

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Carlos Mayans at 3:30 p.m. on February 8, 2000 in Room 519-S of the State Capitol.

All members were present except: Representative Jeff Peterson, excused  
Representative Joe Shriver, excused

Committee staff present: Michael Heim, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Theresa Kiernan, Office of the Revisor of Statutes  
Lisa Montgomery, Office of the Revisor of Statutes  
Lois Hedrick, Committee Secretary

Conferees appearing before the committee:

Representative Jim Garner  
Senator Anthony Hensley  
Representative Gwen Welshimer  
Patricia Michaelis, Archivist, Kansas Historical Society  
Melissa Wangemann, Legal Counsel, Office of the Secretary of State  
Don Moler, Executive Director, League of Kansas Municipalities  
Randy Allen, Executive Director, Kansas Association of Counties  
Victo Moralez, Kelly & Moralez Appraisal Company, Wichita  
Shirley Moses, Director, Division of Accounts and Reports  
Mark Tallman, Kansas Association of School Boards  
Diane Gjerstad, Wichita Public Schools  
(Written Testimony) Jeffery Bottenberg, Legal Counsel, Kansas Peace Officers  
and Kansas Sheriffs' Association  
Gordon and Becky Besser, Oskaloosa

Others attending: See Guest List, Attachment 1

Chairperson Mayans opened the hearing on **HB 2729** (Open records access and establishment of freedom of information officer) and introduced Representative Jim Garner, sponsor of the bill. Representative Garner stated the bill would establish a freedom of information officer in the Secretary of State's office to develop guidelines for compliance with the various laws on open records. (See Attachment 2 for his testimony.)

Senator Anthony Hensley testified in support of the bill and recommended establishment of a freedom of information officer as a "watchdog" to assure open government. He noted he has introduced an identical bill in the Senate (**SB 468**). (See Attachment 3.)

Patricia Michaelis, State Archivist, Kansas State Historical Society, neither endorsed or opposed any of the pending bills on open records, but did explain the legal responsibilities of her office relating to the disposition of records of state agencies and county offices. She recommended that the phrase "government record" be used rather than "public record" and discouraged the mention of any specific type of record because of the existing legal definition found in K.S.A. 45-402(d) for such materials. Her written testimony narrated various other suggestions: (1) to consolidate all exemptions for access to records into one statute; (2) setting fees for the cost of copying records; (3) setting a response time to requests for records; and (4) setting penalties for violations to the Open Records Act. (See testimony, Attachment 4.)

Melissa Wangemann, Legal Counsel, Office of the Secretary of State, testified that **HB 2729** creates new responsibilities for the Secretary's office to mediate, arbitrate, and enforce the Act. She noted these are atypical to their present responsibilities. Ms. Wangemann recommended that since the Secretary has reduced staff and in light of increasing statutory duties and workload, she suggested the Attorney General and county attorneys be given the necessary law and procedures to enforce the Act. (See testimony,

## CONTINUATION SHEET

### Attachment 5.)

Don Moler, Executive Director, League of Kansas Municipalities, testified in opposition to **HB 2229** and **HB 2722** that the League does not believe statutory changes to the Act are necessary; and creation of a freedom of information officer would only add bureaucracy, increased costs, and cause a slower process. He questioned the limit for copy fees; citing the inequity of a one-page driver's license history at \$3.50 at state level, yet a city would be limited to 25 cents for one page. (See testimony, Attachment 6.)

The Chair advised that Mike Heim has distributed a chart of the differences of the various bills on the subject of open records. He noted that administrative hearings are implied in both **HB 2729** and **HB 2722**; and that the appeal process does not hinder the information officer of making a binding decision on whether a record is open or not. Once a decision is made, it may be appealed to a District Court. (See chart, Attachment 7.)

Randy Allen, Executive Director, Kansas Association of Counties, opposed **HB 2729**. He offered that the bill's imposition of civil penalties is overkill and reinforces distrust. He repeated his belief that continuing education at the state and local levels is the prescription to overcome uneven application or non-compliance. (See testimony, Attachment 8.)

The Chair reminded members of the distributed written testimony of Jeffery Bottenberg, Legal Counsel for the Kansas Peace Officers and Kansas Sheriffs' Associations. Mr. Bottenberg stated that the open records act is not clear as to the standards relating to records that might, by disclosure, constitute an invasion of personal privacy. In view of these perceived legal uncertainties, he stated the civil penalties in **HB 2729** seemed most unfair and troublesome. The associations believe the current ability for an action of mandamus in the District Court ensures access to records. (See testimony, Attachment 9.)

There being no others present to testify, the Chair closed the hearing on **HB 2729.**

The hearing on **HB 2722** (Open records access and establishment of freedom of information officer) was opened. Representative Gwen Welshimer (the bill's sponsor) testified that similar to **HB 2729**, the bill sets fees and establishes a public information officer in the Attorney General's office, and allows a \$500 fine to anyone who denies access to public records. She stated one significant area of concern exists in the area of real property records and the problems professionals and property owners encounter in accessing and verifying the official public record on properties. Representative Welshimer suggested amendments to the bill to use "format" instead of "generate or construct" public records; and to mandate the Property Valuation Division of the Department of Revenue to create a statewide computer system on real property records. (See full testimony, Attachment 10.)

Victo Morales, of Kelly & Morales, Wichita, presented testimony regarding his firm's experiences with requests to the county appraiser for lot dimensions on various real properties. (See Attachment 11.)

Shirley Moses, Director of Department of Administration's Division of Accounts and Reports, testifying on **HB 2722**, described the bill's provisions as they relate to present law. She questioned the bill's provisions (1) to separate the fee review and reporting duties from the freedom of information officer; (2) the response time frame to requests; and (3) the differing fees for copies. (See her testimony, Attachment 12.)

Mark Tallman, on behalf of the Kansas Association of School Boards, opposed both bills before the committee and testified that requiring "immediate compliance with record requests" and imposing fines on individuals are counterproductive; and, because of the cost, creation of a new public information officer is not justified. (See Attachment 13.) In response to questions, Mr. Tallman supported expanded education for public officials about the open records statutes.

Diane Gjerstad, Wichita Public Schools, testified about the delicate balance schools experience as between the law's definition of public records and the laws on privacy. She suggested a practical solution to the issue by permitting a "responsible amount of time to respond, without penalty." (See testimony, Attachment 14.)

CONTINUATION SHEET

There being no others present to testify, the hearing on HB 2722 was closed.

The Chair then continued the discussion on the issue of open records, and introduced Gordon and Becky Besser, of Oskaloosa, who related problems they have encountered since 1993 in response to requests for records pertaining to the rock roads that serve the Bateman Estates Subdivision in Oskaloosa, where they live. They have been told that because the road serving them has not been brought to county specifications, it has not been declared a county road. This has affected the valuations of the properties in the subdivision and hindered sales. Some property owners have simply vacated their properties. The Besser's believe the road in question was accepted as a county road and the meeting records are not being shared as the law requires. From this experience, they believe there is not equal access to public records.

There being no other conferees present, the Chairman closed the discussion on open records.

The Chair then indicated that he had just received a letter from Vernon Keel, President of the Kansas Sunshine Coalition for Open Government, in response to the committee's request to identify exemptions to the act that his Coalition believes violates the spirit of the law and should be eliminated. The letter will be promptly copied and delivered to each committee member. (See letter, Attachment 15.)

The meeting was adjourned at 5:45 p.m.

The next meeting is scheduled for February 10, 2000.

**HOUSE COMMITTEE ON LOCAL GOVERNMENT  
GUEST LIST  
FEBRUARY 8, 2000**

[PLEASE PRINT]

NAME	REPRESENTING
<i>Steve Pearson</i>	<i>KGC</i>
<i>Pat Michaelis</i>	<i>KSHS</i>
<i>Randy Allen</i>	<i>Kansas Assoc. of Counties</i>
<i>Mark Tallman</i>	<i>Ks Assoc. of School Boards</i>
<i>Blaine Finch</i>	<i>City of Ottawa</i>
<i>Becky S Bossert</i>	<i>Citizen</i>
<del><i>John D. Bossert</i></del>	<del><i>Citizen</i></del>
<i>Jeff Bottenberg</i>	<i>KSA / KPOA</i>
<i>Melissa Wangermann</i>	<i>Sec. of state</i>
<i>Dick Bauman</i>	<i>KDOT</i>
<i>Reid Stacey</i>	<i>SRS</i>
<i>Vic Morales</i>	<i>APPRAISERS (FEE)</i>
<i>MAROLIN KELLY</i>	<i>APPRAISERS (FEE)</i>
<i>STEVE KEARNEY</i>	<i>KS PRESS</i>
<i>DAVID FURNAS</i>	<i>Ks Press Association</i>

HOUSE COMMITTEE ON LOCAL GOVERNMENT  
GUEST LIST  
FEBRUARY 8, 2000

[PLEASE PRINT]

NAME	REPRESENTING
Mike Taylor	City of Wichita
Douglas Johnston	H Dist. 92
Harriet Lange	Ks Assn of B' Casters
Patti Pearce	DPS - DOA
Jacque Oakes	SPE
Theresa Anne Sunkelle	KCC
Nana Faxon	Johnson County
Diane Gjerstad	Wichita Public Schools
Don Moler	LAM
Julene Miller	AG
Mauci Liss	Sedgwick County

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**JIM GARNER**  
HOUSE DEMOCRATIC LEADER

February 3, 2000

House Local Government Committee  
Testimony in Support of House Bill 2729

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to express my support of House Bill 2729. H.B. 2729 would certainly improve open access to government records and would promote accountability in government. This bill is part of the Good Government Initiative proposed by Senate Democratic Leader Anthony Hensley and myself last December in response to the problems brought to the state's attention by a series of investigative reports by many Kansas newspapers.

The provisions of this bill addresses the problems concerning access to open records in a simple and thoughtful manner.

1. Creation of a Freedom of Information Officer in the Secretary of State's Office.

H.B. 2729 would create a freedom of information officer within the Secretary of State's office. This office would be responsible for developing guidelines and educating state agencies and local government officials about complying with the state's open records law. The officer would also resolve disputes concerning access to open records. The idea of a freedom of information officer is borrowed from Canada. Each Canadian Province has such an officer.

There are many reasons for placing this officer within the Secretary of State's office. First, one of the key missions of the Secretary of State is to be a custodian of public records for the state. Second, the Secretary of State's office has a long history of working with and having relationships with local government, particularly with county clerks. This tradition should help facilitate the implementation of the education process. Third, there are over 50 unclassified employees with the office. Thus, the office could incorporate the new responsibilities without much difficulty or cost.

2. Limiting copy cost to 25 cents per page.

It was shocking to hear that the public is charged up to \$5.00 per page for a public document. This bill would limit the copying charge to 25 cents per page for public records.

3. Penalties for non-compliance.

H.B. 2729 would establish a civil penalty of up to \$500 for violations of access to open public records. This is the teeth needed to enforce the Kansas Open Records Act. This proposal would bring Kansas in line with neighboring states. Most area state's have a \$500 penalty for non-compliance with open records laws. H.B. 2729 would deposit any penalties assessed into a fund to encourage greater education of government officials about open records requirements.

Conclusion

H.B. 2729 is a straight forward approach to addressing the recent open records problems. It encourages education of state and local officials to achieve greater compliance with the open records act. It establishes a clear and designated authority – the freedom of information officer – to set guidelines, resolve disputes and provide more education regarding open records. It sets reasonable limits on copying costs. And finally, it provides an enforcement mechanism with the civil penalty provision.

I urge you to seriously consider this matter and give favorable action and support for H.B. 2729. Thank you.

# State of Kansas

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February 8, 2000

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MEMBER: EDUCATION  
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House Local Government Committee  
Testimony in support of House Bill 2729  
Senator Anthony Hensley

Mr. Chairman and Members of the Committee:

“All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit.” That, Mr. Chairman, is from Article 2 of the Kansas Constitution – the document which guides us as we make the laws of this great state.

