

PUBLIC OR PRIVATE? RECONSIDERING OWNERSHIP AND VALUE OF STATE LEGISLATORS' PAPERS

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ABSTRACT: Unlike congressional and presidential papers collections, which have a rich archival literature in support of their acquisition and management, archivists and researchers frequently overlook and undervalue state legislators' papers. One reason for undervaluing state legislators' papers is the lack of legal guidelines in most states for ownership of these political papers. This article presents the results of a broad survey of state laws and collecting policies within state archives regarding the collecting of state legislators' papers. Overall, archivists, lawmakers, and the general public need to become more aware of the value of state legislators' papers, pass laws that protect and define ownership of state legislators' papers, and advocate for greater collaboration between state archival programs and other archival repositories to ensure their preservation.

Introduction

In 2007, political opponents of US presidential candidate Barack Obama criticized his decision to refuse the release of his state legislator records relating to the eight years he served in the Illinois State Senate. He replied to this criticism declaring that "I was in the state senate for eight years and I had one staff person . . . [we] don't have archivists in the state senate . . . [we] don't have the Barack Obama state senate library available . . . so we had a bunch of file cabinets."¹ Critics also failed to note that, by custom, Illinois state legislators own their political papers and are not bound by law to turn them over to the Illinois State Archives or any other archival institution. While a few states legally designate state legislators' papers as public records and require them to be deposited in a state archival program, the majority of states have no statutes defining ownership or custody. Instead, custom and tradition prevail in defining ownership of these papers for the majority of states. The variability of practices within the states in regard to the archiving of state legislators' papers leads to misconceptions about the value of these records and great uncertainty over the allocation of resources

to support their preservation in perpetuity. One negative consequence of the confusion surrounding this issue is the real possibility that little documentation remains about the early political career of the 44th president of the United States.

Using the results of a broad survey of pertinent state laws and collecting policies within state archives, this article examines and provides a more extensive perspective on the relationship between ownership and value of state legislators' papers, and argues that the absence of a legal definition of ownership contributes to a lack of understanding of their value. In most states, legislators' papers are neglected and undervalued because of misconceptions about the research value and size of these collections. It is frequently the legislative branch that exemplifies democratic representation within the states. Legislators often serve as a bridge between the government and constituents, and citizens interact frequently with legislators because state legislatures pass many laws that affect the everyday lives of people. These interactions are unlike people's experiences with the executive and judicial branches of state government. It is imperative to retain the records that document legislative-executive interaction, the will and interests of the constituency, and the increased diversity that emerged in state legislatures over the last 40 years.

State legislatures and individual legislators across the nation have played important roles in American political and social transformation of the post-World War II period. Twentieth-century social movements, such as the civil rights movement, the women's movement, the Chicano movement, and LGBT activism, to name but a few, assisted in opening the doors to an elective office that was historically dominated by privileged white men. Over the last 50 years, the diversity of state legislative bodies has increased, demonstrated by the emergence of female, African American, Asian, Latino, gay, and lesbian elected officials who capitalized on new opportunities in local and state politics and sought to address the discrimination and inequality systemic in American life. In 1960, women and African Americans remained largely underrepresented in state legislatures, but by 2008, more than 1,700 women and 600 African Americans held state office. As further evidence of the diversity in elected offices, the two frontrunners for the Democratic Party's 2008 presidential nomination were a woman and an African American.² Although women and minorities still have not attained representative equality in state legislatures, in Congress, or in American politics in general, their numbers grew dramatically in the second half of the twentieth century, and their papers provide important historical documentation of social issues.³

As state legislatures became more diverse, they served as the battleground for issues concerning discrimination and social and economic equality. State legislators' papers provide a lens into the new politics of diversity that emerged in the last 50 years. The intersections of race, ethnicity, sexual identity, and gender in state legislatures along with the enormous growth of state governments have not escaped the notice of historians and political scientists.⁴ As historians investigate how social movements—both liberal and conservative—affect the legislative process and political outcomes, they will want access to primary sources from state legislators that document the impact of interest groups on public policy development, thereby filling the historical gaps in official legislative proceedings. The time has come to adjust archival perspectives in accordance with a more nuanced understanding and reconceptualization of the

importance of state legislators' papers in documenting the changing landscape of legislative diversity, issue-oriented legislators, and the increasingly complex interactions between elected officials and their constituencies.

