

**Legislative Digital Policy Advisory Committee – Recreated
(LDPAC 2)**

**Year Two Report
to the
Joint Budget Committee
and the
Committee on Legal Services**

Members of the LDPAC 2

Colorado Supreme Court Librarian	Dan Cordova, Chair
Colorado State Librarian	Gene Hainer, Vice-Chair
Director, Office of Legislative Legal Services	Dan Cartin
Designees, Secretary of State’s Office	DJ Davis, Deanna Maiolo, Trevor Timmons
Revisor of Statutes	Jennifer Gilroy
Designee, Chief Clerk of the House of Representatives	Korwynn Kolar
Designee, Legislative Council	Susan Liddle
Designee, Secretary of the Senate	Max Majors
State Archivist	George Orłowski
Designee, State Historical Society	Keith Schrum

October 1, 2015

Committee History and Current Charge

The history of the Legislative Digital Policy Advisory Committee (LDPAC) is outlined in its year-one report, dated October 15, 2014 (Appendix 1). The subsequent successful implementation of a Colorado UELMA-compliant system developed by the Secretary of State's Office was reported in Appendix A of the re-created LDPAC year-one report, and is amplified in the appended September 16, 2015 progress report (Appendix 2).

The solution implemented by the Secretary of State's Office has been well-received in Colorado, other States have inquired about how they might replicate it, it has won a national award, and while not required, it complies with the U.S. Office of Federal Register's protocols. The staff at the Secretary of State's Office should be commended for their excellent work.

The LDPAC was re-created for two years by the General Assembly pursuant to HB 14-1194, Session Law Ch. 203, § 24-80-114, C.R.S., and charged with the following duties:

1. Monitor the digitization of archived recordings;
2. Make recommendations for the implementation of the "Uniform Electronic Legal Material Act" (UELMA) for legislative electronic records; and
3. Make recommendations for an optimal method of records creation, storage, and access for other state electronic records.

This year-two report concludes the Committee's findings and recommendations under that Act.

Digitization of Archived Recordings

A nine-page final report submitted by State Archives to the LDPAC² is attached (Appendix 3).

The analog to digital conversion of legislative audio section of the report can be found on pages 6-8.

A summary of the report as it relates to digitization of archived audio is as follows:

- Incubators have replaced prototype machines for stabilization of tapes—to prevent sticky shed—in preparation for digitization;
- Conversion of analog and digital data storage (DDS) tapes is at a standstill due to lack of available storage (based upon output of 4TB per week during a 3-week trial period);
- Archives purchased collections management software to assist access through metadata, however competing priorities for staff time has limited progress;
- The amount of audio to be converted has increased due to the recent addition of the Freedom System (circa. 2002-2012), which Archives now identifies as the highest priority set, based on volatility and risk of data loss--Archives is pursuing grant funding for this purpose; and,
- Archives also requests wider access to statewide vendor negotiations related to future recordings, and the creation of a State Records Board, like those in other States.

The archived recordings portion of the report is preceded by five pages of information and justification from the State Archivist regarding the necessity for modernizing records and management processes in Colorado State government. Similarly, the one-time and ongoing digital records costs attached to the Archivist's report is informational only, and not a formal recommendation of the Committee.

The Archives' report ends with an announcement that the Office, in collaboration with the Judicial Branch and the Office of Information & Technology, posted an authenticated version of the original, hand-written, Colorado Constitution on the State Archives web site on Colorado Day, August 1, 2015. The technology used for this historical document is the same as that employed by the Secretary of State's Office in compliance with Colorado's UELMA.

While the LDPAC2 agrees that statewide standards for records retention would be desirable and that digital conversions of historical legal print should someday be incorporated into current electronic legal data sets, these issues are subordinate in importance to, and beyond the scope of, the digitization of archived recordings.

It is regrettable that Archives' short-term plan, as reported to the General Assembly on November 1, 2013 (Appendix 4), to convert archived audio was never fully implemented, especially because it confounds any known possibility of the hoped-for five-year plan to complete the work. Moreover, the money Archives currently charges Judicial, other Executive department offices, and the general public (50% more per request than in 2012) is insufficient to fund the conversion project.

