director of the Division of Archives and History shall serve as Georgia historical records coordinator and assist the ~~board~~ council in its activities.

(i) The ~~board~~ council shall elect its ~~chair~~ chairperson and other officers and make such bylaws for its operation as may be necessary or appropriate.

(j) The ~~board~~ council shall meet at least once each calendar year and special meetings may be called by the ~~chair~~ chairperson.

(k) The ~~board~~ council shall be administratively assigned to the division.

(l) The ~~board~~ council shall have no permanent staff but may hire temporary staff for specific activities if funds are available.

~~45-13-56~~ 20-3-45.1.

The ~~board~~ council shall have the following powers, duties, authorities, and functions to:

- (1) Serve as the state advisory body required by federal granting authorities for state projects and to follow the regulations and guidelines promulgated by those granting authorities;

- (2) Serve in an advisory capacity to the Division of Archives and History on issues concerning records;
- (3) Identify endangered records of historical value and to recommend appropriate actions to protect them;
- (4) Promote state-wide planning for historical records needs;
- (5) Cooperate with and secure cooperation of every department, agency, or instrumentality in the state government or its political subdivisions in furtherance of the purposes of this ~~article~~ part;
- (6) Encourage high visibility historical records projects and studies with a state-wide impact, when studies and projects cross organizational and jurisdictional lines;
- (7) Foster communication among all members of the historical records community and to encourage the development and adoption of state-wide goals and common practices to improve the condition of historical records;
- (8) Appoint appropriate subcommittees or advisory committees;
- (9) Recommend to the State Records Committee records retention schedules for records of the board in accordance with Article 5 of Chapter 18 of Title 50, the 'Georgia Records Act';
- (10) Accept and use gifts, grants, and donations for the purpose of carrying out this ~~article~~ part. Any funds, personal property, or services received as gifts, grants, or donations shall be kept separate and apart from any funds received by state appropriations; and such funds, property, or services so received by gifts, grants, or donations shall remain under the control of and subject to the direction of the ~~board~~ council to carry out this article and as such shall not lapse at the end of each fiscal year;
- (11) Make grants for the purpose of carrying out this ~~article~~ part. Such grants shall be made and the funds shall be administered and expended subject to this ~~article~~ part and in accordance with the rules and regulations of the funding source; and
- (12) Do any and all things necessary and proper to enable it to perform wholly and adequately its duties and to exercise the authority granted to it."

### SECTION 1-3.

Said chapter is further amended by revising Article 5, relating to surplus state books, and redesignating it as new Part 1C of Article 2 of Chapter 3 of Title 20, which article relates to the Board of Regents of the University System of Georgia, as follows:

#### "~~ARTICLE 5~~ Part 1C

45-13-80 20-3-47.

As used in this ~~article~~ part, the term:

(1) 'Agency head' means the official or body authorized to establish policy on behalf of a state agency.

(1.1) 'Division' means the Division of Archives and History of the University System of Georgia.

(2) 'Nonprofit organization' means a bona fide nonprofit civic, educational, or charitable organization.

(3) 'State agency' means any department, board, bureau, commission, committee, council, court, or other agency, by whatever name designated, of the executive, legislative, or judicial branch of the state government.

(4) 'Surplus printed material' means books or other printed papers owned by the state or a state agency and in the possession of a state agency, which books and papers are no longer needed by that agency, which are declared surplus by such agency, and which need not be maintained by the agency as a part of its records.

~~45-13-81~~ 20-3-47.1.

The ~~Secretary of State~~ division shall be the administrator of this article; ~~and he is authorized and directed to promulgate such rules and regulations, which may include forms, as may be necessary to carry out this article. Such rules and regulations shall be adopted and promulgated in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~

~~45-13-82~~ 20-3-47.2.

The head of each state agency is authorized to declare printed material in the possession of such state agency as surplus printed material. At the time printed material is declared to be surplus printed material, the agency head shall make or cause to be made a complete inventory of the surplus printed material. The inventory shall describe the surplus printed material in sufficient detail, if practicable, to allow the ~~Secretary of State~~ division to make the determination provided for in Code Section ~~45-13-83~~ 20-3-47.3. The inventory shall contain a statement of the declaration of the printed material as surplus printed material; such declaration shall be signed by the agency head; and the date signed shall be indicated thereon. As a part thereof or as an attachment thereto, the inventory shall show the physical location of the surplus printed material. Upon its completion, the agency head shall transmit the original of the inventory to the ~~Secretary of State~~ division. A duplicate of the original copy shall be retained in the files of the state agency as a part of the records of such agency.

