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CASE NUMBER: 2020-CV-000638



**Court:** Shawnee County District Court

**Case Number:** 2020-CV-000638

**Case Title:** Davis Hammet vs. Scott Schwab - Kansas Secretary of State

**Type:** MEMORANDUM DECISION AND ORDER

SO ORDERED.

A handwritten signature in black ink, appearing to read "Teresa L. Watson".

/s/ Honorable Teresa L Watson, District Court Judge

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
DIVISION THREE**

DAVIS HAMMET,

Plaintiff

2020-CV-638

SCOTT SCHWAB, KANSAS SECRETARY OF STATE,

Defendant

**MEMORANDUM DECISION AND ORDER**

Plaintiff Davis Hammet seeks injunctive and declaratory relief to obtain access to certain information under the Kansas Open Records Act (“KORA”), K.S.A. 45-215 *et seq.* Hammet alleges that he has been denied or constructively denied access to the information by Defendant Scott Schwab, the Kansas Secretary of State. This matter comes before the Court on the parties’ cross-motions for summary judgment. The parties agreed to stay discovery pending the outcome of these motions. Thus, the motions are based on a combination of stipulated facts and facts asserted by affidavit. The motions have been briefed and argued, and the Court is ready to rule.

## **STATEMENT OF UNCONTROVERTED FACTS**

1. Hammet is the president of Loud Light, an organization interested in election-related issues.
2. The Election Voter Information System (“ELVIS”) is the centralized statewide voter registration database for the state of Kansas.
3. ELVIS contains more than 1.9 million voter registration records.<sup>1</sup>
4. ELVIS is managed and hosted through the Secretary of State’s office. ELVIS is the system of record for all voter registration records in the state.
5. No one in the Secretary of State’s office inputs, modifies, or deletes records or information within the ELVIS database.<sup>2</sup>
6. Employees of the Secretary of State’s office can view data in ELVIS and generate reports.
7. Counties are responsible for entering data into ELVIS during each election cycle, though counties may differ in how and when they enter the data and how they track those who cast provisional ballots.
8. As the counties continue to enter information into ELVIS, the database and any report generated would be updated to reflect new or changed information.
9. As a new election cycle approaches, county election officials delete data in ELVIS from prior elections to prepare for the upcoming election. Data is therefore lost each time a county official clears its data.

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<sup>1</sup>Hammet controverted this fact as stated in Defendant’s SJ SOF 24 for lack of information in the absence of discovery. Hammet did not controvert the same fact when stated in Defendant’s Response to Plaintiff’s SJ Additional SOF 1. The Court considers it uncontroverted.

<sup>2</sup>Hammet controverted this fact as stated in Defendant’s SJ SOF 25 for lack of information in the absence of discovery. Hammet did not controvert the same fact as stated in Defendant’s Response to Plaintiff’s SJ Additional SOF 2. The Court considers it uncontroverted.

10. The Secretary of State's office does not receive information from counties regarding specific individuals who cast provisional ballots or why those ballots were cast provisionally, outside of information entered into the individual voters' records within the ELVIS database by county election officials.
11. In September 2019, Hammet asked the Secretary of State's office for a statewide provisional ballot detail report from the 2018 general election. The statewide provisional ballot detail report is one that can be generated from the ELVIS database if ELVIS is programmed to generate the report.
12. In September 2019, ELVIS was programmed to generate the report, and the report could be generated by the Secretary of State's office. The report included a list of persons statewide who cast provisional ballots, with identifying information for each person and the reason the ballot was considered provisional.
13. In June 2020, Hammet and Loud Light filed a lawsuit against Schwab requesting access to the provisional ballot detail report under KORA. This was Shawnee County case no. 2020-CV-343 ("Hammet I").
14. Schwab argued that the information was protected from disclosure under KORA based on the Help America Vote Act ("HAVA"), K.S.A. 25-2422(a)(1), and a federal constitutional right to informational privacy.
15. The 2018 report was generated and printed to preserve it pending the outcome of the litigation by order of the Court.
16. During the course of that lawsuit, Hammet stated his intention to seek the same information for the 2020 primary and general elections.

