

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2030

By Special Committee on Judiciary

1-18

1 AN ACT concerning open records; relating to exceptions to disclosure;  
2 amending K.S.A. **12-2819 and**, 2010 Supp. 9-513c, **K.S.A. 2010**  
3 **Supp. 12-5611, 12-5711, 12-5811**, 40-2,118, 40-4913 and 45-229  
4 and repealing the existing sections.  
5

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

7 Section 1. K.S.A. 2010 Supp. 9-513c is hereby amended to read as  
8 follows: 9-513c. (a) Notwithstanding any other provision of law, all  
9 information or reports obtained by the commissioner in the course of  
10 licensing or examining a person engaged in money transmission  
11 business shall be confidential and may not be disclosed by the  
12 commissioner except as provided in subsection (b) or (c).

13 (b) The commissioner shall have the authority to share supervisory  
14 information, including examinations, with other state or federal  
15 agencies having regulatory authority over the person's money  
16 transmission business and shall have the authority to conduct joint  
17 examinations with other regulatory agencies.

18 (c) The commissioner may provide for the release of information  
19 to law enforcement agencies or prosecutorial agencies or offices who  
20 shall maintain the confidentiality of the information.

21 (d) Nothing shall prohibit the commissioner from releasing to the  
22 public a list of persons licensed or their agents or from releasing  
23 aggregated financial data on such persons.

24 (e) The provisions of subsection (a) shall expire on July 1,  
25 ~~2011~~2016, unless the legislature acts to reauthorize such provisions.  
26 The provisions of subsection (a) shall be reviewed by the legislature  
27 prior to July 1, ~~2011~~2016.

28 **Sec. 2. K.S.A. 12-2819 is hereby amended to read as follows:**  
29 **12-2819. (a) Regular meetings of the board shall be held at least**  
30 **once in each calendar month, the time and place of such meetings**  
31 **to be fixed by the board. Three members of the board shall**  
32 **constitute a quorum for the transaction of business. All action of**  
33 **the board shall be by resolution and the affirmative vote of at least**

1 **three members shall be necessary for the adoption of any**  
 2 **resolution. All such resolutions before taking effect shall be**  
 3 **approved by the chairmanchairperson of the board, and if he or she**  
 4 **shall approve the chairperson approves thereof he or she the**  
 5 **chairperson shall sign the same, and such as he or she shall. If the**  
 6 **chairperson does not approve, the chairmanchairperson shall return**  
 7 **to the board with his or her the chairperson's objections thereto in**  
 8 **writing at the next regular meeting of the board occurring after the**  
 9 **passage thereof. But in case the chairman shall fail chairperson fails**  
 10 **to return any resolution with the objections thereto by the time**  
 11 **aforsaid, the chairmanchairperson shall be deemed to have**  
 12 **approved the same and it shall take effect accordingly.**

13 (b) **Upon the return of any resolution by the chairman with his**  
 14 **or her chairperson, with the chairperson's objections, the vote by**  
 15 **which the same was passed shall be reconsidered by the board, and**  
 16 **if upon such reconsideration said such resolution is passed by the**  
 17 **affirmative vote of at least four members, it shall go into effect**  
 18 **notwithstanding the veto of the chairmanchairperson. All resolutions**  
 19 **and all proceedings of the authority and all documents and records**  
 20 **in its possession shall be public records, and open to public**  
 21 **inspection, except such documents and records as shall be kept or**  
 22 **prepared by the board for use in contract negotiations, action or**  
 23 **civil proceedings to which the authority is a party.**

24 **Sec. 3. K.S.A. 2010 Supp. 12-5611 is hereby amended to read**  
 25 **as follows: 12-5611. (a) The governing and administrative body of**  
 26 **the authority shall be a board consisting of six members, to be**  
 27 **known as the riverfront board. Members of the board shall be**  
 28 **residents of Kansas. No member of the board shall be an elected**  
 29 **official.**

30 (b) **Members shall not be paid a salary, but shall be**  
 31 **reimbursed for actual expenses incurred by them in the**  
 32 **performance of their duties.**

33 (c) **Members of the board shall be appointed as follows: Three**  
 34 **shall be appointed by the mayor with the approval of the council**  
 35 **and three shall be appointed by the commission. Of the first**  
 36 **appointees, the council and mayor shall designate one member to**  
 37 **serve a term of one year, one to serve two years and one to serve a**  
 38 **three-year term. The commission shall designate the terms of its**  
 39 **appointees likewise. Should the city and county consolidate, then**

1 the members shall be appointed by the governing body of the  
2 consolidated government as set forth above.