This study of various collecting activities, laws, and policies argues for the clarification of the ownership status of state legislators' papers and for increasing public appreciation of the research value of these materials. Satisfying this paramount need would greatly benefit academic and research libraries and state archives programs across the country. Are every state legislator's political papers worthy of retention? Of course not. Yet the example of Illinois state senator Barack Obama demonstrates that even the highest office in the nation can be but a short step from the statehouse. Still, some state legislators' collections may not provide much information beyond that already found in the House and Senate proceedings or other public records and therefore should not be collected. The overall objective of this article is to raise awareness about the importance and potential value of state legislators' papers; encourage the passage of laws and the development of definitive guidelines about ownership of states legislators' papers; and advocate for greater collaboration between archival repositories and state archival programs.

Literature Review

The management of state legislators' papers persists as an underdeveloped topic in the archival professional literature, with little direct discussion of their ownership, acquisition, collecting policy, appraisal, and processing. Attempts to survey the policies, laws, and day-to-day practices within each state continue to challenge and elude. One of the earliest efforts at surveying elected officials' records began in 1974, when the US Congress created the National Study Commission on Records and Documents of Federal Officials in response to the controversy over the ownership of President Richard Nixon's papers. The controversy spurred professional and public interest in the records of elected officials, and the National Study Commission examined the records of elected and appointed officials of all three branches of the federal government, as well as of state governments.⁵ The commission focused primarily on the records of the president and members of Congress, but, in one report, F. Gerald Ham discussed the results of a survey of state archivists. The survey covered ownership, classification (personal papers versus public records), and the role of law and tradition in managing these collections. Ham found that 11 out of 34 state archives possessed the papers of some state legislators, and only 5 out of 34 felt that their public records statute should cover the papers of state legislators. The report recommended legislation to define ownership, improve records management and archival practices on Capitol Hill, and strengthen the management of congressional committee and classified records.⁶ While Ham's report provided a basis for a new discussion on state legislators' papers, attention turned instead to establishing laws, funding, and better guidelines for the care of presidential and congressional records. State legislators' papers remained largely ignored.

Almost a decade after Ham's report, Paul Chestnut noted that archivists had "derived few conclusions and developed fewer guidelines concerning the acquisition, appraisal,

and processing of state legislators' papers.⁷⁷ Chestnut laid out a framework for identifying the valuable portions of a legislator's papers and stressed the importance of various appraisal strategies and archival administration. He argued for the value of these records, particularly in documenting the interaction between legislators and executive agencies with constituents, highlighting those in leadership positions or associated with issues of the time. Then as now, states differed widely in policy and practice, although archivists acknowledged that "certain fundamental questions applicable to conditions in all states can be developed and an attempt can be made to understand the legislative process and the role of individual legislators within that process."⁷⁸ Even though some collecting and appraisal strategies for state legislators' papers were addressed at this time, many questions regarding ownership and acquisition practices persisted.

While state legislators' papers never garnered much professional study, the management of congressional members' papers has improved dramatically over the past 30 years. Since state legislators' papers have many of the same characteristics as congressional papers, the more abundant professional literature on congressional papers provides a blueprint for managing them. Both state legislators' and congressional papers contain constituent correspondence, issue files, legislation, and campaign files, and the literature on congressional papers aptly demonstrates how to arrange and describe these types of records. Faye Phillips's *Congressional Papers Management*, which provides a thorough overview of how to collect, appraise, and process large congressional collections, can be applied broadly to the papers of other public officials. Although based on congressional practices and structures, *The Documentation of Congress* can also guide archivists' thinking about the political process and the specifics of political records creation, and archivists can apply those concepts to state government settings. The *American Political Archives Reader* is also an essential guide for archivists involved with political papers at any level of government, especially about such overarching concepts as public or private ownership of materials.⁹