17. In July 2020, this Court rejected Schwab’s arguments and ordered him to produce the 2018 general election statewide provisional ballot detail report to Hammet.
18. On August 4, 2020, and August 11, 2020, Hammet requested and subsequently received copies of the statewide provisional ballot detail report for the 2020 primary election.
19. On August 13, 2020, Schwab asked the database software support contractor, Election Systems and Software (“ES&S”), to remove the statewide provisional ballot detail report function from its ELVIS database software.
20. On September 9, 2020, Hammet sent an email to Clay Barker, deputy general counsel in the Secretary of State’s office. Hammet said he “plan[ned] to KORA the Provisional Detail Report for the primary once it’s (relatively) fully updated. Do you have a status on that? Should I go ahead and officially request it?”
21. Barker responded that afternoon by providing an updated copy of the statewide provisional ballot detail report.
22. Up to that point, the Secretary of State’s office had not charged Hammet any fee to obtain the report.
23. On September 13, 2020, ES&S made changes to the ELVIS system and removed the statewide provisional ballot detail report functionality.
24. On October 6, 2020, Hammet once again requested the statewide provisional ballot detail report for the 2020 primary election.
25. Between October 6 and October 14, 2020, Hammet sent Barker several emails asking for updates regarding his October 6, 2020, request.

26. Barker first responded to these emails by telling Hammet that his request was sent to the elections division to run the report.

27. However, on October 14, 2020, Barker told Hammet in an email that after the September changes to ELVIS, the Secretary of State's office no longer had the ability to run that report.

28. On October 17, 2020, Hammet replied in an email: "It appears the simplest solution is for your office to contact ESS and ask them to turn back on your provisional report functionality."

29. On October 23, 2020, Barker explained in an email to Hammet:

"The problem is, after the September 2020 upgrade to the ELVIS system, which was a major overhaul requiring the system to be off-line for three days, the KSOS office can no longer see the accumulated data or generate that Report.

The Report is no longer 'recorded information . . . which is made, maintained or kept by or in the possession of' the KSOS. K.S.A. 45-217(g)(1).

All the office can do now is pull up individual voter records to determine provisional ballot information, but it cannot consolidate the information into a report."

30. On October 23, 2020, Hammet said in an email to Barker:

"Again, to clarify, my request is not limited to the 'Provisional Ballot Detailed Report.' My request is for provisional data related to the 2020 primary election. . . .

. . .

If KSOS determines it's impossible to create such a report or otherwise access the data in an easier manner then it must provide me with an estimate that is reasonable to pull every individual file to assess the provisional status."

31. In an email dated October 27, 2020, Barker told Hammet that ES&S estimated it would cost \$522 to electronically pull the individual files containing the data that Hammet requested. This would involve ES&S programming a query to extract the information

requested from the database. A more expensive and time consuming option would be to have employees of the Secretary of State’s office sift through records one by one and pull requested information by hand.

32. Barker told Hammet that ES&S would not begin work to pull the data until after Hammet paid the \$522, and that “ES&S could not confirm when the data specialist could begin the work order after being told to start, since the election is creating unpredictable work flow.”

33. Hammet did not pay the fee or ask Barker to proceed with the data pull. Instead, he turned his attention to obtaining information from counties. Hammet said this effort was largely unsuccessful because of the short time frame and lack of prompt response from some counties.<sup>3</sup>

34. The Secretary of State’s office will charge Hammet for any future requests for statewide provisional ballot information based on the cost for ES&S to program a query to extract the information from the database. The price of each data pull may vary based on the volume of data and the time it takes ES&S to pull it.

35. Schwab admits that he could simply ask ES&S to restore the statewide provisional ballot detail report functionality, but he has not done so.

36. Provisional ballot detail reports may still be obtained from county election officials on a county-by-county basis.

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<sup>3</sup>Hammet asserts in his brief that Schwab interfered with Hammet’s attempt to obtain information from counties, but these statements are not properly supported by facts in the record and, though controverted, are not material to the issues on summary judgment.

## **CONCLUSIONS OF LAW**

Hammet seeks declaratory and injunctive relief under KORA and other state statutes. This matter comes before the Court on the parties' cross-motions for summary judgment. The parties raise similar issues in their motions and they will be considered together here. The Court is mindful of the following rules to be applied when deciding motions for summary judgment:

“Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. The trial court is required to resolve all facts and inferences which may reasonably be drawn from the evidence in favor of the party against whom the ruling is sought. When opposing a motion for summary judgment, an adverse party must come forward with evidence to establish a dispute as to a material fact. In order to preclude summary judgment, the facts subject to the dispute must be material to the conclusive issues in the case.” *Shamberg, Johnson & Bergman, Chtd. v. Oliver*, 289 Kan. 891, 900, 220 P.3d 333 (2009).