3 (d) Upon the expiration of the term of any member, all  
4 successor members of the board shall be appointed and hold office  
5 for terms of three years from the date of appointment. The city  
6 clerk or county clerk shall certify the action of the respective  
7 governing body with respect to such appointments and file such  
8 certificates as a part of the records of the office of either the city or  
9 county clerk. Before entering upon the duties of office, each  
10 member of the board shall take and subscribe the constitutional  
11 oath of office and same shall be filed in the office of the city clerk  
12 and county clerk.

13 (e) Any member may resign from office to take effect when a  
14 successor has been appointed and has qualified. The mayor, with  
15 the approval of the council and the commission, may remove any  
16 member of the board in case of incompetency, neglect of duty or  
17 malfeasance in office. The member shall be given a copy of the  
18 charges and an opportunity to be publicly heard in person or by  
19 counsel upon not less than 10-days' notice. In case of failure to  
20 qualify within the time required, or of abandonment of office, or in  
21 case of death, conviction of a crime involving moral turpitude or  
22 removal from office, the office of a member shall become vacant. A  
23 vacancy shall be filled for the unexpired term by appointment in  
24 the same manner as the original appointment.

25 (f) As soon as possible after the appointment of the initial  
26 members, the board shall organize for the transaction of business,  
27 select a chairperson and a temporary secretary from its members  
28 and adopt bylaws, rules and regulations to govern its proceedings.  
29 The initial chairperson and successors shall be elected by the board  
30 from time to time for the term of the chairperson's office as a  
31 member of the board or for the term of three years, whichever is  
32 shorter.

33 (g) Regular meetings of the board shall be held at least once  
34 each quarter or more often if called by the chairperson. The time  
35 and place of such meetings to be fixed by the board. Four members  
36 of the board shall constitute a quorum for the transaction of  
37 business.

38 (h) All action of the board shall be by resolution and the  
39 affirmative vote of at least three members shall be necessary for the

1 adoption of any resolution. All such resolutions before taking effect  
2 shall be approved by the chairperson of the board and, if the  
3 chairperson approves thereof, the chairperson shall sign the same.  
4 If the chairperson does not approve any such resolution, the  
5 chairperson shall return it to the board with the chairperson's  
6 written objections thereto at the next regular meeting of the board  
7 occurring after the passage thereof. If the chairperson fails to  
8 return any resolution with the objections thereto by the prescribed  
9 time, the chairperson shall be deemed to have approved the same  
10 and it shall take effect accordingly. Upon the return of any  
11 resolution by the chairperson with the chairperson's objections, the  
12 vote by which such resolution was passed shall be reconsidered by  
13 the board. If upon reconsideration the resolution is passed by the  
14 affirmative vote of at least five members, it shall go into effect  
15 notwithstanding the veto of the chairperson. All resolutions and all  
16 proceedings of the authority and all documents and records in its  
17 possession shall be public records, and open to public inspection,  
18 except such documents and records as shall be kept or prepared by  
19 the board for use in *contract negotiations*, *actions* or *civil*  
20 proceedings to which the authority is a party.

21 Sec. 4. K.S.A. 2010 Supp. 12-5711 is hereby amended to read  
22 as follows: 12-5711. (a) The governing and administrative body of  
23 the authority shall be a board consisting of six members, to be  
24 known as the riverfront board. Members of the board shall be  
25 residents of Kansas. No member of the board shall be an elected  
26 official.

27 (b) Members shall not be paid a salary, but shall be  
28 reimbursed for actual expenses incurred by them in the  
29 performance of their duties.

30 (c) Members of the board shall be appointed as follows:  
31 Subject to the provisions of K.S.A. 2010 Supp. 12-16,128, and  
32 amendments thereto, three shall be appointed by the mayor with  
33 the approval of the council and three shall be appointed by the  
34 commission. Of the first appointees, the council and mayor shall  
35 designate one member to serve a term of one year, one to serve two  
36 years and one to serve a three-year term. The commission shall  
37 designate the terms of its appointees likewise. Should the city and  
38 county consolidate, then the members shall be appointed by the  
39 governing body of the consolidated government as set forth above.

