

SESSION OF 2017

SUPPLEMENTAL NOTE ON SENATE BILL NO. 184

As Amended by Senate Committee on Judiciary

Brief*

SB 184 would enact the Kansas Intelligence Fusion Center Act and establish the Kansas Intelligence Fusion Center (KIFC), a collaboration among federal, state, local, and tribal agencies, as well as certain private-sector entities. The KIFC would be constituted and operated as provided by state and federal law and would be housed within a sensitive compartmentalized information facility (SCIF) in order to access classified threat information as permitted by state and federal law.

The KIFC would have the following responsibilities:

- Generating intelligence analysis critical for homeland security policy and relevant threat warning in order to protect life, liberty, and property in Kansas and the Great Plains region;
- Promoting and improving intelligence sharing among public safety and public service agencies at the federal, state, local, and tribal levels, and with critical infrastructure and key resource entities within the private sector;
- Receiving and integrating intelligence and information related to terrorism and other homeland security threats;
- Collecting, analyzing, producing, disseminating, and maintaining such intelligence and information

*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>

as allowed by law to support local, state, tribal, and federal law enforcement agencies and other governmental agencies and private organizations in preventing, preparing for, responding to, and recovering from any possible or actual terrorist attack or other homeland security threat;

- Maximizing intelligence and information sharing in accordance with all applicable state and federal laws; and
- Ensuring appropriate security measures are in place for the SCIF, data collected or stored at the SCIF, and personnel working at the SCIF.

The bill would require the Adjutant General's Department to provide facilities, budget, and administrative support for the KIFC, its employees, and participants; to be the custodian of all records collected and maintained at the KIFC; and to serve as security manager for the KIFC. The Office of the Attorney General would provide legal counsel to the KIFC and assign an attorney to serve as privacy and civil liberties counsel to the KIFC.

To oversee the KIFC, the bill would establish the Fusion Center Oversight Board, which would be composed of the Attorney General, who would serve as chairperson; the Adjutant General, who would serve as vice-chairperson; and a member appointed by the Attorney General with expertise in critical infrastructure protection. The bill would require each member of the Board to have a current, valid federal security clearance at the appropriate level; allow the Board to adopt policies and procedures for the operation of the KIFC; and allow the Board to adopt rules and regulations as may be necessary to carry out the provisions of the Act, including rules and regulations concerning operations of the KIFC. The Attorney General's Office would provide administrative support to and be the custodian of the records of the Board.

The Board would appoint the executive director, who would report to the Board and serve at the pleasure of the Board. The executive director would be responsible for all KIFC operations, facilitating and implementing applicable federal standards and programs by the KIFC, ensuring compliance with all applicable laws and federal requirements, and maintaining proper separation between military and civilian capacities. The Attorney General would appoint a deputy director for law enforcement, who would serve at the pleasure of the Attorney General and serve as a liaison between the KIFC and Kansas law enforcement agencies and organizations and strive to provide the appropriate flow of information from each to the other. The bill would also provide for such other employees as may be authorized by the Board to properly administer the provisions of the Act.

With Board approval, the bill would also allow the executive director to enter into agreements with participating agencies or organizations, whether public or private, for their participation in the KIFC. The agreements would define the duties and responsibilities of each participating agency or organization and could provide for payment by the participating agency or organization of a reasonable share of the cost to establish, maintain, and operate the KIFC. Further, with Board approval, the KIFC could accept any gift, grant, payment, or contribution in the form of services, equipment, supplies, materials, or funds from any source, public or private, for the purpose of paying the costs to establish, maintain, or operate the KIFC. All amounts received would be deposited in the KIFC Fund, which the bill would create.

Finally, the bill would specify no classified information shall be accessed or shared with any person or entity that does not meet the criteria of DoDM [Department of Defense Manual] 5200.01-V1-V3; private sector entities participating in the KIFC would not be considered governmental entities; and employees and agents of those entities assigned to the KIFC would not be considered state employees for the purposes of the Kansas Tort Claims Act.

The bill would be in effect upon publication in the *Kansas Register*.

Background

In the Senate Committee on Judiciary hearing on the bill, the Adjutant General and representatives of Kansas Department of Health and Environment, the University of Kansas Health System, and Westar Energy testified in support of the bill. The Adjutant General explained the bill would codify current practices of the KIFC. The Attorney General and representatives of the Kansas Corporation Commission, the National Bio and Agro-Defense Facility Program Executive Office (U.S. Department of Homeland Security), Kansas State University, and KIFC submitted written testimony supporting the bill. No opponent or neutral testimony was provided.

The Senate Committee adopted an amendment requested by the Attorney General to remove the superintendent of the Kansas Highway Patrol (KHP) and the Director of the Kansas Bureau of Investigation (KBI) from the list of Board members.

According to the fiscal note prepared by the Division of the Budget for the bill, as introduced, the Adjutant General indicates the agency has already built the structure and associated costs into its current budgets; however, expenditures could grow in future fiscal years. According to the KBI, the KHP, and the Attorney General, enactment would have no fiscal effect. Any fiscal effect associated with the bill is not reflected in *The FY 2018 Governor's Budget Report*.