

Approved: 2-24-93 Al Ramirez
Date

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Chairperson Al Ramirez at 1:30 p.m. on February 16, 1993 in Room 531-N of the Capitol.

All members were present except:

Committee staff present: Julian Efird, Legislative Research Department
Fred Carman, Revisor of Statutes
Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee: Senator Frahm, Sponsor, HB 209
Barry Hokanson, Johnson Co. Planning Director
Gary Reser, Legislative Liaison, Governor's Office
Rogers L. Brazier, Jr., Staff Attorney, Department of Administration, Legal Section
Ron Thornburgh, Assistant Secretary of State

Phil Andruss, Director of Data Processing, Shawnee County
Chris McKenzie, Executive Director, The League of Kansas Municipalities
William F. Bradley, Jr., Chairman of Information Network of Kansas
Ann Smith, Director of Legislation, Ks Assn of Counties

Chairman Ramirez called the meeting to order and called for action on the minutes of the February 11 meeting. Senator Papay moved to approve the February 11 minutes with a second by Senator Gooch. The motion carried.

SB 209 - appointments to boards and commissions

Senator Frahm, bill sponsor, gave a short history of the bill. Two years ago a joint committee composed of the Governmental Organization and Confirmation interim committees met. The bill that was very similar to the one today came out of those meetings and passed the Senate 40-0 last year. It didn't make it through the process in the House, not because there was a problem with the bill, but because the legislature ran out of time. As the confirmation process is gone through, it is very difficult to keep track of who are on boards, term limits, party affiliation, and various segments of information that need to be collected. Input has been given by the governor's office, revisors, legislative research and the Confirmations Oversight Committee. Senator Frahm commented on the balloon copy of **SB 209** and added that as testimony was heard from others, additional suggestions as to what else the bill should contain would be given. (Attachment 1) Senator Frahm stated that to her recollection there are about 500 appointments that the governor makes and the Secretary of State's office came up with about 2100 appointments.

Senator Frahm finished the overview of the bill and stated she would be happy to return when the committee was ready to work the bill.

Gary Reser, Legislative Liaison, Governor's office, stated that because of the number of appointments made by the governor to all the statewide commissions, councils and boards, she does have an interest in the bill. Mr. Reser stated they had some suggested changes for the committee's consideration. He mentioned that Avery Carter, who works with the governor's appointments, was present, as well as Rogers Brazier, Department of Administration legal staff. They are all generally supportive of the concept of the bill and think it is a move in the right direction.

Mr. Reser deferred to Mr. Brazier, who distributed copies of his testimony and began his presentation. Mr. Brazier reiterated the fact that Governor Finney is supportive of the concept addressed in **SB 209**. The suggested changes listed in his attachment (Attachment 2) would not affect the 'guts' of the bill and would actually streamline the bill so that the information requested would actually eliminate conflicting reporting. Mr. Brazier went briefly through the proposed changes attached to his testimony.

Ron Thornburgh, Assistant Secretary of State, appeared next on the bill. (Attachment 3) He presented two proposed changes to the bill; the deletion of Section 1(b) dealing with Notaries Public and deletion of the language in Section 1 requiring the Secretary of State to co-sign every appointment or commission in the state.

Richard Ryan, Director, Legislative Research Department made several comments regarding the bill. Mr.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION, Room 531-N Statehouse, at 1:30 p.m. on February 16, 1993.

Ryan said the Department was neither for nor against the bill, but was a little surprised to see the Research Department getting involved in administrative types of work. He suggested getting rid of the bi annual reporting requirement on page 3 of the bill and change the effective date to July 1, 1994. Mr. Ryan stated that this legislation needs to be thought through carefully. He believes more staff will be needed and this is a real concern. It will entail expense, software and location. This is not so urgent now that it couldn't be delayed until next year. Interim study with the oversight committee would be a good suggestion. He stated that from a staff point of view they would feel more comfortable if the oversight committee were somehow woven into the bill so that the staff could get instructions and advice from this group and report to them. With interim study recommendations could be made much more intelligently and they would have a better idea of personnel, software, and the amount of money involved could be given budgetary consideration.

Senator Frahm stated that these are some of the complexities needed to be dealt with in the bill.

After a few other comments, the Chairman stated the hearing was closed on **SB 209**.

The committee turned its attention to **SB 268** - enacting the state and local government computer technology and data management act.

The Chairman asked if the conferees would limit their testimony to about 3 minutes each.

Barry Hokanson, Director of Planning, Johnson County, Kansas, was first to address the bill. The interest of Johnson County and some of the other counties in the state is in preserving and protecting the taxpayers' investment in major new computerized data bases. In their particular case the interest is in a mapping system. It involves new technology, is very expensive and is a multi-million dollar investment for the taxpayers of Johnson County. Specifically, the counties and cities need clear statutes on privacy matters, cost recovery, and citizen access with regard to the release and use of computerized information. By placing the distinction between requests for public records versus requests for data products, services or whole databases, there will be no interference with the public's 'right to know'. Mr. Hokanson's testimony showed support for joint ventures, an emphasis on local governments and a concern to have custodianship preserved. (Attachment 4) Mr. Hokanson also distributed a Planimetric Map (Attachment 5) and a Orthophotograph (Attachment 6)

Brad Bradley, Chairman, Information Network of Kansas, spoke next on the bill. Copies of his testimony were distributed to the committee. (Attachment 7) Many people are not familiar with the Information Network of Kansas, but it is a state instrumentality with the board appointed by the governor. Part of Mr. Bradley's testimony entailed a history of INK. INK has been in existence for 13 months and has many services accessible to all users. The concern today is that legislation has been drafted without consideration or knowledge of INK. Mr. Bradley urged that if this legislation is passed, it be modified so as to have no adverse impact on INK. Mr. Bradley's recommended changes were in the document.

Ann Smith, Kansas Association of Counties, spoke in support of **SB 268**. She read from her testimony. (Attachment 8) 'Computerized information is an asset held in public trust, developed at taxpayer expense to promote better governance and service delivery. Recovering fair market value for this governmental asset, as well as duplication costs and costs associated with developing and operating the system if of major concern. The Kansas Association of Counties supports legislation to clarify state statutes on issues of privacy cost recovery and access with regard to the release and use of computerized information that has been compiled by a county.'

Phil Andruss, Director of Data Processing, Shawnee County, stated that Shawnee County does support this bill for the same reasons that Barry Hokanson stated.