However, in recent months, several events reported by the news media have shown that some government officials care more about their own benefit and protection than that of the people they serve. I believe that Kansas state and local government is drifting away from the basic values of accountability and openness.

Mr. Chairman, last December, House Minority Leader Jim Garner and I introduced the Good Government Initiative, which includes this bill. Right now, there is no one agency or official who is responsible with enforcing open records laws – this bill would change that.

By creating the position of Freedom of Information Officer, the state would create a “watchdog” – someone who would make sure public business is conducted in public view. This person would work to ensure that Kansas’ open records laws are being obeyed by city, county and state officials and agencies. The Freedom of Information Officer would also have the authority to impose fines on those who would try to keep the public in the dark.

It is time that we remind those of us in government that we serve the people of Kansas, not the other way around. This bill would help do that by ensuring that the people’s government remains open and honest.

I thank you for the opportunity to appear before you today and urge you to support HB 2729.

Thank you.

HOUSE LOCAL GOVERNMENT  
2-8-00  
Attachment 3



**Testimony related to the Open Records Act  
Presented to the Committee on Local Government  
February 8, 2000**

My name is Patricia Michaelis. I serve as the State Archivist and I am employed by the Kansas State Historical Society. Our agency is in the unique position of needing both to implement the Open Records Act for state agency and local government records in the custody of the Kansas State Historical Society and to assist state and county government employees to manage the government records they create. Due to this dual status, we would like to share some thoughts and concerns related to the various proposed amendments to the Open Records Act. We are not endorsing or opposing a particular version of the bill as all of them have some provisions we can support.

Our records management responsibilities are spelled out in the Government Records Preservation Act (K.S.A. 45-401 through 45-413) and the Public Records Act (K.S.A. 75-3501-75-3518). Both of these laws provide broad definitions of a government record and we would suggest that this phrase (rather than public record) be used as there is a legal definition in place in K.S.A. 45-402 (d) that encompasses materials of all informational types "regardless of physical form or characteristics, storage media, and condition of use." We would discourage the mention of any specific type of record such as audio visual, maps, electronics records, etc. because the existing definition covers all of these and many more.

The Public Records Act establishes a State Records Board with authority to authorize the disposition of records through various retention and disposition schedules for state agencies and county offices. The State Records Board is chaired by a representative from the Attorney General's office. Other members include the State Archivist and representatives from the State Library, the Department of Administration, and the Kansas State Historical Society. As the attached samples show, in developing the retention and disposition schedules in conjunction with agency staff, we describe the records involved and set a retention period. If records are to be preserved permanently, that is indicated also. With input from agency counsel and the Attorney General's representative on the board, we also list any restrictions of which we are aware that cover access to the entire records series or portions of the information in the records.

In the course of developing schedules for state agencies and county government and in providing access to the government records stored at the historical society, we have come to recognize that providing access to records that are open under the Open Records Act while protecting the privacy of citizens in relation to information that is exempted from public access is not an easy task. In addition to the exemptions listed in the Open Records Act, several dozen state laws and a number of federal laws that also impact access. The fact that these other exemptions apply to government records is not widely recognized by the public or the media and can create the perception that access is being denied illegally. In addition it is not always easy for records custodians

to determine which exemptions apply to which records. Therefore, we feel it would be extremely helpful to have someone, whether in the Attorney General's office or the office of the Secretary of State, as a resource for records custodians to contact for assistance in interpreting the various laws applicable to specific records.

In terms of fees, we feel the language in the existing legislation is helpful. It allows the agency or county office to not only charge for the cost of making the copy but also for the time involved to prepare the response. If the information requested is not contained in current records, it can be time consuming both to determine where the appropriate records are stored and time consuming to locate the specific record or information requested. Requests often involve a number of records, not just a single item, which makes locating and copying the appropriate records even more time consuming. Some county governments using off-site storage have to pay a retrieval fee for records requested from facilities such as the salt mine near Hutchinson. They should be able to recover that cost as well.

For most of the legal size or smaller records we copy for our researchers, which may or may not be a specific open records request, we charge 25 cents or less. However, we will use an alternative copying format for extremely fragile items and our copying costs are higher than 25 cents per page. As government records are increasingly created and stored electronically, there is also the option of providing citizens with enhanced access options to some records directly through computer systems. These access systems are expensive to implement and maintain. If agencies are not able to recover the costs associated with providing such value added services, then they may be limited to access options which are less convenient for citizens. We support the language in existing legislation that allows for charging for copying and preparation costs. We also support a provision allowing a citizen to appeal costs that may appear unreasonable.

Because it is sometimes time consuming to access specific records and because staffing in a particular office may be limited, we support giving the records custodian a range of time during which the request must be completed. Several provisions in the pending legislation seem workable but the phrase "at the time requested" is vague and may not always be feasible.

We are not opposed to including penalties for employees who knowingly violate the Open Records Act as long as provisions are made to protect employees who may initially delay access so they may check with someone with more authority about whether or not the records requested are open. It is often receptionists or clerks who receive the request and they may not have sufficient knowledge to make an open records determination on their own. We believe that most government employees are committed to providing access to open records but, as mentioned earlier, it is not always clear whether records are open or closed.

We certainly support any efforts that would help educate the public and records

custodians about what their rights and responsibilities are under the Open Records Act. However, it would be helpful if all exemptions to access to records were contained in the Open Records Act, That way public and records custodians would have one law to check and misunderstandings would be less likely to occur. Consolidation of all exemptions to access to government records into one law would also facilitate periodic reviews of the appropriateness of the exemptions.

Access to government records while protecting the privacy of individuals are basic to our system of government. We applaud efforts to clarify the rights of citizens and the responsibilities of government employees.

**RETENTION/DISPOSITION SCHEDULE**

**PAGE 1**

**AGENCY NUMBER: 264-02**

**02/08/00**

**Department of Health and Environment**

**Environment Division**

**Bureau of Water**

**Industrial Programs Section**

**601-264**

**Agricultural Waste Facilities Files**

Plan sheets, correspondence, registration applications, reports, etc. related to issuing permits and regulating waste water produced by animal feed lot facilities.

**Minimum Retention Period:** 010 cldr yrs **Disposition:** archives

**Comments:** Retain in office 10 calendar years, then transfer to the archives for purging.

**Restrictions:** KSA 65-170g, KAR 28-46-23, 40 CFR 122.7 40 CFR 123.25

**Authority:** Agency Schedule (01/18/96) K.A.R. 53-2-107

**Remarks:**

**602-264**

**Industrial Disposal Well Files**

Permits, monthly monitoring reports, applications, correspondence, and mechanical integrity test files relating to underground injection disposal wells maintained to ensure compliance with standards.

**Minimum Retention Period:** 010 cldr yrs **Disposition:** archives

**Comments:** Retain in office 10 years, then transfer to the archives for purging.

**Restrictions:** KSA 65-170g, KAR 28-46-23, 40 CFR 122.7, 40 CFR 123.25

**Authority:** Agency Schedule (01/18/96) K.A.R. 53-2-107

**Remarks:**

**599-264**

**Industrial Program Files**

Engineering reports, permits, data, correspondence, etc. related to industrial waste water discharges used to monitor compliance with standards.

**Minimum Retention Period:** 010 cldr yrs **Disposition:** archives

**Comments:** Retain in office 10 years, then transfer to the archives for purging.

**Restrictions:** KSA 65-170g, KAR 28-46-23, 40 CFR 22.7 40 CFR 123.25

**Authority:** Agency Schedule (01/18/96) K.A.R. 53-2-107

**Remarks:**

**604-264**

**Liquid Petroleum Gas Files**

Base maps, annual reports, applications, permits, inspection reports, etc. related to the regulation and monitoring of companies storing liquid petroleum gas in underground storage wells.

**Minimum Retention Period:** 010 cldr yrs **Disposition:** archives

**Comments:** Retain in office 10 years, then transfer to the archives for purging.

**Restrictions:** KSA 65-170g, KAR 28-46-23, 40 CFR 122.7, 40 CFR 123.25

**Authority:** Agency Schedule (01/18/96) K.A.R. 53-2-107

**Remarks:**

**ATTENTION/DISPOSITION SCHEDULE**

**AGENCY NUMBER: 350-02**

**Juvenile Justice Authority**

**Juvenile Correctional Facilities**

**PAGE 1**

**02/08/00**

**111-350**

**Psychological Test Data Files**

Raw test data and clinical notes relating to psychological tests administered to students that are used in the preparation of final psychological analysis reports.

**Minimum Retention Period:** see comments **Disposition:** destroy

**Comments:** Retain 5 calendar years after discharge, then destroy.

**Restrictions:** KSA 45-221(a)(3), 38-1608, 38-1609, 38-1514

**Authority:** Agency Schedule (04/14/94) K.A.R. 53-2-100

**Remarks:**

**112-350**

**Psychological Testing Schedule for New Admissions**

Group psychological testing for newly admitted students and includes students admitted, age date admitted, committing county, testing psychologist, social worker, date received.

**Minimum Retention Period:** see comments **Disposition:** destroy

**Comments:** Obsolete series - destroy immediately.

**Restrictions:** KSA 38-1609

**Authority:** Agency Schedule (01/17/91) K.A.R. 53-2-087

**Remarks:**

**113-350**

**Psychological Tests Results**

Psychological tests on students given by psychology division to determine the intellectual & functioning level, & emotional status & includes intelligence tests evaluations, chemical use survey, etc.

**Minimum Retention Period:** see comments **Disposition:** see comments

**Comments:** Retain 5 years after discharge, then transfer to the "Master Student File."

**Restrictions:** KSA 38-1609

**Authority:** Agency Schedule (01/17/91) K.A.R. 53-2-087

**Remarks:**

**114-350**

**Psychotropic and Seclusion Reports**

Statistical reports detailing which students are in seclusion.

**Minimum Retention Period:** 005 cldr yrs **Disposition:** destroy

**Comments:**

**Restrictions:** KSA 38-1609

**Authority:** Agency Schedule (01/17/91) K.A.R. 53-2-087

**Remarks:**

**AGENCY NUMBER: 521-FA**

**02/08/00**

**Department of Corrections**

**Correctional Facilities**

**467-521**

**Emergency Drills and Reports**

Documents relating to the completion of fire, tornado, and other related emergency drills by the facility personnel and inmates.

**Minimum Retention Period:** 005 cldr yrs

**Disposition:** destroy

**Comments:**

**Restrictions:** KSA 45-221(a)(12)

**Authority:** Agency Schedule (10/11/90) K.A.R. 53-2-086

**Remarks:**

**406-521**

**Emergency Plans, Maps, and Squad Assignments**

Documents related to the preparedness of security personnel in an emergency situation: maps, facility blueprints, assignments, etc.

**Minimum Retention Period:** see comments

**Disposition:** archives

**Comments:** Retain until no longer no longer useful, then transfer to the State Archives.

**Restrictions:** KSA 45-221(a)(12)

**Authority:** Agency Schedule (10/11/90) K.A.R. 53-2-086

**Remarks:**

**440-521**

**Employee Accident Reports**

Reports regarding accidents to employees: name, place, and cause of accident, nature, and location of injury on body, etc.

**Minimum Retention Period:** 003 cldr yrs

**Disposition:** destroy

**Comments:**

**Restrictions:** KSA 22-4707,45-221(a)(3)(4)(29)

**Authority:** Agency Schedule (10/11/90) K.A.R. 53-2-086

**Remarks:**

**495-521**

**Employee Background Investigations**

Investigation documents on an applicant personal background. Note: Correctional volunteers are also included.

**Minimum Retention Period:** see comments

**Disposition:** see comments

**Comments:** Retain in conjunction with either "Employment Applications - Not Hired," "Employee Personnel Files, or "Volunteer Files."

**Restrictions:** KSA 45-221(a)(4)(10)

**Authority:** Agency Schedule (10/11/90) K.A.R. 53-2-086

**Remarks:**

**RETENTION/DISPOSITION SCHEDULE**

**AGENCY NUMBER: 610-05**

**Kansas School for the Deaf**

**Residential Services**

**Residential Services**

**PAGE N**

**02/08/00**

**130-610**

**Incident Report Records**

Various reports regarding incidents of disciplinary infractions or troubled behavior by students including "Serious Incident Forms," "Due Process Forms," "Incident Reports," and supporting materials.

