

February 3, 2025

The Honorable Susan Humphries, Chairperson
House Committee on Judiciary
300 SW 10th Avenue, Room 582-N
Topeka, Kansas 66612

Dear Representative Humphries:

SUBJECT: Fiscal Note for HB 2134 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2134 is respectfully submitted to your committee.

HB 2134 would establish limits to the fees Executive Branch agencies may charge for access to or copies of public records. The bill would allow Executive Branch agencies to charge a fee equal to \$0.25 per page for printed copies of public records and would not allow fees to be charged for electronic copies of records. For costs related to employee time to make records available, the bill would allow Executive Branch agencies to charge a fee that could not exceed the lowest hourly rate of an employee qualified to provide the requested records. No such fee could be charged for electronic copies. The bill would specify that any person requesting records may appeal the reasonableness of the fees charged by the Executive Branch to the Secretary of Administration. Any person requesting records of a political or taxing subdivision could appeal the reasonableness of the fees to the governing body of the political or taxing subdivision, whose decision would be final.

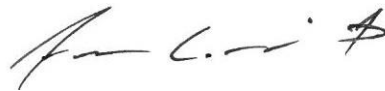
The Kansas Bureau of Investigation (KBI) indicates that while it does not charge per page for the production of electronic records, it does charge to determine whether there may be records available for a particular request that are subject to release under the Kansas Open Records Act (KORA). Some requests require the KBI to search criminal investigation files stored off-site in paper format. The agency is required to pay \$28 for the first file box, and \$3 for each subsequent box to a third-party vendor when it recalls records from off-site storage. The agency indicates it recalls boxes from long-term storage for such requests due to storage limitations and to access digital audio and video files which are kept only on removable media. Records requests for digital files still require review and redaction in addition to staff time to create queries to search databases.

In FY 2024, the agency indicates requests varied from a simple search with minimal staff time, which is not charged to searches, which take considerable staff time. The KBI notes that enactment of the bill would result in many requests that are currently withdrawn going forward and would increase the number of reviews for possible records the agency conducts. The KBI utilizes one attorney for routine correspondence, records searches, and review along with a legal assistant and intern. The KBI indicates that if time to review and redact electronic records cannot be assessed for a fee, then it would need \$136,455 from the State General Fund beginning in both FY 2026 and FY 2027 for 2.00 FTE positions to ensure proper processing of requests in a timely manner. Of this amount, \$90,064 would be for salaries and wages and \$46,391 would be for benefits.

The Office of the Attorney General indicates enactment of the would have a fiscal effect on the agency's operations because the bill would eliminate fees for providing electronic copies of records. The agency estimates additional State General Fund expenditures of \$385,972 in FY 2026 and \$405,271 in FY 2027 for an additional 3.00 FTE positions. Of the additional positions, two would be for attorneys to handle an increase in open records requests and complaints. The other position would for an office assistant to support the two additional attorneys. The agency also indicates enactment of the bill could result in litigation; however, the agency does not have enough information to estimate the cost of any litigation. The agency also estimates a loss of \$3,000 in fee revenue in both FY 2026 and FY 2027.

The Departments of Administration, Revenue, Health and Environment, Children and Families, Transportation, and Aging and Disability Services indicate enactment of the bill would not have a fiscal effect on any of the operations of the respective agencies. The Board of Regents states enactment the bill would not have a fiscal effect on agency operations. Any fiscal effect associated with HB 2134 is not reflected in *The FY 2026 Governor's Budget Report*.

Sincerely,



Adam C. Proffitt
Director of the Budget

cc: Becky Pottebaum, Board of Regents
Kim Holter, Department for Children & Families
Leigh Keck, Department for Aging & Disability Services
Amy Penrod, Department of Health & Environment
Brendan Yorkey, Department of Transportation
Matt Bingesser, Office of the Attorney General
Paul Weisgerber, Kansas Bureau of Investigation
Samir Arif, Department of Administration