1       (d) Upon the expiration of the term of any member, all  
2 successor members of the board shall be appointed and hold office  
3 for terms of three years from the date of appointment. The city  
4 clerk or county clerk shall certify the action of the respective  
5 governing body with respect to such appointments and file such  
6 certificates as a part of the records of the office of either the city or  
7 county clerk. Before entering upon the duties of office, each  
8 member of the board shall take and subscribe the constitutional  
9 oath of office and same shall be filed in the office of the city clerk  
10 and county clerk.

11       (e) Any member may resign from office to take effect when a  
12 successor has been appointed and has qualified. The mayor, with  
13 the approval of the council and the commission, may remove any  
14 member of the board in case of incompetency, neglect of duty or  
15 malfeasance in office. The member shall be given a copy of the  
16 charges and an opportunity to be publicly heard in person or by  
17 counsel upon not less than 10 days' notice. In case of failure to  
18 qualify within the time required, or of abandonment of office, or in  
19 case of death, conviction of a crime involving moral turpitude or  
20 removal from office, the office of a member shall become vacant. A  
21 vacancy shall be filled for the unexpired term by appointment in  
22 the same manner as the original appointment.

23       (f) As soon as possible after the appointment of the initial  
24 members, the board shall organize for the transaction of business,  
25 select a chairperson and a temporary secretary from its members  
26 and adopt bylaws, rules and regulations to govern its proceedings.  
27 The initial chairperson and successors shall be elected by the board  
28 from time to time for the term of the chairperson's office as a  
29 member of the board or for the term of three years, whichever is  
30 shorter.

31       (g) Regular meetings of the board shall be held at least once  
32 each calendar month, the time and place of such meetings to be  
33 fixed by the board. Four members of the board shall constitute a  
34 quorum for the transaction of business.

35       (h) All action of the board shall be by resolution and the  
36 affirmative vote of at least three members shall be necessary for the  
37 adoption of any resolution. All such resolutions before taking effect  
38 shall be approved by the chairperson of the board and, if the  
39 chairperson approves thereof, the chairperson shall sign the same.

1 If the chairperson does not approve any such resolution, the  
2 chairperson shall return it to the board with the chairperson's  
3 written objections thereto at the next regular meeting of the board  
4 occurring after the passage thereof. If the chairperson fails to  
5 return any resolution with the objections thereto by the prescribed  
6 time, the chairperson shall be deemed to have approved the same  
7 and it shall take effect accordingly. Upon the return of any  
8 resolution by the chairperson with the chairperson's objections, the  
9 vote by which such resolution was passed shall be reconsidered by  
10 the board. If upon reconsideration the resolution is passed by the  
11 affirmative vote of at least five members, it shall go into effect  
12 notwithstanding the veto of the chairperson. All resolutions and all  
13 proceedings of the authority and all documents and records in its  
14 possession shall be public records, and open to public inspection,  
15 except such documents and records as shall be kept or prepared by  
16 the board for use in *contract negotiations*, ~~actions~~ or *civil*  
17 proceedings to which the authority is a party.

18 Sec. 5. K.S.A. 2010 Supp. 12-5811 is hereby amended to read  
19 as follows: 12-5811. (a) The governing and administrative body of  
20 the authority shall be a board consisting of six members, to be  
21 known as the riverfront board. Members of the board shall be  
22 residents of Kansas. No member of the board shall be an elected  
23 official.

24 (b) Members shall not be paid a salary, but shall be  
25 reimbursed for actual expenses incurred by them in the  
26 performance of their duties.

27 (c) Members of the board shall be appointed as follows: Three  
28 shall be appointed by the mayor with the approval of the council  
29 and three shall be appointed by the commission. Of the first  
30 appointees, the council and mayor shall designate one member to  
31 serve a term of one year, one to serve two years and one to serve a  
32 three-year term. The commission shall designate the terms of its  
33 appointees likewise. Should the city and county consolidate, then  
34 the members shall be appointed by the governing body of the  
35 consolidated government as set forth above.

36 (d) Upon the expiration of the term of any member, all  
37 successor members of the board shall be appointed and hold office  
38 for terms of three years from the date of appointment. The city  
39 clerk or county clerk shall certify the action of the respective

1 governing body with respect to such appointments and file such  
2 certificates as a part of the records of the office of either the city or  
3 county clerk. Before entering upon the duties of office, each  
4 member of the board shall take and subscribe the constitutional  
5 oath of office and same shall be filed in the office of the city clerk  
6 and county clerk.

