

MINUTES

SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

November 4, 1993
Room 531-N -- Statehouse

Members Present

Senator Al Ramirez, Chairperson
Senator August Bogina, Jr., Vice-Chairperson
Senator Paul Feleciano, Jr.
Senator U. L. "Rip" Gooch
Senator Mike Harris
Senator Janis Lee
Senator Lillian Papay
Senator Marian Reynolds
Senator Ben Vidricksen

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Staff Present

Julian Efird, Kansas Legislative Research Department
Fred Carman, Revisor of Statutes Office
Jackie Breymeyer, Committee Secretary

Conferees

Susan Seltsam, Secretary of Administration
Chris McKenzie, League of Kansas Municipalities
Jerry Ray, Johnson County Commission
Barry Hokanson, Johnson County Planning Director
Willie Martin, Sedgwick County Commission
Karen Franz, Kansas Association of Realtors
John Lewis, Legal Record, Olathe
Jim Reardon, Kansas Association of Counties
David Furnas, Kansas Press Association

Senator Reynolds moved to approve the minutes of the August 30-31 meeting. Senator Gooch seconded the motion and the motion carried.

Secretary of Administration, Susan Seltsam, gave a preliminary report on the Governor's initiative "Reinventing Kansas Government" (Attachment 1). She presented a review based on a preliminary report on the initiative sent to Governor Finney on October 1, 1993, which included a

summary of the Steering Committee's activities, the study teams' activities, and the key issues and initial findings of each of the five study topics which were reviewed by the study teams. Secretary Seltsam had hoped to have the final recommendations to present to the Committee, but the Steering Committee has not had the opportunity to complete its review of the potential recommendations made by the study teams and to formulate its recommendations. Ms. Seltsam emphasized that this is "work in progress" and that the final recommendations may not be ready until late December. She indicated that the work of the five study teams will be published in five reports and that the summary report of the Steering Committee's recommendations will be the sixth report.

The Chairperson said that he understood, and also noted in the minutes of the previous meeting, that Gary Reser, Governor's Liaison, testified the Committee would have the reports shortly after November 1. Secretary Seltsam responded that those reports are not ready. The Steering Committee had met on Tuesday of this week and after reviewing some of the recommendations, thought there was not enough data to support some of those recommendations and sent them back to the teams for a rewrite with the changes the Steering Committee wanted. Once the changes requested by the Steering Committee are made, the individual reports will be finalized.

Secretary Seltsam stated she was sure that some legislative committees would like to have these reports and she thinks it would be beneficial to get the reports to the printer and get them done and to the Legislature before the session begins. She noted that there will be some recommendations which if endorsed by the Governor will require legislation. However, many of the things will be implemented administratively since they will not require legislation.

The Vice-Chairperson commented that, in his opinion, the Legislature has not been involved in this initiative, it is going to be implemented by the executive branch, and except for some policy changes, they do not care what the Legislature thinks about it. They are not asking for approval except for some statutory changes.

The Chairperson asked Secretary Seltsam if the team members were going to be meeting with the Steering Committee in formulating the final draft of the report. She indicated that one team member from each group had met with the Steering Committee on a monthly basis. Several study teams are in the process of responding to the Steering Committee's suggestions on what recommendations were accepted and what changes need to be made in some of the recommendations and supporting data.

Afternoon Session

Attention focused on 1993 S.B. 268, the State and Local Government Computer Technology and Data Management Act.

Chris McKenzie, League of Kansas Municipalities, summarized the results of three meetings held prior to this Committee session (Attachment 2). The League served as the moderator for the three sessions which involved individuals who were interested in the consideration of S.B. 268. During the sessions, participants tried to identify the policy issues. Mr. McKenzie noted eight policy issues, with primary focus on three of the issues. The group concentrated on the issue public-private partnerships. Mr. McKenzie stated that one of the problems is there is no incentive for a private firm to invest in a system where the product of that investment cannot be protected.

Consensus was reached on three points: (1) no specific change should be made at this time in the Kansas Open Records Act or related statutes; (2) cost-sharing and cost recovery should continue to be explored by interested parties and the Legislature; and (3) no action should be taken on S.B. 268 at this time.

David Furnas, Kansas Press Association, had no prepared comments, but stated that he thought Mr. McKenzie's report accurately reflects what the group did.

