

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 01-0101.01 Stephen Miller

SENATE BILL 01-017

SENATE SPONSORSHIP

Evans, and Teck

HOUSE SPONSORSHIP

Young, and Ragsdale

Senate Committees

Judiciary

Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING GOVERNMENT RECORDS, AND, IN CONNECTION**
102 **THEREWITH, CREATING A CRIMINAL PENALTY FOR THE**
103 **UNLAWFUL DESTRUCTION OF CERTAIN GOVERNMENT RECORDS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Management, Storage, Retrieval, and Archiving of State Records. Creates a criminal penalty for the unlawful destruction of certain records of the state of Colorado and its political subdivisions.

1 *Be it enacted by the General Assembly of the State of Colorado:*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 **SECTION 1.** 24-80-101 (1), Colorado Revised Statutes, is
2 amended to read:

3 **24-80-101. Definitions.** As used in this part 1, unless the context
4 otherwise requires:

5 (1) "Records" means all books, papers, maps, photographs, or ANY
6 other documentary materials, regardless of physical form or
7 characteristics, INCLUDING BUT NOT LIMITED TO ANY COMPUTER
8 SOFTWARE, PROGRAM, DOCUMENTATION, OR COMPUTER DATA, made or
9 received by any governmental agency in pursuance of law or in
10 connection with the transaction of public business and preserved or
11 appropriate for preservation by the agency or its legitimate successor as
12 evidence of the organization, functions, policies, decisions, procedures,
13 operations, or other activities of the government or because of the value
14 of the official governmental data contained therein. As used in this part
15 1, the following are excluded from the definition of records:

16 (a) Materials preserved or appropriate for preservation because of
17 the value of the data contained therein other than that of an official
18 governmental nature or because of the historical value of the materials
19 themselves;

20 (b) Library books, pamphlets, newspapers, or museum material
21 made, acquired, or preserved for reference, historical, or exhibition
22 purposes;

23 (c) Private papers, manuscripts, letters, diaries, pictures,
24 biographies, books, and maps, including materials and collections
25 previously owned by persons other than the state or any political
26 subdivision thereof and transferred by them to the state historical society;

27 (d) Extra copies of publications or duplicated documents preserved

1 for convenience of reference;

2 (e) Stocks of publications;

3 (f) Electronic mail messages, regardless of whether such messages
4 are produced or stored using state-owned equipment or software, unless
5 the recipient has previously segregated and stored such messages as
6 evidence of the organization, functions, policies, decisions, procedures,
7 operations, or other activities of the government or because of the value
8 of the official governmental data contained therein;

9 (g) THE CORRESPONDENCE OF ELECTED OFFICIALS THAT:

10 (I) CONSTITUTES WORK PRODUCT AS DEFINED IN SECTION 24-72-202
11 (6.5) (a) AND (b); EXCEPT THAT FINAL PRODUCTS WHICH BECOME PUBLIC
12 RECORDS UNDER THE PROVISIONS OF SECTION 24-72-202 (6.5) (b) SHALL
13 CONSTITUTE RECORDS AS DEFINED IN THIS SUBSECTION (1); OR

14 (II) IS NOT CONNECTED TO THE EXERCISE OF FUNCTIONS REQUIRED
15 OR AUTHORIZED BY LAW OR ADMINISTRATIVE RULE AND DOES NOT INVOLVE
16 THE RECEIPT OR EXPENDITURE OF PUBLIC FUNDS.

17 **SECTION 2.** Part 1 of article 80 of title 24, Colorado Revised
18 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

19 **24-80-113. Unlawful destruction of government records -**
20 **penalty.** (1) ANY PERSON WHO KNOWINGLY DESTROYS, DAMAGES, OR
21 DEFACES ANY RECORD, AS DEFINED IN SECTION 24-80-101, OF THE STATE
22 OF COLORADO OR OF ANY POLITICAL SUBDIVISION THEREOF COMMITS
23 UNLAWFUL DESTRUCTION OF GOVERNMENT RECORDS.

24 (2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT
25 THE DISPOSITION OF PUBLIC RECORDS LAWFULLY PERFORMED IN
26 ACCORDANCE WITH THE PROCEDURES OF THIS PART 1.

27 (3) UNLAWFUL DESTRUCTION OF GOVERNMENT RECORDS IS A CLASS

1 6 FELONY, PUNISHABLE AS PROVIDED IN SECTION 18-1-105, C.R.S.

2 **SECTION 3.** Part 1 of article 1 of title 17, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

4 **17-1-133. Appropriation to comply with section 2-2-703.**

5 (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY
6 APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE MADE
7 IN ORDER TO IMPLEMENT S.B. 01-____, ENACTED AT THE FIRST REGULAR
8 SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY:

9 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2001, IN ADDITION TO
10 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM THE
11 CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO
12 THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
13 17-1-116, THE SUM OF _____ DOLLARS (\$).

14 (b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION
15 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
16 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S.,
17 TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
18 17-1-116, THE SUM OF _____ DOLLARS (\$).

19 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION TO
20 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
21 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
22 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

23 (c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, IN ADDITION
24 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
25 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S.,
26 TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
27 17-1-116, THE SUM OF _____ DOLLARS (\$).

1 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, IN ADDITION TO
2 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
3 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
4 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

5 (d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, IN ADDITION
6 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
7 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S.,
8 TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
9 17-1-116, THE SUM OF _____ DOLLARS (\$).

