

SESSION OF 2008

SUPPLEMENTAL NOTE ON SENATE BILL NO. 486

As Amended by Senate Committee of the Whole

Brief*

SB 486 deals with nomination procedures for appointments for office by an appointing authority prior to confirmation by the Senate.

The bill also lists certain offices appointed by the Governor and appointing authority that would be subject to confirmation prior to persons exercising powers, duties, and functions to such offices.

The bill would define "office" to mean any state office or board, commission, council, committee, authority, or other governmental body where members are required by law to be appointed by an appointing authority and whose appointment would be subject to Senate confirmation. "Appointing authority" means a person, other than the Governor, who is required by law to make an appointment to an office.

The bill would prohibit a person from being appointed unless such person:

- Completes and submits a nomination form;
- Consents to a background investigation by the Kansas Bureau of Investigation (KBI); and
- Consents to the release of tax information by the Department of Revenue and the federal Internal Revenue Service.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Under the bill, a copy of the nomination form and the statement of substantial interest would be kept on file in the office of the Director of the Kansas Legislative Research Department or the Director's designee (Director) and be subject to the Kansas Open Records Act.

The bill would require an appointing authority to submit, to the Chairperson of the Senate Confirmations Committee (Chairperson), a completed nomination form, the statement of substantial interest, a consent for release of tax information, and a written request for a Kansas Bureau of Investigation background investigation.

The Chairperson would then submit the information to the Director and by written request of the Director and the appointing authority, the KBI would be required to do a background investigation and the Department of Revenue would have to release tax information on the nominee. The information would be kept on file in the Director's office or in a secure location under the control of the Director.

Under the bill, once the Director receives the information, the Director would notify the appointing authority and the nominee that the information is available for review. The information could not be removed from the Director's Office, copied, or duplicated. All information except the conviction information would be confidential. Intentional disclosure of the information would be a class A nonperson misdemeanor. Any intentional or unintentional disclosure by any person may result in removal from office or employment.

Information may be disposed of in a manner provided by KSA 75-3501 *et seq.* If the nomination is withdrawn or the appointment is denied, the information shall be destroyed by the Director not sooner than one year and not later than two years after the withdrawal or non-appointment.

The bill would prohibit any acting appointed state officer from serving more than six months.

The bill would require the following officers appointed by the Governor to be confirmed by the Senate before such person could exercise any power, duty, or function of such office:

- Credit Union Administrator;
- Secretary of the Department of Wildlife and Parks;
- Adjutant General;
- Twelve military aides-de-camp;
- General officers of the military;
- Member of the Central Interstate Low-level Radioactive Waste Commission;
- Secretary of Agriculture;
- Superintendent of the Kansas Highway Patrol;
- Director of the Water Office;
- Secretary of Commerce;
- Executive Director of the Kansas Lottery Commission;
- Executive Director of the Kansas Racing and Gaming Commission;
- Executive Director of the State Gaming Agency;
- State Bank Commissioner;
- State Fire Marshal;
- State Librarian;
- Executive Director of the State Historical Society;
- Secretary of the Department of Administration;
- Secretary of the Department of Transportation;
- Secretary of the Department of Revenue;
- Secretary of the Department of Corrections;
- Acting Secretary of the Department of Corrections;
- Secretary of the Department of Social and Rehabilitation Services;
- Secretary of the Department of Health and Environment;
- Secretary of the Department of Labor;
- Secretary of the Department of Aging;
- Securities Commissioner; and
- State Long-term Care Ombudsman.

The following officers appointed by an appointing authority would be required to be confirmed by the Senate before such

person could exercise any power, duty, or function of such office:

- Executive Director of the State Board of Healing Arts (appointed by the State Board of Healing Arts);
- Director of the Kansas Bureau of Investigation (appointed by the Attorney General);
- Director of Property Valuation (appointed by the Secretary of Revenue);
- Director of Alcoholic Beverage Control (appointed by the Secretary of Revenue); and
- Executive Director of the Kansas Health Policy Authority (appointed by the Kansas Health Policy Authority).

Background

Senator Derek Schmidt testified as a proponent on the bill.

No opponents testified.

The Senate Committee of the Whole amended the bill to clarify that disclosure of certain records by the Senate Committee on Confirmations Oversight would be prohibited.

The fiscal note indicates that the Kansas Bureau of Investigation estimates it would have to conduct an average of eight additional investigations each year if SB 486 is enacted. The investigations in FY 2009 would cost an additional \$8,256 (eight investigations at \$1,032 per investigation). The Kansas Bureau of Investigation reports that it would need additional State General Fund appropriations to finance the costs.