

MINUTES

House Select Investigative Committee

March 15, 2010
Room 159-S, Statehouse

Members Present

Representative Clark Shultz, Chair
Representative Carl Holmes, Vice-Chair
Representative Bob Grant
Representative Jeff King
Representative Jerry Henry
Representative Nile Dillmore

Members Absent

None

Staff

Raney Gilliland, Kansas Legislative Research Department
Athena Andaya, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes
Norm Furse, Revisor of Statutes Emeritus
Gary Deeter, Committee Secretary

Conferees

None

Others Attending

See attached sheet

The Chairman called the meeting to order at 4:05 p.m. and announced an agenda for the day: to review the operative reference in the Kansas Constitution, relevant statutes, House rules, and other pertinent information.

Mary Torrence, Revisor of Statutes, stated that one short sentence in the Kansas Constitution deals with complaints or charges against members: "Each house shall provide for the expulsion or censure of members in appropriate cases" (Article 2, Section 8, Attachment 1). She commented that the rules of the House of Representatives (Article 49) allow any member to lodge a written complaint against another member, requesting that the member be reprimanded, censured, or expelled for any misconduct (4901). An appointed six-member committee may, after inquiry,

dismiss the complaint or make recommendations to the House of Representatives to take appropriate action (Attachment 2). The committee is authorized to carry out the inquiry, including the exercise of compulsory processes, under K.S.A. 46-1001 *ff*.

Ms. Torrence, answering questions, replied that the terms *reprimand and censure* were not defined in statute, nor is the term *expulsion* clear in reference to the Speaker of the House. She responded that, except for a vague reference to a complaint in 1951 (dismissed as hearsay), the House has no precedents to act as guidelines. A member noted that the term *misconduct* was not defined; he drew an inference that the term means “appearance of impropriety.” Ms. Torrence observed that the United States House of Representatives lists certain types of offenses; expulsion occurs only when a crime has been committed (Attachment 3).

Norm Furse, Revisor Emeritus, reviewed statutes pertaining to the Committee’s charge, commenting that K.S.A. 46-1001 *ff*. (passed in 1970) authorizes procedures by which legislative inquiries are governed (Attachment 4). He noted various aspects of the statutes, observing, among other things:

- that meetings are governed by the Open Meetings Act, but executive sessions are allowed under the investigative committee statutes;
- that an agreed-upon scope of inquiry is recommended but not required;
- that subpoena power is optional; and
- that witnesses may receive advice from counsel.

Responding to a question, Mr. Furse said the Committee may adopt rules.

The Chair announced that at the next meeting a motion to dismiss the complaint will be considered. If there is no motion to dismiss, he will present a few rules for the Committee, and he requested that members forego any communication with the principals regarding the complaint. He asked members to review the material presented, and he adjourned the meeting at 5:18 p.m. The next meeting is scheduled for 1:30 p.m. on March 17 in Room 159-S.

Prepared by Gary Deeter

Approved by the Committee on:

March 30, 2010