

**MINUTES OF THE
JOINT LEGISLATIVE COMMITTEE ON COMPILATION,
REVISION AND PUBLICATION OF LEGISLATION**

August 16, 2012

On Thursday August 16, 2012, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation met in the Ways and Means Committee Room, Room 201-H of the New Capitol. The Speaker of the House, chairman of the committee, called the meeting to order at 10:00 a.m. Members of the committee present were:

Speaker Philip Gunn	Lt. Governor Tate Reeves
Speaker Pro Tem Greg Snowden	Senator Terry Brown
Representative Mark Formby	Senator Hob Bryan
Representative Dennis DeBar	Senator Derrick Simmons
Representative Tommy Reynolds	Senator Bennie Turner
Representative Joe Warren	

Committee and other legislative staff present were: Ronny Frith, Committee Co-counsel; Bubba Neely, Committee Co-counsel; Bob Davidson, Director of Senate Legislative Services; Liz Welch, Secretary of the Senate; Nathan Wells from the Speaker's Office; Kenny Ellis from the Lt. Governor's Office; Bart Sperry, House Attorney; Maria Merkle and Dianne Clincy from the Legislative Reference Bureau.

Others present were: Laura Walker, Lin Floyd and Martin Hegwood from the Secretary of State's Office; Liz Bolin from the Attorney General's Office; Anders Ganten and David Wagoner from LexisNexis; and Karen Newman from the Clay Firm, representing LexisNexis.

Pursuant to an agenda [ATTACHMENT A], Ronny Frith first presented an introduction to the committee, including (1) the creation and history of the committee, (2) the powers and duties of the committee, and (3) the publishing contract with the LexisNexis, the publisher of the Mississippi Code of 1972. The Joint Legislative Committee on Compilation, Revision and Publication of Legislation was created by statute in 1996, and it is structured similar to the Legislative Budget Office and the PEER Committee. Because the committee's official name is long, it is commonly referred to as the "Code Committee." The committee has two primary duties: (1) to provide for the publication of laws of a general nature enacted by the Legislature each year in the Mississippi Code, which is done by a code publisher that the committee has contracted with; and (2) to provide for the distribution of code sets and annual supplements to the state and local agencies and officials that are entitled to them by law (known as the "public subscribers"). Before 1996 those duties were performed by the Attorney General and the

Secretary of State, and the code publishing contract was executed jointly by the Attorney General and the Secretary of State. Under the contract, the Attorney General was responsible for coordinating the publication of the code and annual supplements with the publisher, and the Secretary of State was responsible for the distribution of the code and annual supplements to the public subscribers.

The committee was created primarily to provide the Legislature with official and direct input into the publication of the laws that it enacted, which it did not have under the previous arrangement. Until the committee was created, Mississippi was only one of two or three states in which the Legislature had no input into the codification of its laws.

The committee is not involved with the publication of the General Laws, House and Senate Journals, Local and Private Laws, or an administrative code of agency rules & regulations -- those duties are performed by the Secretary of State. The committee's duties are limited to preparing the general laws enacted by the Legislature for publication in the code.

The committee generally meets only one time each year, usually within a couple of months after the end of the Regular Session of the Legislature. During that meeting, the committee considers the following matters, all of which are on the agenda for today's meeting: (1) correcting minor, nonsubstantive errors found in the code; (2) determining the controlling versions of code sections, when those sections have been amended by more than one bill during the session; (3) merging or integrating the text of multiple amendments to the same code section if certain criteria are met; and (4) approving any requested price increases for code products requested by the publisher.

The committee is staffed by two co-counsel, one from the House and one from the Senate. Ronny Frith is the House co-counsel and Bubba Neely is the Senate co-counsel. The employees of the Legislative Reference Bureau are responsible for the distribution of the code products to the public subscribers. The co-counsel are the liaisons with the code publisher throughout the year, and they review and edit the recommendations for codification of provisions of new law in the code. That function was formerly performed by the Assistant Attorney General who was designated as the Revisor of Statutes.

Mr. Frith discussed the sections of law that establish the committee (§ 1-1-103), set out the committee's general powers and duties (§ 1-1-107), specify the committee's authority in preparing legislative acts for publication in the code (§1-1-109), and list the public subscribers of the code (§ 1-1-11). He noted that the committee's authority to change or correct language in the code or in bills is rather limited. Under the authority of § 1-1-109, the committee can only make minor, nonsubstantive changes -- it is not authorized to rewrite language in a statute or bill in any way that would change the substance of what was enacted by the Legislature, such as deleting a sentence or rewriting a provision to change the meaning. If it did that, the committee would be "legislating," which only the Legislature can do -- the power of the Legislature to legislate cannot be delegated to a committee or any other entity.

The committee has no authority to change anything in any bill that will not be codified, such as appropriation bills, bond bills, local and private bills -- it only can make minor changes in legislation to prepare it for publication in the code.

Any errors that the committee corrects must be of the type that are manifest, patent errors. The committee cannot change the language of a statute or bill to read another way based on what someone says was intended, unless the error is manifest, and how the language should be changed is also manifest. In addition, the committee cannot change the language of a statute or bill solely because the consequences of the legislation were not what was intended or contemplated.

Mr. Frith discussed certain provisions of the code publishing contract with LexisNexis, including the publisher's editorial and publication duties (Sections 1 and 2), prices of code products (Section 5), and the term of the contract (Section 10, paragraph 10.1). Paragraph 10.1 of the contract originally provided that the contract would remain in effect for four years, until 2002, and the committee would have the option to renew the contract for an additional four years, and then on a year-to-year basis after that. In 2002, the committee renewed the contract until 2006, and amended Paragraph 10.1 to authorize the committee to renew the contract for additional terms after 2006, with any such term not to exceed four years. In 2006, the committee renewed the contract for an additional four years, until 2010. In 2010, the committee only renewed the contract for an additional two years, which is why it is up for renewal again this year.

Representative Snowden asked how long the prices are in effect when the committee sets the prices for code products, whether they are in effect for the entire term of the committee, or in effect for one year. Mr. Frith responded that the prices are in effect until the next time the committee votes to change the prices. Under the contract, the prices for code products can only be changed by authority of the committee. The committee usually meets one time a year and revises the prices at that time, so the prices usually are in effect for one year. However, the current prices will remain in effect until they are changed by the committee.

The committee next addressed Item 2 on the agenda, regarding the correction of errors that have been found in the code and in 2012 legislation that will be codified. Mr. Frith presented a list of the code and legislation errors, with proposed changes to correct the errors [ATTACHMENT B]. Mr. Frith said that the items on the list are enacting errors by the Legislature, which are errors that were contained in the legislation as enacted by the Legislature, not publishing errors where the legislation was correct but the language published in the code contains an error.

Representative Formby made a MOTION to authorize the code publisher to correct the code and legislation errors in the manner proposed on the list, and the motion was ADOPTED by a voice vote.

The committee then addressed Item 3 on the agenda, regarding the matters of (1) determining which version of a code section will control where the section was amended by more than one bill during the 2012 Regular Session, and (2) integrating amendments that were made to the same code section by more than one bill during the 2012 session.

Bubba Neely first reviewed and summarized for the committee the law that authorizes the committee to integrate multiple amendments to the same code section (§ 1-1-109(I)); the guidelines that the committee has previously adopted to determine when it will not integrate multiple amendments; the policy that the committee adopted at its September 18, 2000 meeting to determine when it will integrate multiple amendments; and the law governing which of the multiple amendments to the same code section will ultimately supersede any other amendments if the committee does not integrate the amendments (§ 1-3-79) [ATTACHMENT C]. Mr. Neely said that under § 1-3-79, the version of the code section that has the latest effective date will ultimately control over other versions, unless otherwise specified in the bill.

Mr. Neely presented a list of those code sections that were amended by more than one bill during the 2012 Regular Session [ATTACHMENT D]. The list specified the bills that amended each code section, and identified the bills containing the version of each section that will ultimately supersede all other versions, as provided in § 1-3-79 or by language in one of the bills indicating that it is controlling. The controlling versions of each code section are found in the underlined bills on the list.

The code sections on the list that are marked with one asterisk are the sections having multiple amendments that were not conformed to each other during the session, and which meet the committee's criteria for integration. The committee will need to integrate the multiple amendments to those sections in order for the amendments from each bill to become effective. Those sections are §§ 21-17-1, 25-7-13, 25-15-303, 37-23-195, 49-7-58.3, 63-1-43, 67-1-5, 67-3-17, 67-3-53, 71-5-11, 73-11-49 and 99-1-5.

The code sections on the list that are marked with two asterisks are also sections having multiple amendments that were not conformed to each other during the session, and which meet the committee's criteria for integration. However, those sections are in bills that require preclearance under Section 5 of the Voting Rights Act, and none of those bills have received preclearance as of the time of the committee meeting. If the bills in which those sections appear are ultimately precleared, then the multiple amendments to those sections will need to be integrated in order for the amendments from each bill to become effective. Those sections are §§ 23-15-11 and 23-15-687.

Mr. Neely provided copies of §§ 21-17-1, 23-15-11, 23-15-687, 25-7-13, 25-15-303, 37-23-195, 49-7-58.3, 63-1-43, 67-1-5, 67-3-17, 67-3-53, 71-5-11, 73-11-49 and 99-1-5 with the amendments to those sections from each bill integrated into the text of the sections [ATTACHMENT E]. The shaded language in the text is the language that will not take effect and will not appear in the code if the committee does not vote to integrate the multiple amendments.

Mr. Neely said that he looked at the substance of the different amendments only to determine if the amendments do not overlap or conflict with each other -- if they do, then the committee should not integrate the amendments.

Mr. Neely briefly explained the multiple amendments to §§ 21-17-1, 23-15-11, 23-15-687, 25-7-13, 25-15-303, 37-23-195, 49-7-58.3, 63-1-43, 67-1-5, 67-3-17, 67-3-53, 71-5-11, 73-11-49 and 99-1-5. He said that in each case, the amendments meet the requirements in the committee's policy for integration of amendments: (1) they do not amend the same part of the code section and do not overlap or conflict with each other, and (2) there is no express legislative intent in any of the bills to indicate that the amendments should not be integrated. He recommended that the committee vote separately on the code sections that are marked with one asterisk and those code sections that are marked with two asterisks.

After Mr. Neely's explanations, Representative Warren made a MOTION to integrate the amendments to those sections that are marked with one asterisk in the manner presented by Mr. Neely:

- § 21-17-1 -- amendments from House Bill No. 987 and Senate Bill No. 2534
- § 25-7-13 -- amendments from House Bill No. 361 and House Bill No. 484
- § 25-15-303 -- amendments from House Bill No. 768 and House Bill No. 997
- § 37-23-195 -- amendments from House Bill No. 960 and House Bill No. 1405
- § 49-7-58.3 -- amendments from House Bill No. 756 and Senate Bill No. 2325
- § 63-1-43 -- amendments from House Bill No. 1235 and Senate Bill No. 2109
- § 67-1-5 -- amendments from Senate Bill No. 2370, Senate Bill No. 2607 and Senate Bill No. 2878
- § 67-3-17 -- amendments from Senate Bill No. 2368, Senate Bill No. 2370 and Senate Bill No. 2878
- § 67-3-53 -- amendments from House Bill No. 1250 and Senate Bill No. 2878
- § 71-5-11 -- amendments from House Bill No. 451 and Senate Bill No. 2604
- § 73-11-49 -- amendments from House Bill No. 211 and Senate Bill No. 2339
- § 99-1-5 -- amendments from Senate Bill No. 2367 and Senate Bill No. 2539

Next, Senator Simmons made a MOTION to integrate the amendments to those sections that are marked with two asterisks in the manner presented by Mr. Neely, if each of the bills in which the bills appear receive preclearance under the Voting Rights Act:

- § 23-15-11 -- amendments from House Bill No. 921 and Senate Bill No. 2227
- § 23-15-687 -- amendments from House Bill No. 995 and Senate Bill No. 2552

The committee then addressed Item 4 on the agenda, regarding proposed prices for code products and the number of replacement volumes of the code for this year. The Speaker recognized Anders Ganten, who asked the committee to approve the replacement of volumes 4,

5, 12, 14 and 15A, as contained in a November 22, 2011, letter to Mr. Frith and Mr. Neely [ATTACHMENT F]. Mr. Ganten stated that, as noted in the letter, if the committee approves the publication of those five replacement volumes, the publisher is proposing to keep the prices for all code products the same as they were for the previous year, with no increase.

Senator Simmons asked what would the prices for the code products be if the committee did not approve any replacement volumes. Mr. Frith said that the prices of the other code products would be increased proportionately in order to generate the overall amount of revenue that the publisher feels it needs to receive for the products and services that it provides. Mr. Ganten agreed that is what would occur.

Mr. Frith noted that several years ago, he and Mr. Neely had a meeting with Mr. Ganten's predecessor about reducing the number of requested replacement volumes for that year, in order to attempt to reduce the amount of the increase in the cost of the annual update to the code. In response to their request, the publisher did reduce the number of requested replacement volumes, but also increased the prices for some of the other code products. The result was that, although the number of replacement volumes was reduced, there was no net reduction in the cost of the annual update for subscribers. The publisher is going to set the prices of the code products at the levels necessary in order to get the total amount of revenue that it feels is necessary for the products and services that it provides.

Senator Simmons made a MOTION to approve the replacement volumes requested by the publisher, and the motion was ADOPTED by a voice vote.

The committee then addressed Item 5 on the agenda, regarding the matter of renewal of the code publishing contract between the publisher and the committee.

Senator Brown asked what the cost of the contract is for the committee. Mr. Frith said the committee pays the publisher about \$350,000 to \$375,000 per year, but that amount is all used to purchase code products for the public subscribers that are entitled to receive the code by state law. The committee pays nothing else to the publisher for providing the services of editing, revising and codifying the enacted legislation, providing annotations, and publishing the code. In exchange for those services, the committee has agreed by contract to purchase about 1,600 sets of the code and annual updates for the public subscribers, and gives the publisher the exclusive right to publish and market the official code.

Senator Bryan said that what we actually are getting under the contract is this: In addition to the code products that we pay for, we get valuable editing services from the publisher, which devotes extensive manpower and resources to making sure that the code is accurate and reliable for the lawyers, judges and other users. That in itself is a great benefit, and it is a bargain for what we pay for it.