Archival advocacy groups such as the Society of American Archivists' (SAA) Congressional Papers Roundtable and the Advisory Committee on the Records of Congress have been successful in advocating for the proper management of congressional papers. In 2008, these efforts culminated in Congress passing House Resolution 307 resolving that congressional papers are "crucial to the public's understanding of the role of Congress in the making of the Nation's laws," and that "each Member of Congress should take all necessary measures to manage and preserve the Member's own Congressional papers."¹⁰

While there are similarities between the papers of state and national legislators, archivists should keep in mind that significant differences exist as well. For one, acquisition and accessioning processes are not consistent across states or even institutions. Absent standard laws or practices governing state legislators' papers, archivists and curators who work outside of state archives programs will have different perspectives and, depending on state policies, may or may not look to their state archives for support for acquiring these materials. Congressional papers are more consistently collected across the states, are more formally recognized as valuable by archivists and researchers, and are covered by a joint resolution defining the importance of archiving these materials.

A similar push to collect state legislators' papers remains elusive, not least because of the large numbers of legislators serving in state legislatures.

In 2005, Sara Roberson Kuzak presented the most recent investigation into state legislators' papers. She gathered survey information from seven states to "ascertain whether state archives consider legislators' records to be historically significant, and if so, what is being done to promote their retention, preservation, and accessibility?"¹¹ Beginning with the SAA Archives and Archivists Listserv as a starting point for her survey, she received only six responses. Kuzak decided to include information culled from state archives websites to better demonstrate the wide range of collecting practices within the seven states. She found that state legislators' papers are valued resources but that because the main "obstacle inhibiting the implementation of legislators' records programs is the legal definition of legislators' records," archivists subsequently neglect and undervalue the records for research and educational purposes.¹² Kuzak advocates for a greater understanding of the value of state legislators' papers. We share that view, and this article provides a more comprehensive survey that gives a broader vision of collecting state legislators' papers within the United States, attempts to assign overarching categories to types of collecting, and synthesizes findings into more specific recommendations.

Survey Methodology and Results

During 2011, information gathered via e-mail from state archives staff in each state explained how laws, or the lack thereof, affect their acquisition of state legislators' papers. E-mails were sent directly to each state archives, usually by completing a reference form on a state archives website or attempting to contact relevant archives staff from website directories. A review of state archives websites and open records laws for information on state legislators' papers was also completed. Follow-up e-mails and occasional telephone calls clarified purposes. (See appendix 1 for a sample general e-mail message.) Although other archival repositories, such as academic libraries, also collect state legislators' papers, these repositories were beyond the scope of this survey. The results provide a broad, general overview of archival collecting related to state legislators' papers within the 50 states. The following discussion summarizes the information gathered regarding each state's approach to the ownership and value of state legislators' papers and demonstrates that the laws pertinent to ownership fall into four distinct categories: public record by law; private by law or policy; private by custom and tradition (no law); and inconclusive findings. Appendix 2 provides a summary graph of the overall survey findings based on these four categories of analysis.

Public Record by Law

This category comprises states with laws that classify state legislators' office records as public property, similar to the way that presidential papers have been categorized since the 1978 Presidential Records Act. Nine states currently designate these records as public and establish custody with the state archives. Typically, the state archives will

consider provisions to send papers to an academic repository or historical society that meets professional standards. Two examples of this model are Pennsylvania and Texas.

In 1978, Pennsylvania lawmakers passed House Rule 48 that created the Pennsylvania House of Representatives Archives as the state agency responsible for maintaining the records of the House and its members. The Pennsylvania House of Representatives Archives collects, preserves, and provides access to representatives' papers, committee records, public hearing transcripts, official reports, and an oral history program with outgoing members, emphasizing the "background research which formed and shaped their legislative positions and . . . the types of work, the amount of work, and the determination required of a good elected official to succeed, sometimes after years of promoting their legislation."¹³ In theory, Pennsylvania is an exemplary model for other states interested in helping state legislators to donate their papers, particularly in managing both official legislative proceedings and legislators' records.

