



Oregon
Secretary of State

NASS IDEA AWARD NOMINATION

Oregon Secretary of State
LaVonne Griffin Valade

SINCE TIME IMMEMORIAL

*Increasing Access to Public
Records in Oregon with Tribal
Cultural Value*

The Oregon Secretary of State's Office and its Archives Division have helped transform the consultation process for public records with Oregon's nine federally recognized tribes and state government. **This work culminated in a change to Oregon law giving tribes a permanent voice for the records held in the state's care for all Oregonians.**

Subject Area: State Records and Archives

Project Leads:

Stephanie Clark, State Archivist

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971-900-9953

kris.stenson@sos.oregon.gov



of Deanie Johnson, Confederated Tribes of the Warm Springs Reservation



Anthony Teixeira and tribal member Gabby Texeira.
Courtesy of the Confederated Tribes of Grand Ronde



Stephanie Wood Craig gathering traditional basketry sedge.
Courtesy of the Confederated Tribes of Grand Ronde



Falls. Courtesy of the Confederated Tribes of Grand Ronde



Pearl Hudson Mercier (sitting), Pearl's granddaughters April Davidson Snoddy and Terri Davidson Wood at a July 4th picnic.
Courtesy of the Confederated Tribes of Grand Ronde

EXECUTIVE SUMMARY



HISTORY

The Oregon Secretary of State's office and its Archives Division are responsible for ensuring government entities in Oregon follow our state's public records laws. These laws are designed for Oregonians to keep track of their government and its activities. Since its establishment in 1947, the Oregon State Archives (Archives Division - OSA) has set the rules and developed schedules for the handling of these vital public records.

This effort to ensure transparency in Oregon government took place during a time of oppression for our state's Indigenous peoples. Efforts in the U.S. Congress targeted Oregon tribes with "Termination Acts" (Public Laws 587 and 588, passed in 1954), leading to the loss of tribal sovereignty, lands and communities. Members of sixty-three Oregon tribes and bands at three reservations and other Native communities were left to suffer the devastating impact of these laws.

Beginning in 1972 after years of advocacy, some Oregon tribes regained their sovereignty and land trust rights through Restoration. Today, Oregon's nine federally recognized tribes are the Burns Paiute Tribe; the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians; Coquille Tribe; Cow Creek Band of the Umpqua Tribe of Indians; Confederated Tribes of the Grand Ronde; The Klamath Tribe; Confederated Tribes of Siletz; Confederated Tribes of the Umatilla Indian Reservation; and Confederated Tribes of the Warm Springs.

As tribal governments were once again formed and government-to-government conversations ensued between tribes and the State of Oregon, it became clear that many state entities were in possession of tribal artifacts.



EXECUTIVE SUMMARY

HISTORY

In November 2017, Oregon Governor Kate Brown established the Tribal Cultural Items Taskforce (Executive Order 17-12) to create a process for state agencies to provide a required inventory of Native American cultural items on display, in storage, in possession or under the stewardship of the State of Oregon. As part of the inventory, state agencies were asked to provide related public records. In 2019, the State Archivist presented on the basis of Public Records Law to the taskforce. It soon became clear that liaisons from the tribes were unaware of retention schedules or that some records are destroyed after their retention period elapses. At that point, OSA put a hold on all record destruction for two years to give Oregon tribes and state agencies time to build mutual understanding.

In 2021, OSA instituted a requirement for state agency tribal liaisons to sign off on destruction of public records that had reached the end of their retention period. The Oregon Secretary of State and OSA sent a letter to all agencies to clarify the new requirement. To our surprise, many agencies didn't know they needed a tribal liaison.

OSA requirements prompted agencies to designate Tribal Liaisons. Oregon tribes were then directly solicited for feedback and concerns related to pending records destruction. This seemingly simple OSA rules change to ensure tribal consultation demonstrated a lack of understanding for agencies on their responsibilities related to tribes and public records.

Office of the Governor State of Oregon



EXECUTIVE ORDER NO. 17-12

In 1996, Executive Order 96-30 formally established government-to-government relations between the State of Oregon and the nine federally recognized Indian Tribes that reside within Oregon's borders. For more than twenty years, the State of Oregon has benefitted from the resulting increased communication with Tribal Governments about state and tribal interests.

Oregon's Tribes have an interest in obtaining information relating to cultural items currently held in storage or on display at Oregon state agencies, state universities, colleges, and public schools. Some of these items are associated with Oregon's Tribes, and the Tribes and the State share an interest in determining the provenance, the appropriate custodian, and the appropriate storage or display of such items.

There has never been a survey of how many of these items currently are held in storage by or on display within a State agency or public academic institution, and no complete inventory of such items exists. The State of Oregon and Oregon's Tribes deserve an established process to determine best practices for gathering information about these types of cultural items associated with Oregon Tribes, and for determining the most appropriate "next steps" for establishing workable strategies and plans for discussion regarding these cultural items and/or return of the items to associated Oregon Tribes.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. There is established a Task Force on Oregon Tribal Cultural Items ("the Task Force").
2. The Members of the Task Force shall include the following (members identified in paragraphs (e) – (h) shall be invited by the Governor, with the understanding that the relevant bodies may determine whether or not to participate by recommending members for appointment to the Task Force):
 - a. The Governor's Legal Counsel or other designee;
 - b. Any additional member of the Governor's staff as directed by the Governor;



EXECUTIVE SUMMARY



SIGNIFICANCE

Following this work, the Oregon Secretary of State and the State Archivist introduced a legislative concept to **formally add tribal cultural value** to the legal definition of an Oregon public record. The concept was **supported by tribal members** serving in the state legislature, and the concept became House Bill 2112, introduced in the 2023 Legislative Session. The bill sailed through the Oregon House with a 60-0 vote and passed the Oregon Senate with a 25-4 vote. It was signed into law by Oregon Governor Tina Kotek and took effect on January 1, 2024.

The revised definition now reads:

ORS 192.005(5):

“Public Record” means any information that:

- (A) Is prepared, owned, used or retained by a state agency or political subdivision;
- (B) Relates to an activity, transaction or function of a state agency or political subdivision; and
- (C) Is necessary to satisfy the legal, administrative, fiscal, **tribal cultural** or historical policies, requirements or needs of the state agency or political subdivision.

The Oregon Secretary of State and OSA's work on behalf of tribal consultation for public records was a catalyst for an elevated understanding and relationship with the nine federally-recognized tribes in Oregon and the state's many agencies, boards and commissions.

OSA has now incorporated the implications of the law into public records training and have held special training sessions with Agency Records Officers to review the law and implement practices.



