



**Written Neutral Testimony on
SB 70
In House Committee on Judiciary
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March 12, 2025

Chair Humphries and Members of the Committee,

Thank you for the opportunity to provide testimony on SB 70. I am sorry I was not able to present this testimony in person. KASB'S member-adopted permanent policies provide that "KASB supports modernizing open records requirements while maintaining districts' ability to recover the district's actual costs of responding to open records requests."

We appear as neutral on this bill, as we support some of the proposed amendments and have concern over others. I will briefly share those observations with you today.

First, Section 1 of the bill would amend K.S.A. 45-219. Subsections (c)(6) (on page 2, starting at line 28) as amended would read as follows.

*A fee for copies of public records which is equal to or less than \$.25 per printed page shall be deemed a reasonable fee. No per page or copy fee shall be charged for electronic copies of public records. **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 pursuant to this paragraph. (Emphasis added.)***

KASB urges the committee to amend this legislation to remove the final sentence of the subsection which is in bold type above. Sometimes our member school districts receive Kansas Open Records Act requests that have hundreds if not thousands of responsive documents. If our districts are not able to charge both for staff time necessary to provide the records and the reasonable printing fee when records are requested to be printed, it will be impossible for districts to fill these requests without squandering public tax dollars in the process. We ask the

committee to protect our members' ability to provide records and requested transparency without losing district funds in the process.

Second, we support attempts to provide clarity in Section 5, Subsection (h) of K.S.A. 75-4318, regarding when a subordinate group of a board is subject to the Kansas Open Meetings Act. However, we believe some additional detail in this amendment would be beneficial. Recent caselaw has made it less clear whether subcommittees or other groups that may have board members on them are subject to the Kansas Open Meetings Act. In the bill, K.S.A. 75-4318(h) would read as follows.

(h) When a subcommittee or other subordinate group is created by a public body or agency, whenever a majority of such subcommittee or other subordinate group meets, such subcommittee or other subordinate group shall be subject to the requirements of this act.

We would suggest that Subsection (h) be written to provide, "When a public body or agency subject to the act subdivides itself into subordinate groups, the total number of members of the public body or agency in such subordinate group shall be used to determine if a majority of the membership of the body or agency participated in a meeting." Please note that, as the amended language is written, even the simple act of the school board president and vice president working with the superintendent on setting the board agenda before the meeting would be an open meeting if board policy or board action designates them as the subset of the board responsible for this task. We believe this would be a very cumbersome change and would overly complicate the important work of subcommittees.

Third, we have some concerns over Section 5, Subsection (j), which would amend K.S.A. 75-4318 as follows:

(j) A public body or agency that voluntarily elects to live stream their meeting on television, the internet or any other medium shall ensure that all aspects of the open meeting are available through the selected medium for the public to observe.

This leads to two concerns. Some of our districts that livestream and/or record their meeting have been told they will not be able to continue using this platform if they allowed certain types of content to be stated during a board meeting. Specifically, the issue seemed to be with public comment times and the information that commentators elected to share. As some districts compared alternatives to stream and/or record and store their meeting content online, they noticed that they would have to pay significantly more money to use another vendor for this purpose. As a result, some districts have elected not to stream and/or record public comment, while streaming the remainder of the meeting. If this language becomes law, we believe this will have a chilling effect on districts streaming their board meetings.

Also, we do want to ensure that making “all aspects of the open meeting” being streamed does not include the streaming of a closed, executive session, as that would undercut the privacy interest being protected by going into the executive session in the first place.

Finally, we appreciate the flexibility built into K.S.A. 75-4319 by allowing the board 5 minutes of leeway on the timing of ending executive session. The rigidity of current law is sometimes frustrating to our members, and we believe they would support this change.

Thank you for your time and consideration.

KASB is a non-profit service organization built on an abiding belief in Kansas public schools. We have put the needs of students and K-12 leaders first since 1917.