

MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING – February 19, 2019
1205 Camino Carlos Rey, Santa Fe, NM 87505

Members Present

Robert J. Tórrrez	Chairman and Historian
Brian Colón, Esq.	State Auditor, Office of State Auditor
Ken Ortiz	Secretary, General Services Department
Dan Cordova	Interim Director, State Law Librarian
Christine Espinoza	Designee, Secretary of the State
Debra Garcia y Griego	Secretary, Department of Cultural Affairs
Dylan Lange, Esq.	Attorney General Council, Office of the State Attorney

Staff Present

Georgette L. Chavez	Deputy State Records Administrator
Justin Herrera	Financial Specialist, Administrative Services Division (ASD)
Leo Lucero	Director, Records Management Division (RMD)
Crystal Wooldridge	Records Center Bureau Chief, RMD
Peter Chacon	Director, Information Technology Management Division (ITMD)
James Kirby	Information Technology End User Support, ITMD
Rick Hendricks , Ph.D.	State Historian, Office of the State Historian (OSH)
Thomas Shumaker, Ph.D.	Grants Administrator, OSH
Pamela Lujan y Vigil	Management Analyst, Administrative Law Division (ALD)
Elena Perez-Lizano	Archivist, State Archives of New Mexico (SANM)
Felicia Lujan	Director, SANM
Gail Packard	Administrative Assistant, SANM
Lynne Newton, Ph.D.	Archivist, SANM
Tanya Vigil	Bureau Chief, RMD
Jonathan Roybal	Management Analyst, RMD
Dennis Branch	New Mexico Register Editor, (ALD)
Matt Ortiz	Director, ALD
Andy Mackowski	HR Bureau Chief, ASD
Marcus Flores	Archivist, SANM
Ruben Rivera	Chief Financial Officer, ASD
Robert Wise	IT Network Administrator, ITMD

Public Present

Mike Easley	Ricci & Company
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I. OPENING ACTIVITIES
A. Call to Order

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Hon. Hector Balderas
Attorney General

Hon. Brian S. Colón
State Auditor

Hon. Maggie Toulouse Oliver
Secretary of State

Debra Garcia y Griego
Department of Cultural Affairs

Kenneth Ortiz
General Services Department

Daniel Cordova
Interim Director, NM State Law Library

Chairman Tórrrez called the meeting to order at 10:00 a.m. The chairman then introduced the new members of the commission.

B. Approval of the Agenda

Chairman Tórrrez entertained a **MOTION** to approve the agenda. Mr. Colón **MOVED**, and Mr. Ortiz **SECONDED**; the motion **PASSED UNANIMOUSLY**.

C. Approval of the Minutes of the November 27, 2018 Regular Meeting

Chairman Tórrrez noted there was an item that required minor editing and would provide Mr. Herrera his copy of the minutes that reflect the small change that needed to be made.

Chairman Tórrrez entertained a **MOTION** to approve the corrected minutes. Mr. Cordova **MOVED**, and Ms. Espinoza **SECONDED**. Mr. Colón **ABSTAINED**. **MOTION PASSED**.

II. INTRODUCTION & PRESENTATION

A. Division Director Introductions

Ms. Chavez stood and introduced herself and then asked each division director at the State Records Center and Archives to stand and introduce themselves and their staff to the commissioners. The chairman requested that Ms. Chavez provide the commission with the agency organizational chart, so the new members can have a list of staff and their levels within the agency.

B. FY18 Audit Report – Ricci & Co.

Ms. Chavez stated the following;

“The FY18 audit report was submitted to the Office of the State Auditor on November 1, 2018. Here to present on behalf of Ricci and Co. is Michael Easley”

Michael Easley introduced himself and presented the 2018 Audit Results. He explained to the commission the responsibility as described by professional standards, was to form and express an opinion about the financial statements prepared by management and are fairly presented in conformity with U.S. generally accepted accounting principles. He went on to say that the audit was designed to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement. Mr. Easley also stated as auditors, they are responsible for communicating significant matters related to the financial statement audit, as a professional judgement, which are relevant to the responsibilities in overseeing the financial reporting process. Mr. Easley then explained that per the state auditor’s request a report is prepared to measure and verify compliance with procedures such as payroll, purchasing, and use of the P-card. Mr. Easley went over financial highlights such as an increase of \$55,000,000 in the total net position due to an increase in cash. He also stated that liabilities were consistent with the prior year, and revenues had increased this year due to publication sales. Mr. Easley said the audit performed found no findings, and there were no findings at last year’s audit to follow up on. Mr. Colón expressed his gratitude to the staff for the continued effort to have a clean audit with no findings.