EXECUTIVE SUMMARY



Balls from Wilamette Falls. Courtesy of the Confederated Tribes of Central Oregon



Cogwilla Tribal members Mervell Ed Loumen and Maggie Smith. Courtesy of Cogwilla Indian Tribe



Cogwilla Tribal members and family. Courtesy of Cogwilla Indian Tribe



Members of the Grand Ronde Indian Tribe. Courtesy of the Confederated Tribes of Grand Ronde



Grand Ronde Indian Tribe member Paul Giffney. Courtesy of the Confederated Tribes of Grand Ronde



Steve Thompson on horseback. Courtesy of the Confederated Tribes of the Warm Springs Reservation



Frank Cushman. Courtesy of the Confederated Tribes of the Warm Springs Reservation



Cogwilla Tribal members in Washington DC for restoration hearing. Courtesy of Cogwilla Indian Tribe



Steve Giffney on horseback. Courtesy of the Confederated Tribes of Grand Ronde

IMPACT

When tribal cultural value for public records was only an administrative rule or executive order, it could have easily been overruled by those who may seek a diminished role for tribes with public records. Executive Orders from a different governor or an OSA rules change from a future Secretary of State might have undermined tribal voices. By codifying this value into law, the **tribes now have a permanent seat at the table.**

As previously mentioned, **OSA's work to ensure tribal consultation led to tribal liaisons for all of Oregon's state agencies.** But even more, **it prompted important, additional work to build trust with Indigenous communities** who have historically been oppressed by American government. While the trust-building work is constantly ongoing, significant steps have been taken to ensure **tribes have a meaningful voice with respect to public records.**

The added participation of tribes has also provided greater insight into the public records and their significance. **This new layer of understanding helps agencies be more strategic and thoughtful about the records in their care, and their destruction.**

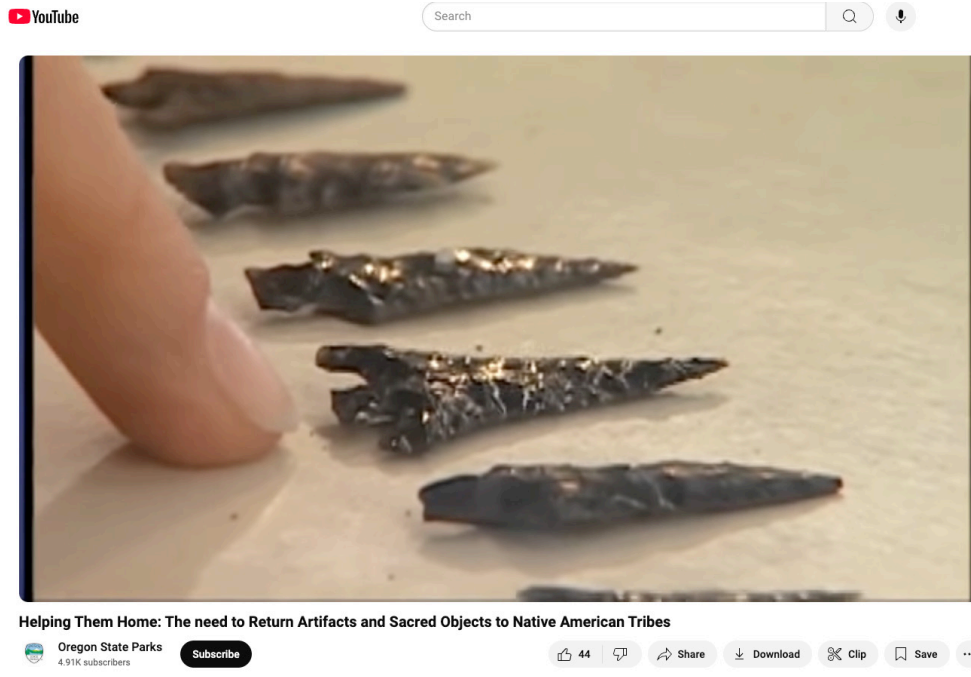
This work has also **expanded OSA's understanding of the importance of tribal perspectives and consultation.** As we continue to digitize records in our permanent collection, we have added tribal perspectives when deciding which records to prioritize. We've also embedded tribal consultation into the Oregon Blue Book, our state's official almanac and fact book published biennially by the Oregon Secretary of State in the Archives Division.



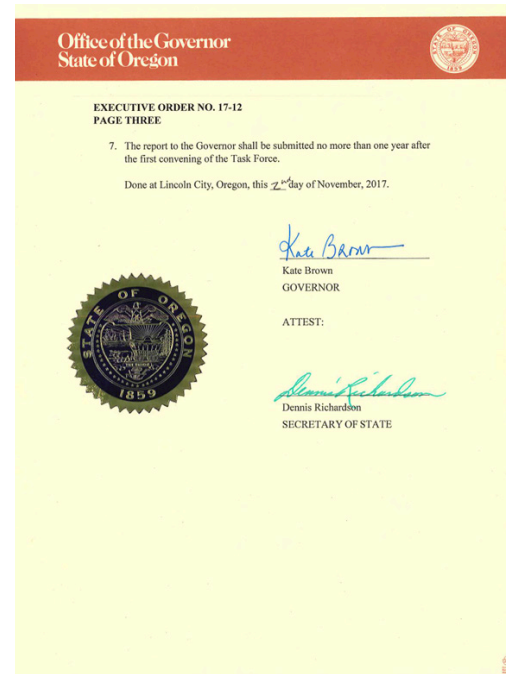
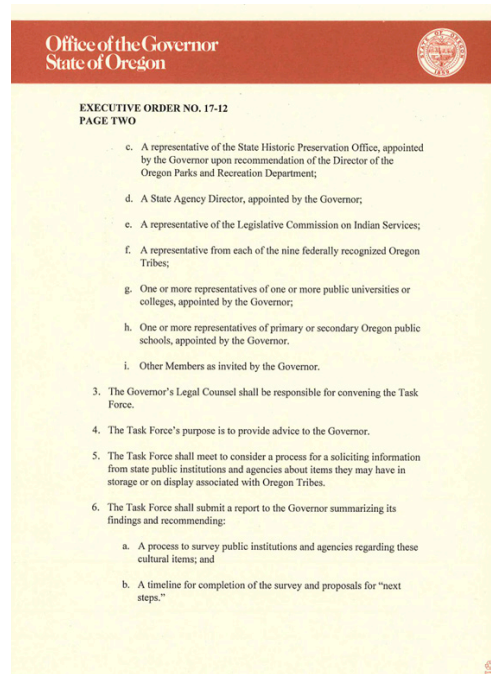
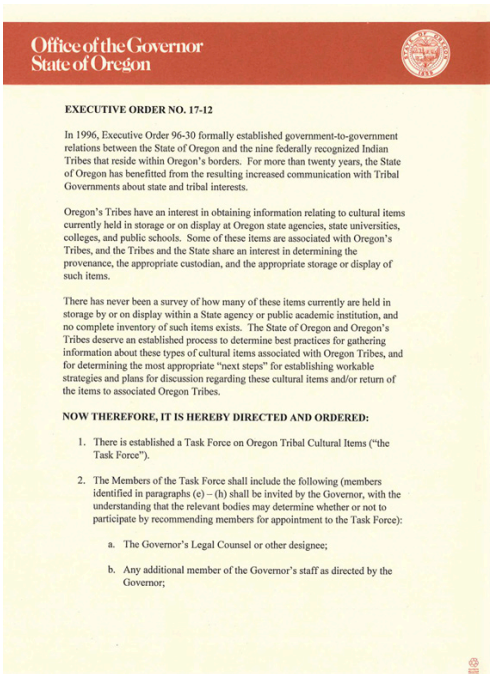
SUPPORTING MATERIALS