The State Archivist is an active and valued member of the Committee, and it is our continuing desire to work collaboratively toward common goals. Given the competing priorities within State Archives, we believe the best way to do that is to act as a sounding board for the exchange of ideas with the State Archivist, rather than as a monitor, as he develops a new program to comply with emerging legislative mandate.

Toward that end, we recommend that audio conversion in the future be administered by State Archives with advice and consent of the General Assembly/Legislative Council, the depositing agency, with benchmarked funding to ensure success.

Legislative Electronic Records

The LDPAC2 notes that the exact technical approach taken by the Secretary of State may not be the right solution for the General Assembly, given the legislature's much higher volume of work and different publication schedule.

Even proceeding in-house as a cost-saving measure, the General Assembly should expect to expend more money than the Secretary of State's Office to implement UELMA.

The primary challenge associated with converting historical print to digital format is the identification of a standard that will not itself become obsolete. Until the General Assembly endorses an official electronic version of Colorado law, no such standard exists.

A secondary issue related to converting historical print to digital format is the variation between legal material sets. Electronic conversion requires the compilation and certification of a complete set (including supplements), which will be scanned and preserved as evidence of official origin.

Also, on-line digital development is constantly evolving, so much so that current best practices in two years are expected to be better documented, if not part of a larger solution set.

The Colorado House of Representatives, through its designee, Korwynn Kolar, expresses the gist of these findings directly and succinctly:

The House of Representatives is intrigued and encouraged by the strides being made in digital authentication in our state. We will continue to follow the progress of other agencies, particularly that of the Revisor's office, as its needs most closely resemble our own. Once more is known about the cost and ease of electronic authentication, the House may choose to designate an official electronic version of the Journal, but until then will continue to designate the print Journal as the official version. We are also interested in pursuing a project to digitize, authenticate, and preserve historical print journals electronically, but this too will depend on cost. In short, the House is adopting a wait-and-see strategy with regard to UELMA and digital authentication.

Accordingly, the House is eager to continue its involvement with the Legislative Digital Policy Advisory Committee, even if that means informal meetings after the committee (potentially) sunsets.

Consequently, the LDPAC2 unanimously endorses the joint recommendations of the OLLS and LCSIT, for the reasons stated in the report dated October 1, 2015 (Appendix 5):

Recommendation #1. The committee recommends that the General Assembly appropriate sufficient revenues from the General Fund, or that the Executive Committee authorize a sufficient expenditure from one of the legislative cash funds, for use by the Committee on Legal Services in the Legislative Department to enter into a contract with an experienced technology vendor for the design of a feature-rich, user-friendly, intuitive web site that would provide free public access to the Colorado Revised Statutes in a manner that would support the three requirements of UELMA.

Recommendation #2. The committee recommends that the General Assembly consider using digital signatures technology as a cost-effective means of assuring end users of the authenticity and integrity of the record. The

committee further recommends that the General Assembly appropriate sufficient revenues in FY 2017-18 from the General Fund for use by the Legislative Council in the Legislative Department to implement a digital signature method of authenticating electronic legal materials.

Recommendation #3. The committee recommends that the General Assembly continue to preserve the older materials in print format. The committee further recommends that the General Assembly appropriate sufficient revenues from the General Fund in the appropriate fiscal year and thereafter for use by the Committee on Legal Services in the Legislative Department to contract for moving the valuable historical book collection and to contract for a venue that offers a secure-access, disaster-prepared, climate-controlled archival environment for the proper storage of the historical legal materials and recordings of the Colorado General Assembly.

Recommendation #4. The committee recommends that the General Assembly continue to investigate best practices for preserving electronic legal material for reasonable access by the public on a permanent basis which may include working with the Governor's Office of Information Technology and others to learn more about the applicability of cloud storage and the available options to achieve compliance with the "permanency" requirement of UELMA.

Recommendation #5. The committee recommends that the General Assembly continue to designate the print version of the CRS as the official version of the CRS (constitution and Session Laws) until such time as an electronic format has been consistently and sustainably proven to meet the requirements of UELMA.