Ms. Chavez also shared her gratitude by stating the following;

“This is the second year in a row that this agency has received a perfect audit. I would like to congratulate Ruben Rivera, Andy Mackowski, and Justin Herrera on a job well done.”

C. FY18 Annual Report Presentation

Ms. Chavez stated the following;

“Mr. Chairman and members of the commission,

Each of you has been provided a copy of the FY18 Annual Report, which provides a detailed look at the many activities and accomplishments of the agency’s programs. The theme for this year’s report is women in New Mexico. I would like to thank Matt Ortiz, Felicia Lujan, Pete Chacon, Rick Hendricks, and Leo Lucero for their assistance in preparing the informational summary for each of their respective divisions. I would also like to give special thanks to Lynne Newton for selecting this year’s theme and beautiful images; special thanks to Rob Martinez for providing the caption for the cover page; and special thanks to Dennis Branch, Editor of the New Mexico Register, for his many hours of hard work in preparing the report for publication. I would also like to note that Dennis took an In-Design course on his own time to ensure that this project was completed.”

The chairman voiced his gratitude of how great the Annual Report book came out and thanked the staff for the great publication. Mr. Cordova referred to Mr. Easley’s statement that there was an increase of revenue from publications, and asked if the agency expected that increase to remain constant. Ms. Chavez answered that most of our revenue almost always comes from the New Mexico Register but unfortunately, there are expectations of the revenue tapering off. Ms. Chavez asked Mr. Matt Ortiz to elaborate on that subject. Mr. Ortiz stood and explained that there was an increase of publications recently from a number of different agencies because the change of administration at the state capitol. Mr. Ortiz went on to say that depending on how proactive or reactive the new administration is going to be regarding the new laws that are being submitted, we may see that increase from last fiscal year sustain or decrease but that determination is being closely monitored. Mr. Cordova thanked them for the clarification.

III. EXECUTIVE SESSION: LIMITED PERSONNEL MATTERS, NMSA 1978, §10-15-1 (H)(2)

A. Pursuant to 14-3-4 NMSA 1979, consider appointment of State Records Administrator

The chairman entertained a **MOTION** the commission enter into Executive Session to discuss the State Records Administrator appointment pursuant to section 10-15-1 (H)(2) of the open meetings act. Mr. Colón **MOVED**; and Mr. Ortiz **SECONDED**. The **MOTION PASSED**.

Ms. Chavez performed a roll call and all Commissioners were present. The meeting entered into Executive Session and the recording was shut off at 10:25 a.m.

IV. Action Items

A. Appointment of State Records Administrator

Chairman Tórréz called the meeting back into open session at 11:30 a.m. The chairman stated for the record that the only matter of discussion during the executive session was the appointment of state records administrator.

The chairman entertained a **MOTION** to hire Dr. Rick Hendricks as state records administrator at midpoint. Ms. Espinosa **MOVED**; and Mr. Ortiz **SECONDED**; the motion **PASSED UNANIMOUSLY**.

Dr. Hendricks stood and formally accepted the position. The chairman stated that he and Ms. Chavez would discuss the details pertaining to the paperwork for the hire. The chairman expressed his gratitude for the support the members of the commission expressed for Dr. Hendricks and the position, and he stated that they have high expectations for the agency with this new hire. Chairman Tórréz also expressed his gratitude to Ms. Chavez for stepping up and providing guidance and leadership to the department after Ms. Salazar's retirement. Ms. Chavez offered her gratitude to the staff for their hard work and thanked the division directors for their support during that time.

Mr. Ortiz and Ms. Debra Garcia y Griego excused themselves from the meeting early to attend to other matters.

B. Acceptance of Deeds of Gift: Miguel Trujillo ad Gloria Herrera Collection

Ms. Lujan stated the following;

“Good morning Mr. Chair and Members of the Commission,

This morning I would like to recommend one collection for inclusion into the permanent archive. The collection I would like to present is the “Miguel Trujillo and Gloria Herrera Collection.”