Mr. Frith said that the contract was initially executed in October 1998, and it was renewed for four years in 2002 and again in 2006, but was only renewed for two years in 2010. Until this time, the contract has always come up for renewal in the middle of a term, when the committee has already had a few years of experience with the publisher. But this time, the

situation is that there is a new committee that is having to renew the contract right away, without having had any experience with the publisher. For this reason, Mr. Frith recommended that the contract be renewed for three years instead of four years, so that a new committee would not be put in the same situation four years from now. This same committee would be the one to renew the contract in three years, and at that time it could renew it for four years, and put the contract renewal back on a four-year cycle. Mr. Ganten said that he generally would prefer a longer term, but he sees the logic in this and supports the recommendation for a three-year renewal.

Senator Bryan said that renewing the contract for three years would put the time of renewal right in the middle of the summer during an election year, so he made a MOTION to renew the contract for two years this time. He said the contract could be renewed for four years at the next time of renewal, and then it would be back on the same renewal cycle as it was before the previous two-year renewal. Senator Bryan's motion was ADOPTED by a voice vote.

The committee addressed Item 6 on the agenda, regarding any additional business. The Speaker recognized Mr. Ganten for a proposal to change the binding of the hard-bound volumes from Smyth sewn binding to adhesive/burst binding. He said the current binding method used is sewn binding, which uses sewing machines that are not used much in the publishing industry these days. He said only a few of the states where Lexis publishes codes still use sewn binding for their volumes. It is difficult to get parts and repairs for the machines, and if there were problems with the machines during the busy times of trying to meet publishing deadlines, it could cause big delays in getting the products delivered. He said that extensive studies have been done to test the durability of adhesive/burst binding, and it has been shown to be at least as durable as sewn binding and often times even better. The quality of adhesive materials has improved to the extent that adhesive/burst binding is now durable and reliable.

Representative Warren made a MOTION to authorize the publisher to change the binding of the hard-bound volumes from Smyth sewn binding to adhesive/burst binding, and the motion was ADOPTED by a voice vote.

Having no further business before the committee, the committee voted to adjourn.

Philip Gunn, Chairman

**MINUTES OF THE
JOINT LEGISLATIVE COMMITTEE ON COMPILATION,
REVISION AND PUBLICATION OF LEGISLATION**

August 1, 2013

On Thursday August 1, 2013, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation met in the Room 210 of the New Capitol. The Lt. Governor, chairman of the committee, called the meeting to order at 10:00 a.m. Members of the committee present were:

Lt. Governor Tate Reeves
President Pro Tem Terry Brown
Senator Hob Bryan
Senator Angela Turner James

Speaker Pro Tem Greg Snowden
Representative Mark Formby
Representative Angela Cockerham
Representative Joe Warren
Representative Tommy Reynolds

Committee and other legislative staff present were: Bubba Neely, Committee Co-counsel; Ronny Frith, Committee Co-counsel; Bob Davidson, Director of Senate Legislative Services; Liz Welch, Secretary of the Senate; Bart Sperry, House Attorney; and Maria Merkle and Dianne Clincy from the Legislative Reference Bureau.

Others present were: Lee Anne Brandon and Nathan Upchurch from the Secretary of State's Office; Mike Lanford, Harold Pizzetta and Larry Schemmel from the Attorney General's Office; Anders Ganten from LexisNexis; and Hope Ladner from the Clay Firm, representing LexisNexis.

The Lt. Governor made a few brief opening remarks. The committee first addressed Item 2 on the agenda *[ATTACHMENT A]*, regarding the correction of errors that have been found in the code and in 2013 legislation that will be codified. Ronny Frith presented a list of the code and legislation errors, with proposed changes to correct the errors *[ATTACHMENT B]*. Mr. Frith said that the items on the list are enacting errors by the Legislature, which are errors that were contained in the legislation as enacted by the Legislature, not publishing errors where the legislation was correct but the language published in the code contains an error.

Representative Formby made a MOTION to authorize the code publisher to correct the code and legislation errors in the manner proposed on the list, and the motion was ADOPTED by a voice vote.

The committee then addressed Item 3 on the agenda, regarding the matters of (1) determining which version of a code section will control where the section was amended by

more than one bill during the 2013 Regular Session, and (2) integrating amendments that were made to the same code section by more than one bill during the 2013 session.

Bubba Neely first reviewed and summarized for the committee the law that authorizes the committee to integrate multiple amendments to the same code section (§ 1-1-109(I)); the guidelines that the committee has previously adopted to determine when it will not integrate multiple amendments; the policy that the committee adopted at its September 18, 2000 meeting to determine when it will integrate multiple amendments; and the law governing which of the multiple amendments to the same code section will ultimately supersede any other amendments if the committee does not integrate the amendments (§ 1-3-79) [ATTACHMENT C]. Mr. Neely said that under § 1-3-79, the version of the code section that has the latest effective date will ultimately control over other versions, unless otherwise specified in the bill.

Mr. Neely presented a list of those code sections that were amended by more than one bill during the 2013 Regular Session [ATTACHMENT D]. The list specified the bills that amended each code section, and identified the bills containing the version of each section that will ultimately supersede all other versions, as provided in § 1-3-79 or by language in one of the bills indicating that it is controlling. The controlling versions of each code section are found in the underlined bills on the list.

The code sections on the list that are marked with one asterisk are the sections having multiple amendments that were not conformed to each other during the session, and which meet the committee's criteria for integration. The committee will need to integrate the multiple amendments to those sections in order for the amendments from each bill to become effective. Those sections are §§ 17-25-1, 23-15-153, 31-7-9, 31-11-35, 37-3-2, 37-3-53, 37-7-103, 37-13-91, 37-17-6, 37-18-1, 37-21-3, 37-151-5, 37-151-103, 45-9-101, 57-75-15, 73-4-23, 73-67-25, 73-71-21 and 75-9-516.

Mr. Neely provided copies of §§ 17-25-1, 23-15-153, 31-7-9, 31-11-35, 37-3-2, 37-3-53, 37-7-103, 37-13-91, 37-17-6, 37-18-1, 37-21-3, 37-151-5, 37-151-103, 45-9-101, 57-75-15, 73-4-23, 73-67-25, 73-71-21 and 75-9-516 with the amendments to those sections from each bill integrated into the text of the sections [ATTACHMENT E]. The shaded language in the text is the language that will not take effect and will not appear in the code if the committee does not vote to integrate the multiple amendments. Mr. Neely said that he looked at the substance of the different amendments only to determine if the amendments do not overlap or conflict with each other -- if they do, then the committee should not integrate the amendments.

Mr. Neely briefly explained the multiple amendments to §§ 17-25-1, 23-15-153, 31-7-9, 31-11-35, 37-3-2, 37-3-53, 37-7-103, 37-13-91, 37-17-6, 37-18-1, 37-21-3, 37-151-5, 37-151-103, 45-9-101, 57-75-15, 73-4-23, 73-67-25, 73-71-21 and 75-9-516. He said that in each case, the amendments meet the requirements in the committee's policy for integration of amendments: (1) they do not amend the same part of the code section and do not overlap or conflict with each

other, and (2) there is no express legislative intent in any of the bills to indicate that the amendments should not be integrated.

After Mr. Neely's explanations, Representative Formby made a MOTION to integrate the amendments to those sections in the manner presented by Mr. Neely:

- § 17-25-1 -- amendments from House Bill No. 1326 and Senate Bill No. 2447
- § 23-15-153 -- amendments from Senate Bill No. 2238 and Senate Bill No. 2311
- § 31-7-9 -- amendments from House Bill No. 502 and House Bill No. 964
- § 31-11-35 -- amendments from House Bill No. 488 and House Bill No. 1266
- § 37-3-2 -- amendments from House Bill No. 369, Senate Bill No. 2188 and Senate Bill No. 2419
- § 37-3-53 -- amendments from House Bill No. 369 and Senate Bill No. 2658
- § 37-7-103 -- amendments from House Bill No. 716 and Senate Bill No. 2637
- § 37-13-91 -- amendments from House Bill No. 74, House Bill No. 369, House Bill No. 1530 and Senate Bill No. 2347
- § 37-17-6 -- amendments from House Bill No. 369 and Senate Bill No. 2396
- § 37-18-1 -- amendments from House Bill No. 369 and Senate Bill No. 2658
- § 37-21-3 -- amendments from House Bill No. 369 and Senate Bill No. 2395
- § 37-151-5 -- amendments from House Bill No. 369 and House Bill No. 1530
- § 37-151-103 -- amendments from House Bill No. 369 and Senate Bill No. 2138
- § 45-9-101 -- amendments from House Bill No. 2 and House Bill No. 485
- § 57-75-15 -- amendments from House Bill No. 1049 and Senate Bill No. 2913
- § 73-4-23 -- amendments from House Bill No. 1165 and Senate Bill No. 2419
- § 73-67-25 -- amendments from Senate Bill No. 2419 and Senate Bill No. 2737
- § 73-71-21 -- amendments from House Bill No. 1162 and Senate Bill No. 2419
- § 75-9-516 -- amendments from House Bill No. 1008 and Senate Bill No. 2609

The committee next addressed Item 4 on the agenda, regarding proposed prices for code products and the number of replacement volumes of the code for this year. The Lt. Governor recognized Anders Ganten of LexisNexis, who asked the committee to approve price increases for certain code products for 2013, and to approve the replacement of volumes 8, 10, 11, 13A, 18 and 20, as contained in a December 17, 2012, letter to Ronny Frith and Bubba Neely *[ATTACHMENT F]*. He said the proposed prices are based on the assumption that the committee approves the replacement of all of those volumes as requested.

There would be no increase in the prices for the full set of the code, the Advance Code Service or the CD-ROM. The amount of the price increases for private sector subscribers would be \$3.00 for the cumulative supplement; \$1.00 for replacement volumes, the index and the Citator volume; \$1.50 for the Court Rules volume; and \$.50 for the Advance Legislative Service. The price increases for governmental subscribers would be one-half of the private sector amount,

as provided in the code publishing contract. Mr. Ganten said that these increases will result in an increased cost of about 2% for subscribers.

Representative Reynolds made a MOTION to approve the price increases and the replacement volumes requested by the publisher, and the motion was ADOPTED by a voice vote.

The committee then addressed item 5 on the agenda, discussion of actions to stop Code copyright violations. Anders Ganten told the committee that Carl Malamud has made a copy of the complete annotated Mississippi Code and made it available on a website for access by anyone without charge. The State of Mississippi owns the copyright to the annotated Code (§ 1-1-9(1)) and Malamud has not asked for or received the state's permission to publish the annotated Code. In fact, Malamud is adamant that the public should be able to read the law without having to pay for it, and he insists that "the law" includes not only the text of the statutes that the Legislature has enacted, but also the copyrighted annotations that are prepared by the Code publisher under its contract with the state. *[ATTACHMENT F]*.

Mr. Ganten said that LexisNexis produces codes for a number of states, and they have many editors who do a lot of work preparing the various types of annotations that are included along with the statutory text -- statutory headings, source notes, editor's notes, amendment notes, cross references, judicial decisions, Attorney General opinions, and research and practice references. Lexis does not get paid under the Code contract for doing that work; instead, they get the exclusive right to sell the official Code to recover the costs of production.

Malamud says that the law should be free, and Mr. Ganten said that Lexis agrees with that, and it has a free website of the Mississippi Code without the annotations that Lexis prepares. So, the public has free access to the Mississippi laws on the Lexis website, but the annotations that Lexis prepares as part of the Code are not "the law" and they should not be made available for free. If the public can get the entire annotated Code for free, why would anyone buy the Code? This would obviously be bad for Lexis, but it would also be bad for the state.

Mississippi now has a thorough, quality Code produced by the work of the Lexis editors, and Malamud is just taking what Lexis has already produced and giving it away. If Malamud continues to take Lexis's work and give it away, after awhile there might not be anything left to take and give away, because Lexis may decide not to publish a Code if it is not going to get paid for it. If Lexis quits producing and publishing a Code because of Malamud's actions, then the state would ultimately be hurt by what he is doing because the state would lose the quality Code that it now has and benefits from.

Mr. Ganten said that Lexis requests the committee to take action to protect the state's copyright to the annotated Code under the provisions of state law (§ 1-1-9(3)) and the federal copyright laws.

Senator Bryan said the public has free access to the laws of Mississippi now. What the state owns, and what are concerned about, is the annotations to the law, the research references and materials that are included in the Code along with the law. Malamud is stealing from Mississippi because it is our copyright. We are not only fighting to protect LexisNexis and its rights under our contract, but we are fighting to protect our interests, too. Our copyright, our interest in the annotations, has value that we can and do use in our negotiations with Lexis regarding the terms of the contract and the prices of the Code products.

The Speaker Pro Tem made a MOTION to request the Attorney General to take actions that are necessary and appropriate to protect the state's copyright interest in the Mississippi Code, and the motion was ADOPTED by a voice vote.

Having no further business before the committee, the committee voted to adjourn.

Tate Reeves, Chairman

**MINUTES OF THE
JOINT LEGISLATIVE COMMITTEE ON COMPILATION,
REVISION AND PUBLICATION OF LEGISLATION**

July 24, 2014

On Thursday July 24, 2014, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation met in the Ways and Means Committee Room, Room 201-H of the New Capitol. The Speaker of the House, chairman of the committee, called the meeting to order at 2:30 p.m. Members of the committee present were:

Speaker Philip Gunn	Lt. Governor Tate Reeves
Speaker Pro Tem Greg Snowden	President Pro Tem Terry Brown
Representative Dennis DeBar	(via teleconference)
Representative Tommy Reynolds	Senator Hob Bryan
Representative Joe Warren	Senator Angela Turner

Committee and other legislative staff present were: Ronny Frith, Committee Co-counsel; Bubba Neely, Committee Co-counsel; Teresa Tiller, Director of House Legislative Services; Bob Davidson, Director of Senate Legislative Services; Liz Welch, Secretary of the Senate; Kenny Ellis and Laura Hipp from the Lt. Governor's Office; Meg Annison, House Information Officer; Sarah Edwards from the Speaker's Office; Bart Sperry, House Attorney; and Maria Merkle and Dianne Clincy from the Legislative Reference Bureau.

