

CHAPTER 229

**GOVERNMENT - STATE**

**HOUSE BILL 02-1326**

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also SENATOR(S) Fitz-Gerald, Hanna, Lamborn, May, Nichol, Phillips, Reeves, Tate, Teck, and Tupa.

**AN ACT**

**CONCERNING ADOPTION OF THE "UNIFORM ELECTRONIC TRANSACTIONS ACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1.** Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 71.3  
Uniform Electronic Transactions Act**

**24-71.3-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "UNIFORM ELECTRONIC TRANSACTIONS ACT".

**24-71.3-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGREEMENT" MEANS THE BARGAIN OF THE PARTIES IN FACT, AS FOUND IN THEIR LANGUAGE OR INFERRED FROM OTHER CIRCUMSTANCES AND FROM RULES, REGULATIONS, AND PROCEDURES GIVEN THE EFFECT OF AGREEMENTS UNDER LAWS OTHERWISE APPLICABLE TO A PARTICULAR TRANSACTION.

(2) "AUTOMATED TRANSACTION" MEANS A TRANSACTION CONDUCTED OR PERFORMED, IN WHOLE OR IN PART, BY ELECTRONIC MEANS OR ELECTRONIC RECORDS IN WHICH THE ACTS OR RECORDS OF ONE OR BOTH PARTIES ARE NOT REVIEWED BY AN INDIVIDUAL IN THE ORDINARY COURSE IN FORMING A CONTRACT, PERFORMING UNDER

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

AN EXISTING CONTRACT, OR FULFILLING AN OBLIGATION REQUIRED BY THE TRANSACTION.

(3) "COMPUTER PROGRAM" MEANS A SET OF STATEMENTS OR INSTRUCTIONS TO BE USED DIRECTLY OR INDIRECTLY IN AN INFORMATION PROCESSING SYSTEM IN ORDER TO BRING ABOUT A CERTAIN RESULT.

(4) "CONTRACT" MEANS THE TOTAL LEGAL OBLIGATION RESULTING FROM THE PARTIES' AGREEMENT AS AFFECTED BY THIS ARTICLE AND OTHER APPLICABLE LAW.

(5) "ELECTRONIC" MEANS RELATING TO TECHNOLOGY HAVING ELECTRICAL, DIGITAL, MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

(6) "ELECTRONIC AGENT" MEANS A COMPUTER PROGRAM OR AN ELECTRONIC OR OTHER AUTOMATED MEANS USED INDEPENDENTLY TO INITIATE AN ACTION OR RESPOND TO ELECTRONIC RECORDS OR PERFORMANCES, IN WHOLE OR IN PART, WITHOUT REVIEW OR ACTION BY AN INDIVIDUAL.

(7) "ELECTRONIC RECORD" MEANS A RECORD CREATED, GENERATED, SENT, COMMUNICATED, RECEIVED, OR STORED BY ELECTRONIC MEANS.

(8) "ELECTRONIC SIGNATURE" MEANS AN ELECTRONIC SOUND, SYMBOL, OR PROCESS ATTACHED TO OR LOGICALLY ASSOCIATED WITH A RECORD AND EXECUTED OR ADOPTED BY A PERSON WITH THE INTENT TO SIGN THE RECORD.

(9) "GOVERNMENTAL AGENCY" MEANS AN EXECUTIVE AGENCY, DEPARTMENT, BOARD, COMMISSION, AUTHORITY, INSTITUTION, OR INSTRUMENTALITY OF THE FEDERAL GOVERNMENT OR OF A STATE OR OF A COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF A STATE.

(10) "INFORMATION" MEANS DATA, TEXT, IMAGES, SOUNDS, CODES, COMPUTER PROGRAMS, SOFTWARE, DATABASES, OR THE LIKE.

(11) "INFORMATION PROCESSING SYSTEM" MEANS AN ELECTRONIC SYSTEM FOR CREATING, GENERATING, SENDING, RECEIVING, STORING, DISPLAYING, OR PROCESSING INFORMATION.

(12) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, GOVERNMENTAL AGENCY, PUBLIC CORPORATION, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

(13) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(14) "SECURITY PROCEDURE" MEANS A PROCEDURE EMPLOYED FOR THE PURPOSE OF VERIFYING THAT AN ELECTRONIC SIGNATURE, RECORD, OR PERFORMANCE IS THAT OF A SPECIFIC PERSON OR FOR DETECTING CHANGES OR ERRORS IN THE INFORMATION IN AN ELECTRONIC RECORD. THE TERM INCLUDES A PROCEDURE THAT REQUIRES THE

USE OF ALGORITHMS OR OTHER CODES, IDENTIFYING WORDS OR NUMBERS, ENCRYPTION, OR CALLBACK OR OTHER ACKNOWLEDGMENT PROCEDURES.

(15) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES. THE TERM INCLUDES AN INDIAN TRIBE OR BAND, OR ALASKAN NATIVE VILLAGE, THAT IS RECOGNIZED BY FEDERAL LAW OR FORMALLY ACKNOWLEDGED BY A STATE.

(16) "TRANSACTION" MEANS AN ACTION OR SET OF ACTIONS OCCURRING BETWEEN TWO OR MORE PERSONS RELATING TO THE CONDUCT OF BUSINESS, COMMERCIAL, CHARITABLE, OR GOVERNMENTAL AFFAIRS. FOR THE PURPOSE OF THIS ARTICLE, "TRANSACTION" SHALL NOT MEAN ANY BALLOT CAST IN ANY ELECTION OR ANY PETITION RELATED TO ANY DEPARTMENT, BOARD, COMMISSION, AUTHORITY, INSTITUTION, OR INSTRUMENTALITY OF THE STATE OR ANY COUNTY, MUNICIPALITY, OR OF THEIR POLITICAL SUBDIVISIONS, OR ANY OF THEIR INSTRUMENTALITIES.

**24-71.3-103. Scope.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, THIS ARTICLE APPLIES TO ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES RELATING TO A TRANSACTION.

(2) THIS ARTICLE DOES NOT APPLY TO A TRANSACTION TO THE EXTENT IT IS GOVERNED BY:

(a) A LAW GOVERNING THE CREATION AND EXECUTION OF WILLS, CODICILS, OR TESTAMENTARY TRUSTS;

(b) THE "UNIFORM COMMERCIAL CODE", TITLE 4, C.R.S., OTHER THAN SECTIONS 4-1-107 AND 4-1-206, C.R.S., AND ARTICLES 2 AND 2.5 OF TITLE 4, C.R.S.

