

Approved March 4, 1988  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Robert S. Wunsch at  
Chairperson

3:30 ~~xxx~~ p.m. on February 25, 1988 in room 313-S of the Capitol.

All members were present except:

Representatives Peterson, Roy, Snowbarger, Vancrum, Walker and Whiteman, who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department  
Jill Wolters, Revisor of Statutes Office  
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Representative Gary Blumenthal  
Dennis Prater, Attorney, Kansas Public Disclosure Commission  
Don Paxson, Commissioner, Kansas Public Disclosure Commission  
Earl Nehring, Common Cause/Kansas  
Representative Clinton Acheson  
Roman Hiszczynskij, M.D., Shawnee County District Coroner  
Doug Martin, Shawnee County Counselor  
Jim Clark, Kansas County and District Attorney's Association  
Pat Baker, Kansas Association of School Boards

Hearing on S.B. 157 - Kansas Public Disclosure Commission authorized to issue subpoenas under campaign finance act

S.B. 252 - Investigation of complaints by Public Disclosure Commission under governmental ethics law

Representative Blumenthal testified in favor of granting subpoena power to the Kansas Public Disclosure Commission. This bill would enable the Public Disclosure Commission to do their job and help restore trust in government. Passage of S.B. 157 and S.B. 252 would be a step forward or effective and trusting government, (see Attachment I).

Dennis Prater testified S.B. 157 would provide subpoena powers to the Commission in the investigation of complaints dealing with the campaign finance act. S.B. 252 deals with conflict of interest laws and lobbying laws. These bills would clarify the subpoena process of the Public Disclosure Commission.

Don Paxson testified he is appointed by the House Minority Leader. There are five members on the Commission. The other four members are appointed by the Governor, Speaker of the House, Vice President of the Senate, and the Minority Leader of the Senate.

Earl Nehring testified these proposals would give the Commission the necessary subpoena authority to obtain the information it needs to reach fair conclusions. He urged the Committee to report both bills favorably for passage, (see Attachment II).

The hearing was closed on S.B. 157 and S.B. 252.

Hearing on H.B. 2931 - Allowing coroners access to certain information concerning patients in treatment facilities

Representative Acheson testified this bill was requested by the Shawnee County Coroner to assist coroners in the performance of their duties.

Dr. Hiszczynskij testified there is a confidentiality law in Kansas for certain state institutions and community facilities which prohibits the Coroner from obtaining the results of psychological testing and psychiatric evaluations on an individual unless he can obtain the individual's written permission. This bill would allow Coroners access to information at state institutions, community mental health centers and other facilities when circumstances point toward an individual's involvement in foul play or suicide, (see Attachment III).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,  
room 313-S, Statehouse, at 3:30 ~~xxx~~ p.m. on February 25, 19 88

Doug Martin testified in support of this bill. He distributed copies of 60-427, physician-patient privilege, (see Attachment IV).

Written testimony of Chip Wheelen, Kansas Psychiatric Society was distributed to the Committee. He requested the Committee consider their suggestion that precautions should be taken to assure that patient records obtained by coroners could not become subject to state or local open records laws or otherwise become accessible to the public. (Attachment V)

Jim Clark stated the Kansas County and District Attorney's Association supports H.B. 2931.

The hearing on H.B. 2931 was closed.

Hearing on H.B. 2932 - Eminent domain authority of unified school districts, owner's option to repurchase property condemned

Pat Baker testified H.B. 2931 restricts a school district to a two-year time frame for beginning construction between the acquisition of property and the commencement of construction. This would seriously hamper the ability of school districts to do reasonable long-term planning. The bill also would cause school districts to lose public funds if there was a diminution in the value of condemned property. She urged that the current statute not be changed, (see Attachment VI).

The Committee meeting was adjourned at 5:00 p.m.