Jerry Ray, representing the Johnson County Commissioners, spoke from prepared remarks (Attachment 3). Ms. Ray stated that all who were in attendance were not in agreement, but the majority did reach a consensus. Nothing has been changed with respect to the problem; it still exists. She noted the current law may have worked when all records were on paper, but with technological advances, the old ways are no longer adequate. Those opposed to change are not willing to look for middle ground; some have a vested interest in keeping outdated laws. The idea of raising taxes to fund new systems is not acceptable in Johnson County. Ms. Ray asked that the door not be closed on this issue, but allow interested and concerned people who are willing to work together to submit a proposal that will offer options to what is available now. They are asking for the opportunity to be heard. Ms. Ray noted that the State of Kansas already uses the user fee concept in selling driver license records. It is a logical and workable approach to information management, Ms. Ray concluded, noting that she would continue to work on this important issue.

Barry Hokanson, Johnson County Planning Director, stated that the dilemma is that they have not been able to develop new projects with business partners, specifically utility companies. Part of the reservation is the threat that the project would become a public record. If one entity pays a significant amount for development of a new project and another entity could obtain the project results without investing in its development, it would place the one entity investing at a comparative disadvantage.

Willie Martin, representing the Sedgwick County Commission, found interaction and exchange of ideas with the *Wichita Eagle* to be beneficial. The gathering of the group showed more clearly other points of view. She concurred with Ms. Ray that it is too important a matter to leave unresolved. It is to the advantage of city and county governments to develop the technological products in cooperation with nongovernmental parties which also need the same types of systems.

Karen Franz, Kansas Association of Realtors, stated that problems such as this one emphasize that there is a fine line between moving into new technology and altering the Kansas Open Records Act and rationalizing the costs involved in making records availability to the public, including businesses.

John Lewis, editor of the *Legal Record*, said there were general questions about the complicated nature of this issue. He asked if it is government's place to be cooperating with private enterprise in joint ventures to develop new systems? He also asked if government will be allowed to be cross the line into areas that have traditionally been reserved for the private sector? He noted that in other states, the private sector companies develop new systems without the involvement of government. Mr. Lewis cited Mississippi and Arkansas as two examples. Mr. Lewis stated that despite assertions of consensus, he would not characterize it as that way. There was clearly no consensus regardless of the semantics and words used to characterize the outcome of the three meetings. Mr. Lewis said that the other side (Mr. Lewis') did not chair or set the agenda for the meetings. If there was an attempt by the League to characterize this as total consensus, that was not the case, Mr. Lewis concluded.

Jim Reardon, Kansas Association of Counties, presented his testimony (Attachment 4). Mr. Reardon said he hoped that Kansas would examine those states which have implemented joint ventures of the types described. He said that information should continue to be made available to the general public without additional cost. Mr. Reardon concluded that the meetings were the groundwork for the creation of public data management policies which will truly work for the good of society.

Staff reported that the November minutes would be mailed to Committee members. If no changes are requested, the minutes will be considered approved ten working days after they are mailed to the members. There also will be a short report, to be approved by the Chairperson, that will be filed as the 1993 interim Committee report.

Prepared by Jackie Breymeyer
Edited by Julian Efird

Approved by Committee on:

December 12, 1993
(date)

GUEST LIST

COMMITTEE: SENATE GOVERNMENTAL ORGANIZATION

DATE: Nov. 4, 1993

NAME	ADDRESS	COMPANY / ORGANIZATION
Paul Shelby	Topeka	OFA
Tom DAY	TOPEKA	KCC
Dodie Lacey	Topeka	KCA
V. Mendez	Topeka	SRS
Harry Reser	Topeka	GOVERNOR
Harry Reser	Topeka	DofA-DPS
Matt Inell	Topeka	AP
Sharon Huffman	"	KCDC
George Wolf	"	Ks Information Exchange, Inc.
Jon Josseland	Lawrence	Kansas Univ.
Chris McKenzie	Topeka	League of Ks. Mun.
David FURNAS	TOPEKA	Ks Press Assn.
John Ensky	Topeka	Kansas Press Assoc.
BARRY HOKANSON	OLATHE	JOHNSON COUNTY
Jim Raddon	Topeka	KANSAS ASSN of Counties
Harry Hirston	Topeka	League of Ks. Municipalities
Willie Maistri	Micheta	Sedgewick Co.
Willie Walter	Topeka	FDS
Cy Smith	TOPEKA	Governor's GIS Policy Board
Debra Hurler	Topeka	KIA/PAK
John Hanna	Topeka	Associated Press
John Lewis	Olathe	Christine Corp.
Loren France	TOPEKA	KAR
Paul A. Amigo	Topeka	Wichita University / Topeka

PM

SENATE COMMITTEE ON
GOVERNMENTAL ORGANIZATION

November 4, 1993

TESTIMONY PRESENTED BY SUSAN SELTSAM
SECRETARY OF ADMINISTRATION

Mr. Chairman, Members of the Committee:

Thank you for the invitation to update the Committee on the Reinventing Kansas Government Initiative which Governor Finney has asked me to chair.