**Minimum Retention Period:** 005 cldr yrs **Disposition:** destroy

**Comments:** This information is duplicated in records of the Office of the Superintendent.

**Restrictions:** KSA 45-221(a)(1) & 72-6214

**Authority:** Agency Schedule (04/14/94) K.A.R. 53-2-100

**Remarks:**

**129-610**

**Subject Files - Administration**

Wide variety of routine documents used in the administration of the residential services program consisting primarily of copies of documents found elsewhere.

**Minimum Retention Period:** see comments **Disposition:** destroy

**Comments:** Retain until no longer useful, then destroy.

**Restrictions:** None

**Authority:** Agency Schedule (04/14/94) K.A.R. 53-2-100

**Remarks:**

**RETENTION/DISPOSITION SCHEDULE**

**PAGE N**

**AGENCY NUMBER: 629-07**

**02/08/00**

**Department of Social and Rehabilitation Services**

**Mental Health and Retardation Services**

**Mental Health Programs**

**State Hospitals**

**Canteen Fund Records**

Documents concerning the financial accounting of the canteen fund: ledgers, receipts, bank statements, invoices, check ledgers.

**Minimum Retention Period:** 003 fisc yrs **Disposition:** destroy

**Comments:**

**Restrictions:** KSA 65-5602 & 45-221(a)(3)

**Authority:** Agency Schedule (01/13/94) K.A.R. 53-2-099

**Remarks:**

**Capital Improvement Projects Files**

Records related to construction projects: correspondence, bids, specifications, plans, drawings, reports, notes, etc.

**Minimum Retention Period:** see comments **Disposition:** archives

**Comments:** Retain until no longer useful, then transfer to the archives for purging. See also Architectural Plans, Drawings, and Specifications.

**Restrictions:** None

**Authority:** General Schedule-- Capital Improvement Projects Files

**Remarks:**

**Card File of Patients**

Documents relating to patients' medical history and current status.

**Minimum Retention Period:** see comments **Disposition:** see comments

**Comments:** Retain until no longer useful, then transfer one copy to the archives, the remainder destroy.

**Restrictions:** KSA 45-221(a)(3) & 65-5602

**Authority:** Agency Schedule (01/17/91) K.A.R. 53-2-087

**Remarks:**

**Carpet Care Records**

Documents recording the frequency of carpet care to ensure proper maintenance.

**Minimum Retention Period:** see comments **Disposition:** destroy

**Comments:** Retain until no longer useful, then destroy.

**Restrictions:** None

**Authority:** Agency Schedule (01/13/94) K.A.R. 53-2-099

**Remarks:**



Ron Thornburgh  
Secretary of State



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**TESTIMONY OF THE SECRETARY OF STATE  
TO THE HOUSE LOCAL GOVERNMENT COMMITTEE  
ON HB 2729  
FEBRUARY 8, 2000**

HB 2729 was introduced to strengthen the Kansas Open Records Act by creating a freedom of information officer (FIO) in the Office of the Secretary of State. The bill calls for the FIO to be appointed by the Secretary of State within the current unclassified positions authorized for the Secretary of State. Decisions made by the FIO would be final and binding upon the custodian of records. The FIO's duties include: assisting public agencies with administration of the KORA; assisting persons requesting public records; providing educational information on the KORA to agencies and the public at large; assisting agencies and persons to resolve disputes over record requests; developing guidelines for agencies on the KORA; investigating complaints against agencies; reviewing the reasonableness of fees; reporting annually with any recommendations on the administration and enforcement of the KORA; and performing any other duties specified by law. HB 2729 also empowers the Kansas Attorney General and county prosecutors to levy civil fines for violations of the KORA.

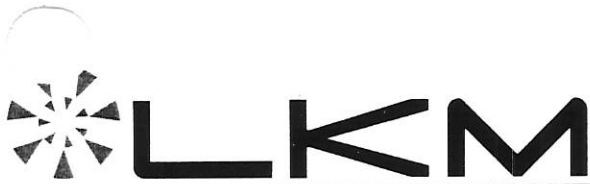
The bill significantly increases the Secretary of State's responsibilities by creating a new role for our office. The Secretary of State's Office generally performs ministerial filing duties and has little authority to regulate entities or enforce laws. In carrying out the duties given in HB 2729, the Secretary of State must assume the roles of mediator, arbitrator, and enforcer, roles

atypical to our present role as the state's recordkeeper. Decisions by the FIO would require the FIO to adhere to the constitutional requirements of due process, and therefore an administrative hearing procedure similar to that given in the Kansas Administrative Procedures Act would be adopted. Our office currently does not conduct any hearings under KAPA and has little knowledge or experience in administrative law.

The Office of the Secretary of State does not have any unfilled FTE positions at this time. Our office has reduced its staff by 7% over the last nine years, even though our level of work and statutory duties has increased. We currently have over 600 statutory duties, most relating to recordkeeping. Our office cannot assume the broad responsibility of enforcing and regulating the KORA with current staffing.

Testimony to the committee on February 3 stated that 92% of the agencies and offices involved in the press "sting" complied with the open records requests. This high rate of compliance suggests that the current law is good; it just needs stronger enforcement. Because the Kansas Attorney General and county prosecutors have historically been charged with enforcement of the KORA, we should help them in their efforts by providing stronger enforcement tools, not create a new bureaucracy in the Secretary of State. The simpler solution would be to arm the Attorney General and county attorneys with the necessary law and procedures to enforce the KORA instead of creating a new system in Office of the Secretary of State.

Submitted by Melissa Wangemann, Legal Counsel  
Office of the Secretary of State



League of Kansas Municipalities

**To:** House Local Government Committee  
**From:** Don Moler, Executive Director  
**Date:** February 8, 2000  
**Re:** Opposition to HB 2722 and HB 2729

First I would like to thank the Committee for allowing me to appear today on behalf of the League of Kansas Municipalities to discuss HB 2722 and HB 2729. As I am sure you are all aware, the League has been involved at all stages in the development of the Kansas Open Records Act (KORA) and amendments to the KORA since its initial passage in the early 1980's. The League has also, for many years, published a manual entitled the *Kansas Open Records Act, Reference Publication for Local Government Officials*. This manual has been published by the League to help local government officials understand the intricacies of the (KORA) and to assist us in our training of local government officials in the area of open records.

I believe the League to be the single entity in Kansas which provides the most training on a year-to-year basis on the Kansas Open Records Act and Kansas Open Meetings Act. Virtually no League meeting or seminar goes by without some aspect of it being devoted to one or both of these issues. The League is very proud of its ongoing educational approach to the Kansas Open Records Act and the Kansas Open Meetings Act. Today we are here to discuss issues relating to the Kansas Open Records Act and I would like to briefly comment on some proposals which have been made in the various pieces of legislation which are now pending before the Kansas Legislature.

Currently there are suggestions in HB 2722 and HB 2729 relating to possible legislative actions in the following areas:

- Create a freedom of information officer position within the Secretary of State's Office to render and enforce binding opinions on disputes regarding open records requests. (HB 2729)
- Create a freedom of information officer position within the Attorney General's Office to render and enforce binding opinions on disputes regarding open records requests. (HB 2722)
- Subject records custodians to civil penalties of up to \$500 for violations. (HB 2722 & HB 2729)

- Impose per page fee limitation. (HB 2722 & HB 2729)

The League does not believe that the issues which have been raised suggest that statutory changes to the Kansas Open Records Act are necessary. Specifically we have problems with the idea of the creation of a freedom of information officer in either the Secretary of State's Office or the Attorney's General office. While both pieces of legislation purport to give final authority to the freedom of information officer to issue binding opinions concerning Open Records, that will only create more state bureaucracy. If you create a freedom of information officer, I would suggest that you would need the officer as well as one or two support staff not to mention the equipment and office to house them. A conservative fiscal note on this would be somewhere around \$250,000 per year. Secondly, I would point out that the freedom of information officer's decision, while purporting to be binding and final in both pieces of legislation, would be neither. The reason for this is that there would be the ability for either party who feels aggrieved by the decision of the freedom of information officer, to appeal directly to the district court. Thus, rather than simplifying and improving the process, all that this would create is more bureaucracy and a slower process.

This is especially true because both pieces of legislation also impose up to \$500 civil penalties on record custodians who inappropriately deny records. This would seem to us to mean that the likelihood of more litigation is increased as records custodians become fearful that they will be personally liable should they make a mistake in turning over a public record. Thus placing the dual changes of creating a freedom of information office, coupled with the \$500 civil penalty, we believe will simply add more bureaucracy to the process and make it more confrontational.

Also, I would like to address the issue of fees. Both pieces of legislation limit fees. We believe the "one size fits all" mentality will not serve the public. As we all know, the state itself charges diverse fees for different records. We believe that to attempt to impose a fee limitation of this type would not serve the public interest.

As an alternative to legislation, we would suggest is that it may indicate that even more education is necessary for training state and local officials who maintain public records. The League would be very happy to work in concert with the Attorney General's office and/or the Secretary of State's office to increase the amount of training available to local government officials for adequately handling open records requests. I wish to stress one more time the League provides more training than anyone else in Kansas, and has since the early 1980's, in this area. No one else approaches the amount of training that we do. As a result we believe that training is the way to go.

Finally, on the issue of fees under the KORA, I would suggest that if the legislature decides to limit fees for public records, that all state and local records be priced at the same rate. That would be the only reasonable way to go. I would also suggest that increasing penalties and creating additional state bureaucracy will not lead to more compliance with the KORA. We would hope that the legislature would agree with us on these points and would allow the League, working in concert with state officials, to continue our educational efforts, and increase them if necessary, so as to have the fullest compliance possible with the Kansas Open Records Act.

**OPEN RECORDS AND OPEN MEETINGS BILLS AND PROPOSALS**

**Proposed Open Records Law Changes**

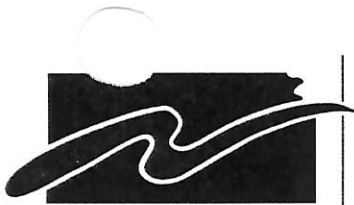
	<b>HB 2628</b>	<b>HB 2722</b>	<b>HB 2729</b>	<b>HB 2864</b>	<b>SB 247</b>	<b>Further Amendments Suggested by Kansas Association of Broadcasters</b>
	No open records changes in bill.					
<b>Time Frame for Providing Records</b>		Records request must be acted upon at the time requested. If records not on site, then public entity has no more than three days to act. If record must be constructed, then not later than seven days from the request. (Current law apparently does not contemplate constructing records.)	No change from current law.			
<b>Posting of Signs Regarding Public Access to Records</b>				Posting of sign listing records requestor rights and responsibilities required of public agency.		
<b>Fees for Records</b>		Fees not to exceed: Letter size—25 cents; legal size—35 cents; larger—actual cost; access to records on computer—cost of disc, staff time, and materials used.		Public access officer would have authority to set reasonable fees by rule and regulation.		Fees: 15 cents per page one-sided; 20 cents if two-sided; \$1 for certified.
		Director of Accounts and Reports to review fees of state agencies annually and report to Legislature.				
		Fees not required. Appeal of reasonableness of fees allowed to freedom of information officer.	Appeal of reasonableness of fees to freedom of information officer.			
<b>Open Records Exceptions</b>						Sunset exceptions and require each to be approved for renewal and require review of exceptions every five years.

