

SESSION OF 2005

**SUPPLEMENTAL NOTE ON
HOUSE SUBSTITUTE FOR SENATE BILL NO. 34**

As Recommended by House Committee on
Governmental Organization and Elections

Brief*

House Substitute for SB 34 would amend the Kansas Open Records Act (KORA) as follows:

- Extend for five years (until July 1, 2010) the life of over 240 KORA exceptions scheduled to expire this July 1 if the Legislature does not continue these exceptions.
- Change from June 1 to July 15 the date the Revisor of Statutes is required to certify the list of KORA exceptions scheduled to expire on the following July 1.
- Delete the requirement that KORA exceptions be "reenacted" to provide instead the exceptions be "continued."
- Amend the Kansas Open Records Act exemptions statute, the Kansas Open Meetings Act executive session statute, and a statute dealing with proceedings before the Kansas Corporation Commission to provide that any confidential records or information relating to security measures provided or received shall not be subject to subpoena, discovery, or other demand in any administrative, criminal, or civil action. The bill also would amend an open records exception to expand this exception to include records that reveal security measures designed to protect private property or persons if these records are submitted to a public agency.
- Require that on or before January 15, of each year, the county or district attorney of each county would be required to report to the

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Attorney General all complaints received during the preceding fiscal year concerning violations of the Open Records Act and Open Meetings Act and the disposition of each complaint. The Attorney General would be required to publish a yearly abstract of such information listing by name the public agencies which are the subject of such complaints or investigations.

- Reinsert three exceptions to the Kansas Open Records Act listed in KSA 45-221 deleted last year dealing with insurance (Nos. 38, 39, and 40).
- Make reconciliation amendments to KSA 45-221 needed since three versions of this statute were passed by the 2004 Legislature.

Background

The bill, as introduced, was recommended by the 2004 interim Special Committee on Local Government.

Proponents of the bill as introduced included the Kansas Society of CPA's, the Kansas Association of School Boards, the League of Kansas Municipalities, the Kansas Association of Counties, the Kansas Press Association, the City of Overland Park and Johnson County.

The Senate Committee amended the bill to extend the life of the 240-plus KORA exceptions scheduled to expire this July 1 to July 1, 2006, and added the definition of "clearly unwarranted invasion of personal privacy."

The Senate Committee of the Whole continued the extension of the exceptions until July 1, 2010.

The House Committee added the provisions of SB 24 as introduced and reinserted three open records exceptions dealing with insurance stricken in 2004.

The bill has no fiscal impact.

**OPEN RECORDS ACT EXCEPTIONS
CERTIFIED TO EXPIRE ON JULY 1, 2005**

(The certification was done by the
Revisor of Statutes
as required by KSA 45-229.)

Section	Exceptions Descriptions
1-401	CPAs and their clients—all working papers made by a CPA or employee of a CPA in course of providing professional services to clients
2-1202	parties who register as custom blenders of fertilizer—registration information regarding party's operations
5-512	parties to a dispute resolution proceeding—all verbal or written information transmitted between a party and a neutral person
9-1137	bank compliance review committee proceeding—compliance review documents
9-1712	parties being investigated by State Bank Commissioner—all information gathered in investigation
9-2217	parties being examined by the State Bank Commissioner—all examination reports and correspondence except in connection with disciplinary proceeding conducted by commissioner, liquidation proceeding, or criminal investigation or proceeding
10-630	parties owning or pledging bonds—all registration records of bond issuers; records of ownership or pledge
11-306	individuals—all forms and other personally identifiable data obtained in conjunction with redistricting census
12-189	information collected by cities or counties regarding parties responsible for paying retail sales taxes
12-1,108	a statement or list with a return or statement of intangibles tax liability
12-1694	all information received by city or county regarding parties responsible for paying transient guest tax
12-1698	all information received by city or county regarding parties responsible for paying transient guest tax
12-2819	parties involved in negotiations, actions or proceedings with public boards—documents and records kept or prepared by board

