

MINUTES OF THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Doug Mays at 1:45 p.m. on March 15, 2001 in Room 313-S of the Capitol.

All members were present.

Committee staff present: Russell Mills, Legislative Research Department
Shelia Pearman, Committee Secretary

Conferees appearing before the committee:

Representative Becky Hutchins
Ron Hein, Indian Nations in Kansas
Chief Greg Chuckluck, Kickapoo Police
Chief James J. Battese, Potawatomi Tribal Police
Officer Terry Scott, Prairie Band Tribal Police
Natalie Haag, Chief Legal Counsel and Director of Governmental Affairs

Others attending: See attached list

The Chairman opened the hearing on SB 74 - Native American tribal law enforcement officers; powers, duties and immunities.

Mr. Hein emphasized tribal officers received same training as all other officers in state. (Attachment #1) Existing K.S.A. 22-2407 permits a law enforcement officer to command the assistance of any individual when making an arrest, but not to investigate, transfer prisoners, or otherwise execute law enforcement powers with regards to state and local statutes and ordinances. **SB 74** would authorize tribal law enforcement officers to act with full powers and immunities when requested by other units of government. Presently, if an officer is off reservation, the duties, powers and immunities become questionable.

Mr. Hein stated **SB 74** is a permissive statutes not mandatory. He offered an amendment (Attachment #2) which would strengthen relationship between tribes and city, county and state governments. This is one more step to do what other states are doing to have improved intergovernmental cooperation between the Indian Tribes in Kansas and other units of government in Kansas.

Chief Chuckluck noted that Federal law requires tribal police officers to complete the same Kansas Law Enforcement Training Center course as all other certified law enforcement officers in the state. (Attachment #3) He requests acceptance of certification in Kansas as other states such as Oklahoma. He stated the liability issue is already addressed inasmuch as tribal law enforcement officers can be sued as provided by the Federal Torts Claims Act.

Chief Battese cited the Tribal-State Gaming Compact's Section 5 (A)(G) requirement of training as all other Kansas law enforcement officers. He stated the cross-deputization agreements which are addressed by Section 15 resulted in **SB 74**. (Attachment #4)

Officer Scott noted the Prairie Band Potawatomi Police Department is three years old. He discussed his 35 years of service in various positions with the Kansas Highway Patrol as well as the additional retired officers from similar agencies which are employed by the Tribal law agencies. (Attachment #5) However, animosity exists between the Jackson County Sheriff's office and the his department. His officers have authority on the reservations to perform law enforcement and investigate crimes. However, they cannot arrests non-Indians on reservation. Additionally, this legislation would clarify the tribal officers' handling in regards to liabilities of accidents in the area. He cited the National Sheriff Association's Resolution support of development and implementation of cross-deputization with tribal police. Should this legislation not be passed, his department will discontinue to go beyond the boundaries of the reservation in their duties of law enforcement.

Representative Hutchins emphasized that an increased ease for tribes to obtain non-reservation land and take it off the tax rolls by having it put in trust by the U.S. secretary of the interior is an additional

concern of her district. (Attachment #6)

Sheriff Durham's submitted testimony (Attachment #7) addresses the coverage of tribal law provided by the U.S. District Courts. She cites the Attorney General Opinions "unless deputized or otherwise employed by the county in which the reservation is located, or some other appropriate state law enforcement authority, tribal law enforcement officers are not authorized to enforce state laws within the boundaries of the reservation even upon receiving certification from the Kansas law enforcement training commission."

Additional written testimony in opposition of the bill was submitted by Brown County Sheriff Lamar Shoemaker. (Attachment # 8)

Ms. Haag addressed questions from the Committee regarding the Tribal Gaming Compact, conscientious objection and the waiving of sovereign immunity for tribal officers.

The hearing on SB 74 was closed.

Representative Ruff moved to amend SB 180 by replacing the language from HB 2558 regarding protection of shooting ranges. Representative Barnes seconded the motion. The motion passed.

Representative Wilson moved that Committee recommend SB 180 favorable for passage as amended. Representative Gilbert seconded the motion. The motion passed.

The Chairman requested attention to **HB 2517 - Abortion; woman's-right-to-know act; disclosure of increased cancer risks.**

Representative Cook distributed an amendment to **HB 2517** (Attachment #9) as well as a list Ms. Ostrowski discussed during the hearing of March 13 (Attachment #10) which might clarify committee members questions regarding the various studies cited in that testimony.

Representative Cook moved to adopt amended **HB 2517**. Representative Powell seconded the motion. The motion passed.

Representative Benlon informed the committee of her oncologist's opinion that the only known variable to the increased risk of breast cancer which has risk attached is never having been pregnant. She declared her opposition of this bill and emphasized the notice which already exists in the *If You Are Pregnant* pamphlet (page 17 of Attachment #5, March 13, 2001) in compliance with the Woman's Right-to-Know Act, K.S.A. 65-6708:

***Cancer of the breast:** Several studies have found no overall increase in risk of developing breast cancer after an induced abortion, while several studies do show an increased risk. There seems to be consensus that this issue needs further study. Women who have a strong family history of breast cancer or who have clinical findings of breast disease should seek medical advice from their physician irrespective of their decision to become pregnant or have an abortion.*

Representative Cook moved that Committee recommend **HB 2517** favorable for passage as amended. Representative McLeland seconded the motion. The motion failed 9-11 on requested division.

The committee meeting adjourned at 3:20 p.m. The next scheduled meeting is March 19, 2001.