Chris McKenzie, Executive Director, The League of Kansas Municipalities. urged favorable consideration of the bill stating that such legislation should ensure open access to all such government records and insure that cities do not become "free" service bureaus which support commercial reuse of public information. (Attachment 9)

Mr. Hokanson spoke again. He suggested that the word 'may' be changed to 'shall' be granted to those special classes of users in new Section 4. Mr. Hokanson responded that the verbiage one of the committee members was asking about was 'public domain'. He also stated that they are not writing software. The application software comes from the private sector. They pay about \$20,000 a year in license fees. After a few more comments, the Chairman thanked all conferees and adjourned the meeting.

The next meeting is scheduled for February 17, 1993.

GUEST LIST

COMMITTEE: Senate Gov. Organization

DATE: Feb. 16, 1993

NAME	ADDRESS	COMPANY/ORGANIZATION
GERRY RAY	Overland Park	Johnson County
Lee Gerhard	Lawrence	Ks Geol. Survey
Lawrence Brady	Lawrence	Ks Geol Survey
Tom McClain	Lawrence	Ks Geol Survey
Phil Andrews	Shawnee Co.	
Dave Hernandez	Topeka Ks	Electronic Data Sys.
Tom Day	Topeka	KCC
Jon McKenzie	Topeka	KCC
Richard Miller	Topeka	KDHE
Jeff Fraser	Topeka	INK
Patrick Shurley	Topeka	McGraw-Hill
William F. Bradley Jr.	Wichita	INK
Cathy Holdeman	Wichita	City of Wichita
Bill Buxton	Topeka	SRS
John Watney	Topeka	DPS
Stephen O'Hurst	Topeka	Kansas State Office
David L. Finnes	Topeka	Ks Press Assoc.
Paul Shelby	"	OJA
Anne Smith	Topeka	Ks Assoc of Counties
Harry Horinger	Topeka	Liaison of Ks Municipalities
Chris McKenzie	Topeka	Liaison of Ks Municipalities

SENATE BILL No. 209

By Senators Frahm, Karr and Vidricksen

2-5

AN ACT concerning the appointment of persons to boards and commissions; requiring the provision of certain information thereon; concerning the duties of certain state officers; amending K.S.A. 75-403 and repealing the existing section.

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

Section 1. K.S.A. 75-403 is hereby amended to read as follows:
75-403. ~~(a)~~ The secretary of state shall countersign all proclamations and commissions issued by the governor, and shall keep a registry of all commissions issued by the governor, specifying the person to whom issued, the office conferred, with the date and tenure of the commission. ~~commissions executed or appointments made by an appointing authority, as defined by section 2.~~ The appointing authority shall transmit all commissions and appointments to the secretary of state within 30 days of executing such commission or making such appointment. Every such commission must or appointment shall be transmitted by the secretary of state to the person so commissioned or appointed, together with such blank oath and other papers as are required by law to be filed by such appointee in the office of secretary of state. *Provided, That where.* If an official bond is required of any such appointee other than a state officer or employee, the secretary shall first notify him or her of his or her the appointee of the appointment, and shall forward him or her to the appointee a blank bond to be filed, and such commission or appointment shall not be transmitted until such bond is returned and found sufficient; ~~and~~. The appointment and commission shall not in any such case be deemed or held to confer any office or right until the required bond is given and filed as provided by law. The secretary of state shall notify the appointing authority upon a determination that a returned bond is sufficient or upon destruction of an applicant's application papers.

~~(b) After transmitting notification of appointment and forwarding a blank bond to an applicant for appointment as a notary public, if the completed bond is not returned within ninety (90) 90 days from the date of such transmittal, the secretary of state shall destroy said the applicant's application papers.~~

delete

*Y. D. Comm.
Attachment 1
2/16/93*

1-2

New Sec. 2. (a) Within 30 days of issuing a commission or making an appointment, the appointing authority shall provide to the director of the Kansas legislative research department written notification of:

(1) The name, address, birthdate and political affiliation of the appointee;

(2) the congressional district in which the appointee resides and other information necessary to determine residency requirements of the appointee;

(3) the office conferred;

(4) the statutory or other authority pursuant to which the appointment is made;

(5) the statutory qualifications or other requirements of the appointee;

(6) whether an investigation by the Kansas bureau of investigation was conducted;

(7) the date of appointment;

(8) the date of expiration of term, if any;

(9) the name of the person such appointee is succeeding; and

(10) information concerning the composition of the existing board, commission, council, committee, authority or other governmental body. Such information shall include:

(A) The total number of members of the body;

(B) the political affiliation of such members;

(C) the expiration of terms of such members;

(D) the statutory qualifications or other requirements of the members; and

(E) the congressional district in which the members reside and other information necessary to determine residency requirements of the members.

(b) In the case of a board, commission, council, committee, authority or other governmental body, the appointing authority shall notify the the director of the Kansas legislative research department which member is the chairperson thereof and the name and address of the executive director, if any. A notice of any change concerning the chairperson or the executive director shall be provided by such board, commission, council, committee, authority or other governmental body to the director within 30 days of such change. If such change resulted from an appointment made by the appointing authority, the appointing authority shall notify the director of such change within 30 days.

(c) Within 30 days of the expiration or abolishment of any office, board, commission, council, committee, authority or other govern-

mental body, the appointing authority shall provide written notification thereof to the director of the Kansas legislative research department.

(d) Within 30 days of executing a commission or making an appointment, the appointing authority shall provide written notification thereof to the secretary of the senate if such commission or appointment is subject to confirmation by the senate pursuant to K.S.A. 75-4315b, and amendments thereto.

(e) When used in this section, "appointing authority" means any state officer having the authority to:

(1) Issue a commission;

(2) appoint a person to an office, board, commission, council, committee, authority or other governmental body; or

(3) create such office, board, commission, council, authority or other governmental body.

(f) The provisions of this section shall apply to any appointment made pursuant to a statute requiring such appointment. If the appointment is not required by statute, the provisions of this section shall apply only if such appointment is for a term of at least 180 days.

New Sec. 3. (a) The director of the Kansas legislative research department shall maintain a database, in a form deemed most efficient by the director, of all commissions and appointments reported to the director pursuant to section 2. Such database shall include all information required to be reported to the director pursuant section 2.

(b) ~~Every two years,~~ the director of the Kansas legislative research department shall ~~publish a registry of the current or up-to-date~~ information collected pursuant to subsection (a).

(c) The director of the Kansas legislative research department shall notify an appointing authority at least 30 days prior to the expiration of the term of an appointee who was appointed by such appointing authority.

New Sec. 4. The secretary of state shall countersign all proclamations issued by the governor.