The size of this collection is 2.00 cubic feet and that includes 17 yearbooks. The collection includes yearbooks from both Pojoaque High School and Santa Fe High School, as well as a few yearbooks published by the University of New Mexico.

We are at currently at capacity in the State Archives; however, we continue to utilize small spaces within the vault, and I intend to present at least one small collection to the commission each quarter with records, which highlight New Mexico history into the permanent repository.

With regard to the “Miguel Trujillo and Gloria Herrera Collection,” this was the first time that an individual approached me, requesting the preservation of a run of yearbooks. On March 15 of this year, I'll have served this agency for 20 years in various capacities and I have seen many collections with various kinds of records. This was the first run of yearbooks I had come across, and many of them were from my hometown.

Miguel Trujillo (1916-2008) was born in Pojoaque. He had a lengthy career improving the lives of others as an educator with Santa Cruz High School, Pojoaque High School,

and Santa Fe High School. He also worked in the Santa Fe's bilingual program; and was principal of all 12 grades in Pojoaque in the 50s and 60s. Over 60 years ago, in 1957, in an article titled "School News of Pojoaque," Miguel Trujillo was the principal there. At that time, as a school administrator, he felt honored" to host a group of European educators visiting American schools." On September 3, 1966, the *Albuquerque Tribune* actually reported that Miguel Trujillo was "principal of the year."

Gloria (Herrera) Trujillo (1935-2009) was born in Nambe. She too spent her career dedicated to improving the lives of others. Mrs. Herrera-Trujillo was a Ford Foundation scholarship recipient. The Ford Scholars Program provides academic guidance and leadership development, as well as personal and professional support to scholarship recipients. Mrs. Herrera-Trujillo taught elementary school in Pojoaque in the 50s and 60s. She was also an active volunteer in the Santa Fe area. She assisted others by providing translation services for medical patients in need and served as a mayoral appointee to provide advice with regard to senior citizen issues.

This collection was donated by Steven Trujillo and Valerie Trujillo, the children of Miguel Trujillo and Gloria Herrera, who were the original owners of this collection. The first issue of *The Elk* I picked up to flip through was one published in 1967. On page 87 of the yearbook, my father was captured as an incoming freshman in the Pojoaque Valley, as were many other members of my family, the parents of my friends, and numerous other people I remember. When asked about the donation of his father and mother's collection to the State Archives, Steven Trujillo said "the establishment of this collection at the State Archives honors one aspect of the relationship to the community that their parents treasured and reflects the value they placed on careful, thoughtful curation of historical records."

At present, Steven Trujillo works for one of our national laboratories. Though he is clearly a busy person, he made time to visit the repository for a tour and worked on coordinating a transfer of this history into the archive for future generations. Mr. Trujillo and I had never met before his visit to the archive, yet we quickly united with shared memories of the Pojoaque Valley.

Mr. Chair and Members of the Commission I recommend the *Miguel Trujillo and Gloria Herrera Collection* for inclusion into the permanent archive. These types of donations allow archives to document unique historical perspectives with regard to community and education. This collection would be a good addition to our permanent collection, and your consideration is appreciated."

The chairman asked Ms. Lujan if this Miguel Trujillo, is the same gentleman who was involved the Indian Voting Rights movement of the early 1950s? Dr. Hendricks stood and stated it was a different Miguel Trujillo than the one the chairman was thinking about. That Miguel Trujillo was from Isleta Pueblo.

Chairman Tórréz entertained a **MOTION** to accept the deed of gift from the Miguel Trujillo and Gloria Herrera collection. Mr. Cordova **MOVED**; and Ms. Espinoza **SECONDED**. The motion **PASSED UNANIMOUSLY**.

C. Approval of NMHRAB Board Candidate(s)

Dr. Shumaker introduced himself and provided a brief description of the New Mexico Historical Advisory Board (NMHRAB) and how and where funding is received and how

those funds are re-granted to non-profit organizations throughout the state for projects pertaining to archival access, training and preservation. The awards for regrants are recommended and determined by the board of members. Dr. Shumaker stated the board had some vacant positions, and he was going to present the candidacy of three individuals for the NMHRAB. The first candidate was Elizabeth Ehrnst, the head of research collections and services at the Georgia O'Keeffe Museum in Santa Fe, New Mexico. The second candidate was Martha Shipman Andrews, who is currently the University Archivist and faculty member at New Mexico State University as a professor since 2010. The third candidate was Lisa C. Johnston, a retired records manager and archival expert, who is currently serving as the Council of State Archivist's (CoSA) new administrative coordinator.