[Oregon's Approach to State-Tribal Relations - And How Local Government May Want to Use Some of It](#), Karen Quigley, Former Director, Oregon Legislative Committee on Indian Services.

[Helping Them Home: The Need to Return Artifacts and Sacred Objects to Native American Tribes](#), Oregon Department of Transportation.



[Oregon Executive Order 17-12, Oregon Governor Kate Brown, November 2017.](#)



SUPPORTING MATERIALS

OSA letter to agencies, suggesting process for tribal signoff for records destruction, 2021

OFFICE OF THE SECRETARY OF STATE
LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE
CHERYL MYERS
DEPUTY SECRETARY OF STATE
TRIBAL LIAISON



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR
800 Summer Street NE
Salem, Oregon 97310
(503) 373-0701

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STEPHANIE CLARK
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800 Summer Street NE
Salem, Oregon 97310
(503) 373-0701

Dear [records officer name]:

Attached you will find the destruction authorization for accessions currently stored at the Oregon State Records Center. On the authorization form, you will notice a signature line for your agency's Tribal Liaison. Please see the attached template letter with suggested procedures and language for soliciting feedback from Oregon's nine federally recognized tribes prior to the destruction of agency records.

If you do not currently have a designated agency Tribal Liaison, please contact Patrick Flanagan, LCIS Director - patrick.flanagan@oregonlegislature.gov.

I am ccing the State Archivist, Stephanie Clark. Please reach out to her if you have questions about this process.

You may email the signed authorization to staterecordscenter.sos@sos.oregon.gov.

If you have any questions about these records or the destruction process, please let me know

Sincerely,

In keeping with our respectful Government-to-Government relationship with Oregon federally-recognized tribes, in collaboration with state agencies the Secretary of State is inviting each tribal government to review, provide valuable feedback, and request copies of records scheduled for destruction per their authorized retention schedule. You may recall the Governor's [Executive Order 17-12](#) and the August 2019 destruction pause prior to agency tribal liaison sign-off, along with the [task force](#).

The State Archives recommends the following process pertaining only to holdings at the Oregon State Records Center. Additionally, each agency may elect to deploy a similar process to address additional agency records, both paper and electronic within the agency's possession. The Oregon Department of Agriculture has been instrumental in leading their own process and has offered to be available to agencies for further insight. ODA's Tribal Liaison, Christina Higby, can be reached at chigby@oda.state.or.us.

Review Process for Agency Tribal Liaison Records Destruction Signoff

1. Receive your agency's State Records Center holdings destruction report in June and December of each year.
2. Communicate with each tribe (template below). Either attach your full destruction report, or include a list of the records series within the communication.
3. Email the designated tribal contacts below.
4. Include at least a 3 week preferred response timeline.
5. If unresponsive, indicate as such by signing the tribal liaison authorization line of the destruction authorization.
6. Send signed destruction authorization back to State Records Center for processing.
7. If feedback indicates a retention period should be lengthened, send to Oregon State Archivist, Stephanie Clark (stephanie.clark@sos.oregon.gov) to allow state level updating.

Tribal Contacts

- Jesse Beers, CTCLUSI - jbeers@ctclusi.org
- Jonathan Smith, Warm Springs - jonathansmith@wstribe.org
- Raymond Moody, Warm Springs Raymond.moody@wstribe.org
- Brieger Edwards, Grand Ronde - thpo@grandronde.org
- Bridgett Wheeler, Coquille - THPO@coquilletribe.org
- Janene Morris, Umatilla - JaneneMorris@ctuir.org
- Siletz - Culturalresources@ctsi.nsn.us
- Diane Teeman, Burns Paiute - dteeman.burns.paiute@gmail.com
- Perry Chocktoot, Klamath Tribes - perry.chocktoot@klamathtribes.com

- Jeremy Johnson, Cow Creek - johnson@cowcreek.com

Email Template

Dear [insert tribal contact]:

[Agency name] values our relationship with each of Oregon's nine federally-recognized tribes. We have fully participated in the inventory process ([Executive Order 17-12](#)) and look forward to partnering with you in this ongoing process. Your tribal administrator likely faces similar storage capacity issues as the state does, and each state agency maintains a records retention schedule. [Agency name] is pleased to provide your tribe the opportunity to request copies of records prior to their destruction and provide feedback regarding current authorized retention periods for records series. As such we will be sharing a list of records scheduled for destruction in both January and June of every year. To review the records in greater detail, [Agency Records Officer Contact] is able to provide that detail either through in-person records review, or electronically, wherever possible. Your feedback will be greatly appreciated by reply on or before [DATE* at least 3 weeks]. Should you require additional review time, please let us know prior to this date.

The following is a list of records scheduled to be destroyed on [DATE].

(list records here, examples below)

Schedule number: 2012-0004/022
Series title: General Fund Tracking Reports
Years contained: 1990-2000
Total boxes: 24
Current retention period: Retain 20 years, destroy
Destruction date: 1/1/2021

Schedule number: 2012-0004/038
Series title: Website Feedback Records
Years contained: 2017-2018
Total boxes: 2
Current retention period: Retain 2 years, destroy
Destruction date: 1/1/2021

Schedule number: 2012-0004/101
Series title: Recruitment Summary Records
Years contained: 2005-2010
Total boxes: 15
Current retention period: Retain 10 years, destroy
Destruction date: 1/1/2021

Schedule number: 2012-0004/220
Series title: Real property transaction records
Years contained: 2010
Total boxes: 75

Current retention period: Retain 10 years after transfer of state ownership, destroy
Destruction date: 1/1/2021

Our agency's full retention schedule can be found here for more details about each records series: https://sos.oregon.gov/archives/Pages/state_admin_schedules.aspx

Please submit your requests by email to [Agency name's] [Records Officer] (provide email and phone).