459 ~~45-13-83~~ 20-3-47.3.

460 (a) When the ~~Secretary of State~~ division receives an inventory of surplus printed material  
 461 as provided for by Code Section 45-13-82, ~~he or she~~ the division shall make a  
 462 determination of whether or not any of such surplus printed material has archival value  
 463 within the meaning of Part 1A of this article ~~Article 3 of this chapter, relating to the~~  
 464 ~~Division of Archives and History. The Secretary of State shall be authorized to use such~~  
 465 ~~personnel of the Division of Archives and History as may be necessary to make the~~  
 466 ~~determination provided for in this Code section.~~ If the determination cannot be made on  
 467 the basis of the description of the surplus printed material included in the inventory of such  
 468 material, the ~~Secretary of State or his or her designee~~ director of the division or his or her  
 469 designee shall visit the state agency which submitted the inventory for the purpose of  
 470 examining the surplus printed material listed on such inventory; and the determination  
 471 required in this Code section may be made on the basis of such examination.

472 (b) If any surplus printed material is determined to have archival value as provided by  
 473 subsection (a) of this Code section, ~~the Secretary of State is authorized to direct the state~~  
 474 ~~agency which submitted the inventory to~~ shall release such printed material to the ~~Division~~  
 475 ~~of Archives and History~~ division. The ~~Secretary of State~~ division shall make or cause to  
 476 be made a notation on the inventory for each item of surplus printed material so released  
 477 ~~to the Division of Archives and History;~~ and a copy of such inventory, signed by the  
 478 ~~Secretary of State~~ director of the division or his or her designee, containing the notations  
 479 thereon shall be transmitted to the originating state agency. The state agency submitting  
 480 the inventory shall be authorized to deliver surplus printed material having archival value  
 481 to the ~~Division of Archives and History~~ division if the state agency has transportation  
 482 available for such purpose. If the state agency does not have transportation available for  
 483 such purpose, the ~~Division of Archives and History~~ division shall provide for the  
 484 transportation of surplus printed material having archival value.

485 ~~45-13-84~~ 20-3-47.4.

486 (a) The return to the state agency of the copy of the inventory, signed by the ~~Secretary of~~  
 487 ~~State~~ director of the division or his or her designee, containing the notations thereon of the  
 488 surplus printed material having archival value, as provided by Code Section ~~45-13-83~~  
 489 20-3-47.3, shall serve as the authorization for the state agency to donate to any nonprofit  
 490 organization the surplus printed material which does not have archival value.

491 (b) Each state agency donating such surplus printed material to nonprofit organizations is  
 492 authorized to adopt rules and regulations governing such donations, but such rules and  
 493 regulations shall be consistent with this ~~article~~ part and with rules and regulations adopted

494 by the ~~Secretary of State pursuant to Code Section 45-13-81~~ board pursuant to Code  
495 Section 20-3-31.

496 ~~45-13-85~~ 20-3-47.5.

497 This ~~article part~~ shall not be construed to apply to surplus books or printed material owned  
498 by ~~the University System of Georgia~~, any county or independent school system, any city,  
499 county, or regional library, ~~or to any other printed material owned by~~ any political  
500 subdivision of this state."

## 501 PART II

### 502 SECTION 2-1.

503 Code Section 9-11-29.1 of the Official Code of Georgia Annotated, relating to retention of  
504 depositions and other discovery materials, is amended by revising subsection (c) as follows:

505 "(c) When depositions and other discovery material are filed with the clerk of court as  
506 provided in subsection (a) of this Code section, the clerk of court shall retain such  
507 original documents and materials until final disposition, either by verdict or appeal, of the  
508 action in which such materials were filed. The clerk of court shall be authorized  
509 thereafter to destroy such materials upon microfilming or digitally imaging such materials  
510 and maintaining such materials in a manner that facilitates retrieval and reproduction, so  
511 long as the microfilm and digital images meet the standards established by the ~~Georgia~~  
512 ~~Department~~ Division of Archives and History of the University System of Georgia;  
513 provided, however, that the clerk of court shall not be required to microfilm or digitally  
514 image depositions that are not used for evidentiary purposes during the trial of the issues  
515 of the case in which such depositions were filed."