Others present were: Earnest Hart and Bee McNamara from the Secretary of State's Office; Emelia Nordan from the Treasurer's Office; Anders Ganten from LexisNexis; and Hope Ladner and Karen Newman from the Clay Firm, representing LexisNexis.

The Speaker made a few brief opening remarks. The committee first addressed Item 2 on the agenda [*ATTACHMENT A*], regarding the correction of errors that have been found in the code and in 2014 legislation that will be codified. Ronny Frith presented a list of the code and legislation errors, with proposed changes to correct the errors [*ATTACHMENT B*].

Representative Warren made a MOTION to authorize the code publisher to correct the code and legislation errors in the manner proposed on the list, and the motion was ADOPTED by a voice vote.

The committee then addressed Item 3 on the agenda, regarding the matters of (1) determining which version of a code section will control where the section was amended by more than one bill during the 2014 Regular Session, and (2) integrating amendments that were made to the same code section by more than one bill during the 2014 session.

Bubba Neely first reviewed and summarized for the committee the law that authorizes the committee to integrate multiple amendments to the same code section (§ 1-1-109(I)); the guidelines that the committee has previously adopted to determine when it will not integrate multiple amendments; the policy that the committee adopted at its September 18, 2000 meeting to determine when it will integrate multiple amendments; and the law governing which of the multiple amendments to the same code section will ultimately supersede any other amendments if the committee does not integrate the amendments (§ 1-3-79) [ATTACHMENT C]. Mr. Neely said that under § 1-3-79, the version of the code section that has the latest effective date will ultimately control over other versions, unless otherwise specified in the bill.

Mr. Neely presented a list of those code sections that were amended by more than one bill during the 2014 Regular Session [ATTACHMENT D]. The list specified the bills that amended each code section, and identified the bills containing the version of each section that will ultimately supersede all other versions, as provided in § 1-3-79 or by language in one of the bills indicating that it is controlling. The controlling versions of each code section are found in the underlined bills on the list.

The code sections on the list that are marked with one asterisk are the sections having multiple amendments that were not conformed to each other during the session, and which meet the committee's criteria for integration. The committee will need to integrate the multiple amendments to those sections in order for the amendments from each bill to become effective. Those sections are §§ 7-7-211, 21-17-1, 21-19-11, 25-3-95, 27-65-101, 37-3-2, 37-13-92, 37-15-38, 37-61-33, 43-17-5, 43-21-605, 57-73-21, 57-89-7, 63-1-46, 63-1-211, 67-1-51 and 71-5-355.

Mr. Neely provided copies of §§ 7-7-211, 21-17-1, 21-19-11, 25-3-95, 27-65-101, 37-3-2, 37-13-92, 37-15-38, 37-61-33, 43-17-5, 43-21-605, 57-73-21, 57-89-7, 63-1-46, 63-1-211, 67-1-51 and 71-5-355 with the amendments to those sections from each bill integrated into the text of the sections [ATTACHMENT E]. The shaded language in the text is the language that will not take effect and will not appear in the code if the committee does not vote to integrate the multiple amendments. Mr. Neely said that he looked at the substance of the different amendments only to determine if the amendments do not overlap or conflict with each other -- if they do, then the committee should not integrate the amendments.

Mr. Neely briefly explained the multiple amendments to §§ 7-7-211, 21-17-1, 21-19-11, 25-3-95, 27-65-101, 37-3-2, 37-13-92, 37-15-38, 37-61-33, 43-17-5, 43-21-605, 57-73-21, 57-89-7, 63-1-46, 63-1-211, 67-1-51 and 71-5-355. He said that in each case, the amendments meet the requirements in the committee's policy for integration of amendments: (1) they do not amend the same part of the code section and do not overlap or conflict with each other, and (2) there is no express legislative intent in any of the bills to indicate that the amendments should not be integrated.

After Mr. Neely's explanations, Representative Reynolds made a MOTION to integrate the amendments to those sections in the manner presented by Mr. Neely:

- § 7-7-211 -- amendments from House Bill No. 1318 and Senate Bill No. 2291
- § 21-17-1 -- amendments from House Bill No. 404 and Senate Bill No. 2032
- § 21-19-11 -- amendments from House Bill No. 1096 and Senate Bill No. 2353
- § 25-3-95 -- amendments from Senate Bill No. 2084 and Senate Bill No. 2597
- § 27-65-101 -- amendments from House Bill No. 1555, Senate Bill No. 2934 and Senate Bill No. 2972
- § 37-3-2 -- amendments from House Bill No. 455, House Bill No. 460, Senate Bill No. 2572 and Senate Bill No. 2575
- § 37-13-92 -- amendments from House Bill No. 426, House Bill No. 460, House Bill No. 1132 and Senate Bill No. 2571
- § 37-15-38 -- amendments from House Bill No. 460 and Senate Bill No. 2571
- § 37-61-33 -- amendments from House Bill No. 460 and Senate Bill No. 2571
- § 43-17-5 -- amendments from House Bill No. 49 and House Bill No. 426
- § 43-21-605 -- amendments from House Bill No. 426 and House Bill No. 555
- § 57-73-21 -- amendments from House Bill No. 785 and Senate Bill No. 2023
- § 57-89-7 -- amendments from House Bill No. 1318 and Senate Bill No. 2374
- § 63-1-46 -- amendments from House Bill No. 412 and Senate Bill No. 2794
- § 63-1-211 -- amendments from House Bill No. 641 and Senate Bill No. 2794
- § 67-1-51 -- amendments from House Bill No. 801 and Senate Bill No. 2554
- § 71-5-355 -- amendments from House Bill No. 140 and Senate Bill No. 2958

The committee next addressed Item 4 on the agenda, regarding proposed prices for code products and the number of replacement volumes of the code for this year. The Speaker recognized Anders Ganten of LexisNexis, who asked the committee to approve the replacement of volumes 1, 2, 10A, 13, 21 and Statutory Tables, and to approve price increases for certain code products for 2014, as contained in an October 13, 2013, letter to Ronny Frith and Bubba Neely *[ATTACHMENT F]*. Mr. Ganten said the proposed prices are based on the assumption that the committee approves the replacement of all of those volumes as requested. The price increases for governmental subscribers would be one-half of the private sector amount, as provided in the code publishing contract. He said that these increases will result in an average increased cost of about 2% for subscribers.

Representative Snowden made a MOTION to approve the price increases and the replacement volumes requested by the publisher, and the motion was ADOPTED by a voice vote.

The committee then addressed Item 5 on the agenda, regarding the matter of renewal of the code publishing contract between the publisher and the committee. The Speaker recognized Ronny Frith, who said that contrary to what some people think, the State of Mississippi does not

pay anything to the publisher for providing the services of editing, revising and codifying the enacted legislation, providing annotations for the code sections, and publishing and shipping the code products to the public subscribers. The contract requires Lexis to provide those services for the state, but instead of paying the publisher for the services, the state gives Lexis the exclusive right to publish and market the official code, and agrees to purchase about 1,600 sets of the code and annual updates for the public subscribers. The annual appropriation to the committee is about \$400,000, and that entire amount is used to purchase code products for the public subscribers as required by state law and by the contract, and the contract gives the public subscribers a 50% discount on the prices charged to private sector subscribers. None of those funds are used for expenses of committee members or for purchases of anything other than code products for the public subscribers.

Mr. Frith then gave an overview of some of the main provisions in the current contract. He said that the contract was initially executed in October 1998, and it was renewed for four years in 2002 and again in 2006, but was only renewed for two years in 2010. This two year extension caused the contract to come up for renewal again in 2012, which was the first year of a new term. The committee had a new chairman and other new members who were not familiar with the committee, the publisher or the code contract, and they were faced with having to renew the contract at their very first meeting. Until the 2012 renewal, the contract had always come up for renewal in the middle of a term, when the committee members already had a few years of experience with the publisher.

For this reason, Mr. Frith recommended at the 2012 meeting that the contract be renewed for three years instead of four years, so that a new committee would not be put in the same situation four years from then. He said that this same committee would be the one to renew the contract in three years, and at that time it could renew it for four years, and put the contract renewal back on a four-year cycle. Senator Bryan made a motion to renew the contract for two years one more time, and said that the contract could be renewed for four years at the next time of renewal, and then it would be back on the same renewal cycle as it was before the previous two-year renewal. Senator Bryan's motion was adopted, so that is why the contract renewal is back before the committee at this time.

The Speaker recognized Anders Ganten for his comments about renewal of the contract. Mr. Ganten said he feels that Lexis is able to provide good service and produce a good product for the State of Mississippi, and they would like to continue publishing the code in Mississippi.

Speaker Pro Tem Snowden asked what had happened since last year's meeting on the matter of violations of the state's copyright in the annotations to the code, and the committee's request to the Attorney General to take actions that are necessary and appropriate to protect the state's copyright interest in the code. Mr. Frith responded that that Larry Schemmel of the Attorney General's Office has been working on the copyright violation matter over the past year, and has been keeping Mr. Frith updated on what he is doing and the responses he had received. The copyright violation occurred when Carl Malamud copied the complete annotated Mississippi

Code and put it on a website that can be accessed by anyone without charge. Mr. Schemmel first sent Malamud a letter asking him to take our annotated code off of his website, and Malamud responded by sending a box of red, white and blue confetti with amusing statements and documents saying that the law should be free to the public, and he is going to continue making the entire code available without charge. His correspondence tries to be clever and amusing, but it is clear that he has no intention of taking the annotated code off of the website. Malamud has done the same thing with codes of several other states, and Mr. Schemmel has been communicating with legal counsel in those states about joining Mississippi to take legal action against Malamud. Since Malamud is not willing to stop what he is doing, Mr. Schemmel is planning to take legal action against Malamud at some point, and some of the other states have indicated that they will join his lawsuit.

Malamud says that "the law" should be free to the public, and Lexis agrees that the law should be free and it provides the unannotated Mississippi Code on a website that anyone can access for free. The words of the statutes are public and the state cannot copyright them, but the annotations in the code that are produced by a lot of work of the Lexis editors can be copyrighted. State law provides that the annotations are to be copyrighted in the name of the state. The problem with Malamud's assertion is that the annotations are not "the law" that is passed by the Legislature -- they are included in the code along with the law, but they are not part of the law. Malamud is violating the state's copyright interest by providing a copy of the annotated code on his website without permission and without paying for it. Senator Bryan said at last year's meeting that Malamud is stealing from Mississippi by taking the annotations and putting them on his website. Malamud did not produce the information that he is putting on his website; he is just taking something that someone else has produced and is giving it away. If he keeps doing that, at some point there may be nothing left to take and nothing to give away, because Lexis may decide to stop publishing the code if no one will buy it because they can get it for free. If that happens, then there would not be an annotated code for the state or for the public, so everybody would lose.

Representative Warren made a MOTION to extend the contract for four years, and the motion was ADOPTED by a voice vote.

Having no further business before the committee, the committee voted to adjourn.

Philip Gunn, Chairman

**MINUTES OF THE
JOINT LEGISLATIVE COMMITTEE ON COMPILATION,
REVISION AND PUBLICATION OF LEGISLATION**

August 17, 2015

On Monday August 17, 2015, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation met in the Room 210 of the New Capitol. The Lt. Governor, chairman of the committee, called the meeting to order at 10:00 a.m. Members of the committee present were:

Lt. Governor Tate Reeves
President Pro Tem Giles Ward
Senator Hob Bryan
Senator Angela Turner

Speaker Philip Gunn
Representative Mark Formby
Representative Joe Warren
Representative Dennis DeBar

Committee and other legislative staff present were: Bubba Neely, Committee Co-counsel; Ronny Frith, Committee Co-counsel; Bob Davidson, Director of Senate Legislative Services; Gwennetta Tatum, Director of House Legislative Services; Liz Welch, Secretary of the Senate; Erin King and Andrew Taylor, House Attorneys; Lee Weiskopf from the Lt. Governor's Office; Mandy Davis from the Speaker's Office; and Maria Merkle and Dianne Clincy from the Legislative Reference Bureau.

Others present were: Earnest Hart from the Secretary of State's Office; Sid Bondurant and Drew Snyder from the Governor's Office; Anders Ganten from LexisNexis; and Hope Ladner from the Clay Firm, representing LexisNexis.

The Lt. Governor made a few brief opening remarks. The committee first addressed Item 2 on the agenda [*ATTACHMENT A*], regarding the correction of errors that have been found in the code and in 2015 legislation that will be codified. Ronny Frith presented a list of the code and legislation errors, with proposed changes to correct the errors [*ATTACHMENT B*]. Mr. Frith said that the items on the list are enacting errors by the Legislature, which are errors that were contained in the legislation as enacted by the Legislature, not publishing errors where the legislation was correct but the language published in the code contains an error.

Speaker Gunn made a MOTION to authorize the code publisher to correct the code and legislation errors in the manner proposed on the list, and the motion was ADOPTED by a voice vote.

The committee then addressed Item 3 on the agenda, regarding the matters of (1) determining which version of a code section will control where the section was amended by

more than one bill during the 2015 Regular Session, and (2) integrating amendments that were made to the same code section by more than one bill during the 2015 session.

Bubba Neely first reviewed and summarized for the committee the law that authorizes the committee to integrate multiple amendments to the same code section (§ 1-1-109(l)); the guidelines that the committee has previously adopted to determine when it will not integrate multiple amendments; the policy that the committee adopted at its September 18, 2000 meeting to determine when it will integrate multiple amendments; and the law governing which of the multiple amendments to the same code section will ultimately supersede any other amendments if the committee does not integrate the amendments (§ 1-3-79) [ATTACHMENT C]. Mr. Neely said that under § 1-3-79, the version of the code section that has the latest effective date will ultimately control over other versions, unless otherwise specified in the bill.

Mr. Neely presented a list of those code sections that were amended by more than one bill during the 2015 Regular Session [ATTACHMENT D]. The list specified the bills that amended each code section, and identified the bills containing the version of each section that will ultimately supersede all other versions, as provided in § 1-3-79 or by language in one of the bills indicating that it is controlling. The controlling versions of each code section are found in the underlined bills on the list.

The code sections on the list that are marked with one asterisk are the sections having multiple amendments that were not conformed to each other during the session, and which meet the committee's criteria for integration. The committee will need to integrate the multiple amendments to those sections in order for the amendments from each bill to become effective. Those sections are §§ 25-61-9, 27-7-15, 27-65-111, 27-104-155, 45-9-101, 97-3-7 and 99-15-26.