GUEST REGISTER

DATE Feb 25, 1988

NAME

ORGANIZATION

ADDRESS

<u>NAME</u>	<u>ORGANIZATION</u>	<u>ADDRESS</u>
Jim Clark	KCDAA	Topeka
ALAN STEPPAT	PETE McGUIRE & ASSOCIATES	Topeka
Whitney Damon	Pete McGill & Associates	Topeka
Gary Ann Rd	Rep - 23rd District	
Janet Stubbs	ABAK	"
Tom Whitaker	Ks Motor Carriers Association	Topeka
Mary E. Tomlinson	"	"
Bobby M. Shalinsky	Kansas Treasurer's Office	"
Jan P. Hostette	Legislative Intern	"
Barbara Lussier	Common Cause	Le Centre, K.S.
Pat Barnes	Common Cause	Windsor Co., KS
Muriel Pace	Common Cause	Kansas City
Barbara Lussier	Common Cause	Johnson County
KEITH RLANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
Carl Williams	KPOC	Topeka
Janet Williams	KPOC	
Lynn Hartman	Ks Bar Assn.	Topeka
Earl Nehring	Common Cause - KS	"
BARB REINERT	KPOA	"
Roman Hisczynskij	District Coroner, Shawnee County	Topeka
DOUG MARTIN	SHAWNEE COUNTY COUNSELOR	TOPEKA -
(Orbit Olson)	Rep. 52nd Dist	Topeka



GARY H. BLUMENTHAL  
 REPRESENTATIVE, TWENTY-THIRD DISTRICT  
 JOHNSON COUNTY  
 10125 EDELWEISS CIRCLE  
 MERRIAM, KANSAS 66203-4608



TOPEKA

HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 RANKING MINORITY MEMBER: ELECTIONS  
 MEMBER: PUBLIC HEALTH AND WELFARE  
 EDUCATION  
 LEGISLATIVE, JUDICIAL AND  
 CONGRESSIONAL APPORTIONMENT  
 KANSAS PLANNING COUNCIL ON  
 DEVELOPMENTAL DISABILITIES

Mr. Chairman, I appreciate the opportunity to address the House Judiciary Committee on the important issue of granting subpoena power to the Kansas Public Disclosure Commission. For the sake of enabling our Public Disclosure Commission to do their job, and to help restore trust in government, I urge your favorable consideration of Senate Bills 157 and 252.

In recent years, the people have seen too many headlines that call into question the the fundamental level of ethics in government. It is time for us, as legislators, to take the initiative and help restore the people's trust in government. One way is by putting the teeth back into ethics laws by granting the public disclosure commission the ability to use the subpoena power.

Presently the Public Disclosure Commission is hamstrung in its ability to execute its legal authority... hamstrung by a lack of funds and a lack of legal power to gather necessary information. The commission employs only one part-time attorney, lacks an executive director, and suffers from a shriveling budget. We may not be able to get the support to increase their budget, but we can give them the tools to gather information.

By granting the Public Disclosure Commission the power to subpoena records pertinent to the investigation of complaints brought before the Commission, we would say to the people and to elected officials in the state that we are serious about maintaining the public trust.

Not only would these bills enable the Commission to go after wrongdoers, it would also protect the innocent by allowing the Commission the authority to fully investigate the facts in a confidential setting in advance of calling for formal public proceedings.

For those who fear a strong commission would run amuck, I would point to provisions within the bill that more than adqutely assure against abuse. Under this bill, subpoenas will have to be submitted and approved by an administrative judge of the district court of Shawnee county.

The basic ability of our form of government to operate effectively is that the people we represent must have faith and trust in our actions. Passage of Senate Bills 157 and 252 is a step forward for effective and trusting government.

*Attachment I*



**COMMON CAUSE / KANSAS**

701 Jackson, B-6  
Topeka, Kansas 66603  
(Phone: 913-235-3022)

February 25, 1988

Statement in support of Senate Bills 157 and 252  
presented to the House Judiciary Committee  
by Earl Nehring for Common Cause/Kansas

The essential issue present in these two proposals is whether or not the Kansas Public Disclosure Commission is to be given the capability for effectively performing the job it was created to do. To do that job the Disclosure Commission must be able to thoroughly investigate complaints to determine if there is sufficient evidence to justify calling for public hearings. These proposals will give the Commission the necessary subpoena authority to obtain the information it needs to reach fair conclusions.

Without subpoena authority at the preliminary confidential investigative stage the Disclosure Commission must depend on the willingness of individuals and organizations to be cooperative. When the success of an investigation depends on the voluntary cooperation of persons and groups you have an arrangement guaranteed to leave the public wondering whether the whole story has been learned. Those who may have violated the law, intentionally or not, are not likely to endanger themselves by fully cooperating with the investigators.