Sec. 5. K.S.A. 75-403 is hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

On or before December 31 of each year

submit to the president of the Kansas senate
a report containing

July 1, 1994, and

STATE OF KANSAS



Joan Finney, Governor

DEPARTMENT OF ADMINISTRATION

LEGAL SECTION

107 Landon State Office Building

900 Jackson

Topeka, Kansas 66612-1214

(913) 296-6000

FAX #(913) 296-0043

TESTIMONY OF ROGERS L. BRAZIER, JR., STAFF ATTORNEY
DEPARTMENT OF ADMINISTRATION, LEGAL SECTION

SB209 - Relating to information concerning appointments of persons to boards and commissions.

Senate Governmental Organization Committee.

February 16, 1993, 1:30 p.m.

Governor Finney is supportive of the concept addressed in SB209 to require the reporting to, and compilation by, a central agency of information relating to appointments to boards and commissions. At the present time, unfortunately, the information which SB209 would require the reporting of is not centrally located as to some, if not many, boards and commissions.

Governor Finney would propose some minor changes to SB209 for purposes of consistency (§2(a)), clarification (§2(f)), to eliminate duplicative efforts (§2(a)(5) and (10)), and to eliminate the necessity of reporting information not otherwise needed to determine the qualification of a particular appointee (§2(a)(1) and (2)).

With these proposed amendments I appreciate your favorable consideration of SB209.

RLB:tw
6371L

*G.O. Comm.
Attachment 2
2/16/93*

SENATE BILL No. 209

By Senators Frahm, Karr and Vidricksen

2-5

8 AN ACT concerning the appointment of persons to boards and com-
9 missions; requiring the provision of certain information thereon;
10 concerning the duties of certain state officers; amending K.S.A.
11 75-403 and repealing the existing section.
12

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

14 Section 1. K.S.A. 75-403 is hereby amended to read as follows:
15 75-403. (a) The secretary of state shall countersign all proclamations
16 and commissions issued by the governor, and shall keep a
17 registry of all commissions issued by the governor, specifying
18 the person to whom issued, the office conferred, with the date
19 and tenure of the commission, commissions executed or appoint-
20 ments made by an appointing authority, as defined by section 2.
21 The appointing authority shall transmit all commissions and ap-
22 pointments to the secretary of state within 30 days of executing such
23 commission or making such appointment. Every such commission
24 must or appointment shall be transmitted by the secretary of state
25 to the person so commissioned or appointed, together with such
26 blank oath and other papers as are required by law to be filed by
27 such appointee in the office of secretary of state. *Provided,* That
28 where. If an official bond is required of any such appointee other
29 than a state officer or employee, the secretary shall first notify him
30 or her of his or her the appointee of the appointment, and shall
31 forward him or her to the appointee a blank bond to be filed, and
32 such commission or appointment shall not be transmitted until such
33 bond is returned and found sufficient; and. The appointment and
34 commission shall not in any such case be deemed or held to confer
35 any office or right until the required bond is given and filed as
36 provided by law. The secretary of state shall notify the appointing
37 authority upon a determination that a returned bond is sufficient
38 or upon destruction of an applicant's application papers.

39 (b) After transmitting notification of appointment and forwarding
40 a blank bond to an applicant for appointment as a notary public, if
41 the completed bond is not returned within ninety (90) 90 days from
42 the date of such transmittal, the secretary of state shall destroy said
43 the applicant's application papers.

2.2

1 New Sec. 2. (a) Within 30 days of ~~issuing~~ a commission or
 2 making an appointment, the appointing authority shall provide to
 3 the director of the Kansas legislative research department written
 4 notification of:

5 (1) The name, address, birthdate and political affiliation of the
 6 appointee;

7 (2) the congressional district in which the appointee resides and
 8 other information necessary to determine residency requirements of
 9 the appointee;

10 (3) the office conferred;

11 (4) the statutory or other authority pursuant to which the ap-
 12 pointment is made;

13 ~~(5) the statutory qualifications or other requirements of the~~
 14 ~~appointee;~~

15 ~~(6) whether an investigation by the Kansas bureau of investigation~~
 16 ~~was conducted;~~

17 ~~(7) the date of appointment;~~

18 ~~(8) the date of expiration of term, if any;~~

19 ~~(9) the name of the person such appointee is succeeding; and~~

20 ~~(10) information concerning the composition of the existing board,~~
 21 ~~commission, council, committee, authority or other governmental~~
 22 ~~body. Such information shall include:~~

23 ~~(A) The total number of members of the body;~~

24 ~~(B) the political affiliation of such members;~~

25 ~~(C) the expiration of terms of such members;~~

26 ~~(D) the statutory qualifications or other requirements of the~~
 27 ~~members; and~~

28 ~~(E) the congressional district in which the members reside and~~
 29 ~~other information necessary to determine residency requirements of~~
 30 ~~the members.~~

31 (b) In the case of a board, commission, council, committee, au-
 32 thority or other governmental body, the appointing authority shall
 33 notify the the director of the Kansas legislative research department
 34 which member is the chairperson thereof and the name and address
 35 of the executive director, if any. A notice of any change concerning
 36 the chairperson or the executive director shall be provided by such
 37 board, commission, council, committee, authority or other govern-
 38 mental body to the director within 30 days of such change. If such
 39 change resulted from an appointment made by the appointing au-
 40 thority, the appointing authority shall notify the director of such
 41 change within 30 days.

42 (c) Within 30 days of the expiration or abolishment of any office,
 43 board, commission, council, committee, authority or other govern-

executing

and

if necessary to determine qualification
of the appointee;

if necessary to determine qualification
of the appointee;

(5)

(6)

(7)

(8)

1 mental body, the appointing authority shall provide written notifi-
2 cation thereof to the director of the Kansas legislative research
3 department.

4 (d) Within 30 days of executing a commission or making an ap-
5 pointment, the appointing authority shall provide written notification
6 thereof to the secretary of the senate if such commission or ap-
7 pointment is subject to confirmation by the senate pursuant to K.S.A.
8 75-4315b, and amendments thereto.

9 (e) When used in this section, "appointing authority" means any
10 state officer having the authority to:

11 (1) Issue a commission;

12 (2) appoint a person to an office, board, commission, council,
13 committee, authority or other governmental body; or

14 (3) create such office, board, commission, council, authority or
15 other governmental body.

16 (f) ~~The provisions of this section shall apply to any appointment~~
17 ~~made pursuant to a statute requiring such appointment. If the ap-~~
18 ~~pointment is not required by statute, the provisions of this section~~
19 ~~shall apply only if such appointment is for a term of at least 180~~
20 ~~days.~~

to an office subject to senate confirmation,
or a board, commission, council, committee,
authority or other governmental body created
by statute.