The issues require this Court to interpret a variety of Kansas statutes according to well-known guidelines. “The most fundamental rule of statutory construction is that the intent of the Legislature governs,” starting with “the plain language of the statute, giving common words their ordinary meaning.” *Johnson v. U.S. Food Serv.*, 312 Kan. 597, 600, 478 P.3d 776 (2021). “When a statute is plain and unambiguous, a court must give effect to its express language, rather than determine what the law should or should not be. We determine legislative intent by first applying the meaning of the statute's text to the specific situation in controversy. A court does not read into the statute words not readily found there.” *Hoesli v. Triplett, Inc.*, 303 Kan. 358, 362, 361 P.3d 504 (2015) (internal citations omitted). Rules of statutory construction, legislative history, and the like are not considered unless the statute is ambiguous on its face. *Id.*

Before delving into the parties’ legal arguments, it is important to understand the crux of Hammet’s complaint. ELVIS is programmed to do various things with the information in its

database, including packaging this information in the form of summary reports. These programs are also referred to as “functionalities.” Pertinent to this case, ELVIS was programmed to draw information from the centralized voter registration database and create what is called a statewide provisional ballot detail report. With this functionality, the Secretary of State’s office had the ability to run the report in ELVIS. The report was a list of persons statewide who cast provisional ballots, including identifying information for each person and the reason the ballot was considered provisional.

Schwab later asked ES&S to remove the program from ELVIS. The net result was that the information underlying the report remained in the database, and the same information could be produced by the Secretary of State’s office, but not in a summary report form and not without the assistance of the database contractor or a laborious in-house process. Thus, the Secretary of State’s office could no longer produce a statewide provisional ballot detail report, and removing the functionality increased the time and expense involved in producing the underlying information for anyone who requested it. Hammet claims that Schwab’s decision to remove the statewide report functionality violates various provisions of Kansas law.

#### **A. KANSAS OPEN RECORDS ACT.**

The purpose of KORA is “to ensure public confidence in government by increasing the access of the public to government and its decision-making processes.” *Data Tree v. Meek*, 279 Kan. 445, 454, 109 P.3d 1226 (2005). “It is declared to be the public policy of the state that public records shall be open for inspection by any person unless otherwise provided by this act, and this act shall be liberally construed and applied to promote such policy.” K.S.A. 45-216(a). See also K.S.A. 45-218(a) (“[a]ll public records shall be open for inspection by any person, except as

provided by this act.”).

To this end, K.S.A. 45-220(a) says:

“Each public agency shall adopt procedures to be followed in requesting access to and obtaining copies of public records, which procedures shall provide full access to public records, protect public records from damage and disorganization, prevent excessive disruption of the agency's essential functions, provide assistance and information upon request and ensure efficient and timely action in response to applications for inspection of public records.”

K.S.A. 45-217(j)(1)<sup>4</sup> defines public record for purposes of KORA.

“‘Public record’ means any recorded information, regardless of form, characteristics or location, which is made, maintained or kept by or is in the possession of:

- (A) Any public agency; or
- (B) any officer or employee of a public agency pursuant to the officer's or employee's official duties and which is related to the functions, activities, programs or operations of any public agency.”

In *Hammet I*, Hammet requested a statewide provisional ballot detail report from the 2018 general election. At the time of Hammet’s request, ELVIS was programmed such that the Secretary of State’s office was capable of producing the report from the ELVIS database. But Schwab refused to produce it to Hammet because Schwab believed the information was protected from disclosure under KORA based on HAVA and a constitutional right to privacy. In its opinion, this Court said: “The parties do not dispute that the information in the Report meets the definition of a public record under KORA,” but the “question is whether it is an open record not otherwise subject to an exception to disclosure.”

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<sup>4</sup>K.S.A. 45-217 was amended by Laws 2021, ch. 82 §10, effective July 1, 2021. K.S.A. 45-217(j) was formerly K.S.A. 45-217(g). The amendments to this statute are not otherwise pertinent here.

The facts before the Court here are different. The Secretary of State's office no longer has the capability of generating the report from the ELVIS database and cannot produce the underlying information without the assistance of an outside contractor or a laborious in-house process. The Secretary of State's office does not have this capability because Schwab asked the database contractor to remove it from ELVIS. Hammet asserts that the statewide provisional ballot detail report functionality "once created and maintained, became subject to KORA, just like the underlying data used to create it." In other words, Hammet claims that KORA prevents the Secretary of State from removing the report functionality from ELVIS.