A fear we have heard expressed that the Disclosure Commission would use this increased authority to go on "fishing expeditions" seems to us to be unfounded. These bills require approval by the administrative judge of the Shawnee County District Court before subpoenas can be issued. That should eliminate any concerns that subpoenas would be used in any case unless there is substantial evidence supporting a complaint.

How many complaints are made or how many complaints are legitimate is not significant. What is important is having a process in which the citizens

*Attachment II*

of Kansas can have faith because the integrity of the political system is assured by an effective enforcement of the law. In the arena of political campaigning, lobbying and conflicts of interest that means the Public Disclosure Commission must have enough authority to assure that integrity.

We call your attention to the fact that these bills both passed the Senate last year with nearly unanimous support. We hope members of the House will provide similar endorsement of a basic tenet of good government. To that end we urge your committee to report both bills favorably for passage.

District Court of Kansas  
Third Judicial District

Dept. of Pathology  
Stormont Hill Reg. Medical Center  
1500 West Tenth  
Topeka, Kansas 66604-1353

(913) 233-3074

Roman Hiszczynskyj, M.D.  
District Coroner

William N. Leifer, M.D.  
Laurance M. Price, Jr., M.D.  
Robert B. Jensen, M.D.  
Deputy Coroners

February 24, 1988

Testimony of Roman Hiszczynskyj, M.D.  
District Coroner,  
Third Judicial District,  
Shawnee County, Kansas,

House Judiciary Committee  
K.S.A. 65-6503

You all should be proud of the fact that Kansas was one of the first states to pass a law which required that a Coroner be a physician licensed to practice in this state. The Coroner uses his medical knowledge and expertise in the performance of his duties such as identification of the victim, estimation of the time of death, the determination of cause(s) of death, and the manner of death, (homicide, suicide, accident or natural).

I have been associated with the Coroner's office here in Shawnee County during the past three years and on occasion, have run into a significant problem with obtaining all of the information so necessary in the performance of my duties as a Coroner. The problem is that we now have a confidentiality law in this state for certain state institutions and community facilities which prohibits the Coroner from obtaining the results of psychologic testing and psychiatric evaluations on an individual unless he can obtain the individual's written permission. In my work, an individual is often deceased due to unnatural causes and occasionally under unusual circumstances. Individual permission can never be obtained. Furthermore, the next of kin may be the prime suspects who obviously will be disinclined to be cooperative to give that permission.

In a situation where a suicide is made to look like an accident or a homicide, or when a homicide is made to look like an accident or a suicide, it is extremely important for the Coroner to be able to obtain the victim's psychiatric history as well as the results of the psychologic testing.

Please keep in mind that all of the Coroners in the State of Kansas are licensed practicing physicians and the keeping of confidential medical information is standard procedure.

*Attachment III*

Page 2  
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The physician-patient privilege which is found at K.S.A. 60-427 does not apply to circumstances where there is an indication of a felony. However, K.S.A. 65-5601 through K.S.A. 65-5603 appears to give confidentiality even in circumstances where there is clear indication of a felony.

Accordingly, I would request that this committee give it's support to adding an exception at K.S.A. 65-5603 (12) which is contained in House Bill 2931. This exception will allow coroners access to information at state institutions, community mental health centers, and other mentioned facilities where circumstances point toward an individual's involvement in foul play or suicide.

This will ensure that medical, psychological, and psychiatric records at these institutions are treated the same as similar records in other Kansas institutions.

RH:jk



**60-427. Physician-patient privilege.** (a)

used in this section, (1) "patient" means a person who, for the sole purpose of securing preventive, palliative, or curative treatment, or a diagnosis preliminary to such treatment, of his or her physical or mental condition, consults a physician, or submits to an examination by a physician; (2) "physician" means a person licensed or reasonably believed by the patient to be licensed to practice medicine or one of the healing arts as defined in K.S.A. 65-2802 in the state or jurisdiction in which the consultation or examination takes place; (3) "holder of the privilege" means the patient while alive and not under guardianship or conservatorship or the guardian or conservator of the patient, or the personal representative of a deceased patient; (4) "confidential communication between physician and patient" means such information transmitted between physician and patient, including information obtained by an examination of the patient, as is transmitted in confidence and by a means which, so far as the patient is aware, discloses the information to no third persons other than those reasonably necessary for the transmission of the information or the accomplishment of the purpose for which it is transmitted.