Mr. Neely provided copies of §§ 25-61-9, 27-7-15, 27-65-111, 27-104-155, 45-9-101, 97-3-7 and 99-15-26 with the amendments to those sections from each bill integrated into the text of the sections [ATTACHMENT E]. The yellow shaded language in the text is the language that will not take effect and will not appear in the code if the committee does not vote to integrate the multiple amendments. Mr. Neely said that he looked at the substance of the different amendments only to determine if the amendments do not overlap or conflict with each other -- if they do, then the committee should not integrate the amendments.

Mr. Neely briefly explained the multiple amendments to §§ 25-61-9, 27-7-15, 27-65-111, 27-104-155, 45-9-101, 97-3-7 and 99-15-26. He said that in each case, the amendments meet the requirements in the committee's policy for integration of amendments: (1) they do not amend the same part of the code section and do not overlap or conflict with each other, and (2) there is no express legislative intent in any of the bills to indicate that the amendments should not be integrated.

After Mr. Neely's explanations, Speaker Gunn made a MOTION to integrate the amendments to those sections in the manner presented by Mr. Neely:

- § 25-61-9 -- amendments from Senate Bill No. 2407 and House Bill No. 825
- § 27-7-15 -- amendments from Senate Bill No. 2762 and House Bill No. 1134
- § 27-65-111 -- amendments from Senate Bill No. 2656 and Senate Bill No. 2762
- § 27-104-155 -- amendments from Senate Bill No. 2407 and House Bill No. 825
- § 45-9-101 -- amendments from Senate Bill No. 2394 and Senate Bill No. 2619
- § 97-3-7 -- amendments from House Bill No. 172 and House Bill No. 556
- § 99-15-26 -- amendments from House Bill No. 555 and House Bill No. 906

The committee next addressed Item 4 on the agenda, regarding proposed prices for code products and the number of replacement volumes of the code for this year. The Lt. Governor recognized Anders Ganten of LexisNexis, who asked the committee to approve price increases for certain code products for 2015, and to approve the replacement of volumes 6, 11A, 11B, 18A, and 20A, as contained in a October 28, 2014, letter to Ronny Frith and Bubba Neely *[ATTACHMENT F]*. He said the proposed prices are based on the assumption that the committee approves the replacement of all of those volumes as requested.

There would be no increase in the prices for the full set of the code, the single pocket part supplements or the CD-ROM. The amount of the price increases for private sector subscribers would be \$4.00 for the cumulative supplement; \$0.50 for the index; \$1.50 for replacement volumes, the Court Rules volume and the Advance Legislative Service; and \$1.00 for the Citator volume and the Advance Code Service. The price increases for governmental subscribers would be one-half of the private sector amount, as provided in the code publishing contract. Mr. Ganten said that when comparing the 2014 and 2015 pricing, the total price for a typical package (cumulative supplement, replacement volumes and ALS) will be \$25.00 less (\$12.50 less for the government) due to the fact that fewer volumes would be replaced in 2015.

Speaker Gunn made a MOTION to approve the price increases and the replacement volumes requested by the publisher, and the motion was ADOPTED by a voice vote.

Having no further business before the committee, the committee voted to adjourn.

Tate Reeves, Chairman

**MINUTES OF THE
JOINT LEGISLATIVE COMMITTEE ON COMPILATION,
REVISION AND PUBLICATION OF LEGISLATION**

August 5, 2016

On Friday August 5, 2016, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation met in the Ways and Means Committee Room, Room 201-H of the New Capitol. The Speaker of the House, chairman of the committee, called the meeting to order at 10:00 a.m. Members of the committee present were:

Speaker Philip Gunn
Representative Angela Cockerham
Representative Cory Wilson
Representative Credell Calhoun
(designated member)
Representative John Moore
(designated member)

Lt. Governor Tate Reeves
President Pro Tem Terry Burton
Senator Hob Bryan
Senator Angela Turner
Senator Chris Caughman

Committee and other legislative staff present were: Ronny Frith, Committee Co-counsel; Bubba Neely, Committee Co-counsel; Bob Davidson, Director of Senate Legislative Services; Liz Welch, Secretary of the Senate; Andrew Taylor, House Attorney; Mandy Davis from the Speaker's Office; and Dianne Clincy from the Legislative Reference Bureau.

Others present were: Amanda Frusha, Leann Thompson and Curtis Anders from the Secretary of State's Office; Anders Ganten from LexisNexis; and Hope Ladner from the Clay Firm, representing LexisNexis.

Pursuant to an agenda [ATTACHMENT A], Ronny Frith first presented an introduction to the committee, including (1) the creation and history of the committee, (2) the powers and duties of the committee, and (3) the publishing contract with the LexisNexis, the publisher of the Mississippi Code of 1972. The Joint Legislative Committee on Compilation, Revision and Publication of Legislation was created by statute in 1996, so it has now been in existence for 20 years, and it is structured similar to the Legislative Budget Office and the PEER Committee. Because the committee's official name is long, it is commonly referred to as the "Code Committee." The committee has two primary duties: (1) to provide for the publication of laws of a general nature enacted by the Legislature each year in the Mississippi Code, which is done by a code publisher that the committee has contracted with; and (2) to provide for the distribution of code sets and annual supplements to the state and local agencies and officials that are entitled to them by law (known as the "public subscribers").

When the committee was created, there was an existing code publishing contract in effect, so the committee did not fully exercise all of its powers until that contract expired and the committee entered into a new contract in October 1998. Before the 1998 contract, those duties were performed by the Attorney General and the Secretary of State, and the code publishing contract was executed jointly by the Attorney General and the Secretary of State. Under the contract, the Attorney General was responsible for coordinating the publication of the code and annual supplements with the publisher, and the Secretary of State was responsible for the distribution of the code and annual supplements to the public subscribers.

The committee was created primarily to provide the Legislature with official and direct input into the publication of the laws that it enacted, which it did not have under the previous arrangement. Until the committee was created, Mississippi was only one of two or three states in which the Legislature had no input into the codification of its laws.

The committee is not involved with the publication of the General Laws, House and Senate Journals or the Local and Private Laws -- those duties are performed by the Secretary of State. The committee's duties are limited to preparing the general laws enacted by the Legislature for publication in the code.

The committee generally meets only one time each year, usually within a few months after the end of the Regular Session of the Legislature. During that meeting, the committee considers the following matters, all of which are on the agenda for today's meeting: (1) correcting minor, nonsubstantive errors found in the code and recently enacted legislation; (2) determining the controlling versions of code sections when those sections have been amended by more than one bill during the session; (3) merging or integrating the text of multiple amendments to the same code section if certain criteria are met; and (4) approving any requested price increases for code products requested by the publisher.

The committee is staffed by two co-counsel, one from the House and one from the Senate. Ronny Frith is the House co-counsel and Bubba Neely is the Senate co-counsel, and they have been the co-counsel since the committee was created. The employees of the Legislative Reference Bureau are responsible for the distribution of the code products to the public subscribers. The co-counsel are the liaisons with the code publisher throughout the year, and they review and edit the recommendations for codification of provisions of new law in the code. That function was formerly performed by the Attorney General's office.

The budget for the committee is currently \$450,000.00, which is a separate line item in the Legislature's appropriation bill. The committee's budget was \$300,000.00 beginning in 1998 and remained at that amount for a number of years, but was increased a few years ago because the gradual increase in the prices of the code products over the years caused the initial amount to be insufficient.

There is one important difference between the committee and other legislative agencies like LBO and PEER: None of the funding for the committee is used to pay for any expenses of the committee members in attending committee meetings, for staff salaries or expenses, or for the purchase of any equipment, supplies or other materials. All of the funding is expended only

for paying for code products that the committee is required by statute and by contract to purchase from the code publisher and distribute to the public subscribers. The committee does not pay the publisher anything for editing and publishing the code. Instead, for performing those duties, the publisher is given the exclusive right to sell the official code, and the committee is required to purchase a certain number of code products from the publisher each year.

Mr. Frith discussed the sections of law that establish the committee (§ 1-1-103), set out the committee's general powers and duties (§ 1-1-107), specify the committee's authority in preparing legislative acts for publication in the code (§1-1-109), and list the public subscribers who receive the code and code supplements from the committee (§ 1-1-11). The primary power of the committee under §1-1-107 is to select and contract with a publisher to edit, annotate and publish the code. The primary powers of the committee under §1-1-109 are to correct manifest errors in bills that will be codified and in existing code sections, and to integrate multiple amendments to the same code section that were made during the same legislative session. The committee is required by §1-1-62 to provide for the publication of sufficient volumes of the code and code supplements as necessary to meet the requirements of § 1-1-11 and other related sections.

Mr. Frith noted that the committee's authority to change or correct language in the code or in bills is rather limited. Under the authority of § 1-1-109 to correct manifest errors, the committee can only make minor, nonsubstantive changes -- it is not authorized to rewrite language in a statute or bill in any way that would change the substance of what was enacted by the Legislature, such as deleting a sentence or rewriting a provision to change the meaning. If it did that, the committee would be "legislating," which only the Legislature can do -- the power of the Legislature to legislate cannot be delegated to a committee or any other entity.

The committee has no authority to change anything in any bill that will not be codified, such as appropriation bills, bond bills, local and private bills and suffrage bills -- it only can make minor changes in legislation to prepare it for publication in the code.

Any errors that the committee corrects must be of the type that are manifest, patent errors. The committee cannot change the language of a statute or bill to read another way based on what someone says was intended, unless the error is manifest, and how the language should be changed is also manifest. In addition, the committee cannot change the language of a statute or bill solely because the consequences of the legislation were not what was intended or contemplated. In determining whether to recommend that the committee correct any errors, the co-counsel will only recommend correcting those errors that are obvious when looking at them, and that are relatively easy to determine what changes need to be made, without having to do research or ask legislators or others how the language should read. If there is any doubt about whether any language should be changed, the co-counsel will not recommend changing the language.

Mr. Frith discussed certain provisions of the code publishing contract with LexisNexis, which was entered in October 1998, including the publisher's editorial and publication duties (Sections 1 and 2), prices of code products (Section 5), and the term of the contract (Section 10, paragraph 10.1). Paragraph 10.1 of the contract originally provided that the contract would remain in effect for four years, until 2002, and the committee would have the option to renew the contract for an additional four years, and then on a year-to-year basis after that. In 2002, the committee renewed the contract until 2006, and amended Paragraph 10.1 to authorize the committee to renew the contract for additional terms after 2006, with any such term not to exceed four years. In 2006, the committee renewed the contract for an additional four years, and in 2010 and 2012, the committee renewed the contract for an additional two years. In 2014 the committee renewed the contract for four years, so the contract will be in effect until October 2018.

The committee addressed Item 2 on the agenda, regarding the correction of errors that have been found in the code and in 2016 legislation that will be codified. Ronny Frith presented a list of the code and legislation errors, with proposed changes to correct the errors [ATTACHMENT B]. Speaker Gunn asked Mr. Frith if all of the changes that are recommended are nonsubstantive and do not affect the meaning of the legislation, and Mr. Frith said that they are.

Representative Moore made a MOTION to authorize the code publisher to correct the code and legislation errors in the manner proposed on the list, and the motion was ADOPTED by a voice vote.

The committee then addressed Item 3 on the agenda, regarding the matters of (1) determining which version of a code section will control where the section was amended by more than one bill during the 2016 Regular Session, and (2) integrating amendments that were made to the same code section by more than one bill during the 2016 session.

Bubba Neely first reviewed and summarized for the committee the law that authorizes the committee to integrate multiple amendments to the same code section (§ 1-1-109(I)); the guidelines that the committee has previously adopted to determine when it will not integrate multiple amendments; the policy that the committee adopted at its September 18, 2000 meeting to determine when it will integrate multiple amendments; and the law governing which of the multiple amendments to the same code section will ultimately supersede any other amendments if the committee does not integrate the amendments (§ 1-3-79) [ATTACHMENT C]. Mr. Neely said that under § 1-3-79, the version of the code section that has the latest effective date will ultimately control over other versions, unless otherwise specified in the bill.

Mr. Neely presented a list of those code sections that were amended by more than one bill during the 2016 Regular Session [ATTACHMENT D]. The list specified the bills that amended each code section, and identified the bills containing the version of each section that

will ultimately supersede all other versions, as provided in § 1-3-79 or by language in one of the bills indicating that it is controlling. The controlling versions of each code section are found in the underlined bills on the list.

The code sections on the list that are marked with one asterisk are the sections having multiple amendments that were not conformed to each other during the session, and which meet the committee's criteria for integration. The committee will need to integrate the multiple amendments to those sections in order for the amendments from each bill to become effective. Those sections are §§ 25-9-127, 25-11-103, 25-53-5, 27-13-5, 27-13-7, 37-5-7, 37-7-103, 43-15-111, 43-21-105, 73-21-97, 83-9-3, 83-17-71 and 83-39-3.

Mr. Neely provided copies of §§ 25-9-127, 25-11-103, 25-53-5, 27-13-5, 27-13-7, 37-5-7, 37-7-103, 43-15-111, 43-21-105, 73-21-97, 83-9-3, 83-17-71 and 83-39-3 with the amendments to those sections from each bill integrated into the text of the sections [ATTACHMENT E]. The yellow shaded language in the text is the language that the committee is required to integrate under the policy adopted by the committee. Mr. Neely said that he looked at the substance of the different amendments only to determine if the amendments do not overlap or conflict with each other -- if they do, then the committee should not integrate the amendments.

Mr. Neely briefly explained the multiple amendments to §§ 25-9-127, 25-11-103, 25-53-5, 27-13-5, 27-13-7, 37-5-7, 37-7-103, 43-15-111, 43-21-105, 73-21-97, 83-9-3, 83-17-71 and 83-39-3. He said that in each case, the amendments meet the requirements in the committee's policy for integration of amendments: (1) they do not amend the same part of the code section and do not overlap or conflict with each other, and (2) there is no express legislative intent in any of the bills to indicate that the amendments should not be integrated.