If you are not interested in receiving these messages in the future and would like to opt out, please contact [Records Officer].



SUPPORTING MATERIALS

 [Video of Oregon House Rules Committee Hearing on HB 2112 \(9:36 mark\), January 2023](#)

[HB2112, Oregon Secretary of State, House Rules Committee Presentation Examples, January 23, 2023](#)

HB 2112: Mission alignment

Our mission at the Oregon Secretary of State is to build trust between the people of Oregon and their state government so Oregonians trust the public services that can make a positive difference in their everyday lives.

The Oregon State Archives sets retention schedules for and provides access to the permanently valuable records of Oregon government. We use plain language to increase understanding and impact.



Tribal Cultural Items Task Force

In November 2017, Governor Kate Brown signed Executive Order No. 17-12, establishing the Task Force on Oregon Tribal Cultural Items.

The purpose of the Task Force was to recommend a process for soliciting information from state agencies and other public institutions about items within their possession that are associated with Oregon's nine federally recognized Indian Tribes.

HOW HB 2112 HELPS OREGONIANS

Clarify Oregon Public Records Law as it relates to technology and technical language to break down barriers to public records transparency and increase government accountability.

Make it clear to government entities that tribal cultural value should be considered when appraising records for retention value.



SUPPORTING MATERIALS

[HB 2112, Oregon Secretary of State, Oregon House Rules Committee Testimony, January 2023](#)

OREGON SOS

Updating Public Records Law

HB 2112

BACKGROUND

The mission of SoS as it relates to archives

- Our mission at the Oregon Secretary of State is to build trust between the people of Oregon and their state government so Oregonians trust the public services that can make a positive difference in their everyday lives.
- The Oregon State Archives sets retention schedules for and provides access to the permanently valuable records of Oregon government. We elevate equity through identifying and actively eliminating barriers. We use plain language to increase understanding and impact. We are committed to serving the people of Oregon and strive to understand all viewpoints.

The Secretary of State is the public records administrator for Oregon, and responsible for maintaining uniformity in the application, operation and interpretation of public records laws. (ORS 192.015)

Each state agency or political subdivision shall maintain a public record or accurate copy of a public record in accordance with a retention schedule authorized under ORS 192.018 or 192.105, without regard to the technology or medium used to create or communicate the record.

We seek to meet these statutory requirements through a variety of means:

- Clarify Oregon Public Records Law as it relates to technology and technical language to break down barriers to public records transparency and increase government accountability.
- Refine statutory language to make it easier for public records custodians to accurately apply the laws as written.
- Make it clear to government entities that tribal cultural value should be considered when appraising records for retention value.

Brief overview of current practice

- We are not looking to modify current practice. We wish to update the language. There are outdated technical references that do not reflect current technology.
- ORS 192 is not in alignment with efforts to ensure tribal governments in Oregon have a voice in how long information is kept by state and local government.

Kathy Wai, Kathy.wai@oregon.sos.gov | (503) 302-6356

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What we're proposing to do to solve existing problems

- Remove language that can be misunderstood by government entities and refers to obsolete technology.
- Add tribal cultural value to be considered when appraising public records for retention.

CURRENT CHALLENGES IF ANY

Technologically out-of-date language in ORS 192.005 has created a lack of clarity for public bodies, who often wrongly apply it to text messages. The spirit of the law is to exempt voicemail, not text messages. Unfortunately, some agencies may have misinterpreted the language and destroyed text messages that relate to state business. HB 2112 clarifies that text messages should be included as public records for retention purposes. It also makes it clear to our records custodians that this law was last updated before the advent of text messaging.

HOW HB 2112 HELPS OREGONIANS

We will be more in alignment with recent efforts to ensure tribal governments in Oregon have a voice in how their information is kept. Public records custodians have a better chance of providing access to public records when they can clearly understand the law.



Kathy Wai, Kathy.wai@oregon.sos.gov | (503) 302-6356

02



SUPPORTING MATERIALS

[HB2112 Testimony, Stephanie Clark, State Archivist, Oregon House Rules Committee, January 2023](#)

OFFICE OF THE SECRETARY OF STATE

SHEMIA FAGAN

SECRETARY OF STATE

CHERYL MYERS

DEPUTY SECRETARY OF STATE

TRIBAL LIAISON



State of Oregon
900 Court Street NE #136
Salem, Oregon 97301
503-986-1500

<http://sos.oregon.gov>

January 23, 2023

Chair Fahey, Vice-Chair Breese-Iverson, Vice-Chair Kropf, and Members of the Committee:

My name is Stephanie Clark and I am the Director of the Oregon State Archives. Enclosed is my written testimony that is submitted into OLIS. HB 2112 would cement the importance of our tribal partnerships in preserving our shared history and would make the Oregon Public Records Law easier for Public Records Custodians to clearly implement.

With the creation of the Tribal Cultural Items Task Force by Governor Brown's Executive Order in 2017, there was a concerted effort to solicit information from state agencies and other public institutions about items within their possession that are associated with Oregon's nine federally recognized tribes. Out of that process, the State Archives hoped to spark conversations between state agency records officers and state agency Tribal Liaisons by requiring Agency Tribal Liaison signoff for records due for destruction out at the Oregon State Records Center. This created a cascading effect throughout agencies, many of which had not had a Tribal Liaison designated up until that point.

At the State Archives, it's our responsibility to not just house and provide access to valuable public records, but to also determine the retention period for each records series. In statute, we are currently required to weigh four values – administrative, legal, fiscal, and historical. Through our work with the Governor's Tribal Cultural Items Task Force, we have learned so much about the ongoing tribal cultural value inherent in many government records. In alignment with Secretary Fagan's full support to create strong and respectful relationships with each Tribal Government, we looked for a way to implement lasting change that will carry on the work of the Task Force.

To that end, the State Archives is proposing this bill to add "tribal cultural value" to the other list of values currently in place when appraising public records for retention. The statute change will codify our current practice of including more in-depth consideration of tribal cultural value when establishing retention periods for government records. State agencies are already required to have a Tribal Liaison, and we have been working with them in areas of records retention and destruction. These changes to the statute could increase visibility for this effort, and in turn lead to greater resources being applied in that direction.

Additionally, HB2112 also includes recommended changes to technical language that we believe will help clarify and prevent future confusion by records custodians. In our work helping government agencies apply Oregon's Public Records Law, we receive feedback about language that can be mis-construed or is out-of-date in its technical language. We hope to increase transparency and access to public records but making the law easier to understand and hopefully apply correctly. We hope to get your support for HB2112.