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	HB 2628	HB 2722	HB 2729	HB 2864	SB 247	Further Amendments Suggested by Kansas Association of Broadcasters
<b>New State Officer Position Created</b>		Freedom of Information officer appointed by Attorney General.	Freedom of Information Officer appointed by Secretary of State.	Public Access Officer appointed by Attorney General. Jurisdiction over both Open Records and Open Meeting Law.		
<b>Duties of New Position: Open Records</b>		Assist public agencies, develop guidelines, investigate citizen complaints, make binding decisions on official records custodians.	Similar duties as HB 2722	(1) promulgate rules and regulations; (2) determine reasonable fees for copies of records; (3) issue advisory opinions; (4) act as administrative hearing officer.		
<b>Duties of New Position: Open Meetings</b>		none	none	Same as for Open Records noted above.		
<b>Other State Officer Duties</b>		none	none	An Assistant or Deputy Attorney General (under separate line of supervision) is to bring proceedings before Public Access Officer.		
				Any person can bring action before Public Access Officer.		
<b>Investigative Powers of Prosecutors</b>				Expanded investigative powers for prosecutors of Open Meetings/Open Records violations.		
<b>Bringing an Action</b>		Administrative hearing implied.	Same as HB 2722.	Administrative Hearing in accord with Kansas Administrative Procedure Act—mandated first step.		
<b>Attorney Fees</b>		Attorney fees must be awarded to successful plaintiff.	Attorney fees must be awarded to successful plaintiff.	Attorney fees may be awarded to plaintiff including prosecutors.		Attorney fees shall be awarded to plaintiff if denial unlawful.
<b>Civil Fine</b>		Not to exceed \$500 civil fine for each violation against any individual who denies access to public records without reasonable basis in action brought by prosecutor. Money to State General Fund for education program on open records.	Not to exceed \$500 civil fine for each violation against any individual who denies access to public records without reasonable basis in action brought by prosecutor. Money to State General Fund for education program on open records.	Not to exceed \$500 civil fine if actual malice.		\$500 civil fine for knowing or willful violation.
<b>Effective Date</b>		<i>Kansas Register</i>	<i>Kansas Register</i>	Statute book.	Statute book.	Statute book.

Proposed Open Meetings Law Changes

	HB 2628	HB 2722	HB 2729	HB 2864	SB 247	Further Amendments Suggested by Kansas Association of Broadcasters
		No changes in Open Meetings.	No changes in Open Meetings.			
<b>Posting of Signs</b>				Posting of sign required listing rights of the public and responsibilities of public agency.		
<b>Taped Executive Session</b>	Permits Executive Sessions to be taped.					Require Executive Session to be taped.
	Tape not subject to disclosure or discovery in a civil or criminal action except as provided in the bill.					
	Court may review tape of Executive Session if violation found. Tape shall be open for public inspection.					
	Prosecutor can compel production of taped executive session which is the subject of an investigation.					
	Any person bringing an action may petition judge to make an in camera review of tape. If violation is found tape is open for inspection.					
<b>Reasons for Executive Session expanded, Other</b>					Executive Sessions expanded to include preliminary discussions relating to sale of public property matters and matters concerning appointments to nonelected boards.	Personal matters clarified to list hiring, termination, discipline matters involving nonelected individuals.
<b>Filing Action</b>				Extends time for prosecutor to file a suit to void action taken at a meeting in violation of the Open Meetings Act from ten days to one month.		Liberal construction directive added.
<b>Attorney Fees</b>						Attorney fees shall be awarded to successful plaintiff.



**KANSAS**  
ASSOCIATION OF  
**COUNTIES**

## TESTIMONY

concerning HB 2729

Presented by Randy Allen, Executive Director, Kansas Association of Counties  
February 8, 2000

Chairman Mayans and members of the committee, my name is Randy Allen, Executive Director of the Kansas Association of Counties. I am here today to oppose HB 2729, amending the Kansas Open Records Act (KORA).

The concept of imposing a civil penalty upon someone who has a mere difference of opinion with another person about what constitutes an open record is to suggest that we have given up on encouraging a civil discourse between citizens and their government, and have opted instead for an adversarial relationship in which either party had better be 100% correct and 100% prompt in their legal interpretation or fear prosecution. This is not an atmosphere of good government. Rather, this whole concept is an example of overkill, symptomatic of distrust. If the level of distrust of government officials underlying this bill is truly evident, then we have bigger problems in our society than any remedy to the Kansas Open Records Act will ever solve.

Secondly, it is difficult to understand why the concept of setting up a Freedom of Information Officer position in the Secretary of State's office would have any more positive impact than what can be achieved with the continued cooperation of the Attorney General's office in educating public officials and their staffs about the effective implementation of the Kansas Open Records Act. The whole idea of having a state officer determine the appropriateness of fees for copies of public records kept at the local level is consistent only with a strong central government – all at a time when we thought big government was on the decline.

As I indicated in testimony to this committee last week, I urge you to affirm the value of continuing education at the state and local levels as the ultimate prescription for any uneven application of, or non-compliance with the Kansas Open Records Act. The "carrot" is better than the "stick" in terms of bringing compliance with laws. The end goal of openness in our democratic society is more important, and infinitely more effective, than creating a bureaucracy at the state level to monitor and ensure compliance with the Kansas Open Records Act. If you have questions, I would be pleased to respond. Thank you.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

6206 SW 9th Terrace  
Topeka, KS 66615  
785•272•2585  
Fax 785•272•3585  
email kac@ink.org

HOUSE LOCAL GOVERNMENT  
2-8-00  
Attachment 8





POLSINELLI  
WHITE  
VARDEMAN &  
SHALTON

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## Memorandum

**TO:** THE HONORABLE CARLOS MAYANS, CHAIRMAN  
HOUSE COMMITTEE ON LOCAL GOVERNMENT

**FROM:** JEFFERY S. BOTTENBERG, LEGISLATIVE COUNSEL  
KANSAS PEACE OFFICERS' ASSOCIATION  
KANSAS SHERIFFS' ASSOCIATION

**RE:** HOUSE BILL 2729

**DATE:** FEBRUARY 8, 2000

Mr. Chairman, members of the Committee, my name is Jeff Bottenberg and I appear today on behalf of the Kansas Peace Officers' Association ("KPOA") and the Kansas Sheriffs' Association ("KSA"), which collectively represent approximately 5,000 members of the Kansas law enforcement community. We appreciate the opportunity to appear today in opposition to House Bill 2729.

We first want to state that it is the policy of every law enforcement department to fully comply with requests for information from the public. We certainly support the public's right to lawful information, and we make every attempt to comply with such requests. Our personnel, which includes deputies, dispatchers, and civilian employees, strive to keep abreast of the latest changes in the law, just as the employees of any state agency. However, unlike most other agencies and departments of state government, our employees have the solemn duty to protect the public and uphold the law, and many of our officers place themselves in danger on a daily basis to accomplish their job. Indeed, one of the duties of our officers is to document arrests and

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One AmVestors Place  
555 Kansas Avenue, Suite 301  
Topeka, KS 66603  
Telephone: (785) 233-1446  
Telecopy: (785) 233-1939  
jbottenberg@pwvs.com

crime scenes on official reports that are filed and kept at the local police and sheriff offices. We do not view these reports as merely a public record, for they contain people's names, date of birth, address, social security numbers, and other private information.

It is with this background of protecting victim information that we oppose HB 2729, and specifically the civil penalty provisions contained in the bill. We see nothing but problems from such a drastic step. For instance, under section 45-221 of the Kansas Open Records Act ("KORA"), certain criminal investigation records and public records that contain information that "the disclosure thereof would constitute a clearly unwarranted invasion of personal privacy" are exempt from disclosure.

The standard for these exemptions in many cases is not clear, as evident in the recent Kansas Court of Appeals case Kansas v. Stevens. One of the issues in Stevens concerned whether registration by a convicted sex-offender with the local sheriff violated the offender's constitutional right to privacy. Although the KORA specifically designates such conviction public information, in reaching its decision the Court reviewed cases from several states that had found that under constitutional grounds sex-offender information could be withheld from public disclosure. Therefore, although K.S.A. 45-221 may look straightforward on its face, many questions about whether a record is public are only finally resolved in the courts. Indeed, a quick search of further case law on the KORA reveals many cases and Attorney General opinions addressing the meaning of the exemptions contained in the act. One such Attorney General opinion released in 1998 allows law enforcement to withhold the names and addresses of crime victims when such release would subject the victim to danger. This holding changed the previous understanding that only information concerning victims of sex crimes could be withheld from disclosure. Therefore if attorneys and the heads of state agencies have difficulty deciding

on what constitutes a public record, we believe it is unfair to require law enforcement employees to have such an extensive knowledge of the meaning of each exemption that they could be fined for every possible violation.

It is in this light of legal uncertainty over the exemptions in the KORA that the civil penalties contained in HB 2729 look the most unfair and troublesome. For instance, what would happen to a law enforcement employee if he or she truly believes information requested by a citizen could not be released due to the criminal investigation exemption in the KORA? Would the county attorney bring an action in the district court to determine if such an employee had a “reasonable basis in fact or law” to deny the request? We believe that the prosecutor’s time would be much better spent prosecuting criminals, rather than bringing actions against law enforcement employees that honestly believed they could not release victim information.

It is also possible to imagine a law enforcement employee, for fear of legal action, to give out information that truly does fall under an exemption. Certainly criminal defense attorneys and journalists might try to get protected victim information by using the provisions of the KORA. Would that employee then be entitled to indemnification from the state if a crime victim recovers damages against him for releasing the record?

We believe that holding the potential for litigation over an honest, hard working government employee is not the correct way to handle this problem. We suggest that the correct way to accomplish greater public accessibility to open records is education, not intimidation. We realize that information and training is the key to solving any problems that might exist, and we try as much as possible to give our employees updates on the law. In fact, due to the recent open record stories, the Kansas Law Enforcement Training Center has decided to hold an open records

session during the two-week sheriff's orientation school held after every sheriffs' election. The KSA also held a training session on open records at their 1999 fall conference.

We further believe that the current ability to bring an action for mandamus in the district court to compel production of open records provides an appropriate method of ensuring access to those records. A plaintiff successful in bringing such an action is entitled to attorney fees against the public agency that denied the records, not the individual employee as provided in HB 2729.

Once again, we thank you for the opportunity to oppose HB 2729, and please do not hesitate to contact me if I may be of further assistance.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Jeffery S. Bottenberg".

Jeffery S. Bottenberg

STATE OF KANSAS

COMMITTEE ASSIGNMENTS

MEMBER: GOVERNMENTAL ORGANIZATION  
& ELECTIONS, RANKING MINORITY MEMBER  
BUSINESS, COMMERCE & LABOR  
KANSAS 2000  
LOCAL GOVERNMENT  
REP., NATIONAL CONFERENCE OF  
STATE LEGISLATURES

GWEN WELSHIMER  
REPRESENTATIVE, EIGHTY-EIGHTH DISTRICT  
SEDGWICK COUNTY  
6103 CASTLE  
WICHITA, KANSAS 67218  
316-685-1930  
DURING SESSION  
LEGISLATIVE HOTLINE  
1-800-432-3924  
OFF: 785-296-7687



TOPEKA

HOUSE OF  
REPRESENTATIVES

Testimony - February 8, 2000 – HB 2722 -- PUBLIC RECORDS.

HB 2722 emphasizes timeliness in furnishing records to the public upon request and sets fees that are reviewed by the Dept. of Administration each year. The fees are 25 cents for a letter-size copy, 35 cents for a legal-size copy, plus fair and reasonable charges for such things as copies of maps, and electronic data on diskettes. It gives final decision to a public information officer within the offices of the attorney general and allows a \$500 fine against the individual who denies access to the records. I would like to amend the bill so that it uses the word "format" throughout instead of generate or construct public records.

There is another very significant area of concern within the public records issue.

Last week, this committee heard testimony about public records, on minutes, birth certificates, criminal records, and several others. Those are important records the public deserves to have open and available, but another very significant area of concern within the public records issue is the larger volume of use of public real estate records.

Reappraisal, completed January 1, 1989, gathered much more information on each property in the state than had ever been done before, and this new official record on parcels and improvements was computerized. Each parcel was contiguously numbered across the state with the same information formatted on each property in each county.