7 (e) Any member may resign from office to take effect when a  
8 successor has been appointed and has qualified. The mayor, with  
9 the approval of the council and the commission, may remove any  
10 member of the board in case of incompetency, neglect of duty or  
11 malfeasance in office. The member shall be given a copy of the  
12 charges and an opportunity to be publicly heard in person or by  
13 counsel upon not less than 10 days' notice. In case of failure to  
14 qualify within the time required, or of abandonment of office, or in  
15 case of death, conviction of a crime involving moral turpitude or  
16 removal from office, the office of a member shall become vacant. A  
17 vacancy shall be filled for the unexpired term by appointment in  
18 the same manner as the original appointment.

19 (f) As soon as possible after the appointment of the initial  
20 members, the board shall organize for the transaction of business,  
21 select a chairperson and a temporary secretary from its members  
22 and adopt bylaws, rules and regulations to govern its proceedings.  
23 The initial chairperson and successors shall be elected by the board  
24 from time to time for the term of the chairperson's office as a  
25 member of the board or for the term of three years, whichever is  
26 shorter.

27 (g) Regular meetings of the board shall be held at least once  
28 each calendar month, the time and place of such meetings to be  
29 fixed by the board. Four members of the board shall constitute a  
30 quorum for the transaction of business.

31 (h) All action of the board shall be by resolution and the  
32 affirmative vote of at least three members shall be necessary for the  
33 adoption of any resolution. All such resolutions before taking effect  
34 shall be approved by the chairperson of the board and, if the  
35 chairperson approves thereof, the chairperson shall sign the same.  
36 If the chairperson does not approve any such resolution, the  
37 chairperson shall return it to the board with the chairperson's  
38 written objections thereto at the next regular meeting of the board  
39 occurring after the passage thereof. If the chairperson fails to

1 **return any resolution with the objections thereto by the prescribed**  
2 **time, the chairperson shall be deemed to have approved the same**  
3 **and it shall take effect accordingly. Upon the return of any**  
4 **resolution by the chairperson with the chairperson's objections, the**  
5 **vote by which such resolution was passed shall be reconsidered by**  
6 **the board. If upon reconsideration the resolution is passed by the**  
7 **affirmative vote of at least five members, it shall go into effect**  
8 **notwithstanding the veto of the chairperson. All resolutions and all**  
9 **proceedings of the authority and all documents and records in its**  
10 **possession shall be public records, and open to public inspection,**  
11 **except such documents and records as shall be kept or prepared by**  
12 **the board for use in contract negotiations, actions or civil**  
13 **proceedings to which the authority is a party.**

14 ~~Sec. 6.~~ K.S.A. 2010 Supp. 40-2,118 is hereby amended to read  
15 as follows: 40-2,118. (a) For purposes of this act a "fraudulent  
16 insurance act" means an act committed by any person who, knowingly  
17 and with intent to defraud, presents, causes to be presented or prepares  
18 with knowledge or belief that it will be presented to or by an insurer,  
19 purported insurer, broker or any agent thereof, any written statement as  
20 part of, or in support of, an application for the issuance of, or the rating  
21 of an insurance policy for personal or commercial insurance, or a claim  
22 for payment or other benefit pursuant to an insurance policy for  
23 commercial or personal insurance which such person knows to contain  
24 materially false information concerning any fact material thereto; or  
25 conceals, for the purpose of misleading, information concerning any  
26 fact material thereto.

27 (b) An insurer that has knowledge or a good faith belief that a  
28 fraudulent insurance act is being or has been committed shall provide to  
29 the commissioner, on a form prescribed by the commissioner, any and  
30 all information and such additional information relating to such  
31 fraudulent insurance act as the commissioner may require.

32 (c) Any other person that has knowledge or a good faith belief that  
33 a fraudulent insurance act is being or has been committed may provide  
34 to the commissioner, on a form prescribed by the commissioner, any  
35 and all information and such additional information relating to such  
36 fraudulent insurance act as the commissioner may request.

37 (d) (1) Each insurer shall have antifraud initiatives reasonably  
38 calculated to detect fraudulent insurance acts. Antifraud initiatives may  
39 include: fraud investigators, who may be insurer employees or



1 independent contractors; or an antifraud plan submitted to the  
2 commissioner no later than July 1, 2007. Each insurer that submits an  
3 antifraud plan shall notify the commissioner of any material change in  
4 the information contained in the antifraud plan within 30 days after  
5 such change occurs. Such insurer shall submit to the commissioner in  
6 writing the amended antifraud plan.

