

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on March 2, 2005 in Room 313-S of the Capitol.

All members were present except:

Dean Newton- excused
Michael Peterson- excused
Mike Kiegerl- excused
Ward Loyd- excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Randy Hearrell, Kansas Judicial Council
Doug Smith, Kansas Credit Attorney's Association
Kathy Porter, Office of Judicial Administration
Judge Meryl Wilson, District Court Judge, Manhattan
Judge Richard Smith, Kansas District Judges Association
Elias Garcia, Kansas Hispanic & Latino American Affairs Commission
Ralph Mondonedo, Consumer Protection Division, Office of Attorney General
Melinda Lewis, El Centro

The hearing on **SB 50 - changing references to the Soldiers and Sailors Civil Relief Act to the Service members Civil Relief Act**, was opened.

Randy Hearrell, Kansas Judicial Council, commented that the proposed bill would update the citations to reflect the new name of the federal law Servicemembers Civil Relief Act. (Attachment 1)

The hearing on **SB 50** was closed.

The hearing on **HB 2499 - Establishing the judicial branch surcharge fund, imposing certain surcharges**, was opened.

Chairman O'Neal announced that no proponents were appearing on the bill which was suggested by the Appropriations Committee.

Doug Smith, Kansas Credit Attorney's Association, appeared as an opponent of the bill. The emergency surcharge has not increased the value or improved access to the courts. While the surcharge has been successful to operate the courts, there is still a continual lack of sufficient funding. The bill simply represents a shift away from funding the courts with state general fund monies. He suggested that instead of making the surcharge mandatory the legislature look at reallocating the way in which current docket fees are divided under K.S.A. 20-367. (Attachment 2)

Kathy Porter, Office of Judicial Administration, appeared in opposition to the bill. She explained that budget deficits since FY 2001 has caused the need for the emergency surcharge, and while the Court does not oppose the emergency surcharge in times of budget crunches, they do not want to make it permanent. They believe that they should be funded out of the State General Fund. (Attachment 3)

Chairman O'Neal asked what the court see for the future docket fee situation. He see the docket fees either controlled totally by the courts or totally by the legislature. He asked Ms. Porter to provide information from the court as to what the future holds and where they want to be with regarding to long term solution for funding the Judiciary beside the State General Fund.

CONTINUATION SHEET

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Judge Meryl Wilson, District Court Judge, Manhattan, expressed interest in **HB 2491** which provides judicial compensation. Judicial salaries are relatively low when compared to other states courts, attorneys in private practice and even professors at law schools. (Attachment 4)

Judge Richard Smith, Kansas District Judges Association, commented that other states do not use docket fees to pay judicial salaries. He was more worried about competing salaries with the private sector than with what other states are paying their judges. (Attachment 5)

The hearing on **HB 2499** was closed.

The hearing on **HB 2485 - prohibited acts by notaries public related to services offered to non-English speaking persons**, was opened.

Elias Garcia, Kansas Hispanic & Latino American Affairs Commission, has been hearing from Kansans about predatory practices towards the Latino immigrant community. In Mexico a Notario Public is able to practice law but in the U.S. a Notary Public simply certifies signatures. Some are holding themselves out as being able to practice law and taking money from those seeking help with their immigration paperwork. (Attachment 6)

Chairman O'Neal questioned why charges are not brought under the "unauthorized practice of law" statute. Ralph Mondonedo, Consumer Protection Division, Office of Attorney General, responded that it's been hard to find the ones committing the crimes because so few cases are actually reported. (Attachment 7)

Representative Owens suggested that the proposed bill should include a penalty that the Notary would lose their certificate.

Melinda Lewis, El Centro, commented that many states are looking at or have taken action on similar legislation. (Attachment 8)

The hearing on **HB 2485** was closed.

The committee meeting adjourned at 5:15 p.m. The next meeting was scheduled for March 3, 2005 at 3:30 p.m. in room 313-S.