Section	Exceptions Descriptions
12-4516	records of expungement of certain convictions, arrest records or diversions in municipal courts
16-715	reports of precious metals dealers for law enforcement purposes
16a-2-304	information regarding parties to consumer credit transactions, except in composite form
17-1312e	all info. gathered in making an investigation or examination of cemetery corporations and their permanent maintenance funds
17-2227	all information secured or produced by the administrator in making an investigation or examination of credit unions and their customers
17-5832	all compliance review documents of Savings & Loan Compliance Review Committee
17-7503	amount of franchise tax paid by for-profit domestic corporations
17-7505	amount of any franchise tax paid by for-profit foreign corporations
17-7511	any information obtained from review of corporation's income tax return
17-7514	copies of requests for extension for time business entities required to file an annual report with the Secretary of State
17-7515 (re-pealed)	
17-7656 (re-pealed)	
17-76,139	the amount of franchise tax paid by limited liability companies
19-4321	certain county employees civil service ratings and reports
21-2511	records of persons whose DNA has been tested
22-3711	pre-sentence report, pre-report, pre-post-release report, and supervision history of criminal defendants
22-4707	criminal history record information
22-4909	crime victims' name, address, telephone number, and other information
22a-243	information acquired by and records of the child death review board

Section	Exceptions Descriptions
22a-244	books, records, papers received by state child death review board pursuant to subpoena
23-605	all verbal and written information transmitted between parties and mediator of parties to domestic dispute resolution
23-9,312	address of child or party upon finding that disclosure that health, safety, or liberty of child would be put unreasonably at risk
25-4161	complaints regarding candidates for public office to the Ethics Commission
25-4165	same subject as above
31-405	information regarding arson investigation
34-251	transactions regarding grain warehouses and their customers
38-1508	all records and reports concerning child abuse or neglect received by law enforcement
38-1520	child in need of care (CINC) information maintained in the CINC information system in a manner that allows for identification of any individual
38-1565	report submitted by foster parent(s), regarding children, other interested parties in reintegration plan
38-1609	diagnostic, treatment, or medical records of juvenile offenders
38-1610	expunged records of juvenile offenders
38-1618	juvenile offender information which identifies individuals
38-1664	reports submitted by juvenile offender's foster parents
39-709b	information regarding applicants for and recipients of public assistance
39-719e	medical assistance recipients regarding information provided by medical benefit plan providers
39-934	information received by adult care licensing authorities
39-1434	information in SRS statewide registry of dependant adult abuse and neglect in way that identifies an individual
39-1704	confidential information received by regional interagency councils regarding services for children
40-222	insurance companies examination reports
40-2,156	all reports of acquisitions and dispositions of assets of insurance companies disclosed to Insurance Commissioner
40-2,177 (re-pealed)	

Section	Exceptions Descriptions
40-2,178 (re-pealed)	
40-2,180 (re-pealed)	
40-2c20	all insurance companies risk based capital (RBC) reports, plans, or corrective orders
40-2c21	same subject as above
40-2d20	RBC reports of health insurance organizations
40-2d21	same subject as above
40-409	information in support of actuarial opinion of life insurance companies
40-956	all info. submitted for examination by Insurance Commissioner to insurance rating organizations
40-1128	insurers of health care providers—the names of any people or facilities involved in reports by insurers of any actions to the Board of Healing Arts
40-2807	insurance companies—the amount of income or other particulars set forth any report or return
40-3012	insurance companies—reports and recommendations by boards of directors to Insurance Commissioner regarding the solvency, liquidation, rehabilitation, or conservation of any insurer
40-3304	domestic insurance companies—consideration for a merger or other acquisition of control when a loan is made in ordinary course of business, identity of the lender
40-3308	insurance companies—all info., documents, and copies obtained in support of the actuarial report
40-3403b	health care organizations & providers—information or materials provided to actuarial firm by the Health Care Stabilization Fund
40-3421	health care providers—reports of claims and actions for medical malpractice
40-3613	insurance companies—orders necessary to correct, eliminate, or remedy the conduct, or condition of a domestic insurer
40-3805	trade secrets contained in books or records of insurance companies
40-4205	same subject as above
44-510j	worker's compensation insurance companies or self-insured employers regarding utilization and peer review