(b) Except as provided by subsections (c), (d), (e) and (f) of this section, a person, whether or not a party, has a privilege in a civil action or in a prosecution for a misdemeanor to refuse to disclose, and to prevent a witness from disclosing, a communication, if the person claims the privilege

and the judge finds that (1) the communication was a confidential communication between patient and physician, and (2) the patient or the physician reasonably believed the communication necessary or helpful to enable the physician to make a diagnosis of the condition of the patient or to prescribe or render treatment therefor, and (3) the witness (i) is the holder of the privilege or (ii) at the time of the communication was the physician or a person to whom disclosure was made because reasonably necessary for the transmission of the communication or for the accomplishment of the purpose for which it was transmitted or (iii) is any other person who obtained knowledge or possession of the communication as the result of an intentional breach of the physician's duty of nondisclosure by the physician or his or her agent or servant and (4) the claimant is the holder of the privilege or a person authorized to claim the privilege for him or her.

(c) There is no privilege under this section as to any relevant communication between the patient and his or her physician (1) upon an issue of the patient's condition in an action to commit him or her or otherwise place him or her under the control of another or others because of alleged incapacity or mental illness, or in an action in which the patient seeks to establish his or her competence or in an action to recover damages on account of conduct of the patient which constitutes a criminal offense other than a misdemeanor, or (2) upon an issue as to the validity of a document as a will of the patient, or (3) upon an issue between parties claiming by testate or intestate succession from a deceased patient.

(d) There is no privilege under this section in an action in which the condition of the patient is an element or factor of the claim or defense of the patient or of any party claiming through or under the patient or claiming as a beneficiary of the patient through a contract to which the patient is or was a party.

(e) There is no privilege under this section as to information which the physician or the patient is required to report to a public official or as to information required to be recorded in a public office, unless the statute requiring the report or record specifically provides that the information shall not be disclosed.

(f) No person has a privilege under this section if the judge finds that sufficient evidence, aside from the communication has been introduced to warrant a finding that the services of the physician were sought or obtained to enable or aid anyone to commit or to plan to commit a crime or a tort, or to escape detection or apprehension after the commission of a crime or a tort.

(g) A privilege under this section as to a communication is terminated if the judge finds that any person while a holder of the privilege has caused the physician or any agent or servant of the physician to testify in any action to any matter of which the physician or his or her agent or servant gained knowledge through the communication.

**History:** L. 1963, ch. 303, 60-427; L. 1965, ch. 354, § 8; Jan. 1, 1966.

**Source or prior law:**

G.S. 1868, ch. 80, § 323; L. 1909, ch. 182, § 321; R.S. 1923, 60-2805 (6th clause).

**Revisor's Note:**

Review of privilege, see *Kansas Benchbook*, Kansas Judicial Council, pp. 28-29.

**Cross References to Related Sections:**

Waiver of privileges, see 60-437.  
Disclosure wrongfully compelled, admissibility, see 60-438.

Privilege unaffected by use of records at University of Kansas school of medicine and medical center for instructional purposes, see 76-354 et seq.

**Research and Practice Aids:**

Witnesses—207 et seq.  
Hatcher's Digest, Witnesses §§ 48 to 52.  
C.J.S. Witnesses § 293 et seq.  
Gard's Kansas C.C.P. 60-427.  
Vernon's Kansas C.C.P.—Fowks, Harvey & Thomas, 60-427.

**Law Review and Bar Journal References:**

Entire section discussed in detail in "The Physician-Patient Privilege Under the New Code," Steven P. Flood, 33 J.B.A.K. 100 (1964).

Survey of law of evidence, Spencer A. Gard, 12 K.L.R. 239, 240 (1963).

Application to parent accused of child beating determined, opinion of attorney general, 12 K.L.R. 267 (1964).

"The Physician-Patient Relationship—Establishment and Termination," M. Martin Halley, 69 J.K.M.S. 177, 178, 179 (1968).

"The Physician-Patient Relationship: Rights and Obligations," M. Martin Halley, 69 J.K.M.S. 255, 256, 257 (1968).

"The Psychotherapists' Privilege," Craig Kennedy, 12 W.L.J. 297, 299, 305, 307, 308 (1973).