Thank you,
Stephanie Clark, State Archivist



SUPPORTING MATERIALS

[HB2112 Testimony, State Representative Tawna Sanchez, Shoshone-Bannock, Ute, and Carrizo descent, Oregon House Rules Committee, January 2023](#)

TAWNA SANCHEZ
STATE REPRESENTATIVE
DISTRICT 43
NORTH AND NORTHEAST PORTLAND



HOUSE OF REPRESENTATIVES

January 25, 2023

Committee on House Rules
Representative Julie Fahey, Chair
Representative Vikki Breese-Iverson, Vice-Chair

Chair Fahey, Vice-Chair Breese-Iverson and Members of the Committee,

House Bill 2112 is an important bill that would add Tribal cultural and historical purposes to the list of values used to appraise public records in the future and I would like to give my support.

The statute change would codify our current practice of more in-depth consideration of Tribal cultural and historical purposes when establishing retention periods for government records. Currently, state agencies are already required to employ a Tribal Liaison, and the Secretary of State's Office has been working with them on records retention and destruction.

The proposed changes to the statute could increase visibility and in turn lead to more resources applied in that direction.

This bill is a result of relationship building and strengthening partnerships between the Secretary of State and Tribal Governments. In 2017, Governor Brown convened the Tribal Cultural Items Task Force that began soliciting information about items in the possession of state agencies and other public institutions associated with Oregon's nine federally recognized Tribes.


The State Archives hoped to spark conversations between state agency records officers and state agency Tribal Liaisons by requiring Agency Tribal Liaison signoff for records due for destruction at the Oregon State Records Center. This created a cascading affect throughout agencies, many of whom previously **did not** have a designated Tribal Liaison.

The responsibility of the State Archives within the Secretary of State's Office is to house and provide access to valuable public records. The office also determines the retention period for each of the records series. In statute, the State Archives are currently required to weigh four values for retention – administrative, legal, fiscal, and historical. Through their work with the Governor's Tribal Cultural Items Task Force, the office has learned much about the ongoing Tribal cultural and historical purposes inherit in many government records.

The proposed change in House Bill 2112 would add Tribal cultural and historical purposes when appraising public records for retention, and I ask for your support.


Capitol Address: 900 Court St. NE, H-273, Salem, OR 97301 - Phone: (503) 986-1443
Rep.TawnaSanchez@oregonlegislature.gov - www.oregonlegislature.gov/sanchez

TAWNA SANCHEZ
STATE REPRESENTATIVE
DISTRICT 43
NORTH AND NORTHEAST PORTLAND



HOUSE OF REPRESENTATIVES


Sincerely,



Representative Tawna Sanchez
House District 43 – North and Northeast Portland

Capitol Address: 900 Court St. NE, H-273, Salem, OR 97301 - Phone: (503) 986-1443
Rep.TawnaSanchez@oregonlegislature.gov - www.oregonlegislature.gov/sanchez

ANNESSA HARTMAN (SHE/HER)
STATE REPRESENTATIVE
DISTRICT 40



OREGON HOUSE OF REPRESENTATIVES

Chair Fahey, Vice Chairs Breese-Iverson and Kropf, members of the committee.

For the record, I am Annessa Hartman, State Representative for House District 40, representing Gladstone, Oregon City, and unincorporated Clackamas county. I also belong to the Haudenosaunee people, Cayuga Nation, commonly known as the Six Nations of Iroquois. District 40 includes the ancestral homelands of the Clackamas, Chinook Bands, Kalapuya, Kathlamet, Molalla, Multnomah, Tualatin, Tumwater, Wasco, and many other tribes that resided and traded the land that we will never be able to name.

We are unable to name all Nations that lived on and visited our district in large part because of this nation's systematic and forcible removal of Indigenous peoples, coupled with the destruction of Indigenous cultural heritage, which continued well into the 21st century.

Thankfully, Governor Brown convened the Tribal Cultural Items Task Force in 2017 to increase communication between tribes and the state government. The Task Force solicited information from state agencies and other public institutions regarding items in their possession associated with Oregon's nine federally recognized tribes.

As part of this effort, the State Archives now requires the agency's Tribal Liaison to sign off before **any** records destruction at the Oregon State Records Center. This created a cascading effect throughout agencies, many of whom previously did not have a designated tribal liaison.


In alignment with Secretary Fagan and Deputy Secretary Myers' full support to create strong and respectful relationships with each Tribal Government, they looked for a way to implement lasting change that will carry on the work of the Task Force.

An example of this lasting change being that while many of Oregon's state agencies used to destroy archaeological records after seven years without considering whether the records held cultural significance to Oregon's tribes. Input from tribes has led the Department of State Lands, ODFW, ODOT, and the Department of Agriculture to retain these records permanently.

HB 2112 codifies these efforts and ensures they will continue past the life of the Tribal Cultural Items Task Force by adding "tribal cultural value" to the list of values used by our agencies to appraise public records. Considering the great need to include Tribal voices in conversations around Indigenous cultural heritage, I hope you will join me in supporting this bill.

Thank you for your time.

Rep.AnnessaHartman@oregonlegislature.gov - www.oregonlegislature.gov/Hartman
Capitol Address: 900 Court St. NE, Salem, OR 97301 - Phone: (503) 986-1440



[HB2112 Testimony, State Representative Annessa Hartman member of the Haudenosaunee, Cayuga Nation, Snipe Clan Oregon House Rules Committee, January 2023](#)



SUPPORTING MATERIALS



January 26, 2023

To: Oregon House Committee On Rules
Re: HB 2112

I am submitting testimony in support of HB 2112 because it will improve the day to day workings of my City to have ORS 192 reflect current technology mediums. This assists us in accurate application of the public records law, and increases efficiencies in our work to help in both communicating with the public about their everyday needs.

As a full service provider of municipal operations including a 9-1-1 center, police operations, library, wastewater, water, and streets in a growing community of 25,000 + it is crucial we are able to keep up with the needs of our City.

In addition, as someone who worked for 14 years for the Confederated Tribes of Warm Springs in various capacities (KWSO Radio 91.9FM) I am grateful to see acknowledgement of the importance of tribal culture including records.

Please accept this letter as support of HB 2112.

