

To: Senate Transparency and Ethics Committee

From: Deborah Barnes, Staff Attorney

Date: January 27, 2021

RE: SB 17 Neutral Testimony

We want to thank Chairwoman Bowers and the members of the Committee for affording the League of Kansas Municipalities the opportunity to provide testimony on HB 2049.

SB 17 would allow Legislative Post Audit (LPA) to obtain records from any public agency without paying for the cost of obtaining the records. Currently, LPA already has the ability to access records through K.S.A. 46-1114. While “access” could probably use a better statutory definition, to the best of our knowledge, no local government has ever charged LPA for access to records. While we understand the public policy behind this bill, we would ask that if this committee advances this legislation, it remains a very limited exception to the Kansas Open Records Act (KORA). Additionally, we would ask that there be an expectation of the Legislature that LPA be reasonable in their requests and cognizant of not disrupting vital services.

In Kansas we value good, open government. A product of this value, and the statutes that codify it, are the hundreds of requests that our member cities receive for records on an annual basis. Responding to record requests takes a significant amount of staff time and resources at the local level. Several times a year, cities receive requests from out-of-state companies for significant amounts of information in order to mine data from available records. These requests ask for very detailed information and are time consuming to compile. In addition to those requests, cities often receive requests for all emails on a topic or even all emails that contain a word such as “water” often covering a significant amount of time. Requests for body camera or vehicle camera footage, often from insurance companies, continue to increase. An increasing number of attorneys are using KORA to avoid costly discovery. Each request requires a careful review and regularly requires redaction of personal information. As these requests continue to increase in volume and complexity, so too does the time and resources required to fulfill the requests. If a city cannot

recoup those costs from the requester, the costs will have to be recouped by an increase in property tax or by the elimination of other necessary services.

We ask that as this committee considers SB 17, that it is not viewed in a vacuum, but rather, that the full consequences of creating special classifications of requestors under KORA be carefully considered. On the House side when a similar bill was heard, it was discussed that perhaps it would be better for access to be defined in the LPA statutes rather than creating confusion in KORA. We strongly urge this committee consider that pathway as well.