

Approved: February 15, 1999
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:00 a.m. on February 3, 1999 in Room 254-E of the Capitol.

All members were present;

Committee staff present: Mary Galligan, Legislative Research Department
Russell Mills, Legislative Research Department
Theresa Kiernan, Revisors of Statutes
Judy Glasgow, Committee Secretary

Conferees appearing before the committee:

Tim Madden, Kansas Department of Corrections
Roland E. Smith, Chairman, Legislative Compensation Commission

Others attending: See Attached sheet

Chairman Oleen called for bill introductions. Senator Gooch requested the introduction of a bill which would use DNA testing to stop the payment of child support if results showed no relationship. Senator Gooch moved for introduction of the bill. Senator Jones seconded the motion. The motion passed.

Senator Gooch requested the introduction of a bill which would allow a person who is incarcerated for a crime not against a person and who has a terminal illness to come before the parole board for an early release from prison. Senator Jones moved for introduction of the bill. Senator Becker seconded the motion. Motion passed.

Senator Oleen requested the introduction of a bill that would allow small counties to join together in a contract to use a surveyor on a part time basis. Senator Biggs moved for the introduction of the bill. Senator Vratil seconded the motion. The motion carried.

Chairman Oleen recognized Tim Madden, General Council for the Department of Corrections. Mr. Madden requested the introduction of a bill that would allow a warden or an administrator of a correctional facility to order an autopsy on a person who dies within that facility. Senator Gooch moved for introduction of the bill. Senator Becker seconded the motion. The motion carried.

Chairman Oleen opened hearings on SB 55, SB 101 and SB 174, Legislative compensation and expenses.

Chairman Oleen called on Roland B. Smith, Chairman of the Commission of Legislative Compensation. Mr. Smith appeared as a proponent of SB 55. He explained that the commission was made up of members from all over the state of Kansas, there were no current legislators on the commission, although there was a former legislator. (Attachment 1) The first concept the commission formed was the idea of a citizens legislature, rather than a full time legislature. The commission surveyed five adjoining states as well as eight states of similar size. There is no common denominator between any of the states and how compensation is determined or had legislators that met on a part-time basis. It was believed that the public would more accurately perceive a yearly salary over the current method. The commission had three meetings; two to look at the details and the final meeting to formulate the recommendations. Mr. Smith stated that he believed that there needed to be a public relations on what legislative salary is because there is a misconception on state legislature compensation. He believes one of the key players in getting the word out accurately is the media.

CONTINUATION SHEET

Senator Bleeker questioned how many legislators have stayed in the system for 10 years to become vested. Mr. Jack Hawn, Deputy Executive Secretary, KPERS addressed the question and stated that he had provided that information to Legislative Research Department this morning. Of the 145 current members of the legislature, 38 have meet the 10 year vested requirement. Information prior to 1988 was not available.

Senator Becker ask what figure the commission used for current legislators salary. 112 days times the \$76.00 daily allowance would be \$8,600.00. Mr. Smith stated that the figure provided to the commission was \$12,500.00. Questions from the committee concerned interim committee reimbursement and the fact that lack of additional pay for attending these committees could result in fewer people willing to serve on them. Senator Vratil asked if the commission had discussed the discrepancy between the number of interim meetings that representatives serve on in comparison to the number senators serve on.

Mr. Smith stated that he was aware of the unfairness for those who attend a great number of meetings and those who attend few or none. This was brought to the members' attention but it was felt that the public would not understand compensation based on this item. It was felt that an annual salary would have better public perception. He stated be believed there is a difference in number of interim and joint committee participation be members of the two houses. The figure of \$18,000 was decided through information gathered from different states..