7 The requirement for submitting any antifraud plan, or any  
8 amendment thereof, to the commissioner shall expire on the date  
9 specified in paragraph (2) of this subsection unless the legislature  
10 reviews and reenacts the provisions of paragraph (2) pursuant to K.S.A.  
11 45-229, and amendments thereto.

12 (2) Any antifraud plan, or any amendment thereof, submitted to  
13 the commissioner for informational purposes only shall be confidential  
14 and not be a public record and shall not be subject to discovery or  
15 subpoena in a civil action unless following an in camera review, the  
16 court determines that the antifraud plan is relevant and otherwise  
17 admissible under the rules of evidence set forth in article 4, of chapter  
18 60 of the Kansas Statutes Annotated, and amendments thereto. The  
19 provisions of this paragraph shall expire on July 1, 2016, unless  
20 the legislature reviews and reenacts this provision pursuant to K.S.A.  
21 45-229, and amendments thereto, prior to July 1, 2016.

22 (e) Except as otherwise specifically provided in K.S.A. 21-3718  
23 ~~and amendments thereto~~ and ~~K.S.A. 44-5,125, and amendments~~  
24 thereto, a fraudulent insurance act shall constitute a severity level 6,  
25 nonperson felony if the amount involved is \$25,000 or more; a severity  
26 level 7, nonperson felony if the amount is at least \$5,000 but less than  
27 \$25,000; a severity level 8, nonperson felony if the amount is at least  
28 \$1,000 but less than \$5,000; and a class C nonperson misdemeanor if  
29 the amount is less than \$1,000. Any combination of fraudulent acts as  
30 defined in subsection (a) which occur in a period of six consecutive  
31 months which involves \$25,000 or more shall have a presumptive  
32 sentence of imprisonment regardless of its location on the sentencing  
33 grid block.

34 (f) In addition to any other penalty, a person who violates this  
35 statute shall be ordered to make restitution to the insurer or any other  
36 person or entity for any financial loss sustained as a result of such  
37 violation. An insurer shall not be required to provide coverage or pay  
38 any claim involving a fraudulent insurance act.

39 (g) This act shall apply to all insurance applications, ratings,

1 claims and other benefits made pursuant to any insurance policy.  
2 ~~Sec. 7.~~ K.S.A. 2010 Supp. 40-4913 is hereby amended to read  
3 as follows: 40-4913. (a) (1) Each insurer shall notify the commissioner  
4 whenever such insurer terminates a business relationship with an  
5 insurance agent if:  
6 (A) The termination is for cause;  
7 (B) such insurance agent has committed any act which would be in  
8 violation of any provision of subsection (a) of K.S.A. 2010 Supp. 40-  
9 4909, and amendments thereto; or  
10 (C) such insurer has knowledge that such insurance agent is  
11 engaged in any activity which would be in violation of any provision of  
12 subsection (a) of K.S.A. 2010 Supp. 40-4909, and amendments thereto.  
13 (2) The notification shall:  
14 (A) Be made in a format prescribed by the commissioner;  
15 (B) be submitted to the commissioner within 30 days of the date of  
16 the termination of the business relationship; and  
17 (C) contain:  
18 (i) The name of the insurance agent; and  
19 (ii) the reason for the termination of the business relationship with  
20 such insurer.  
21 (3) Upon receipt of a written request from the commissioner, each  
22 insurer shall provide to the commissioner any additional data,  
23 documents, records or other information concerning the termination of  
24 the insurer's business relationship with such agent.  
25 (4) Whenever an insurer discovers or obtains additional  
26 information which would have been reportable under paragraph (1) of  
27 this subsection, the insurer shall forward such additional information to  
28 the commissioner within 30 days of its discovery.  
29 (b) (1) Each insurer shall notify the commissioner whenever such  
30 insurer terminates a business relationship with an insurance agent for  
31 any reason not listed in subsection (a).  
32 (2) The notification shall:  
33 (A) Be made in a format prescribed by the commissioner;  
34 (B) be submitted to the commissioner within 30 days of the date of  
35 the termination of the business relationship.  
36 (3) Upon receipt of a written request from the commissioner, each  
37 insurer shall provide to the commissioner any additional data,  
38 documents, records or other information concerning the termination of  
39 the insurer's business relationship with such agent.

1 (4) Whenever an insurer discovers or obtains additional  
2 information which would have been reportable under paragraph (1) of  
3 this subsection, the insurer shall forward such additional information to  
4 the commissioner within 30 days of its discovery.

5 (c) For the purposes of this section, the term "business  
6 relationship" shall include any appointment, employment, contract or  
7 other relationship under which such insurance agent represents the  
8 insurer.

