

MINUTES

LEGISLATIVE COORDINATING COUNCIL

July 18, 2005

Members present:

President Steve Morris, Chairperson
Speaker Doug Mays, Vice-Chairperson
Senator Derek Schmidt, Majority Leader
Senator Anthony Hensley, Minority Leader
Representative Clay Aurand, Majority Leader
Representative Ray Merrick, Speaker Pro Tem
Representative Dennis McKinney, Minority Leader

The meeting was called to order by President Morris at 11:10 a.m. in Room 123-S, State Capitol.

CONSENT AGENDA

Speaker Mays moved that the minutes of the April 29, 2005, meeting be approved. Representative Aurand seconded the motion and the motion carried. Speaker Mays moved that the minutes of the May 20, 2005, meeting be approved. Representative Aurand seconded the motion and the motion carried. Senator Hensley moved that holidays for legislative personnel for calendar year 2006, including one discretionary day, be the same as those designated by the governor for executive branch personnel. Representative Merrick seconded the motion and the motion carried.

REPORT OF SUBCOMMITTEE ON ADMINISTRATION

Speaker Mays reported to the Council the recommendations of the Subcommittee on Administration. The subcommittee recommends that: Representative Neufeld be appointed as chair of the Legislative Budget Committee with Senator Umbarger, vice-chair and Senators Morris and Barone and Representatives Landwehr, Newton* and Feuerborn as members; Senator Schodorf be appointed as chair of the Legislative Educational Planning Committee with Representative Decker as vice-chair and Senators Vratil, Taddiken, Allen, Pine and Francisco and Representatives Faber, Horst, Huebert, Pottorff, Ballard and Phelps as members; President Morris be authorized to appoint a Senate member to the Coordinating Council on Early Childhood Developmental Services and Representative McKinney be authorized to appoint a House member to the Council; Senator Apple be appointed to the Systems Review Team to replace Senator Schmidt; the legislature's contract with the Information Network of Kansas (INK) and the contract of the Revisor of Statutes with INK be continued in effect until October 1, 2005, at which time the contracts would be considered for

renewal and that the chairperson of the Legislative Coordinating Council for the legislature's contract and the Revisor of Statutes for the Revisor's contract be authorized to sign an extension of the agreement to October 1, 2005; the Revisor of Statutes prepare a request for proposal for the hiring of a Legislative Counsel and present that document to the Legislative Coordinating Council at its August meeting; the request of the Legislative Post Auditor to receive outside compensation from the Texas State Auditor's Office to conduct two, two-day classes on July 25-28, 2005, be approved; Policy 34 be amended to place a limitation on the maximum meal reimbursements for legislators traveling out of state at the federal employee per diem meal rate for the particular geographic area to which the legislator is traveling; the Kansas uniform law commissioners be authorized to attend the Annual Meeting of Uniform Law Commissioners July 22-29, 2005, in Pittsburgh, PA; the chairperson of the Legislative Coordinating Council be authorized to act on behalf of the Council and certify to the Director of Accounts and Reports the amount due as state aid to each school district pursuant to section 2 of Special Session of 2005 House Substitute for SB 3; Representative Neufeld be authorized to attend the NCSL Leader-to-Leader meeting in Washington, D.C., September 10-13, 2005; the following meeting days, which include any meetings already held or authorized in June or July for statutory joint committees be recommended for approval:

Meeting Days	Statutory Joint Committee
8	Administrative Rules and Regulations
4*	Arts and Cultural Resources
8	Legislative Budget
4	Children's Issues
6	Special Claims Against the State
8*	Corrections and Juvenile Justice Oversight
4	Economic Development
1	Health Care Stabilization Fund
8	Information Technology (JCIT)
6	Legislative Educational Planning Committee (LEPC)
6	Pensions, Investments, and Benefits
4	Kansas Security
12*	State Building Construction
2	State-Tribal Relations

1 Workers Compensation Fund

- * Approved for Arts and Cultural Resources Committee; two of those days may be outside Topeka. Authorized the Corrections and Juvenile Justice Oversight Committee to travel to Atchison, El Dorado, and Toronto to tour juvenile or adult correctional facilities and to meet with local community members involved with juvenile programs and rehabilitation. Also, authorized any member of the Corrections and Juvenile Justice Oversight Committee to attend the Governor's Conference on Juvenile Justice in Topeka on August 1 and 2. Authorized the State Building Construction Committee to attend the Biennial Ways and Means/Appropriations Committee tour (4 days) and tour state facilities an additional two days.

