

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on February 1, 2005, in Room 123-S of the Capitol.

All members were present except:

Donald Betts- excused

Committee staff present:

Jill Wolters, Office of Revisor of Statutes  
Helen Pedigo, Office of Revisor of Statutes  
Nancy Lister, Committee Secretary

Conferees appearing before the committee:

Senator Goodwin  
Randy Hearrell, Office of Judicial Administration  
Stan Hazlett, Office of Judicial Administration  
Kathy Porter, Office of Judicial Administration

Others attending:

See attached list.

Chairman Vratil opened the meeting and announced he was appointing a sub-committee to work on **SB 27**. The Chairman appointed Vice-Chairman Bruce as Chair, Senator Schmidt and Senator Goodwin.

Chairman Vratil asked for bill introductions. Senator Goodwin introduced a bill on behalf of law enforcement in her district that would address a loophole in current law regarding minors consuming alcohol and evidence obtained which cannot be introduced because law enforcement uses pocket intoxicilyzers. Jill Wolters is working with Senator Goodwin to draft the bill. Senator Bruce moved, seconded by Senator O'Connor, and the motion carried.

Chairman Vratil opened the hearing on **SB 50**.

**Final Action:**

**SB 50 Changing references to the soldiers and sailors civil relief act to the servicemembers civil relief act**

**Proponent:**

Randy Hearrell, Office of Judicial Administration, provided a brief history of the Act and pointed out that the Act is not being changed. The bill only substitutes the new phrase where the old one appears.

Chairman Vratil asked if there was a motion to recommend this bill favorably and put it on the consent calendar. Senator O'Connor moved, seconded by Senator Schmidt, and the motion carried.

Chairman Vratil opened the hearing on **SB 52**.

**SB 52 Providing employer contribution for health insurance for senior judges**

**Proponent:**

Kathy Porter, Office of Judicial Administration, stated that the bill allows the Supreme Court to begin paying the employer contribution for senior judges who participate in the senior judge program. (Attachment 1) A fiscal note indicates the program would cost \$79,000, which would come from state general funds. The funds would not vary, because contracts offered to judges are based on the budget. (Attachment 2) Ms. Porter stated the effective date is July 1, 2006, when appropriations would be available.

Chairman Vratil stated that the bill intended for the Supreme Court to have the discretion to begin paying the employer contribution, but noted the bill, on page 1, line 27, directs the court by the language "shall". The

CONTINUATION SHEET

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Chairman offered that "may" be used instead, to allow the court more flexibility. Ms. Porter concurred.

The Chairman closed the hearing on **SB 52** and asked the Committee to consider final action on **SB 5**.

**Final Action:**

**SB 5 Trade secret defined as in uniform trade secrets act**

Chairman Vratil noted that there was a tentative agreement to amend the bill so an individual agency head did not make the decision whether confidential information constituted a trade secret and he passed out a balloon amendment which reflected this position. Jill Wolters pointed out that deletions within the bill on pages 5, 8, 12 and 13 were done to make the definition of trade secrets uniform throughout the bill. Senator Bruce moved to accept the balloon amendment, seconded by Senator O'Connor, and the motion carried. A motion was made to recommend the bill favorably as amended. Senator O'Connor moved, seconded by Senator Bruce, and the motion carried.

Chairman Vratil asked the Committee to turn its attention to **SB 30**.

**SB 30 Exercising the state's option to provide an exemption to disqualification for public assistance to certain drug offenders**

Chairman Vratil noted a fiscal note on the bill reflected a price of \$375,000 from general funds, and a total of \$712,000 from all funds. (Attachment 3) Senator Journey requested an amendment be drafted that would give a case worker discretionary authority to require periodic random urinalysis tests to determine that an individual is no longer a substance abuser. The \$20 test would be at the expense of the welfare recipient. A motion was made that revisions be drafted and added to the bill. Senator Journey moved, seconded by Senator O'Connor and the motion carried. The Chairman stated that once the revisions were made and the Committee could review them, then final action would be taken.

Chairman Vratil asked the Committee to turn its attention to **SB 36**.