I believe you are familiar with the structure of the Steering Committee and the composition of the project teams.

The RKG initiative has operated with a structured project approach so that before recommendations were made by the teams significant work was required to define customers, assess the customer requirements and assess the current capabilities of the agency or program.

The teams were to identify best practices in other agencies, governments or private companies and to develop a vision of how the topic under study should be performed.

Using this information, teams were to compare customer needs and ideal performance goals with actual capabilities. This was to provide the basis for detailed opportunities and initiatives.

Finally, teams were to assess benefits and determine priorities. Each of these tasks were to be performed against a backdrop of the major components of the agency or program.

Major components were people, process, technology and infrastructure.

Today I would like to review with you the preliminary report sent to Governor Finney October 1, 1993.

The report is organized into three parts, an overview of the Steering Committee's activities, an overview of the Task Forces' activities and a listing of the key issues and initial findings of each of the five study topics.

The teams had identified potential recommendations as they researched their report topics but at this juncture, final recommendations had not been completed. The Steering Committee did not believe recommendations should be presented before the committee had the opportunity to review the teams' work and be confident of the recommendations' validity and quality.

Senate L. O.

Attachment 1

11-4-93

We are pleased with the quality of work and the dedication the teams have shown. The task has sometimes seemed overwhelming and difficult but there has been no doubt of the merit of and need for the study or magnitude of the benefit the State of Kansas can receive from these efforts.

Steering Committee Activities

The Steering Committee has met regularly since May, 1993. Initial meetings were used to identify the projects to be studied and to form the teams. Both the private sector committee members and the Cabinet secretaries identified at least two key staff people to participate in the teams. Steering Committee meetings have included presentations from each of the teams outlining the progress of the team and issues which were being explored. The committee received monthly reports from the teams in order to monitor progress and be assured that the teams focused on the delivery of service and effectiveness and efficiency issues.

Team Activities

The five teams began work on their assigned topics in June. The teams generally met one full day each week, although most found that additional meetings were necessary if deadlines and product expectations were to be met and delivered. As you know, the teams were led by the private sector members with a number of state employees assigned. The teams have been seriously challenged by the size of the task they have been assigned and by the need to remain focused on the issues of management, effectiveness, efficiency, service delivery and the various aspects of those questions. As one might expect, it is not easy to remain focused on these issues when program questions and opportunities so often intrude themselves on the discussions. The project co-directors, Dave Andrews from Andersen Consulting and Gloria Timmer, Division of Budget, have tried to keep the focus on the appropriate issues and help teams stay on course with the reinventing theme. Overall, the teams have produced a significant amount of work, have developed a list of issues to be addressed and have now developed objectives and recommendations which are under review.

Attached, by topic, are the major issues and concerns discussed and researched by the teams. Each project team is using this work to write a team report which will clearly delineate their findings and recommendations to address those findings. Please view these reports as "work in progress" as of October 1, 1993. Significant changes may have been made as the teams continued their work and more information became available.

Information Systems Management Team

Team Members

Lou Ann Gebhard	Social and Rehabilitation Services
Bill Hall	Human Resources
Rick Miller	Health and Environment
Ben Nelson	Transportation
Warren Neudorff	Administration—DISC
Gary Russell	Revenue
Ron Terzian	Boeing
Jean Turner	Administration—DISC
Lisa Unruh	Administration—Budget
Ken Wymore	Western Resources

Mission

To focus on the best methods for planning, organizing, obtaining, and managing information systems and information technology in state government.

Scope

All state agencies, boards and commissions with the exception of the legislative and judicial branches and the Board of Regents. Particular emphasis will be on the Division of Information Systems and Communications.

Preliminary Findings

- Good things are happening because of good people, often in spite of the process.
- Information technology is recognized by most interviews as "vital to my operation".
- There is a general failure to articulate a business strategy to implement state agency missions. Thus, any linkage between Information Technology plans, budgets, and strategies must be inferred.
- There is a lack of multi-agency planning and coordination resulting in inconsistent strategies, micro-management, and ineffective, inefficient use of state resources.
- There is a clear perception of need or centralized coordination and planning. Methods for achieving differ from agency to agency.
- The larger the agency, the more technically independent they tend to be. The smaller the agency, the stronger the need for central services.

- State and federal mandates are often handed down without adequate funding.
- Measure of information technology benefits is largely intuitive. Interviewees saw a definite need for Information Technology, but there is an apparent lack of appreciation of the necessity of a standard return on investment analysis.
- A conflict exists in the procurement process between a "life-cycle" orientation and the concept of "low bid" (especially for already budgeted and contracted items).