9 (d) (1) No insurance entity, or any agent or employee thereof  
10 acting on behalf of such insurance entity, regulatory official, law  
11 enforcement official or the insurance regulatory official of another state  
12 who provides information to the commissioner in good faith pursuant  
13 to this section shall be subject to a civil action for damages as a result  
14 of reporting such information to the commissioner. For the purposes of  
15 this section, insurance entity shall mean any insurer, insurance agent or  
16 organization to which the commissioner belongs by virtue of the  
17 commissioner's office.

18 (2) Any document, material or other information in the control or  
19 possession of the department that is furnished by an insurance entity or  
20 an employee or agent thereof acting on behalf of such insurance entity,  
21 or obtained by the insurance commissioner in an investigation pursuant  
22 to this section shall be kept confidential by the commissioner. Such  
23 information shall not be made public or subject to subpoena, other than  
24 by the commissioner and then only for the purpose of enforcement  
25 actions taken by the commissioner pursuant to this act or any other  
26 provision of the insurance laws of this state.

27 (3) Neither the commissioner nor any person who received  
28 documents, materials or other information while acting under the  
29 authority of the commissioner shall be required to testify in any private  
30 civil action concerning any confidential documents, materials or  
31 information subject to paragraph (2).

32 (4) The commissioner may share or exchange any documents,  
33 materials or other information, including confidential and privileged  
34 documents referred to in paragraph (2) of subsection (d), received in  
35 the performance of the commissioner's duties under this act, with:

- 36 (A) The NAIC;  
37 (B) other state, federal or international regulatory agencies; and  
38 (C) other state, federal or international law enforcement  
39 authorities.

1 (5) (A) The sharing or exchanging of documents, materials or  
2 other information under this subsection shall be conditioned upon the  
3 recipient's authority and agreement to maintain the confidential and  
4 privileged status, if any, of the documents, materials or other  
5 information being shared or exchanged.

6 (B) No waiver of an existing privilege or claim of confidentiality  
7 in the documents, materials or information shall occur as a result of  
8 disclosure to the commissioner under this section or as a result of  
9 sharing as authorized by paragraph (1) of subsection (d).

10 (6) The commissioner of insurance is hereby authorized to adopt  
11 such rules and regulations establishing protocols governing the  
12 exchange of information as may be necessary to implement and carry  
13 out the provisions of this act.

14 (e) The provisions of paragraph (2) of subsection (d) shall expire  
15 on July 1, ~~2006~~2016, unless the legislature acts to reenact such  
16 provision. The provisions of paragraph (2) of subsection (d) shall be  
17 reviewed by the legislature prior to July 1, ~~2006~~2016.

18 (f) For the purposes of this section, insurance entity shall mean  
19 any insurer, insurance agent or organization to which the commissioner  
20 belongs by virtue of the commissioner's office.

21 (g) Any insurance entity, including any authorized representative  
22 of such insurance entity, that fails to report to the commissioner as  
23 required under the provisions of this section or that is found by a court  
24 of competent jurisdiction to have failed to report in good faith, after  
25 notice and hearing, may have its license or certificate of authority  
26 suspended or revoked and may be fined in accordance with K.S.A.  
27 2010 Supp. 40-4909 and amendments thereto.

28 ~~Sec. 4-8.~~ K.S.A. 2010 Supp. 45-229 is hereby amended to read as  
29 follows: 45-229. (a) It is the intent of the legislature that exceptions to  
30 disclosure under the open records act shall be created or maintained  
31 only if:

32 (1) The public record is of a sensitive or personal nature  
33 concerning individuals;

34 (2) the public record is necessary for the effective and efficient  
35 administration of a governmental program; or

36 (3) the public record affects confidential information.

37 The maintenance or creation of an exception to disclosure must be  
38 compelled as measured by these criteria. Further, the legislature finds  
39 that the public has a right to have access to public records unless the

1 criteria in this section for restricting such access to a public record are  
2 met and the criteria are considered during legislative review in  
3 connection with the particular exception to disclosure to be significant  
4 enough to override the strong public policy of open government. To  
5 strengthen the policy of open government, the legislature shall consider  
6 the criteria in this section before enacting an exception to disclosure.

