



**Oral Neutral Testimony on
SB 70
In Senate Committee on Judiciary
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Chair Warren and Members of the Committee,

Thank you for the opportunity to provide testimony on SB 70. 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)(2) and (c)(6) as amended would read, in part, as follows.

*(2) In the case of fees for providing access to records maintained on computer facilities, the fees shall include **only** the cost of any computer services, including staff time required...*

*(6) ...A fee for electronic copies of public records which is equal to or less than \$.125 per page shall be deemed a reasonable fee. (**Emphasis** added.)*

While we believe our members would appreciate the opportunity to recoup some of their costs in compiling, reviewing, and fulfilling these requests by charging a fee for copies of electronic records, these two sections seem to be in conflict. The use of the words "fees shall include only the cost of any computer services" in K.S.A. 45-219(c)(2) indicates that computer service fees are the only fee which may be assessed if the files must be accessed off of a computer. In K.S.A. 45-219(c)(6), as would be amended, it says that a fee of 12.5 cents per page would be a

reasonable fee for an electronic copy of a record, but it does not indicate that the per page fee and the computer service fee may both be assessed if they help recapture the actual cost of furnishing the records. We request clarification on this, or at least the deletion of “only” in K.S.A. 45-219(c)(2), so the two assessments could be made in tandem to reflect actual costs.

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 public body or agency subject to the act subdivides itself into subordinate groups the total membership of the subordinate group shall be used to determine if a majority of membership participated in a meeting.

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 membership number of members of the public body or agency in such of the subordinate group shall be used to determine if a majority of the membership of the body or agency participated in a meeting.

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.

Also, we do want to ensure that making “all aspects of the open meeting” being steamed 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. I am happy to stand for questions at the appropriate time.

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.