

SESSION OF 2025

SUPPLEMENTAL NOTE ON SENATE BILL NO. 70

As Amended by House Committee on Judiciary

Brief*

SB 70, as amended, would limit the fees that could be charged by a public agency in response to Kansas Open Records Act (KORA) requests and allow a requester to appeal a fee's reasonableness to the Secretary of Administration (Secretary) if the responding public agency is within the Executive Branch.

The bill would also exempt disclosure of certain closed investigations, change the date for counties or district attorneys to report complaints regarding KORA and the Kansas Open Meetings Act (KOMA), and amend provisions concerning public meetings in KOMA.

Fees for Public Records

The bill would amend current law prohibiting an agency from charging a fee in excess of the actual cost of furnishing copies of requested records. The bill would specify that actual costs include the cost to review requests and redact the requested records. The bill would prohibit any incidental costs incurred by the public agency not attributable to furnishing the requested records from being included.

If the public agency incurs costs for staff time to provide access to or furnish copies of public records, the bill would require the agency to use in good faith the lowest cost category of staff reasonably necessary to provide such access or copies. The bill would require charges for staff time

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

be based on the employee's salary or hourly wage, not including the cost of employee benefits.

The bill would require executive agency heads to establish fees for access to or for copies of the agency records.

Cost Estimates

The bill would require a public agency to make reasonable efforts to contact the requester and engage in interactive communication about mitigating request costs when the staff time needed to respond would exceed five hours or the estimated actual cost for staff time exceeds \$200.

If the public agency has made reasonable efforts to contact the requester, and the requester fails to respond by the end of the third business day, the bill would consider such request to be withdrawn until a subsequent contact has been made by the requester to the agency. "Reasonable efforts" would mean contacting the requester through the means of communication the requester provided as their preferred method.

Appeals

Under continuing law, persons who feel a KORA request fee is unreasonable may appeal the estimate to the Secretary of Administration. The bill would clarify that such appeals would only apply to records within the Executive Branch.

Certain Records Not Subject to Disclosure

The bill would amend law concerning records that a public agency is not required to disclose under KORA to exempt the disclosure of formally closed investigations of

violations of civil law or administrative rules and regulations when no violations were found.

The bill would also exempt records of a public agency that contain material that is obscene, as that term is defined by the Kansas Criminal Code.

Reports of KORA and KOMA Complaints

The bill would change the date from January 15 to October 15 of each year by which the county or district attorney of each county must report to the Attorney General all KORA and KOMA complaints received during the previous fiscal year.

Changes Applicable to Public Meetings

Subordinate Groups Subject to KOMA

The bill would provide that whenever a majority of a subcommittee or other subordinate group created by a public body or agency meets, such subcommittee or group meeting would be considered an open meeting subject to KOMA.

A private entity would be considered a subordinate group of a legislative or administrative body of the State or a political and taxing subdivision only if they are under the direct or indirect control of such body.

Livestreaming

The bill would provide that a public body or agency that voluntarily elects to livestream a meeting must ensure that all aspects of the meeting are available through the selected medium for the public to observe. The bill would specify that an unintentional technological failure or an action taken by the provider of the selected medium that disrupts or prevents

the livestream would not constitute a KOMA violation under the bill.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of Senator Shane.

[*Note:* The House Committee on Judiciary replaced Section 1 of the bill, concerning fees that may be charged for copies of public records, with the contents of HB 2134, as amended by the House Committee on Judiciary, also concerning fees that may be charged for copies of public records. Background information for both SB 70 and HB 2134 is included below.]

SB 70 (KORA and KOMA Provisions)

Senate Committee on Judiciary

In the Senate Committee hearing, representatives of the Kansas Association of Counties (KAC) and League of Kansas Municipalities (LKM) and five private citizens provided **proponent** testimony. The proponents generally stated the bill would improve transparency in local government and bring fees charged for electronic copies in line with fees charged for physical copies.

Written-only proponent testimony was provided by a private citizen.

Neutral testimony was provided by representatives of the Office of the Attorney General (OAG) and the Kansas Association of School Boards (KASB). The neutral conferees generally stated the bill would require some clarification and suggested changes to that effect.

Written-only neutral testimony was provided by representatives of the cities of Topeka and Overland Park.

Opponent testimony was provided by a representative of the Kansas Policy Institute (KPI). The opponent stated the bill would allow taxpayers to be charged for receiving electronic copies of documents and this should not be allowed.

No other testimony was provided.

The Senate Committee amended the bill to:

- Remove a provision concerning what fee may be charged for electronic copies;
- Add a provision clarifying when fees may be charged for staff time, electronic copies, and printed copies;
- Change the date by which the county or district attorney of each county shall report KORA and KOMA complaints received during the previous fiscal year;
- Clarify a provision providing rules for determining a majority in subordinate groups.

Senate Committee of the Whole

The Senate Committee of the Whole adopted a technical amendment to update the name of an agency referenced in the bill.

House Committee on Judiciary

In the House Committee hearing, the representative of KPI provided **proponent** testimony that was substantially similar to the testimony provided in the Senate Committee

hearing. Written-only proponent testimony was provided by a representative of the Kansas Register of Deeds Association.