Hammet argues that the ability to generate a statewide provisional ballot detail report is "recorded information" and thus a public record open for inspection. But it is not. The data regarding provisional ballots input into ELVIS by the various county election officials is recorded information. The provisional ballot detail report is a functionality; it is the result of a set of computer programming commands that can be removed from or added back to ELVIS. It is a way of packaging data that may exist in the ELVIS database with proper programming. The ability to generate a statewide provisional ballot detail report is an item separate from the data it contains. The report itself becomes "recorded information" only if and when it is generated by the use of a computer program. Computer programs are not subject to disclosure under KORA. K.S.A. 45-221(a)(16).

There is no statute within or apart from KORA that requires the Secretary of State to create a statewide provisional ballot detail report either by hand or electronically. There is no statute that dictates how the Secretary of State must program the databases it uses to store information. There is no statute that requires the Secretary of State to create or maintain the most efficient and least

costly electronic method for packaging large volumes of information for public consumption. Hammet believes that there should be such a law, but that is a debate for another forum. KORA requires only that recorded information which is made, maintained or kept by or is in the possession of a public agency be open for inspection. Nothing in KORA requires the Secretary of State to create or maintain a computer program that has the capability of generating a statewide provisional ballot detail report; it requires only that he make the report open for inspection if and when it is created. See Attorney General Opinion 86-43 (1986), \*1 ("a public agency is only required to make available to the public those records which it makes, maintains, keeps or possesses," and "KORA imposes no duty on a public agency to create a record to compile specific information requested by an individual.").

Hammet cites Attorney General Opinion 95-64 (1995), but it does not support his position. At issue in Opinion 95-64 was the Johnson County Information Network ("JCIN"), an electronic database of real estate and tax roll information made available to users via a dial-up modem. JCIN was offered as an alternative and in addition to accessing public records through county offices. Those who wanted dial-up access were asked to register and pay for the service. The opinion addressed several questions about how KORA applied to the provision of electronic access to records. One issue had to do with a provision in the registration agreement that purported to exempt the electronic version of the records from KORA.

The opinion said:

"The KORA does not require that computerized on-line access be given to public records nor that the county create a software program to provide such a service. Thus, the software itself and the on-line service may properly be characterized as proprietary in nature. Nevertheless, the KORA requires that, once a record is created or possessed by an agency, all such records are public records and must therefore be open unless otherwise closed by law. It is our opinion that

the form of the record, computerized or hard copy, does not alter the uniformly applicable provisions of the KORA.” *Id.* at \*4.

This is entirely consistent with the notion that, as long as ELVIS is programmed to produce a statewide provisional ballot detail report, the report is a public record. If ELVIS is no longer programmed to produce a statewide provisional ballot detail report, there can be no report. The nonexistent functionality – even if it existed in the past or could exist in the future - is not a public record. Hammet understandably raises a question about why Schwab would purposely eliminate the ability to expediently and inexpensively produce a statewide provisional ballot detail report in ELVIS, even if the Secretary of State’s office has no use for it. Schwab’s motives and reasoning are only conjecture at this point in the litigation, but they are not material to the purely legal questions on summary judgment. The ability to produce a statewide provisional ballot detail report in ELVIS is not a public record as defined by KORA. Eliminating the functionality does not violate KORA as written.

#### **B. DESTRUCTION OF GOVERNMENT RECORDS.**

Hammet next argues that Schwab destroyed government records when his office directed ES&S to remove the computer program that allowed the agency to generate the statewide provisional ballot detail report from information in its database. KORA does not address the preservation of government records. K.S.A. 45-216(b). Instead, Hammet cites K.S.A. 45-403(a), which is part of the Government Records Preservation Act (“GRPA”). It says:

“All government records made or received by and all government records coming into the custody, control or possession of a state or local agency, in the course of its public duties, and all government records deposited in the state archives, shall be public property and shall not be mutilated, destroyed, transferred, removed, damaged or otherwise disposed of, in whole or in part, except as provided by law, or as may be authorized in the retention and disposition schedules.”