Before and since reappraisal, no property is sold, no property is appraised, no property is surveyed, no property is mortgaged, no property receives title insurance, and no property's tax assessment is appealed, without the principal, agent, attorney, or other real estate professional or professionals involved, accessing and verifying the official public record of

HOUSE LOCAL GOVERNMENT

2-8-00

Attachment 10

the property. The greatest share of this information is generated by and in the custody of the county appraiser.

Thousands, of real estate public record inquiries occur in this state each day. This is an industry of about 35,000 Kansas citizens who act as agents of the public. Each agent represents several clients in a working day, and each client is a family, corporation, or church, for instance. This means about 500,000 Kansas citizens are served by official public records on real estate each working day, and taxpayers have paid, according to my best guess, \$150 million to generate this information since 1985, and it is ongoing.

Since the implementation of reappraisal, professionals have had to take courses to understand how the counties have reached their decisions on market value and interpret the records. The counties have overlooked the needs of the real estate industry and changed the format of the appraisal records making them more complicated and even eliminating important information.

When the Property Valuation Division of the Department of Revenue was initiating reappraisal in the counties, they did not include a format of the information that would be user-friendly for the public. Misunderstanding grew among public officials about sharing their appraisal records because so much money was involved in their preparation and officials didn't want the public to "profit" from it. Fees were established (\$3,000 in Sedgwick County) for each person to access appraisal records by computer, and I don't believe this came about in Sedgwick. To overcome this, a title company sued Sedgwick county for their appraisal records and won. They spent huge amounts of money to convert the information to software that would allow real estate professionals to access reasonably in an understandable format by computer.

No appraisal system in any state should siphon off as much revenue as this one has without some benefits for the private sector through public records. The cost of reappraisal threw property taxes into an upward spiral.

The variation of fees for real estate records produces a lack of respect for administration of government. When the same records are supposed to be available in each county, and one county changes the format or decides that real estate records in that county are only for in-house purposes and any

public request is “nosiness,” the lack of respect for administration of government grows.

Attached to this testimony is a letter from a tax consultant about his experience with fees in Reno, Finney, Miami, Shawnee, Trego, and Ford counties. This is clear evidence of the lack of administration over the entire statewide system.

The only way to address the problem in real estate records, that I can suggest, is to mandate PVD to create a statewide internet system on real estate official records in a format the industry and other individuals can understand and use. Considering the huge amounts of revenue used to appraise Kansas properties, the public is entitled to this consideration. I would like to offer that as an amendment for this committee to consider.

ADJUSTMENT  
SPECIALISTS, L.L.C.

700 N. MARKET • P.O. BOX 3175 • WICHITA, KANSAS 67201 • (316) 265-2823 • FAX (316) 265-2826  
January 26, 2000

Governor Bill Graves  
212 S. State Capitol  
Topeka, KS 66612-1510

Dear Governor:

I am Managing Partner of a property tax consulting firm, Tax Adjustment Specialists, LLC that has operated over 10 years in the state of Kansas. During that time, my firm has spent thousands of dollars securing copies of real estate and personal property records from 105 counties across the state.

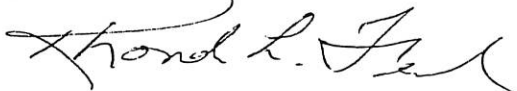
Attached you will find copies of several statements from County Appraiser's offices which range from \$.25 per copy to \$3.00 for the 1<sup>st</sup> page; \$1.00 for each page after. Shawnee county charges \$1.50 per page to fax their data; Miami county charges .25 per page. Some counties do not charge—at all; others charge exorbitant rates AND charge for postage as well. Recently, I owed McPherson county \$2.66 and received a phone call saying that McPherson county had "decided" to charge \$5.00 for any account 30 days past due. I asked where the \$5.00 originated and was told they just "decided" upon that figure. I was charged a 250% penalty for owing \$2.66 45 days.

This is written to better inform you of the myriad costs/charges/assessments, which change monthly without any policy restrictions and/or guidelines to direct these county officials. While we do expect to pay a "normal and reasonable" copying charge; \$3.00 per page is ridiculous as well as the individual implementation of a "late fee" penalty at a county appraiser's whim.

Our firm, which represent thousands of Kansas property owners, implore you to adopt a uniform and reasonable charge for securing copies of public records; one that each official from 105 counties would have to abide by.

I'm deeply grateful for your time and consideration of this matter.

Sincerely,



Rhonda L. Ferb  
Managing Partner

Enclosure(8)

Cc: Carla Stovall, Attorney General  
Carlos Mayans, Rep. Wichita  
Gwen Welshimer, Rep. Wichita

10-4



# Reno County

Appraiser's Office

206 West First Avenue

Hutchinson, Kansas 67501-5204

Phone: (316) 694-2921

Fax: (316) 694-2987

# Statement of Account

ACCOUNT #: 990485

DATE: 12/07/99

Richard Barrett  
Tax Adjustment Specialists, L.L.C.  
P O Box 3175  
Wichita KS 67201

TERMS: CASH

AMOUNT ENCLOSED:

Please detach and return this copy with your remittance. Make check payable to Reno County Appraiser.

DATE	INVOICE # / DESCRIPTION	CHARGES	CREDITS	BALANCE
12/07/99		BALANCE FORWARD:		\$0.00
1	Cost Ladder for 2803 N Main Postage	\$1.00		\$1.00
		\$0.33		\$1.33

Thank you for your business!

PAY LAST  
AMOUNT IN  
THIS COLUMN

MIAMI COUNTY REQUEST FOR COPIES

4/28 TLA

(To be completed by Requester)

Tax Adjustment Specialists of Ks., Inc.  
P.O. Box 3175  
Wichita, KS 67201-3175  
(316) 265-2823

NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
STREET \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP-CODE + 4 \_\_\_\_\_  
SIGNATURE: Roland Burnett

~~2405~~

COPIES SOUGHT: Please provide a specific description of the record (s) you desire copied.

RECORD DOCUMENT / DATE	NO. OF COPIES DESIRED
1: <u>Commercial and Industrial Valuation System</u>	<u>1 copy for</u>
2: <u>(Cost ladder)</u>	<u>Each PIN attached</u>
3: _____	<u>to this form</u>
4: _____	

CHARGES: A charge for providing copies of public records is authorized by state law and has been established by the county governing body. These charges are set at a level to compensate the county for the actual costs incurred in honoring your request. This fee is posted in this office. All requests for printed material must be made in writing. The county has 3 days to comply with the request or give written notification of the reason the request cannot be met in the 3 day time limit.

The charge to your requested copy(s) of the record(s) is: \$ .25 per copy  
Prepayment of the above amount \_\_\_\_\_ is required / \_\_\_\_\_ is not required.  
Your copy of this form is your receipt.

(To be completed by the Record Custodian)

TIME OF REQUEST: Date: 4-18-97  
Time Started: \_\_\_\_\_:\_\_\_\_\_ AM/PM Time Completed: \_\_\_\_\_:\_\_\_\_\_ AM/PM  
STAFF TIME INVOLVED: \_\_\_\_\_ HOURS \_\_\_\_\_ MINUTES CHARGE \$ \_\_\_\_\_  
Per page copied @ \$.25 each \$ \_\_\_\_\_ Per map copied @ \$3.00 each \$ \_\_\_\_\_  
Charge for use of non-office copying equipment \$ \_\_\_\_\_

TOTAL CHARGES: \_\_\_\_\_  
POSTAGE: \_\_\_\_\_  
PREPAID: \_\_\_\_\_  
PAID: 1.57

MAIL PAYMENTS TO:  
Miami County Appraiser  
Miami County Courthouse  
P.O. Box 227  
Paola, KS 66071

TLA

SHAWNEE COUNTY APPRAISER'S OFFICE  
1515 N.W. SALINE  
TOPEKA, KANSAS 66618

M

BILL # ORDERED AMOUNT  
090034 12/22/1999 22.50

M  
E  
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A  
G  
E

*125 Sheets*  
*15 pages forced =*  
*\$1.50 ea*

BILL # ORDERED AMOUNT  
085922 12/16/1999 16.50

*11 x 50 5.50*  
*Postage = 6.60*  
*11 x \$1.50 per page ea.*

AMOUNT DUE IS 39.00  
DELINQUENT IF NOT PAID WITHIN 30 DAYS

BILLING DATE 12/31/1999  
CLIENT# 101

T  
O

TAX ADJUSTMENT SPECIALIST  
0700 N MARKETPO BOX 3175  
WICHITA KS 67201

# Administrative Center Finney County, Kansas

311 North Ninth Street  
Garden City, Kansas 67846

Board of County  
Commissioners  
Roman Halbur, DST 1  
Jerry M. Davis, DST 2  
Irv C. Stephens, DST 3  
Clifford Mayo, DST 4  
Alan Fankhauser, DST 5

County Clerk  
Carol Brown

County Treasurer  
Raylene Dick

Register of Deeds  
Rita Alsop

County Administrator  
Peter H. Olson

Human Resources  
Debbie Hays

County Appraiser  
Alan Roop

Maintenance Supervisor  
Louis Mendoza

Computer Support  
Coordinator  
Mari Bremer

Date: 12-9-99

Mailed To:

Tax Adjustment Specialists LLC  
PO Box 3125  
Wichita KS 67201

Statement For Fax and/or Copies:  
(\$3.00 1<sup>st</sup> page, \$1.00 ea. addn. page)

Fax.....  
(\$0.25 ea) \$2.00  
8 Copies.....

Postage.....77

Handling.....

Total Charges.....\$9.77

Please Remit Payment To:

Finney County Appraiser  
P.O. Box 873  
Garden City, KS 67846-0873

Sincerely,

COUNTY APPRAISER'S OFFICE  
 Box 530  
 McPherson, KS 67460

001...  
 DATE  
 12-9-99  
 CUSTOMER'S ORDER NO.

SOLD TO:

Tax Adjustment Specialists, L.L.C.  
 700 N. Market, P.O. Box 3175  
 ADDRESS  
 SHIP TO: Wichita, KS 67201

ADDRESS

SOLD BY	CASH	COD	CHARGE	ON ACCT.	SHIP VIA	MOSE. RET'D	PAID OUT
						<input type="checkbox"/> PREPAID <input type="checkbox"/> COLLECT	\$

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	1	FILE		1.00
2		1435 main st		
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
			postage	33
			TOTAL \$	1.33

+ \$ 5.00 late fee  
 after 30 days  
 per Julie @  
 appraiser's office

All claims and returned goods MUST be accompanied by this bill.

RECEIVED  
 BY \_\_\_\_\_

DELIVERED  
 BY \_\_\_\_\_



Wilson Jones®

©1993 ACCO IISA, Inc

Carbonless  
 S8558-CL Duplicate  
 S8658-CL Triplicate

**Trego County Appraiser**  
 216 N Main St. WaKeeney, KS 67672 (785)743-5758

◆◆◆ **INVOICE**

◆◆◆ **TOTAL DUE 2.00**

Salesperson Keith Denchfield  
 Invoice number  
 Invoice date 11 24 1999  
 Customer ID  
 Terms  
 Date shipped  
 Shipped via  
 FOB  
 Prepaid / Collect  
 Tax exempt  
 Reason  
 Exemption no.