Chairman Tórréz clarified that two of the candidates are current sitting members and asked if there was only one vacancy. Dr. Shumaker explained Ms. Johnston and Ms. Shipman Andrews are current sitting members whose term had expired and Ms. Ehrnst would replace the one board vacancy. Dr. Shumaker submitted these candidates for the commission's approval and left the floor open for any questions.

Mr. Colón stated that he did not object to these appointments, but he suggested that greater geographic diversity of board members would be desirable in the future. Mr. Cordova also suggested the commission packet have the date and terms for the nominees.

Chairman Tórréz entertained a **MOTION** to approve Elizabeth Ehrnst, Martha Shipman Andrews, and Lisa C. Johnston as candidates for the NMHRAB. Mr. Colón **MOVED**; and Ms. Espinoza **SECONDED**. The motion **PASSED UNANIMOUSLY**.

D. Request decision by Commission to initiate the rulemaking process for New Mexico Administrative Code, Title I, Chapter 13 and/or Chapter 21 rules, pursuant to subsection C of 1.24.25.9 NMAC

E.

Dr. Shumaker stated the following;

“The office of the state historian is requesting the commission to vote to initiate the rulemaking process for 1.13.5 NMAC New Mexico Historical Records Grant Program Guidelines.”

In reply to questions asked by the commission, Dr. Shumaker explained that these proposed changes are to simplify the application process, make the rule internally consistent and streamline the process. Dr. Shumaker explained that the changes included removing a current ban that prevents sitting board members of an organization from applying for a grant from NMHRAB; clarifying particular language on grant applications; and clarifying the rule to provide the state records administrator the authority to approve additional funds for amended regrants. The chairman asked if the board member who applies for the grant recuses himself or herself from the decision making process. Dr. Shumaker answered in the affirmative. Mr. Cordova asked if these amended grants are micro-grants with a cap on them. Dr. Shumaker answered that the minimal amount of these grants are \$500 and the maximum amount is \$8,500. He also

and the term cannot extend the time frame, however, if there are funds left over, the amount granted can be amended to reflect a larger grant. He also clarified that most of these grants are only given in partial amount of what the applicant requests. Mr. Colón asked to see the proposed rule draft before voting. Ms. Chavez clarified that this request is just to initiate the process, and there will be no voting on any changes right now. Mr. Ortiz explained that in the full procedural process for rulemaking, the commission must vote in an open session to allow that process to begin. If the commission were to consider adopting the rule, the next step would be to publish a notice of rulemaking and draft the proposed rule that would be available to the public as well as the commission. At the time, a rule hearing would take place and the proposed rule would be presented to the commission for a vote.

Tanya Vigil approached the table and stated the following:

“Good morning Mr. Chairman and members of the commission, my name is Tanya Vigil, I am the agency analysis bureau chief here at the Commission of Public Records. Records management division is requesting the Commission to conduct a rule hearing at the next scheduled meeting so the we may propose changes to 1.21.2 NMAC, section 612 Case Files-Lower Courts (Civil), section 613 Case Files-Lower Courts (Criminal), section 614 Case Files-Juvenile, section 615 Case Files-Court of Record, section 617 Exhibits, sections 619 Probation Files and section 844 Forensic Analysis. Thank you for your consideration.”

Ms. Vigil explained that there is language within these sections that would be added pertaining to the Records Retention and Disposition schedule. Mr. Cordova asked if initiating the process would affect the courts and their compliance. Mr. Ortiz stood and answered that it does not affect compliance and reiterated that this is just a formal request to initiate the rulemaking process before a vote that would take place at the actual rule hearing. Mr. Colón asked if there has been communication with Justice Nakamura regarding these rules. Ms. Lujan stood and explained she and Mr. Leo Lucero are on a committee with Justice Nakamura, but scheduled meetings for this committee has been canceled a handful of times, and so therefore there has not been discussion regarding this matter. Mr. Cordova stated that he will follow up with Justice Nakamura to ensure communication regarding this matter.

