

Approved 3/22/83  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Edward F. Reilly, Jr. at  
Chairperson

11:00 a.m. ~~p.m.~~ on March 20, 1984 in room 254-E of the Capitol.

All members were present except:

Senator Francisco was excused.

Committee staff present:

Fred Carman, Assistant Revisor of Statutes  
Russell Mills, Legislative Research  
Emalene Correll, Legislative Research  
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Senator Gus Bogina  
Kim Dewey, Board of Sedgwick County Commissioners  
Terry Harmon, Kansas State Historical Society, Assistant State Archivist

The Chairman recognized Senator Bogina, who appeared concerning SB836. Following discussion by the Committee Senator Morris moved that the introduction of SB836 relating to libraries in urban areas be hereby ratified. 2d by Senator Gannon. Motion carried.

Substitute for HB2391 - relating to preservation and destruction of certain public records.

Kim C. Dewey was recognized by the Chairman. Mr. Dewey spoke as a proponent of HB2391. His prepared statement is a part of these Minutes as Attachment #1. He answered questions from the Committee.

The Chairman introduced Terry Harmon who presented a statement from the Kansas Historical Society saying that the society supports the basic objectives being sought by the Sedgwick county officials through this bill. Copy is a part of these Minutes as Attachment #2. In addition he presented proposed amendments to the bill which are a part of these Minutes as Attachment #3.

Senator Morris made the conceptual motion that the Committee move the adoption of the proposed amendments, with the Revisor's Office to check the language and to be certain it included the aspect of confidentiality that the Committee felt should be a part of the bill. 2d by Senator Gannon. Motion carried. Fred Carman said that with the Committee's permission that he would run the committee report as passed to the staff members and the state archivist and then back to the Committee.

HB2602 - relating to corporation code and name of incorporated churches.

The Committee was instructed that the hearing on HB2602 had been held on March 14, 1984. There was discussion of the bill and suggested changes were made. Senator Pomeroy moved that the bill be amended on page 1, line 23, before "shall", by inserting ",except for banks,"; also in line 23, by striking ""bank,""; in line 33, before "the" by inserting "there shall be obtained"; also in line 33, by striking "is obtained";. 2d by Senator Parrish. Motion carried. Senator Pomeroy moved the bill be reported favorably as amended. 2d by Senator Parrish. Motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,  
room 254-E, Statehouse, at 11:00 a.m./~~p.m.~~ on March 20, 19 84

SB575 - relating certification of real estate instructors and other matters.

The Chairman directed the Committee's attention to SB575. Senator Morris called attention to the fact that his motion to remove the language is still pending. Following discussion by the Committee the Chairman stated that it was time for adjournment.

The meeting adjourned at noon.

3/20/84  
Attachment #1

**SEDGWICK COUNTY, KANSAS**

**BOARD OF COUNTY COMMISSIONERS**



JACK SPRATT  
CHAIRMAN

COMMISSIONER THIRD DISTRICT

DONALD E. GRAGG  
CHAIRMAN PRO-TEM

COMMISSIONER FIRST DISTRICT

TOM SCOTT  
COMMISSIONER

SECOND DISTRICT

COUNTY COURTHOUSE • SUITE 320 • WICHITA, KANSAS 67203-3759 • TELEPHONE (316) 268-7411

TESTIMONY OF KIM C. DEWEY  
SENATE FEDERAL & STATE AFFAIRS COMMITTEE  
SUB. FOR HOUSE BILL 2391

MARCH 20, 1984

Current statutory records retention requirements have presented an array of problems for the counties. Almost all county records are required to be maintained for twenty years per K.S.A. 19-254. After this period, they must be offered to the Historical Society for review, and then permission to dispose of them is obtained through petition to the District Court.

While a twenty-year retention period may be appropriate for some records, it is unquestionably unnecessary for most records. A prime example exists in Sedgwick County. The County operates the Department of Community Mental Health, which means that all records of the Department are deemed County records, thus subject to the requirements of K.S.A. 19-254. Eight thousand patients per year are treated at the facility and each patient record must be maintained for twenty years, even though the records are of no clinical value after seven years. Even after twenty years, the records cannot be offered to the Historical Society for review because of their confidential nature. In effect then, the County must maintain these records for eternity. Records maintenance is not cheap. The County utilizes underground storage in the Hutchinson Salt Mines at an annual cost of over \$15,000. As the records continue to pile up, so does the cost.