21 New Sec. 3. (a) The director of the Kansas legislative research
22 department shall maintain a database, in a form deemed most ef-
23 ficient by the director, of all commissions and appointments reported
24 to the director pursuant to section 2. Such database shall include
25 all information required to be reported to the director pursuant
26 section 2.

27 (b) Every two years, the director of the Kansas legislative re-
28 search department shall publish a registry of the current or up-to-
29 date information collected pursuant to subsection (a).

30 (c) The director of the Kansas legislative research department
31 shall notify an appointing authority at least 30 days prior to the
32 expiration of the term of an appointee who was appointed by such
33 appointing authority.

34 New Sec. 4. The secretary of state shall countersign all procla-
35 mations issued by the governor.

36 Sec. 5. K.S.A. 75-403 is hereby repealed.

37 Sec. 6. This act shall take effect and be in force from and after
38 its publication in the statute book.

2-4

Bill Graves
Secretary of State



2nd Floor, State Capitol
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

TESTIMONY OF RON THORNBURGH
ASSISTANT SECRETARY OF STATE

SENATE GOVERNMENTAL ORGANIZATION
FEBRUARY 16, 1993

SENATE BILL 209

Thank you Mr. Chairman and members of the committee. I appear before you today in support of Senate Bill 209 on behalf of Secretary of State Bill Graves.

Senate Bill 209 will allow a database of all appointments and commissions to be created and regularly updated in our state. Currently, problems with accurate and complete information have plagued the current system. As a matter of fact, there is no real "current system" designed to record every appointment or commission in the state.

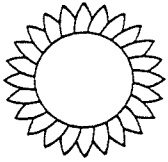
I would like to offer for your consideration the following amendments:

1 - Delete Section 1(b). This is old language that no longer applies to the appointment of Notaries Public. Notaries now have to obtain a bond prior to applying appointment.

2 - Delete the language in Section 1 requiring the Secretary of State to co-sign every appointment or commission in the state.

Thank you for your consideration of Senate Bill 209. I would be happy to stand for questions.

*G. O. Comm.
Attachment 3
2/16/93*



Presentation To
GOVERNMENT ORGANIZATION COMMITTEE
KANSAS STATE SENATE

by
Barry Hokanson
Director of Planning, Johnson County, Kansas

RE: SB 268 (Computer Technology and Data Management Act)

Members of the Committee:

My name is Barry Hokanson, Director of Planning for Johnson County. On behalf of the Board of County Commissioners, I wish to speak in favor of SB 268. Along with other counties in Kansas, and in conjunction with the Kansas Association of Counties (KAC), last September we presented the concept of this bill to the Joint Committee on Computers and Telecommunications. That proposal has now been converted to bill form as SB 268.

Statute Needed

As local governments in Kansas increase the amount of computerized information they maintain, there is a need to refine the rules for management of such information and its access by outside users, especially in those cases where copies of whole databases may be requested. Without a modernized set of rules, counties and cities face complex and costly pressures on their resources to deal with burdensome demands at a time when there is scarce funding for normal government operations. Specifically, these counties and cities need clear state statutes on matters of privacy, cost recovery, and citizen access regarding the release and use of computerized information. SB 268 has been written so as to maintain and enhance options for citizen access, and yet provide mechanisms for the governments to charge reasonable fees for commercial users who request large volumes of information or even entire databases.

Protecting the Public's "Right to Know" and Access to Open Records for Inspection, Review and Copy

There is an important distinction between requests for public records versus requests for data products, data services, or copies of whole databases. By placing this distinction in the statutes, however, there will be no interference with the public's "right to know" or to access open record information. This bill protects public access to the workings of government, while providing reasonable management abilities for the data processing systems of counties and cities. In fact, computerized systems can make it easier for citizens to obtain information about their government and to more easily study the data used to form public policy. Our county, like many others, is already experimenting with "public access" terminals in courthouse offices and libraries, and computerized mapping projects (called Geographic Information Systems, or GIS) are

G.O. Comm. Attachment 4

opening new ways to look at information. Counties and cities need ways to manage the demand for computerized products, with some reasonable fee structures, and to manage the release of computerized data for purposes other than viewing or inspection. As we all know, computerized data—whether released on tape or disk media—provide immeasurable opportunities for manipulation, use, and, unfortunately, abuse.

Supports Contracts for Joint Ventures

Current statutes governing open records fail to grant clear authority for agencies to implement realistic fee structures when copies are requested in computerized form. Without such authority, there is a disincentive for agencies to form compacts or joint ventures to develop a new database since outside users may demand, perhaps successfully, that the data product be given to them at no charge other than the cost of the computer tape, which clearly does not accurately reflect the cost nor value of the product. Where a taxpayer-financed database has commercial value, it simply makes sense for the taxpayers to recover some of their cost in building and maintaining the database.

Emphasis: Local Governments

Following our presentations last September to the joint committee on computers and telecommunications, it was noted that the state's Policy Board for Geographic Information Systems had already adopted a public access policy, one that promotes data exchanges between and among state agencies. In discussions with the chairman of the Policy Board, we emphasized that these data access issues are special concerns for counties and cities. We would therefore support an amendment to SB 268 to limit its applicability to only county and city agencies.

Custodianship Preserved

Current statutes (KSA 45-220) designate custodian responsibilities to certain public officials, defining their obligations in managing various public records. Nothing in the proposed bill will modify or reassign such custodian duties. Concern has been expressed, however, that this bill should affirmatively restate that those current duties will be preserved. We would welcome such an addition if it could be proposed by the Revisor's Office.

Attachments

Transmitted herewith is a copy of a report compiled for Johnson County and the KAC, as presented to the Joint Committee in August. The report presents a discussion of these issues in greater depth. Also attached is a map example showing the costs and values in building computerized geographic databases. I also have available a summary of similar legislative efforts undertaken by other states throughout the country.

Thank you for your consideration. I would be happy to respond to questions or to provide additional information as may be required.

4-2



Sample: Planimetric Map

Johnson County, Kansas

Automated Information/Mapping System

This planimetric map has been drawn from a computer database created with a "stereoplotter" machine and a set of aerial photographs. The ground contour lines are shown at 2-foot elevation intervals. Building outlines, road edges, ponds and other physical features of the landscape are "digitized" in the same process. Once the database was created, the computer program can now generate maps of various scales and sizes, and the maps can display some or all of the 58 features in the system. Maps can also be customized with color lines, color shading, and 3-D perspectives.