(3) **Additional exceptions.** THIS ARTICLE SHALL NOT APPLY TO:

(a) COURT ORDERS OR NOTICES OR OFFICIAL COURT DOCUMENTS, INCLUDING BRIEFS, PLEADINGS, AND OTHER WRITINGS, REQUIRED TO BE EXECUTED IN CONNECTION WITH COURT PROCEEDINGS;

(b) ANY NOTICE OF:

(I) THE CANCELLATION OR TERMINATION OF UTILITY SERVICES, INCLUDING WATER, HEAT, AND POWER;

(II) DEFAULT, ACCELERATION, REPOSSESSION, FORECLOSURE, OR EVICTION, OR THE RIGHT TO CURE, UNDER A CREDIT AGREEMENT SECURED BY, OR A RENTAL AGREEMENT FOR, A PRIMARY RESIDENCE OF AN INDIVIDUAL;

(III) THE CANCELLATION OR TERMINATION OF HEALTH INSURANCE OR BENEFITS OR LIFE INSURANCE BENEFITS, EXCLUDING ANNUITIES; OR

(IV) RECALL OF A PRODUCT, OR MATERIAL FAILURE OF A PRODUCT, THAT RISKS ENDANGERING HEALTH OR SAFETY; OR

(c) ANY DOCUMENT REQUIRED TO ACCOMPANY ANY TRANSPORTATION OR HANDLING OF HAZARDOUS MATERIALS, PESTICIDES, OR OTHER TOXIC OR DANGEROUS MATERIALS.

(4) THIS ARTICLE APPLIES TO AN ELECTRONIC RECORD OR ELECTRONIC SIGNATURE OTHERWISE EXCLUDED FROM THE APPLICATION OF THIS ARTICLE UNDER SUBSECTION (2) OF THIS SECTION TO THE EXTENT IT IS GOVERNED BY A LAW OTHER THAN THOSE SPECIFIED IN SAID SUBSECTION (2).

(5) A TRANSACTION SUBJECT TO THIS ARTICLE IS ALSO SUBJECT TO OTHER APPLICABLE SUBSTANTIVE LAW.

(6) (a) THIS ARTICLE IS NOT INTENDED TO LIMIT, MODIFY, OR SUPERCEDE THE REQUIREMENTS OF SECTION 101 (d), 101 (e), 102 (c), 103 (a), OR 103 (b) OF THE FEDERAL "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001 (d), 7001 (e), 7002 (c), 7003 (a), AND 7003 (b).

(b) THE CONSUMER DISCLOSURES CONTAINED IN SECTION 101 (c) OF THE FEDERAL "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001 (c), ARE INCORPORATED BY REFERENCE AND SHALL ALSO APPLY TO INTRASTATE TRANSACTIONS.

**24-71.3-104. Prospective application.** THIS ARTICLE APPLIES TO ANY ELECTRONIC RECORD OR ELECTRONIC SIGNATURE CREATED, GENERATED, SENT, COMMUNICATED, RECEIVED, OR STORED ON OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

**24-71.3-105. Use of electronic records and electronic signatures - variation by agreement.** (1) THIS ARTICLE DOES NOT REQUIRE A RECORD OR SIGNATURE TO BE CREATED, GENERATED, SENT, COMMUNICATED, RECEIVED, STORED, OR OTHERWISE PROCESSED OR USED BY ELECTRONIC MEANS OR IN ELECTRONIC FORM.

(2) THIS ARTICLE APPLIES ONLY TO TRANSACTIONS BETWEEN PARTIES EACH OF WHICH HAS AGREED TO CONDUCT TRANSACTIONS BY ELECTRONIC MEANS. WHETHER THE PARTIES AGREE TO CONDUCT A TRANSACTION BY ELECTRONIC MEANS IS DETERMINED FROM THE CONTEXT AND SURROUNDING CIRCUMSTANCES, INCLUDING THE PARTIES' CONDUCT.

(3) A PARTY THAT AGREES TO CONDUCT A TRANSACTION BY ELECTRONIC MEANS MAY REFUSE TO CONDUCT OTHER TRANSACTIONS BY ELECTRONIC MEANS. THE RIGHT GRANTED BY THIS SUBSECTION (3) MAY NOT BE WAIVED BY AGREEMENT.

(4) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THE EFFECT OF ANY OF ITS PROVISIONS MAY BE VARIED BY AGREEMENT. THE PRESENCE IN CERTAIN PROVISIONS OF THIS ARTICLE OF THE WORDS "UNLESS OTHERWISE AGREED", OR WORDS OF SIMILAR IMPORT, DOES NOT IMPLY THAT THE EFFECT OF OTHER PROVISIONS MAY NOT BE VARIED BY AGREEMENT.

(5) WHETHER AN ELECTRONIC RECORD OR ELECTRONIC SIGNATURE HAS LEGAL CONSEQUENCES IS DETERMINED BY THIS ARTICLE AND OTHER APPLICABLE LAW.

**24-71.3-106. Construction and application.** (1) THIS ARTICLE MUST BE CONSTRUED AND APPLIED:

(a) TO FACILITATE ELECTRONIC TRANSACTIONS CONSISTENT WITH OTHER APPLICABLE LAW;

(b) TO BE CONSISTENT WITH REASONABLE PRACTICES CONCERNING ELECTRONIC TRANSACTIONS AND WITH THE CONTINUED EXPANSION OF THOSE PRACTICES; AND

(c) TO EFFECTUATE ITS GENERAL PURPOSE TO MAKE UNIFORM THE LAW WITH RESPECT TO THE SUBJECT OF THIS ARTICLE AMONG STATES ENACTING IT.

**24-71.3-107. Legal recognition of electronic records, electronic signatures, and electronic contracts.** (1) A RECORD OR SIGNATURE MAY NOT BE DENIED LEGAL EFFECT OR ENFORCEABILITY SOLELY BECAUSE IT IS IN ELECTRONIC FORM.

(2) A CONTRACT MAY NOT BE DENIED LEGAL EFFECT OR ENFORCEABILITY SOLELY BECAUSE AN ELECTRONIC RECORD WAS USED IN ITS FORMATION.

(3) IF A LAW REQUIRES A RECORD TO BE IN WRITING, AN ELECTRONIC RECORD SATISFIES THE LAW.