Issues

Agency Coordination

- There is no statewide structure for the management of Information Technology in the areas of:
 - architecture
 - standards
 - deployment of new technology
 - cost visibility
 - linkage to Information Technology to business strategy
 - data sharing
 - vendor management
 - research and development

Human Resources Management

- The current system makes recruiting, hiring, firing, and rewarding employees extremely cumbersome. There is no performance management evaluation system denoting the single thread connecting tasks up and down the hierarchy. There is a need for an automated skills inventory system to track employee skills and education.
- Federal funding is typically tied to specific programs, therefore restraining the sharing of resources within and across agencies.

Training and Education

- Project management
- Executive orientation
- Current Information Technology environment
- State business policies and practices
- Users

Budgets and Accounting

- There is a need for refinement of the Information Technology budget process and the establishment of an activity-based accounting system to allow for a review of project alternatives and a linkage of costs and benefits.

- Information Technology project reviews should reflect alternatives considered, along with life cycle costs, rather than presented as final choice with no knowledge of decision process.

Information Technology Statutes, Plans and Linkages to Business Strategy

- Information Technology Statutes are ambiguous
- Information Technology Plan content and rationale should be more clearly defined
- Inconsistent methods of describing the business processes and consequent automation requirements

Centralized, Decentralized and Duplicate Processes

- Centralization/Decentralization within agencies. Someone should be responsible for Information Technology. IRM should report to agency head. Agencies must have appropriate management structure in order to implement Reinventing Kansas Government proposals.
- Role of DISC. What is it currently, what should it be in future? Should DISC control, provide services, both?
- What should be centralized/decentralized within the state? There is no clear rationale for deciding.

Information Technology Reputation

- Information Technology reputation with legislature, senior management and users

Linking Costs to Benefits

- There is no clear defined process in place to accomplish this in an effective way.

Budget

Team Members

Jim Clark	Western Resources, Inc.
Bill Jarrell	Boeing
Sherry Brown	Commerce and Housing
Chris Stanfield	Health and Environment
Susan Duffy	Revenue
Robert Haley	Transportation
Dennis Williams	Corrections
Jim Langford	Administration--Budget
Kathy Bradshaw Sexton	Administration--Budget

Mission

Study is focused on the best methods for improving the budget process and for maximizing the current capabilities of the budget process to improve the quality of information provided to decision makers.

Scope

Scope of study begins when allocations are sent to agencies by the Division of the Budget, usually in June of each year and ends when agency budgets are approved by the Legislature or State Finance Council. The scope includes all state agencies.

Preliminary Findings

- Good things are happening because of good people, often in spite of the process.
- The environment has changed from 40 years ago when the budget system was developed.
- Agencies feel frustrated to do so much detail work and not have it used.
- Agency budgets are presented in a format that attempt to answer any and all questions for legislators—even those questions asked by one legislator years ago who may no longer be involved in the process.
- Legislators are frustrated with the process and with not seeing outcomes. They sometimes do not trust agencies. The Legislature micro-manages details.

Issues

- The State has dedicated and capable people involved in the budget process.
- Much data are generated but are not always the type of information needed for decision making.
- True priorities are not always reflect in the A, B, and C levels of agency budgets because there are disincentives for agencies to truly report priorities.
- Policy decisions drive 80 percent of the annual budget, and the remaining 20 percent is dependent on detailed object code analysis.
- When budget reductions are needed, they often are not made based on policy decisions, but on across-the-board cuts and shrinkage.
- Automated budget systems are not integrated with each other or with accounting or personnel systems.
- Outcomes information is not consistently or effectively utilized across agencies. Policy makers seldom use this information when making budget decisions.
- There is no systematic emphasis put on accountability.
- Institutional inertia is so strong that the flexibility allowed by statutes governing the budget process has not been utilized.
- Current agency training is focused on the mechanics of putting together the budget forms rather than on measuring and reporting performance.

Inventory/Asset Management Team

Team Members

Galen Bremer	Administration
Dale Jost	Transportation
Jerry Merryman	Purchases
Gerald Schneider	Human Resources
Darrell Montei	Wildlife and Parks
Steve Kohnle	Social and Rehabilitation Services
Bill Buxton	Social and Rehabilitation Services
Elaine Frisbie	Administration—Budget
Sheri Boyer	Boeing
Mike Laughon	Southwestern Bell Telephone

The team has divided itself into three groups, each assigned on the following areas of study: Buildings, Vehicles and Equipment, and Inventory and Central Warehousing.