Section	Exceptions Descriptions
44-550b	worker's compensation records relating to financial info. submitted by an employer to qualify as self-insured
44-594	records filed with or maintained by an employer to qualify as a member of or maintain membership in a group-funded workers compensation pool
44-635	interrogatories of the Secretary of Human Resources to companies regarding child labor, work safety, other
44-714	transcript of unemployment benefits hearing not discoverable or admissible in evidence
44-817	information transmitted between a party to a labor dispute and a mediator
44-1005	endeavors at civil rights complaint conciliation
44-1019	civil rights conciliation agreements
44-1514 (re-pealed)	
45-221	Kansas Open Records Act section that lists 44 exceptions to openness
46-256	candidates for public office—the filing of a complaint and the allegations with the Ethics Commission
46-259	candidates for public office—complaints, documents, & reports filed with, submitted to or made by the Ethics Commission
46-2201	KBI background checks on members of the KPERS Board
47-839	veterinarians and their clients—any info. concerning care of an animal by vets licensed under Veterinary Practice Act
47-844	veterinarians and their clients—information regarding violations except fine paid
47-849	veterinarians—reports and records concerning impaired veterinarians, including executive or review committees
47-1709	veterinarians—any complaint filed
48-1614	trade secrets in nuclear energy development activities
49-406	mining activities—info. pertaining only to the analysis of the chemical and physical properties of coal
49-427	trade secrets
55-1,102	any rates, data, or information of a gas gathering company filed with Corporation Commission
56-1a606	domestic limited partnerships—amount of franchise tax paid
56-1a607	foreign limited partnerships—amount of franchise tax paid
56a-1201	limited liability partnerships—the amount of franchise tax paid

Section	Exceptions Descriptions
56a-1202	foreign limited liability partnerships—the amount of franchise tax
58-4114	state certified or licensed appraisers—residential addresses of appraisers
59-2135	information pertaining to adoptions of minors
59-2802	certain welfare recipients—report containing any info. necessary for court to make findings of fact regarding petition
59-2979 & 59-29b79	individuals—treatment or medical records of any patient or former patient
60-3333	information in voluntary environmental audits
60-3335	same subject as above
60-3336	same subject as above
65-102b	individuals—info. concerning non-infectious diseases obtained by the secretary of Health and Environment
65-118	health care providers—info. as to infectious or contagious diseases
65-119	same subject as above
65-153f	individuals—lab reports, and records regarding tests for syphilis and hepatitis
65-170g	individuals, businesses—records, reports related to potential sources of water pollutants if trade secrets would be divulged
65-177	individuals—data voluntarily made available to the secretary in connection w/ study of diseases and deaths from maternity
65-1,106	individuals—information obtained from tests for sickle cell anemia
65-1,113	individuals—information collected to define the effective distribution of health manpower
65-1,116	individuals—information gathered in testing for diabetes
65-1,157a	individuals—information obtained by secretary in course of newborn hearing screening program
65-1,163	individuals—referral and associated documentation of pregnant women at risk for prenatal substance abuse
65-1,165	same subject as above
65-1,168	individuals—informational collected for cancer registry
65-1,169	same subject as above
65-1,171	same subject as above
65-1,172	same subject as above
65-436	individuals—information received through reports, inspections of hospitals

Section	Exceptions Descriptions
65-445	individuals and medical care facilities—annual report of medical care facilities
65-507	individuals—information on maternity care and child care facility records
65-525	records of the Department of Health and Environment regarding child care facilities and maternity centers that identify individuals
65-531	individuals—immunization records
65-657	trade secrets regarding food, drugs, and cosmetics
65-1135	nurses—any complaint or report relating to investigation of a nurse
65-1467	dentists—any complaint, report or record relating to investigation
65-1627	pharmacists—reports, findings, and other records involving mental and physical examinations or drug screens
65-1831	barbers—investigation information
65-2422d	information contained in vital statistics records pertaining to out of wedlock births
65-2438	individuals—information relating to an infectious or contagious disease
65-2836	licensed health care professionals—information involving mental and physical examinations or drug screens
65-2836a (re-pealed)	
65-2839a	professionals licensed by the Board of Healing Arts—patient records relating to diagnostic findings or treatment of patients, peer review, risk management records, or investigation procedure records
65-2898a	reports alleging malpractice made to the Board of Healing Arts
65-3015	air quality control—business records containing trade secrets
65-3447	businesses—solid waste information that may disclose trade secrets
65-34,108	storage tanks and records regarding trade secrets
65-34,126	insurance coverage for storage tanks—any confidential information required
65-4019	care and treatment facilities for alcoholism—records that identify individuals
65-4608	drug abuse treatment facilities records that identify individuals
65-4922	risk management records of health care providers
65-4925	health care provider peer review and risk management records

