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MEMORANDUM

To: Senate Committee on Judiciary

From: Office of Revisor of Statutes

Date: March 3, 2025

Subject: Bill Brief on HB 2134 (As Amended by House Committee)

House Bill 2134 amends the Kansas open records act regarding charges for records in the state executive branch and other public agencies, other than the state legislative and judicial branches, prohibits charges for electronic copies of records and for determining whether a record exists, and limits charges for employee time required to make records available.

The bill amends K.S.A. 45-219, the statute in the open records act related to obtaining copies of public records. Subsection (c) provides that, unless otherwise provided by law, each public agency may prescribe reasonable fees for providing access to or furnishing copies of public records. The bill adds a provision that actual costs of furnishing records may include the cost to review and redact the requested records but shall not include incidental costs incurred by the public agency that are not attributable to furnishing the requested records. Additionally, if the public agency incurs costs for staff time to provide access to or furnish copies of public records, the agency shall use in good faith the lowest-cost category of staff reasonably necessary to provide access to or furnish copies of public records. Charges for staff time shall be based on the employee's salary or hourly wage and shall not include the costs of employee benefits.

When staff time needed to respond to a records request will exceed five hours or the estimated actual cost for staff time needed to fill the request exceeds \$200, the agency shall make reasonable efforts to contact the requestor and engage in interactive communication about mitigating costs to fill the request. The requester is not obligated to mitigate costs. If a public agency has made reasonable efforts to contact the requester and the requester has failed to respond by the end of the third business day, the records request will be deemed to be withdrawn until a subsequent contact has been made by the requester. "Reasonable efforts to contact the requester"

means contacting the requester through the means of communication that the requester provided to be used by the agency to respond to the request.