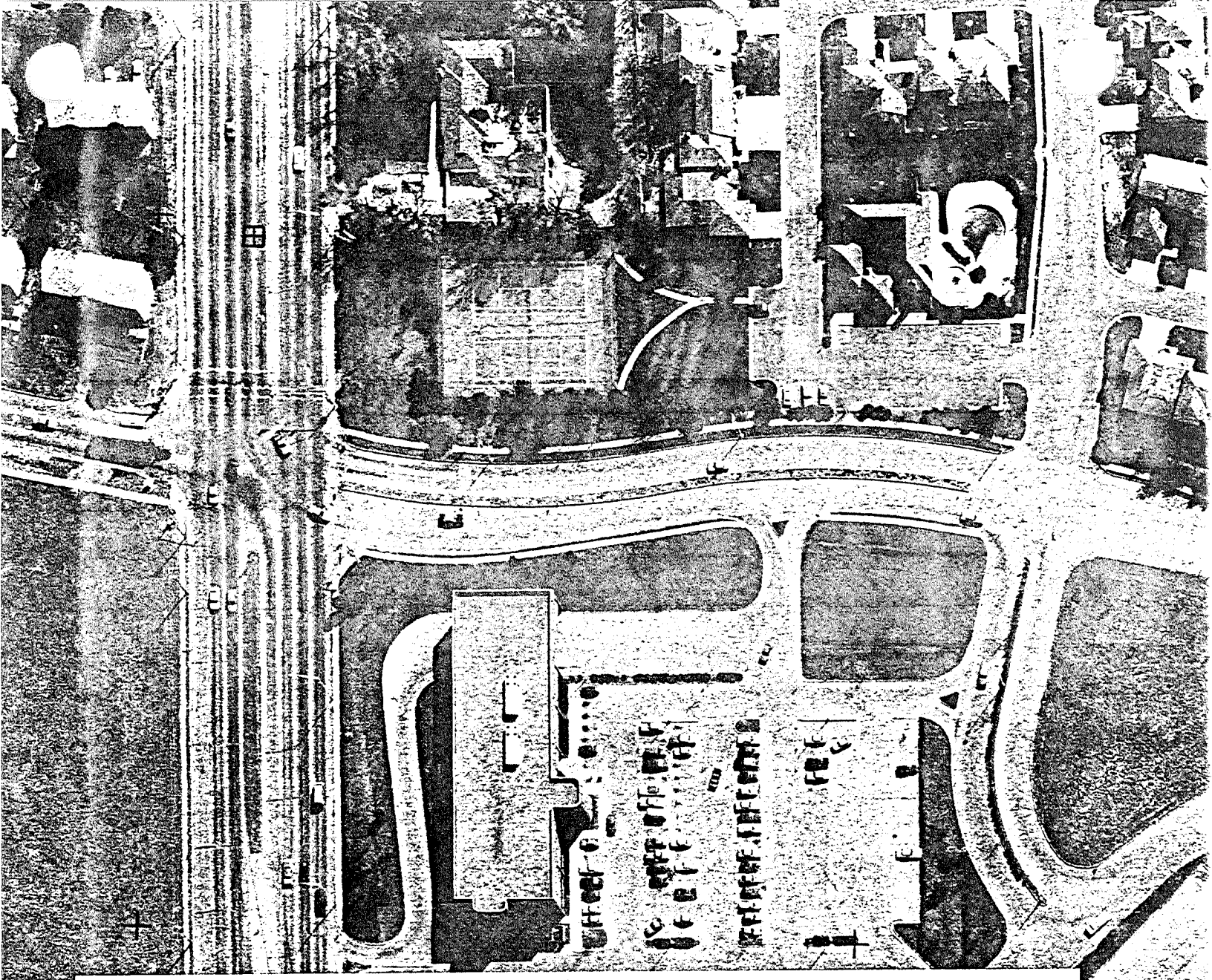
Date of photography: April 1986

Contractor and cost: Analytical Surveys, Inc., \$1,750,000

Coverage: 480 square miles

Size of computer file: 1,000 megabytes (1 gigabyte)

*G.O. Comm
Attachment 5
2/16/93*



Sample: Orthophotograph

Johnson County, Kansas

Automated Information/Mapping System

This aerial photo has been processed through a computer program to create an accurate "orthophotograph." (This print is via copy machine, not representative of the high quality on the original.) Each part of the image on the orthophoto has been repositioned and adjusted to match measured distances on the ground. In this case the control network for the county's digital topographic maps was used to manipulate the orthophoto image. The photos are produced at a scale of 1 inch = 100 feet in the urban area and 1 inch = 200 feet in the rural area. The cost of this project was about \$500,000 in 1986. Updates will cost about \$1000 to \$4000 per square mile, depending on scale. The 1986 photo series is recorded on photo film whereas future versions may be stored as digital images on computer disk.

Date of photography: April 1986

Contractors and cost: Analytical Surveys, Inc., Surdex, Inc., Photo Service, Inc., \$500,000

Coverage: 480 square miles

H.O. Comm.
Attachment 6
2/16/93

TESTIMONY
OF
WILLIAM F. BRADLEY, JR.

CHAIRMAN OF
INFORMATION NETWORK OF KANSAS

TO

SENATE COMMITTEE ON

GOVERNMENTAL ORGANIZATION

February 16, 1993

*G.O. Comm.
Attachment 7
2/16/93*

To the Chair and distinguished members of the committee:

My name is Brad Bradley and I am an attorney with the Wichita firm of Hinkle, Eberhart & Elkouri, L.L.C. I am also Chairman of the Board of the Information Network of Kansas, Inc.

Many of you may not be familiar with the creation of INK or the five years of development that preceded that creation, so I have attached to my testimony a copy of testimony which we presented earlier this session to the House Governmental Organization Committee and which explains in considerable detail how it was created and some of the functions which it is currently performing.

Briefly, The Information Network of Kansas, INC. ("INK") was established by the Kansas Legislature in 1991 (K.S.A. 74-9301 et seq.) The network provides dial-in computer access to state agency and selected county records for which there is a sufficient demand to justify providing the access. Access is by subscription, and is in two forms -- batch (high-speed transmission nightly of large masses of records) to five large customers, and interactive (individual customers looking up individual records with personal computers), for business or for personal use. The network acts as a "gateway" and provides records in response to user computer requests, by electronically "fetching" the records and displaying it on the screen for viewing or printing. The network provides security to state agencies by preventing access directly to their computers. This is the first time that an electronic method of monitoring compliance with the Kansas Open Records Act has been available.