Senator Oleen called attention to a handout to the committee from Legislative Services which shows the average salary paid to legislators annually to be \$7,590.14. (Attachment 2). A printout from the National Conference of State Legislators shows salaries of Kansas and other states surrounding Kansas (Attachment 3)

Chairman Oleen recognized Tim Shallenburger, a proponent for increased legislative compensation. Two years ago the House started looking at legislative pay. He stated that trying to compare other states can become difficult because there is a base salary and then each state adds different items into this base for a total salary. In a recent survey Kansas is ranked 43rd of the 50 states in compensation for legislators. Two years ago he tried to bring the salary up to the norm, but it was billed as a 92% pay increase. One of his jobs has been to recruit candidates for the legislature and in the last couple years it has become more and more difficult to find people willing to serve. The truth is that legislators loose money the first day they become a legislator and everyday thereafter. He fears that eventually the only people who will serve in the legislature will be the rich, the retired or those who have other incomes. The year after introducing the pay increase bill he introduced the bill to create the Legislative Pay Commission. There is no good time to talk about compensation, but the thought was that to create the pay commission during election year, the bill would be passed after the election year and the bill would be binding on the legislators coming in at the next election.

It would be his suggestion not to differentiate between urban and rural, large or small districts. Pension revision should also be considered when considering the compensation package.

The meeting adjourned at 12:07 p.m. The next meeting of this committee is scheduled for 11:00 a.m. February 4, 1999.

Roland E. Smith

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February 3, 1999

STATEMENT TO: Senate Federal & State Committee
FROM: Roland E. Smith, Chairman of the Legislative Compensation
Commission
SUBJECT: SB55

Madam Chairman and members of the committee, I am Roland Smith, Chairman of the Legislative Compensation Commission created last session to review legislative compensation. Attached is a copy of the report to the Governor on the recommendations made by the commission that instituted the introduction of Senate Bill 55 as required by statute.

The commission met three times and reviewed legislative compensation in all the adjoining states and several of like size. There was no common rational to any of them. It was the feeling of the commission that we should retain a citizen legislature, but attract more citizens to consider public service. There was no one on the commission that felt the current compensation was adequate.

There was serious concern by the majority of the commission on how the pensions were calculated. It may be legal, but the ethics were questionable. It is a back door method to compensate long term legislators for some of their lost income when they did serve. It became obvious why limiting terms legislation never pass.

We knew it would be impossible to change the retirement of current legislators, but felt the first step would be to have an annual salary starting after the next election and grand fathering current legislators. The majority of the commission would like to have left off the daily expense allowance in figuring the amount of pension, but knew that would not fly.

The salary of \$18,000 a year does not do much to attract persons to run or help them cover costs for being away from their business or jobs, but it is a start.

There has been criticism that there would be no incentive to serve on interim committees. This was not discussed, but I personally believe \$79,000 per day is not very much incentive unless some is depending on it for a living.

I would be happy to answer any questions you might have regarding the recommendations the commission made.

Sen. Federal & State Affairs Comm
Date: 2-3-99
Attachment: # 1-1

COMPENSATION COMMISSION

First Biennial Report: December 1, 1998 to the Governor and Legislative Coordinating Council

COMPENSATION OF MEMBERS OF THE KANSAS LEGISLATURE

CONCLUSIONS AND RECOMMENDATIONS

The Commission recommends that the 1999 Legislature enact legislation that, commencing in the 2001 Session, would do the following:

- Legislative compensation would be set at an annual rate of \$18,000. This replaces both the per diem compensation (\$72.06 per day) method and the interim expense allowance (\$5,400 per year) provision. This represents a compensation increase of about \$5,000 to \$5,500 for an "average year" of legislative service. As under current law, compensation automatically would be increased for cost-of-living adjustments made in the general pay plan for classified state employees.
- For new members of the Legislature in 2001, participation in the Kansas Public Employees Retirement System (KPERs) would be based on the actual annual rate of compensation rather than annualization of a daily rate of compensation. For continuing members of the Legislature in 2001, KPERs participation would continue to be determined on the current basis.
- Legislators whose districts encompass all or portions of more than one county would receive vouchered mileage reimbursement for travel to meetings related to the member's legislative responsibilities when the Legislature is not in session when the indistrict meetings are held in a county other than the one of the member's residence.