(4) IF A LAW REQUIRES A SIGNATURE, AN ELECTRONIC SIGNATURE SATISFIES THE LAW.

**24-71.3-108. Provision of information in writing - presentation of records.**

(1) IF PARTIES HAVE AGREED TO CONDUCT A TRANSACTION BY ELECTRONIC MEANS AND A LAW REQUIRES A PERSON TO PROVIDE, SEND, OR DELIVER INFORMATION IN WRITING TO ANOTHER PERSON, THE REQUIREMENT IS SATISFIED IF THE INFORMATION IS PROVIDED, SENT, OR DELIVERED, AS THE CASE MAY BE, IN AN ELECTRONIC RECORD CAPABLE OF RETENTION BY THE RECIPIENT AT THE TIME OF RECEIPT. AN ELECTRONIC RECORD IS NOT CAPABLE OF RETENTION BY THE RECIPIENT IF THE SENDER OR ITS INFORMATION PROCESSING SYSTEM INHIBITS THE ABILITY OF THE RECIPIENT TO PRINT OR STORE THE ELECTRONIC RECORD.

(2) IF A LAW OTHER THAN THIS ARTICLE REQUIRES A RECORD TO BE POSTED OR DISPLAYED IN A CERTAIN MANNER, TO BE SENT, COMMUNICATED, OR TRANSMITTED BY A SPECIFIED METHOD, OR TO CONTAIN INFORMATION THAT IS FORMATTED IN A CERTAIN MANNER, THE FOLLOWING RULES APPLY:

(a) THE RECORD MUST BE POSTED OR DISPLAYED IN THE MANNER SPECIFIED IN THE OTHER LAW.

(b) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION, THE RECORD MUST BE SENT, COMMUNICATED, OR TRANSMITTED BY THE METHOD SPECIFIED IN THE OTHER LAW.

(c) THE RECORD MUST CONTAIN THE INFORMATION FORMATTED IN THE MANNER SPECIFIED IN THE OTHER LAW.

(3) IF A SENDER INHIBITS THE ABILITY OF A RECIPIENT TO STORE OR PRINT AN

ELECTRONIC RECORD, THE ELECTRONIC RECORD IS NOT ENFORCEABLE AGAINST THE RECIPIENT.

(4) THE REQUIREMENTS OF THIS SECTION MAY NOT BE VARIED BY AGREEMENT, BUT:

(a) TO THE EXTENT A LAW OTHER THAN THIS ARTICLE REQUIRES INFORMATION TO BE PROVIDED, SENT, OR DELIVERED IN WRITING BUT PERMITS THAT REQUIREMENT TO BE VARIED BY AGREEMENT, THE REQUIREMENT UNDER SUBSECTION (1) OF THIS SECTION THAT THE INFORMATION BE IN THE FORM OF AN ELECTRONIC RECORD CAPABLE OF RETENTION MAY ALSO BE VARIED BY AGREEMENT; AND

(b) A REQUIREMENT UNDER A LAW OTHER THAN THIS ARTICLE TO SEND, COMMUNICATE, OR TRANSMIT A RECORD BY FIRST-CLASS MAIL, POSTAGE PREPAID, OR REGULAR UNITED STATES MAIL MAY BE VARIED BY AGREEMENT TO THE EXTENT PERMITTED BY THE OTHER LAW.

**24-71.3-109. Attribution and effect of electronic record and electronic signature.** (1) AN ELECTRONIC RECORD OR ELECTRONIC SIGNATURE IS ATTRIBUTABLE TO A PERSON IF IT WAS THE ACT OF THE PERSON. THE ACT OF THE PERSON MAY BE SHOWN IN ANY MANNER, INCLUDING A SHOWING OF THE EFFICACY OF ANY SECURITY PROCEDURE APPLIED TO DETERMINE THE PERSON TO WHICH THE ELECTRONIC RECORD OR ELECTRONIC SIGNATURE WAS ATTRIBUTABLE.

(2) THE EFFECT OF AN ELECTRONIC RECORD OR ELECTRONIC SIGNATURE ATTRIBUTED TO A PERSON UNDER SUBSECTION (1) OF THIS SECTION IS DETERMINED FROM THE CONTEXT AND SURROUNDING CIRCUMSTANCES AT THE TIME OF ITS CREATION, EXECUTION, OR ADOPTION, INCLUDING THE PARTIES' AGREEMENT, IF ANY, AND OTHERWISE AS PROVIDED BY LAW.

**24-71.3-110. Effect of change or error.** (1) IF A CHANGE OR ERROR IN AN ELECTRONIC RECORD OCCURS IN A TRANSMISSION BETWEEN PARTIES TO A TRANSACTION, THE FOLLOWING RULES APPLY:

(a) IF THE PARTIES HAVE AGREED TO USE A SECURITY PROCEDURE TO DETECT CHANGES OR ERRORS AND ONE PARTY HAS CONFORMED TO THE PROCEDURE, BUT THE OTHER PARTY HAS NOT, AND THE NONCONFORMING PARTY WOULD HAVE DETECTED THE CHANGE OR ERROR HAD THAT PARTY ALSO CONFORMED, THE CONFORMING PARTY MAY AVOID THE EFFECT OF THE CHANGED OR ERRONEOUS ELECTRONIC RECORD.

(b) IN AN AUTOMATED TRANSACTION INVOLVING AN INDIVIDUAL, THE INDIVIDUAL MAY AVOID THE EFFECT OF AN ELECTRONIC RECORD THAT RESULTED FROM AN ERROR MADE BY THE INDIVIDUAL IN DEALING WITH THE ELECTRONIC AGENT OF ANOTHER PERSON IF THE ELECTRONIC AGENT DID NOT PROVIDE AN OPPORTUNITY FOR THE PREVENTION OR CORRECTION OF THE ERROR AND, AT THE TIME THE INDIVIDUAL LEARNS OF THE ERROR, THE INDIVIDUAL:

(I) PROMPTLY NOTIFIES THE OTHER PERSON OF THE ERROR AND THAT THE INDIVIDUAL DID NOT INTEND TO BE BOUND BY THE ELECTRONIC RECORD RECEIVED BY THE OTHER PERSON;

(II) TAKES REASONABLE STEPS, INCLUDING STEPS THAT CONFORM TO THE OTHER PERSON'S REASONABLE INSTRUCTIONS, TO RETURN TO THE OTHER PERSON OR, IF INSTRUCTED BY THE OTHER PERSON, TO DESTROY THE CONSIDERATION RECEIVED, IF ANY, AS A RESULT OF THE ERRONEOUS ELECTRONIC RECORD; AND

(III) HAS NOT USED OR RECEIVED ANY BENEFIT OR VALUE FROM THE CONSIDERATION, IF ANY, RECEIVED FROM THE OTHER PERSON.