Mr. Ortiz stood and introduced himself and stated the Administrative Law Division is requesting the commission to conduct a rule hearing at the next scheduled meeting to propose additional sections to 1.13.30 NMAC. Mr. Ortiz explained that Senate Bill 118 has been passed and will go into effect in July 2019. This new bill has an important impact on law enforcement records and criminal files and the redaction of personal material in those files in light of IPRA requests. Mr. Ortiz added, that a new section to the current rule, would define how to better handle law enforcement records and criminal files in the future.

The chairman entertained a **MOTION** to initiate the rulemaking process for New Mexico Administrative Code, Title I, Chapter 13, and /or Chapter 21 rules, pursuant to subsection

C of 1.24.25.9 NMAC. Ms. Espinoza **MOVED**; Mr. Colón **SECONDED**. The motion **PASSED UNANIMOUSLY**.

V. OLD BUSINESS

A. Amendments to the NMHRAB Regrants

Dr. Shumaker stated the following;

“In November 2019, the Regents of the University of New Mexico received an award of \$5,900.00. They subsequently turned down this offer. In response to a need for increased funds, I am proposing to re-apportion these funds to two current grant programs that are, due to unforeseen circumstances, in need of extra monies.

These are:

1) The Santa Fe Indian School (SFIS)	Original	Grant:
\$3,793.00		
2) The Museum of New Mexico Foundation (MNMF)	Original	Grant:
\$3,926.00		

Divided in half, the \$5,900.00 left over yields \$2,950.00 available for each. Re-apportioned, the grants would be as follows:

1) The Santa Fe Indian School	$\$3,793.00 + \$2,950.00 = \$6,743.00$
2) The Museum New Mexico Foundation	$\$3,926.00 + \$2,950.00 = \$6,876.00$

Dr. Shumaker stated that these applicants were granted the original amount in November 2018, by the Commission of Public Records and requested amendments to the current grants to reappportion funds in the amount of \$5,900 granted to the Regents of the University of New Mexico. UNM decided to decline the grants. Chairman Tórréz asked Dr. Shumaker to remind the commission of the purpose for these grants. Dr. Shumaker explained that the Museum of NM Foundation was digitizing a series of records dating back from the 1930s through the 1990s. In addition, the Santa Fe Indian School was also in the process of digitizing old year books for the public to view. The school was in need of additional funds to cover the added cost charged by a new vendor. The chairman asked if the work would be able to be completed by both parties by the end of the cycle. Dr. Shumaker answered in the affirmative. Mr. Colón asked why the Pueblo of Sandia request for grant monies was denied when they submitted their application. Mr. Shumaker explained that their application did not clearly state their intent for the use of funds in terms budget and the main goals of the project. Dr. Shumaker also stated that Pueblo of Sandia requested a vast amount of work to be done in a short time period, which could not have be completed. Also, the application requested that the NMHRAB purchase a pallet jack, which would not be considered an allowable expense. Mr. Cordova asked if the Pueblo of Sandia was given feedback regarding their application and asked if they were informed as to why the grant application was denied. Dr. Shumaker answered in the affirmative and stated that, in the future, he would work with them to ensure that their applications were submitted correctly.

The chairman entertained a **MOTION** to approve the amendments to the NMHRAB Regrants. Mr. Cordova **MOVED**; Ms. Espinoza **SECONDED**. The motion **PASSED UNANIMOUSLY**.

VI. DIRECTORS REPORT

Ms. Chavez reported that the agency had 12 vacancies of 37 positions, placing the vacancy rate at 32.4 percent. There are four positions in the process of being filled. She provided a list of all the vacant positions and reported the following information to the commission.

BUDGET

FY 2019 Budget

As of February 1, 2019, our general fund balance in the 200 category was \$1,214,310; the balance in the 300 category was \$56,401; and the 400 category balance was \$6,402.

FY 2019 H AFC Presentation

On January 21, 2019, SRCA presented its FY20 appropriation request to the House Appropriation Finance Committee (H AFC). Our FY20 general fund request was submitted at \$2,910,200, which included a net base budget increase of \$483,700 to fill six vacant positions and to shift fixed cost budget back to the general fund.