In addition, the subcommittee recommended the creation of several special interim study committees, with appointment of members to such committees by the President of the Senate and the Speaker of the House of Representatives, in consultation with the minority leaders, assignment of topics to those committees, recommended topics for several of the statutory joint committees and fixed the number of meeting days for the special committees, and such matters, as modified by discussion of members of the Council in the full Council meeting, were as follows:

I. SPECIAL COMMITTEES

SPECIAL COMMITTEE ON ASSESSMENT AND TAXATION

Meeting Days: Six days.

Chamber of Chairperson: Senate

Committee Membership: 13 members;
Eight from the House (five Republicans and three Democrats)
Five from the Senate (four Republicans and one Democrat)

1. **Property Tax – Valuation of Historic Property.** Study a proposed constitutional amendment similar to one adopted in Nebraska in 2004 that would authorize a different valuation methodology for certain property and improvements associated with the renovation, rehabilitation, and preservation of “historically significant” real estate.
2. **Tax Treatment of Not-for-Profit Entities.** Review the sales and property tax treatment of various not-for-profit entities.
3. **Motor Vehicle Taxes.** Review the recommendation of the 2004 Special Committee on Assessment and Taxation about the equity of the valuations used for motor vehicle tax purposes. Consider various options regarding replacing the valuation-based system with a fee structure. Also make recommendations as to whether local effort for purposes of the school finance formula could be enhanced by reinstating the distribution of motor vehicle tax receipts to school district general funds.

4. **Excise Tax or Licensure Tax – Sexually Oriented Businesses.** Study a proposed excise tax or licensure tax on certain sexually oriented businesses, similar to legislation under consideration by the Oklahoma Legislature earlier this year.
5. **Analysis of State and Local Tax Policy.** Review the current state and local tax structure, focusing on the utilization of tax revenue through sales, property, and income taxes. Study whether there has been a shift in reliance from one of these three primary tax sources to another since 1990. Study the potential impact on the Kansas tax structure of a shifting Kansas economy to a more service sector-driven economy. Review the impact of: (1) property tax relief in the 1990s; and (2) the 2002 tax increases on the Kansas economy and on Kansas tax structure. Study and project the future of Kansas tax policy for the next 10 to 20 years and which tax structure would best position Kansas to be equitable to the taxpayers of Kansas, as well as competitive with other states.
6. **Tax Lien Certificates.** Study how other states are utilizing tax lien certificates and the potential for application of such a program in Kansas.

SPECIAL COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

Meeting Days: Four days.

Chamber of Chairperson: Senate

Committee Membership: 11 members;

Seven from the House (five Republicans and two Democrats)

Four from the Senate (three Republicans and one Democrat)

1. **Uniform Consumer Credit Code.** Study the current finance charges, rates, and terms under the Uniform Consumer Credit Code and impact of the Code on financial institutions, loan companies, and Kansas consumers, and the current regulatory environment in Kansas. Also, study 2005 HB 2143 which deals with the Uniform Consumer Credit Code and the limiting of finance charges.
2. **Changes to the Kansas Health Care and Health Insurance Environment and the Potential Impact on Health Care Costs, Cost Containment Strategies, Marketplace Competition, and Consumer Interests.** Review the current regulation of health care and the health insurance environment in Kansas and review current pending legislation:
 - SB 165 – Health insurance abuse;
 - SB 166 – Assignment of health insurance for covered services;
 - SB 167 – Insurance payments for covered dental services; and
 - HB 2366 – Changing terms of individual health care policies.

Review this pending legislation to address questions about health care costs, cost containment strategies, marketplace competition, and consumer interests. Also, study whether the changes in the proposed legislation would create two different standards between large, self-insured groups and individual and small group insureds.

SPECIAL COMMITTEE ON JUDICIARY

Meeting Days: Eight days.