INK was conceived and executed as a public instrumentality of the state without state appropriations, and with private investment. It is one of the foremost examples of a public-private partnership in the state of Kansas. In fact, it is so successful that it is now being studied by a number of other states for duplication. All the state agencies, including your own Legislative Coordinating Council, are big fans of INK, as are the (now) over one thousand subscribers who find it highly beneficial to their activities.

INK has been in operation for just over one year. Currently, it has the following services accessible to all users:

- Legislative Bill Tracking (Kansas Legislature)
- Full Text of Bills
- House and Senate calendars and journals
- Supplemental notes
- Kansas State Library Bill Subject Index
- Driver License records
- Title, registration and lien records for motor vehicles
- Monthly Kansas Secretary of State usury rates
- UCC searches
- Kansas Secretary of State Judgment rates
- Shawnee County Court Records
- Sedgwick County Court Records
- Wyandotte County Court Records
- Secretary of State Corporation Records
- Automated Labor EXchange Program (ALEX)
- Workers' Compensation public records
- KDOT bidders' list

Until February 15, 1993, when I called John Torbert, of the Kansas Association of Counties, INK had been consulted by any proponent of this legislation. Mr. Torbert, whose association is a subscriber to INK and whose board of directors has encouraged all counties to subscribe to INK, indicated that it was not the intention of their association to have the bill affect INK. As a result of information provided by the KAC, I contacted Barry Hokanson, Johnson County Director of Planning, and faxed him a copy of our concerns and suggested changes. We understand that Johnson County is a very interested party in this legislation. We understand from Mr. Hokanson that Johnson County has no desire to modify or adversely affect INK.

Our purposes in appearing here today is to express our concerns with the way S.B. 268 is drafted. We are aware of the purposes behind S.B. 268, which we understand is to allow counties and cities to maintain and sell geographical information system data. We have no objection to this as we believe it would be impractical to use INK's facilities for vending access to geographical information system data (GIS data).

However, we believe the bill in its current form inadvertently does not precisely fit the circumstances in Kansas, and in fact is overbroad. It could be interpreted to make unneeded and unwanted changes in INK itself, and therefore would seriously impair the ability of INK to service State agencies and the public customers and could potentially put INK out of existence.

We would therefore respectfully urge that if this legislation is going to be passed, that it be modified to allow the desired activity with no adverse impact on INK, the agencies it serves or its consumers.

While we do not purport to be bill writers, we have made an attempt to go through the bill and identify all of those provisions which could have this affect. We have also suggested possible amendments which we think would meet both goals. Attached to this testimony are those suggested modifications. There may be other or simpler ways of achieving this same end, but we would strongly urge the committee to do so before moving this bill to the full Senate.

New Sec. 2 - insert a new definition as (b), and re-letter those following:

(b) "information management system" includes any system utilizing a computer or computing time and capacity which is owned by, leased or rented by, or used by, in whole or in part, one or more public agencies, to perform the functions of governmental information storage, manipulation, and retrieval in connection with the agency's governmental function.

Comment: this definition appears to be necessary in connection with the costs to be considered on setting users fees in section 4, and the authority in section 3.

New Sec. 3(a) - add the word "either" after the word "and" in line 9, and add at the end of line 10, "or through the Information Network of Kansas, Inc."

Comment: This clearly establishes this act as presenting a procedure which may serve as an alternative to INK in certain circumstances, and makes it clear that INK is also an option, if it fits the needs of the agency better. At the same time, it prevents changing INK's previously enacted procedures to those set forth in this act.

New Sec. 3(b) - redraft to say,

Any public agency may establish an information management system, including a database or geographic information system, by itself or jointly owned and managed with one or more other public agencies, and enter into contracts under which the participating public agency or agencies share use, costs, system implication, data conversion, and maintenance duties.

Comment: This change makes it clear that the joint systems are only formed between public agencies. It eliminates a term "public bodies" which is not defined in the act, and it narrows the focus of the act to information management systems, which is a defined term.

New Sec. 3(c) -

Comment: It is unclear that this new provision is needed. INK recommends striking this paragraph. If not, then the last sentence, lines 21-24 should be stricken as it adds nothing to existing law of which INK is aware, and could be interpreted to change the entire process by which INK was formed and is working successfully. Additionally, if the paragraph is not stricken, then word "to a not-for-profit or for-profit" in lines 18-19, and the words "public enterprise" in line 21 should be deleted.

New Sec 3(d) - no changes recommended.

New Sec 3(e) - This section may be streamlined and made clearer by deleting the following words and phrases:

line 32: "make unauthorized copies of the database and not to"

line 33-35: "any commercial solicitation purposes targeting individuals, whether by phone or mail or through any other media, or for"

And by adding before "K.S.A. 21-3914" the phrase "K.S.A. sec 45-215 et seq. or".

New Sec. 4 (a) - delete "independently, jointly or through licensing arrangements with other services providers".

Comment: The deleted language seems to be surplusage.

New Sec. 4(a) (1) - Add the phrase, ", which are provided other than through INK," immediately after the word "services" in line 41.

Comment: INK has already established rate-making and fee-establishing procedures which are working well. This legislation could be interpreted to make significant changes and unnecessarily complicate the successful INK procedure with state agencies, and could also apply to INK itself in setting its charges. INK must retain the flexibility to change its charges as the market dictates, and as the board appointed by the governor decides, and not as a result of slower administrative regulations or statutes. This change is in keeping with that suggested to sec. 3(a).

New Sec. 4(a) (2) - line 5 - delete the phrase "be based on" and insert "take into consideration". Move the "(A)" from line 6, to line 5, to a place immediately prior to "the actual...". line 13, delete "not exceed" and replace with "also consider". Delete all after "plus" in line 14, through line 16.

Comment: The (A) appears to be misplaced in the parallel construction. Principally, however, if the fees are based on actual capital costs and operational costs, then the second sentence, which allows for adjustment up or down from those criteria, is contradictory. The third sentence is apparently intended as a cap. However, it suffers from the same internal contradiction as the first sentence with the second, only more so. The suggested changes allow consideration of incremental costs, without artificially attempting to dictate a formula.

New Section 4(a) (3) - This section should be deleted. INK concurs with what it understands will be the position of the Department of Revenue with respect to this section.

Sec. 6(f) (1) -

Comment: It is unclear why this change is needed. While the existing section may be too broad, the suggested changes seem to unnecessarily restrict the definition. This change seems much broader than the scope of the act proposed. INK recommends deleting it.