Preliminary Findings and Issues

Inventory and Central Warehousing

- Lack of a uniform inventory system.
- Lack of training and guidance on inventory procedures and requirements.
- Agencies carry too many low dollar items on inventory.
- Disposal of surplus property is difficult and cumbersome.
- Agencies have a number of business needs not met by current inventory systems.
- There is a need for improved communications concerning inventory issues, both intra-agency and inter-agency.
 - Surplus Property Lists
 - Division of Accounts and Reports Policy and Procedure Memos
 - Division of Accounts and Reports Circular
- Computers, peripherals, software and upgrades are inventoried differently by various agencies.
- There is duplication of inventory information and human effort to maintain that information
- The inventory system is no integrated with purchasing or accounting functions.

Buildings – Acquisition of New Facilities/Renovation of Facilities/Building Maintenance/Lease Process

- Duplication of technical skills with Division of Facilities Management
- Cost-effectiveness/utilization of in-house staff vs. contracting
- Statutory mandate for DAS inspectors duplicative of A/E and code officials inspections
- Comprehensive long range planning for procurement of existing facilities
- Shared building maintenance resources outside of the Capitol complex for state owned buildings
- Comprehensive preventive maintenance plans outside the Capitol complex
- No defined process for outside building maintenance outside Capitol complex
- Responsiveness of landlords to building maintenance in leased buildings
- Timing of reviews through the Department of Administration
- Too many reviews which takes a lot of time
- Define the process and educate customer as to the information available from the Division of Facilities Management
- Perception of agencies—the Division of Facilities Management does not understand agencies' requirements
- Office space utilization standards do not exist
- Centralization vs. decentralization of the lease process
- Strategic plan for all space utilized by the state

Vehicle and Equipment

- Vehicle replacement seen as a low priority in the agency review process.
- Lack of consistent criteria for vehicle replacement
- Planning loses creditability if there is not a budgetary follow through
- State motor pool does not have the specialized equipment needed
- Vehicles need cruise control
- More vans are needed

- Vehicles are driven longer creating down time and additional expense
- Numerous methods and systems are used to track inventory and costs. No one system includes the number of units in the state.
- More people are needed to maintain vehicles
- Better training needed for mechanics to keep up with changing vehicle technology
- There are inadequate or limited facilities for vehicle maintenance
- Refueling at other agencies complicated by accounting, clerical cost, lack of personnel at site, and availability of fuel
- Travel 30-60 miles to obtain tires on state contract -- two other major distributors located in same city where tires needed
- Timely delivery of state contract items
- Disposal of vehicles is too long -- unit of little value by the time it is sold
- Local disposal of vehicles for agencies not located in Topeka
- Top dollar for sale of vehicles is not received due to high mileage

Human Services Delivery - Aging

Team Members

Lyndon Drew	Aging
George Dugger	Aging
David Katz	Wildlife and Parks
Joe Kroll	Health and Environment
Tom Laing	Revenue
Carla Nakata	Social and Rehabilitation Services
Joyce Sugrue	Social and Rehabilitation Services
Richard Wagner	Aging
Sabrina Wells	Administration – Budget
Joyce Mermis	Bank IV
Glenda Overstreet	Security Benefit Group, Inc.

Mission

To assess current capabilities of agencies providing aging services and programs to seniors by examining basic measurements of present workloads for efficiency and effectiveness.

Scope

The team condensed its study by concentrating primarily on the three agencies represented:

- Department of Aging
- Social and Rehabilitation Services
- Department of Health and Environment

Issues

- Public Awareness
 - Food Stamps
 - QMB Benefits
 - Toll Free Numbers
 - Homestead Tax Relief
- Long-Term Care
 - Community Options
 - Volunteer Ombudsman Program
 - Exploring Tax Incentives for Caregivers
 - Uniform Assessment Instrument
 - Explore incentives for providers in developing community options

– Administration

Rewards and Barriers to Consolidation of Aging Services
Additional Resources
Service Gaps
Data Sharing

– Community Involvement

Volunteer Program
Wildlife and Parks Fees
Pre-Retirement Volunteer Solicitation

Human Services Delivery – Youth

Team Members

Tim Sipes	Bank IV
Jim Haines	Western Resources
Mark Barcellina	Department of Administration
Phil Anderson	Division of Personnel Services
John Alquest	Social and Rehabilitation Services
Harry Allen	Youth Center at Topeka
Jan Johnson	Department of Corrections
Roger Werholz	Department of Corrections
Katie Krider	Human Resources
Joe Kramer	Wildlife and Parks
Kay Farley	Judicial Administration
Linda Kenney	Health and Environment
Dan Hermes	Division of the Budget
Greg Tugman	Division of the Budget

Preliminary Findings

Care of the Offender

- Parents are dissatisfied as they perceive proper care and wrap-around care not available in the community.
- Accurate diagnosis and follow up treatment are necessary.
- Many Parent believe earlier recognition of mental problems could have prevented incarceration.
- Offenders and parents of offenders were not satisfied with court appointed attorneys.
- Providers felt that if an offender "gets off" he will not receive the help that is in fact needed to straighten out behavior.
- Sometimes difficult to reintegrate into the public school system.