Sincerely,

Sue Ryan
Newberg City Recorder

[HB2112 Testimony, Sue Ryan, City Recorder, City of Newberg
Oregon House Rules Committee, January 2023](#)

Newberg City Hall • 414 E First Street, Newberg, OR 97132 • 503-538-9421 • www.newbergoregon.gov

Daniel P. Santos
269 Mountain Vista Avenue S.E.
Salem, OR 97306-9164
dpsantos1952@gmail.com Cell: 503-508-1232

DATE: January 26, 2023

TO: Representative Julie Fahey, Chair, Rules Committee, Oregon House of Representatives
FROM: Daniel P. Santos
SUBJECT: HB 2112

Chair Fahey and Members of the Committee – As background, I have had the privilege of serving four Oregon governors from 1987 to 2011, as an associate dean at Willamette College of Law, and twice as an interim director at the Legislative Commission on Indian Services (LCIS). I am proud to have worked on tribal matters from the beginning of tribal gaming in Oregon, to formally establishing Government-To-Government (GTG) relations in 1996 between the State and Oregon Tribes through Executive Order 96-30. These GTG relations were codified in 2001 with SB 770. For over 25 years, the State has benefitted from the resulting increased communication with Tribal Governments about state and tribal interests.

In 2017, I was honored to be asked to Co-Chair with Brenda Meade, Chairman of the Coquille Tribe, the Governor's Task Force on Oregon Tribal Cultural Items established through Executive Order No. 17-12. It is with this background that I write in support of HB 2112.

Throughout time, Oregon's Tribes have desired to maintain as much as possible of their historical cultural items. Much too often, these have been tragically destroyed, lost, not identified, or stored. As part of the GTG relations, tribes and the Legislative Commission on Indian Services (LCIS), have long had an interest in obtaining information relating to cultural items currently held in storage or on display at Oregon state agencies, state universities, colleges, and other public entities.

The Task Force has made history by establishing processes to create definitions of cultural items, train State agencies on how best to survey such items, and how to make tribes and the public aware of such items, as well as how to provide access to these materials. Oregon was the first in the Nation to report on such a survey of tribal cultural items in 2019. In 2020, agencies began the annual process of updating their surveys. The Task Force also met with Oregon's public universities and community colleges in March 2020 as part of the next phase of survey work. These higher education colleagues were interested and willing to start their process, but as we know COVID then took over everyone's focus.

During the work of the Task Force, Secretary of State Shemia Fagan and the Archives Division have played a tremendous role in helping agencies with identifying, cataloging, and establishing access procedures for tribal cultural items. The Task Force looks forward to continuing its work with the Office of the Governor, the Legislature, SOS, LCIS, and the Tribes. That is why I write in support of HB 2112 as it helps codify the importance of government entities' consideration of tribal cultural value when appraising records for retention value. I appreciate the Secretary of State and Archives Division advancing this important matter and ask for Rules Committee's support of HB 2112.

[HB2112 Testimony, Daniel Santos
Co-Chair, Oregon Tribal Cultural Task Force
Oregon House Rules Committee, January 2023](#)



SUPPORTING MATERIALS

January 25, 2023

Chair Fahey & Members of the
House Rules Committee
Oregon State Capitol
900 Court Street, NE
Salem OR, 97301

Chair Fahey and Members of the House Rules Committee:

Thank you for your consideration of this letter from Oregon's Public Records Advisory Council in support of HB 2112, which would update the definitions and terminology used in public records law pertaining to records retention.

The Public Records Advisory Council was established by the Legislative Assembly in 2017 pursuant to SB 106 which also created Oregon's Public Records Advocate. Oregon's Public Records Advisory Council is a bipartisan group of public records experts, selected by the Governor and confirmed by the Senate, representing state and local governments, the media, the public, and public sector workforce. The Council's duties include, among other things, recommending changes in law, policy, or practice that could enhance transparency in public process and government, and facilitate rapid dissemination of records to requesters.

The Council received a presentation of this bill by the Secretary of State's office and unanimously felt that including "tribal cultural value" when evaluating public records for retention is an appropriate addition to the current list of values contained in statute.

Thank you for your consideration of our input.

Sincerely,



Mark J. Landauer
Chair
Oregon Public Records Advisory Council

[HB 2112 Testimony, Mark Landauer, Chair,
Oregon Public Records Advisory Council
Oregon House Rules Committee, January 2023](#)

 [Video of Oregon Senate Rules Committee Hearing on HB 2112 \(53:00 mark\), March 2023](#)



310 SW 4th Avenue, #413
Portland, OR 97204
503.283.1922

www.commoncause.org/or

To: Senate Rules Committee
From: Kate Titus, Common Cause Oregon
Re: Public Records, Respecting Tribal Interests (HB 2112 A)
Date: March 7, 2023

Common Cause

Common Cause is a nonpartisan organization that works for open, honest, accountable government. We are 1.5 million Americans – including roughly 30,000 Oregonians – working together to realize the unfinished promise of democracy.

Respecting Tribal Interests in Public Records Retention

Common Cause appreciates this step toward making Oregon state government more collaborative with its Tribal government counterparts and more consistently respectful of Tribal interests in its public records retention practices. Thank you to Gov. Brown, the Task Force on Oregon Tribal Cultural Items, the Secretary of State and State Archives, and all the Tribal Liaisons whose leadership and work led to this bill. We fully endorse this proposal.

[HB 2112 Testimony, Kate Titus
Common Cause Oregon,
Oregon Senate Rules Committee, March 2023](#)



SUPPORTING MATERIALS



March 3, 2023

Senator Katie Lieber, Chair & Committee Members
Senate Committee on Rules
Oregon State Legislature
900 Court St, NE
Salem, OR 97301

RE: Support for HB2112A

Senator Lieber and Committee Members,

I am writing in support of House Bill (HB) 2112A which the Committee will consider on March 7, 2023. The ability of any statute to be effective in large part depends on its applicability to the world we work in and its ability to be understood by the agencies meant to administer the law and the public at large. Periodically reviewing and updating our laws to make sure they are understandable in plain language is critical and HB2112A helps our public records law be understood.

In addition, it is critical that our public records law recognize, appreciate, and include the voices and archives and stories of all Oregonians. Intentionally calling out tribal culture and heritage is essential for effective records management and preservation.

Thank you for your work on behalf of all Oregonians, thank you for your consideration of this testimony.


Scott Stauffer
City Recorder

[HB 2112 Testimony, Scott Stauffer
City Recorder, City of Milwaukie
Oregon Senate Rules Committee, March 2023](#)

CITY OF MILWAUKIE
10722 SE MAIN ST. MILWAUKIE, OR 97222 • 503.786.7555 • MILWAUKIEOREGON.GOV



The League of Women Voters of Oregon, established in 1920, is a grassroots nonpartisan political organization that encourages informed and active participation in government. We envision informed Oregonians participating in a fully accessible, responsive, and transparent government to achieve the common good. LWVOR Legislative Action is based on advocacy positions formed through studies and member consensus. The League never supports or opposes any candidate or political party.