Sub. for HB 2391 provides a simple, straightforward solution. Current law authorizes the State Historical Society to develop retention and disposition schedules for county records, but the existence of K.S.A. 19-254 precludes their use. HB 2391 would eliminate this problem, replacing the twenty-year minimum retention period with various retention requirements which would be imposed by the State Records Board. The new law would allow counties to petition the State Records for changes or amendments to the schedules. This type of arrangement is much preferred to the current situation. Now, there is no recourse when the county taxpayer must pay to needlessly maintain outdated or irrelevant records. We urge your favorable consideration of Sub. for HB 2391.

Attachment #1

Presented to the Senate Committee on Federal and State Affairs  
by Terry Harmon, Assistant State Archivist  
Kansas State Historical Society  
March 20, 1984

The state historical society supports the basic objectives being sought by Sedgwick county officials through this bill. Repeal of K.S.A. 19-254 through 19-258 would be a good idea because many county government records do not merit retention for two decades and because involvement of the district courts in records disposal is unnecessary and cumbersome. Repeal of K.S.A. 19-325 through 19-327 also would be appropriate because incorporating retention periods in the statutes in a piecemeal manner is not a sound records management practice.

A far more efficient means of handling the disposal of county records is the preparation of comprehensive general retention and disposition schedules. Such schedules have been prepared by the staffs of the state archives in a number of other states, and such schedules are currently being prepared by the Kansas State Historical Society's department of archives as part of a local government records survey project funded by a grant from the National Historical Publications and Records Commission. These schedules, which are authorized by K.S.A. 45-406, will be published in records manuals and distributed to the county officials throughout the state within the next six months.

Under current statutes these retention and disposition schedules will be only recommendations. County officials will not be able to comply with most of the recommendations because of the twenty-year minimum retention period provided by K.S.A. 19-254. Substitute for House Bill No. 2391 would authorize boards of county commissioners to follow any of the recommendations made in the schedules currently being prepared. If they were not satisfied with retention periods set forth by the state historical society, boards of county commissioners could petition the state records board for amendments to the schedules, for authority to depart from specific provisions of the schedules, or for approval of unique schedules applicable to only a single county. The bill would not require disposal of any records which boards of county commissioners choose to retain, but would make it possible to discard many mundane records far more quickly.

As it now stands, Substitute for H.B. 2391 implies that records could not be destroyed before expiration of the retention periods set forth in the schedules, but does not clearly state this. The state historical society is proposing several amendments to subsection (b) of section 2 which would clarify this matter. These are contained on page 2 of a balloon version of Substitute for H.B. 2391 which has been distributed to members of the committee.

Subsection (d) of section 2 (on page 3) of this bill is an effort to retain in the statutes a provision of K.S.A. 19-254 designed to help prevent the destruction of county records with enduring value. It would require offering to the State Historical Society any records for which permanent retention is set forth in the schedules before such records may be destroyed. This provision would be redundant, especially if the amendments proposed for subsection (b) of section 2 are adopted. The state historical society is proposing an alternative subsection (d) which would make it clear that boards of county commissioners can transfer records to the state historical society or to suitable local or regional archival repositories. In other words, county

officials would not be required to retain in their custody records which are scheduled for permanent retention or for longer retention periods than they consider appropriate, if they can find an archival repository willing to take them.

Incidentally, it is the policy of the state historical society to promote the preservation of local government records in the counties or regions where they were created. County records with enduring value are brought to Topeka for deposit in the state archives only as a last resort to prevent their destruction when there is no suitable local or regional repository for them.

The state historical society believes that Substitute for H.B. 2391, with the amendments being proposed, would provide a more sound, efficient system for disposal of county government records in Kansas. It would help the state historical society promote the preservation of records with enduring value at a minimal cost to the taxpayers, and it would provide the kind of flexibility in records disposal wanted by Sedgwick county officials. We therefore hope that this bill and the amendments we are proposing will receive the approval of this committee.

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Session of 1984

## Substitute for HOUSE BILL No. 2391

By Committee on Federal and State Affairs

2-10

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0016 AN ACT relating to the preservation and disposition of public  
0017 records; concerning certain county records; amending K.S.A.  
0018 45-402, 45-404, 45-405 and 45-406 and repealing the existing  
0019 sections; also repealing K.S.A. 19-254 through 19-258, 19-325,  
0020 19-326 and 19-327.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 45-402 is hereby amended to read as fol-  
0023 lows: 45-402. As used in this act:

0024 (a) "State agency" means any department, board, commis-  
0025 sion, or authority of the executive branch of state government.

0026 (b) "Local agency" means any department, board, commis-  
0027 sion, officer or authority of a county, city, township, school  
0028 district or other tax-supported governmental subdivision of the  
0029 state.