(c) IF NEITHER PARAGRAPH (a) NOR PARAGRAPH (b) OF THIS SUBSECTION (1) APPLIES, THE CHANGE OR ERROR HAS THE EFFECT PROVIDED BY OTHER LAW, INCLUDING THE LAW OF MISTAKE, AND THE PARTIES' CONTRACT, IF ANY.

(d) PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (1) MAY NOT BE VARIED BY AGREEMENT.

**24-71.3-111. Notarization and acknowledgment.** IF A LAW REQUIRES A SIGNATURE OR RECORD TO BE NOTARIZED, ACKNOWLEDGED, VERIFIED, OR MADE UNDER OATH, THE REQUIREMENT IS SATISFIED IF THE ELECTRONIC SIGNATURE OF THE PERSON AUTHORIZED TO PERFORM THOSE ACTS, TOGETHER WITH ALL OTHER INFORMATION REQUIRED TO BE INCLUDED BY OTHER APPLICABLE LAW, IS ATTACHED TO OR LOGICALLY ASSOCIATED WITH THE SIGNATURE OR RECORD.

**24-71.3-112. Retention of electronic records - originals.** (1) IF A LAW REQUIRES THAT A RECORD BE RETAINED, THE REQUIREMENT IS SATISFIED BY RETAINING AN ELECTRONIC RECORD OF THE INFORMATION IN THE RECORD THAT:

(a) ACCURATELY REFLECTS THE INFORMATION SET FORTH IN THE RECORD AFTER IT WAS FIRST GENERATED IN ITS FINAL FORM AS AN ELECTRONIC RECORD OR OTHERWISE; AND

(b) REMAINS ACCESSIBLE FOR LATER REFERENCE.

(2) A REQUIREMENT TO RETAIN A RECORD IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO ANY INFORMATION THE SOLE PURPOSE OF WHICH IS TO ENABLE THE RECORD TO BE SENT, COMMUNICATED, OR RECEIVED.

(3) A PERSON MAY SATISFY SUBSECTION (1) OF THIS SECTION BY USING THE SERVICES OF ANOTHER PERSON IF THE REQUIREMENTS OF SAID SUBSECTION (1) ARE SATISFIED.

(4) IF A LAW REQUIRES A RECORD TO BE PRESENTED OR RETAINED IN ITS ORIGINAL FORM, OR PROVIDES CONSEQUENCES IF THE RECORD IS NOT PRESENTED OR RETAINED IN ITS ORIGINAL FORM, THAT LAW IS SATISFIED BY AN ELECTRONIC RECORD RETAINED IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION.

(5) IF A LAW REQUIRES RETENTION OF A CHECK, THAT REQUIREMENT IS SATISFIED BY RETENTION OF AN ELECTRONIC RECORD OF THE INFORMATION ON THE FRONT AND BACK OF THE CHECK IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION.

(6) A RECORD RETAINED AS AN ELECTRONIC RECORD IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION SATISFIES A LAW REQUIRING A PERSON TO RETAIN A

RECORD FOR EVIDENTIARY, AUDIT, OR LIKE PURPOSES UNLESS A LAW ENACTED AFTER THE EFFECTIVE DATE OF THIS ARTICLE SPECIFICALLY PROHIBITS THE USE OF AN ELECTRONIC RECORD FOR THE SPECIFIED PURPOSE.

(7) THIS SECTION DOES NOT PRECLUDE A GOVERNMENTAL AGENCY OF THIS STATE FROM SPECIFYING ADDITIONAL REQUIREMENTS FOR THE RETENTION OF A RECORD SUBJECT TO THE AGENCY'S JURISDICTION.

**24-71.3-113. Admissibility in evidence.** IN A PROCEEDING, EVIDENCE OF A RECORD OR SIGNATURE MAY NOT BE EXCLUDED SOLELY BECAUSE IT IS IN ELECTRONIC FORM.

**24-71.3-114. Automated transaction.** (1) IN AN AUTOMATED TRANSACTION, THE FOLLOWING RULES APPLY:

(a) A CONTRACT MAY BE FORMED BY THE INTERACTION OF ELECTRONIC AGENTS OF THE PARTIES, EVEN IF NO INDIVIDUAL WAS AWARE OF OR REVIEWED THE ELECTRONIC AGENTS' ACTIONS OR THE RESULTING TERMS AND AGREEMENTS.

(b) A CONTRACT MAY BE FORMED BY THE INTERACTION OF AN ELECTRONIC AGENT AND AN INDIVIDUAL, ACTING ON THE INDIVIDUAL'S OWN BEHALF OR FOR ANOTHER PERSON, INCLUDING BY AN INTERACTION IN WHICH THE INDIVIDUAL PERFORMS ACTIONS THAT THE INDIVIDUAL IS FREE TO REFUSE TO PERFORM AND THAT THE INDIVIDUAL KNOWS OR HAS REASON TO KNOW WILL CAUSE THE ELECTRONIC AGENT TO COMPLETE THE TRANSACTION OR PERFORMANCE.

(c) THE TERMS OF THE CONTRACT ARE DETERMINED BY THE SUBSTANTIVE LAW APPLICABLE TO IT.

**24-71.3-115. Time and place of sending and receipt.** (1) UNLESS OTHERWISE AGREED BETWEEN THE SENDER AND THE RECIPIENT, AN ELECTRONIC RECORD IS SENT WHEN IT:

(a) IS ADDRESSED PROPERLY OR OTHERWISE DIRECTED PROPERLY TO AN INFORMATION PROCESSING SYSTEM THAT THE RECIPIENT HAS DESIGNATED OR USES FOR THE PURPOSE OF RECEIVING ELECTRONIC RECORDS OR INFORMATION OF THE TYPE SENT AND FROM WHICH THE RECIPIENT IS ABLE TO RETRIEVE THE ELECTRONIC RECORD;

(b) IS IN A FORM CAPABLE OF BEING PROCESSED BY THAT SYSTEM; AND

(c) ENTERS AN INFORMATION PROCESSING SYSTEM OUTSIDE THE CONTROL OF THE SENDER OR OF A PERSON THAT SENT THE ELECTRONIC RECORD ON BEHALF OF THE SENDER OR ENTERS A REGION OF THE INFORMATION PROCESSING SYSTEM DESIGNATED OR USED BY THE RECIPIENT THAT IS UNDER THE CONTROL OF THE RECIPIENT.