### 516 SECTION 2-2.

517 Code Section 45-11-1 of the Official Code of Georgia Annotated, relating to offenses  
518 involving public records, documents, and other items, is amended by revising subsection (e)  
519 as follows:

520 "(e) Upon presentation of affirmative proof, the Secretary of State or his or her designee  
521 or, with respect to the Georgia Archives, the Board of Regents of the University System  
522 of Georgia may initiate action through the Attorney General or other appropriate  
523 jurisdiction to prevent the sale, transfer, conveyance, destruction, or alienation of any  
524 records, books, documents, or other office property which has been unlawfully removed  
525 from any public office or public officer or employee. Upon request of the Secretary of  
526 State or his or her designee or the Board of Regents of the University System of Georgia,



527 the Attorney General or other appropriate jurisdiction shall have the authority to enjoin,  
528 recover, and replevin such records, books, documents, or other office property."

529 **SECTION 2-3.**

530 Article 5 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to  
531 state records management, is amended by revising paragraph (3) of Code Section 50-18-91,  
532 relating to definitions pertaining to the Georgia Records Act, as follows:

533 "(3) 'Division' means the Division of Archives and History of the ~~Office of the Secretary~~  
534 ~~of State~~ University System of Georgia."

535 **SECTION 2-4.**

536 Said article is further amended by revising subsection (a) of Code Section 50-18-92, relating  
537 to the creation of the State Records Committee, as follows:

538 "(a) There is created the State Records Committee, to be composed of the Governor, the  
539 Secretary of State, the chancellor of the University System of Georgia, an appointee of the  
540 Governor who is not the Attorney General, the state auditor, and an officer of a governing  
541 body, as such terms are defined in subsection (a) of Code Section 50-18-99, to be appointed  
542 by the ~~Secretary of State~~ chancellor, or their designated representatives. It shall be the duty  
543 of the committee to review, approve, disapprove, amend, or modify retention schedules  
544 submitted by agency heads, school boards, county governments, and municipal  
545 governments through the division for the disposition of records based on administrative,  
546 legal, fiscal, or historical values. The retention schedules, once approved, shall be  
547 authoritative, shall be directive, and shall have the force and effect of law. A retention  
548 schedule may be determined by ~~three~~ four members of the committee. Retention schedules  
549 may be amended by the committee on change of program mission or legislative changes  
550 affecting the records. The ~~Secretary of State~~ chancellor of the University System of  
551 Georgia shall serve as chairperson of the committee and shall schedule meetings of the  
552 committee as required. ~~Three~~ Four members shall constitute a quorum. Each agency head  
553 has the right of appeal to the committee for actions taken under this Code section."

554 **SECTION 2-5.**

555 Said article is further amended by revising subsection (f) of Code Section 50-18-99, relating  
556 to records management programs for local governments, as follows:

557 "(f) The ~~Secretary of State~~ Board of Regents of the University System of Georgia, through  
558 the division, shall coordinate all records management matters for purposes of this Code  
559 section. The division shall provide local governments with a list of common types of  
560 records maintained together with recommended retention periods and shall provide training

561 and assistance as required. The division shall advise local governments of records of  
562 historical value which may be deposited in the state archives. All other records shall be  
563 maintained by the local government."

564 **SECTION 2-6.**

565 (a) The term "Department of Archives and History" is replaced by the term "Division of  
566 Archives and History" wherever the former term appears in:

567 (1) Code Section 15-6-62.1, relating to backup records submissions by clerks of superior  
568 courts; and

569 (2) Code Section 17-10-6.3, relating to disposition of cases under review by a  
570 three-judge panel.

571 (b) The terms "Department" and "department" are replaced by the terms "Division" and  
572 "division," respectively, wherever the former terms appear in Code Section 15-6-62.1,  
573 relating to backup records submissions by clerks of superior courts.

574 (c) The term "Article 3 of Chapter 13 of Title 45" is replaced by the term "Part 1A of  
575 Article 2 of Chapter 3 of Title 20" wherever the former term appears in Code Section  
576 33-2-7, relating to records, books, and papers of the Commissioner of Insurance.

577 **PART III**

578 **SECTION 3-1.**

579 All laws and parts of laws in conflict with this Act are repealed.