

MINUTES OF THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Doug Mays at 4:10 p.m. on April 4, 2001 in Room 519-S of the Capitol.

All members were present except: Representative Joe McLeland, Excused
Representative Judy Morrison, Excused
Representative Daniel Williams, Excused

Committee staff present: Theresa M. Kiernan, Revisor of Statutes
Russell Mills, Legislative Research Department
Shelia Pearman, Committee Secretary

Conferees appearing before the committee:
Ron Hein, Indian Nations in Kansas
Trista Beadles, Assistant Legal Counsel for Governor Graves

Others attending: See attached list

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

Chairman Mays reminded the committee that Governor Graves is neutral on this bill. Mr. Hein submitted an amendment (Attachment #1) and stated that he has been working with Natalie Haag on amendments for this legislation. He drafted the present version and submitted to Ms. Haag yesterday which she wanted to have the Attorney General review. A memo from Ms. Haag (Attachment #2) noted the amendments do not address the issue of sovereign immunity but may address the liability issue via insurance.

He stated the amendment includes language as requested to clarify this is regarding "direct request for assistance." He stated subsection (e) was designed to limit the scope of the powers of the Tribal law enforcement officials and does not believe this bill has any correlation to "land-in-trust." He stated the waiver of immunity is encompassed in subsection (b) and subsection (c) which is virtually identical to the immunity in the Indian Gaming Compacts. He reiterated the tribal officers are required to have the same training as all other law enforcement officers except the continuing education requirements but under tribal law are required, therefore subsection (d) addresses this concern.

He stated the "land-in-trust" issue is addressed by recent federal regulations and this bill will not impact "land-in-trust" petitions in any way. He noted this bill does not address cross-deputization which could be considered an issue in "land-in-trust" requests. The intent of this bill is not to permit any increase of "land-in-trust." He urged the committee to adopt the amendments and this legislation. He acknowledged there is currently an appeal.

Representative Hutchins cited written testimony from Edward S. Dunn, Jackson County Attorney (Attachment #3), John Grau, Jackson County Commissioner, (Attachment #4) and Lois Pelton, Jackson County Commissioner (Attachment #5) distributed to the committee which have briefly reviewed the suggested amendment. Representative Hutchins stated the amendment did not adequately address liability concerns of Jackson County. She also referenced the map which shows tribes who have purchased land in Kansas and explained this bill has potential to affect areas other than Brown and Jackson counties. (Attachment #6)

Representative Barnes moved to adopt Mr. Hein's amendment. Representative Ruff seconded the motion.

Representative Hutchins offered a substitute motion that Committee table the bill. Representative Freeborn seconded the motion. The motion failed 5-12 on requested division.

Representative Rehorn clarified this is permissive legislation and that the counties do not have to request assistance from tribal officers.

Representative Barnes amended the motion to include the new language (below). Representative Ruff seconded the motion. The motion passed.

Strike last sentence in (c) and the tribe shall waive its sovereign immunity solely to the extent necessary to permit recovery under the liability insurance not to exceed the policy limits. Also in every instance where "law enforcement officer" appears, add "or agency." Also, a direct request is made to a tribal officer and/or agency.

Ms. Beadles stated tribal law enforcement officers are currently listening to the same radio waves as officers of county law enforcement officers and respond to the calls despite it not being a direct request for assistance to the tribal law officials. She reiterated this relates to the liability concerns. She also noted there are currently fifty "land-in-trust" transactions pending in the following counties: Bourbon, Brown, Cherokee, Doniphan, Douglas, Franklin, Jackson, Johnson, Miami, Neosho, Sedgwick, and Wyandotte. She contends that if this legislation passes, tribes will attempt to take land off the tax rolls by providing the claim of law enforcement services on and near the reservation as authorized by this state law.

Representative Powell moved that Committee recommend SB 74 favorable for passage as amended. Representative Barnes seconded the motion. The motion passed.

Further discussion included the Miami County "land-in-trust" situation discussed during the interim session of a court decision which is currently being appealed. The following requested to be recorded as voting No citing the concern of "land-in-trust" issues: Representative Becky Hutchins, Representative Mary Cook, Representative John Edmonds, Representative John Faber, Representative Joann Freeborn, and Representative Ruby Gilbert.

The hearing on SB 74 was closed.

Chairman Mays opened the hearing on SCR 1611- Expressing opposition to amendments to IGRA; concerning Governor's approval of land acquisitions.

Mr. Hein appeared in support of this resolution which conveys State displeasure with legislation pending before Congress which would preempt the rights of the governor regarding "land-in-trust" to be used for casino purposes. He has worked with the governor's office on behalf of the tribes which many have already passed resolutions similar to this legislation. The Senate committee adopted the balloon amendments recommended by Mr. Hein and his clients.

Written testimony in support of **SCR 1611** was submitted by Glenn Thompson, Stand Up for Kansas. (Attachment #7) The hearing on SCR 1611 was closed.

Representative Wilson moved to accept Revisor's technical amendments on SCR 1611 on page 2 line 8 change "opposed the proposed" to "oppose to the proposed." Representative Mason seconded the motion. The motion passed.

The following requested to be recorded as voting no citing support of Congressman Dennis Moore's efforts for his district: Representative Rick Rehorn, Representative Tom Burroughs, Representative Ray Cox, Representative Ruby Gilbert, Representative Broderick Henderson, and Representative L. Candy Ruff.

Representative Powell moved to adopt SCR 1611 as amended. Representative Hutchins seconded the motion. The motion passed.

Representative Wilson moved to approve the minutes of February 8, February 19, March 5, March 6, March 7, March 8, March 12, March 13, March 14, March 15, March 19 and March 20. Representative Mason seconded the motion. The motion passed.

The committee meeting adjourned at 5:05 p.m. No additional meetings are scheduled.

Representative Hutchins requested the April 6 letter (Attachment #8) from Jeffery Bottenberg, Kansas Sheriffs Association Attorney be added to the minutes.