

Written Statement to the
Senate Committee on Federal and State Affairs
Opposing SB 86
by Dick Carter, Jr.
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The City of Overland Park respectfully submits this testimony in opposition to Senate Bill 86. SB 86 would amend the current law to limit a public agency's ability to recover actual costs incurred by the public agency in responding to open records requests.

As presented, the bill would require an agency only charge staff time at the lowest hourly rate of the person who is qualified to provide the records. This vague requirement ignores the fact that certain personnel may be "qualified" to provide a record, but doing so is not part of their job description or they are not available. The ambiguity of this requirement is also ripe for litigation, as requestors could threaten litigation if they think some lower paid staff could have fulfilled the request.

SB 86 also restricts the agency from charging for extraordinary costs that may be associated with a request such as the cost of computer services or the cost of use of alternative facilities for copying if the use of such computer services or alternative facility is necessary to respond to the request. In these instances, the City would be prohibited from recouping these unique costs, forcing the cities' taxpayers to subsidize the costs of the response.

The City of Overland Park responds to a great deal of open records requests. In 2015 and 2016, the City Clerk's office handled 24 records requests with no cost to the requestor. For the same period of time, the City Clerk charged a total of \$495.78 to fill other request for records. In 2016 alone, the City Clerk and Deputy City Clerk logged approximately 87 hours of research time to respond to open records requests. Included in this workload are quarterly requests from for-profit businesses that involve substantial research and staff time. Each City department maintains their own records, so this data is just a small sample of the City's total time spent responding to requests.

The Kansas Open Records Act as currently written does not allow a public agency to charge unreasonable fees. The agency may only charge the actual cost of responding to a request. The City would submit that the current structure provides the proper balance of access to the records without placing overly burdensome costs on the agency.

For the stated reasons, the City of Overland Park respectfully requests that the Committee not advance SB 86 to the full Senate. Thank you for your consideration.