(2) UNLESS OTHERWISE AGREED BETWEEN A SENDER AND THE RECIPIENT, AN ELECTRONIC RECORD IS RECEIVED WHEN:

(a) IT ENTERS AN INFORMATION PROCESSING SYSTEM THAT THE RECIPIENT HAS DESIGNATED OR USES FOR THE PURPOSE OF RECEIVING ELECTRONIC RECORDS OR

INFORMATION OF THE TYPE SENT AND FROM WHICH THE RECIPIENT IS ABLE TO RETRIEVE THE ELECTRONIC RECORD; AND

(b) IT IS IN A FORM CAPABLE OF BEING PROCESSED BY THAT SYSTEM.

(3) SUBSECTION (2) OF THIS SECTION APPLIES EVEN IF THE PLACE THE INFORMATION PROCESSING SYSTEM IS LOCATED IS DIFFERENT FROM THE PLACE THE ELECTRONIC RECORD IS DEEMED TO BE RECEIVED UNDER SUBSECTION (4) OF THIS SECTION.

(4) UNLESS OTHERWISE EXPRESSLY PROVIDED IN THE ELECTRONIC RECORD OR AGREED BETWEEN THE SENDER AND THE RECIPIENT, AN ELECTRONIC RECORD IS DEEMED TO BE SENT FROM THE SENDER'S PLACE OF BUSINESS AND TO BE RECEIVED AT THE RECIPIENT'S PLACE OF BUSINESS. FOR PURPOSES OF THIS SUBSECTION (4), THE FOLLOWING RULES APPLY:

(a) IF THE SENDER OR RECIPIENT HAS MORE THAN ONE PLACE OF BUSINESS, THE PLACE OF BUSINESS OF THAT PERSON IS THE PLACE HAVING THE CLOSEST RELATIONSHIP TO THE UNDERLYING TRANSACTION.

(b) IF THE SENDER OR THE RECIPIENT DOES NOT HAVE A PLACE OF BUSINESS, THE PLACE OF BUSINESS IS THE SENDER'S OR RECIPIENT'S RESIDENCE, AS THE CASE MAY BE.

(5) AN ELECTRONIC RECORD IS RECEIVED UNDER SUBSECTION (2) OF THIS SECTION EVEN IF NO INDIVIDUAL IS AWARE OF ITS RECEIPT.

(6) RECEIPT OF AN ELECTRONIC ACKNOWLEDGMENT FROM AN INFORMATION PROCESSING SYSTEM DESCRIBED IN SUBSECTION (2) OF THIS SECTION ESTABLISHES THAT A RECORD WAS RECEIVED BUT, BY ITSELF, DOES NOT ESTABLISH THAT THE CONTENT SENT CORRESPONDS TO THE CONTENT RECEIVED.

(7) IF A PERSON IS AWARE THAT AN ELECTRONIC RECORD PURPORTEDLY SENT UNDER SUBSECTION (1) OF THIS SECTION OR PURPORTEDLY RECEIVED UNDER SUBSECTION (2) OF THIS SECTION WAS NOT ACTUALLY SENT OR RECEIVED, THE LEGAL EFFECT OF THE SENDING OR RECEIPT IS DETERMINED BY OTHER APPLICABLE LAW. EXCEPT TO THE EXTENT PERMITTED BY THE OTHER LAW, THE REQUIREMENTS OF THIS SUBSECTION (7) MAY NOT BE VARIED BY AGREEMENT.

**24-71.3-116. Transferable records.** (1) IN THIS SECTION, "TRANSFERABLE RECORD" MEANS AN ELECTRONIC RECORD THAT:

(a) WOULD BE A NOTE UNDER ARTICLE 3 OF THE "UNIFORM COMMERCIAL CODE", TITLE 4, C.R.S., OR A DOCUMENT UNDER ARTICLE 7 OF THE "UNIFORM COMMERCIAL CODE", IF THE ELECTRONIC RECORD WERE IN WRITING; AND

(b) THE ISSUER OF THE ELECTRONIC RECORD EXPRESSLY HAS AGREED IS A TRANSFERABLE RECORD.

(2) A PERSON HAS CONTROL OF A TRANSFERABLE RECORD IF A SYSTEM EMPLOYED FOR EVIDENCING THE TRANSFER OF INTERESTS IN THE TRANSFERABLE RECORD RELIABLY ESTABLISHES THAT PERSON AS THE PERSON TO WHICH THE TRANSFERABLE RECORD WAS ISSUED OR TRANSFERRED.

(3) A SYSTEM SATISFIES SUBSECTION (2) OF THIS SECTION, AND A PERSON IS DEEMED TO HAVE CONTROL OF A TRANSFERABLE RECORD, IF THE TRANSFERABLE RECORD IS CREATED, STORED, AND ASSIGNED IN SUCH A MANNER THAT:

(a) A SINGLE AUTHORITATIVE COPY OF THE TRANSFERABLE RECORD EXISTS THAT IS UNIQUE, IDENTIFIABLE, AND, EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (d), (e), AND (f) OF THIS SUBSECTION (3), UNALTERABLE;

(b) THE AUTHORITATIVE COPY IDENTIFIES THE PERSON ASSERTING CONTROL AS:

(I) THE PERSON TO WHICH THE TRANSFERABLE RECORD WAS ISSUED; OR

(II) IF THE AUTHORITATIVE COPY INDICATES THAT THE TRANSFERABLE RECORD HAS BEEN TRANSFERRED, THE PERSON TO WHICH THE TRANSFERABLE RECORD WAS MOST RECENTLY TRANSFERRED;

(c) THE AUTHORITATIVE COPY IS COMMUNICATED TO AND MAINTAINED BY THE PERSON ASSERTING CONTROL OR ITS DESIGNATED CUSTODIAN;

(d) COPIES OR REVISIONS THAT ADD OR CHANGE AN IDENTIFIED ASSIGNEE OF THE AUTHORITATIVE COPY CAN BE MADE ONLY WITH THE CONSENT OF THE PERSON ASSERTING CONTROL;

(e) EACH COPY OF THE AUTHORITATIVE COPY AND ANY COPY OF A COPY IS READILY IDENTIFIABLE AS A COPY THAT IS NOT THE AUTHORITATIVE COPY; AND

(f) ANY REVISION OF THE AUTHORITATIVE COPY IS READILY IDENTIFIABLE AS AUTHORIZED OR UNAUTHORIZED.