Texas law requires that legislators' records "created or received and maintained" by their staffs be deposited with the State Library and Archives Commission because the records "provide uniquely valuable insight into and documentation of the role and development of Texas law and government."¹⁴ The Texas State Library and Archives developed a comprehensive manual for legislators and their staffs that explains in great detail the steps involved in transferring archival legislative records, including considerations for information that may be confidential. Legislators also have the option of depositing the records in one of the Texas State Library and Archives Commission's designated Regional Historical Resource Depositories. The institution must have an archivist on staff and possess adequate climate-controlled storage space for the records.¹⁵ Baylor University's W. R. Poage Legislative Library serves as a model for how to create an effective collection development policy for state legislators' papers and other political papers in cooperation with a state archives program.¹⁶

Although comprehensive in defining requirements for collecting state legislators' papers, the "public record by law" model is not perfect. Predicated on good relations between executive and legislative branches, it can fail if legislators feel that an executive agency is overreaching its powers. Skepticism and disagreements between executive and legislative branches concerning the value of this broad archival collecting program can limit the acquisition or allocation of resources. In many states, state archival programs are challenged to enforce requirements that legislative committees and commissions turn over official records. Many state record laws lack enforcement provisions, leaving a state archives powerless to enforce the legislation. In some cases, state legislators keep their own records or donate them to other institutions, sometimes out of state. Some states or state archives simply choose not to follow their own record laws, again leaving official records to be disposed of without proper oversight. Despite these limitations, a law mandating public ownership of all legislative records, including state legislators' papers, provides a strong foundation for documenting state legislatures.

Private by Law

Five states have passed laws specifying that state legislators' papers are considered personal papers and are the private property of the state legislator. Although state archives in this category are prohibited or discouraged from collecting state legislators'

papers, they may provide advice or recommendations to legislators about retaining their papers. This category resembles the model established for members of Congress with the passage of House Resolution 307 in 2008. Two examples of this model include California and Alaska.

Kuzak discusses the California model, which remains one of the best examples of the “private by law or policy” category.¹⁷ The state’s legislature passed the California Legislative Open Records Act in 1975 and successfully established a distinction between public committee records and private state legislators’ papers. Kuzak notes that the California model of public ownership of committee records versus private ownership of state legislators’ papers was later replicated in House Resolution 307 in 2008 for congressional committee records and members’ personal papers. She writes that “the California State Archives adopted and implemented two separate methods to process and handle legislature records, one for committees and one for legislators.”¹⁸ The California model provides an interesting comparison to the Texas model, where legislators’ papers are considered public. Both states have comprehensive policy manuals on how to manage state legislators’ papers; and both states accession state legislators’ materials into the state archives, but also encourage donations of legislators’ papers to other archival repositories. However, California likely has the more difficult challenge in encouraging current and former state legislators to donate their papers to an archival repository, whereas Texas has the legal authority and a more complete records management system in place to help ensure that legislative papers are archived.

While Alaska has not enacted a law designating state legislators’ papers as private, the state archives has issued official policy statements on this issue. The policy states that “It shall be the *Policy* of the Alaska State Archives under AS 40.21.030 that post-statehood records of ex-legislators shall not be considered to have permanent archival value and will not be accessioned into our holdings.” The state archives will consider retaining the records of current legislators, but typically only for temporary storage purposes while the legislator remains in office. One of the reasons given for not collecting state legislators’ papers is a rather extreme statement: “These records possess no research or study value.”¹⁹ Rather than simply designating state legislators’ papers as personal, Alaska designates them as completely worthless to even consider collecting in the state archives, leaving state legislators to do with them as they will.

With this “private by law or policy” model, legislators maintain control over their papers and have the choice to donate them to the state archives or another institution. However, legislators also have the option of destroying their records, causing the loss of much historical documentation. Unless the state archives has a program to inform legislators of their options, or unless other archival repositories are especially proactive in collecting state legislators’ papers, state legislators often do not realize the value of their papers or recognize the possibilities for archiving them. State archives and other archival institutions can also ease legislators’ concerns about archiving their records by providing records management assistance and memoranda of understanding that restrict access to a collection for a reasonable time period. This model can create competition between institutional repositories hoping to collect legislators’ papers.