◆◆◆ **SOLD TO**

Name Tax Specialists LLC  
 Address (line 1) 700 N Market  
 Address (line 2) P O Box 3175  
 City, State or Prov Wichita, Ks 67201  
 Postal code, Country  
 Phone (316)265 2823  
 Fax  
 Company name Tax Adjustment Specialists LLC

◆◆◆ **SHIPPED TO Tax Adjrn Spcl**

Retype the following only if the name and address are not the same as the SOLD TO name and address

Name  
 Address (line 1)  
 Address (line 2)  
 City, State or Prov  
 Postal code, Country  
 Company name

**Please make checks payable to:**

Trego County Appraiser

REF NO.	QTY	DESCRIPTION	PRICE EACH	TOTAL
	2	ICS WES Invst	1.00	2.00
			<b>SUBTOTAL</b>	2.00
			<b>Sales tax %</b>	
			<b>SHIPPING &amp; HANDLING PAYMENTS</b>	
			<b>PLEASE PAY THIS AMOUNT</b>	2.00
			<b>TERMS: Net 30 days</b>	

Date 12-9 19 99  
 M Tax Adjustment Specialists  
 Address PO. Box 3175 Wichita 67201

Reg. No.	Clerk	Account Forward
1	029-171-02-0-10-04-001.00	
2	901 S. 2nd	
3	3 copies @ 50¢ ea	1.50
4		
5	029-171-02-0-10-04-001.00	
6	907 S. 2nd	
7	8 copies @ 50¢ ea	4.00
8		\$ 5.50
9	Please Remit to	
10		
11	FORD COUNTY APPRAISER	
12	100 GUNSMOKE	
13	DODGE CITY, KS. 67801-4456	
14		
15	<b>7</b>	\$ 5.50

Your Account Stated to Date—If Error Is Found Return at Once  
**TOPS** 45202

I would like to take this opportunity to thank all of the committee members for allowing us to testify this afternoon on a matter that affects Fee Appraisers as well as the tax payers of Sedgwick County.

I am in partnership with Marolin Kelly, doing business as Kelly & Morales Associates. We are Kansas State Certified Residential Real Property Appraisers. The problems that we have encountered as a group of appraisers in Sedgwick County are concerning "lot dimensions" (frontage and depth). These dimensions have been in the County Appraiser's system for years, as former retired employees Victor Casper, David Orth and Willard Ocker have attested to in their affidavits. Copies of these affidavits are attached to this testimony.

A meeting was held on the 28th of January of this year, with Sedgwick County Appraiser Gerald Frantz and his staff to present our concerns in hopes of resolving this issue. Mr. Frantz informed us that the computerized mass appraisal system used in Sedgwick County was better suited for square footage than using lot dimensions. He felt they are not necessary for his purpose and stated he would not re-enter this information or maintain it. These dimensions are obviously required to obtain the square footage.

The Data Collection Card (DCC) allows for entry of lot dimensions as well as square footage in entries 301 and 311. He suggested the plat plans could be entered on discs at an added cost to us. We as a group felt that this is totally unacceptable for anyone to incur an added expense when the information is of public record and he is responsible to furnish it as custodian of the records.

The information we are requesting is REQUIRED on the Uniform Residential Appraisal Report (URAR), a federal form that is standard in the industry throughout the United States. IT IS NOT AN OPTION! If we omit this entry, we will hear from the underwriter of the loan, post haste.

In conclusion, I implore this committee to take the necessary action to restore this information and make it easily accessible. The general public, businesses and professionals such as title, abstract and insurance companies, attorneys, etc, in addition to appraisers, who are in need of these records to perform their assignments should have open access. We are all tax payers and this office, as well as others, are supported by our tax dollars. We deserve more consideration than we are receiving from the County Appraiser!



**STATE OF KANSAS**

*Bill Graves, Governor*

Mark S. Beck, Director  
Department of Revenue  
Division of Property Valuation  
915 SW Harrison St., Room 400  
Topeka, KS 66612-1585



**DEPARTMENT OF REVENUE**

*Karla Pierce, Secretary*

(785) 296-2365  
FAX (785) 296-2320  
Hearing Impaired TTY (785) 296-3909  
Internet Address: [www.ink.org/public/kdor](http://www.ink.org/public/kdor)

**Division of Property Valuation**

January 20, 2000

Kelly & Moralez Associates  
1816 S. Stacey Ct.  
Wichita, Ks 67207

To: Victor Moralez and Marolin Kelly

Re: Sedgwick County lot dimensions

I had staff contact the Sedgwick County Information Services Department to determine the nature of your concern. It appears Sedgwick County has converted parcel lot dimensions to square feet areas on the web site that you are accessing. I do not have any indication why this conversion has taken place.

It is my understanding that CAMA data, providing the lot dimension information that you are seeking, is available for an additional subscription fee. Our point of contact has been Mr. Chris Morlan, I & A Director and GIS Coordinator. He can be reached at (316) 383 - 7461 ext. 2222.

I hope this provides an avenue for the solution to your concerns. If I can be of any further assistance, do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Beck".

Mark S. Beck  
Director of Property Valuation

Cc: Ms. Betsy Gwin, County Commissioner  
Mr. Chris Morlan, I & A Director

**Kelly & Morales Associates**

1816 S. Stacey Ct.  
Wichita, KS 67207  
316-685-2137  
Fax 316-685-0648

February 2, 2000

Michael Haynes, Director  
Kansas Real Estate Appraisal Board  
The Columbian Title Building  
820 S. Quincy, Room 314  
Topeka, KS 66612-1158

Dear Mr. Haynes:

As Director of the Kansas Real Estate Appraisal Board, we are appealing to you for advice and guidance concerning a problem that is affecting Fee Appraisers in Sedgwick County.

Enclosed are copies of letters that were addressed to Sedgwick County Commissioner Batsy Gwin and Director of Property Valuation Department, Mark Beck.

We had a meeting with Sedgwick County Appraiser Gerald Frantz on January 28th, to discuss the lack of lot dimensions in the Sedgwick County appraisal system. He informed us that his computerized system for mass appraisal is best suited for square footage and therefore he would refuse to maintain lot dimensions. In past years this information has been available and maintained. As you are fully aware, this information is required in the site section of the URAR. To omit this entry when it is obviously an integral part of the appraisal shows lack of dedication and concern for the client, lender, and compromises our professional reputation in the real estate industry. This omission will surely illicit inquiries from underwriters around the country. This information is provided from the County Appraiser's Office in all of the surrounding counties except Sedgwick County.

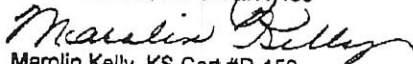
We feel that we, as well as the general tax paying public, are being deprived of information that should be easily obtained from the County Appraiser's Office by Mr. Frantz's attitude toward maintaining lot dimensions.

We are all tax payers engaged in our chosen profession and are entitled to cooperation and consideration from our public servants.

Awaiting your reply we remain,

Respectfully,

  
Victor Morales, KS Cert.#R-400

  
Marolin Kelly, KS Cert.#R-158

cc: Sedgwick Co. Commissioner Bill Hancock  
Senator Barbara Lawrence  
Representative Mike Farmer  
PVD Director Mark Beck  
Senator Pat Ransom  
Representative Gwen Welshimer

**Kelly & Morales Associates**

1816 S. Stacey Ct  
 Wichita, KS 67207  
 316-685-2137  
 Fax 316-685-0848

December 9, 1999

Betsy Gwin, County Commissioner  
 Sedgwick County Court House  
 525 N. Main  
 Wichita, KS 67202

Re: Lot dimensions

The following is a token list of appraisers and lenders that are looking forward to discussing the lack of lot dimensions that should be available to the general public. They are extremely important to appraisers actively engaged in the real estate profession. They were entered in the property records for many years and for some unknown reason, were deleted. This information is critical and is required on the URAR (Uniform Residential Appraisal Report) appraisal forms.

**APPRAISERS:**


Bob Buzzl	686-4565
Connie Zwahl	775-2582
Georgla Van Auken	686-2048
Mary Green	943-4288
John Kiser	721-0320
Vernon Hopkins	778-1132
Rob Wilson	265-7729
Vickie Sheppard	1-316-321-1234
Robert Mayo	778-2140

**LENDERS:**

Allied Mortgage Capital Corp.	
Linda West, Underwriter	788-4564
P&L Enterprises (Financial Resources)	
Rhonda Mulvaney	636-1035
Gulfstream Financial Services	
Debbie White	684-8333
Accent Mortgage Services, Inc.	
Lionel Ward	778-9683
Total Mortgage	
Melissa Jinks	684-0285

Additional names of appraisers and/or lenders can be furnished if necessary. We will look for your reply in the very near future.

Respectfully yours,

  
 Victor Morales

  
 Marollin Kelly

**AFFIDAVIT**

BE IT ACKNOWLEDGED, that Victor Casper 736 No Kessler...

of \_\_\_\_\_ the undersigned

deponent, being of legal age, does hereby depose and say under oath as follows: The best dimensions were on the data collection card at the time I was employed in 1971. My employment was from 1971 to 1994. And to the best of my knowledge it was still listed on the cards in 1994.

And I affirm that the foregoing is true except as to statements made upon information and belief, and as to those I believe them to be true.

Witness my hand under the penalties of perjury this 6 day of February, 2000.

Victor Casper

Name

736 No Kessler

Address

Wichita Kansas 67203

STATE OF Kansas  
COUNTY OF Sedgwick

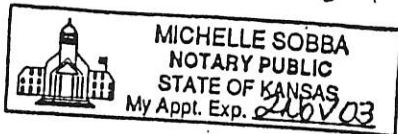
On Feb 6, 2000 before me, Victor Casper, personally appeared \_\_\_\_\_, personally known to me (or

proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Michelle Sobba



Affiant        Known     Unknown

ID Produced   KSDL  

(Seal)

AFFIDAVIT

BE IT ACKNOWLEDGED, that 2, David L. Orth  
of 1704 S. Glenn, Wichita, Kansas the undersigned  
deponent, being of legal age, does hereby depose and say under oath as follows:

I was employed by Sedgwick County Appraiser Office from Feb 1, 1977  
to January 19, 1996. The lot dimensions (Frontage and depth) were  
shown on data collection cards and were shown in the system when  
left in 1996

And I affirm that the foregoing is true except as to statements made upon information and  
belief, and as to those I believe them to be true.

Witness my hand under the penalties of perjury this 6 day of FEBRUARY, 2000.

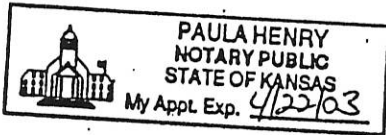
David L. Orth  
Name  
1704 S. GLENN  
Address  
WICHITA, KANSAS 67213

STATE OF Kansas  
COUNTY OF Sedgwick

On Feb. 6, 2000 before me, David Orth, personally appeared  
, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.  
WITNESS my hand and official seal.

Signature Paula Henry

Affiant      Known  Unknown  
ID Produced     KSDL      
(Seal)



AFFIDAVIT

BE IT ACKNOWLEDGED, that Willard Ocker of 7742 N Hillside Valley Center, Mo 67147 the undersigned deponent, being of legal age, does hereby depose and say under oath as follows: I was employed by the Sedgwick County appraiser's office from 1959 to 1997. The lot size dimensions (frontage and depth) were shown on the Data Collection Cards and shown in the system when I left in 1997

And I affirm that the foregoing is true except as to statements made upon information and belief, and as to those I believe them to be true.

Witness my hand under the penalties of perjury this 7 day of February, 2000

Willard Ocker  
Name

7742 N. Hillside  
Address

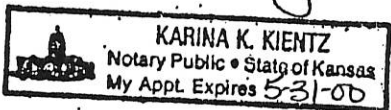
Valley Center Mo 67147

STATE OF Kansas  
COUNTY OF Sedgwick }

On February 7, 2000 before me, Karina K. Kientz ~~Willard W. Ocker~~, personally appeared Willard W. Ocker, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Karina K. Kientz



Affiant      Known  Unknown  
ID Produced KSDL (Seal)

Sun. Appraisal Report

UNIFORM RESIDENTIAL APPRAISAL REPORT

File No.

Property Description: Property Address, City, State, Zip Code, Legal Description, County, Assessor's Parcel No., Tax Year, R.E. Taxes \$, Special Assessments \$, Borrower, Current Owner, Occupant, Project Type, HOA \$, Neighborhood or Project Name, Map Reference, Census Tract, Sale Price \$, Date of Sale, Description and \$ amount of loan charges/concessions to be paid by seller, Lender/Client, Address, Appraiser, Address

SITE: Location (Urban, Suburban, Rural), Built up (Over 75%, 25-75%, Under 25%), Growth rate (Rapid, Stable, Slow), Property values (Increasing, Stable, Declining), Demand/supply (Shortage, In balance, Over supply), Marketing time (Under 3 mos., 3-6 mos., Over 6 mos.), Predominant occupancy (Owner, Tenant, Vacant), Single family housing PRICE \$ (000), AGE (yrs) (Low, High, Predominant), Present land use % (One family, 2-4 family, Multi-family, Commercial), Land use change (Not likely, Likely, In process)

Note: Race and the racial composition of the neighborhood are not appraisal factors.