Treatment/Habilitation

- Inadequate structure for continuity in community.
- Lack of coordination between mental health care providers and the court.
- Good short-term help available, but often there is a lack of continuity in the community.

- Confidentiality laws make communication among provider groups difficult.
- Parents expressed concern that they did not receive sufficient communication regarding their child.

Public Safety

- Intake not readily available in rural areas.
- Law enforcement feels that offenders stay on the streets for weeks after their offense and arrest.
- Judiciary only controls "front doors" to youth centers.
- Studies show that citizens perceive that juvenile crime is increasing.

Issues

Care of the Offender

- Organization structure—Role of Department of Corrections/SRS/Judicial/Department of Education.
- Performance measures to be used in determining success of programs/treatments.
- Caseload of juvenile judges, social workers, and court services.
- Legal representative for the offender—is a guardian approach better for certain crimes/ages?
- Community based programs—aftercare system.
- Two-tiered system of juvenile corrections, punishment vs. habilitation.

Treatment/Habilitation

- Budgeting
- Handling of offenders with mental health/retardation problems.
- Wrap-around treatment for entire family not available.

Public Safety

- Management information systems on juveniles.
- Increased parental responsibility for juvenile offenders.

- Stricter truancy guidelines/expulsion guidelines.
- Community based program—prevention systems.

rkgtogov.mem



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 S.W. 7TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

TO: Senator Al Ramirez, Chairman, and Members,
Senate Committee on Government Organization

FROM: Chris McKenzie, Executive Director

DATE: November 4, 1993

RE: Report on Discussions by SB 268 Discussion Group

1. Introduction

At the Committee's meeting on August 31, 1993 you asked the League to convene and serve as moderator of a group of individuals with possible interests in the Committee's consideration of Senate Bill No. 268, the proposed state and local government computer technology and data management act. The purpose of this memorandum is to report to you the consensus recommendation of that discussion group. In doing so, I want to assure the Committee and participants that I have endeavored to accurately portray the character of the discussions and the final recommendation of the group. The Committee also should be advised that while a consensus recommendation was developed, it was with full recognition that there may be and most likely will continue to be ongoing efforts by individual participants to ask the Legislature to address issues raised in our group discussions.

2. Meeting Dates and Approach

The Discussion group met on three dates and in three different locations for a total of approximately ten (10) hours (including lunches):

- (1) October 12, 1993, 10:00 a.m. - 12:00 p.m., at the Kansas Press Association (Topeka)
- (2) October 19, 1993, 10:00 a.m. - 2:00 p.m., at the Sedgwick County Courthouse (Wichita)
- (3) October 26, 1993, 10:00 a.m. - 2:00 p.m., at the Wichita Eagle (Wichita)

Sixteen (16) persons attended the October 12th meeting, nineteen (19) persons attended the October 19th meeting, and twenty (20) persons attended the October 26th meeting. A full list of attendees is attached. The following organizations were represented at all three meetings: Johnson County; City of Overland Park; Wichita Eagle; Kansas Press Assn.; League of Kansas Municipalities; Kansas Association of Counties; Sedgwick County; Information network of Kansas; Western Resources, Inc.; Kansas Association of Realtors; and the Legal Record.

The approach that was agreed on at the first meeting was to identify the major policy issues and policy options for addressing each policy issue, to discuss the issues and options, and to attempt to develop a consensus conclusion or recommendation to present to the Committee. I served as moderator of the group, and I sent summaries of each meeting to the participants prior to the next meeting. Copies of these memorandums were sent to the Chairman and Julian Eford of Legislative Research.

*Senate G.O.
Attachment 2
11-4-93*

3. Key Policy Issues and Options

During the first two meetings the Discussion Group identified a number of policy issues and options for discussion concerning SB 268 and the Kansas Open Records Act (KORA) in general. These included:

1. Arbitrariness by custodians in denying access to certain records.

Options Discussed:

- (a) Specify guidelines for providing access, including which costs are allowable.
- (b) Provide procedures for recourse if access is denied at reasonable cost (See policy issue #5)

2. Structuring partnerships between government and users for funding the maintenance and development of data and electronic information systems.