Private by Custom and Tradition/No Law

A majority of states have no specific legal mandate defining ownership of state legislators' papers. By custom and tradition, when a state legislator leaves office, his or her papers are considered private property and, in many cases, their owners discard them unless repositories actively collect these materials. These 26 states lack any statutory legislation or legal precedent defining ownership. They are public records when a legislator is in office and become private papers when a legislator leaves office. In this, they follow the model used for congressional papers before the passage of House Resolution 307 in 2008. Two states that serve as examples of this category are New York and Maryland.

In New York, haphazard and inconsistent efforts at collecting state legislators' papers are the norm. New York has no specific law or resolution specifying ownership of legislators' and governors' papers, allowing broad leeway for state politicians to do what they please. Syracuse University made the first real effort in New York to collect state legislators' papers in 1963, when the university began collecting from prominent New York statesmen and political leaders, including members of Congress and state legislators. This project continued for roughly 10 years and resulted in the acquisition of approximately 50 collections from elected officials. The project ended in the early 1970s due mainly to funding cuts and changes in Syracuse's collecting policies. Unfortunately, most of these collections were relegated to a warehouse and never processed or given bibliographic records. In 2006, after negotiations between the University at Albany, the State University of New York, and Syracuse University, the collections were transferred to Albany, which accessioned more than 2,000 cubic feet of congressional and state legislators' papers.

The Maryland State Archives also provides an interesting perspective on this model. While no law specifically designates the status of state legislators' papers as private records, they are assumed to be so. However, per the Annotated Code of Maryland, the archives "shall collect public and private records and other information that relate to the history of the province and State of Maryland from the earliest times, including church records and newspapers; . . . may edit and publish these records; and . . . shall encourage research into the history of the State."²⁰ The Maryland State Archives, then, may collect state legislators' papers as private records, but more often leaves this task to other archival repositories. In addition, the state archives has a "policy of nonoverlapping collecting in cooperation with other repositories," a policy that includes the papers of individuals who have served as public officials in the state government.²¹

With this "private by custom" model, legislators again have the freedom to do what they will with their political papers, and many of the same issues arise as in the "private by law" category. However, the absence of a law defining ownership increases the lack of awareness regarding state legislators' papers and makes archiving these materials even more challenging.

Inconclusive

The category "inconclusive" includes states that did not respond to the survey, did not have any or enough information on their state archives website about state

legislators' papers, or did not provide enough information in response to questions. Ten states fell into this category. Further investigation is needed to define practices within these particular states.

Conclusions and Recommendations

Public policy related to the papers of state legislators remains in flux. Although previous archival work with congressional and presidential papers sets the standard high for documenting elected officials, most other public officials' personal papers will not see such extensive documentation. The work to improve the management of congressional papers has garnered attention, and large strides have been made in the last decade. The Association of Centers for the Study of Congress, established in 2004 to collect congressional papers and support the study of Congress, has increased membership and raised awareness about their members' services and collections. House and Senate archivists have improved programming to educate members and their staffs about appropriate archiving of a member's papers.²² Congressional archivists have been directed to develop public policies and to look toward the model of the presidential library system to better document congressional papers.²³ At the state level, public officials in state legislatures often do not have the same resources as presidents and members of Congress do to assist them in preserving and making decisions about their records. Limitations on available records storage space and other fiscal constraints may influence legislative decisions even more deeply than at the federal level.

Clarifying ownership is a pivotal issue in working with state legislators' papers, and the debate over the public or private nature of public officials' records is a complex one.²⁴ One of the main points of confusion is the definition of "personal papers" within the archival profession. Typically, personal papers are defined as "documents created, acquired, or received by an individual in the course of his or her affairs and preserved in their original order (if such order exists)" and also "nonofficial documents kept by an individual at a place of work."²⁵ However, politicians, unlike other professions, by definition are elected to represent the public, making the records they create of interest to the public. Political papers may thus be regarded as either personal papers or public records.

