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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: House Committee on Judiciary
From: Office of Revisor of Statutes
Date: March 12, 2025
Subject: Bill Brief for SB 70 (As Amended by Senate Committee of the Whole)

Senate Bill 70 prohibits fees for electronic copies of records under the open records act, exempts from disclosure formally closed investigations with no found violations, requires county or district attorneys to file reports of violations with the attorney general in October instead of January, determines the membership calculation of subordinate groups under the open meetings act, requires public bodies or agencies that live stream meetings to ensure that the public is able to observe, and provides for a five minute deviation to resume an open meeting at the conclusion of executive sessions.

Section 1 amends K.S.A. 45-219, the statute that provides for the fees for copies of records. The bill, as amended, provides that: 1) A fee for copies of public records which is equal to or less than \$.25 per printed page shall be deemed a reasonable fee; 2) no per page or copy fee shall be charged for electronic copies of public records; and 3) if a fee is charged for the cost of staff time required to make information available, no fee for printed copies of public records shall be charged.

Section 2 amends K.S.A. 45-221, the statute that provides certain records are not required to be disclosed by public agencies. Current law provides that an agency shall not be required to disclose records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent. The bill adds that an agency shall not be required to disclose such records if the investigation is formally closed and the agency determines that no violation occurred.

Section 3 amends K.S.A. 75-7d01, the statute that provides for the batterer intervention program certification unit. Current law states that "Except as otherwise provided by law, the books, documents, papers, records or other sources of information obtained and the investigations conducted by the unit shall be confidential as required by state or federal law." This bill removes the phrase, "Except as otherwise provided by law."

Section 4 amends K.S.A. 75-753, the statute that requires the county or district attorney of each county to report to the attorney general all open records act or open meetings act complaints they have received during the preceding fiscal year. Current law requires them to make that report by January 15, and this bill, as amended, would move that to October 15.

Section 5 amends K.S.A. 75-4318, the statute in the open meetings act that requires meetings to be open. Subsection (h) is added to provide that when a subcommittee or other subordinate group is created by a public body or agency, whenever a majority of such subcommittee or group meets, such subcommittee or group shall be subject to the requirements of the open meetings act. Subsection (i) is added to provide that unless otherwise stated in law, a private entity will only be considered a subordinate group of a legislative or administrative body if such group is under the control, whether directly or indirectly, of such legislative or administrative body of the state or a political and taxing subdivision. Finally, subsection (j) is added to provide that if a public body or agency voluntarily elects to live stream a meeting, such body shall ensure that all aspects of the open meeting are available through the selected medium for the public to observe.

Section 6 amends K.S.A. 75-4319, the statute concerning closed or executive meetings. Current law requires the motion to recess for a closed or executive meeting to include: 1) A statement describing the subjects to be discussed during the closed or executive meeting; 2) the justification listed in the statute for closing the meeting; and 3) the time and place at which the open meeting shall resume. The bill provides that the motion shall include the estimated time for the open meeting to resume and that a public body or agency shall not be guilty of a violation if the closed or executive meeting concludes five minutes earlier or later than provided in the motion.

The bill would take effect from and after publication in the statute book, July 1, 2025.