March 7, 2023

To: **Senator Lieber, Chair, and Members of the Committee**
[Senate Rules Committee](#)

Re: [HB 2112 Engrossed A](#) – Update and align public records terms – **Support**

HB 2112 clarifies public records statute to include **fiscal, tribal cultural, historical or research**, also correcting numerous outdated technical references. LWVUS calls for us to work together to influence public policy, using a DEI lens, for diversity, equity, and inclusion, for all League work. Updating and correcting statute for understandable, relevant content increases transparency and access, as called for in our cybersecurity position. We support government efficiency and urge for participation in government, both served by this bill, which also eliminates obsolete technical references, for example to videotapes, and acknowledges the value of research, among other updates.

The LWVOR supports recognizing our tribes and the importance of archival holdings representing their cultural and historical heritage. We support increasing public awareness of our cultural heritage and recognize efforts of the Governor's Task Force on Tribal Cultural Items, furthered here through this State Archives bill. Day to day processing of public records can be easier, from making the records easier to identify, using plain language, to accessing and delivering them, by updating their descriptions.

The League supports efficiency in government. Administering retention is a central public records management concern, weighing administrative, legal, fiscal, and historical values. Defining public records retention limits is critical now with exponential data accumulation challenging capacity for storage, retention, and security. This bill can help to preserve important records and make them easier to find and share. Retention used to call for destroying archeological records after seven years, a grievous loss. Now retention will consider the long-term cultural and historical retention value, already requiring a Tribal Liaison.

We urge your Support for HB 2112.

Thank you for the opportunity to discuss this legislation.



Rebecca Gladstone
President LWVOR

[HB 2112 Testimony, Rebecca Gladstone
President, League of Women Voters of Oregon
Oregon Senate Rules Committee, March 2023](#)

1330 12th St. SE, Suite 200 • Salem, OR 97302 • 503-581-5722 • lwv.org/lwvor.org • www.lwvor.org



SUPPORTING MATERIALS

Oregon House Bill (HB) 2112, 2023 Enrolled

82nd OREGON LEGISLATIVE ASSEMBLY—2023 Regular Session

Enrolled House Bill 2112

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Secretary of State Shemia Fagan)

CHAPTER

AN ACT

Relating to public records; amending ORS 7.010, 8.125, 192.001, 192.005, 192.050, 192.060, 192.105, 192.130, 260.255 and 357.825.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 192.001 is amended to read:

192.001. (1) The Legislative Assembly finds that:

(a) The records of the state and its political subdivisions are so interrelated and interdependent that the decision as to what records are retained or destroyed is a matter of statewide public policy.

(b) The interest and concern of citizens in public records recognizes no jurisdictional boundaries and extends to such records wherever they may be found in Oregon.

(c) As local programs become increasingly intergovernmental, the state and its political subdivisions have a responsibility to ensure orderly retention and destruction of all public records, whether current or noncurrent, and to ensure the preservation of public records of value for legal, administrative, [legal] fiscal, tribal cultural, historical or research [and research] purposes.

(2) The purpose of ORS 192.005 to 192.170 and 357.805 to 357.895 is to provide direction for the retention or destruction of public records in Oregon in order to ensure the retention of records essential to meet the needs of the Legislative Assembly, the state, its political subdivisions and its citizens, insofar as the records affect the administration of government, legal rights and responsibilities, and the accumulation of information of value for research purposes of all kinds, and in order to ensure the prompt destruction of records without continuing value. All records not included in types described in this subsection shall be destroyed in accordance with rules adopted by the Secretary of State.

SECTION 2. ORS 192.005 is amended to read:

192.005. As used in ORS 192.005 to 192.170, unless the context requires otherwise:

(1) "Archivist" means the State Archivist.

(2) "Photocopy" includes a photograph, microphotograph and any other reproduction on paper or film in any scale.

(3) "Photocopying" means the process of reproducing, in the form of a photocopy, a public record or writing.

(4) "Political subdivision" means a city, county, district or any other municipal or public corporation in this state.

(5) "Public record":

(a) Means any information that:

(A) Is prepared, owned, used or retained by a state agency or political subdivision;

(B) Relates to an activity, transaction or function of a state agency or political subdivision; and

(C) Is necessary to satisfy the [fiscal], legal, administrative, fiscal, tribal cultural or historical policies, requirements or needs of the state agency or political subdivision.

(b) Does not include:

(A) Records of the Legislative Assembly, its committees, officers and employees.

(B) Library and museum materials made or acquired and preserved solely for reference or exhibition purposes.

(C) Records or information concerning the location of archaeological sites or objects as those terms are defined in ORS 358.905.

(D) Extra copies of a document, preserved only for convenience of reference.

(E) A stock of publications.

(F) Messages on voice mail [or on other telephone message storage and retrieval systems].

(G) Records of the Judicial Department or its officers and employees.

(H) Spoken communication that is not recorded.

(6) "State agency":

(a) Means any state officer, department, board or commission created by the Constitution or statutes of this state.

(b) Does not include:

(A) The Legislative Assembly or its committees, officers and employees; or

(B) The Judicial Department or its officers and employees.

SECTION 3. ORS 192.050 is amended to read:

192.050. A state agency or political subdivision may, with the approval of the proper budgetary authority, cause any public records in its official custody to be photocopied or captured by digital imaging system, as in the case of original filings or recordings, or recorded by [means of analog or digital audio and video tape technology] audio or video technology. Each photocopy, digital image [and analog or digital audio and video tape], audio recording and video recording shall be made in accordance with the appropriate standard as determined by the State Archivist. Every such reproduction shall be deemed an original; and a transcript, exemplification or certified copy of any such reproduction shall be deemed a transcript, exemplification or certified copy, as the case may be, of the original.

SECTION 4. ORS 192.060 is amended to read:

192.060. All photocopies, digital images [and analog or digital audio and video tapes], audio recordings and video recordings made under ORS 192.040 and 192.050 shall be properly indexed and [placed in conveniently accessible files] filed so as to facilitate access and retrieval. Each roll of microfilm shall be deemed a book or volume and shall be designated and numbered and provision shall be made for preserving, examining and using the same.

SECTION 5. ORS 192.105 is amended to read:

192.105. (1) Except as otherwise provided by law, the State Archivist may grant to public officials of the state or any political subdivision specific or continuing authorization for the retention or disposition of public records that are in their custody, after the records have been in existence for a specified period of time. In granting such authorization, the State Archivist shall consider the value of the public records for legal, administrative, fiscal, tribal cultural, historical or research [or research] purposes and shall establish rules for procedure for the retention or disposition of the public records.