0030 (c) "Board" means the state records board established pur-  
0031 suant to K.S.A. 75-3502 and amendments thereto.

0032 (d) "Government records" means all volumes, documents,  
0033 reports, maps, drawings, charts, indexes, plans, memoranda,  
0034 sound recordings, microfilms, photographic records and other  
0035 data, information or documentary material, regardless of physical  
0036 form or characteristics, storage media or condition of use, made  
0037 or received by an agency in pursuance of law or in connection  
0038 with the transaction of official business or bearing upon the  
0039 official activities and functions of any governmental agency.  
0040 Published material acquired and preserved solely for reference  
0041 purposes, extra copies of documents preserved only for conve-  
0042 nience of reference and stocks of publications, blank forms and  
0043 duplicated documents are not included within the definition of  
0044 government records.

ALH. 3

0045 (e) "Noncurrent government records" means all government  
0046 records which no longer are necessary for the handling of ordi-  
0047 nary official public business by the agency and which are not  
0048 required by law to be retained in the immediate custody of the  
0049 agency for a longer period of time.

0050 (f) "Government records with enduring value" means all  
0051 government records which merit preservation for historical,  
0052 legal, fiscal or administrative reasons, or for research purposes.

0053 (g) "Retention and disposition schedules" means lists of  
0054 series of government records, prepared pursuant to K.S.A. 45-404  
0055 and subsections (c) and (d) of K.S.A. ~~45-405~~ 45-406, and amend-  
0056 ments thereto, specifying which series of records have enduring  
0057 value, authorizing disposition of certain other series of records,  
0058 and indicating how long certain series of records should be  
0059 retained before disposition of them.

0060 Sec. 2. K.S.A. 45-404 is hereby amended to read as follows:  
0061 45-404. The state records board shall:

0062 (a) Approve or modify retention and disposition schedules  
0063 and records manuals prepared pursuant to subsections (c) and (d)  
0064 of K.S.A. 45-406 and amendments thereto. Once approved by the  
0065 board the retention and disposition schedules for state agencies  
0066 shall be filed with the revisor of statutes. Without further action  
0067 by the board, noncurrent records of state agencies scheduled for  
0068 disposition may be disposed of as provided in the schedules and  
0069 noncurrent records scheduled for retention may be transferred to  
0070 the state archives, subject to approval by the state archivist and  
0071 in accordance with procedures to be established by the state  
0072 archivist.

0073 (b) Pass upon any proposed revisions in the retention and  
0074 disposition schedules and upon requests for authority to dispose  
0075 of records of state agencies ~~not listed in the schedules.~~ No  
0076 records of state agencies shall be disposed of before the retention  
0077 periods designated in the schedules have elapsed without the  
0078 approval of the board. No state agency shall be required to  
0079 destroy records which it chooses to retain, even though the  
0080 retention and disposition schedules authorize their destruction.  
0081 The retention and disposition schedules for all local agencies

Add: "or counties"

Add: "or counties"

Add: "or county"



0082 *except counties* shall be recommendations and shall not alter or  
 0083 replace current statutes authorizing or restricting the disposition  
 0084 of government records by local agencies.

0085 (c) *Any board of county commissioners may order disposi-*  
 0086 *tion of any noncurrent county government records after min-*  
 0087 *imum retention periods set forth in the schedules prepared*  
 0088 *pursuant to subsection (d) of K.S.A. 45-406 and amendments*  
 0089 *thereto. Any board of county commissioners may petition the*  
 0090 *state records board for amendments to the schedules, for au-*  
 0091 *thority to depart from specific provisions of the schedules or for*  
 0092 *authority to implement schedules applicable to only a single*  
 0093 *county.*

0094 ~~(d) Any county government records for which permanent~~  
 0095 ~~retention is set forth in the schedules shall be offered to the state~~  
 0096 ~~historical society before such records may be destroyed.~~

0097 (e) (e) Pass upon recommendations by the state archivist for  
 0098 transfer to the state archives of any noncurrent government  
 0099 records with enduring value which are held by a state agency  
 0100 opposing such a transfer. When the state archivist makes such a  
 0101 recommendation, the state agency opposing the transfer shall  
 0102 defend before the board its reasons for wanting to retain the  
 0103 records in its custody, and the board shall determine whether the  
 0104 transfer shall occur.

0105 ~~(d)~~ (f) Approve or modify recommended microphotographic  
 0106 standards prepared by the state archivist and pass upon requests  
 0107 for authority to dispose of original government records of state  
 0108 agencies following reproduction on film, as provided in K.S.A.  
 0109 45-412 and amendments thereto.