(4) EXCEPT AS OTHERWISE AGREED, A PERSON HAVING CONTROL OF A TRANSFERABLE RECORD IS THE HOLDER, AS DEFINED IN SECTION 4-1-201 (20), C.R.S., OF THE TRANSFERABLE RECORD AND HAS THE SAME RIGHTS AND DEFENSES AS A HOLDER OF AN EQUIVALENT RECORD OR WRITING UNDER THE "UNIFORM COMMERCIAL CODE", TITLE 4, C.R.S., INCLUDING, IF THE APPLICABLE STATUTORY REQUIREMENTS UNDER SECTION 4-3-302 (a), 4-7-501, OR 4-9-308, C.R.S., ARE SATISFIED, THE RIGHTS AND DEFENSES OF A HOLDER IN DUE COURSE, A HOLDER TO WHICH A NEGOTIABLE DOCUMENT OF TITLE HAS BEEN DULY NEGOTIATED, OR A PURCHASER, RESPECTIVELY. DELIVERY, POSSESSION, AND INDORSEMENT ARE NOT REQUIRED TO OBTAIN OR EXERCISE ANY OF THE RIGHTS UNDER THIS SUBSECTION (4).

(5) EXCEPT AS OTHERWISE AGREED, AN OBLIGOR UNDER A TRANSFERABLE RECORD HAS THE SAME RIGHTS AND DEFENSES AS AN EQUIVALENT OBLIGOR UNDER EQUIVALENT RECORDS OR WRITINGS UNDER THE "UNIFORM COMMERCIAL CODE", TITLE 4, C.R.S.

(6) IF REQUESTED BY A PERSON AGAINST WHICH ENFORCEMENT IS SOUGHT, THE PERSON SEEKING TO ENFORCE THE TRANSFERABLE RECORD SHALL PROVIDE REASONABLE PROOF THAT THE PERSON IS IN CONTROL OF THE TRANSFERABLE RECORD. PROOF MAY INCLUDE ACCESS TO THE AUTHORITATIVE COPY OF THE TRANSFERABLE RECORD AND RELATED BUSINESS RECORDS SUFFICIENT TO REVIEW THE TERMS OF THE TRANSFERABLE RECORD AND TO ESTABLISH THE IDENTITY OF THE PERSON HAVING

## CONTROL OF THE TRANSFERABLE RECORD.

**24-71.3-117. Creation and retention of electronic records by political subdivisions.** EACH DEPARTMENT, BOARD, COMMISSION, AUTHORITY, INSTITUTION, OR INSTRUMENTALITY OF THE STATE, IN ACCORDANCE WITH THE POLICIES, STANDARDS, AND GUIDELINES SET FORTH BY THE OFFICE OF INNOVATION AND TECHNOLOGY OF THIS STATE, MAY DETERMINE WHETHER, AND THE EXTENT TO WHICH, SUCH DEPARTMENT, BOARD, COMMISSION, AUTHORITY, INSTITUTION, OR INSTRUMENTALITY SHALL CREATE AND RETAIN ELECTRONIC RECORDS AND CONVERT WRITTEN RECORDS TO ELECTRONIC RECORDS. A COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION, OR ANY OF THEIR INSTRUMENTALITIES, SHALL HAVE THE GENERAL POWER, IN RELATION TO THE ADMINISTRATION OF THE AFFAIRS OF A COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION, OR ANY OF THEIR INSTRUMENTALITIES, TO DETERMINE THE EXTENT TO WHICH IT WILL CREATE AND RETAIN ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES.

**24-71.3-118. Acceptance and distribution of electronic records by governmental agencies -rules - repeal.** (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 24-71.3-112 (6), EACH DEPARTMENT, BOARD, COMMISSION, AUTHORITY, INSTITUTION, OR INSTRUMENTALITY OF THE STATE, IN CONSULTATION WITH THE OFFICE OF INNOVATION AND TECHNOLOGY AND THE STATE ARCHIVIST AND IN ACCORDANCE WITH THE POLICIES, STANDARDS, AND GUIDELINES SET FORTH BY THE OFFICE OF INNOVATION AND TECHNOLOGY, MAY DETERMINE THE EXTENT TO WHICH SUCH DEPARTMENT, BOARD, COMMISSION, AUTHORITY, INSTITUTION, OR INSTRUMENTALITY SHALL SEND AND ACCEPT ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES TO AND FROM OTHER PERSONS AND OTHERWISE CREATE, GENERATE, COMMUNICATE, STORE, PROCESS, USE, AND RELY UPON ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES. A COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION, OR ANY OF THEIR INSTRUMENTALITIES, SHALL HAVE THE GENERAL POWER, IN RELATION TO THE ADMINISTRATION OF THE AFFAIRS OF A COUNTY, MUNICIPALITY, OR OF THEIR POLITICAL SUBDIVISION, OR ANY OF THEIR INSTRUMENTALITIES, TO DETERMINE THE EXTENT TO WHICH IT WILL SEND AND ACCEPT ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES TO AND FROM OTHER PERSONS AND OTHERWISE CREATE, GENERATE, COMMUNICATE, STORE, PROCESS, USE, AND RELY UPON ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES.