"Medical Malpractice Litigation: The Discoverability and Use of Hospitals' Quality Assurance," Reid F. Holbrook and Lee J. Dunn, Jr., 16 W.L.J. 54, 63 (1976).

"Rule No. 35—A Methodology For Obtaining Medical Examination of Litigants," Rene Hausheer, 46 J.B.A.K. 17, 20 (1977).

"Evidence: Justification for Extension of the Psychotherapist Privilege," Ronald P. Wood, 17 W.L.J. 672 (1978).

"Survey of Kansas Law: Evidence," Spencer A. Gard, 27 K.L.R. 225, 237 (1979).

"More Problems for Plaintiff's Lawyers (Local Rule 220 of the Eighteenth Judicial District)," Patrick J. Michaud, 4 J.K.T.L.A. No. 1, 18 (1980).

"In the Best Interests of the Divided Family: An Analysis of the 1982 Amendments to the Kansas Divorce Code," Nancy G. Maxwell, 22 W.L.J. 177, 206 (1983).

**CASE ANNOTATIONS**

Prior law cases, see G.S. 1949, 60-2805 (6th clause) and the 1961 Supp. thereto.

1. Testimony erroneously admitted only technical error. *Craig v. Craig*, 197 K. 345, 349, 416 P.2d 297.

2. Appellant examined by court-appointed psychiatrist is not a "patient"; privilege nonexistent in felony cases; patient's condition element of defense. *State v. Campbell*, 210 K. 265, 266, 281, 500 P.2d 21.

3. Referred to in determining subpoena issued under 44-1004 for employee's arrest and conviction records not violative of constitutional right of privacy. *Atchison, T.&S.F. Rly. Co. v. Lopez*, 216 K. 108, 125, 531 P.2d 455.

4. Privilege may be claimed only by patient; inapplicable in felony cases; right to examination of medical records. *State v. Humphrey*, 217 K. 352, 363, 537 P.2d 155.

5. Admission of physician's evidence violated physician-patient privilege; conviction under 8-1567 reversed. *State v. George*, 223 K. 507, 508, 513, 575 P.2d 511.

6. Physician-patient privilege not applicable to felony cases; conviction affirmed. *State v. Parson*, 226 K. 491, 492, 601 P.2d 680.

7. In deprived child-parental severance proceeding, since mental and physical condition of parent and child are in issue, physician-patient, psychologist-client privilege waived. *In re Zappa*, 6 K.A.2d 633, 638, 631 P.2d 1245 (1981).

*Attachment IV*

## **60-427.**

### **Cross References to Related Sections:**

Privilege of patient of treatment facility to prevent disclosure of treatment and of confidential communications, see 65-5601 et seq.

### **Law Review and Bar Journal References:**

"Evidence: The Psychotherapist-Patient Privilege Under Federal Rule of Evidence 501," Lauren Messersmith, 23 W.L.J. 706, 707, 708 (1984).

"Survey of Kansas Law: Family Law," Nancy G. Maxwell, 32 K.L.R. 543, 554 (1984).

"Intrusion into the Sanctimonious Physician-Patient Relationship," Mark B. Hutton, Vol. VII, No. 1, J.K.T.L.A. 5 (1983).

"A Fresh Look at an Old Problem," \_\_\_\_\_, Vol. IX, No. 1, J.K.T.L.A. 23 (1985).

"The Scope of the Physician/Patient Privilege Under K.S.A. 60-427(d): Must a Litigant Sign an Unlimited Medical Authorization," Dan L. Wulz, Vol. X, No. 2, J.K.T.L.A. 27 (1986).

### **Attorney General's Opinions:**

Doctors of chiropractic cannot use the term "chiropractic physician." 87-42.

### **CASE ANNOTATIONS**

8. Hospital records subject to physician-patient privilege ordinarily not discoverable without notice and consent of holder of privilege. *Wesley Medical Center v. Clark*, 234 K. 13, 19, 20, 669 P.2d 209 (1983).

9. Where defendant testified at own trial, court erred in prohibiting cross-examination regarding refusal to testify at earlier trial of fellow defendant. *State v. Nott*, 234 K. 34, 40, 669 P.2d 660 (1983).

10. Cited in holding objection to admissibility of statements by defendant or counsel at diversion conference not available to codefendant. *State v. Wilkins*, 9 K.A.2d 331, 333, 676 P.2d 159 (1984).