Neighborhood boundaries and characteristics:

NEIGHBORHOOD: Factors that affect the marketability of the properties in the neighborhood (proximity to employment and amenities, employment stability, appeal to market, etc.):

Market conditions in the subject neighborhood (including support for the above conclusions related to the trend of property values, demand/supply, and marketing time -- such as data on competitive properties for sale in the neighborhood, description of the prevalence of sales and financing concessions, etc.):

PUD: Project Information for PUDs (if applicable) - Is the developer/builder in control of the Home Owners' Association (HOA)?, Approximate total number of units in the subject project, Approximate total number of units for sale in the subject project, Describe common elements and recreational facilities:

SITE: Dimensions, Site area, Specific zoning classification and description, Zoning compliance, Highest & best use as improved, Utilities (Electricity, Gas, Water, Sanitary sewer, Storm sewer), Off-site Improvements (Street, Curb/gutter, Sidewalk, Street lights, Alley), Topography (Size, Shape, Drainage, View, Landscaping, Driveway Surface, Apparent easements), FEMA Special Flood Hazard Area, FEMA Zone, Map Date, FEMA Map No.

Comments (apparent adverse easements, encroachments, special assessments, slide areas, illegal or legal nonconforming zoning use, etc.):

DESCRIPTION OF IMPROVEMENTS: GENERAL DESCRIPTION (No. of Units, No. of Stories, Type, Design, Existing/Proposed, Age, Effective Age), EXTERIOR DESCRIPTION (Foundation, Exterior Walls, Roof Surface, Gutters & Dwnspts., Window Type, Storm/Screens, Manufactured House), FOUNDATION (Slab, Crawl Space, Basement, Sump Pump, Dampness, Settlement, Infestation), BASEMENT (Area Sq. Ft., % Finished, Ceiling, Walls, Floor, Outside Entry), INSULATION (Roof, Ceiling, Walls, Floor, None, Unknown)

Table with 13 columns: ROOMS (Foyer, Living, Dining, Kitchen, Den, Family Rm., Rec. Rm., Bedrooms, # Baths, Laundry, Other), Area Sq. Ft. Rows include Basement, Level 1, Level 2.

DESCRIPTION OF IMPROVEMENTS: Interior (Materials/Condition, HEATING, KITCHEN EQUIP., ATTIC, AMENITIES, CAR STORAGE), Floors, Walls, Trim/Finish, Bath Floor, Bath Wainscot, Doors, HEATING (Type, Fuel, Condition), KITCHEN EQUIP. (Refrigerator, Range/Oven, Disposal, Dishwasher, Fan/Hood, Microwave, Washer/Dryer), ATTIC (None, Stairs, Drop Stair, Scuttle, Floor, Heated, Finished), AMENITIES (Fireplace(s) #, Patio, Deck, Porch, Fence, Pool), CAR STORAGE (None, Attached, Detached, Built-In, Carport, Driveway)

COMMENTS: Additional features (special energy efficient items, etc.):, Condition of the improvements, depreciation (physical, functional, and external), repairs needed, quality of construction, remodeling/additions, etc.:, Adverse environmental conditions (such as, but not limited to, hazardous wastes, toxic substances, etc.) present in the improvements, on the site, or in the immediate vicinity of the subject property.:

COST APPROACH	ESTIMATED SITE VALUE	= \$	Comments on Cost Approach (such as, source of cost estimate, site value, square foot calculation and for HUD, VA and FmHA, the estimated remaining economic life of the property):
	ESTIMATED REPRODUCTION COST-NEW-OF IMPROVEMENTS:		
	Dwelling	Sq. Ft. @\$ = \$	
		Sq. Ft. @\$ =	
		=	
	Garage/Carport	Sq. Ft. @\$ =	
	Total Estimated Cost New = \$		
	Less	Physical Functional External	
	Depreciation	= \$	
	Depreciated Value of Improvements	= \$	
"As-is" Value of Site Improvements	= \$		
INDICATED VALUE BY COST APPROACH		= \$	

ITEM	SUBJECT	COMPARABLE NO. 1		COMPARABLE NO. 2		COMPARABLE NO. 3	
Address							
Proximity to Subject							
Sales Price	\$	\$	\$	\$	\$	\$	\$
Price/Gross Living Area	\$	\$	\$	\$	\$	\$	\$
Data and/or Verification Source							
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-)\$ Adjust.	DESCRIPTION	+(-)\$ Adjust.	DESCRIPTION	+(-)\$ Adjust.
Sales or Financing Concessions							
Date of Sale/Time							
Location							
Leasehold/Fee Simple							
Site	X						
View							
Design and Appeal							
Quality of Construction							
Age							
Condition							
Above Grade	Total Bdrms Baths	Total Bdrms Baths		Total Bdrms Baths		Total Bdrms Baths	
Room Count							
Gross Living Area	Sq. Ft.	Sq. Ft.		Sq. Ft.		Sq. Ft.	
Basement & Finished Rooms Below Grade							
Functional Utility							
Heating/Cooling							
Energy Efficient Items							
Garage/Carport							
Porch, Patio, Deck, Fireplace(s), etc.							
Fence, Pool, etc.							
Net Adj. (total)		<input type="checkbox"/> + <input type="checkbox"/> - \$		<input type="checkbox"/> + <input type="checkbox"/> - \$		<input type="checkbox"/> + <input type="checkbox"/> - \$	
Adjusted Sales Price of Comparable		Net % Gross % \$		Net % Gross % \$		Net % Gross % \$	
Comments on Sales Comparison (including the subject property's compatibility to the neighborhood, etc.):							

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Date, Price and Data Source, for prior sales within year of appraisal				
Analysis of any current agreement of sale, option, or listing of subject property and analysis of any prior sales of subject and comparables within one year of the date of appraisal:				

INDICATED VALUE BY SALES COMPARISON APPROACH ..... \$

INDICATED VALUE BY INCOME APPROACH (if Applicable) Estimated Market Rent \$ /Mo. x Gross Rent Multiplier = \$

This appraisal is made  "as is"  subject to the repairs, alterations, inspections or conditions listed below  subject to completion per plans & specifications.

Conditions of Appraisal:

Final Reconciliation:

The purpose of this appraisal is to estimate the market value of the real property that is the subject of this report, based on the above conditions and the certification, contingent and limiting conditions, and market value definition that are stated in the attached Freddie Mac Form 439/FNMA form 1004B (Revised \_\_\_\_\_).

I (WE) ESTIMATE THE MARKET VALUE, AS DEFINED, OF THE REAL PROPERTY THAT IS THE SUBJECT OF THIS REPORT, AS OF (WHICH IS THE DATE OF INSPECTION AND THE EFFECTIVE DATE OF THIS REPORT) TO BE \$

APPRaiser: \_\_\_\_\_ SUPERVISORY APPRAISER (ONLY IF REQUIRED): \_\_\_\_\_

Signature \_\_\_\_\_ Signature \_\_\_\_\_  Did  Did Not Inspect Property

Name \_\_\_\_\_ Name \_\_\_\_\_

Date Report Signed \_\_\_\_\_ Date Report Signed \_\_\_\_\_

State Certification # \_\_\_\_\_ State \_\_\_\_\_ State Certification # \_\_\_\_\_ State \_\_\_\_\_

Or State License # \_\_\_\_\_ State \_\_\_\_\_ Or State License # \_\_\_\_\_ State \_\_\_\_\_



# RESIDENTIAL / AGRICULTURAL DATA COLLECTION CARD

OWNERS NAME & MAILING ADDRESS: \_\_\_\_\_  
 PROPERTY DESCRIPTION: \_\_\_\_\_

PARCEL ID TIEBACK

770	TYPE	CO. NO.	MAP	SEC	SHEET	QTR.	BLOCK	PARCEL	OWN
-----	------	---------	-----	-----	-------	------	-------	--------	-----

LAND DATA & COMPUTATIONS

299	DELETES 300-330
-----	-----------------

0 NONE	FRONTAGE	EFFECTIVE DEPTH	ACTUAL UNIT PRICE	DEPTH FACTOR	EFFECTIVE UNIT PRICE	INFLUENCE FACTORS	LAND VALUE	SUMMARY OF VALUES	
								TOTAL VALUE LAND	TOTAL VALUE BLDGS.
300									
301	X	X							
302									
303									
311	X	X							
312									
313									
321									
322									
323									
324									
325									
326									
327									
328									
329									
330									

TOPOGRAPHY

- LEVEL
- ABOVE STREET
- BETWEEN STREET
- BELOW STREET
- FLAT
- LOW
- MEDIUM
- HIGH
- SWAMPY

UTILITIES

- ALL PUBLIC
- ALL UNDERGROUND
- PUBLIC WATER
- PUBLIC SEWER
- WELL
- SEPTIC
- GAS
- NONE

ACCESS

- PAVED ROAD
- SEMI IMPROVED ROAD
- DIRT ROAD
- PROPOSED ROAD
- LANDLOCKED/NONE
- SIDEWALK
- ALLEY
- RAILROAD
- RIVER OR WATERWAY
- NONE

FRONTING

- MAJOR STRIP OR CBD
- SECONDARY ARTERY
- SECONDARY STREET
- RESIDENTIAL STREET
- RESIDENTIAL LANE
- CUL-DE-SAC
- DEAD END
- FRONTAGE ROAD
- PRIVATE ROAD
- NONE

LOCATION

- CENTRAL BUSINESS DISTRICT
- PENAL. CENTRAL BUS. DIST.
- BUSINESS CLUSTER
- MAJOR STRIP
- SECONDARY STRIP
- NEIGHBORHOOD OR SPOT
- COMMERCIAL/INDUST. PARK
- INDUSTRIAL SITE
- APT./CONDOMINIUM COMPLEX

010

CO. NO.	MAP	SEC	SHEET	QTR.	BLOCK	PARCEL	OWN	CARD	OF

060

MAP	070	ROUTING	101	NEIGHBORHOOD	102	LAND USE
-----	-----	---------	-----	--------------	-----	----------

103

LIVING UNITS	104	SUB CLASS	SFX	105	ZONING	MULTI	NC
--------------	-----	-----------	-----	-----	--------	-------	----

109

NUMBER	SFX	DIR	STREET NAME	ZIP/CITY
--------	-----	-----	-------------	----------

SALES DATA

MO.	YR.	TYPE	AMOUNT	SOURCE	VALID	D
201						
202						
203						

TYPE CODES

- LAND
- LAND & BUILDINGS
- BUILDING

SOURCE CODES

- BUYER
- SELLER
- AGENT
- OTHER

VALIDITY CODES

- VALID SALE
- INVOLVED ADDITIONAL PARCELS
- NOT OPEN MARKET
- CHANGED AFTER SALE
- RELATED INDIVIDUALS OR CORPORATIONS
- LIQUIDATION/FORCED SALE
- FINANCING/CONTRACT
- CONSTRUCTION COST ONLY
- INCLUDED EXCESSIVE PERSONAL PROP. OR OTHER - SEE NOTES
- UNVALIDATED

PERSON CONTACTED

CONTRACT CODE	OWNER	TEENANT	AGENT	BUILDER	MANAGER	OTHER
461						
462						
463						
464						
465						

APPRaisal PROCESS INFORMATION

DATE	AM	PM	ID	CODE
461				
462				
463				
464				
465				

PROCESS CODES

- Facilit or OB&Y Only
- Interview & Measure
- Interview at Door, Measure Refused
- Interview Refused, Meas. Permitted
- Measure & Interview Refused
- Door Hanger, Lett. N.O.H.
- Currently Unoccupied
- Grade & Depreciation
- Quality Control Check
- Other, See Notes

BUILDING PERMIT RECORD

NUMBER	DATE	AMOUNT	OPEN CODE	PURPOSE
471				
472				
481				
482				
483				
490				

PARKING AVAILABILITY

TYPE	QUANTITY	PRG./MINTY
0 NONE		0 FAR
1 OFF STREET		1 MINIMUM
2 ON STREET		2 ADJACENT
3 ON AND OFF STREET		3 ON SITE
4 PARKING DECK		

**TESTIMONY BEFORE THE  
HOUSE COMMITTEE ON LOCAL GOVERNMENT  
February 8, 2000, 3:30 p.m., Room 519-S**

Presented by Shirley A. Moses, Director of Accounts and Reports

Chairman, Members of the Committee:

I am providing testimony today on behalf of the Department of Administration to call attention to, and facilitate discussion of, certain portions of House Bill 2722, concerning open records access and specific duties required of the Director of Accounts and Reports.