**SB 36 The supreme court may require applicants to practice law to be fingerprinted and submit to a national criminal history record check**

Stan Hazlett, Office of Kansas Disciplinary Administrator, clarified a statement he made during a previous hearing. He stated that the intent is that all applicants would continue to be subject to the KBI check and the expanded FBI check authorized by this bill would be run only on applicants who are from out of state, who have at one time resided out of state, or for whom a more thorough background investigation appears to be warranted. This meant the expanded check would be run on approximately 50 percent of applicants.

Senator Schmidt recalled that an issue came up last year before the Committee regarding approximately 30 individuals who had attended a now defunct law school in Wichita and had relied upon the assurances of that entity that they would become accredited for the purposes of being admitted to the bar. The reason that the bill did not advance was because some felt it was beyond the legislature's authority to deal with matters of qualifications for admission to the bar, that some had asserted that authority should be the Supreme Court's prerogative. Senator Schmidt questioned that if that was the case on the former bill, why would the legislature now have the authority to act on admission to practice law. Chairman Vratil stated that the bill gives the Supreme Court discretion to use the fingerprint authority and criminal history records check, but does not require them to use it. The difference in the bill is the authority is discretionary by use of the word "may" in line 13 of the bill. Senator Schmidt requested an amendment be drafted that added a section that would give discretionary authority to the Supreme Court to grant admission to the bar in the State of Kansas for those individuals that had graduated from the President's law school in Wichita. Senator Schmidt moved, Senator Donovan seconded, and the motion carried. Chairman Vratil stated once the amendment was made, the Committee would review the amendment and then take final action.

Chairman Vratil asked the Committee to consider final action on **SB 25**.

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**Final Action:**

**SB 25 Terrorism and illegal use of weapons of mass destruction, penalties, procedures**

Chairman Vratil noted that page 7 of the bill, sub-section (d), beginning on line 13, needed to be amended. Jill Wolters stated that the new language in italics, lines 15-19, needed to follow the period on line 12, sub-section (c). The Chairman directed Ms. Wolters to make a technical amendment to reflect this change. Senator Bruce stated that the intent of the bill was to make "attempt or conspiracy to attempt to do an act of terrorism" the same severity level as if one were successful in performing an act of terrorism. Senator Bruce requested that a technical amendment should also add the language "conspiracy to commit" after the "attempted to commit". Senator Bruce moved to make the amendments, seconded by Senator Goodwin, and the motion carried. Senator Bruce moved to recommend the bill favorably out of Committee as amended, seconded by Senator O'Connor, and the motion carried.

Chairman Vratil asked for approval of the minutes from the Judiciary Committee meetings held January 11, January 12, and January 13, 2005. Senator O'Connor moved to approve the minutes, seconded by Senator Umbarger, and the motion carried.

Chairman Vratil adjourned the meeting at 10:30 A.M. The next meeting is scheduled for February 2, 2005.

CONTINUE TO ROUTE

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2-1-05

NAME	REPRESENTING
Michael White	KCDAA
Donnis Prout	SR 5
JIM CLARK	KBAA
Alan Hazlett	Supreme Court
Lacey Keller	Sen. Kelly
Kathy Peltz	Judicial Branch
Jeff Bottenberg	Stat Form
Harry Bossi	<del>Stat</del> of Admin.
Pat Higgins	Dept. of Admin.



State of Kansas

**Office of Judicial Administration**

Kansas Judicial Center  
301 SW 10<sup>th</sup>  
Topeka, Kansas 66612-1507

(785) 296-2256

**Senate Judiciary Committee**

Tuesday, February 1, 2005

Testimony in Support of SB 52  
Kathy Porter, Office of Judicial Administration

Thank you for the opportunity to testify in support of SB 52. This bill would allow the Supreme Court to pay the employer portion of health insurance costs for retired judges participating in the Senior Judge Program. Currently, if those judges wish to participate in the state group health insurance program, they pay the full cost of participation in the direct bill program used by state retirees.

The Senior Judge Program has been a successful venture for the Judicial Branch. Through the program, retired justices or judges enter into a contract to work 40% of a work year for 25% of the pay they would have received had they not retired. Senior judges have filled in at the appellate level and have handled district court dockets and cases across the state. They sometimes work on short notice, filling in during illness or emergencies, or take cases from which local judges have had to recuse themselves.