Options Discussed:

- (a) Authorization for licensing/outourcing
- (b) Authorize recovery of capital and operating costs of information systems (partial or total)
- (c) Make no change in current law.
- (d) Authorize data sharing agreements.
- (e) Authorize custodians to charge differently for records mandated to be kept in the ordinary course of business and records kept on a discretionary basis.
- (f) Voluntary coalitions.

3. Recognize the Public Value in Information Dissemination

Options Discussed:

- (a) Bill should have clear statement of policy supporting public information dissemination.
- (b) Bill should contain clear protection for citizen access to information.
- (c) Bill should distinguish between "intent" to use internally by person placing request versus directly disseminating ("selling"?) to others.

4. Custodian Response Issues

Options Discussed:

- (a) Clarify K.S.A. 45-218 that an acknowledgement of the receipt of a records request and the timetable for supplying access constitutes a "response" within 3 days as required therein.

5. Litigation Avoidance (alternative dispute resolution)

Options Discussed:

- (a) Review of appeals of record request by internal official/board or elected governing body.
- (b) Create appeal/mediation procedure prior to court review
 - (i) binding; or
 - (ii) non-binding
- (c) Authorize collection of punitive damages from employee or govt. unit.

6. Status of manipulated records (& software) as public records - charges to subsequent users.

Options Discussed:

- (a) Status quo, i.e, subsequent requestors do not defray costs of production.
- (b) Provide for reimbursement of initial requestor, or create cost-sharing mechanism.

7. Effect of K.S.A. 21-3914 which imposes criminal penalty on records custodians who provide and persons who use a record containing a list of names and addresses in the sale of any property or service.

Options Discussed:

- (a) Partial repeal (public officials only)
- (b) Total repeal.

8. Intergovernmental Data Sharing Procedures to ensure access

Options Discussed:

- (a) Preserve flexibility for voluntary agreements between govt. agencies.
- (b) Authorize agreements between govt. agencies which specify which is the record custodian for particular data.
- (c) Maintain citizen and public agency access to base data as provided for in current law.

After completion of the above list during the second meeting, the Group returned to a discussion of policy issues one (1) and two (2) for further elaboration. There was a preliminary discussion of whether electronic information products resulting from public/private partnerships would be required to be disclosed under KORA as long as the base data used in the development of such products and services continued to be available from the public agencies. It was agreed that further research on this subject should be done and the concept should be discussed further at the next meeting. (Subsequent research reported to the Discussion Group in the third meeting by the League of Kansas Municipalities indicated that the current law would appear to preclude the information products of public/private partnerships from being treated differently under KORA if the public agency played any part in the creation of an "instrumentality" which would develop new information products.)

4. Discussion Group Conclusions and Recommendations

At the outset of the third meeting it was agreed that the issues should be categorized and prioritized for purposes of discussion. It was agreed that issues 1, 4, 5, and 7 all were issues concerning KORA as it is currently written--rather than issues raised by SB 268. It was agreed further that issue number 3 was not a significant concern if any legislation considered is part of KORA and governed by the open record policy contained in K.S.A. 45-216. This then left issues 2, 6 and 8 for further discussion.

The Discussion Group then discussed the possible parameters of legislation amending the KORA to allow the copyrighting, licensing, etc. of products resulting from public/private partnerships or consortiums provided the base data which was used in the creation of such products would continue to be available from public agencies participating in such partnerships. Discussion centered on distinctions between the concepts of cost-sharing (i.e., prospective arrangements among voluntary participants in a consortium) and cost-recovery (i.e., the recovery retroactively through user charges of the cost of investment in the development of information systems). Considerable time was spent defining and understanding these terms and concepts.

Some participants indicated an interest in pursuing the partnership or consortium concept further, while other participants indicated openness to discuss the concept but concern about public access to necessary data and other issues. After considerable discussion, a consensus was reached on the following points:

1. No specific change in the KORA or related statutes is recommended by the Discussion Group at this time to address the issues raised above.
2. The concepts of cost-sharing/recovery should continue to be explored by the parties and the legislature, especially the concept of providing opportunities for public/private partnerships or consortiums.
3. The Discussion Group recommends that no action be taken on SB 268 at this time. We further recognize that there may be ongoing individual efforts by Discussion Group participants to pursue parts or all of that legislation.

5. Closing Comments

A number of the Discussion Group participants indicated they developed a deeper understanding of and respect for each others' concerns as a result of our three meetings. In fact, the seeds may have been planted for a continued discussion of how to create improved opportunities for the development of partnerships between public agencies and the private sector in the development of new information services and products in the future. Further, there was extensive discussion about the meaning of the existing KORA which resulted in a better common understanding about what was permissible and workable under current law.

It is my hope that this report fairly summarizes our discussion and conclusions. Please let me know if you have any questions about this matter.