Other State Electronic Records

History Colorado designee, Keith Schrum, submits a list of specific historical materials known to be in danger of loss due to obsolete or unpreserved playback equipment, and cautions against the continued practice of maintaining documentary holdings without maintaining the corresponding equipment to access them (Appendix 6).

The Committee supports an innovative idea from DJ Davis, Deputy Division Director for the Secretary of State's Business and Licensing Division, that Colorado mechanical engineering colleges be approached to compete for the re-construction of these lost machines.

The Committee also supports a joint History Colorado-State Archives request that statewide preservation standards be promulgated as soon as possible to guide in the care and growth of Colorado's archival print and audio-video collections.

Regarding the creation and storage of and the access to emerging law in electronic format, the State Librarian and the Colorado Supreme Court Librarian jointly propose developing the following procedure—a free program—to be offered for consideration as a statewide model if it functions successfully:

- The originating government department, the official publisher of any Colorado legal material, authenticates the law in PDF/A format, makes it available on the department web page, and arranges or contracts for permanent preservation of the material with another government agency or with an outside vendor;
- The Colorado Supreme Court Library develops a public law web portal to act as a hub linking to all official Colorado legal materials publicly available on the web. Ideally, the data would be coded to be mobile-friendly and platform-agnostic (HTML5/CSS3). The data sets would be added, supplemented, and preserved chronologically as law changes, and the web page itself would be archived periodically with one or more services (Archive.org, Perma.cc, etc.);
- The Colorado State Library will harvest all of the links and catalog the individual data sets for permanent public access on a unified catalog, available globally. The unified catalog will link back to the public web portal;
- The State Librarian and the Supreme Court Librarian will work together to place the catalog and web portal on every public computer in every courthouse and public library in Colorado. The catalog and web link will also be made available to every school and college library in Colorado. Periodic training will be provided, and a reference phone and email will be staffed at the Supreme Court Library for incoming questions.

While outside the mandate of the Colorado UELMA, the Colorado Supreme Court is committed to making all historical Colorado law freely and publicly available in electronic format, using a secure authentication standard and preserving both the print and electronic versions in perpetuity for evidentiary purposes and public access.

The Supreme Court Library currently maintains the most complete set of current and historical Colorado law anywhere in the state or country, some of which is available nowhere else. In addition to all of the legislative journals, reports, session laws and statutes, there are current and historical Colorado regulations (1967 and 1977), as well as docket books, court rules, jury instructions, and appellate opinions dating back to 1861. The Supreme Court Library has also scanned all of the formal attorney general opinions and the Governor's executive orders back to 1998 (both are available in PDF format).

A Supreme Court equal access web portal, designed for future use by self-represented litigants statewide, is in the pre-development stage now, the contemplated functionality of which would easily accommodate the linkage to official law described above.

The State Library recently created an in-house repository for access to digitized records of items provided to the State Publications Library by state agencies in compliance with 24-90-201, CRS. This system was developed to replace an off-site hosted system, so the practice of cataloging web links is well-established. The State Publications Library, an office of the State Library, also agrees to receive a complete set of Colorado law in print, if necessary, as a preservation copy or until such time as it is no longer deemed necessary.

Sunset/Continuation

LDPAC2 is scheduled to sunset by automatic repeal on July 1, 2016.

If the General Assembly chooses to continue the Committee, we welcome the opportunity and recommend that responsibilities include the sharing of research and lessons learned through implementation of authenticated access and permanent preservation of legal materials, in Colorado and elsewhere. We further recommend that reports be encouraged periodically, as resources are committed and/or significant progress is made.

If the General Assembly chooses not to continue the Committee, the members of LDPAC2 thank the General Assembly for this opportunity to serve Colorado and its citizens. And we collectively express a strong desire to meet periodically as an informal working group, from Colorado's three branches of government, to continue working collaboratively, sharing ideas, and moving toward the goal of making Colorado's laws and public records reliably available and permanently accessible in electronic format.