Many archivists have arrived at a clear distinction of what types of materials constitute personal papers versus public records, at least for congressional collections. Private political papers include personal records of the member (personal mail, biographical information, party and caucus business), campaign literature, legislative staff records, constituent records, casework, publicity materials, subject files, speeches, and position papers, not to mention websites, e-mails, and other electronic records. Public records within congressional papers are defined mainly as committee records and the various types of official business in which committee members participate.²⁶ Other types of public records include bills and resolutions passed and the proceedings of the House and Senate. While these designations and definitions assist archivists in determining a more secure line of ownership, Frank G. Burke notes that "the line between official records and personal papers is sometimes very thin, and open to interpretation. It is

in these ‘personal papers’ of former officials and staff at various government levels that one finds ‘official’ but ‘nonrecord’ materials, or retained carbons or photocopies of ‘records’ created in the performance of official duties.”²⁷ Papers of politicians at all levels of government, then, remain difficult to define as purely public or private due to the very complex nature of the materials that they contain.

The results of this survey demonstrate the various ways that individual states deal with state legislators’ papers and highlight the need for more effective public policy that defines ownership. Each state has its own unique way of determining ownership and value of state legislators’ papers. The ownership and value are key issues in determining actions to be taken by public officials, state records managers, archivists, and manuscript curators. First, ownership should be formally determined by legislation of a general assembly, in line with policy determined by the state archives. House Resolution 307 provides a solid example of how congressional papers are legally regarded as the property of individual members. On the other hand, the state of Texas classifies state legislators’ papers as official records that must be archived at an approved repository. Baylor University’s W. R. Poage Legislative Library, an example of one such repository, has an extensive collecting policy outlining how the institution documents both congressional and state legislative collections. However, the collecting policy does note that only one legislator’s collection contains personal papers documenting that legislator’s life as an individual and that this is an area where the library needs to place additional effort.²⁸ This acknowledgment demonstrates the continued difficulty involved in classifying the various types of documents within the papers of public officials.

In addition to defining ownership, formal state laws and policies firmly establish how each state assesses the value of state legislators’ papers and increases general awareness about their usefulness. While states such as Alaska have determined that legislators’ papers have no value, others such as Texas have had the completely opposite response. By at least determining value (either no value or significant value), these states have made substantial strides compared with others. Nevertheless, rather than ignore their value or classify these papers as “worthless,” more states need to critically address the issue of the value of state legislators’ papers and take official steps to pass laws that protect such papers.

For state governments to appreciate the value of these archival materials, archivists and curators at state archives and other collecting institutions must acknowledge the potential evidential and informational value of these papers and make lawmakers aware of these issues. Too often archivists “share a generally low regard for the research and educational value of legislators’ records.”²⁹ This is often due to a lack of experience with these types of records and because the quality and organization of the papers can be so varied.³⁰ These complications stem not only from a lack of knowledge on the part of the archivist, but also on the part of the legislator about how to create, maintain, and organize records to be a body of materials worth saving in perpetuity. Educational materials and programs for legislators, like the records manuals developed in some states, are a critical step toward increasing the value and usefulness of these political papers.

While the primary value (administrative, legal, and fiscal) of state legislators’ papers diminishes over time and may be duplicated in committee files or elsewhere, the

evidential and informational value of these records is a crucial and important resource to historians and other researchers. Chestnut argues that state legislators' papers may be the best place to "document the demographic, geographic, and political factors that influence decisions concerning what topics a repository wishes to include in its collecting policy and who among potential donors to approach. A state's legislature is quite often more broadly representative of the general populace than its delegation in Congress."³¹ State legislators' papers contain many forms of historical documentation not found in records typically archived at the state government level. One example is the documentation of social movements within a state. Often legislators take on the task of fighting for or against a social issue and collect and produce materials related to that issue within their papers, including correspondence with activists, subject files, memorabilia, and other materials. Women, African American, Latino, and LGBT legislators may take up causes that are personal as well as political in nature. Other issues related to labor, the environment, and local concerns are commonly documented more thoroughly in a state legislator's papers than they are at the federal level or by organizational archives. Future case studies and more comprehensive surveys concretely defining the research value and use of legislators' papers and other political papers may provide a stronger argument for the range of research possibilities within these collections.

