

Approved: JAN. 25, 1994  
Date

## MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Chairman Lana Oleen at 11:05 a.m. on January 20, 1994 in Room 254-E of the Capitol.

All members were present except:  
Sens. Hensley, Jones and Walker were excused

Committee staff present: Mary Galligan, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:  
See attached list

Others attending: See attached list

Sen. Oleen announced the hearing for SB 509 and introduced Sen. Sheila Frahm, who appeared in support of the bill. She thanked the committee for its work on the former confirmation bill during the interim and spoke in favor of changes in the new bill. She suggested one change in the bill - that being to refer appointments made in the interim to the Organization, Calendar and Rules Committee instead of to the Confirmation Oversight Committee. She stated this would be another step to improve the confirmation process and assist in making approval of confirmations more timely. Sen. Gooch asked who is on the Organization, Calendar and Rules Committee, and Ms. Frahm stated the committee is made up of seven members - the President of the Senate, the Majority Leader and five senators. Sen. Gooch stated his concern that the minority party have input into the process, and Sen. Frahm assured him the minority leader makes recommendations to the committee.

Sen. Oleen introduced Sen. Langworthy, who spoke in support of SB509. She stated she was chairman of the Confirmation Committee from 1988-91 and served while two gubernatorial administrations were appointing to state boards and commissions. She admitted there were problems with both administrations and told how the process impacts the Senate. She urged the bill be passed. Sen. Oleen advised the bill would be effective after publication in the statute book, which is July 1.

Sen. Oleen told of problems receiving paperwork on gubernatorial appointees so that they may be considered in committee and said many times the background checks, which the KBI conducts, is blamed. She introduced Kyle Smith, Assistant Attorney General, who briefed the committee on the process of background checks. He stated it takes between two to four weeks to conduct a background check now. He explained it takes more time to run some checks; for example, if the appointee has lived or been employed in other states. Sen. Oleen asked Mr. Smith to check on the two confirmees in this committee, and he reported the Mikesic request for information was received April, 1993 and completed June 3, 1993. Sen. Oleen stated Mr. Mikesic (who appeared before the committee yesterday) was appointed in October, 1992. Mr. Smith stated the KBI has not received a request for background checks for Mr. Ziemak (his name has been referred to this committee, but no paperwork is available), who has been serving as Director of the Lottery since December 13, 1993. Mr. Smith explained that confidentiality is very important and is more difficult when reporting to a committee than to one individual or to an employer, such as the case when background checks and criminal records are conducted for employees at the parimutuel racing facilities. He also stated the KBI does not want to jeopardize its sources when checking for this information. Sen. Oleen requested staff to research to see how many appointees require background checks, and Ms. Kiernan responded that there are not many which are required by statute. Sen. Praeger questioned if the committee could request background checks as soon as it receives the appointees name, and Sen. Oleen questioned if checks should be required and by whom. She stated that she has been in the confirmation process through two administrations, and the committee has had to wait on the paperwork to consider confirmations from both administrations. She said the background checks have been blamed as the reason for delay in getting the paperwork to the committee. Sen. Praeger suggested the committee could reject an appointment if the paperwork is not received by a certain date, for example, by adjournment. Sen. Ramirez stated he believes this bill is a step in the right direction and that appointees should not be in a position setting policy without be confirmed. He also stated his support for setting policy

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E  
Statehouse, at 11:05 a.m. on January 20, 1994.

and deadlines for getting information to the committee on appointees. Sen. Gooch reminded the committee of the problems when members of the Board of Regents served for more than one year without being confirmed. He also asked Mr. Smith the cost of a background check, and Mr. Smith responded it costs the KBI \$1,000 for each check and advised the committee not to mandate background checks if it is not necessary because of the cost. Sen. Gooch agreed.

The committee discussed at length which appointees require background checks, and Ms. Kiernan stated she believes very few, if any, are required by statute. Sen. Oleen asked Mr. Smith if the KBI would be comfortable in recommending a list of appointments which it believes should have background checks, and Mr. Smith responded he would ask and let her know. She stated some appointees have control over taxpayers' money and setting public policy, and she feels some type of background check is appropriate. Mr. Smith indicated a record check, which would indicate if that person has been convicted of a felony or had a criminal record, might be more appropriate for some appointees. Mr. Smith stated he believes the check on the appointee should be made earlier in the confirmation process before it is officially announced by the Governor, and committee members agreed. Sen. Oleen stated there is a procedural bill regarding confirmations and asked staff to brief the committee on that bill. Sen. Praeger raised the question whether the committee could request its own background or record check, and Mr. Smith stated if the committee does not have authority to request checks, it should consider creating that authority by statute. Sen. Oleen requested that staff brief the committee on the procedural bill and also on whether it has authority to request its own checks. The chairman recognized Brandon Myers, Human Rights Commission, who requested the committee not reject Mr. Mikesics' nomination to their commission because the committee did not receive his nomination in a timely fashion. He stated the commission has another appointee who has been serving on the commission for six to seven months who has not been confirmed. Sen. Oleen asked Mr. Myers to inquire as to when the committee will receive the nomination and paperwork for confirmation. She announced the committee will have further discussion on the bill at a later date.