Chamber of Chairperson: Senate

Committee Membership: 13 members;
Eight from the House (five Republicans and three Democrats)
Five from the Senate (four Republicans and one Democrat)

1. **Conflict of Interest Parameters for Appointments of Guardians or Wards.** Study and review conflict of interest parameters for whom may be appointed as guardians or wards. Review 2005 HB 2307 and the Schiavo provisions that were the subject of House floor debate during the regular session, all related to the appointment of guardians or wards. HB 2307 would provide a ward due process regarding the withholding or withdrawing of health care or food and water.
2. **Admissibility of Collateral Source Benefits in Actions for Personal Injury or Death.** Study the admissibility of collateral source benefits (*i.e.*, insurance policies, medical services, or governmental benefits) in actions for personal injury or death. In particular, review 2005 HB 2150, which would make collateral source benefits admissible regardless of the damage award requested.
3. **Docket Fees in Kansas.** Study the current status of docket fees in Kansas. In addition, review 2005 HB 2491, which proposes to finance an increase of judicial salaries through increased docket fees. Review a docket fee proposal for funding of the continued operation of the Law Enforcement Training Center.
4. **Selection, Election, and Confirmation of Supreme Court Justices.** Study various proposals on the selection, election, and confirmation of Supreme Court nominees. Also, study 2005 SCR 1606, which provides for the consent of the Kansas Senate for any individual that is selected to the Kansas Supreme Court by the Governor.
5. **School Finance Litigation.** Study the burden of proof in school finance litigation and the original provisions of 2005 SB 181. That legislation would require the Supreme Court to appoint a panel of three district judges to hear any suit brought by a plaintiff alleging a violation of the Education Article (Article 6) of the *Kansas Constitution*.
6. **Legal Liability for Negligent and Wrongful Acts or Omissions.** Review the need for a consistent public policy regarding the legal liability of an individual or an entity for negligent and wrongful acts or omissions. Study current law and proposed legislation (*i.e.*, 2005 SB 97 and SB 149) that: (1) would grant immunity from liability for the negligent or wrongful acts or omissions of an individual or an entity; or (2) prohibit contract provisions which require one party to the contract to indemnify and hold harmless a second party's negligence or wrongful acts or omissions.
7. **Expert and Opinion Testimony.** Review 2005 SB 53, which would amend the Code of Civil Procedure relating to expert and opinion testimony. In particular, review the need to replace the Frye Rule with the Daubert Rule concerning expert and opinion testimony.

8. **Residential Arrangement for Children of Divorced Parents.** Study 2005 SB 61, which would allow a court to require a residential arrangement for children of divorced parents so that the children would spend “equal or near equal” time with each parent.
9. **Expand the Unlawful Possession of Controlled Substances to Include the Ingestion or Injection of Drugs.** Review 2005 HB 2304, which would expand the unlawful possession of controlled substances to include the ingestion or injection of drugs. In particular, study the proposed legislation for any serious unintended consequences.
10. **Uniform Real Property Electronic Recording Act.** Review the Uniform Real Property Electronic Recording Act as approved by the National Conference of Commissioners on Uniform State Laws. In addition, study the effect recent changes in electronic information technology are having on the land records industry.
11. **Claims for Attorneys’ Fees in Cases Involving Insurance Policies.** Study current laws (K.S.A. 40-908 and K.S.A. 40-256) that deal with claims for attorneys’ fees in cases involving insurance policies. One statute allows attorneys’ fees to plaintiffs under homeowner policies, and another statute requires a showing that the insurer “has refused without just cause or excuse to pay the full amount of such loss.”
12. **Attorneys’ Fees as Part of Court Costs for Settlement Offers Prior to Trial.** Review whether attorneys’ fees should be allowed as part of court costs for settlement offers prior to trial. Current law (K.S.A. 60-2002(b)), while encouraging settlement offers prior to trial, does not permit attorneys’ fees as part of the court cost calculations in pre-trial settlements.
13. **Separation of Powers.** Review the constitutional issue of separation of powers related to the appropriation of state funds. Especially, review the issue as related to the current language found Article 2 of the *Kansas Constitution*. Also, review 2005 Special Session SCR 1603, which would clarify that only the Legislative Branch may appropriate state funds.

SPECIAL COMMITTEE ON MEDICAID REFORM

Meeting Days: Six days.

Chamber of Chairperson: Senate

Committee Membership: 12 members;

Six from the House (four Republicans and two Democrats)

Six from the Senate (four Republicans and two Democrats)

1. **Medicaid Reform.** Review the state Medicaid program with the goal of determining the efficiency and cost effectiveness of the services delivered, as well as the appropriateness of the populations served. Particular attention will be paid to changes in the program resulting from the implementation of the Medicare Part D pharmacy benefit - fewer Medicaid beneficiaries receiving pharmacy benefits, clawback payments, and increased numbers of dual eligibles (persons eligible for both Medicare and Medicaid) on the state Medicaid rolls. The review will include re-examination of the report by the Senate President's Task Force for Medicaid Reform and the cost containment strategies recommended by the Task Force. In

addition, the Special Committee shall focus on recommending other cost containment strategies including wellness, prevention and nutrition programs.

