

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman William Mason at 1:30 p.m. on January 29, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Daniel Williams- excused
Representative Todd Novascone- excused

Committee staff present:

Russell Mills, Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Dennis Hodgins, Legislative Research Department
Rose Marie Glatt, Secretary

Conferees appearing before the committee:

Senator Lana Oleen - State/Tribal Relations Committee (written testimony)
Ron Hein - Motion Picture Assn. of America & Prairie Band Potawatomi Nation
Ilse Smith, Legal Counsel, Kickapoo Tribe in Kansas
Brad Hamilton, Third District Commissioner, Jackson County Commission
Terry Scott, Chief of Police, Potawatomi Tribal Police
Sherif Bruce Tomlinson, Jackson County
Sheriff Lamar Shoemaker, Brown County

Others attending:

See Attached List.

The Chairman called for introduction of bills

Without objection, a bill was introduced as requested by Ron Hein, Motion Picture Association of America, to prohibit the use of camcorders in movie theaters.

Representative Rehorn moved that the January 20 & 22 minutes, with minor revisions, be approved. It was seconded by Representative Cox. The motion carried.

House Substitute for SB 9 - Native American tribal law enforcement officers; jurisdiction.

PROPOSERS:

The Chairman called attention to written testimony from Senator Lana Oleen that had been distributed. (Attachment 1). On behalf of the Joint Committee on State Tribal Affairs she urged the Committee to consider favorably **H Sub 9**, a law which would enhance public safety, as well as the safety of law enforcement officers.

Ilse Smith, introduced representatives of the Kickapoo Tribe in attendance: Police Chief Tom Conklin and Vice-Chair of the Kickapoo Tribal Council, Emily Conklin. She presented six benefits of authorizing Tribal officers to arrest non-Indians on the reservation (Attachment 2). In response to a question regarding oaths taken by officers, Chief Conklin stated that Tribal Officers take an oath to uphold the laws of Kansas, the Constitution and the Tribal Constitution. Currently there are three tribal officers that have had experience with other branches of law enforcement in the state.

Russell Mills, Legislative Research Department briefed the Committee on the history and activities of the Joint Committee on State-Tribal Relations. The bill before them has been recommended for the past four years, passed the Senate on three occasions, however has never been successful in the House.

Ron Hein, Legislative Counsel for the Prairie Band Potawatomi Nation, provided history of the legislation (Attachment 3). He stated that during the past four-five years, the Tribes and other proponents of the bill had responded to questions and objections raised by concerned parties, and those objections had been addressed and language presented which met those objections.

He offered draft amendments to address concerns raised by opponents of the bill:

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- Double Prosecution and Land in Trust language. There was consensus that no amendments are needed regarding those issues.
- The Prairie Band Potawatomi Nation will support the definition of “reservation” proposed by Representative Hutchins.
- Indemnity protection for the county in the event of potential liability for the actions of Tribal law enforcement officers was addressed through an amendment.

The Tribe remained opposed to the three-year sunset clause, which they believed was inappropriate on legislation of this type.

Brad Hamilton, Third District Commissioner, Jackson County Commission, appeared in support of **H Sub 9**. He urged the addition of the three-year sunset provision, that would allow for evaluation of implementation of the statute (Attachment 4).

T. J. Scott, Chief of Police, Potawatomi Tribal Police, stated that the legitimate issues in the bill have been addressed and solutions have been forthcoming (Attachment 5). Passage of **H Sub 9** would provide additional trained law enforcement officers and all the citizens of Kansas would be better served as a result.

Sherif Bruce Tomlinson, Jackson County, rose in support of the three-year sunset clause in the legislation (no written testimony).

OPPONENTS:

Representative Hutchins acknowledged Lois Pelton, a Jackson County Commissioner in the audience. She spoke of a series of meetings in Jackson and Brown counties, attended by the law enforcement community and county officials, at which the following four questions and issues were raised (Attachment 6).

- Are traffic violations criminal or civil? She referred to an October 6, 2003 newspaper article, that was included in her testimony.
- Could the state or county taxpayers incur the additional cost for a claim imposed by a federal court, if a claim were awarded above the proposed cap in a liability suit against the action of tribal law enforcement officers?
- A concern was voiced that the definition of “reservation” could be better defined.
- It was suggested that a three-year sunset provision be added, allowing Brown and Jackson Counties time to study the impact H Sub 9 would have on their court systems and jails.

Discussion followed regarding the pros and cons of the three-year sunset provision and the benefit of the legislation to law enforcement officers.

Sheriff Lamar Shoemaker, Brown County spoke of the cooperation between enforcement agencies, however voiced his concern over the additional costs that might be incurred by the county. In response to a question he stated that he supported the basic concept of the bill, although he had not seen the latest version.

The Chairman closed the hearing on **House Substitute for SB 9**, and acknowledged the significant effort made in the last eight months by all parties to reach an agreement on the issues. He urged the parties to continue to work toward consensus.

The meeting adjourned at 3:05 p.m. The next meeting has not been scheduled.

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