Sen. Oleen announced a hearing for SB 467 and referred to the fiscal note (Attachment 1), and requested staff to brief the committee on the bill. Patricia Henshall appeared as a proponent and made a statement (Attachment 2) to the committee. Sen. Oleen reminded the committee of the interim work on the bill and that the purpose of it was to conform the state with the federal law. Sen. Parkinson made a motion in Line 19, the word "Presidents" be changed to "Washington and Lincoln" and explained the intent was to include only Washington and Lincoln and not all presidents. His motion was seconded by Sen. Praeger, and the motion passed. Sen. Praeger made a motion SB 467 be passed favorably as amended, and it was seconded by Sen. Tillotson; the motion passed.

Sen. Oleen referred to Robert Mikesics' appointment to the Commission on Human Rights and asked if there was further discussion on his nomination. There was not. Sen. Praeger made a motion Mr. Mikesic be reported favorably to the Senate for confirmation, and it was seconded by Sen. Ramirez; the motion passed unanimously.

Sen. Oleen referred to the Minutes of the Committee meeting January 18 [REDACTED]. Sen. Gooch made a motion the Minutes be approved, and the motion was seconded by Sen. Papay; the motion passed and the Minutes were approved.

Sen. Oleen reviewed next weeks' agenda with the committee. Sen. Ramirez introduced pages from his district who have assisted the committee today, and Sen. Tillotson introduced her intern who is from Kansas University.

Meeting adjourned at 12:00.

## GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: JAN. 20, 1994

[illegible]

JAN 14 1994  
STATE OF KANSAS

Attach. 1



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DIVISION OF THE BUDGET

Room 152-E

State Capitol Building

Topeka, Kansas 66612-1504

(913) 296-2436

FAX (913) 296-0231

Joan Finney  
Governor

Gloria M. Timmer  
Director

January 13, 1994

The Honorable Lana Oleen, Chairperson  
Senate Committee on Federal and State Affairs  
Statehouse, Room 136-N  
Topeka, Kansas 66612

Dear Senator Oleen:

SUBJECT: Fiscal Note for SB 467 by Senate Committee on  
Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note  
concerning SB 467 is respectfully submitted to your committee.

SB 467 would amend current law that declares the legal public  
holidays in the state. Martin Luther King, Jr. day in January and  
Presidents' Day in February are added to the list, and Lincoln and  
Washington's Birthdays in February, and Columbus Day in October are  
deleted. Other changes in the bill would delete language referring  
to an effective date of January 1, 1976. The effective date of SB  
467 would be January 1, 1995.

SB 467 has no fiscal effect on state revenues or expenditures.

Sincerely,

A handwritten signature in cursive script that reads "Gloria M. Timmer".  
Gloria M. Timmer  
Director of the Budget

467.fn

Senate Fed. & State  
Jan 20, 1994  
Attachment #1

Senate Bill No. 467  
Senate Federal and State Affairs Committee  
January 20, 1994

Testimony of Patricia Henshall  
Office of Judicial Administration

Thank you for the opportunity to appear today to support Senate Bill No. 467. This bill would amend K.S.A. 35-107, the Kansas legal holiday statute, to conform with state practice and federal law.

The bill would add Martin Luther King, Jr., Day to the list of Kansas legal holidays. Currently, this holiday is observed by all three branches of the state government and by the federal government but is not named in K.S.A. 35-107.

The bill substitutes Presidents' Day, the third Monday in February, for the observance of the birthdays of Presidents Lincoln and Washington. This conforms with the current practice of the Kansas executive and judicial branches as well as the federal government.

The judicial branch's interest in this bill arises out of K.S.A. 1992 Supp. 60-206, which governs the computation of time for civil filings and the setting of hearings in the court. A legal holiday is defined as: ". . . includ[ing] any day designated as a holiday by the congress of the United States, or by the legislature of this state." The inconsistencies between the federal and state statutes and the policies of the three branches of state government complicate the computation of time under this statute.

Therefore we urge the passage of Senate Bill 467 to bring K.S.A. 35-107 into conformity with the schedule of federal holidays and with the policies of the executive branch.

Senate Fed. State  
Jan. 20, 1994  
Attachment #2