Gerald Ham's 1976 report emphasized the need for legislation to establish ownership, improve records management and archival practices on Capitol Hill, and strengthen the management of committee and classified records. His recommendations provide a blueprint for State Historical Records Advisory Boards (SHRABs) across the nation to implement a plan of action based on the aforementioned goals. Such plans have yet to be put into practice in most states. A free flow of information exchange between private repositories, state archives, and individual state legislators is essential within each state. While space and fiscal constraints will likely continue to affect even the most well-established archival institutions, archivists, curators, and public officials should remain aware of the importance of documenting the entire political spectrum—not just the papers of presidents, federal officials, and governors, but also those of state legislators, local government officials, and local judges. Although the Texas model may be one model to strive for, it is not necessarily the best fit for all states. Without a formal definition of ownership and an increased awareness of value, resources for collecting and preserving state legislators' papers will continue to be scarce. To solve this problem, individual states must better delineate the value and ownership of state legislators' papers and pass laws based on more informed definitions.

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Appendices

Appendix 1: Sample Survey E-mail

E-mails were sent directly to each state archives usually by completing a reference form on a state archives website and/or attempting to contact relevant archives staff. In addition, state archives' websites were reviewed for information on state legislators' papers. Follow-up e-mails were sent, and occasional telephone calls were made for clarification purposes. The following is an example of a typical e-mail; however, e-mails often explained information that was garnered from specific state archives websites as well and requested clarification of that information.

Dear [name of state archives or name of specific state archives staff member]:

I am working on a scholarly article about State Legislators' and Governors' Papers and I am trying to determine how different state archives handle these materials: Do states consider these materials private or public records?

I was wondering if you could provide clarification for me on the following questions.

Are legislators' papers considered private/personal property or are they public records in your state? (Are certain parts of their papers considered public record?)

Are governors' papers considered private/personal property or public records in your state?

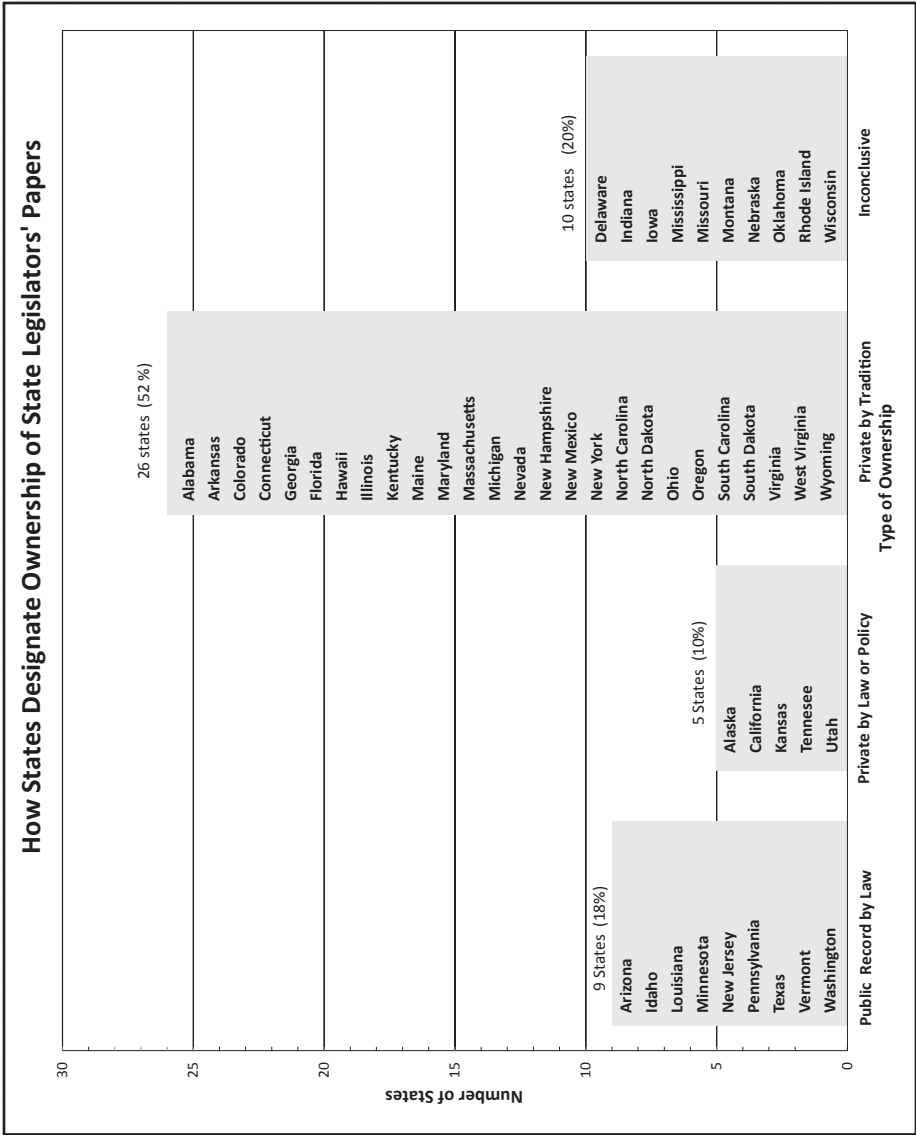
If state legislators' papers are considered private, are they directed to give their papers to other archival institutions, such as universities or historical societies? Does your state archives follow any law/mandate governing the collection of state legislators' papers and/or governors' papers or are they collected/not collected simply by tradition? Can you direct me to any relevant state laws?

