Approved March 12, 1984
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Senator Elwaine F. Pomeroy at
Chairperson

10:00 a.m./p.m. on February 27, 1984 in room 514-S of the Capitol.

All members were present except were: Senators Pomeroy, Winter, Burke, Feleciano, Gaines, Hess, Steineger and Werts.

Committee staff present: Mary Torrence, Office of Revisor of Statutes
Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Pat Hurley, Kansas Judicial Council Study Committee
John Myers , Office of Administration
Kathleen Sebelius, Kansas Trial Lawyers Association
Ralph Skoog, Kansas Trial Lawyers Association
John Brookens, Kansas Bar Association
Judge J. Richard Foth, Court of Appeals

Senate Bill 795 - Judicial Council recommendations relating to Court of Appeals.

The chairman presented background information to the bill and explained the bill.

Pat Hurley testified as one of the members of the Kansas Judicial Council committee that studied the caseload and backlog of cases of the Kansas Court of Appeals. He stated this had been a constant topic discussed by the governor's staff and the Supreme Court; the problem of increased numbers of cases, or other alternatives. Mr. Hurley stated as a member of the study committee and former Secretary of Administration, in his opinion, he thinks that this is one of the major problems in state government right now. How do you deal with the rapidly increasingly number of cases appealed to the Court of Appeals. It is not going to go away. He said the committee considered every alternative and heard from other states and how they handled the problem, and the ultimate step is to increase the court and increase compensation. The time to do it is to do it right now. He said there were no other suggestions that made a meaningful dent. Mr. Hurley stated he agrees with the conclusion of the committee. He said you have a second problem that is just as serious, and that is the salary problem. It is so close to the district court judges salaries now; only $1600 difference, and barely over one thousand dollars difference of administrative judges salary. The real problem on your hands now is that the district court judges are not applying for the Court of Appeals, and it is because of the salary differential. He stated, also the problem of salary is relatively low, and it is a morale problem manifested in the Court of Appeals. There has never been an appointment from the Court of Appeals to the Supreme Court. He pointed out the first step is to enlarge the court and the second, salary increases, and many things will follow to relieve the workload. There is no practical alternative as recommended by the committee. A committee member inquired, how many applicants for the current vacancy were district judges or associate district judges? Mr. Hurley replied, there were three. They used to have the same problem with district court judges, which has been remedied by salary increase in the last few years; now the same problem is occurring at this level. Mr. Hurley stated, should not have a system that discourages the judges from applying for the position.

John Myers appeared to present the governor's position. He stated this was not put in the budget recommendations for this year, but the governor would like to talk with this committee concerning the best ways to address the caseload problem. If the committee recommends this bill, the governor would be happy to address the appropriations aspects. Mr. Myers said the governor thanks the Judicial Council for its work.

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,

room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on February 27, 1984.

Senate Bill 795 continued

Kathleen Sebelius appeared in support of the bill.

Ralph Skoog spoke in support of the bill. He stated because, as trial lawyers, they are interested in the Appellate Court. Appeals is a problem for state government. It is the first indication by the people of confidence of government of the state. It is a place for a fair hearing. Litigation does often times represent refreshing confidence. The association reviewed the report, and they think it is meritorious. It probably should not be something to compromise. There should be a financial differential for the pay for Court of Appeals and District Court judges. He stated we are here because we know this needs to be done.

John Brookens testified he listened carefully to the prior gentleman who spoke, and he is in support of his remarks. He has considered and read the report of the Kansas Judicial Council, and he feels it is a well reasoned statement of the necessity of the times. The caseload merits more help and has passed the need for seven people. Mr. Brookens reported the District Judges Association also approve this concept. They feel there should be an increased differential salary between the District Court and the Court of Appeals. A committee member asked what the salary increases were for the judges last year and the year before. That information will be made available to the committee later.

Judge Richard Foth testified in support of the Kansas Judicial Council report and in support of the bill. He stated he agreed with Pat Hurley's remarks. He explained, in the beginning, the Judicial Study Advisory Committee suggested the Court of Appeals would start at seven and be added to as the need arose, and the need has arisen. It has lasted seven years, and the court is engaging in every kind of activity they can think of without the addition of more judges. Judge Foth stated all Courts of Appeals have faced the same problem. He explained the problem with blitzes. They have been bringing in outside judges to make up another panel, but it puts a strain on the whole judicial system, because the judges have to leave what is going on at home. It puts a strain on their staff. Judge Foth stated they don't have research personnel to service a number of outside judges. They think they need more staff to service the judges they now have. The report's recommendation is sufficient in the increase in central research staff. They don't have secretarial help for those outside people, and no library facilities. When they bring in a district judge, if he has never done it before, you have to educate him as to how they operate. The judges are not accustomed to writing appellate opinions; it is an educational process. There is a tendency to rely on the same judges called up before, which is not fair to them. He said lawyers don't particularly like appearing before panels consisting of outside judges. Before the Court of Appeals was created there were nine judges and an appellate caseload annually of 350 to 400 cases. Last year had over 1200 appellate cases and have 14 judges. Of those 1200 cases, 1067 were Court of Appeals cases. The Supreme Court can take some of their cases. In regard to the issue of salary, Judge Foth stated it is an important part of this problem; I think the time is now. A committee member inquired of the office space requirements if a change is made? Judge Foth replied, I have not discussed the possible space. The attorney general's offices are in the building temporarily; the ultimate goal will be when the attorney general leaves. Further committee discussion was held concerning salary differential, and Judge Foth replied, don't think Court of Appeals should be paid the same amount of money as the Supreme Court; should have differential over the Court of Appeals. The Supreme Court has the responsibility of the whole judicial system, and the salary should reflect that.

The chairman announced he has called a committee meeting tomorrow, Tuesday, February 28, at 12:15 P.M. in room 519-S

The meeting adjourned.

2-27-84

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Sister Dolores Brinkel	229 S. 8th St. KCKs.	Criminal Just. Ministry
Donna Schneweis, CSJ	2295 8th KCKS	" "
Jerry Sloan	Topeka	Off. of Judicial Admin
Marjorie J. VanBuren	"	"
Richard Foth	"	Court of Appeals
[illegible] Heaumel	"	Judicial Council
Tom Fritzler	Lawrence	Sen Hess
Joan Knock	Topeka	KS Bar Assoc.
Barry Massey	"	Associated Press
Jim Clark	"	KCOAS
Patrick Hurley	Topeka	Cottages
[illegible]	Topeka	KTLA
[illegible]	"	KBA
Kathleen Sebelius	"	LCTCA
J. L. Foth	"	K. C. Times
Bob Wells	"	Budget
K. Hawes	"	Cap-Journ.
John Ryan	"	Budget
Kathy Sindler	"	KSNT-TV
[illegible]	"	Staff
[illegible]	Lawrence	Sen Morris
M. Woody	Cottonwood Falls, KS	Nat'l Organization for Women
[illegible]	Statehouse	Gov's Office
Nancy Humphreys	Topeka	Planned Parenthood of KS
Bobby McCray	Statehouse	Kansas Senate