The Legislative Finance Committee recommended \$2,513,100, which is \$49,300 above our FY19 base budget. In addition, the executive recommended \$2,693,300 which is \$229,500 above our FY19 base budget.,

The committee passed the LFC recommendation; the chair indicated that this amount may increase later in session considering the availability of funds.

GSD BOARD OF FINANCE FUNDING REQUEST

On November 27, 2018, the commission approved a motion to provide a letter of support for GSD's funding request to the Board of Finance that was presented on December 19th. The board approved funding for two new Pomona units that are at the heart of our HVAC system. In addition, they received funding for the assessment, design, and creation of a new environmental system for the Carruthers building.

This will address the on-going issues in the microfilm vault and archives vaults, which currently no longer sustain the stable environment necessary for the long-term care of the state's documentary heritage. The National Archives and Records Administration (NARA) has been informed of this positive development since they have recently required corrective action in order for the archives to retain possession of the land grant records of New Mexico.

SRCA is grateful to the General Services Department for their assistance regarding this matter.

RADON UPDATE

In August 2018, it was reported to the commission that recent radon testing indicated elevated levels in areas of the Carruthers building. Jay Stimmel of the New Mexico Environment Department is working on a report that will provide short term solutions that can be addressed immediately at minimal cost to GSD. Mr. Stimmel will be providing a report directly to the commission in May 2019.

DIVISION HIGHLIGHTS

ALD

During the second quarter of FY19, all rule updates to the *New Mexico Administrative Code* were published well within 30 days. The average number of days between the rule effective date and its online availability was eight days. In addition, 172 rulemaking actions and 48 notices of rulemaking were filed and published by the established deadlines.

RMD

During the second quarter of FY19, the Records Management Division provided 11 records management and information trainings. The division also pulled and processed 351 boxes within 24 business hours. Also, 100% of the boxes were validated and processed for their legal retention.

ITMD

During the second quarter, the Information Technology Management Division (ITMD) responded to 52 agency website updates within one day. In addition, the division made significant changes to the NMAC search engine, which resulted in more accurate search data being returned to the user.

In support of the CERR, the Chief Information Officer and the CFO responded to a request by DoIT to reconcile the project contract expenses. This request pertained to the CERR project closeout in September, 2018.

In addition, ITMD installed 2 new HP RM client applications to alleviate problems as reported by staff.

SANM

During the second quarter of FY19, the State Archives of New Mexico entered 2,165 descriptive records into HERITAGE. There were 2,165 DACS entries tied to the DWI and domestic violence case files in the Bernalillo Metropolitan Court Records (Collection No. 1999-029). SANM registered 143 new patrons, recorded 429 on-site visits, and provided assistance on 125 remote requests.

In addition, the State Archives of New Mexico hosted “Haunted History” in honor of Archives Month, 2018. There were a total of 114 people who attended this standing room only event. On October 29, both the *Alibi* and *Pasatiempo* published information about the event. “Haunted History” was hosted in the Pinon Room of NMSRCA.

OSH

In support of the Cultural Properties Review Committee, the state historian participated in a site visit in Santa Fe on December 6th. He also chaired the meetings of the Cultural Properties Review Committee on October 12th and December 7th.

The Office of State Historian received 318 research inquiries. All received responses within two business days and were provided full responses within fourteen business days.

The OSH staff also provided educational activities, including lectures on “Brujería, A History of Witchcraft in New Mexico”; “The Spanish Flu Pandemic in New Mexico”; and “The Great War Ends: New Mexico, Versailles, and Royalty.”

The grants administrator received notification that the New Mexico Historical Advisory Board was granted a State Board Programming Grant from the National Historical Publications and Records Commission in the amount of \$65,000. All documents for the acceptance of the grant were prepared and submitted.

VII. SCHEDULING OF NEXT MEETING

Chairman Tórréz stated the next meeting is scheduled for May 21, 2019.

VIII. ADJOURNMENT

Chairman Tórréz entertained a **MOTION** to adjourn. Mr. Cordova **MOVED**; Ms. Espinoza **SECONDED**; The motion **PASSED UNANIMOUSLY**.

Submitted by: _____ Date
Rick Hendricks, State Records Administrator

Attested by _____ Date
Hector Balderas, Secretary or Designee

Minutes approved on: _____