

## MINUTES

### HOUSE INVESTIGATIVE COMMITTEE ON LEGISLATIVE AND JUDICIAL COMMUNICATIONS

October 3, 2006  
Room 313-S—Statehouse

#### Members Present

Representative Mike O'Neal, Chairman  
Representative Mike Peterson, Vice-Chairman  
Representative Richard Carlson  
Representative John Faber  
Representative Geraldine Flaharty  
Representative Becky Hutchins  
Representative Lance Kinzer  
Representative Janice Pauls  
Representative Arlen Siegfroid  
Representative Jim Ward

#### Staff Present

Jill Wolters, Senior Assistant Revisor, Revisor of Statutes Office  
Athena Andaya, Research Analyst, Kansas Legislative Research Department  
Martha Dorsey, Principal Analyst, Kansas Legislative Research Department  
Karen Clowers, Committee Secretary

#### Others Attending

See attached list.

The meeting was called to order by Chairman Mike O'Neal at 10:06 a.m., on October 3, 2006, in Room 313-S of the Statehouse. Chairman O'Neal requested the Committee review the minutes of the July 6 meeting.

*Representative Kinzer moved and Representative Siegfroid seconded to accept the minutes of the July 6, 2006 meeting. Motion carried.*

The Chairman reviewed the agenda for the meeting indicating the Committee would hear a review of the Speech or Debate Clause of the *Kansas Constitution* (Attachment 1) which was referred to by counsel regarding its application to the proceedings of the Committee.

Chairman O'Neal also suggested that the Committee could be in a position to draft a preliminary report of the Committee at the conclusion of the meeting.

Jill Wolters provided a review of several applications of the Speech and Debate Clause (Attachment 2), including *State ex rel. Stephan v. House of Representatives* (Attachment 3), and *State of Kansas v. Neufeld* (Attachment 4). Ms. Wolters indicated that interpretation of the rule depends on the individual circumstances.

Following the presentation, several members of the Committee asked clarifying questions regarding conversations and immunity. The Chairman then closed the discussion on the Speech and Debate Clause.

Chairman O'Neal stated it was his opinion that although the Committee has not heard from several key people, it has gathered as much information as possible, including the testimony given to the Committee and results of other investigations, and that the Committee should move on to producing a concluding report. Chairman O'Neal provided an outline of points to include in the draft of a preliminary report (Attachment 5). Representative Peterson indicated his agreement with the Chairman's outline but also would like to see other items included such as a general overview of the charge the Committee was given, minutes of the meetings, testimony heard, copies of exhibits and affidavits, information from the Nuss hearing, and testimony of Senators at the Nuss hearing.

Following discussion, the Committee agreed on all points to be included in the report but there was continued debate on the conclusions.

The Committee recessed for lunch at 11:30 a.m.

Chairman O'Neal call the meeting to resume at 1:11 p.m. Representatives Pauls and Faber were not present. Representative Pauls left to attend a Sentencing Commission meeting.

The Chairman indicated that at the previous meeting the Committee had requested staff to contact Examiner Edward Collister and request him to ask questions of Justice Nuss during the hearing scheduled on August 10. Jill Wolters reported that the request had been made and denied (Attachment 6). The Committee requested Ms. Wolters again contact Mr. Collister regarding the affidavits exchanged between the parties. The Committee believes such affidavits are not attorney-client work product and are not confidential. Ms. Wolters also provided a copy of the Commission on Judicial Qualifications final report on the inquiry concerning Justice Nuss (Attachment 7).

Discussion resumed regarding contents of the concluding report. Based on results of the discussion, the Committee decided to prepare a preliminary draft report containing both majority and minority conclusions to be prepared by staff for the next meeting. The draft reports will be kept confidential pursuant to the preliminary draft provisions of KSA 2006 Supp. 45-221(a)(20).

The meeting adjourned at 2:50 p.m. The next scheduled meeting will be October 26, 2006.

Prepared by Karen Clowers  
Edited by Athena Andaya

Approved by Committee on:

October 26, 2006

(date)