Sec. 7 -

Comment: This proposed change consists of two sentences. The first appears to permit access to the software necessary to run the database, along with access to

the data, in the case of "non-commercial" purposes. The second appears designed to prevent public agencies from believing that they must provide copies of entire databases in the case of "commercial" purposes or purposes which are prohibited by K.S.A 21-3914.

The first proposed sentence is appropriate, but should not be limited to "non-commercial" purposes, without defining what such purposes are. Conceivably, if a business looked up a motor vehicle registration to see if a car in its parking lot belonged to an employee, versus a non-employee, that would be a "commercial" purpose, since the use made of the record is for the purpose of advancing the interests of a private, for-profit business. The distinction between "commercial" and "non-commercial" opens a can of worms best left sealed. The Kansas Open Records Act already lists prohibited uses and purposes. Access available through INK now tracks all uses by all users, an enforceability feature which was not available until INK was created. Therefore, "any purpose prohibited by K.S.A. 21-3914 and amendments thereto or by this act" should be substituted for either phrase, "commercial" or "non-commercial".

The second proposed sentence could be strengthened by the change suggested immediately above. As a practical matter, entire databases are currently provided to purchasers.

A final change in the second proposed sentence is to substitute "open records act" for "ublic records act", as Kansas has the former, not the latter.



Information Network Of Kansas

SPECIAL COMMITTEE ON GOVERNMENTAL ORGANIZATION

THE INFORMATION NETWORK OF KANSAS

Presented By: Bill Graves, INK Board Member
William F. Bradley, INK Chairman
Jeff Fraser, INK Network Manager

January 27, 1992

Introduction:

The Information Network of Kansas (INK) is a State of Kansas government instrumentality created in the 1990 Legislature for the purpose of providing equal electronic access to State, County, Local and other information required by Kansas business and citizenry. INK allows Kansans that require public information access to get the data they need on their own computer via the public telephone network.

INK is unique in that it is based upon a private business / government service model. Policy for INK is administered by a 10 member board appointed by the Governor and specified by legislation, and includes the Secretary of State, Transportation and Revenue, a representative from the Kansas Association of Libraries and private citizens. No State funds are appropriated for the operation of INK, it is entirely fee funded and operated by a private network manager, the Kansas Information Consortium who receives a regulated return on investment and is required to remit the majority of revenues created by the network to the State of Kansas. The network manager was chosen through an extensive competitive evaluation and bidding process lasting over ten months.

INK Board of Directors:

William F. Bradley, Chairman
Attorney
Hinkle, Eberhart & Elkouri

Charlotte Shawver, Secretary
Register of Deeds
Riley County

Michael Johnston
Secretary of Transportation
State of Kansas

Don Morris
President
Morris & Assoc. Insurance

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State of Kansas

Nancy Parish
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Marvin Maydew, Treasurer
C.P.A.
Kennedy & Coe

Charles Warren, Vice Chairman
President
Kansas, Inc.

Jean Turner
Director of DISC
State of Kansas

Leroy Gattin
Director
Hutchinson Public Library

INK Network Manager Contact:

Jeff Fraser, General Manager -

Mr. Fraser is President of the Kansas Information Consortium and serves as General Manager of INK. He reports directly to the INK Board of Directors and is responsible for all operations of the Information Network of Kansas. Mr. Fraser previously held several executive marketing and management positions for AT&T and holds a B.S. in Business Administration and a M.S. in Information Systems from Friends University in Wichita.

INK - Model Legislation For Education, Research & Economic Development:

The Information Network Of Kansas legislation is a "model" for public/private cooperation in that it has successfully created a government service which is administered for the good of the public, but benefits from the entrepreneurial spirit and efficiencies found in private business. The result is a service which gives Kansas businesses and citizens a decisive competitive advantage while saving the Kansas taxpayers thousands of dollars, while requiring **no State appropriations, no grants and no public subsidies of any kind.**

INK is essential because to be successful in today's economy of 3 week product life cycles and foreign "knock-off" competition, Kansas businesses must have immediate access to information from a variety of sources, so they can make the best decisions possible as quickly as possible. In turn, information in the public domain must be administered for the public good. INK does both.

INK is successful because it provides the businesses and citizenry of Kansas **equal access** no matter where they reside to information specific to their requirements so they can be more productive. INK accomplishes this task by simply using a tried and true business development strategy, we find out what our customers want, we build it and we continually improve it to increase their satisfaction and usage. Since January 1992, INK has engaged "Strategic Task Forces" with members from Kansas banking, legal, insurance, manufacturing, media, accounting, engineering, agriculture and construction industries and political entities including all Kansas counties, most municipalities and school districts combined with participation from the Kansas Legislature and Revisor of Statutes, Departments of Commerce, Revenue, Transportation, Health & Environment, Human Resources, and Social and Rehabilitation Services, the Secretary of State, the State Library and county & local entities throughout the state. Together we have developed over 50 information access solutions and created 11 individual sub-networks with the cooperation and for the benefit of all information providers and users. An average of 2 new services are added weekly.

By increasing the efficiency of Kansas government at all levels and improving the productivity of Kansas businesses and requiring no appropriation of public funds, INK is an educational, research and economic development model which provides Kansans an advantage over competitors in other States.

INK - What Is It That They Do?:

Since January 2, 1992, INK has been creating a computer network which provides access to Kansas public information. A brief synopsis of current and future service development are described below:

Kansas Legislative Services

This service includes interactive access to the Legislative Bill Tracking System maintained by the Reviser of Statutes, access to Full Text Bills, House and Senate Journals, House and Senate Daily Calendars, Legislative Research Department Supplemental Notes, Kansas State Library Bill Locator and the Kansas Administrative Regulations. Very soon, the Kansas Statutes Annotated and the Kansas Register will be available.

Kansas Business Network

In conjunction with the Department of Commerce, the Department of Transportation and State Chamber of Commerce and Industry, and many other professional associations, INK is developing a Kansas Business and Commerce Network that will make it more convenient and cost effective for Kansans to do business with other Kansans. This network will then be used to increase export opportunities for Kansas firms. Other services included in this module are the KDOT Construction Bidding Lists, the Department of Human Resources job search system and access to numerous research and development networks.

Kansas Bankers Network

In conjunction with the Kansas Bankers Association, The Society of C.P.A.s and the Secretary of State, INK is providing Kansas bankers, lending institutions and public accountants an electronic access to UCC and Corporation Information Filings maintained by the Secretary of State. In the near future, an improved electronic information filing service will be available for filing required financial information at both the County and State level.