II. STATUTORY JOINT COMMITTEES

ECONOMIC DEVELOPMENT (JOINT COMMITTEE)

The Joint Committee on Economic Development is empowered by statute to set its own agenda; however, from time to time, the LCC refers matters to the Committee. The LCC requested that the Joint Committee also study the following topic:

1. ***Activities and Future of the Workers Compensation Fund Oversight Committee.*** Review the activities of the statutory Workers Compensation Fund Oversight Committee. Study the need for the continued existence of the Committee.

CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT (JOINT COMMITTEE)

The Joint Committee on Corrections and Juvenile Justice Oversight is empowered by statute to set its own agenda; however, from time to time, the LCC refers matters to the Committee. The LCC requested that the Joint Committee also study the following topics:

1. ***Funding of the Visitors' Centers within the Department of Corrections.*** Review the funding of the Department of Corrections visitor centers, including the telephone contract from which commissions are resources for the Inmate Benefit Fund. The funding for the visitor centers has been historically from the Inmate Benefit Fund; however, due to recent budget reductions, the Governor vetoed the funding for FY 2005 and did not recommend any funding for FY 2006.
2. ***Funding for Community Corrections Adult Residential Centers in Johnson and Sedgwick Counties.*** Review the funding of community corrections adult residential centers in Johnson and Sedgwick counties. The centers have experienced a higher incidence of serious mental illnesses and substance abuse, as well as waiting lists, in the recent past. However, the program's funding has remained fairly consistent, increasing from \$2,003,818 in FY 1998 to \$2,068,020 for the past four fiscal years.
3. ***Inmate Capacity Expansion and Projections.*** Study the need for expansion, including long-term inmate population projections and the Department of Corrections reclassification project.
4. ***Cost of Housing Pregnant Offenders by the Juvenile Justice Authority.*** Compare and contrast the cost of housing pregnant offenders at the Kansas Juvenile Correctional Complex infirmary and the cost of housing pregnant offenders at Florence Crittenton, including actual costs and Medicaid costs associated with these stays.
5. ***Juvenile Justice System Population Projections and Offender Classification.*** Review the process and accuracy in determining the projected population growth. Study the classification of juvenile offenders when presented to the juvenile justice system, and how best to house the offenders by classification.

LEGISLATIVE BUDGET

The Legislative Budget Committee is authorized by law to undertake its own consideration of matters pertaining to the state budget, state revenues, and state expenditures. However, from time to time, the LCC refers matters to the Committee. The LCC requested that the Legislative Budget Committee also study the following topics:

1. **Future Utilization of the State Juvenile Correctional Facilities.** Study the current utilization of state juvenile correctional facilities, including new and unused facilities. Review the new juvenile correctional population facilities that should be available during the 2005 interim, and how those population projections impact current and future juvenile correctional facilities capacity.
2. **State Park Financing and Operations.** Review state park financing, including 2005 SB 87 (outdoor recreation motor vehicle registration fee); study the possible acquisition of federal campgrounds; and review the indirect cost share for central administration of the Parks Division of the Department of Wildlife and Parks, which is underfunded by \$717,000 in FY 2006.
3. **Mental Health Issues that Impact State Facilities at Larned and the Impact on Prison Capacity.** Review the increase in admissions to mental health facilities in Kansas and how to address the need for additional bed space for that population; review the impact on prison capacity by housing mentally ill inmates in the general inmate population; specifically, study the potential impact on the Department of Corrections' inmate capacity if mentally ill inmates were placed in secure mental health treatment programs, rather than the general prison population; review the possibility of establishing a re-entry facility for transitioning the mentally ill inmate back into the general prison population; and review the recent Legislative Post Audit report on the sexual predator treatment program, including how to manage that population and integration of those offenders back into society.
4. **Possible Closure of the Kansas Army Ammunition Plant in Parsons.** Review the U.S. Department of Defense recommendation to close the Kansas Army Ammunition Plant in Parsons. Clarify whether the Department of Defense recommendation would return the ammunition plant to a private contractor from the current federal operation. Receive a report from the Governor's Strategic Military Planning Commission on information that the Commission gathered and provided to the Department of Defense and any information the Commission will provide the federal Base Realignment and Closure (BRAC) Commission. Request information from the Kansas congressional delegation on what action the Legislature could take to convince the federal BRAC Commission of the value of the Kansas Army Ammunition Plant. Ensure that Kansas is planning a coordinated response to the Department of Defense recommendation.
5. **Structure of the State Board of Tax Appeals.** Review the current structure of the Board of Tax Appeals membership, particularly regarding the issue of when Board members have a conflict of interest in certain cases. The agency indicated that the reduction of the Board members from five to three, with the implementation of 2003 HB 2005, raises the problem of how to handle cases when one or two members have a conflict of interest.