(2)(a) The State Archivist shall provide instructions and forms for obtaining authorization. Upon receipt of an authorization or upon the effective date of the applicable rule, a state official who has public records in custody shall destroy or otherwise dispose of those records that are older than the specified period of retention established by the authorization or rule. An official of a local government may destroy such records if such destruction is consistent with the policy of the local government. No record of accounts or financial affairs subject to audit shall be destroyed until released for destruction by the responsible auditor or representative of the auditor. If federal funds are involved, records retention requirements of the United States Government must be observed. Each

Enrolled House Bill 2112 (HB 2112-A)

Page 1

Enrolled House Bill 2112 (HB 2112-A)

Page 2

state agency and political subdivision shall designate a records officer to coordinate its records management program and to serve as liaison with the State Archivist. The county records officers for the purposes of ORS 192.001, 192.050, 192.060, 192.105, 192.130, 357.825, 357.835 and 357.875 shall be those officers identified in ORS 205.110. The State Archivist shall require periodic reports from records officers about records management programs. The State Archivist may require state agency records designated as inactive by the State Archivist to be transferred to the State Records Center, pending the availability of space.

(b) The State Archivist shall determine which parts of a public record are acceptable for admission to the State Records Center and may require the state agency or governing body to cause the unacceptable part to be removed before the record is submitted to the State Records Center.

(3) Authorizations granted prior to January 1, 1978, by any state agency, the State Archivist, or any board of county commissioners, to state agencies, schools, school districts, soil and water conservation districts, or county officials and offices shall remain in effect until they are adopted or amended by the State Archivist.

(4) This section does not apply to legislative records, as defined in ORS 171.410.

SECTION 6. ORS 192.130 is amended to read:

192.130. If the State Archivist determines that any public records of a state agency or political subdivision in the official custody of the State Archivist prove to have insufficient legal, administrative, [legal or research] fiscal, tribal cultural, historical or research value to warrant permanent preservation, the State Archivist shall submit a statement or summary thereof to the records officer of the state agency or political subdivision, or successor agency or body, certifying the type and nature thereof and giving prior notification of the destruction.

SECTION 7. ORS 357.825 is amended to read:

357.825. (1) The State Archivist may negotiate for, acquire and receive public records, writings and illustrative materials of value or interest for legal, administrative, fiscal, tribal cultural, historical or research purposes. The State Archivist is constituted official custodian of all such records, writings or materials deposited in, acquired for, or transferred upon requisition by the State Archivist to the custody of the State Archivist for the state archives.

(2) The State Archivist shall adopt rules for state agencies and guidelines for local governments relating to the physical care to be afforded public records and the means of public access to public records consistent with their physical safety.

(3) The State Archivist by rule shall describe or designate state public records that are to be considered inactive.

SECTION 8. ORS 7.010 is amended to read:

7.010. (1) The records of the circuit courts include a register and jury register.

(2) The record of the Supreme Court and the Court of Appeals is a register.

(3) All references to the clerk or court administrator relate to the office of the clerk or court administrator of the appropriate trial or appellate court.

(4) Minimum record retention schedules and standards for all records of the state courts and the administrative offices of the state courts may be prescribed by the State Court Administrator pursuant to ORS 8.125. The State Court Administrator shall ensure that the minimum record retention schedules and standards prescribed under ORS 8.125 conform with policies and standards established by the State Archivist under ORS 192.105, 357.825 and 357.835 (1) for public records valued for legal, administrative, fiscal, tribal cultural, historical or research [or research] purposes.

SECTION 9. ORS 8.125 is amended to read:

8.125. The State Court Administrator shall, to the extent directed by the Chief Justice of the Supreme Court:

(1) Assist the Chief Justice in exercising administrative authority and supervision under ORS 1.002.

(2) Consistent with applicable provisions of law and rules made thereunder:

(a) Supervise the personnel plan for officers, other than judges, and employees of the courts of this state who are state officers or employees.

Enrolled House Bill 2112 (HB 2112-A)

Page 3

(b) Prescribe the form and content and supervise the preparation of consolidated budgets, for submission to the Legislative Assembly, applicable to expenditures made and revenues received by the state in respect to the courts of this state.

(c) Supervise an accounting system for the recording, monitoring and auditing of expenditures made and revenues received by the state in respect to the courts of this state.

(d) Establish and maintain inventory records of property of the state in the custody or control of the courts of this state or any judge, other officer or employee thereof.

(3) Conduct a continuing survey of the administrative methods and activities, records, business and facilities of the courts of this state and make recommendations to the Chief Justice based on the survey.

(4) Collect and compile statistical and other data relating to the courts of this state and municipal courts, including the caseload, workload, performance, status, management, expenses and revenues of those courts, and make reports on the business and condition of those courts.

(5) Establish and supervise a statewide public information service concerning the courts of this state.

(6) Establish and supervise education programs for judges, other officers and employees of the courts of this state and municipal courts pertinent to the performance of the functions of those judges, other officers and employees.

(7) Provide to the judges, other officers and employees of the courts of this state, to attorneys and to the public appropriate assistance services relating to the administration and management of the courts of this state.

(8) Prepare and maintain a continuing long-range plan for improvement and future needs of the courts of this state.

(9) Supervise and maintain the law libraries of the judicial department of government of this state, including the State of Oregon Law Library, and excluding county law libraries except as provided in ORS 9.825.

(10) Enter into contracts on behalf of the Judicial Department, including but not limited to financing agreements entered into pursuant to ORS 283.087.

(11) Prescribe minimum retention schedules and standards for all records of the state courts and the administrative offices of the state courts, including but not limited to minimum retention schedules and standards for registers, dockets, indexes, files, citations, notes, audio records, video records, stenographic records, exhibits, jury records and fiscal and administrative documents, whether maintained in paper, micrographic, electronic or other storage form. The State Court Administrator shall ensure that the minimum record retention schedules and standards prescribed under this subsection conform with policies and standards established by the State Archivist under ORS 192.105, 357.825 and 357.835 (1) for public records valued for legal, administrative, fiscal, tribal cultural, historical or research [or research] purposes.

SECTION 10. ORS 260.255 is amended to read:

260.255. (1) Except as provided in subsection (2) of this section, a filing officer shall preserve each statement filed with the officer under ORS 260.057, 260.076, 260.083, 260.112 or 260.118, or an accurate copy of it, for at least six calendar years.

(2) The Secretary of State shall maintain all data filed electronically under ORS 260.057 on the Internet for at least six calendar years after the date the secretary first makes the data available. After six calendar years, if the data are not maintained on the Internet, the secretary shall retain and dispose of the data in a manner prescribed by the State Archivist. The State Archivist shall consider the value of the data for legal, administrative, fiscal, tribal cultural, historical or research [or research] purposes and shall establish rules for procedures for the retention and disposition of data described in this section.

Enrolled House Bill 2112 (HB 2112-A)

Page 4