(2) EXCEPT IN RELATION TO ELECTRONIC PAYMENTS, WHICH SHALL BE GOVERNED BY THE STATE TREASURER, TO THE EXTENT THAT A DEPARTMENT, BOARD, COMMISSION, AUTHORITY, INSTITUTION, OR INSTRUMENTALITY OF THIS STATE USES ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES UNDER SUBSECTION (1) OF THIS SECTION, THE SECRETARY OF STATE, IN CONSULTATION WITH THE OFFICE OF INNOVATION AND TECHNOLOGY AND THE STATE ARCHIVIST AND IN ACCORDANCE WITH THE POLICIES, STANDARDS, AND GUIDELINES SET FORTH BY THE OFFICE OF INNOVATION AND TECHNOLOGY, GIVING DUE CONSIDERATION TO SECURITY, SHALL BY RULE SPECIFY:

(a) THE MANNER AND FORMAT IN WHICH THE ELECTRONIC RECORDS MUST BE CREATED, GENERATED, SENT, COMMUNICATED, RECEIVED, AND STORED AND THE SYSTEMS ESTABLISHED FOR THOSE PURPOSES;

(b) IF ELECTRONIC RECORDS MUST BE SIGNED BY ELECTRONIC MEANS, THE TYPE OF

ELECTRONIC SIGNATURE REQUIRED, THE MANNER AND FORMAT IN WHICH THE ELECTRONIC SIGNATURE MUST BE AFFIXED TO THE ELECTRONIC RECORD, AND THE IDENTITY OF, OR CRITERIA THAT MUST BE MET BY, ANY THIRD PARTY USED BY A PERSON FILING A DOCUMENT TO FACILITATE THE PROCESS;

(c) CONTROL PROCESSES AND PROCEDURES AS APPROPRIATE TO ENSURE ADEQUATE PRESERVATION, DISPOSITION, INTEGRITY, SECURITY, CONFIDENTIALITY, AND AUDITABILITY OF ELECTRONIC RECORDS; AND

(d) ANY OTHER REQUIRED ATTRIBUTES FOR ELECTRONIC RECORDS THAT ARE SPECIFIED FOR CORRESPONDING NONELECTRONIC RECORDS OR REASONABLY NECESSARY UNDER THE CIRCUMSTANCES.

(3) EXCEPT AS OTHERWISE PROVIDED IN SECTION 24-71.3-112 (6), THIS ARTICLE DOES NOT REQUIRE A GOVERNMENTAL AGENCY OF THIS STATE TO USE OR PERMIT THE USE OF ELECTRONIC RECORDS OR ELECTRONIC SIGNATURES.

(4) THIS SUBSECTION (4) AND SUBSECTION (2) OF THIS SECTION ARE REPEALED, EFFECTIVE DECEMBER 31, 2002, UNLESS THE SECRETARY OF STATE CERTIFIES THAT THE SECRETARY OF STATE HAS RECEIVED GIFTS, GRANTS, OR DONATIONS EQUALING AT LEAST TWO HUNDRED THOUSAND DOLLARS TO PAY FOR THE DEVELOPMENTAL COSTS ASSOCIATED WITH THE IMPLEMENTATION OF HB 02-1326 BY DECEMBER 1, 2002.

**24-71.3-119. Interoperability.** THE SECRETARY OF STATE MAY, IN CONSULTATION WITH THE OFFICE OF INNOVATION AND TECHNOLOGY AND THE STATE ARCHIVIST AND IN ACCORDANCE WITH THE POLICIES, STANDARDS, AND GUIDELINES SET FORTH BY THE OFFICE OF INNOVATION AND TECHNOLOGY, ENCOURAGE AND PROMOTE CONSISTENCY AND INTEROPERABILITY WITH SIMILAR REQUIREMENTS ADOPTED BY OTHER GOVERNMENTAL AGENCIES OF THIS AND OTHER STATES AND THE FEDERAL GOVERNMENT AND NONGOVERNMENTAL PERSONS INTERACTING WITH GOVERNMENTAL AGENCIES OF THIS STATE. IF APPROPRIATE, THOSE STANDARDS MAY SPECIFY DIFFERING LEVELS OF STANDARDS FROM WHICH GOVERNMENTAL AGENCIES OF THIS STATE MAY CHOOSE IN IMPLEMENTING THE MOST APPROPRIATE STANDARD FOR A PARTICULAR APPLICATION.

**24-71.3-120. Severability clause.** IF ANY PROVISION OF THIS ARTICLE OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE ARE HEREBY EXPRESSLY DECLARED TO BE SEVERABLE.

**24-71.3-121. Construction with other laws.** IN THE EVENT OF ANY CONFLICT BETWEEN ARTICLE 71 OF THIS TITLE AND THIS ARTICLE, THIS ARTICLE SHALL CONTROL, BUT ONLY TO THE EXTENT OF SUCH CONFLICT.

**SECTION 2.** 24-71-101 (1) and (2), Colorado Revised Statutes, are amended, and the said 24-71-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**24-71-101. Electronic signatures - construction with other laws.** (1) As used in this article, "electronic signature" means ~~any identifier or authentication technique attached to or logically associated with an electronic record that is intended by the person using it to have the same force and effect as the use of a manual signature.~~ "Electronic signature" includes digital signatures. AN ELECTRONIC SOUND, SYMBOL, OR PROCESS ATTACHED TO OR LOGICALLY ASSOCIATED WITH A RECORD AND EXECUTED OR ADOPTED BY A PERSON WITH THE INTENT TO SIGN THE RECORD.

(2) ~~In any written communication in which a signature is required or used, other than governmental transactions as specified in section 24-71.1-106, any party to the communication may affix a signature by use of an electronic signature that complies with rules prescribed by the executive director of the department of personnel. In promulgating rules on the validity of electronic signatures as an alternative to manual signatures for nongovernmental transactions, the executive director of the department of personnel shall consider, among other appropriate factors, whether or not the electronic signature must be:~~

~~(a) Unique to the person using it;~~

~~(b) Capable of verification;~~

~~(c) Under the sole control of the person using it;~~

~~(d) Linked to data in such a manner that the electronic signature is invalidated if any data is changed.~~

~~(e) (Deleted by amendment, L. 99, p. 1346, § 2, effective July 1, 1999.) IN ANY WRITTEN COMMUNICATION IN WHICH A SIGNATURE IS REQUIRED OR USED, ANY PARTY TO THE COMMUNICATION MAY AFFIX A SIGNATURE BY USE OF AN ELECTRONIC SIGNATURE THAT COMPLIES WITH THE REQUIREMENTS OF ARTICLE 71.3 OF THIS TITLE FOR ELECTRONIC SIGNATURES.~~

(4) IN THE EVENT OF ANY CONFLICT BETWEEN ARTICLE 71.3 OF THIS TITLE AND THIS ARTICLE, SAID ARTICLE 71.3 SHALL CONTROL, BUT ONLY TO THE EXTENT OF SUCH CONFLICT.