After Mr. Neely's explanations, Representative Moore made a MOTION to integrate the amendments to those sections in the manner presented by Mr. Neely:

- § 25-9-127 -- amendments from House Bill No. 1498 and Senate Bill No. 2179
- § 25-11-103 -- amendments from House Bill No. 899 and Senate Bill No. 2161
- § 25-53-5 -- amendments from Senate Bill No. 2179 and Senate Bill No. 2362
- § 27-13-5 -- amendments from Senate Bill No. 2858 and House Bill No. 1, 1st Extraordinary Session
- § 27-13-7 -- amendments from Senate Bill No. 2858 and House Bill No. 1, 1st Extraordinary Session
- § 37-5-7 -- amendments from House Bill No. 926 and House Bill No. 987
- § 37-7-103 -- amendments from House Bill No. 926, House Bill No. 987, Senate Bill No. 2495 and Senate Bill No. 2500
- § 43-15-111 -- amendments from Senate Bill No. 2179 and Senate Bill No. 2493
- § 43-21-105 -- amendments from House Bill No. 1413 and Senate Bill No. 2364
- § 73-21-97 -- amendments from House Bill No. 462 and House Bill No. 489

- § 83-9-3 -- amendments from House Bill No. 93 and Senate Bill No. 2362
- § 83-17-71 -- amendments from Senate Bill No. 2192 and Senate Bill No. 2362
- § 83-39-3 -- amendments from Senate Bill No. 2362 and Senate Bill No. 2664

The committee next addressed Item 4 on the agenda, regarding proposed prices for code products and the number of replacement volumes of the code for this year. Speaker Gunn recognized Anders Ganten of LexisNexis, who asked the committee to approve price increases for certain code products for 2016, and to approve the replacement of volumes 12A, 16, 16A and 16B and the creation of a new volume 16C, as contained in a October 27, 2015, letter to Ronny Frith and Bubba Neely *[ATTACHMENT F]*. He said the proposed prices are based on the assumption that the committee approves the replacement of all of those volumes as requested.

There would be no increase in the prices for the full set of the code, the single pocket part supplements or the CD-ROM. The amount of the price increases for private sector subscribers would be \$5.00 for the cumulative supplement; \$1.00 for the index, the replacement volumes, and the Citator; \$2.00 for the Court Rules volume; and \$1.50 for the Advance Legislative Service. The price increases for governmental subscribers would be one-half of the private sector amount, as provided in the code publishing contract. Mr. Ganten said that when comparing the 2015 and 2016 pricing, the total price for a typical package (cumulative supplement, replacement volumes, index and ALS) will be 6% or \$29.50 less (\$14.75 less for the government) due to the fact that fewer volumes would be replaced in 2016. He noted that there is an error in the list of proposed prices for the government price for the supplement. That price is incorrectly listed as \$88.00, but the correct price is \$80.00, which is one-half of the private sector price of \$160.00.

Senator Burton made a MOTION to approve the price increases and the replacement volumes requested by the publisher, and the motion was ADOPTED by a voice vote.

Having no further business before the committee, the committee voted to adjourn.

Philip Gunn, Chairman

**MINUTES OF THE
JOINT LEGISLATIVE COMMITTEE ON COMPILATION,
REVISION AND PUBLICATION OF LEGISLATION**

August 15, 2017

On Tuesday August 15, 2017, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation met in the Room 210 of the New Capitol. The Lt. Governor, chairman of the committee, called the meeting to order at 10:05 a.m. Members of the committee present were:

Lt. Governor Tate Reeves
President Pro Tem Terry Burton
Senator Hob Bryan
Senator Angela Turner Ford
Senator Jennifer Braning

Speaker Philip Gunn
Speaker Pro Tem Greg Snowden
Representative Angela Cockerham
Representative Tommy Reynolds
Representative Andy Gipson
Representative Cory Wilson

Committee and other legislative staff present were: Ronny Frith, Committee Co-counsel; Bob Davidson, Director of Senate Legislative Services; Liz Welch, Secretary of the Senate; Erin King, House Attorney; Clancy Smith, House Information Officer; Kenny Ellis, Laura Hipp and Beth Hamilton from the Lt. Governor's Office; and Maria Merkle and Dianne Clincy from the Legislative Reference Bureau.

Others present were: Amanda Frusha from the Secretary of State's Office; Jimmie Reynolds from the Mississippi Bar; Anders Ganten from LexisNexis; and Hope Ladner from the Clay Firm, representing LexisNexis.

The Lt. Governor made a few brief opening remarks. The committee first addressed Item 2 on the agenda [*ATTACHMENT A*], regarding the correction of errors that have been found in the code and in 2017 legislation that will be codified. Ronny Frith presented a list of the code and legislation errors, with proposed changes to correct the errors [*ATTACHMENT B*].

Speaker Gunn made a MOTION to authorize the code publisher to correct the code and legislation errors in the manner proposed on the list, and the motion was ADOPTED by a voice vote.

The committee then addressed Item 3 on the agenda, regarding the matters of (1) determining which version of a code section will control where the section was amended by more than one bill during the 2017 Regular Session, and (2) integrating amendments that were made to the same code section by more than one bill during the 2017 session.

Ronny Frith first reviewed and summarized for the committee the law that authorizes the committee to integrate multiple amendments to the same code section (§ 1-1-109(I)); the guidelines that the committee has previously adopted to determine when it will not integrate multiple amendments; the policy that the committee adopted at its September 18, 2000 meeting to determine when it will integrate multiple amendments; and the law governing which of the multiple amendments to the same code section will ultimately supersede any other amendments if the committee does not integrate the amendments (§ 1-3-79) [ATTACHMENT C]. Mr. Frith said that under § 1-3-79, the version of the code section that has the latest effective date will ultimately control over other versions, unless otherwise specified in the bill.

Mr. Frith presented a list of those code sections that were amended by more than one bill during the 2017 Regular Session [ATTACHMENT D]. The list specified the bills that amended each code section, and identified the bills containing the version of each section that will ultimately supersede all other versions, as provided in § 1-3-79 or by language in one of the bills indicating that it is controlling. The controlling versions of each code section are found in the underlined bills on the list.

The code sections on the list that are marked with one asterisk are the sections having multiple amendments that were not conformed to each other during the session, and which meet the committee's criteria for integration. The committee will need to integrate the multiple amendments to those sections in order for the amendments from each bill to become effective. Those sections are §§ 27-7-15, 27-31-1, 41-29-113, 43-13-107 and 43-15-13.

Mr. Frith provided copies of §§ 27-7-15, 27-31-1, 41-29-113, 43-13-107 and 43-15-13 with the amendments to those sections from each bill integrated into the text of the sections [ATTACHMENT E]. The yellow shaded language in the text is the language that will not take effect and will not appear in the code if the committee does not vote to integrate the multiple amendments. Mr. Frith said that he looked at the substance of the different amendments only to determine if the amendments do not overlap or conflict with each other -- if they do, then the committee should not integrate the amendments.

Mr. Frith briefly explained the multiple amendments to §§ 27-7-15, 27-31-1, 41-29-113, 43-13-107 and 43-15-13. He said that in each case, the amendments meet the requirements in the committee's policy for integration of amendments: (1) they do not amend the same part of the code section and do not overlap or conflict with each other, and (2) there is no express legislative intent in any of the bills to indicate that the amendments should not be integrated.

After Mr. Frith's explanations, Speaker Gunn made a MOTION to integrate the amendments to those sections in the manner presented by Mr. Frith:

- § 27-7-15 -- amendments from House Bill No. 1601 and Senate Bill No. 2311
- § 27-31-1 -- amendments from House Bill No. 1125 and Senate Bill No. 3021
- § 41-29-113 -- amendments from Senate Bill No. 2194 and Senate Bill No. 2610

- § 43-13-107 -- amendments from House Bill No. 1092 and Senate Bill No. 2138
- § 43-15-13 -- amendments from House Bill No. 1213 and Senate Bill No. 2680

Representative Snowden asked if some record is made in the code explaining the corrections of the code errors and the integration of the multiple amendments, or if those changes are just made by the code publisher with no explanation. Mr. Frith said that the publisher includes a Joint Legislative Committee Note, which is like an Editor's Note, under each code section in which a code error was corrected and each code section where multiple amendments were integrated, explaining the changes that the committee made to that code section in its meeting on a certain date. The publisher is supposed to keep the Joint Legislative Committee Notes in the code permanently so that there will always be record of how those changes were made.

The committee next addressed Item 4 on the agenda, regarding proposed prices for code products and the number of replacement volumes of the code for this year. The Lt. Governor recognized Anders Ganten of LexisNexis, who asked the committee to approve price increases for certain code products for 2017, and to approve the replacement of volumes 8, 8A, 8B and 15A and adding a new volume 8C, as contained in a October 21, 2016, letter to Ronny Frith and Bubba Neely *[ATTACHMENT F]*. He said the proposed prices are based on the assumption that the committee approves the replacement of all of those volumes as requested.

There would be no increase in the prices for the full set of the code, the single pocket part supplements, the Advance Legislative Service, the Advance Code Service, the Citator volume or the CD-ROM. The amount of the price increases for private sector subscribers would be \$5.00 for the cumulative supplement, \$1.00 for the index and for replacement volumes, and \$2.00 for the Court Rules volume. The price increases for governmental subscribers would be one-half of the private sector amount, as provided in the code publishing contract. Mr. Ganten said that there was an error on one price amount in the letter - the state price for government subscribers should be \$21.50, not \$21.00 as stated in the letter. Mr. Ganten said that when comparing the 2017 and 2016 pricing, the total price for a typical package (cumulative supplement, replacement volumes, index and ALS) will be 2.5% or \$11.00 higher for private sector subscribers and \$5.50 higher for governmental subscribers.

Representative Snowden said he does not use the CD-ROM that often, but he wanted to know if the content of the CD-ROM and the online version of the code are the same or if there are any differences. Mr. Ganten said that the content of the statutes is the same on the CD-ROM and the free online version that is available to the public, but the online version does not include the annotations as the CD-ROM does.

Senator Burton made a MOTION to approve the price increases and the replacement volumes requested by the publisher, and the motion was ADOPTED by a voice vote.

Having no further business before the committee, the committee voted to adjourn.

Tate Reeves, Chairman

**MINUTES OF THE
JOINT LEGISLATIVE COMMITTEE ON COMPILATION,
REVISION AND PUBLICATION OF LEGISLATION**

August 14, 2018

On Tuesday August 14, 2018, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation met in the Old Supreme Court Chamber, Room 216 of the New Capitol. The Speaker of the House, chairman of the committee, called the meeting to order at 10:05 a.m. Members of the committee present were:

Speaker Philip Gunn
Speaker Pro Tem Greg Snowden
Representative Angela Cockerham
Representative Cory Wilson
Representative Earle Banks
Representative Roun McNeal

Lt. Governor Tate Reeves
President Pro Tem Terry Burton
Senator Hob Bryan
Senator Jenifer Branning
(via teleconference)

Committee and other legislative staff present were: Ronny Frith, Committee Co-counsel; Bubba Neely, Committee Co-counsel; Gwennetta Tatum, Director of House Legislative Services; Liz Welch, Secretary of the Senate; Erin King and Mary Catherine Lindsay, House Attorneys; Jeff Rosamond and Caryn Quilter, Senate Attorneys; Meg Annison from the Speaker's Office; Kenny Ellis and Laura Hipp from the Lt. Governor's Office; Jackie Bell and Ashley McBride, House staff; and Maria Merkle and Dianne Clincy from the Legislative Reference Bureau.

Others present were: Amanda Frusha and Nathan Upchurch from the Secretary of State's Office; Ricky Luke from the Attorney General's Office; Anders Ganten from LexisNexis; Karen Newman from the Clay Firm, representing LexisNexis; and Deanne Mosley from the Mississippi Bar.

The Speaker made a few brief opening remarks. The committee first addressed Item 2 on the agenda [*ATTACHMENT A*], regarding the correction of errors that have been found in the code and in 2018 legislation that will be codified. Ronny Frith presented a list of the code and legislation errors, with proposed changes to correct the errors [*ATTACHMENT B*]. He stated that all of those items on the list are corrections of manifest errors that are nonsubstantive in nature, and if there was any doubt about whether some language was actually an error or how the language should be changed to correct the error, then it was not included on the list.

Senator Burton made a MOTION to authorize the code publisher to correct the code and legislation errors in the manner proposed on the list, and the motion was ADOPTED by a voice vote.

The committee then addressed Item 3 on the agenda, regarding the matters of (1) determining which version of a code section will control where the section was amended by more than one bill during the 2018 Regular Session, and (2) integrating amendments that were made to the same code section by more than one bill during the 2018 session.

Bubba Neely first reviewed and summarized for the committee the law that authorizes the committee to integrate multiple amendments to the same code section (§ 1-1-109(l)); the guidelines that the committee has previously adopted to determine when it will not integrate multiple amendments; the policy that the committee adopted at its September 18, 2000 meeting to determine when it will integrate multiple amendments; and the law governing which of the multiple amendments to the same code section will ultimately supersede any other amendments if the committee does not integrate the amendments (§ 1-3-79) [ATTACHMENT C]. Mr. Neely said that under § 1-3-79, the version of the code section that has the latest effective date will ultimately control over other versions, unless otherwise specified in the bill.

Mr. Neely presented a list of those code sections that were amended by more than one bill during the 2018 Regular Session [ATTACHMENT D]. The list specified the bills that amended each code section, and identified the bills containing the version of each section that would ultimately supersede all other versions, as provided in § 1-3-79 or by language in one of the bills indicating that it is controlling. The controlling versions of each code section are found in the underlined bills on the list.

The code sections on the list that are marked with one asterisk are the sections having multiple amendments that were not conformed to each other during the session, and which meet the committee's criteria for integration. The committee would need to integrate the multiple amendments to those sections in order for the amendments from each bill to become effective. Those sections are §§ 23-15-239, 41-59-35, 49-19-3 and 63-3-103.

Mr. Neely provided copies of §§ 23-15-239, 41-59-35, 49-19-3 and 63-3-103 with the amendments to those sections from each bill integrated into the text of the sections [ATTACHMENT E]. The yellow shaded language in the text is the language that would not take effect and would not appear in the code if the committee did not vote to integrate the multiple amendments. Mr. Neely said that he looked at the substance of the different amendments only to determine if the amendments do not overlap or conflict with each other -- if they do, then the committee should not integrate the amendments.