K.S.A. 45-401 states the public policy underlying retention of government records: “The legislature declares that state and local government records with enduring value should be stored in conditions which are not adverse to their permanent preservation and should be properly arranged so that appropriate public access to such records is possible.” Government records are defined in pertinent part as “all volumes, documents, reports, maps, drawings, charts, indexes, plans, memoranda, sound recordings, microfilms, photographic records and other data, information or documentary material, regardless of physical form or characteristics, storage media or condition of use, made or received by an agency in pursuance of law or in connection with the transaction of official business or bearing upon the official activities and functions of any governmental agency.” K.S.A. 45-402(d). Government records of enduring value are those which “merit preservation for historical, legal, fiscal or administrative reasons, or for research purposes.”

K.S.A. 45-402(f).

A computer program that allowed the Secretary of State to generate a statewide provisional ballot detail report is not a government record because it is not a volume, document, report, map, drawing, chart, index, plan, memorandum, sound recording, microfilm, photographic record or other data, information or documentary material made or received by an agency. Again, the data regarding provisional ballots input into ELVIS by the various county election officials could be considered a government record.<sup>5</sup> The statewide provisional ballot detail report is a separate item that may become a government record only if and when it is created by the use of a computer program. But since the functionality itself is not a government record, removing the computer

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<sup>5</sup> Indeed, the data input by county officials into ELVIS is routinely “cleared” by county officials in advance of an upcoming election to allow input of new data. Hammet does not argue that this amounts to destruction of government records.

program making it possible to generate the statewide provisional ballot detail report does not amount to destroying a government record.

Given the Court's conclusion that the computer program at issue is not a government record under K.S.A. 45-402(d), there is no need to address Schwab's additional arguments that (1) Hammet lacks standing to challenge Schwab's actions under GRPA, and (2) there is no private right of action under GRPA.

### **C. UNREASONABLE FEES.**

Hammet asserts that by removing the ability to generate a statewide provisional ballot detail report from ELVIS, Schwab has imposed an unreasonable fee to obtain the underlying information by eliminating less costly means for obtaining it. Hammet was not charged a fee for the statewide provisional ballot detail report when it was produced to him. Now that Schwab has removed the ability to produce the report, Schwab says he will charge Hammet the cost to have ES&S program a query to extract relevant information from the database. The cost for Hammet's October 2020 request was \$522, and the price for each future request will vary depending on the volume of responsive information.

K.S.A. 45-219(c) says: "each public agency may prescribe reasonable fees for providing access to or furnishing copies of public records," subject to the following:

- "(1) In the case of fees for copies of records, the fees shall not exceed the actual cost of furnishing copies, including the cost of staff time required to make the information available.
- (2) In the case of fees for providing access to records maintained on computer facilities, the fees shall include only the cost of any computer services, including staff time required."

Nothing in K.S.A. 45-219 or elsewhere in Kansas law requires that a public agency create or maintain the least expensive method for producing open public records. Hammet cites *State ex rel. Stephan v. Harder*, 230 Kan. 573, 641 P.2d 366 (1982), but it does not help him. In *Harder*, a declaratory judgment action, the court concluded that the names of physicians who received public funds for performing abortions and how much they received were public records under KORA. The information was stored on computer tapes, and embedded within the files was private information that had to be redacted before the records could be provided. The court, in brief remarks at the end of the opinion, said that the public agency could charge the requestor the cost of developing a computer program to extract the pertinent information from the tapes (\$2,000), along with the cost of running the program for the instant request (\$3,600), and the cost of individual staff review of the information to make certain private data had been removed. *Id.* at 589. The court did not say the agency was required to create a computer program or a summary report, nor did the court say the agency was required to make available the least costly alternative possible for furnishing the records requested.

Hammet argues that eliminating the statewide provisional ballot detail report amounts to a constructive denial of the information he seeks, not because the underlying information about provisional ballots is no longer available, but because obtaining the statewide summary report was quicker and less expensive than any remaining alternative. The information Hammet seeks is still available to him, and though the remaining alternatives for obtaining it may be more costly and take longer to obtain, eliminating the report functionality does not violate KORA. See, e.g., Attorney General Opinion 87-137, \*2 (“a public agency is not required under the KORA to write a computer program if the information requested is available in existing records. While an

individual has the right to obtain copies of public records, there is no right to obtain the records in the least expensive manner.”).