I have attached a copy of K.S.A. 76-746, which provides some precedent for this proposal. Among other provisions, that statute authorizes state educational institutions to pay the employer portion of health insurance costs for certain regents employees who enter into phased-retirement agreements.

The Senior Judge Program has been an effective and efficient use of state resources. The provisions of this bill would allow the Judicial Branch to make this program more attractive to retired justices and judges. Thank you for your consideration of this bill.

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Attachment 1

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**76-746****Chapter 76.--STATE INSTITUTIONS AND AGENCIES; HISTORICAL PROPERTY  
Article 7.--STATE EDUCATIONAL INSTITUTIONS; MANAGEMENT AND OPERATION**

**76-746. Phased-retirement program for unclassified employees of state educational institutions; agreements, provisions.** (a) The state board of regents is hereby authorized to develop and implement a phased-retirement program for unclassified employees of state educational institutions under the control and supervision of the board in accordance with the provisions of this act. [Subject to rules and regulations adopted by the state board of regents, each state educational institution may enter into phased-retirement agreements under this section with unclassified employees of the institution. Such agreements shall provide that the unclassified employee shall accept an appointment in a position which is less than the employee's current appointment but which is at least 1/4 time, and the state educational institution shall pay on behalf of the employee (1) the amount specified by the Kansas state employees health care commission under K.S.A. 75-6508, and amendments thereto, as if the employee is serving under a full-time appointment as an employee of the state educational institution and participating in the state health care benefits program to provide for such participation of the employee,] (2) the amount required to assist in the purchase of retirement annuities under K.S.A. 74-4925, and amendments thereto, as if the employee is serving under a full-time appointment as an employee of the state educational institution, and (3) the amount required as contributions under subsection (2) of K.S.A. 74-4927a, and amendments thereto, as if the employee is serving under a full-time appointment as an employee of the state educational institution at the full-time equivalent salary. For each unclassified employee who has entered into a phased-retirement agreement with a state educational institution under this section, the full-time equivalent salary, calculated as if the employee is serving under a full-time appointment as an employee of the state educational institution, shall be utilized for the purposes of calculating all employer provided benefits, including but not limited to, compensation for accumulated sick leave, the insured death benefit and the insured disability benefit under K.S.A. 74-4927, and amendments thereto, and calculating final average salary as defined in subsection (17) of K.S.A. 74-4902, and amendments thereto.

(b) For the purposes of this section, the term "unclassified employee" means an employee of a state educational institution, except health care employees, who is within the unclassified service under the Kansas civil service act and who meets minimum age and service requirements as determined and prescribed by the board of regents.

**History:** L. 1984, ch. 290, § 1; L. 1985, ch. 302, § 2; L. 1994, ch. 293, § 30; July 1.

January 28, 2005

The Honorable John Vratil, Chairperson  
 Senate Committee on Judiciary  
 Statehouse, Room 522-S  
 Topeka, Kansas 66612

Dear Senator Vratil:

SUBJECT: Fiscal Note for SB 52 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 52 is respectfully submitted to your committee.

SB 52 amends current law to provide an employer contribution for health insurance to retired judges who return to temporary judicial duties while receiving service retirement benefits. Retired judges performing judicial duties for 104 days or 40.0 percent in each year would participate in the Kansas State Employee Health Insurance Program as if the retirant is serving as a full-time employee. A retirant who serves less than 104 days or 40.0 percent of each year would be considered a part-time employee for calculation of the employer health insurance share.

Estimated State Fiscal Effect				
	FY 2005 SGF	FY 2005 All Funds	FY 2006 SGF	FY 2006 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$79,361	\$79,361
FTE Pos.	--	--	--	--

Senate Judiciary

2-1-05

Attachment 2

The Honorable John Vratil, Chairperson  
January 28, 2005  
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Currently there are 15 retired senior judges with whom the Office of Judicial Administration has contracts. Of this total, 11 would qualify for full-time group health coverage, and the remaining 4 would be eligible for part-time benefits. The Office estimates that the state would contribute \$79,361 based on these current contracts. Any fiscal effect resulting from this bill would be in addition to the amounts included in *The FY 2006 Governor's Budget Report*.