Mr. Neely briefly explained the multiple amendments to §§ 23-15-239, 41-59-35, 49-19-3 and 63-3-103. He said that in each case, the amendments meet the requirements in the committee's policy for integration of amendments: (1) they do not amend the same part of the code section and do not overlap or conflict with each other, and (2) there is no express legislative intent in any of the bills to indicate that the amendments should not be integrated.

After Mr. Neely's explanations, Representative Snowden made a MOTION to integrate the amendments to those sections in the manner presented by Mr. Neely:

- § 23-15-239 -- amendments from House Bill No. 803 and House Bill No. 937

- § 41-59-35 -- amendments from House Bill No. 1182 and Senate Bill No. 2091
- § 49-19-3 -- amendments from House Bill No. 1096 and Senate Bill No. 2919
- § 63-3-103 -- amendments from House Bill No. 1343 and Senate Bill No. 2629

The committee next addressed Item 4 on the agenda, regarding proposed prices for code products and the number of replacement volumes of the code for this year. The Speaker recognized Anders Ganten of LexisNexis, who asked the committee to approve price increases for certain code products for 2018, and to approve the replacement of volumes 6A, 7, 11, 17 and 20, as contained in a January 19, 2018, letter to Ronny Frith and Bubba Neely [*ATTACHMENT F*]. He said the proposed prices are based on the assumption that the committee approves the replacement of all of those volumes as requested.

There would be no increase in the prices for the full set of the code, the single pocket part supplements, the Advance Legislative Service, the Advance Code Service, the Citator volume or the CD-ROM. The amount of the price increases for private sector subscribers would be \$5.00 for the cumulative supplement, \$1.00 for the index and for replacement volumes, and \$2.00 for the Court Rules volume. The price increases for governmental subscribers would be one-half of the private sector amount, as provided in the code publishing contract. Mr. Ganten said that when comparing the 2018 and 2017 pricing, the total price for a typical package (cumulative supplement, replacement volumes, index and ALS) would be 2.5% or \$11.00 higher for private sector subscribers and \$5.50 higher for governmental subscribers.

Senator Burton made a MOTION to approve the price increases and the replacement volumes requested by the publisher, and the motion was ADOPTED by a voice vote.

The committee then addressed Item 5 on the agenda, regarding the matter of renewal of the code publishing contract between the publisher, LexisNexis, and the committee. The Speaker recognized Ronny Frith, who first reviewed the statutory duties of the committee and gave a brief history of the committee, because there are some new members on the committee since the meeting at the beginning of the term.

§ 1-1-11 provides the list of the public subscribers to the Mississippi Code, and requires the committee to purchase and distribute code sets to those subscribers; § 1-1-57 requires the committee to purchase and distribute the necessary number of pocket part supplements and replacement volumes and distribute them to the proper parties; § 1-1-58 requires the committee to contract for the publication of the advance sheets of the general laws enacted at each session (Advance Legislative Service) and distribute them to the proper parties; and § 1-1-62 requires the committee to provide for publication of sufficient volumes of the code and supplements and advance sheets as necessary to meet the requirement of the three preceding code sections.

§ 1-1-103 created the committee in 1996; § 1-1-105 provides for the two co-counsel of the committee, one from the House and one from the Senate, who are the liaisons with the code publisher throughout the year (Mr. Frith noted that he and Mr. Neely have been the only co-counsel since the creation of the committee); § 1-1-107 provides the general powers and duties of the committee, with the main duty being to contract with a publisher for the editing, printing, indexing, annotating, binding and publishing of the acts of the Legislature each year; and § 1-1-

109 provides the authority of the committee relating to preparing legislative acts for publication in the code, with the main provisions being to correct manifest errors (which was done earlier in the meeting under item 2), and to integrate multiple amendments to the same code section during the same legislative session (which was done earlier in the meeting under item 3).

Senator Burton asked Mr. Frith about the membership of the committee under § 1-1-103, saying that it appears that the House would have more members on the committee than the Senate. Mr. Frith said that the membership from each house is the same, because that section provides that if any ex officio member of the committee holds two positions entitling him to membership on the committee, then the presiding officer of the appropriate house will appoint another member of that house to membership on the committee.

Mr. Frith said that the committee is funded annually by a separate line item in the Legislature's appropriation bill, and has been funded in that manner since 1998, which is the year that the committee first entered the contract with the code publisher and began fully administering the purchasing and distribution of the code to the public subscribers. The amount of the annual appropriation is currently \$400,000.00. The first appropriation in 1998 was \$300,000.00 and the amount remained the same for about ten years, until that amount was no longer sufficient to pay the cost of the purchases of the code products, because of the cumulative increase in the prices over that time period.

Mr. Frith said that contrary to what some people think, the State of Mississippi does not pay anything to the publisher for providing the services of editing, revising and codifying the enacted legislation, providing annotations for the code sections, and publishing and shipping the code products to the public subscribers. The contract requires LexisNexis to provide those services for the state, but instead of paying the publisher for the services, the state gives Lexis the exclusive right to publish and market the official code, and agrees to purchase about 1,450 sets of the code and annual updates for the public subscribers. The entire amount of the \$400,000 annual appropriation is used to purchase code products for the public subscribers as required by state law and by the contract, and the contract gives the public subscribers a 50% discount on the prices charged to private sector subscribers. None of those funds are used for expenses of committee members or for purchases of anything other than code products for the public subscribers.

Mr. Frith said that the code contract with the LexisNexis was initially executed in October 1998, and it was renewed for four years in 2002 and again in 2006, but was only renewed for two years in 2010. In 2012 the contract was renewed for another two years, and in 2014 it was renewed for four years, so it is scheduled to expire in October of this year. He then gave an overview of some of the main provisions in the current contract, which address the editorial duties of the publisher, the publication duties of the publisher, schedules and delivery dates, prices, and the contract term. Some of the main provisions of the contract are:

Section 1.1, which provides that "The publisher shall bear all editorial, publication and distribution costs associated with the production of the [code], without any contribution, subsidy or expense by the state, or any consideration from the state."

Section 5.1, which provides that "Prices for each component of the [code] ... for each year shall be set by the committee after consideration of an itemized request for a price change from the publisher."

Section 5.2, which provides that "The committee may, in its absolute and sole discretion, approve a price change. The publisher shall not change the price of any component of the [code] without the express authorization of the committee."

Section 5.3, which provides that "(b) The committee shall be entitled to a fifty percent (50%) discount from the regular retail price of any set of the [code], supplements, index or advance sheets, or any individual volumes, replacement volumes, ancillary publications or CD-ROMs. (c) Any state or state district official, agency, department or institution, any county or county-level official, office or agency, and any municipality or municipal-level official, office or agency that purchases any of the products listed in item (b) above shall be entitled to the same fifty percent (50%) discount on those purchases."

Section 10.1, which provides for the term of the contract, is the only section of the contract that has been amended. That section originally provided that the initial term would be for four years, with an option to renew for another four years, and after that, the committee had the option to renew the contract on a year-to-year basis. The committee did not want to be limited to renewing the contract for one year terms after 2006, so during the 2002 meeting of the committee, Section 10.1 was amended to authorize the committee to renew the contract for additional terms, with any such term not to exceed four years in length.

After Mr. Frith had finishing going over the contract, the Speaker asked him for his recommendation about extending the contract. Mr. Frith said he feels that we have a good relationship with LexisNexis, they are easy to work with and they provide a good product, but he said Anders Ganten should be the one to make a recommendation regarding the contract extension. The Speaker recognized Mr. Ganten for his comments about renewal of the contract. Mr. Ganten said he feels that Lexis is able to provide good service and produce a good product for the State of Mississippi, and they would like to continue publishing the code in Mississippi. The Speaker asked Mr. Ganten for his recommendation for the term of the contract, and he asked for the contract to be extended for another four years.

Representative Wilson made a MOTION to extend the contract for four years, and the motion was ADOPTED by a voice vote.

Having no further business before the committee, the committee voted to adjourn.

Philip Gunn, Chairman

**MINUTES OF THE
JOINT LEGISLATIVE COMMITTEE ON COMPILATION,
REVISION AND PUBLICATION OF LEGISLATION**

August 12, 2019

On Monday August 12, 2019, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation met in the Room 216 of the New Capitol. The President Pro Tem of the Senate, Gray Tollison, called the meeting to order at 10:10 a.m. Members of the committee present were:

President Pro Tem Gray Tollison
Senator Hob Bryan
Senator Angela Turner Ford
Senator Jennifer Branning
Senator Chris Caughman

Representative Tommy Reynolds
Representative Noah Sanford
(designated member)
Representative Mark Tullos
(designated member)
Representative Angela Cockerham
(via teleconference)

Committee and other legislative staff present were: Caryn Quilter, Committee Co-counsel; Ronny Frith, Committee Co-counsel; Gwennetta Tatum, Director of House Legislative Services; Liz Welch, Secretary of the Senate; Erin King and Mary Catherine Lindsay, House Attorneys; Jackie Bell and Ashley McBride, House staff; Joe Sullivan, Legislative Budget Office; and Dianne Clincy, Legislative Reference Bureau.

Others present were: Amanda Frusha and Brittany Ridinger, Secretary of State's Office; Mike Lanford, Attorney General's Office; Steven McDevitt, Department of Finance and Administration; Anders Ganten, LexisNexis; and Stephen Clay, the Clay Firm.

President Pro Tem Tollison made a few brief opening remarks, then recognized Ronny Frith. Mr. Frith noted that this year, for the first time since the committee was created in 1996, there is a new Senate co-counsel. The former Senate co-counsel, Bubba Neely, is now fully retired and Caryn Quilter is the new co-counsel. The committee then addressed Item 2 on the agenda [ATTACHMENT A], regarding the correction of errors that have been found in the code and in 2019 legislation that will be codified. Mr. Frith presented a list of the code and legislation errors, with proposed changes to correct the errors [ATTACHMENT B]. He stated that the authority of the committee to correct errors in legislation comes from § 1-1-109, and explained that all of those items on the list are corrections of manifest errors that are nonsubstantive in nature. If there was any doubt about whether some language was actually an error or how the language should be changed to correct the error, then it was not included on the list.

Representative Reynolds made a MOTION to authorize the code publisher to correct the code and legislation errors in the manner proposed on the list, and the motion was ADOPTED by a voice vote.

The committee then addressed Item 3 on the agenda, regarding the matters of (1) determining which version of a code section will control where the section was amended by more than one bill during the 2019 Regular Session, and (2) integrating amendments that were made to the same code section by more than one bill during the 2019 session.

Caryn Quilter first reviewed and summarized for the committee the law that authorizes the committee to integrate multiple amendments to the same code section (§ 1-1-109(I)); the guidelines that the committee has previously adopted to determine when it will not integrate multiple amendments; the policy that the committee adopted at its September 18, 2000 meeting to determine when it will integrate multiple amendments; and the law governing which of the multiple amendments to the same code section will ultimately supersede any other amendments if the committee does not integrate the amendments (§ 1-3-79) [ATTACHMENT C]. Ms. Quilter said that under § 1-3-79, the version of the code section that has the latest effective date will ultimately control over other versions, unless otherwise specified in the bill.

Ms. Quilter presented a list of those code sections that were amended by more than one bill during the 2019 Regular Session [ATTACHMENT D]. The list specified the bills that amended each code section, and identified the bills containing the version of each section that will ultimately supersede all other versions, as provided in § 1-3-79 or by language in one of the bills indicating that it is controlling. The controlling versions of each code section are found in the underlined bills on the list.

The code sections on the list that are marked with one asterisk are the sections having multiple amendments that were not conformed to each other during the session, and which meet the committee's criteria for integration. The committee will need to integrate the multiple amendments to those sections in order for the amendments from each bill to become effective. Those sections are §§ 25-7-13, 25-61-5, 27-31-104, 27-65-75, 27-104-7, 27-104-13, 37-7-307, 41-61-55, 45-1-2, 97-3-54.1, 99-15-26 and 99-19-73.

Ms. Quilter provided copies of §§ 25-7-13, 25-61-5, 27-31-104, 27-65-75, 27-104-7, 27-104-13, 37-7-307, 41-61-55, 45-1-2, 97-3-54.1, 99-15-26 and 99-19-73 with the amendments to those sections from each bill integrated into the text of the sections [ATTACHMENT E]. The yellow shaded language in the text is the language that will not take effect and will not appear in the code if the committee does not vote to integrate the multiple amendments. Ms. Quilter said that she looked at the substance of the different amendments only to determine if the amendments do not overlap or conflict with each other -- if they do, then the committee should not integrate the amendments.

Ms. Quilter briefly explained the multiple amendments to §§ 25-7-13, 25-61-5, 27-31-104, 27-65-75, 27-104-7, 27-104-13, 37-7-307, 41-61-55, 45-1-2, 97-3-54.1, 99-15-26 and 99-19-73. She said that in each case, the amendments meet the requirements in the committee's policy for integration of amendments: (1) they do not amend the same part of the code section and do not overlap or conflict with each other, and (2) there is no express legislative intent in any of the bills to indicate that the amendments should not be integrated.

After Ms. Quilter's explanations, Representative Reynolds made a MOTION to integrate the amendments to those sections in the manner presented by Ms. Quilter, which was ADOPTED by a voice vote:

- § 25-7-13 -- amendments from Senate Bill No. 2043 and Senate Bill No. 2827
- § 25-61-5 -- amendments from House Bill No. 1204 and Senate Bill No. 2046
- § 27-31-104 -- amendments from House Bill No. 1668 and Senate Bill No. 2056
- § 27-65-75 -- amendments from Senate Bill No. 2193 and Senate Bill No. 2425
- § 27-104-7 -- amendments from Senate Bill No. 2867 and Senate Bill No. 2918
- § 27-104-13 -- amendments from Senate Bill No. 2625 and Senate Bill No. 2947
- § 37-7-307 -- amendments from House Bill No. 572 and Senate Bill No. 2625
- § 41-61-55 -- amendments from House Bill No. 913 and Senate Bill No. 2161
- § 45-1-2 -- amendments from House Bill No. 913 and House Bill No. 1283
- § 97-3-54.1 -- amendments from House Bill No. 571 and Senate Bill No. 2305
- § 99-15-26 -- amendments from House Bill No. 1352 and Senate Bill No. 2237
- § 99-19-73 -- amendments from House Bill No. 1352 and Senate Bill No. 2196

The committee next addressed Item 4 on the agenda, regarding prices for code products and the number of replacement volumes of the code for this year. Ronny Frith presented a letter from Anders Ganten of Lexis to Mr. Frith and Bubba Neely, the former Senate co-counsel, dated February 8, 2019, in which Mr. Ganten stated that Lexis will not request a price increase for 2019. *[ATTACHMENT F]* Mr. Frith said that this is the first time that the publisher has not requested a price increase. In the letter Mr. Ganten also recommended the replacement of Volumes 2, 3, 4 and 19 and the creation of a new Volume 3A. Attached to the letter is a table showing the volumes that were considered for possible replacement in 2019 and the criteria used for determining whether to replace a volume. Mr. Frith said that after he looked at the list, he told Mr. Ganten that it would be better to replace Volume 10 instead of Volume 19, because Volume 10 is a much larger volume. Mr. Ganten said that would be okay, so Mr. Frith struck out Volume 19 on the letter and substituted Volume 10, which is shown on the letter before the committee.