**SECTION 3. Repeal.** Article 71.1 of title 24, Colorado Revised Statutes, is repealed.

**SECTION 4.** The introductory portion to 24-30-1604 (1) and 24-30-1604 (1) (b), Colorado Revised Statutes, are amended to read:

**24-30-1604. Powers of the executive director - penalty for breach of confidentiality.** (1) In order to perform the functions and duties of the GGCC as set forth in this part 16, ~~and in articles 71 and 71.1 of this title,~~ the executive director of the department of personnel shall exercise the following powers:

(b) In accordance with the policies, standards, specifications, and guidelines formulated and promulgated pursuant to section 24-~~37.5-106~~ (1) (c) by the chief technology officer of the office of innovation and technology created in the office of the governor, to adopt such rules ~~and regulations~~ as may be necessary to carry out the

purposes and provisions of this part 16; ~~article 71 of this title regarding digital or electronic signatures, and article 71.1 of this title regarding government electronic transactions;~~

**SECTION 5.** 13-25-134, Colorado Revised Statutes, is amended to read:

**13-25-134. Electronic records and signatures - admissibility in evidence - originals.** Pursuant to the provisions of article ~~71.1~~ 71.3 of title 24, C.R.S., in any legal proceeding, nothing in the application of the rules of evidence shall apply so as to deny the admissibility of an electronic record or electronic signature into evidence on the sole ground that it is an electronic record or electronic signature or on the grounds that it is not in its original form or is not an original.

**SECTION 6.** 22-32-110 (1) (kk), Colorado Revised Statutes, is amended to read:

**22-32-110. Board of education - specific powers - repeal.** (1) In addition to any other power granted to a board of education of a school district by law, each board of education of a school district shall have the following specific powers, to be exercised in its judgment:

(kk) To authorize the use of electronic records or signatures and adopt rules, standards, policies, and procedures for use of electronic records or signatures pursuant to article ~~71.1~~ 71.3 of title 24, C.R.S.;

**SECTION 7.** 30-11-107 (1) (gg), Colorado Revised Statutes, is amended to read:

**30-11-107. Powers of the board.** (1) The board of county commissioners of each county has power at any meeting:

(gg) To authorize the use of electronic records or signatures and adopt rules, standards, policies, and procedures for use of electronic records or signatures pursuant to article ~~71.1~~ 71.3 of title 24, C.R.S.;

**SECTION 8.** 31-15-201 (1) (h), Colorado Revised Statutes, is amended to read:

**31-15-201. Administrative powers.** (1) The governing bodies in municipalities shall have the following general powers in relation to the administration of the municipality's affairs:

(h) To authorize the use of electronic records or signatures and adopt rules, standards, policies, and procedures for use of electronic records or signatures pursuant to article ~~71.1~~ 71.3 of title 24, C.R.S.;

**SECTION 9.** 32-1-1001 (1) (o), Colorado Revised Statutes, is amended to read:

**32-1-1001. Common powers.** (1) For and on behalf of the special district the board has the following powers:

(o) To authorize the use of electronic records or signatures and adopt rules, standards, policies, and procedures for use of electronic records or signatures pursuant to article ~~71.1~~ 71.3 of title 24, C.R.S.

**SECTION 10.** 42-6-124 (1) (a), Colorado Revised Statutes, is amended to read:

**42-6-124. Disposition of certificates of title.** (1) All certificates of title issued by the director or the director's authorized agent shall be disposed of by the director in the following manner:

(a) If the certificate of title that is filed by the director's authorized agent is maintained in an electronic format within the director's and the director's authorized agent's motor vehicle databases as required by the standards established pursuant to article ~~71.1~~ 71.3 of title 24, C.R.S., the certificate of title shall be disposed of in accordance with paragraphs (b) and (c) of this subsection (1).

**SECTION 11.** 24-21-104 (3) (b), Colorado Revised Statutes, is amended to read:

**24-21-104. Fees of secretary of state.** (3) (b) The department of state shall adjust its fees so that the revenue generated from the fees approximates its direct and indirect costs, INCLUDING THE COST OF IMPLEMENTING SECTION 24-71.3-118 AND MAINTENANCE AND IMPROVEMENTS NECESSARY FOR THE DISTRIBUTION OF ELECTRONIC RECORDS; except that the department may reduce its fees to generate revenue in an amount less than costs if necessary pursuant to section 24-75-402 (3). Such costs shall not include the costs paid by the amounts appropriated by the general assembly from the general fund to the department of state for elections pursuant to section 24-21-104.5. Such fees shall remain in effect for the fiscal year following the adjustment. All fees collected by said department shall be transmitted to the state treasurer, except moneys collected pursuant to subparagraph (II) of paragraph (f) of this subsection (3) and article 55 of title 12, C.R.S., who shall credit the same to the department of state cash fund, which fund is hereby created. All moneys credited to the department of state cash fund shall be used as provided in this section and shall not be deposited in or transferred to the general fund of this state or any other fund. The moneys credited to the department of state cash fund shall be available for appropriation by the general assembly to the department of state in the general appropriation bill or pursuant to section 24-9-105 (2).

**SECTION 12. Appropriation.** (1) The secretary of state is hereby authorized until December 1, 2002, to accept gifts, grants, and donations from state, federal, regional, county, municipal, special district, or other governmental units or subdivisions, private business and industry, nonprofit organizations, and other sources of up to two hundred thousand dollars (\$200,000) for the developmental costs associated with the implementation of this act. The secretary of state shall transmit all such donations to the state treasurer, who shall deposit them in the department of state cash fund created in section 24-21-104, Colorado Revised Statutes. If the secretary of state has not received at least two hundred thousand dollars (\$200,000) of such gifts, grants, or donations by December 1, 2002, the secretary of state shall refund all such gifts, grants, and donations to the original donors. If the secretary of state receives any amount over two hundred thousand dollars (\$200,000) of such gifts, grants, and donations, such amounts shall remain in the fund.

(2) If the secretary of state has received at least two hundred thousand dollars (\$200,000) pursuant to subsection (1) of this section by December 1, 2002, in addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund that were deposited pursuant to subsection (1) of

this section, not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2002, the sum of two hundred thousand dollars (\$200,000), or so much thereof as may be necessary, for the developmental costs associated with the implementation of this act.

(3) If the secretary of state has received at least two hundred thousand dollars (\$200,000) pursuant to subsection (1) of this section by December 1, 2002, in addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund, not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2002, the sum of one hundred ninety-eight thousand five hundred ninety-eight dollars (\$198,598) and 3.0 FTE, or so much thereof as may be necessary, for the on-going costs associated with the implementation of this act.

**SECTION 13. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 30, 2002