Thank you very much for any assistance you can provide!

Sincerely,

[name of sender]

Appendix 2: Survey Data Chart



NOTES

1. Lynn Sweet, "Obama says his state papers 'could have been thrown out.' Where is the stuff?," *Chicago Sun-Times*, November 9, 2007, accessed 3 January 2013, http://blogs.suntimes.com/sweet/2007/11/sweet_web_column_obama_on_his.html.
2. Kathleen A. Bratton, Kerry L. Haynie, and Beth Reingold, "Gender, Race, Ethnicity and Representation: The Changing Landscape of Legislative Diversity," in *The Book of States* (Lexington, KY: Council of State Governments, 2008), 73, accessed May 16, 2013, <http://www.csg.org/knowledgecenter/docs/GenderRaceEthnicityandRepresentation.pdf>.
3. For example, women still trail far behind men in achieving representative equality in state legislatures. In 2013, women members only make up about 24 percent of the total membership of state legislators in the United States. For a more detailed discussion on this issue, see Elizabeth A. Novara, "Documenting Maryland Women State Legislators: The Politics of Collecting Women's Political Papers," *American Archivist* 76, no. 1 (2013): 196–214.
4. Byron D'Andrá Oreyá, Wendy Smooth, Kimberly S. Adams, and Kisha Harris-Clark, "Race and Gender Matter: Refining Models of Legislative Policy Making in State Legislatures," *Journal of Women, Politics and Policy* 28, nos. 3–4 (2006): 97–119; Beth Reingold, *Representing Women: Sex, Gender, and Legislative Behavior in Arizona and California* (Chapel Hill: University of North Carolina Press, 2000); Julie A. Gallagher, *Black Women and Politics in New York City* (Urbana: University of Illinois Press, 2012); Beth Reingold and Adrienne R. Smith, "Welfare Policymaking and Intersections of Race, Ethnicity, and Gender in U.S. State Legislatures," *American Journal of Political Science* 56, no. 1 (2012): 131–47; Kira Sanbonmatsu, "Political Parties and the Recruitment of Women to State Legislatures," *Journal of Politics* 64, no. 3 (2002): 791–809.
5. Final Report of the National Study Commission on Records and Documents of Federal Officials, March 31, 1977, 9–10.
6. F. Gerald Ham, "Accessioning the Papers of Public Officials: An Examination of the Laws and Practices of the States, National Study Commission on Records and Documents of Federal Officials" (1976).
7. Paul I. Chestnut, "Appraising the Papers of State Legislators," *American Archivist* 48, no. 2 (1985): 160.
8. *Ibid.*, 160.
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10. House Concurrent Resolution 307 passed in June 2008.
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