

Approved: March 8, 2006

Date

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman John Edmonds at 1:30 P.M. on February 20, 2006 in Room 313-S of the Capitol.

All members were present except:

Representative Ray Merrick- excused

Committee staff present:

Dennis Hodgins, Kansas Legislative Research Department

Mary Torrence, Revisor of Statutes Office

Carol Doel, Committee Secretary

Conferees:

Representative Arlen Siegfroid

Jim Clark, Legislative Counsel , Kansas Bar Association

Bob Bjerg, Kansas Families United for Public Education

Donna Whiteman, Assistant Executive Director/Legal Services Kansas Association of School Boards

Others attending:

See attached list.

Chairman Edmonds opened the floor for bill introductions and recognized Representative Tim Owens who requested a conceptual bill that all federal holidays be observed by State employees as well as the Legislature.

With no objections, this was accepted for introduction.

Representative Kinzer requested a bill related to reckless driving.

With no objections, this was accepted for introduction.

With no other bill introductions, the Chair opened the meeting for public hearing on **HCR 5026** - Kansas constitutional amendment preventing the courts from closing public schools.

Representative Siegfroid addressed the committee in support of **HCR 5026**. The Representative stated that this is an exact duplicate of a constitutional amendment that he carried on General Orders during the 2005 Special Legislative Session. This stated "*No court shall order any remedy for a violation of any provision of this article that shall cause the closure, or prevent the operation, of public schools.* It prevents any court from closing public schools as a remedy for a violation of Section 1 of Article 6 of the Kansas Constitution. It was his feeling that this would cause statewide chaos. He further stated that it would be irresponsible for us to leave them exposed to the risk of closure when we have within our power the ability to guarantee it cannot happen by letting the citizens of Kansas vote to change the constitution. (Attachment 1)

Jim Clark, Legislative Counsel Kansas Bar Association, delivered testimony opposing **HCR 5026**. Their testimony related that this resolution is an understandable and logical reaction to the *Montoy* decision, and it may result in unintended consequences that in the end only harm Kansas Children. (Attachment 2)

On behalf of Kansas Families United for Public Education (KFUPE) Robert Bjerg testified in opposition to **HCR 5026**. It is their opinion that if this resolution was passed, it would dramatically alter the checks and balances that are essential in our three branches of government. Without the traditional ability to order that an unconstitutional act cease, the courts would be potentially left without any effective remedy to enforce its decisions. They related that the only potential remedy that would remain for the Courts to exercise would be far more drastic: a contempt of court order. They strongly urged the Committee to reject the resolution. (Attachment 3)

Donna Whiteman, Assistant Executive Director/Legal Services, Kansas Association of School Boards, testified that they also opposed **HCR 5026**. Ms. Whiteman related their opinions regarding this resolution which included:

CONTINUATION SHEET

MINUTES OF THE House Federal and State Affairs Committee at 1:30 P.M. on February 20, 2006 in Room 313-S of the Capitol.

- Changes to our state constitution should be carefully considered and analyzed to ensure the proposed changes do not create more problems than the problem meant to be addressed.
- The language in this resolution has the potential to upset the separation and delicate balance of powers established in our state constitution.
- The Kansas Legislature should not attempt to place itself and its acts above or outside of scrutiny by the courts or any other body.
- The cost to pay for this special election could be spent to address the Supreme Court's concerns in the finance ruling.

Ms. Whiteman further stated that if this amendment was passed, the Supreme Court may have to resort to more serious and direct orders addressed to the schools or state agencies. (Attachment 4)

With no other person wishing to address **HCR 5026**, Chairman Edmonds closed the public hearing.

There being no further business before the committee, the Chair adjourned the meeting.