10 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, IN ADDITION TO
11 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
12 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
13 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

14 (e) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, IN ADDITION
15 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
16 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S.,
17 TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
18 17-1-116, THE SUM OF _____ DOLLARS (\$).

19 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, IN ADDITION TO
20 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
21 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
22 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

23 **SECTION 4.** 24-75-302 (2) (n), (2) (o), (2) (p), (2) (q), and (2)
24 (r), Colorado Revised Statutes, are amended to read:

25 **24-75-302. Capital construction fund - capital assessment fees**
26 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
27 through July 1, 2005, a sum as specified in this subsection (2) shall accrue

1 to the capital construction fund. The state treasurer and the controller
2 shall transfer such sum out of the general fund and into the capital
3 construction fund as moneys become available in the general fund during
4 the fiscal year beginning on said July 1. Transfers between funds
5 pursuant to this subsection (2) shall not be deemed to be appropriations
6 subject to the limitations of section 24-75-201.1. The amount which shall
7 accrue pursuant to this subsection (2) shall be as follows:

8 (n) On July 1, 2001, one hundred million dollars, plus one hundred
9 fifty-four thousand six hundred thirty-six dollars pursuant to H.B.
10 97-1186; plus nine hundred five thousand seven hundred twenty-three
11 dollars pursuant to H.B. 97-1077, enacted at the first regular session of the
12 sixty-first general assembly; plus nine thousand eight hundred ninety
13 dollars pursuant to S.B. 98-021, enacted at the second regular session of
14 the sixty-first general assembly; plus three hundred forty-nine thousand
15 fifty-five dollars pursuant to H.B. 98-1160, enacted at the second regular
16 session of the sixty-first general assembly; plus three hundred twenty-six
17 thousand thirty-two dollars pursuant to H.B. 00-1107, enacted at the
18 second regular session of the sixty-second general assembly; plus
19 ninety-seven thousand two hundred fifty-four dollars pursuant to H.B.
20 00-1111, enacted at the second regular session of the sixty-second general
21 assembly; plus two hundred ninety-one thousand seven hundred sixty-one
22 dollars pursuant to H.B. 00-1158, enacted at the second regular session of
23 the sixty-second general assembly; plus one million one hundred sixteen
24 thousand nine hundred seventy-one dollars pursuant to H.B. 00-1201,
25 enacted at the second regular session of the sixty-second general
26 assembly; plus four hundred sixteen thousand eight hundred two dollars
27 pursuant to H.B. 00-1214, enacted at the second regular session of the

1 sixty-second general assembly; plus sixty-nine thousand four hundred
2 sixty-seven dollars pursuant to H.B. 00-1247, enacted at the second
3 regular session of the sixty-second general assembly; PLUS _____
4 DOLLARS PURSUANT TO S.B. 01-_____, ENACTED AT THE FIRST REGULAR
5 SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

6 (o) On July 1, 2002, one hundred million dollars plus thirteen
7 thousand nine hundred sixty-two dollars pursuant to S.B. 98-021, enacted
8 at the second regular session of the sixty-first general assembly; plus eight
9 million three hundred seven thousand five hundred nine dollars pursuant
10 to H.B. 98-1156, enacted at the second regular session of the sixty-first
11 general assembly; plus three hundred ninety-seven thousand nine hundred
12 twenty-three dollars pursuant to H.B. 98-1160, enacted at the second
13 regular session of the sixty-first general assembly; plus fifty thousand
14 three hundred sixty-four dollars pursuant to H.B. 00-1107, enacted at the
15 second regular session of the sixty-second general assembly; plus one
16 hundred twenty-one thousand five hundred sixty-seven dollars pursuant
17 to H.B. 00-1201, enacted at the second regular session of the sixty-second
18 general assembly; plus two hundred fifty thousand eighty-one dollars
19 pursuant to H.B. 00-1214, enacted at the second regular session of the
20 sixty-second general assembly; plus forty thousand five hundred
21 twenty-two dollars pursuant to H.B. 00-1247, enacted at the second
22 regular session of the sixty-second general assembly; PLUS _____
23 DOLLARS PURSUANT TO S.B. 01-_____, ENACTED AT THE FIRST REGULAR
24 SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

25 (p) On July 1, 2003, one hundred million dollars; PLUS _____
26 DOLLARS PURSUANT TO S.B. 01-_____, ENACTED AT THE FIRST REGULAR
27 SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

1 (q) On July 1, 2004, one hundred million dollars plus two hundred
2 thirty-three thousand eight hundred seventy-two dollars pursuant to H.B.
3 00-1201, enacted at the second regular session of the sixty-second general
4 assembly; PLUS _____ DOLLARS PURSUANT TO S.B. 01-_____, ENACTED AT
5 THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

6 (r) On July 1, 2005, one hundred million dollars; PLUS _____
7 DOLLARS PURSUANT TO S.B. 01-_____, ENACTED AT THE FIRST REGULAR
8 SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY.

9 **SECTION 5. Effective date - applicability.** (1) This act shall
10 take effect September 1, 2001, unless a referendum petition is filed during
11 the ninety-day period after final adjournment of the general assembly that
12 is allowed for submitting a referendum petition pursuant to article V,
13 section 1 (3) of the state constitution. If such a referendum petition is
14 filed against this act or an item, section, or part of this act within such
15 period, then the act, item, section, or part, if approved by the people, shall
16 take effect on the date of the official declaration of the vote thereon by
17 proclamation of the governor.

18 (2) The provisions of this act shall apply to all offenses committed
19 on or after the applicable effective date of this act.