Kansas Legal Network

In conjunction with the Kansas Supreme and Appellate Courts and District Courts throughout the State, and with the support of the Kansas Bar and District Judges Associations, INK will soon provide access to Supreme and Appellate Opinions, Attorney General Opinions, on-line access to the K.S.A.s and an electronic notification and verification system between the Appellate court and case attorneys. Calendars and dockets from several Kansas District Courts are currently available and more will come on-line as they are automated.

Kansas Insurance Network

In conjunction with the Department of Revenue, INK is providing on-line insurance agent access to MVR records for the purpose of quickly evaluating a prospective customer's casualty risk.

Library Information Network Of Kansas

In conjunction with the Kansas Library Network, Kansas Board of Regent Libraries, the Kansas Board of Regents, the Kansas Research and Education Network (KANREN) and the State Board of Education, INK is developing access to a variety of services from card catalog searches and inter-library loan for all Kansas libraries and citizens, to affordable world wide super computer and library database access for school districts, libraries, individuals and small Kansas manufacturing concerns. INK will be providing services both to and from most Kansas educational and research institutions. Eventually, information managed at all libraries throughout Kansas should be readily available to students at their local library, in their classrooms and at home.

Kansas Children's Network

In conjunction with the Kansas Departments of Health & Environment and SRS and with the support of numerous children's coalitions, INK has developed an information network that contains information on services effecting Kansas youth. INK provides this service free of charge through any Kansas library or school district that wishes to participate.

Information Kiosks

In conjunction with officials throughout Kansas State, County and Local government, INK is researching the possibility of placing "Government ATMs" throughout the state. These multi-media touch-screen Kiosks could allow citizens to find out where to buy a fishing license, search for a job, renew automobile tags, find government offices, medical facilities or even find out about local community events, without having to stand in line at a government office or wait endlessly on hold.

How Is Public Information Accessed?:

INK is a public information network which accesses electronic data on computers throughout Kansas. INK's software developers use a sophisticated technique called High Level Language Application Programming Interface which while never allowing an on-line user access to the actual computer housing the data requested, delivers it via a network of computers managed by INK. This method of access provides complete security to State, County and Local computer systems and does not require the agency responsible for the data to modify their applications.

How Do Subscribers Use The Network?:

All a customer needs is a PC or Macintosh and a modem to use The Information Network of Kansas. INK provides all software and training required at no charge and network access is always provided through an (800) toll free number. In addition, INK works with individual customers and organizations as required to integrate INK into their current and future computer networking strategies. Special networks have been created by INK to support the needs of Kansas Counties and Municipalities, Bankers and many other user groups. This has proven to be a cost effective and efficient solution for these associations to determine individual policy of their respective networks, while at the same time benefiting from the economies of scale and expertise created by everyone working together toward mutual goals.

How Much Does It Cost To Use The Network?:

It costs an individual customer \$50.00 to subscribe to the network and up to \$.40 per minute to access most INK services from anywhere in the United States. This is less than the average long distance telephone call in Kansas. INK services are available 24 hours a day, 7 days a week, and support from our staff is available anytime toll free at 1(800)4-KANSAS.

Limitations on Usage:

Prior to accessing INK, a subscriber must agree to the terms and conditions of the Kansas Open Records Act and any additional rules and regulations or statutes which may apply to specific types of information accessed. In addition, access of records containing names and addresses of private citizens is extensively monitored by INK and the custodial agency, making sure that such records are only accessed by authorized users, for authorized purposes.

A Mission Of Discovery:

As mentioned previously, our goal is to with an open mind, search out and find out what Kansans' information needs are, and to provide solutions for the betterment of all. We are interested in your ideas and those of your constituents. Please give me a call at 296-5154, or stop by our office at #106 Capitol Tower.

Conclusion:

The most exciting aspect of being associated with INK is the enthusiasm that both customers and State employees have for the service. Practically every customer that subscribes to the network will offer additional ideas for enhancements. State officials and employees are recognizing the benefits of increased accessibility and lower maintenance costs that INK is offering them.

The conclusion that can be drawn from the input we have received is that both the consumers and providers of State information are pleased. Their cost/benefit analysis is indicating the Network is a tremendous asset to them. With the current taxpayer resistance to more government programs and spending the Information Network of Kansas has helped Kansas business improve productivity, more precisely evaluate business risk and offer innovative products and services without spending one dime of taxpayer money. In addition to productivity and savings, many additional safeguards required for the enforcement of laws pertaining to the access of public information are now possible and have been implemented.

By authorizing the Information Network of Kansas the legislature has improved the State's business infrastructure and has provided a key component toward the advancement of education, economic and technological development in Kansas.



"Service to County Government"

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Executive Director

John T. Torbert, CAE

TO: Senate Governmental Organization Committee
Chairman Al Ramirez

FROM: Anne Smith
Director of Legislation

DATE: February 16, 1993

RE: SB 268

The Kansas Association of Counties is in support of SB 268.

Computerized information is an asset held in public trust, developed at taxpayer expense to promote better governance and service delivery. Recovering fair market value for this governmental asset, as well as duplication costs and costs associated with developing and operating the system, is of major concern.

The KAC supports legislation to clarify state statutes on issues of privacy, cost recovery and access with regard to the release and use of computerized information that has been compiled by a county. Clarification of these statutes would encourage counties to develop innovative computer programs with data from county offices without the concern that the programs will be used for profit without appropriate remuneration to the county.

Thank you for your consideration.

*S. O. Comm.
Attachment 8
2/16/93*



**THE LEAGUE
OF KANSAS
MUNICIPALITIES**

**Municipal
Legislative
Testimony**

AN INSTRUMENTALITY OF KANSAS CITIES 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

Memo

TO: Senate Committee on Governmental Organization

FROM: *Chris* Chris McKenzie, Executive Director

DATE: February 16, 1993

RE: SB 268

I am appearing on behalf of the League of Kansas Municipalities to endorse SB 268. This endorsement is based on the convention-adopted policy of the League which states as follows: "We recommend the enactment of legislation authorizing cities and counties to charge reasonable fees to recover direct and indirect costs related to responding to requests for commercial access in processing of information in city-owned and maintained electronic information systems, such as geographic information systems (GIS). Such legislation should ensure open access to all such government records and insure that cities do not become "free" service bureaus which support commercial reuse of public information."

We believe SB 268 meets the standards of the above referenced policy position of the League of Kansas Municipalities. We urge your favorable consideration of this act.

*Y. O. Comm.
Attachment 9
2/16/93*