Senator Turner Ford asked Mr. Frith why he chose Volume 10 for replacement instead of Volume 19. Mr. Frith pointed to the information on the attached table, and said that although the number of pages in the supplement for Volume 19 compared to the pages in the main volume is a higher percentage than for Volume 10 (31% vs. 21%), Volume 10 is a much larger volume

having twice as many pages in the main volume as Volume 19, and it grows in size faster over the years than Volume 19 because of the subject matter.

Senator Bryan asked Mr. Frith whether Title 35, relating to war veterans and pensions and which has only 64 pages in the main volume and 8 pages in the supplement, could be moved from Volume 10 to Volume 9, which would reduce the size of Volume 10 and also leave that volume solely devoted to education. Mr. Frith said that might be good thing to do, and we didn't think of that when we received the letter with recommended volumes to replace. He said that however, as a practical matter, it is not possible at this time to make any changes in the volumes to be replaced, because Lexis needs a long lead time to be able to prepare the replacement volumes and they have been working on the volumes specified in the letter since the beginning of this year. Because of the amount of time needed to prepare the replacement volumes and the fact that the committee meets only once a year, the co-counsel have to authorize Lexis to proceed with the recommended replacement volumes early in the year.

Mr. Frith told Senator Bryan that moving titles of the code from one volume to another in order to consolidate all chapters from one title into their own volumes without any non-related titles in those volumes is a good idea, which Senator Bryan initiated years ago when he asked Lexis to do that for Title 27, relating to taxation and finance. Since then, Lexis has been making a concerted effort to move other titles of the code from one volume to another in same manner so that there will be less splitting of titles and having different titles in the same volumes. Lexis has done that again on this year's list with Title 11: Currently Title 11 is split between 3 volumes and it is combined with other titles in Volumes 2 and 4, but after the volumes are replaced this year, Title 11 will be consolidated into Volume 3 and a new Volume 3A, which will not include other non-related titles.

He said that since the committee does not meet early enough for any changes to be made to Lexis's recommendations for replacement volumes, it might be a good idea to email the letter to the committee members when the co-counsel receive it to get input from the committee members before the co-counsel authorize Lexis to proceed with the recommended replacement volumes.

Mr. Frith said that because Lexis is not requesting any price increases this year, there is no need to vote on anything for this agenda item.

The committee then addressed Item 5 on the agenda, regarding a proposal to discontinue production of the code on CDs. Mr. Frith presented 2 sections of the code publishing contract between the committee and Lexis relating to the production and distribution of the CD and § 1-1-11 of the code, which is the list of officials and agencies that received the code from the committee. *[ATTACHMENT G]* Mr. Frith said that Section 2.6 of the contract requires the publisher to publish and distribute the Mississippi Code on a CD, and Section 2.10 requires the publisher to provide complimentary copies of the CD to certain elected officials, legislative offices and agencies and the Attorney General's Office. He said Anders Ganten of Lexis has told

him that very few people use CDs anymore, and there are now only 2 paid subscribers to the CD, so Lexis would like to discontinue production of the CD.

Mr. Frith said he told Mr. Ganten that the committee could amend the contract to delete Sections 2.6 and 2.10, but that alone would not eliminate the need for Lexis to continue production of the CD. This is because § 1-1-11(2)(b) provides that elected state and state district officials and members of the Legislature "**shall receive** a CD-ROM version of the Mississippi Code of 1972 in lieu of the bound volumes of the Mississippi Code of 1972" unless they request in writing to receive the bound volumes. This statutory provision allows a recipient to decline to receive the bound volumes, but does not allow a recipient to waive the receipt of the CD. So even if the committee voted to delete the CD production, this provision requires that those persons receive a CD, so Lexis would have to continue production to provide them with a CD, even if they don't use it. Mr. Ganten said that Lexis would like to discontinue production of the CD but he realizes that the statute does not allow that to be done. So, he would like for the committee to consider having the statute amended to allow Lexis to discontinue the CD.

Senator Bryan said that since practically no one uses the CD anymore, it would not be a burden to anyone not to receive the quarterly updates to the CD that they already have until such time as the statute is amended to allow the CD to be discontinued. Representative Reynolds made a MOTION to amend the code contract to authorize the Lexis to delay production of the CD until the end of the 2020 Regular Session in order to allow the statute to be amended, and the motion was ADOPTED by a voice vote.

The committee then moved to Item 6 on the list, any additional business, and Mr. Frith was recognized to provide an update on the matter of the violation of the copyright of the code. The copyright violation first occurred in 2013 when Carl Malamud of California copied the complete annotated Mississippi Code and put it on a website that can be accessed by anyone without charge. The State of Mississippi owns the copyright to the annotated code and Malamud did not ask for or receive the state's permission to publish the annotated code. Malamud insists that the public should be able to read the law without having to pay for it, and he insists that "the law" includes not only the text of the statutes that the Legislature has enacted, but also the copyrighted annotations that are prepared by the code publisher. During the 2013 meeting of the committee, Anders Ganten of Lexis requested the committee to take action as authorized under state law to protect the state's copyright to the annotated code.

The Attorney General's Office assigned Larry Schemmel to handle the matter, and Mr. Schemmel first sent Malamud a letter asking him to take our annotated code off of his website, but he refused. Malamud had also copied the annotated codes of several other states and put them on his website, so Mr. Schemmel contacted those other states to coordinate taking action against Malamud. Mr. Schemmel was preparing to file a lawsuit against Malamud, but Georgia filed its lawsuit first so Mr. Schemmel decided to let Georgia's lawsuit proceed and see how it went before taking action. In 2017 the federal district court in Georgia found that Malamud had violated the state's copyright and ordered him to remove the annotated code from his website.

Malamud appealed the decision of the district court to the 11th Circuit Court of Appeals, and in 2018 the 11th Circuit reversed the district court in a surprising decision that was based on an unusual interpretation of case law about what types of documents can be copyrighted.

Georgia petitioned the United State Supreme Court for a writ of certiorari, and Mississippi joined an amicus curiae brief that was filed by Arkansas asking for the Court to hear the case. The Court grants certiorari on only about 1% of the petitions that are filed, but we recently found out that the Court did grant certiorari in this case, so the Court will hear the case at its October term this year.

Having no further business before the committee, the committee voted to adjourn.

Gray Tollison, Chairman

**MINUTES OF THE
JOINT LEGISLATIVE COMMITTEE ON COMPILATION,
REVISION AND PUBLICATION OF LEGISLATION**

October 19, 2020

On Monday October 19, 2020, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation met in Room 216 of the New Capitol. The Speaker of the House, chairman of the committee, called the meeting to order at 10:00 a.m. Members of the committee present were:

Speaker Philip Gunn
Speaker Pro Tem Jason White
Representative Angela Cockerham
Representative Kevin Horan
Representative Tommy Reynolds

Lt. Governor Delbert Hosemann
President Pro Tem Dean Kirby
Senator Jenifer Branning
Senator Joey Fillingane
Senator Hillman Frazier
Senator Daniel Sparks
Senator Joseph Thomas

Committee and other legislative staff present were: Ronny Frith, Committee Co-counsel; Ian Jones, Committee Co-counsel; Gwennetta Tatum, Director of House Legislative Services; Jeff Rosamond, Director of Senate Legislative Services; Erin King, House Attorney; Ethan Samsel and Aa'Keela Hudnall, Senate Attorneys; Jackie Bell, House staff; and Maria Merkle and Dianne Clincy, Legislative Reference Bureau.

Others present were: Earnest Hart, Secretary of State's Office; Anders Ganten, LexisNexis; and Steven Clay, the Clay Firm.

Pursuant to an agenda [ATTACHMENT A], Ronny Frith first presented an introduction to the committee, including (1) the creation and history of the committee, (2) the powers and duties of the committee, and (3) the publishing contract with the LexisNexis, the publisher of the Mississippi Code of 1972. The Joint Legislative Committee on Compilation, Revision and Publication of Legislation was created by statute in 1996, so it has now been in existence for 24 years, and it is structured similar to the Legislative Budget Office and the PEER Committee. Because the committee's official name is long, it is commonly referred to as the "Code Committee." The committee has two primary duties: (1) to provide for the publication of laws of a general nature enacted by the Legislature each year in the Mississippi Code, which is done by a code publisher that the committee has contracted with; and (2) to provide for the distribution of code sets and annual supplements to the state and local agencies and officials that are entitled to them by law (known as the "public subscribers").

When the committee was created, there was an existing code publishing contract in effect, so the committee did not fully exercise all of its powers until that contract expired and the committee entered into a new contract in October 1998. Before the 1998 contract, those duties were performed by the Attorney General and the Secretary of State, and the code publishing contract was executed jointly by the Attorney General and the Secretary of State. Under the contract, the Attorney General was responsible for coordinating the publication of the code and annual supplements with the publisher, and the Secretary of State was responsible for the distribution of the code and annual supplements to the public subscribers.

The committee was created primarily to provide the Legislature with official and direct input into the publication of the laws that it enacted, which it did not have under the previous arrangement. Until the committee was created, Mississippi was only one of two or three states in which the Legislature had no input into the codification of its laws.

The committee is not involved with the publication of the General Laws, House and Senate Journals or the Local and Private Laws -- those duties are performed by the Secretary of State. The committee's duties are limited to preparing the general laws enacted by the Legislature for publication in the code.

The committee generally meets only one time each year, and during that annual meeting, the committee considers the following matters, all of which are on the agenda for today's meeting: (1) correcting minor, nonsubstantive errors found in the code and recently enacted legislation; (2) determining the controlling versions of code sections when those sections have been amended by more than one bill during the session; (3) merging or integrating the text of multiple amendments to the same code section if certain criteria are met; and (4) approving any requested price increases for code products requested by the publisher.

The committee is staffed by two co-counsel, one from the House and one from the Senate. Ronny Frith is the House co-counsel and Ian Jones is the Senate co-counsel. The employees of the Legislative Reference Bureau are responsible for the distribution of the code products to the public subscribers. The co-counsel are the liaisons with the code publisher throughout the year, and they review and edit the recommendations for codification of provisions of new law in the code. That function was formerly performed by the Attorney General's office.

The budget for the committee is currently \$400,000.00, which is a separate line item in the Legislature's appropriation bill. The committee's budget was \$300,000.00 beginning in 1998 and remained at that amount for a number of years, but was increased a few years ago because the gradual increase in the prices of the code products over the years caused the initial amount to be insufficient.

None of the funding for the committee is used to pay for any expenses of the committee members in attending committee meetings, for staff salaries or expenses, or for the purchase of any equipment, supplies or other materials. All of the funding is expended only for paying for code products that the committee is required by statute and by contract to purchase from the code publisher and distribute to the public subscribers. The committee does not pay the publisher anything for editing and publishing the code. Instead, for performing those duties, the publisher

is given the exclusive right to sell the official code, and the committee is required to purchase a certain number of code products from the publisher each year.

Mr. Frith discussed the sections of law that establish the committee (§ 1-1-103), set out the committee's general powers and duties (§ 1-1-107), specify the committee's authority in preparing legislative acts for publication in the code (§1-1-109), and list the public subscribers who receive the code and code supplements from the committee (§ 1-1-11). The primary power of the committee under §1-1-107 is to select and contract with a publisher to edit, annotate and publish the code. The primary powers of the committee under §1-1-109 are to correct manifest errors in bills that will be codified and in existing code sections, and to integrate multiple amendments to the same code section that were made during the same legislative session. The committee is required by §1-1-62 to provide for the publication of sufficient volumes of the code and code supplements as necessary to meet the requirements of § 1-1-11 and other related sections.

Mr. Frith noted that the committee's authority to change or correct language in the code or in bills is rather limited. Under the authority of § 1-1-109 to correct manifest errors, the committee can only make minor, nonsubstantive changes -- it is not authorized to rewrite language in a statute or bill in any way that would change the substance of what was enacted by the Legislature, such as deleting a sentence or rewriting a provision to change the meaning. If it did that, the committee would be "legislating," which only the Legislature can do -- the power of the Legislature to legislate cannot be delegated to a committee or any other entity.

The committee has no authority to change anything in any bill that will not be codified, such as appropriation bills, bond bills, local and private bills and suffrage bills -- it only can make minor changes in legislation to prepare it for publication in the code.

Any errors that the committee corrects must be of the type that are manifest, patent errors. The committee cannot change the language of a statute or bill to read another way based on what someone says was intended, unless the error is manifest, and how the language should be changed is also manifest. In addition, the committee cannot change the language of a statute or bill solely because the consequences of the legislation were not what was intended or contemplated. In determining whether to recommend that the committee correct any errors, the co-counsel will only recommend correcting those errors that are obvious when looking at them, and that are relatively easy to determine what changes need to be made, without having to do research or ask legislators or others how the language should read. If there is any doubt about whether any language should be changed, the co-counsel will not recommend changing the language.

