

Approved: January 31, 2000
Date

MINUTES OF THE SENATE WAYS & MEANS COMMITTEE.

The meeting was called to order by Chairperson Dave Kerr at 11:00 a.m. on January 26, 2000 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Norman Furse, Revisor of Statutes
Michael Corrigan, Asst. Revisor of Statutes
Rae Anne Davis, KS Legislative Research Department
Debra Hollon, KS Legislative Research Department
Judy Bromich, Administrative Assistant to the Chairman
Ronda Miller, Committee Secretary

Conferees appearing before the committee:

Attorney General Carla Stovall
Peggy Hanna, Assistant State Treasurer

Others attending: See attached list

The Chairman welcomed the Attorney General who appeared before the Committee to review written testimony regarding the Kansas vs. Colorado water case. (Attachment 1) She highlighted the kinds of damages Kansas is seeking and told members that the calculation of losses to Kansas farmers and the state goes back to 1950. She reviewed the total of all four categories of damages (Attachment 1-3), but cautioned that there is no guarantee that the Special Master will award damage on the interest figures or that the Supreme Court will affirm it. She reminded the Committee that Kansas originally filed the suit to make Colorado comply with the contract and did not ask for monetary compensation until after the Texas vs. New Mexico settlement in 1987.

Attorney General Stovall told the Committee that the damages phase of the trial should be complete by early February. She said that Colorado claims that **if** they have to pay, the maximum they would agree to is \$3 million and they would prefer paying Kansas back with water over a 15 year period. She indicated that she is hopeful that the Supreme Court will make its final ruling by the end of calendar year 2001. In answer to a question, the Attorney General stated that the agency estimates \$16 million will be expended to defend the case to its conclusion. She responded to an inquiry by stating that the agency will ask for expenses associated with the case, but the Supreme Court has never ruled on an actual amount of money for prejudgment interest and attorney fees.

There was some discussion regarding the quality of water that Kansas might receive. The Attorney General stated that neither of the compacts have anything to do with water quality but, should Kansas prevail, the state would have recourse on that issue.

There was some discussion regarding the calculation of damages associated with the erosion of crop production.

Attorney General Stovall provided background information on the Kansas vs. Nebraska case which was filed in June of 1998. She stated that the issue is groundwater pumping and Nebraska filed a motion to resolve the issue which was argued in Kansas City, Missouri on January 4. She stated that Nebraska maintains that ogallala and streambed pumping do not count against their allocation, but Kansas and the U.S. government believe that it does. She told members that the Special Master, who was appointed by the Supreme Court, is a retired Chief Justice of the Maine Supreme Court and he will issue his report by the end of January. She said that he has scheduled a meeting for the first part of April to set the scheduling for the rest of discovery.

CONTINUATION SHEET

SENATE WAYS & MEANS COMMITTEE MINUTES

In answer to a question, a representative from the Office of the Attorney General stated that the Governor recommended an appropriation of \$856,000 in FY 2001 for the Nebraska case, in comparison to the agency's request for \$980,000. It was stated that the estimate for this year's expenses for the case is \$640,000 and the agency has spent \$450,000 to date. In answer to a question, Attorney General Stovall stated that it is difficult to predict estimates associated with expenses for defending this case. She responded to a member's inquiry by stating the agency anticipates getting water as a result of this suit, but will also ask for monetary damages.

The Attorney General appealed to Committee members to reconsider recent action taken by the House Appropriations Committee that would allow a defendant to be paid because the Court of Appeals reversed his conviction on a technicality. Her particular concern is that one-third of the money is to come from the Attorney General's budget.

SB 460: Office of state treasurer, designating certain positions in the unclassified service

Ms. Peggy Hanna, Assistant State Treasurer, appeared before the Committee in support of **SB 460** and reviewed her written testimony (Attachment 2). In answer to a question, she stated that employees in the Office of the State Treasurer are supportive of this proposal and that no employees would be laid off. In response to an inquiry, she stated that the main difference to her, as a manager, between classified and unclassified positions is that she can reward performance. It was moved by Senator Ranson and seconded by Senator Lawrence that SB 460 be recommended favorably for passage. The motion carried on a roll call vote.

Senator Salisbury moved and Senator Jordan seconded that the minutes of January 19 and 20 be approved. The motion carried on a voice vote.

A motion was offered by Senator Salmans and seconded by Senator Jordan that bill drafts 9rs 1900 and 9rs 2000 be introduced as requested by Senator Salmans. The motion carried on a voice vote.

The Chairman adjourned the meeting at 12:10 p.m. The next meeting is scheduled for January 27, 2000.