The current methods of determining legislators' subsistence allowance, mileage reimbursement, and leadership pay would not be changed. Optional participation by legislators in the state health insurance program would not be changed. KPERs participation would be continued, but the method of determining legislative compensation for that purpose would be altered as noted above.

BACKGROUND

The Compensation Commission was created by the 1998 enactment of S.B. 514. The Commission is composed of seven members, one member each appointed by the President, Majority Leader, and Minority Leader of the Senate; the Speaker, Majority Leader, and Minority Leader of the

House; and the Governor. No member appointed to the Commission may be a registered lobbyist, a member of the Legislature, or a member of the Legislature within two years of the date of appointment. Of the members first appointed, the terms of members appointed by the President of the Senate, Speaker of the House, and the Governor are for four years. The terms of the

other appointees are two years. Thereafter, all members serve four-year terms. Terms began on July 1, 1998. The member appointed by the Governor serves as chair of the Commission. All official actions require a majority vote of the Commission.

The Commission studies the compensation, expense allowances, and reimbursement of members of the Legislature. The Commission meets in even-numbered years and submits the report of its recommendations to the Legislative Coordinating Council and Governor by no later than December 1 of that year. If implementation of the Commission's recommendations requires legislation, a bill containing the recommendations is introduced at the commencement of the next legislative session. The statutes state that in order for this bill to become effective, it must be enacted by no later than February 1 of the odd-numbered year of introduction.

COMMISSION ACTIVITIES

The Commission held three one-day meetings in the conduct of its duties. The first two meetings, August 26 and September 30, were devoted to the twin tasks of studying background materials prepared by staff and engaging in policy discussions. The third meeting, held October 20, was focused on reaching agreement on the Commission's recommendations.

The Commission reviewed materials which included the history of legislative compensation, subsistence allowance, interim expense allowance, mileage reimbursement, and leadership pay in Kansas; total and currently estimated expenditures from the Legislature's budget for legislative compensation, allowances, and reimbursements; compensation and benefits for legislators in all 50 states; Kansas statutory provisions relating to legislator compensation, subsistence allowance, mileage reimbursement, and other benefits; Kansas specific information on legislator participation in the state employees health insurance program and in KPERS; Kansas legislators' daily compensation over a ten-year period as compared to such compensation adjusted for changes in the

Consumer Price Index for All Urban Consumers and as compared to step movement and cost-of-living adjustments in the pay plan for classified state employees; and comparative information for Kansas and ten other states (Nebraska, Utah, Arkansas, Mississippi, Iowa, Oregon, Oklahoma, Colorado, Arizona, and Missouri) regarding state population, size of the state budget, legislators' compensation, length of regular legislative sessions, standing committees of the legislature, and interim legislative activity.

CONCLUSIONS AND RECOMMENDATIONS

Based upon the information reviewed and its deliberations, the Commission has concluded that an increase in the compensation paid to Kansas legislators is warranted. Some other changes in the compensation package for legislators also are recommended.

Current Package. At the present time, Kansas legislators receive compensation, allowances, and reimbursements as follows:

- Compensation of \$72.06 per day during any regular or special session of the Legislature and for participation in interim legislative meetings. Under current law, this amount is adjusted automatically commensurately with cost-of-living adjustments made in the state pay plan for classified employees.
- Subsistence allowance of \$80.00 per day for expenses for any regular or special session of the Legislature and for participation in interim legislative meetings. For out-of-state meetings, actual expenses are paid if they exceed \$80.00 per day. Under current law, the daily subsistence amount is adjusted automatically to the per diem expense allowance amount allowable under federal law and regulations for federal executive branch employees while serving away from home in Topeka.
- Interim expense allowance of \$5,400, paid in 20 biweekly installments commencing with the first biweekly pay period in April.