7 (b) Subject to the provisions of subsection (h), all exceptions to  
8 disclosure in existence on July 1, 2000, shall expire on July 1, 2005,  
9 and any new exception to disclosure or substantial amendment of an  
10 existing exception shall expire on July 1 of the fifth year after  
11 enactment of the new exception or substantial amendment, unless the  
12 legislature acts to continue the exception. A law that enacts a new  
13 exception or substantially amends an existing exception shall state that  
14 the exception expires at the end of five years and that the exception  
15 shall be reviewed by the legislature before the scheduled date.

16 (c) For purposes of this section, an exception is substantially  
17 amended if the amendment expands the scope of the exception to  
18 include more records or information. An exception is not substantially  
19 amended if the amendment narrows the scope of the exception.

20 (d) This section is not intended to repeal an exception that has  
21 been amended following legislative review before the scheduled repeal  
22 of the exception if the exception is not substantially amended as a result  
23 of the review.

24 (e) In the year before the expiration of an exception, the revisor of  
25 statutes shall certify to the president of the senate and the speaker of the  
26 house of representatives, by July 15, the language and statutory citation  
27 of each exception which will expire in the following year which meets  
28 the criteria of an exception as defined in this section. Any exception  
29 that is not identified and certified to the president of the senate and the  
30 speaker of the house of representatives is not subject to legislative  
31 review and shall not expire. If the revisor of statutes fails to certify an  
32 exception that the revisor subsequently determines should have been  
33 certified, the revisor shall include the exception in the following year's  
34 certification after that determination.

35 (f) "Exception" means any provision of law which creates an  
36 exception to disclosure or limits disclosure under the open records act  
37 pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to any  
38 other provision of law.

39 (g) A provision of law which creates or amends an exception to

- 1 disclosure under the open records law shall not be subject to review and  
2 expiration under this act if such provision:
- 3 (1) Is required by federal law;
  - 4 (2) applies solely to the legislature or to the state court system.
- 5 (h) (1) The legislature shall review the exception before its  
6 scheduled expiration and consider as part of the review process the  
7 following:
- 8 (A) What specific records are affected by the exception;
  - 9 (B) whom does the exception uniquely affect, as opposed to the  
10 general public;
  - 11 (C) what is the identifiable public purpose or goal of the  
12 exception;
  - 13 (D) whether the information contained in the records may be  
14 obtained readily by alternative means and how it may be obtained;
- 15 (2) an exception may be created or maintained only if it serves an  
16 identifiable public purpose and may be no broader than is necessary to  
17 meet the public purpose it serves. An identifiable public purpose is  
18 served if the legislature finds that the purpose is sufficiently compelling  
19 to override the strong public policy of open government and cannot be  
20 accomplished without the exception and if the exception:
- 21 (A) Allows the effective and efficient administration of a  
22 governmental program, which administration would be significantly  
23 impaired without the exception;
  - 24 (B) protects information of a sensitive personal nature concerning  
25 individuals, the release of which information would be defamatory to  
26 such individuals or cause unwarranted damage to the good name or  
27 reputation of such individuals or would jeopardize the safety of such  
28 individuals. Only information that would identify the individuals may  
29 be excepted under this paragraph; or
  - 30 (C) protects information of a confidential nature concerning  
31 entities, including, but not limited to, a formula, pattern, device,  
32 combination of devices, or compilation of information which is used to  
33 protect or further a business advantage over those who do not know or  
34 use it, the disclosure of which information would injure the affected  
35 entity in the marketplace.
- 36 (3) Records made before the date of the expiration of an exception  
37 shall be subject to disclosure as otherwise provided by law. In deciding  
38 whether the records shall be made public, the legislature shall consider  
39 whether the damage or loss to persons or entities uniquely affected by

1 the exception of the type specified in paragraph (2)(B) or (2)(C) of this  
2 subsection (h) would occur if the records were made public.

