

MINUTES

HOUSE RULES AND JOURNAL COMMITTEE

September 14, 2010
Room 159-S—Statehouse

Members Present

Representative Clark Shultz, Chairperson
Representative Janice Pauls, Vice-chairperson
Representative Lance Kinzer
Representative Ed Trimmer

Member Absent

Representative Jeff Witham

Staff Present

Raney Gilliland, Kansas Legislative Research Department
Athena Andaya, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Lauren Douglass, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes
Norm Furse, Revisor of Statutes Emeritus, Office of the Revisor of Statutes
Gary Deeter, Committee Secretary

Others Attending

See attached sheet.

The Chairperson called the meeting to order at 10:04 a.m., welcomed Committee members, and outlined the work of the Committee. He referenced the House Select Investigative Committee, which met during the 2010 Legislative Session, noting that an investigative committee had occurred only twice in the history of the Kansas Legislature (the first in 1951). The findings of the Select Committee, issued on March 30, 2010, included a recommendation that the Kansas House of Representatives consider adopting an ethics code to help govern the activities of legislators, a recommendation approved by the Legislative Coordinating Council, which established the present interim committee.

The Chairperson welcomed the House Minority Leader, Paul Davis, who, referring to the complaint lodged during the 2010 Legislative Session, urged the Committee to follow through on the recommendation of the investigative committee. Acknowledging that ethics violations are rare in the Kansas House, he nevertheless considered an ethics code to be a helpful addition to the legislative process ([Attachment 1](#)). He stated that, anticipating future problems, such a code would help protect the integrity of the institution. Noting that the various professions of a citizen legislature can create conflicts of interest, Representative Davis recommended the Iowa Code of Ethics as a model worthy of emulation.

Answering questions from the Committee, Representative Davis said the Senate was deferring to the wisdom of the House in developing a code of ethics. He stated that, since some statutes allow or authorize certain actions, those statutes must be repealed before adopting rules related to the actions.

Martha Dorsey, Kansas Legislative Research Department (KLRD), with assistance from Lauren Douglass, KLRD, outlined information relating to other states' approaches to ethics rules and codes of conduct ([Attachment 2](#)). She noted that the states listed in bold in the table of contents specifically referenced legislative ethics codes; the entire ethics document was included for each of those states.

Ms. Dorsey presented two documents that trace the states which had developed legislator-only ethics codes. She explained that both documents have the same category headings, as follows:

- The code is expressed either in statute or under rules;
- Requires a legislative ethics committee;
- Addresses personal or private financial interests;
- Restricts lobbyists/lobbying;
- Participating or having interest in public leases or contracts;
- Participating in state benefit programs/loans;
- Receiving earned income and honoraria;
- Restricts nepotism;
- Conduct which is a breach of public trust;
- Representing cases before state agencies/representing another person/receiving compensation for representation;
- Directs use of confidential information;
- Disclosing close economic associations/economic interests;
- Receiving gifts/compensation; and
- Various other regulations.

Ms. Dorsey further explained that if a person wants to follow how a certain state deals with the various categories above, one could easily do so using [Attachment 3](#). However, if a person wishes to trace how a given provision is dealt with by each state, one would use [Attachment 4](#). She further noted that statutory references are provided for Arizona ([Attachment 5](#)) and Iowa ([Attachment 6](#)).

Ms. Douglass and Ms. Dorsey responded to Committee members' questions:

- Although more research would be needed to identify which states restrict a legislator's representation as counsel for an issue such as Worker's Compensation, one state specifically prohibits such representation, and the Iowa Code of Ethics prohibits any legislator from suing the state. In regard to representing a person or group before a state agency, the Iowa code addresses

restrictions for the Senate (Attachment 2, Page 34, Item 8) and for the House (Attachment 2, Page 47, Item 3);

- Most states have an ethics code which refers not only to legislators, but to state officials and employees in general;
- Although some states have detailed ethics codes with specific definitions, none found by research staff was so detailed as to restrict someone such as a teacher-legislator from voting on a budget that includes school financing; and
- Because states have such a wide range of approaches to legislator-only codes of ethics, it is difficult to draw general conclusions regarding the process of investigating a complaint; nevertheless, nearly all states reviewed have a complaint procedure.

In answer to another question, Carol Williams, Executive Director, Governmental Ethics Commission, stated that, if a legislator is employed by or serves on the board of a Political Action Committee, and if that legislator receives more than \$2,000, the compensation must be disclosed.

Mary Torrence, Revisor of Statutes, answered another question that no Kansas statute addresses the issue of perjury in relation to ethics violations.

A Committee member commented that Kansas appears to leave many ethics issues to the conscience of the legislator rather than micro-managing through detailed definitions regarding behavior. Another Committee member commented that, because of Kansas' Open Records statutes, rarely does confidentiality become a concern for legislators.

Norm Furse, Office of the Revisor of Statutes, distributed HB 2749, a bill introduced in the 2010 Legislature, which, among other provisions, would have restricted a legislator from representing a person in a court proceeding; the legislator is especially restricted from raising certain constitutional questions (Attachment 7). During the discussion of HB 2749, Mr. Furse referenced KSA 46-233(c), noting that the phrase ". . . unconstitutional because of error in the legislative process. . ." was inserted by conference committee action when KSA 46-233(c) was enacted. A member commented that there should be no restriction on any legislator or attorney in raising constitutional questions. Members discussed issues dealing with whether or not a legislator should be allowed to sue the state and whether or not, if such a suit is permitted, whether compensation should be regulated.

Mr. Furse also distributed a Senate Concurrent Resolution from 1997; he said it was the only other extant reference addressing a code of ethics (Attachment 8). No action was ever taken on the resolution.

A Committee member requested that Carol Williams attend the next Committee meeting. Asked to comment about the ethics discussion, Ms. Williams replied that the most frequent complaint received by the Commission is a citizen calling to object to legislators voting in committees on issues within their area of expertise, such as a physician voting on health issues in Health Committee. Ms. Williams stated that her response to such complaints is to state that Kansas is a citizen-legislature, a fact which allows voting latitude for legislators.

The Chairperson suggested that, at the next Committee meeting, members be prepared to make recommendations.

The meeting was adjourned at 11:55 a.m. The next meeting is scheduled for October 19, 2010, in Room 159-S of the Statehouse at 10:00 a.m.

Submitted by Gary Deeter
Edited by Athena Andaya

Approved by the Committee on:

October 19, 2010

(Date)