6. **Nursing Facilities Reimbursement.** Interim study on the funding formula for nursing facilities reimbursement within the Department on Aging.
7. **Funding for Technical Colleges.** Review the statutory funding mechanism and the amount of funding for technical colleges.
8. **Veterans' Benefits and Services.** Review the current range of state benefits provided to veterans, including: the Commission on Veterans' Affairs, medical and long-term care services, educational benefits, death benefits for survivors, and state-operated veterans' cemeteries. Study the current number of veterans within Kansas and estimate the number of veterans there will be in the state in the future. Review the needs of current and future veterans that the services provided by the state are appropriate and will meet the obligation of the state to our veterans.

LEGISLATIVE EDUCATIONAL PLANNING COMMITTEE (LEPC)

The Legislative Educational Planning Committee is empowered by statute to set its own agenda; however, from time to time, the LCC refers matters to this Committee. The LCC requested that the LEPC Committee study the following topic in addition to their statutory topics:

1. **Vocational Educational Program Waiting Lists.** Study the current waiting list for vocational education programs throughout the state. Develop strategies for addressing those lists to reduce the number of students waiting for educational programs.

PENSIONS, INVESTMENTS, AND BENEFITS (JOINT COMMITTEE)

The Pensions, Investments, and Benefits Committee is empowered by statute to set its own agenda; however, from time to time, the LCC refers matters to this Committee. The LCC requested that the Pensions Committee also study the following topics:

1. **Working After Retirement.** Study the KPERS working-after-retirement limitations and review the option of allowing teachers, school administrators, and computer technology state agency workers to return to work after retirement without the \$15,000 penalty. Review potential consequences of removing the limitations, including the interaction with the school districts' early retirement incentive options and the further reduction in employee and employer contributions to KPERS.
2. **KPERS Retirement Issues.** Study the issues of Social Security coverage for members of the Kansas Police and Firemen's Retirement System, state taxation policy on state employee retirement contributions and state employee retirement benefits, and the long-term fiscal impact on the State General Fund of increased KPERS contributions in HB 2037 (KPERS Omnibus bill) for KPERS-School.

CHILDREN'S ISSUES (JOINT COMMITTEE)

The Joint Committee on Children's Issues is empowered by statute to set its own agenda; however, from time to time, the LCC refers matters to this Committee. The LCC requested that the Children's Issues Committee study the following topic:

1. ***Criteria for Adoption Eligibility of Children.*** Review existing policies and procedures for eligible individuals to adopt a child. Study to make sure that the best interests of the child are protected when establishing the criteria of who may adopt a child.

Speaker Mays moved that the report of the subcommittee as modified by discussion by the members of the Council, be adopted. Senator Hensley seconded the motion and the motion carried.

OTHER MATTERS

Prior to the meeting members of the Council received Policy 1 travel authorizations from President Morris, Policy 20 meeting authorizations from President Morris, a memo showing state holidays for 2006, a memorandum from Mr. Russell on legislator travel, a memorandum from Mr. Conroy on interim committee days, a memorandum from Mr. Riggs reporting outside employment of the post auditor, information from Mr. Furse concerning certain litigation and memoranda from Mr. Conroy on interim legislative study requests.

The next two meetings of the Council will be on August 29, 2005,** and September 27, 2005.

On motion the meeting was adjourned.

Prepared by

Norman J. Furse,
Revisor of Statutes,
as Secretary

Approved by

President Steve Morris, Chairperson

* Representative Newton resigned from the Legislature and was replaced on the committee by Representative Merrick.

** The August 29, 2005, meeting was canceled.