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TESTIMONY

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Senate Federal and State Affairs Committee Hearing on SB10 Open Records Wednesday, March 13, 2013

Chairman Ostmeyer and members of the committee:

The City of Wichita opposes SB10 as an unfunded state mandate that places a significant financial burden on local taxpayers.

The City of Wichita is a strong supporter of public engagement as assured by the Kansas Open Records Act (KORA). It is our firm belief that governments function at their highest level when citizens have maximum access to public records and public meetings. Informed citizens are the cornerstone of effective and efficient government.

As evidence of our commitment to public engagement, the City of Wichita responded to 233 KORA requests in 2012. Only 43 were denied, and each and every one of those was the result of statutory protection of certain information such as criminal investigations, personnel information or undisclosed sealed bids.

In each occasion, the City of Wichita assessed the appropriate fee for the provision of these records. The City of Wichita also has invested in software that helps expedite reasonable and appropriate KORA requests in an attempt to maximize the public's access of available records.

Copying charges range from 10 cents to 25 cents per page. The cost of staff time required to make the information available is also assessed. The staff time component, which would be eliminated by SB10, is a major cost center that otherwise will be shouldered by the taxpayer.

As an example of the magnitude of the issue, the City of Wichita recently received individual KORA requests for tens of thousands of individual emails from elected officials and another request for the records of the past 23 years of commercial building permits. One request was from a candidate challenging an incumbent, which illustrates how this process can easily be abused.

While we are able to limit the scope of those requests to reasonable parameters, they nonetheless require significant staff screening to ensure that no inappropriate information is released. Prohibiting the assessment of staff time would only exacerbate the abusive opportunities.

These requests are often from special interests, as opposed to the average citizen or credible journalistic enterprises. These special interests have no concern for the burden placed on taxpayers to subsidize the cost of their KORA requests.

The costs can be very significant. Retrieving records from the Hutchinson salt mine storage requires a \$48 courier fee for each retrieval. A more dramatic example was the KORA request from Airbus as a discovery mechanism in its case against Boeing. The request sought asset lists from Industrial Revenue Bond transcripts going back a decade. To meet the request, the City had to hire a temporary employee for that instance alone.

It is extremely unfair to the taxpayer to ask that public funds subsidize KORA requests that can literally paralyze local governments by forcing the commitment of staff resources that otherwise would be serving the general public's interests.

Unless the state is willing to absorb the additional costs, SB10 should be rejected.