- Mileage reimbursement at 32 cents per mile for not more than one trip for each full week the Legislature is in regular or special session and for participation in interim legislative meetings. This amount is the mileage reimbursement rate set, in accord with law, by the Secretary of Administration for travel in private cars by state employees.

Additional annual compensation is provided for certain of the legislative leadership positions. These include the President and Vice President of the Senate and the Speaker and Speaker Pro Tem of the House; the Majority, Minority, Assistant Majority, and Assistant Minority Leaders of the House and Senate; and the Chairs of the House Appropriations and Senate Ways and Means Committees. This additional compensation is in recognition of the increased responsibilities and time demands on these persons.

In addition, legislators may participate in the state employees health insurance program, which involves state participation in premiums payment, and in KPERS. Workers compensation coverage also is applicable.

Legislator participation in KPERS has been broadly discussed in the public mainly due to the procedure for annualization of the per diem compensation and subsistence allowance amounts that legislators receive. This leads to a computed annual salary for determining KPERS retirement benefits that is greater than amounts legislators actually receive during the year. For example, while a "typical" member of the Legislature this year might receive a total of about \$20,000 in per diem compensation, subsistence allowance, and interim expense allowance, the member's annual salary for KPERS purposes would be about \$62,000. Legislators must pay the 4.0 percent employee contribution rate on the total annualized amount, not the amount they actually receive. The legislative leaders who receive additional compensation (see above) are permitted to include their leadership salaries in their KPERS calculations for retirement benefits.

Recommendations. The Committee recommends the following changes in the legislative

compensation, allowances, and benefits package:

- Legislative compensation should be paid at an annual rate of \$18,000. This would replace both the current per diem compensation pay system and the \$5,400 per year interim expense allowance that legislators now receive. On an annual basis, this represents a compensation increase of about \$5,000 to \$5,500 for an "average year" of legislative service. This compensation would be adjusted automatically, just as the current per diem compensation is adjusted, for cost-of-living adjustments that the Legislature approves for the general pay plan for classified state employees.
- Participation in KPERS would be changed as follows: the actual annual salary of legislators would replace the annualization of per diem compensation plus inclusion of the interim expense allowance (abolished under the Commission's proposal) for all new members of the Legislature beginning in January 2001. Other members would continue KPERS participation based on the present annualization method computed on the per diem compensation and interim expense allowance rates in effect prior to that time. The benefits due retirants at the time of implementation of this recommendation would be unaffected by the change.
- For legislators whose districts encompass all or portions of more than one county, vouchered mileage reimbursement would be paid for travel to meetings relating to the member's legislative responsibilities when the Legislature is not in session and when the meetings occur within the member's district but in a county other than the one of the member's residence.

The Committee endorses continuation of the present methods of determining additional pay for certain legislative leadership positions, the legislative subsistence allowance, and the mileage reimbursement rate for travel. Also, the Commission endorses current provisions for legislator participation in the state's health insurance program. Continued access to KPERS participation,

subject to the modifications necessarily related to migrating to an annual compensation method (see above), also is endorsed.

Discussion. For a variety of reasons, the Commission believes legislative compensation should be increased. The Commission places high value on the benefits to the whole state of having a diverse legislative body, one which brings to the policymaking forum the views of all segments and interests of the people of Kansas. Compensation is an important consideration in this regard. The Commission supports compensation at a level that includes incentive enough to make it possible for persons of any station in society to consider public service in the Legislature. But, the Commission also does not support compensation that is high enough to attract legislative candidates for whom the compensation becomes a primary goal. Further, the Commission seeks, as far as is reasonably possible, to preserve the "citizen legislature" orientation for Kansas. Unfortunately, there is no formula upon which to rely in order to determine an exact level of compensation that will satisfy the Commission's objectives. In the end, this determination comes down to the wisdom of the collective judgment of persons who have the state's highest interests in mind.