3 (i) Exceptions contained in the following statutes as continued in  
4 existence in section 2 of chapter 126 of the 2005 Session Laws of  
5 Kansas and exceptions contained in the following statutes as certified  
6 by the revisor of statutes to the president of the senate and the speaker  
7 of the house of representatives pursuant to subsection (e) of this section  
8 during 2009 are hereby continued in existence until July 1, 2015, at  
9 which time such exceptions shall expire: 1-401, 2-1202, 5-512, 9-1137,  
10 9-1712, 9-2217, 10-630, 11-306, 12-189, 12-1,108, 12-1694, 12-1698,  
11 12-2819, 12-4516, 16-715, 16a-2-304, 17-1312e, 17-2036, 17-2227,  
12 17-5832, 17-7511, 17-7514, 17-76,139, 19-4321, 21-2511, 22-3711,  
13 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-  
14 4165, 31-405, 34-251, 38-1664, 38-2212, 39-709b, 39-719e, 39-934,  
15 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-  
16 2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308,  
17 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 40-5301, 44-510j, 44-  
18 550b, 44-594, 44-635, 44-714, 44-817, 44-1005, 44-1019, subsections  
19 (a)(1) through (43), (a)(45) and (a)(46) of 45-221, 46-256, 46-259, 46-  
20 2201, 47-839, 47-844, 47-849, 47-1709, 48-1614, 49-406, 49-427, 55-  
21 1,102, 58-4114, 59-2135, 59-2802, 59-2979, 59-29b79, 60-3333, 60-  
22 3336, 60-3351, 65-102b, 65-118, 65-119, 65-153f, 65-170g, 65-177,  
23 65-1,106, 65-1,113, 65-1,116, 65-1,157a, 65-1,163, 65-1,165, 65-1,168,  
24 65-1,169, 65-1,171, 65-1,172, 65-436, 65-445, 65-507, 65-525, 65-531,  
25 65-657, 65-1135, 65-1467, 65-1627, 65-1831, 65-2422d, 65-2438, 65-  
26 2836, 65-2839a, 65-2898a, 65-3015, 65-3447, 65-34,108, 65-34,126,  
27 65-4019, 65-4922, 65-4925, 65-5602, 65-5603, 65-6002, 65-6003, 65-  
28 6004, 65-6010, 65-67a05, 65-6803, 65-6804, 66-101c, 66-117, 66-151,  
29 66-1,190, 66-1,203, 66-1220a, 66-2010, 72-972a, 72-996, 72-4311, 72-  
30 4452, 72-5214, 72-53,106, 72-5427, 72-8903, 73-1228, 74-2424, 74-  
31 2433f, 74-4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-7338, 74-  
32 8104, 74-8307, 74-8705, 74-8804, 74-9805, 74-99d05, 75-104, 75-712,  
33 75-7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-5133, 75-5266, 75-  
34 53,105, 75-5665, 75-5666, 75-7310, 76-355, 76-359, 76-493, 76-12b11,  
35 76-3305, 79-1119, 79-1437f, 79-3234, 79-3395, 79-3420, 79-3499, 79-  
36 34,113, 79-3614, 79-3657, 79-4301 and 79-5206.

37 (j) Exceptions contained in the following statutes *as continued in*  
38 *existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas*  
39 *and exceptions contained in the following statutes* as certified by the

1 revisor of statutes to the president of the senate and the speaker of the  
2 house of representatives pursuant to subsection (e) of this section ~~on~~  
3 ~~June 1, 2005~~ *during 2010*, are hereby continued in existence until July  
4 1, ~~2011~~ *2016*, at which time such exceptions shall expire: 1-501, 9-  
5 1303, 12-4516a, ~~38-1692~~, *12-5358, 12-5611, 22-4906, 22-4909, 38-*  
6 *2310, 38-2311, 38-2326, 39-970, 40-4913, 44-1132, 60-3333, 65-525,*  
7 *65-5117, 65-6016, 65-6017 and, 65-6154, 71-218, 74-7508, 75-457,*  
8 *75-712c, 75-723 and 75-7c06.*

9 (k) Exceptions contained in the following statutes as certified by  
10 the revisor of statutes to the president of the senate and the speaker of  
11 the house of representatives pursuant to subsection (e) during 2006,  
12 2007 and 2008 are hereby continued in existence until July 1, 2014, at  
13 which time such exceptions shall expire: 8-240, 8-247, 8-255c, 8-1324,  
14 8-1325, 12-17,150, 12-2001, 12-5332, 17-12a607, 38-1008, 38-2209,  
15 40-5006, 40-5108, 41-2905, 41-2906, 44-706, 44-1518, subsections (a)  
16 (44), (45), (46) and (47) of 45-221, 56-1a610, 56a-1204, 65-1,243, 65-  
17 3239, 66-1233, 74-50,184, 74-8134, 74-99b06 and 82a-2210.

18 ~~Sec.-5: 9. K.S.A. 12-2819 and~~ K.S.A. 2010 Supp. 9-513c, **12-**  
19 **5611, 12-5711, 12-5811,** 40-2,118, 40-4913 and 45-229 are hereby  
20 repealed.

21 ~~Sec.-6: 10.~~ This act shall take effect and be in force from and after  
22 its publication in the statute book.