#### **D. ABSTRACT OF A VOTING RECORD.**

Hammet asserts that Schwab destroyed an abstract of a voting record when he removed the computer program used to generate the statewide provisional ballot detail report from ELVIS. Hammet relies on K.S.A. 25-2709, not part of KORA, which says:

“The following election records may be destroyed after they have been on file for the period stated:

- (1) Appointments and oaths of office of election board members, two years.
- (2) Registration lists, five years.
- (3) Poll books, five years.
- (4) Party affiliation lists, five years.
- (5) Abstracts of voting records, 20 years.
- (6) Affidavits required to be filed by the election laws of the state of Kansas, including advance voting and mail ballot envelopes containing voters' declarations, two years.
- (7) All other election records used at polling places, two years.
- (8) Declination forms maintained by voter registration agencies and the division of motor vehicles, two years.
- (9) Confirmation notices, two years.
- (10) Confirmation responses, two years.”

Hammet claims that the statewide provisional ballot detail report is an abstract of a voting record for purposes of K.S.A. 25-2709(5). First, it is clear from a reading of related statutes that this is not the case. K.S.A. 25-3006(a) requires a local election board, upon completing its canvass, to “make three abstracts of the vote cast for all candidates whose names are printed on the ballot, all write-in votes cast and all votes cast on questions submitted. Such abstracts shall be made under the direction of the supervising judge upon forms provided by the county election officer. Each of such three abstracts shall bear a certificate of the validity thereof and each certificate shall be

signed by all of the clerks and judges at the voting place.” The certificate of validity required by law is entitled “Certificate for Abstract of Votes Cast.” K.A.R. 7-25-1. K.S.A. 25-2708 is titled in part “distribution of abstracts of voting.” K.S.A. 25-2708(c) directs the distribution of the three abstracts, one of which “shall be retained as a permanent record in the office of the county election officer.” K.S.A. 25-2708(c)(1).

Additional statutes address the handling of abstracts by county and state election officials as part of the canvass, and these statutes refer to abstracts of votes in various elections. See, e.g., K.S.A. 25-3106 (“county election officer shall prepare a combined tabulation of the vote totals for each candidate and question submitted showing therein the votes at each voting place,” to be known as the abstract of election returns); K.S.A. 25-3109 (“the county board of canvassers shall make final determination of the results of the election and enter the same in the final abstract of the election returns”); K.S.A. 25-3204 (“secretary of state, upon the receipt of the abstracts of the votes in national and state primary and general elections shall proceed to open the same, and shall tabulate the vote by counties and districts in a suitable manner for permanent record and shall carefully preserve in his or her office said abstracts.”).

From these statutes it is clear that “abstracts of voting records” that may be destroyed after 20 years does not refer generically to a summary report of information regarding provisional ballots or anything else. It refers to the abstract of votes cast in an election prepared as required by law. Further, Hammet’s complaint is not even that Schwab destroyed a summary report of information regarding provisional ballots, but that he removed a computer program which made it possible to generate a statewide provisional ballot detail report from the data entered by county election officials into ELVIS. Under no plain language interpretation of K.S.A. 25-2907(5) can a

computer program fit the definition of “abstract.” A computer program may operate to generate a summary report, but the program itself is not an “abstract.”

Hammet does not argue that the provisional ballot report fits any other category in K.S.A. 25-2907, and no other category will be considered. In any event, it is not at all clear that there is any remedy available for action inconsistent with the statute. The statute simply says certain records may be destroyed after certain periods of time. “There is no statutory sanction for election materials’ being destroyed before the period specified in 25–2709 has passed.” *Cure v. Bd. of Cty. Com’rs of Hodgeman Cty.*, 263 Kan. 779, 799, 952 P.2d 920 (1998) (premature destruction of records not grounds to void an election). There is no need to address Schwab’s additional argument regarding standing.

### **CONCLUSION**

Hammet sought summary judgment on the issue of whether Schwab violated KORA and other provisions of Kansas law by eliminating the ability to generate a statewide provisional ballot detail report. Schwab sought summary judgment in his favor on the same issue. For the reasons set forth above, the Court concludes that Schwab’s decision to eliminate the report functionality does not violate KORA or other provisions of Kansas law. Hammet’s motion for summary judgment is denied in its entirety. Schwab’s motion for summary judgment is granted on all claims against him. This litigation is concluded in favor of Schwab, and no further journal entry is necessary.

This Order is effective on the date and time shown on the electronic file stamp.

IT IS SO ORDERED.

HON. TERESA L. WATSON  
DISTRICT COURT JUDGE

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above document was filed electronically on the date stamped on the order, providing notice to counsel of record.

/s Angela Cox  
Administrative Assistant