

SESSION OF 2005

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2281

As Amended by House Committee on
Governmental Organization and Elections

Brief*

HB 2281 would update, clarify, and add to statutes regarding disposition of and access to a Governor's records. The bill would revise the disposition requirements related to a Governor's official papers during the Governor's term of office, when the Governor leaves office, or when the Governor dies in office, to parallel federal law dealing with presidential records and papers. Under the bill's provisions:

- The State of Kansas would be required to retain complete ownership, possession and control of gubernatorial records.
- The Governor would be authorized to dispose of records that no longer have administrative, historical, informational or evidentiary value in accordance with a schedule developed by the State Archivist in cooperation with the Governor.
- Prior to the conclusion of a Governor's term of office, the Governor would be required to specify durations, not to exceed 12 years, for which access would be restricted to records in a number of specified categories. The State Archivist would be required to establish procedures for appeal for anyone denied access to a record under this restriction.
- Upon the conclusion of a Governor's term of office (or last term if consecutive terms are served), the State Archivist would assume responsibility of that Governor's records. The State Archivist would be required to deposit all such records in a gubernatorial archival depository at the State Historical Society. The Archivist would be authorized to dispose of records deemed to have insufficient value to warrant their continued preservation.

*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>

- Upon the death or disability of a Governor or former Governor, the State Archivist would be granted any discretion or authority that Governor or former Governor possessed, unless that Governor or former Governor notified the State Archivist, in writing, of a different arrangement.
- Records would be required to be made available, subject to specified conditions:
 - Pursuant to a subpoena or other judicial process.
 - To an incumbent Governor if the records contain information necessary for the conduct of business and are not otherwise available.
 - To either house of the Legislature or committee or subcommittee thereof if pertinent to the subject matter, if the records contain information necessary for the conduct of business and are not otherwise available.
- The State Archivist would be required to promulgate rules and regulations necessary to implement the bill's provisions. Contents of the rules and regulations are specified in the bill.

Background

The State Archivist of the Kansas State Historical Society testified as a proponent on HB 2281, stating the bill clarifies ambiguity in the existing statute regarding disposition of and access to a Governor's records. The Archivist noted several detailed records-related concerns, which were addressed in the amendment adopted by the House Committee on Governmental Organization and Elections. Included in these amendments was elimination of a requirement that the Archivist designate a director at each depository the Historical Society establishes for the storage of gubernatorial records. Instead, an employee of the Historical Society would be designated.

According to the fiscal note, the bill's passage would not be expected to incur any costs for the Office of the Governor. Any costs resulting from its enactment would take the form of staff time at the Historical Society to develop rules and regulations to implement the bill. The requirement that the State Archivist publish a notification in the *Kansas Register* before disposing of records of insufficient historical value would be insignificant if incurred, according to the fiscal note. The

fiscal note adds that the cost of storage of official documents should not change in relation to current law for the Historical Society.