Mr. Frith discussed certain provisions of the code publishing contract with LexisNexis, which was entered in October 1998, including the publisher's editorial and publication duties (Sections 1 and 2), prices of code products (Section 5), and the term of the contract (Section 10, paragraph 10.1). Paragraph 10.1 of the contract originally provided that the contract would

remain in effect for four years, until 2002, and the committee would have the option to renew the contract for an additional four years, and then on a year-to-year basis after that. In 2002, the committee renewed the contract until 2006, and amended Paragraph 10.1 to authorize the committee to renew the contract for additional terms after 2006, with any such term not to exceed four years. In 2006, the committee renewed the contract for an additional four years, and in 2010 and 2012, the committee renewed the contract for an additional two years. In 2018 the committee renewed the contract for four years, so the contract will be in effect until October 2022.

The Lt. Governor addressed Mr. Frith, stating that when he was Secretary of State, his office asked the sheriffs, DAs and other local officials if they wanted the books, and many of them did not want the books because they didn't use them, so they decided not to take the books. He said that there is a requirement in the code that they have to execute an agreement in order to get the books, and asked Mr. Frith if we are doing that. He said § 1-1-11 provides that before the committee delivers copies of the code to an individual officeholder, the committee is required to submit a written agreement to the officeholder and it will not deliver the code to the officeholder until the agreement has been received by the committee. Mr. Frith said that we do that, and the agreement provides that the recipient will use the code only for government use and not for private use. The language in § 1-1-11(2) as amended in 2020 doesn't apply to state agencies, but it provides that elected state officials, state district officials and members of the Legislature will not receive the code unless they request it in writing. There is no such language for the rest of the recipients to do that, including the local officials.

The Lt. Governor said his office did that anyway, the recipients had to execute something in order to get the books. He said most of the sheriffs didn't want the books and about half of the DAs wanted them, and it was mainly the judges that wanted them. He asked Mr. Frith if we could we make sure that they want the books before we ship the books to them. Mr. Frith said that if there is authority for us to do that, then we could do it. He noted that the language in § 1-1-11(2) applies only to certain specified elected officials, and at the beginning of subsection (1) of the section it says that the committee "shall" provide the code books to the listed recipients, and the books will be shipped to them. The Lt. Governor said as Secretary of State, his office checked with the recipients and many didn't want the books shipped to them, and if they haven't executed the written agreement, that is the way you get around not sending the books to them. He asked if the recipients don't execute that agreement, you don't send it to them, right? Mr. Frith said that the agreement is not to receive the books, but instead is to use the books for government purposes and not for private purposes. The Lt. Governor said so if they don't sign that agreement, you won't send the books to them, right? Mr. Frith said that would be correct.

The Lt. Governor asked if we have an agreement on everyone who gets this. Mr. Frith said the Reference Bureau does that, he would have to check with them to be sure, but he thought so. The Lt. Governor said he knows that a number of the recipients don't want the books, and there is no need for the state to have to pay for books for those who don't want to receive them

and don't use them. He asked Mr. Frith to check to make sure that we have the executed agreement on every one of the recipients. He said the ones that don't send the agreement back can say they aren't going to execute the agreement because they don't want to receive the books. Mr. Frith said he will have the Reference Bureau look into it.

The committee addressed Item 2 on the agenda, regarding the correction of errors that have been found in the code and in 2020 legislation that will be codified. Ronny Frith presented a list of the code and legislation errors, with proposed changes to correct the errors [ATTACHMENT B]. He said all of the changes that are recommended are nonsubstantive and do not affect the meaning of the legislation.

A MOTION was made to authorize the code publisher to correct the code and legislation errors in the manner proposed on the list, which was ADOPTED by a voice vote.

The committee then addressed Item 3 on the agenda, regarding the matters of (1) determining which version of a code section will control where the section was amended by more than one bill during the 2020 Regular Session, and (2) integrating amendments that were made to the same code section by more than one bill during the 2020 session.

Ian Jones first reviewed and summarized for the committee the law that authorizes the committee to integrate multiple amendments to the same code section (§ 1-1-109(I)); the guidelines that the committee has previously adopted to determine when it will not integrate multiple amendments; the policy that the committee adopted at its September 18, 2000 meeting to determine when it will integrate multiple amendments; and the law governing which of the multiple amendments to the same code section will ultimately supersede any other amendments if the committee does not integrate the amendments (§ 1-3-79) [ATTACHMENT C]. Mr. Jones said that under § 1-3-79, the version of the code section that has the latest effective date will ultimately control over other versions, unless otherwise specified in the bill.

Mr. Jones presented a list of those code sections that were amended by more than one bill during the 2020 Regular Session [ATTACHMENT D]. The list specified the bills that amended each code section, and identified the bills containing the version of each section that will ultimately supersede all other versions, as provided in § 1-3-79 or by language in one of the bills indicating that it is controlling. The controlling versions of each code section are found in the underlined bills on the list.

The code sections on the list that are marked with one asterisk are the sections having multiple amendments that were not conformed to each other during the session, and which meet the committee's criteria for integration. The committee will need to integrate the multiple amendments to those sections in order for the amendments from each bill to become effective. Those sections are §§ 27-7-109, 27-71-301, 41-26-101, 45-9-101, 63-21-15, 67-1-7, 67-1-18, 67-1-37, 67-1-41, 67-1-45, 67-1-51, 67-1-77, 67-3-9, 67-3-69 and 71-5-353.

Mr. Jones provided copies of §§ 27-7-109, 27-71-301, 41-26-101, 45-9-101, 63-21-15, 67-1-7, 67-1-18, 67-1-37, 67-1-41, 67-1-45, 67-1-51, 67-1-77, 67-3-9, 67-3-69 and 71-5-353 with the amendments to those sections from each bill integrated into the text of the sections [ATTACHMENT E]. The yellow shaded language in the text is the language that the committee is required to integrate under the policy adopted by the committee. Mr. Jones said that he looked at the substance of the different amendments only to determine if the amendments do not overlap or conflict with each other -- if they do, then the committee should not integrate the amendments.

Mr. Jones briefly explained the multiple amendments to §§ 27-7-109, 27-71-301, 41-26-101, 45-9-101, 63-21-15, 67-1-7, 67-1-18, 67-1-37, 67-1-41, 67-1-45, 67-1-51, 67-1-77, 67-3-9, 67-3-69 and 71-5-353. He said that in each case, the amendments meet the requirements in the committee's policy for integration of amendments: (1) they do not amend the same part of the code section and do not overlap or conflict with each other, and (2) there is no express legislative intent in any of the bills to indicate that the amendments should not be integrated.

After Mr. Jones's explanation, a MOTION was made to integrate the amendments to those sections by the following bills in the manner presented by Mr. Jones, which was ADOPTED by a voice vote:

- § 27-7-109 -- amendments from House Bill No. 1748 and Senate Bill No. 3053
- § 27-71-301 -- amendments from House Bill No. 917 and Senate Bill No. 2552
- § 41-26-101 -- amendments from Senate Bill No. 2311 and Senate Bill No. 2674
- § 45-9-101 -- amendments from House Bill No. 917 and Senate Bill No. 2225
- § 63-21-15 -- amendments from House Bill No. 869 and Senate Bill No. 2099
- § 67-1-7 -- amendments from House Bill No. 1087 and Senate Bill No. 2253
- § 67-1-18 -- amendments from House Bill No. 858 and House Bill No. 917
- § 67-1-37 -- amendments from Senate Bill No. 2253 and Senate Bill No. 2333
- § 67-1-41 -- amendments from House Bill No. 1088 and Senate Bill No. 2545
- § 67-1-45 -- amendments from House Bill No. 1088 and House Bill No. 2545
- § 67-1-51 -- amendments from House Bill No. 1087, House Bill No. 1088, Senate Bill No. 2253 and Senate Bill No. 2545
- § 67-1-77 -- amendments from Senate Bill No. 2253 and Senate Bill No. 2545
- § 67-3-9 -- amendments from House Bill No. 654 and House Bill No. 917
- § 67-3-69 -- amendments from House Bill No. 917 and Senate Bill No. 2552
- § 71-5-353 -- amendments from Senate Bill No. 2564 and Senate Bill No. 3051

The committee next addressed Item 4 on the agenda, regarding approval of proposed prices for code products and the number of replacement volumes of the code for this year. Speaker Gunn recognized Anders Ganten of LexisNexis, who asked the committee to approve price increases for certain code products for 2020, and to approve the replacement of volumes 9, 21 and 21A, and the creation of new volumes 22 and 22A, as contained in a November 15, 2019,

letter to Ronny Frith and Caryn Quilter (the previous Senate Committee Co-counsel) [ATTACHMENT F]. He said the proposed prices are based on the assumption that the committee approves the replacement of all of those volumes as requested.

There would be no increase in the prices for the full set of the code or the Advance Legislative Service, and a small increase across the board for the other publications. The price increases for governmental subscribers would be one-half of the private sector amount, as provided in the code publishing contract. Mr. Ganten said that the net result is that a typical code subscriber who receives the cumulative supplement, the index and all replacement volumes published in the year would have a total increase in cost of \$15.00 (\$7.50 for the government), which is about 3%. He said the price increase is to cover increases in paper costs, staff costs, benefit costs and the like. He said Lexis wants to keep the cost of the code as affordable as possible, and their requested price increase is lower than the 4.5% increase in the producer price, which is the industry-wide benchmark that Lexis uses in setting their prices.

After Mr. Ganten's explanation, a MOTION was made to approve the price increases and the replacement volumes requested by the publisher, which was ADOPTED by a voice vote.

The committee next addressed Item 5 on the agenda, regarding a proposed amendment to the code publishing contract to discontinue production of CD-ROMs of the code. Ronny Frith said at the committee meeting in 2019, Anders Ganten asked the committee to discontinue the production of the CD of the code, which was required by the contract in 1998. There were only two paid subscribers to the CD last year and it is not worth it to Lexis to produce it. Mr. Frith said last year we looked at the contract to see if the committee could discontinue the CD production, but we found that the CD was also mentioned in the statute, so the statute would need to be amended before the committee could amend the contract. A bill was passed during the 2020 session that amended § 1-1-11 to take out the language that required a CD, so the committee now can consider a proposed amendment to the contract to delete all references to the CD [ATTACHMENT G]. The effect of the proposed amendment would be to remove the contractual requirement for Lexis to produce a CD for purchase.

Before the committee voted on the proposed amendment, Senator Sparks asked Mr. Ganten about the price of replacement volumes compared to the price of a new set of the code. He asked if a code recipient requests some replacement volumes because their set of the code is missing some volumes at the time the recipient takes office, and the cost of those replacement volumes exceeds the price of a new set of the code, do we automatically send them a new set of the code? He wants to make sure that we aren't sending the recipient a number of replacement volumes that costs more than a new set of the code. Mr. Frith addressed the question, saying that the Reference Bureau handles the distribution of the code to the recipients. Before sending a recipient any replacement volumes, they ask the recipient for a list of the volumes that they have and the year those volumes were last replaced, as shown on the spine of the volumes. From that list, we see how many replacement volumes they need, and if the cost of those volumes would exceed the cost of a new set of the code, then we send them a new set of the code.

After Mr. Frith's explanation, the Lieutenant Governor made a MOTION to approve the proposed amendment to the contract, which was ADOPTED by a voice vote.

The committee next addressed Item 6 on the agenda, regarding an update on litigation regarding the copyright of annotations in the code. Ronny Frith said that in 2013 Carl Malamud decided that the annotations produced by the code publisher and everything else in the code, not just the text of the laws that the Legislature enacts, should be free to everyone. He scanned the entire Mississippi Code and put it on his website without the permission of the state or the publisher, and did the same with the codes of several other states in addition to Mississippi, one of which was Georgia. The committee asked the Attorney General's Office for assistance to protect the state's copyright to the annotated code, and Larry Schemmel, an intellectual property expert in the Attorney General's Office, was ready to file a lawsuit against Malamud, but Georgia filed a lawsuit first so Mississippi filed an amicus brief in the case, supporting what Georgia was doing.

Georgia won in the federal district court, and the court said that the annotations in the code could be copyrighted and Malamud was violating Georgia's copyright. Malamud appealed the decision to the 11th Circuit Court of Appeals, and the court reversed the district court and said that the annotations could not be copyrighted. Georgia asked the U.S. Supreme Court to hear the case, and the court granted a writ of certiorari to take the case, which was unexpected because only about 1% of writs of certiorari are granted. In December of last year, the Supreme Court upheld the decision of the circuit court in a surprising 5-4 decision, which said that, at least with regard to Georgia, the annotations in a code cannot be copyrighted. What does that decision mean for the publication of the Mississippi Code? We have a contract with Lexis to produce our code, but are they going to want to spend the time and resources to produce an annotated code if anyone can copy it and produce it for themselves?

Mr. Frith asked Mr. Ganten to address the possible effect of the Supreme Court case on the status of our contract, specifically whether Lexis is going to continue to publish our code if they don't have the protection of the copyright. Mr. Ganten said Lexis also filed an amicus brief in the case and they were disappointed in the ruling. But he thinks there are some things about production of the annotations in Georgia that may be unique to that state. Georgia does some things with the production of the annotations for its code that Mississippi does not do -- among other things, the Legislature actually votes on the annotations and everything that is included in the code once a year, which gives the publication of its code a stronger link to the Legislature. At this point, Lexis's point of view is that the ruling applies to Georgia only. Under the contract, Lexis is required to register the copyright for the Mississippi Code every year. He said he will see if they get any pushback from the U.S. Copyright Office on registering the copyright this year. He said it is possible that he may ask the committee at a later meeting for some modifications to the contract to make it clear that the committee does not produce the annotations and the Legislature's involvement in producing the annotations is minimal.

Mr. Frith said that the Supreme Court opinion stated that a judge, a legislator or any public official that makes the law or interprets the law cannot be an "author" for the purposes of the copyright law. That doesn't mean just the text of the statute, but includes annotations, syllabuses in court reporters and things like that. The court said that in Georgia, their code commission was involved with the annotation process and supervised the annotations, so it was in effect the Legislature that was producing the annotations. Even though Lexis was preparing the annotations by contract with the code commission, the production of the annotations was considered to have been done by a public body. As Mr. Ganten said, in Georgia the Legislature actually votes on merging the annotations into their code, and our committee does not do that. I think that for now Lexis will continue doing things the same way with our code, but they will have to evaluate the situation further if people are copying and reselling their product. The Speaker asked Mr. Frith is there any action we need to take today, and he said no, he just wanted to provide the committee with this information.

Having no further business before the committee, the committee voted to adjourn.

Philip Gunn, Chairman