

April 1, 2024

The Honorable Will Carpenter, Chairperson
House Committee on Federal and State Affairs
300 SW 10th Avenue, Room 346-S
Topeka, Kansas 66612

Dear Representative Carpenter:

SUBJECT: Fiscal Note for HB 2822 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2822 is respectfully submitted to your committee.

HB 2822 would establish limits to the fees Executive Branch agencies may charge for access to or copies of public records. The bill would allow Executive Branch agencies to charge a fee equal to \$0.25 per page for printed copies of public records and would not allow fees to be charged for electronic copies of records. For costs related to employee time to make records available, the bill would allow executive branch agencies to charge a fee that cannot exceed the lowest hourly rate of an employee qualified to provide the requested records. No such fee could be charged for electronic copies. The bill would specify that any person requesting records may appeal the reasonableness of the fees charged by the Executive Branch to the Secretary of Administration. Any person requesting records of a political or taxing subdivision could appeal the reasonableness of the fees to the governing body of the political or taxing subdivision, whose decision would be final.

The Kansas Bureau of Investigation (KBI) indicates that while it does not charge per page for the production of electronic records, it does charge to determine whether there may be records available for a particular request that are subject to release under the Kansas Open Records Act (KORA). Some requests require the KBI to search criminal investigation files stored off-site in paper format. The agency is required to pay \$28 for the first file box, and \$3 for each subsequent box to a third-party vendor when it recalls records from off-site storage. The agency indicates it recalls boxes from long-term storage for such requests due to storage limitations and to access digital audio and video files which are kept only on removable media. Records requests for digital files still require review and redaction in addition to staff time to create queries to search databases. In FY 2023, the agency recouped approximately \$2,400 for open records recall and review and

handled approximately 100 KORA requests, with about half of such requests abandoned by the requester who did not wish to pay the cost of staff time. The KBI notes that enactment of the bill would result in many requests that are currently withdrawn going forward and would increase the number of reviews for possible records the agency conducts. The KBI utilizes one attorney for routine correspondence, records searches, and review along with a legal assistant and intern. The KBI indicates that if time to review and redact electronic records cannot be assessed for a fee, then it would need \$136,455 from the State General Fund beginning in FY 2025 for 2.00 FTE positions to ensure proper processing of requests in a timely manner. Of this amount, \$90,064 would be for salaries and wages and \$46,391 would be for benefits.

The Department for Children and Families (DCF) indicates enactment of the bill would have a negligible fiscal effect that could be handled within existing resources. DCF states that its current policy limits any fees to the actual costs to prepare the copies of the requested information. This policy would need to be amended to comply with the fee limits created by the bill, but any fiscal effect would be minimal as DCF has not collected fees related to public records requests for several years.

The Department for Aging and Disability Services (KDADS) indicates enactment of the bill would not have a fiscal effect on the agency. KDADS states that it rarely provides paper copies as most requests for information are for electronic copies. When paper copies are requested by a Kansas resident, the first 100 pages are free and \$0.25 is charged for each page beyond 100. However, KDADS charges \$50 for cost reports, which it indicates would still fall within the limitations of the bill.

The Department of Health and Environment indicates enactment of the bill would have a negligible fiscal effect that could be absorbed within existing resources. The Department notes that it generally does not charge fees for copies of public records and regularly waives any costs related to requests for public information than can be accommodated using regular sized paper or email attachments when page counts are less than 100.

The Board of Regents indicates enactment of the bill would not have a fiscal effect on the Board. However, enactment of the bill could have a minimal fiscal effect on public institutions if their current fees do not align with the requirements in the bill.

The State Treasurer's Office indicates that any administrative burden and other costs associated with enactment of the bill could be handled within existing resources.

The Office of the Secretary of State indicates it would utilize existing resources to meet the requirements of the bill. The Office notes that the fiscal effect could be significant, depending on the scope of the request. The agency could need to hire additional staff, legal, and IT positions to handle requests if their number and scope increases beyond its current capacity.

The Board of Healing Arts indicates enactment of the bill would not result in additional revenues for the agency. The agency currently charges \$21.00 per hour for open records searches when the time to search is significant. The agency states the majority of documents requested are available online and staff generally refer the requester to the website to obtain documents on their

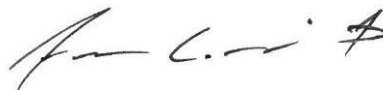
own. The agency indicates enactment of the bill would have a negligible effect on expenditures as the fee structure outlined in the bill is not significantly different than its current rates.

The Board of Nursing indicates enactment of the bill would decrease revenues by approximately \$8,650 per year beginning in FY 2025 because it would be unable to charge for KORA requests using its current electronic delivery system.

The Department of Corrections indicates enactment of the bill would have a minimal fiscal effect on the agency that could be handled within existing resources.

The Department of Administration, Department of Labor, Insurance Department, Department of Education, and Department of Revenue indicate enactment of the bill would not have a fiscal effect on the agencies. Any fiscal effect associated with HB 2822 is not reflected in *The FY 2025 Governor's Budget Report*.

Sincerely,



Adam C. Proffitt
Director of the Budget

cc: Jill Simons, Board of Nursing
Susan Gile, Board of Healing Arts
Becky Pottebaum, Board of Regents
Dawn Palmberg, Department of Labor
Lynn Robinson, Department of Revenue
Gabrielle Hull, Department of Education
Amy Penrod, Department of Health & Environment
Leigh Keck, Department for Aging & Disability Services
Kim Holter, Department for Children & Families
Tamara Emery, Department of Administration
William Hendrix, Office of the Attorney General
Sandy Tompkins, Office of the Secretary of State
John Hedges, Office of the State Treasurer
Jennifer King, Department of Corrections
Paul Weisgerber, Kansas Bureau of Investigation
Sherry Rentfro, Department of Commerce
Bobbi Mariani, Insurance Department