Sincerely,

Duane A. Goossen  
Director of the Budget

cc: Brandy Wheeler, Judiciary



# KANSAS

DIVISION OF THE BUDGET  
DUANE A. GOOSSEN, DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

January 19, 2005

The Honorable John Vratil, Chairperson  
Senate Committee on Judiciary  
Statehouse, Room 522-S  
Topeka, Kansas 66612

Dear Senator Vratil:

SUBJECT: Fiscal Note for SB 30 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 30 is respectfully submitted to your committee.

The federal Controlled Substances Act prohibits states from providing Temporary Assistance for Families (TAF) and Food Stamp Assistance to persons convicted of drug felonies. Although the disqualified adults do not receive assistance, other members of the person's family do. However, states can opt out of this provision. SB 30 would exercise the state's authority to opt out of the prohibition. The bill would require drug felons to be evaluated for substance abuse treatment as a condition of receiving TAF and Food Stamp benefits. Those not requiring treatment and those recommended for and receiving treatment would qualify for assistance, assuming other eligibility requirements were met.

Estimated State Fiscal Effect				
	FY 2005 SGF	FY 2005 All Funds	FY 2006 SGF	FY 2006 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$375,360	\$712,320
FTE Pos.	--	--	--	--

The Honorable John Vratil, Chairperson

January 19, 2005

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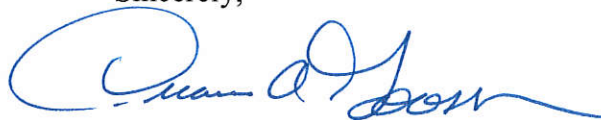
Currently, there are 150 adults in Kansas who are disqualified from receiving TAF because of a drug felony conviction. It is estimated that an additional 35 adults per year would qualify for TAF. It is also estimated that 70.0 percent of the adults would cooperate with the assessment and treatment requirements. Therefore, the increase in caseload would be 130 in FY 2006, 154 in FY 2007, and 179 in FY 2008. Cash assistance payments of \$141 per month, plus employment services costs of \$55 per month, would total \$2,352 per year per person. So the additional TAF costs for the state would total \$305,760 in FY 2006, \$362,208 in FY 2007, and \$421,008 in FY 2008. Because the state already expends all of the funding from the federal Temporary Assistance for Families Fund, the additional expense would have to be 100.0 percent state funded.

Similarly, there are 355 adults presently disqualified from Food Stamp Assistance. It is estimated that an additional 147 adults per year would qualify for Food Stamp Assistance. It is again estimated that 70.0 percent of the adults would cooperate with the assessment and treatment requirements. Therefore, the increase in caseload would be 351 in FY 2006, 454 in FY 2007, and 557 in FY 2008. The monthly cost of Food Stamp Assistance is \$80 per adult, which would total \$960 per year per person. So the additional Food Stamp Assistance costs for the state would total \$336,960 in FY 2006, \$446,736 in FY 2007, and \$561,456 in FY 2008. This program is fully federally funded, so no additional state expenditures would be necessary.

Finally, some of the new TAF and Food Stamp recipients would qualify for Child Care Assistance. Based on current participation rates, caseloads for this program would grow by 20 in FY 2006, 37 in FY 2007, and 57 in FY 2008. At a monthly cost of \$290 per child, the annual additional costs would total \$69,600 in FY 2006, \$128,760 in FY 2007, and \$198,360 in FY 2008. Again, because the state already expends all of the funding from the federal Temporary Assistance for Families Fund and all available federal child care assistance funding, the additional expense would have to be 100.0 percent state funded.

Therefore, by adding these three areas of additional expenditures the fiscal effect of SB 30 would total \$712,320 in FY 2006, \$937,704 in FY 2007, and \$1,180,824 in FY 2008. The State General Fund portions of these costs are \$375,360 in FY 2006, \$490,968 in FY 2007, and \$619,368 in FY 2008. Any fiscal effect resulting from enactment of SB 30 would be in addition to amounts included in *The FY 2006 Governor's Budget Report*.

Sincerely,



Duane A. Goossen  
Director of the Budget

cc: Jackie Aubert, SRS