

February 16, 2023

The Honorable Fred Patton, Chairperson
House Committee on Judiciary
300 SW 10th Avenue, Room 582-N
Topeka, Kansas 66612

Dear Representative Patton:

SUBJECT: Fiscal Note for HB 2357 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2357 is respectfully submitted to your committee.

HB 2357 would require the Senate to vote on the qualifications of Supreme Court justices appointed by the Governor. The bill specifies when the Governor makes an appointment of a Supreme Court justice, the Governor would be required to notify the Senate. The Senate would vote on the qualifications of the appointee no later than the end of the regular session of the Legislature. If the Senate is not in session, the Senate would be required to vote on the appointee's qualifications no later than the end of the next regular session of the Legislature. The appointee would serve as a justice pending Senate consideration. In the event a two-thirds majority of all members of the Senate does not vote to consent to the appointee, the appointee would be deemed not qualified. If the Senate fails to vote on the appointee within the time limits prescribed in the bill, the appointee would be deemed not qualified.

A justice who is serving on July 1, 2023, would be deemed to be qualified by the Senate until the end of the justice's current term. The justice would not be qualified to serve a subsequent term unless qualified by the Senate. A justice serving on July 1, 2023, and who is retained for a subsequent term pursuant to Section 5 of Article 3 of the Kansas Constitution would be deemed qualified by the Senate until the Senate votes on the justice's qualifications in the next regular session of the Legislature following retention.

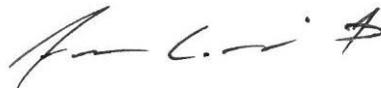
An individual appointed by the Chief Justice to serve on the court in a pro tempore capacity would be deemed to be qualified by the Senate, but the person would only be allowed to serve in that capacity for six months. A person who has served five full terms as a judge on the Court of

Appeals, a justice of the Supreme Court, or any combination of the two courts would not be qualified to hold the Office of Justice of the Supreme Court.

The Office of Judicial Administration states enactment of HB 2357 would have a fiscal effect on the operations of the Judicial Branch. The Office estimates the bill's provisions would result in increased vacancies on the Supreme Court and the vacancies could last for longer periods of time, which would result in additional expenditures for retired and senior judges to fill in on Supreme Court cases. The Office indicates until the Judicial Branch has had an opportunity to operate under the bill's provisions a fiscal effect cannot be estimated.

The Office of the Attorney General states if the bill is enacted, it would likely be challenged on constitutional grounds in state court. The litigation could be ongoing and likely reach the appellate level. The agency estimates that any litigation that would be derived from enactment of the bill could be handled within existing resources. Any fiscal effect associated with HB 2357 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Vicki Jacobsen, Judiciary