11. Cited in holding communications between spouses in presence of or overheard by others not privileged; privilege limited to communications seeking to transmit information. *State v. Newman*, 235 K. 29, 40, 680 P.2d 257 (1984).

12. Court's reliance on privilege in excluding testimony misplaced where patient's condition was element of claim under (d); testimony was cumulative. *Walters v. Hitchcock*, 237 K. 31, 34, 697 P.2d 847 (1985).

13. To extent otherwise privileged information relevant to issue of child custody, one is deemed to waive statutory privilege. *Werner v. Kliever*, 238 K. 289, 293, 710 P.2d 1250 (1985).

14. Physician-patient privilege may apply even though person attended is unconscious, unaware of doctor's presence, does not consent or object. *State v. Pitchford*, 10 K.A.2d 293, 298, 697 P.2d 896 (1985).



# Kansas Psychiatric Society

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February 25, 1988

TO: House Judiciary Committee

FROM: Kansas Psychiatric Society *Cheryl Taveler*

SUBJECT: House Bill 2931, As Introduced

Members of the psychiatric profession are extremely sensitive to the need for confidentiality of patient records. Fear of exposure can ruin what might otherwise be productive therapy for a mentally ill patient. Stringent laws to protect the confidentiality of those records are essential.

On the other hand, we respect the ethical judgment of our fellow physicians who serve as coroners throughout the state. They perform an important function.

Therefore, we request that the Committee focus on an important consideration before taking action on HB 2931. We suggest that precautions should be taken to assure that patient records obtained by coroners could not become subject to state or local open records laws or otherwise become accessible to the public.

Thank you for considering our concerns.

CW:nb

*Attachment V*



TESTIMONY ON HOUSE BILL NO. 2932  
BEFORE THE HOUSE JUDICIARY COMMITTEE

BY

PATRICIA E. BAKER, SENIOR LEGAL COUNSEL  
Kansas Association of School Boards

February 25, 1988

Mr. Chairman, members of the committee, thank you for the opportunity to appear before you to request that you not approve House Bill 2932.

The power of eminent domain is granted to governmental bodies to allow them to acquire property necessary to the efficient operation of the unit. It is exercised only under circumstances where agreed upon purchases cannot be made and where the body makes a showing of need. Eminent domain acquisitions by school districts are certainly not the norm in Kansas. Protections of the rights of property owners have been incorporated in Chapter 26 of the Kansas Statutes and the legislature has insured that governmental bodies cannot usurp the rights of those owners.

School districts in the planning for future needs must take into account a number of interests and concerns. Wise use of public funds requires that property be acquired for future needs at a reasonable cost to the taxpayer. Eminent domain requires that property owners receive fair compensation. Acquisition of land for future use requires that boards of education look forward to changes in demographics and school needs. While school officials are increasingly able to predict the future, it is far from an exact science. Not only actions by private interests, but actions of other governmental bodies can change the long-term building needs of school districts. Cities and counties grant zoning

*Attachment VI*

changes, encourage building, issue industrial revenue bonds and approve road and highway changes. All of these can alter the building needs of school districts.

Private industry exercises a great deal of influence on where development will occur, and in turn, where schools may be needed.

In the building industry, it is not at all uncommon for there to be a lengthy delay between the acquisition of property and the commencement of construction. This is seen in much of the construction recently and currently taking place in Shawnee County. When a public body is planning and building, the requisite needs for meeting state, federal and local requirements for financing, design and construction are often greater.

House Bill 2932 restricts a school district to a two-year time frame for beginning construction between the acquisition of property and the commencement of construction. This provision would seriously hamper the ability of school districts to do any reasonable long-term planning. Where growth in student enrollments is anticipated in the future, districts must plan five, or even ten years in advance for future needs.

Additional language added to K.S.A. 72-8212a, through House Bill 2932, would result in school districts losing public funds if there is a diminution in the value of condemned property. These are not lost funds of individual members of the board, but funds lost to the taxpayers of the school district. The law currently insures that a property owner will receive a fair price for the property at the time the land is purchased. By the same token, the landowner may repurchase the property, if not used, at the same price, even if the value of the land has increased substantially during the time.

The current statute protects the landowner, protects the public body, and protects the interests of taxpayers. We urge that it not be changed.

Thank you.