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**House Judiciary Committee
Written Neutral Testimony for HB 2134
Office of the Attorney General
February 3, 2025**

Chairwoman Humphries and Members of the Committee,

Thank you for the opportunity to provide testimony on House Bill (HB) 2134. The Office of the Attorney General is responsible for enforcing the Kansas Open Records Act (KORA) while also educating the public on their right to access public records. Ensuring transparency and accessibility is essential to maintaining public trust and accountability in government.

HB 2134 seeks to address the issue of fees associated with obtaining public records. However, the language in the amended K.S.A. 45-219(c)(5) raises concerns regarding the ability of government entities to recover costs associated with fulfilling electronic records requests. The bill outlines two options for charging fees: one that permits a charge of \$0.25 per printed page while prohibiting any fees for electronic records, and another that allows for the recovery of costs related to employee time spent locating, reviewing, and providing records, but still prohibits fees for electronic copies. The provision stating that "no such fee shall be charged for electronic copies" in K.S.A. 45-219(c)(5)(B) appears to modify the entire subsection, effectively preventing agencies from charging for time spent searching for, reviewing, and redacting electronic records.

This drafting issue represents a significant shift from current practice, which allows agencies to charge for staff time regardless of whether the records are provided in print or electronically. If agencies are unable to recover costs for electronic records, they may face challenges in managing extensive records requests, potentially diverting resources from other essential government functions.

Additionally, K.S.A. 45-219(d)(2) introduces an appeal process for fee assessments by a political or taxing subdivision, allowing requesters to challenge fees before the governing body of that entity. While this provision aims to provide an avenue for resolving disputes, the use of terms such as "appeal" and "the decision shall be final" raises questions about whether further review by the Office of the Attorney General would remain available in cases of unreasonable fees.

Given the number of local government entities in Kansas, ensuring an independent review process remains accessible is an important consideration.

Given these concerns, the Office of the Attorney General recommends revisiting the language in HB 2134 to clarify the intent of the fee provisions for electronic records. We encourage the committee to consider revisions that balance these objectives and appreciate the opportunity to collaborate on a sustainable solution that serves the interests of both the public and government agencies.

Thank you for your time and consideration.

Sincerely,

Matt Bingesser
Administrative Counsel
Office of the Attorney General