

## HOUSE BILL No. 2119

By Committee on Governmental Organization and Elections

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9 AN ACT concerning the open records act; relating to definitions; amend-  
10 ing K.S.A. 45-217 and repealing the existing section.

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

13 Section 1. K.S.A. 45-217 is hereby amended to read as follows: 45-  
14 217. As used in the open records act, unless the context otherwise  
15 requires:

16 (a) "Business day" means any day other than a Saturday, Sunday or  
17 day designated as a holiday by the congress of the United States, by the  
18 legislature or governor of this state or by the respective political subdi-  
19 vision of this state.

20 (b) "Criminal investigation records" means records of an investiga-  
21 tory agency or criminal justice agency as defined by K.S.A. 22-4701 and  
22 amendments thereto, compiled in the process of preventing, detecting or  
23 investigating violations of criminal law, but does not include police blotter  
24 entries, court records, rosters of inmates of jails or other correctional or  
25 detention facilities or records pertaining to violations of any traffic law  
26 other than vehicular homicide as defined by K.S.A. 21-3405 and amend-  
27 ments thereto.

28 (c) "Custodian" means the official custodian or any person designated  
29 by the official custodian to carry out the duties of custodian of this act.

30 (d) "Official custodian" means any officer or employee of a public  
31 agency who is responsible for the maintenance of public records, regard-  
32 less of whether such records are in the officer's or employee's actual  
33 personal custody and control.

34 (e) (1) "Public agency" means the state or any political or taxing sub-  
35 division of the state or any office, officer, agency or instrumentality  
36 thereof, or any other entity receiving or expending and supported in  
37 whole or in part by the public funds appropriated by the state or by public  
38 funds of any political or taxing subdivision of the state.

39 (2) "Public agency" shall not include:

40 (A) Any entity solely by reason of payment from public funds for  
41 property, goods or services of such entity *if the total amount of the public*  
42 *funds received annually is less than 50% of such entity's gross annual*  
43 *revenue or if such entity files a copy of an annual detailed audit or ac-*

1 *counting of such funds as provided by section 2, and amendments thereto;*  
2 (B) any municipal judge, judge of the district court, judge of the court of  
3 appeals or justice of the supreme court; or (C) any officer or employee  
4 of the state or political or taxing subdivision of the state if the state or  
5 political or taxing subdivision does not provide the officer or employee  
6 with an office which is open to the public at least 35 hours a week.

7 (f) (1) "Public record" means any recorded information, regardless  
8 of form or characteristics, which is made, maintained or kept by or is in  
9 the possession of any public agency including, but not limited to, an agree-  
10 ment in settlement of litigation involving the Kansas public employees  
11 retirement system and the investment of moneys of the fund.

12 (2) "Public record" shall not include records which are owned by a  
13 private person or entity and are not related to functions, activities, pro-  
14 grams or operations funded by public funds or records which are made,  
15 maintained or kept by an individual who is a member of the legislature  
16 or of the governing body of any political or taxing subdivision of the state.

17 (3) "Public record" shall not include records of employers related to  
18 the employer's individually identifiable contributions made on behalf of  
19 employees for workers compensation, social security, unemployment in-  
20 surance or retirement. The provisions of this subsection shall not apply  
21 to records of employers of lump-sum payments for contributions as de-  
22 scribed in this subsection paid for any group, division or section of an  
23 agency.

24 (g) "Undercover agent" means an employee of a public agency re-  
25 sponsible for criminal law enforcement who is engaged in the detection  
26 or investigation of violations of criminal law in a capacity where such  
27 employee's identity or employment by the public agency is secret.

28 (h) "Public funds" means any moneys received from the United States,  
29 the state of Kansas or any political or taxing subdivision thereof or any  
30 officer, board, commission or agency thereof, the state or any political  
31 subdivision thereof.

32 New Sec. 2. Any entity which receives public funds may file in the  
33 office of the attorney general a copy of the annual detailed audit or ac-  
34 counting of public funds received by such entity.

35 Sec. 3. K.S.A. 45-217 is hereby repealed.

36 Sec. 4. This act shall take effect and be in force from and after its  
37 publication in the statute book.