The Commission believes that moving to an annual compensation method is better than the current "per day of service" approach. The compensation that members now receive varies among them, depending mainly on the amount of interim legislative study activity in which they are involved. This method is insensitive to the amount of time legislators spend in meetings and appearances in their districts. However, an annual salary implicitly recognizes duties beyond attendance at legislative sessions and interim study committee meetings. The Commission's recommendation, while making legislators' salaries more nearly comparable to those in similar states, also removes confusion that now exists regarding the interim expense allowance as a part of the legislative compensation package. Under the Commission's proposal, the interim expense allowance would be eliminated. However, it was taken into account in the development of the

Commission's annual compensation proposal. Another product of moving to an annual compensation method is to link KPERS participation and benefits to actual compensation rather than to an annualized salary. This latter approach, for which a sound rationale may be provided, nonetheless has been the subject of periodic press criticism. An unfortunate consequence of these attacks is their contribution to cynicism and negativism among the citizenry about legislative service. The Commission believes its proposal will nurture more positive reviews of the legislative compensation program, including the retirement feature, than presently occur.

Based upon its understanding of contractual rights and obligations associated with the KPERS system, the Commission has concluded that the simplest and most defensible approach is to implement its recommendations effective with the service of new members of the Legislature, *i.e.*, those who have no service under the present system. This means that beginning in 2001 and thereafter, all new members of the Legislature, or those who have had a break in their legislative service (for their "new" service), will commence participation in KPERS on the basis of the applicable annual salary. (Annualization of the subsistence allowance and inclusion of leadership pay also would continue to apply.) Legislators serving in the preceding session whose legislative service continues in 2001 would continue to participate in KPERS on the "old" basis during their continuous service as legislators, even though they also will move to the annual compensation method. Thus, their contractual rights and retirement expectations are preserved. These legislators become a "closed class" in that there may be no new entrants into the KPERS program on this basis after commencement of the 2001 Session.

This is a change in the groundrules for KPERS participation by new members of the Legislature beginning with the 2001 Session. The fiscal consequences of this change are that there will be a reduction in the state's contribution to KPERS on behalf of the new legislators and their retirement benefits will be lower than is the case under the current system.

The recommendation to provide vouchered mileage reimbursement for legislators whose districts cross county boundaries and who attend indistrict meetings pertaining to their legislative duties in a county other than the one of residence at times when the Legislature is not in session is designed to give some recognition to the greater demands of time and travel associated with providing representation in the districts which comprise the larger geographic areas. This proposal represents a first step in recognizing an issue that has for many years been a subject of discussion. The Commission recognizes that the legislative leadership sometimes will face difficult decisions relative to approval of the travel reimbursement for some types of meetings. Over time, though,

standardization in making such determinations will evolve.

The Commission's proposal is that its recommendations be implemented commencing with the convening of the 2001 Session of the Legislature. As all members of the House and Senate are subject to election in the year 2000, this will ensure that no member serving in the Legislature when the Commission's proposed legislation is enacted will benefit from it or be affected by it during that member's current term of service.

The Commission urges the 1999 Legislature to enact the legislation that accompanies this report.

Legislative Services

6 360

1998

Salaries pd:

62.00

65.00

69.29

72.06

Any w/in BUS code
Legis allow.

Total # 2,163,270.57 ÷ 165 = #13,110.73

18,000.00 x 165 = #2,970,000

Back out

75 days of ldr. @ 69.29 =	5,196.75
204 " @ 72.06 =	14,700.24
5400 legis allow x 165 =	891,000.00
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2,163,270.57	
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1,252,373.58	÷ 165 = 7,590.14

KANSAS	\$ 7,590.14 YR.
MISSOURI	\$27,580.20 YR
OKLAHOMA	\$32,000.00 YR
COLORADO	\$17,500.00 YR
IOWA	\$18,800.00 YR
ARKANSAS (B)	\$12,500.00 YR
NEBRASKA	\$12,000.00 YR