House Bill 2722 amends K.S.A. 1999 Supp. 45-219, concerning copies of public records. Under current law, the reasonableness of fees for copies of, or access to, public records may be appealed to the Secretary of Administration, whose decision is final. Subsection (c)(6) removes this authority from the Secretary of Administration and assigns it to a new freedom of information officer within the Office of the Attorney General. New Section 5 of HB 2722 assigns further authority and oversight of the Open Records Act to this position, including certain reporting to the Legislature. New subsection (c)(7) mandates that the Director of Accounts and Reports review annually all fees charged by state agencies for copies of public records, with the results of this review to be reported to the Legislature. The separation of the fee review and reporting duties from the freedom of information officer seems incongruent with the intent of HB 2722, as well as confusing to those that the bill is designed to assist. It seems more appropriate to assign all authority and responsibility to govern the Open Records Act to the Office of the Attorney General.

The Division of Accounts and Reports also serves as the custodian of certain public records of state government and as a recipient of open records requests. Several provisions of HB 2722 may make compliance with, and interpretation of, the Open Records Act more difficult. The areas of concern are:

1) Amendments to K.S.A. 1999 Supp. 45-219(b) require that copies of public records be made "at the time of the request". No provision exists, as in K.S.A. 45-218(d), if a legitimate delay is necessary.

The bill presumes that someone is always available to immediately take action on a copy request.

2) Amendments to K.S.A. 45-219 (c)(1) establish fees for copies on letter-sized and legal-sized paper at not to exceed \$.25 per page and \$.35 per page, accordingly. However, in K.S.A. 45-219 (c)(6), existing law states, "A fee for copies of public records which is equal to or less than \$.25 per page shall be deemed a reasonable fee." I question whether this section should specify both fees.

**TESTIMONY BEFORE THE  
HOUSE COMMITTEE ON LOCAL GOVERNMENT  
February 8, 2000, 3:30 p.m., Room 519-S**

- 3) K.S.A. 45-219 (c)(2), as amended, names some specific components for costs related to records maintained on computer, including a statement saying “the cost of the discs used to download the data.” With the increasing use of electronic mail and internet applications, and with quickly changing technology, it seems prudent for the statute to be less specific about the cost components of fees to obtain electronic records.

Clarification of these issues through minor amendments to HB 2722 could improve both assistance to the requestor of the public record and compliance by the custodian of those records.

Thank you for the opportunity to provide testimony before the Committee and for your consideration of House Bill 2722. I would be happy to address any questions that the Committee may have.

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024  
785-273-3600

TO: House Committee on Local Government  
FROM: Mark Tallman, Assistant Executive Director for Advocacy  
DATE: February 8, 2000  
  
RE: Testimony on Open Records Act (H.B. 2722, H.B. 2729)

Members of the Committee:

We appreciate the opportunity to comment on the bills before you today regarding changes in Kansas Open Records. We want to state at the outset that the Kansas Association of School Boards supports open government. Assisting school district employees in complying with both the Open Meetings Act and Open Records Act is an important function of our association. I have brought with me today a copy of the most recent edition of our Open Records Handbook. We are strongly supportive of efforts to increase awareness and understanding of “sunshine” laws for our members, their employees, and the public at large.

At the same time, it is important to understand that these laws attempt to balance the public’s “right to know” with the rights of employees and individuals served by schools and other governmental entities, as well as the legitimate need to maintain confidentiality in some areas. This difficult balancing act results in a complicated law. No amount of education, legislation, penalties or new state agencies will keep mistakes from being made. We acknowledge that *mistakes* are made under current statutes. We are committed to reducing the number of mistakes. However, we see no evidence that school districts are attempting to systematically deny or delay public access to public records.

For example, in the now famous newspaper series on the act, school districts were asked to produce the high school football coach’s salary. School district employees certainly understand that many aspects of a personnel file are confidential. Is it really unreasonable to suggest that a board clerk – who may never have had a previous request for information – would want to carefully check on not only what the law requires, but also what the law prohibits?

For this reason, we believe the proposals to require immediate compliance with records requests or to place fines on individuals are unnecessary and may be counterproductive. Furthermore, we are not convinced that the cost of creating a state public information officer is justified by the likely benefits it would bring. For that reason, we oppose the bills before you today.

Thank you for your consideration.



**House Local Government Committee  
Rep. Mayans, chairman**

**Issues Concerning Open Records  
H.B. 2722**

*Submitted by: Diane Gjerstad  
Wichita Public Schools*

Mr. Chairman, members of the committee:

Thank you for allowing the district to offer comments on H.B. 2722. This bill is in response to a media series where reporters requested personnel information under the open records act.

In Wichita a reporter asked a long time conscientious employee how much the football coach at East High is paid. That is a complicated question because unlike in Texas, Wichita football coaches are full time teachers first. Coaching is a supplemental salary. In this case the coach has several supplemental or part time jobs on top of his full time teaching job. When the clerk asked for clarification, she became suspicious of the intent. The supervisor was called. She attempted to clarify what information the person was requesting and asked the person to identify himself. The response was "John Q. Public".

This response raised concerns. Our personnel office has dealt with instances where employees safety was in question. We have had stalkers trying to find the place of employment of a former spouse. Disgruntled relationships which have deteriorated into harassment.

We have an obligation to not only comply with legitimate requests, but to protect the safety and privacy of our 5200 employees.

The district would like to see a reasonable amount of time provided for meeting the requests and clarification of steps for making these requests. Furthermore the district would encourage the committee to remove the civil penalty clause. This is far too severe to apply to hourly clerks who are trying to do their best.

A responsible amount of time to respond, without penalty, is a practical solution to this issue.

Thank you, Mr. Chairman.


## KANSAS SUNSHINE COALITION FOR OPEN GOVERNMENT

1845 N. Fairmount  
P.O. Box 31  
Wichita, KS 67260-0031

(316) 978-6060

February 8, 2000

TO: Rep. Carlos Mayans, Chairman, House Local Government Committee

FROM:  Vernon Keel, President, Kansas Sunshine Coalition for Open Government

At the close of House Local Government Committee's meeting Thursday, February 3, you asked me to coordinate an effort to identify those exemptions to the Kansas Open Records Law that violate the spirit of the law and should be eliminated. You asked me to report back to you as soon as possible. Since then, I have consulted with our members, our board of directors and other representatives of the print and broadcast media in the state.

As a result of that consultation, we would like to make the following recommendations to your committee (a brief explanation follows). We recommend:

- 1) That your committee recommend the appointment of an interim committee to examine the list of 44 exemptions to the Kansas Open Records law with the specific task of:
  - a) identifying those few exemptions that clearly protect legitimate privacy interests of individuals, corporations or groups and should be retained;
  - b) identifying those exemptions that do not protect such legitimate privacy interests but serve mainly to promote government secrecy in violation of the spirit of the open records law; and
  - c) reviewing the remaining list of exemptions in order to revise and restructure the listing to make it shorter, less complicated and easier to understand by citizens, public officials and agency staff members;
- 2) That your committee then focus its attention on the other important matters of enforcement, penalties, time limits, copying fees and other issues brought to your attention by individuals who testified before your committee on February 3;
- 3) That your committee also support a "sunshine" provision on all exemptions, once the list is revised and restructured following recommendations from the interim committee, that would require all exemptions to be reviewed at least every five years; and
- 4) That your committee support the recommendation to require tape recording of that part of all public meetings conducted under specific provisions of the open meetings law that allow for such executive sessions.

(continued)

HOUSE LOCAL GOVERNMENT

2-8-00

Attachment 15

*Promoting open government in Kansas at all levels--state, county and local!*

Board of Directors: Vernon Keel, Wichita, President; John Lewis, Olathe, President-elect; Randy Brown, Wichita, Secretary; Harriet Lange, Topeka, Treasurer; Les Anderson, Valley Center; Greg Bengtson, Salina; David Furnas, Topeka; Rhonda Humble, Gardner; Mike Kautsch, Lawrence; Mike Merriam, Topeka; Bryan Thompson, Salina; Jim Turpin, Wichita.

*Keel memo to Rep. Mayans, 4/8/00, page 2*

Explanation: Attached to this memo is the five-page, single-spaced listing of current exemptions to the Kansas Open Records Law. I include that to show you and members of the committee how complex and complicated this listing of exemptions has become over the years. It also shows how difficult it is to conduct a meaningful review of these exemptions in order to provide a shorter, more condensed listing of exemptions that is less complicated and easier to understand and apply. Also, it is important to note that this list developed over many years in response to specific requests for additional exceptions to the law without attention to the overall effect of making the law increasingly complex and complicated. Major revision of this excessive listing requires serious study to bring forth reasonable recommendations for changes and a restructuring of the listing to make it more clear and understandable.

Furthermore, once your committee has recommended that this important review be conducted by an interim committee, you and your members will be better able to focus your attention on the other important matters related to improving enforcement, penalties, procedures and use of the open records law.

I hope you find this brief report and recommendations helpful. Please call me if you have any questions or if you wish to discuss anything related to these or other important issues of open government in Kansas.

*Attachment: Current Exemptions to the Kansas Open Records Law*

## Current Exemptions to the Kansas Open Records Law (2/4/00):

### Chapter 45.--PUBLIC RECORDS, DOCUMENTS AND INFORMATION Article 2.--RECORDS OPEN TO PUBLIC

45-221. Certain records not required to be open; separation of open and closed information required; statistics and records over 70 years old open. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

- (1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court to restrict or prohibit disclosure.
- (2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.
- (3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.
- (4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.
- (5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.
- (6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual.
- (7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.
- (8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation.
- (9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.
- (10) Criminal investigation records, except that the district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:
  - (A) Is in the public interest;
  - (B) would not interfere with any prospective law enforcement action;
  - (C) would not reveal the identity of any confidential source or undercover agent;
  - (D) would not reveal confidential investigative techniques or procedures not known to the general public;
  - (E) would not endanger the life or physical safety of any person; and



(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

- (A) The information which the agency maintains on computer facilities; and
- (B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are

expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) the ombudsman of corrections, the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901, et seq., and amendments thereto, shall be

subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 et seq. and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) The bidder's list of contractors who have requested bid proposals for construction projects from any public agency, until a bid is accepted or all bids rejected.

(33) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(34) Financial information submitted by contractors in qualification statements to any public agency.

(35) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(36) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(37) Information which would reveal the precise location of an archeological site.

(38) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(39) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 1999 Supp. 40-2c20, and amendments thereto.

(40) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.

(41) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 1999 Supp. 40-2,156, and amendments thereto.

(42) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(43) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(44) Market research, market plans, business plans and the terms and conditions of managed care or other third party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

History: L. 1984, ch. 187, § 7; L. 1984, ch. 282, § 4; L. 1986, ch. 193, § 1; L. 1987, ch. 176, § 4; L. 1989, ch. 154, § 1; L. 1991, ch. 149, § 12; L. 1994, ch. 107, § 8; L. 1995, ch. 44, § 1; L. 1995, ch. 257, § 6; L. 1996, ch. 256, § 15; L. 1997, ch. 126, § 44; L. 1997, ch. 181, § 15; July 1.