Neutral testimony was provided by a representative of LKM, who expressed support for the fee provisions contained in HB 2134 over the fee provisions contained in SB 70. A private citizen also provided neutral testimony on the bill, expressing concerns regarding the exemption for disclosure of records involving violations of civil or administrative law. Written-only neutral testimony was provided by representatives of the City of Overland Park, KAC, KASB, and OAG.

No other testimony was provided.

The House Committee amended the bill to:

- Remove the contents of Section 1, concerning fees for public records, and insert the contents of HB 2134, as amended by the House Committee on Judiciary, concerning fees for public records, in its place;
- Add an exemption for disclosure of records of a public agency that contain obscene material;
- Clarify that unintended technical failures or actions by a provider associated with a meeting that is being livestreamed would not constitute a violation of the bill; and
- Remove a five-minute grace period for concluding closed or executive meetings.

HB 2134 (Fees for Public Records)

The bill was introduced by the House Committee on Judiciary at the request of a representative of the KPI.

House Committee on Judiciary

In the House Committee hearing, **proponent** testimony was provided by a representative of the KPI. The proponent generally stated the bill would provide clarity and consistency on fees for KORA request processing.

Written-only proponent testimony was provided by representatives of the Kansas Association of Broadcasters, Kansas Press Association, and a private citizen.

Opponent testimony was provided by representatives of the Cities of Overland Park and Topeka; KASB; Kansas Association of Chiefs of Police and Kansas Sheriffs Association; and LKM. The opponents generally stated the bill would not reasonably cover the costs associated with large requests, expressed uncertainty about who is qualified to provide records, and noted the bill does not account for various reviews required for specific requests.

Written-only opponent testimony was provided by representatives from the Cities of Maize and Shawnee; the Unified Government of Wyandotte County and Kansas City, Kansas; and KAC.

Written-only neutral testimony was provided by representatives of OAG and the City of Manhattan.

No other testimony was provided.

The House Committee amended the bill to:

- Include the cost to review and redact the requested records to the agency's actual costs;
- Require staff time to be calculated in good faith at the lowest cost category reasonably necessary to respond to the request and preclude costs of employee benefits;

- Apply the fee limits to the judicial and legislative branches;
- Require public agency heads to establish fees for executive branch requests;
- Revise the process for mitigating costs and contacting the requester about such mitigation; and
- Make technical changes to implement the amendments.

Senate Committee on Judiciary

In the Senate Committee hearing, **proponent** testimony was provided by representatives of KPI, LKM, and OAG. The proponents stated that enactment of the bill would create an obligation for recouping only the costs incurred for printing and providing answers to KORA requests. Written-only proponent testimony was provided by representatives of the KAC, the Kansas Register of Deeds Association, and the City of Topeka, and by a representative of the Kansas Association of Chiefs of Police and the Kansas Sheriffs Association.

Neutral testimony was provided by a representative of the Office of Secretary of State. The representative stated general support for the bill but testified as neutral because enactment of the bill would not effect the office directly.

Written-only neutral testimony was provided by a representative of the City of Overland Park.

No other testimony was provided.

The Senate Committee amended the bill to allow a person requesting access to or copies of public records under KORA to request an itemized statement of costs incurred by the public agency and charged to the requester. [*Note*: The House Committee on Judiciary inserted the contents of HB

2134, as passed by the House, into SB 70 and therefore did not retain this Senate Committee amendment.].

Fiscal Information

SB 70 (KORA and KOMA Provisions)

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue (KDOR), Kansas Department of Wildlife and Parks, Kansas Insurance Department, Board of Nursing, Department for Children and Families (DCF), Office of the Secretary of State, and Department of Corrections indicate enactment of the bill would have a minimal fiscal effect on the agencies.

The OAG, Department of Administration (DOA), Department of Health and Environment (KDHE), Kansas Department for Aging and Disability Services (KDADS), State Board of Healing Arts, Department of Labor, Kansas Bureau of Investigation (KBI), Kansas Highway Patrol, State Department of Education, and Legislative Administrative Services indicate enactment of the bill would have no fiscal effect on the agencies.

KAC and LKM indicate enactment of the bill could have some fiscal effect on the counties and cities but such effect cannot be estimated.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2026 Governor's Budget Report*.

HB 2134 (Fees for Public Records)

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KBI indicates that while it does not charge a per-page cost 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 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 that 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 KBI indicates requests varied from a simple search with minimal staff time, which is not charged, to searches that take considerable staff time. The KBI notes 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 an intern. The KBI indicates that if time to review and redact electronic records cannot be assessed for a fee, it would need \$136,455 from the State General Fund (SGF) beginning in both FY 2026 and 2027 for 2.0 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 OAG indicates enactment of the bill 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 SGF expenditures of \$385,972 in FY 2026 and \$405,271 in FY 2027 for an additional 3.0 FTE positions. Of the additional positions, two would be for attorneys to handle an increase in KORA requests and complaints. The other position would be 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 fee revenue of \$3,000 in FY 2026 and FY 2027.

The State Board of Regents, DOA, KDADS, DCF, KDHE, KDOR, and the Department of Transportation indicate enactment of the bill would not have a fiscal effect on agency operations.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2026 Governor's Budget Report*.

Kansas Open Records Act; Kansas Open Meetings Act; disclosure; public records; fees