0110 Sec. 3. K.S.A. 45-405 is hereby amended to read as follows:  
 0111 45-405. (a) The state historical society shall serve as the official  
 0112 state archives and shall assist state and local agencies in the  
 0113 preservation of government records with enduring value.

0114 (b) Any state or local agency may transfer to the state archives  
 0115 any noncurrent government records accepted by the state archi-  
 0116 vist and all state agencies shall transfer to the state archives any  
 0117 noncurrent government records when directed to do so by the  
 0118 state records board. With the approval of the state archivist,

Substitute subsection (d): "With the approval of the state archivist, any board of county commissioners may transfer any noncurrent county government records to the custody of the state historical society. Any board of county commissioners also may transfer any noncurrent county government records to the custody of a county historical society, genealogical society, public library, college or university library, or other suitable local or regional repository in Kansas which accepts said records."



0119 noncurrent legislative and judicial records also may be deposited  
0120 in the state archives for preservation.

0121 (c) The secretary of state shall not be prevented by subsec-  
0122 ~~tion (f) of K.S.A. 74-7240~~ or by K.S.A. 75-402 or 75-408, and  
0123 *amendments thereto*, from depositing in the state archives any  
0124 noncurrent government records accepted by the state archivist.

0125 (d) The provisions of this act shall not prohibit discarding or  
0126 otherwise disposing of extraneous, worthless or duplicate mate-  
0127 rial found in government records when processed by the state  
0128 archives staff. Any records placed in the state archives may be  
0129 disposed of in any manner approved by the board and the state  
0130 archivist upon a determination that such records no longer have  
0131 enduring value.

0132 Sec. 4. K.S.A. 45-406 is hereby amended to read as follows:  
0133 45-406. Under the supervision of the secretary of the state his-  
0134 torical society, the state archivist shall:

0135 (a) Seek, negotiate for, acquire and receive noncurrent gov-  
0136 ernment records with enduring value from agencies and  
0137 branches of state government and from local agencies.

0138 (b) Properly arrange, store, preserve and make accessible to  
0139 the public the records in the state archives, in accordance with  
0140 appropriate archival procedures and in accordance with the  
0141 provisions of K.S.A. 45-407 *and amendments thereto*. Provide  
0142 advice and assistance to state and local agencies and to branches  
0143 of state government with regard to proper arrangement, storage,  
0144 preservation and accessibility of the government records with  
0145 enduring value remaining in their custody.

0146 (c) Advise and assist state agencies in the preparation of  
0147 retention and disposition schedules for government records.

0148 (d) Prepare, publish and distribute to the appropriate public  
0149 officers and to other interested persons records manuals con-  
0150 taining retention and disposition schedules for government rec-  
0151 ords of local agencies. Recommendations for proper arrange-  
0152 ment, storage and preservation of records with enduring value  
0153 and an analysis of state and federal legislation relevant to gov-  
0154 ernment records in Kansas also shall be included in these rec-  
0155 ords manuals. Appropriate public officers of the state and its

0156 governmental subdivisions shall be consulted during the prepa-  
0157 ration of the records manuals.

0158 (e) Review the contents of the records manuals annually and  
0159 distribute any revisions which are made to the appropriate pub-  
0160 lic officers. The contents of the records manuals and subsequent  
0161 revisions shall be approved by the state records board.

0162 (f) Assist in preparing and making available to the public  
0163 comprehensive inventories containing general information  
0164 about the nature, scope, contents and location of government  
0165 records of the agencies and branches of state government and of  
0166 local agencies in Kansas.

0167 (g) Prepare or permit the preparation of copies of government  
0168 records deposited in the state archives, as required by current  
0169 statutes, unless public access to the records is restricted as  
0170 provided in K.S.A. ~~45-406~~ 45-407 and amendments thereto.  
0171 When certified by the state archivist such copies shall have all  
0172 the force and effect as if made by the officer originally in custody  
0173 of them. Reasonable fees may be charged for preparation of such  
0174 copies. The state archivist shall not allow copies to be made by  
0175 methods which might damage the original records.

0176 (h) Exercise such other duties and functions as the secretary  
0177 of the state historical society may direct or as may be provided by  
0178 law.

0179 Sec. 5. K.S.A. 19-254 through 19-258, 19-325, 19-326, 19-327,  
0180 45-402, 45-404, 45-405 and 45-406 are hereby repealed.

0181 Sec. 6. This act shall take effect and be in force from and  
0182 after its publication in the statute book.