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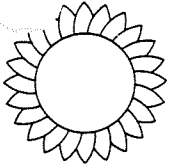
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**Johnson County
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SENATE GOVERNMENTAL ORGANIZATIONS COMMITTEE

NOVEMBER 4, 1993

DISCUSSION OF SENATE BILL 268

STATEMENT ON BEHALF OF JOHNSON COUNTY BOARD OF COMMISSIONERS

GERRY RAY, INTERGOVERNMENTAL COORDINATOR

Mr. Chairman, members of the Committee, thank you for the opportunity to speak to you today. I would like to publicly thank Chris McKenzie for the time and effort he and his staff put into facilitating the meetings of the various interest groups. There were many points along the way that their energy could have gone into matters that were perhaps more relevant to their organization. I would also thank the representatives of the Press Association, the Wichita Eagle and Information Network of Kansas (INK) for their open-mindedness and willingness to listen and to understand all sides of the issue and to seek a compromise that would accomodate the parties involved. I believe they and the people representing local governments gained a new respect for each other and learned to work in a cooperative manner.

Because of the working relationship that developed among the above groups, there seemed to be a strong possibility that we would be able to find a middle ground that would be acceptable to everyone. However, those representing the Realtors, Title Companies and a publisher of legal records opposed making any changes so strongly that it was impossible to move ahead at our last meeting on October 26.

Although the group did not reach a consensus, nothing has changed with respect to the problem that exists and the need for a solution. Johnson County officials believe there is a better way to manage public information than the "way we've always done it". The current law may have worked when all records were on paper, but with the advances in technology that have come about in the last twenty years, the old ways no longer answer the needs. Those who oppose any change and are not willing to look for a middle ground have a vested interest in keeping these outdated laws. In our final meeting when we asked for suggestions on how these systems should be funded to provide the information used in their businesses, two of the opponents said we should just raise everyone's taxes. In other words the taxpayers are expected to subsidize the profit making ventures of special interest groups.

Our county officials are not willing to accept the status quo on this issue. Perhaps Senate Bill 268 is not the entire answer, however there are other ways to resolve the situation and we would like to have the opportunity to explore them. Reasonableness and the willingness to concede our preferred positions, are necessary

*Senate G.O.
Attachment 3*

ingredients for any meaningful dialogue to take place. Therefore, we would ask that this Committee not close the door on this issue in the '94 session, but rather allow us to submit a proposal that will offer options to what is available now. There is no guarantee that everyone will agree to a new proposal, but very few bills go through the Legislature that have no opposition. The system provides a means for everyone to be heard, then the Legislators must make the policy decision.

The State has already recognized the value of information systems and established a way to utilize the user fee concept because that is a logical and workable approach to information management. Government can either enter the 21st century with enthusiasm and excitement for what technology can provide, or we can be dragged kicking and screaming, holding on to our old ways. Whatever way we choose to go, we have no choice but to meet the future. What we make of it is what counts.



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TO: Senate Governmental Organization Committee
Senator Al Ramirez, Chairman

FROM: Jim Reardon, Director of Legal Services
Paul Flowers, Director of Research
Kansas Association of Counties

RE: SB 268

Thank you, Mr. Chairman.

During the previous hearing held by this committee on August 31st, Chairman Ramirez asked that representatives of local government meet with members of the private sector to seek common ground on public policy issues relating to electronic data management. As a result, the Kansas Association of Counties and the League of Kansas Municipalities participated in three such meetings held in Topeka and Wichita.

We believe that this process was beneficial in that there was an increased awareness of both the complexity of the issues involved as well as a greater understanding of the perspectives of each participant. In effect, these meetings and hearings are the beginning of what will ultimately prove to be the groundwork for the creation of public data management policies which truly work for the good of our society.

Although we are not prepared to offer specific legislation at this time, several areas were identified as being particularly relevant during the meetings:

1. The structuring of partnerships between government and information users for the purpose of funding the maintenance and development of data and information systems. Currently there are no clearly defined guidelines regarding what is and what is not permissible. This is an important issue that we wish to see developed in future legislation.

2. The status of manipulated records and software as public records. There is a need for further clarification regarding what exactly constitutes a public record when information is jointly developed.

*Senate H.O.
Attachment 4
11-4-93*

3. The preservation of public access to public records. Electronic information management is rapidly becoming the mode by which all levels of government are doing business. Although this trend is rapidly increasing the quantity of public records, at the same time it also introduces new problems in duplicating these records upon request, particularly when complex or very large numbers of records are involved. The Kansas Association of Counties supports the right to public access of open records.

Finally, we wish to thank the committee and Chairman Ramirez for this opportunity to discuss this vital public issue.