Section	Exceptions Descriptions
65-5602	mental, alcohol or drug treatment patient records
65-5603	same subject as above
65-6002	AIDS reporting records
65-6003	same subject as above
65-6004	same subject as above
65-6010	same subject as above
65-67a05	records relating to fetal tissue and abortion
65-6803	health care database—procedures for ensuring confidentiality and safety of data
65-6804	same subject as above
66-101c	certain utility records regarding rates
66-117	same subject as above
66-151	same subject as above
66-1,190	same subject as above
66-1,203	same subject as above
66-1220a	utilities and trade secrets
66-2010	telecommunications company—certain records
72-996	child with a disability—dispute mediation school records
72-4311	vocational rehabilitation records of persons
72-4452	certain vocational training records of individuals
72-5214	school personnel health records
72-53,106	records of children enrolling in school
72-5427	teacher contracts—mediation records
72-8202f (re-pealed)	
72-8903	same subject as above
73-1228	utilities and trade secrets
74-2424	tax information in reports to other states, federal government
74-2433f	State Board of Tax Appeals Small Claims Division—certain records
74-4905	individual records regarding Kansas Public Employee Retirement System
74-4909	same subject as above
74-50,131	tax incentives for high performance firms—certain business records
74-5515	records regarding developmental disabilities

Section	Exceptions Descriptions
74-7308	crime victim records—Crime Victims Compensation Board
74-7338	record of victims and their addresses maintained by Secretary of Corrections
74-7405a	records of office of ombudsman of corrections
74-8104	Kansas Technology Enterprise Corporation—trade secrets
74-8307	Kansas Venture Capital Company Act—trade secrets
74-8705	State Lottery—background investigation of vendors
74-8804	Parimutual Racing—background investigation of licenses
74-9805	State Gaming Agency—background investigation information of employees
75-104	Governor's records—records, correspondence, or other papers not required to be disclosed under 45-221 during governor's lifetime
75-712	Attorney General criminal information records
75-7b15	Attorney General—records regarding private investigators
75-1267	project documents related to correctional institutions or other facilities under the jurisdiction or control of the secretary of corrections
75-2943	certain classified civil service employee records
75-4332	public employers-employees relations—mediation records
75-4362	Division of Personnel—results of drug tests
75-5133	Department of Revenue—excise tax information
75-5266	Department of Corrections—psychiatric evaluations of inmates
75-5665	Statewide Trauma Registry—information regarding individuals
75-5666	same subject as above
75-7310	information received from individuals by State Long-Term Care Ombudsman
76-355	University of Kansas School of Medicine teaching aids where patient is identified
76-359	information concerning patient during course of medical study that would otherwise be privileged under 60-427
76-493	Kansas State Veterinary Medical Center peer review records
76-12b11	records of patients in state institutions for the mentally retarded
76-3305	Proprietary information of the University of Kansas Hospital Authority
79-1119	Banks, savings and loans, and trust companies amount of income or any other particulars set forth in any report, statement, or return

Section	Exceptions Descriptions
79-1437f	real estate sales validation questionnaires
79-15,118	Kansas estate tax-value of any estate or particulars set forth in any report or return
79-3234	income tax reports and returns
79-3395	cigarette and tobacco tax statements regarding importation of cigarettes
79-3420	motor fuels tax information in reports, investigations, and verifications
79-3499	same subject as above
79-34,113	same subject as above
79-3614	retailer sales taxes
79-3657	same subject as above
79-4301	Interstate Tax Compact—information
79-5206	Marijuana and controlled substances taxes—facts contained in a report or return