

## 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 March 16, 2004 in Room 313-S of the Capitol.

All members were present except:

- Representative Ray Cox- excused
- Representative Rick Rehorn- 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:

- Thomas A. Nunemaker, Asst. Special Agent in Charge, FBI, Kansas City Division
- Kyle G. Smith, Asst. Attorney General, Kansas Bureau of Investigation
- Ed Klumpp, Kansas Association of Chiefs of Police
- Lieutenant Colonel Terry Maple, Kansas Highway Patrol

Others attending:

See Attached List

### **HB 2784 - Allowing federal law enforcement officers arrest powers in certain situations; deemed to be within the scope of their employment**

Ms. Torrence, Revisor of Statutes Office, explained that the bill has been requested by the FBI and is patterned after Missouri statutes. It provides that a federal law enforcement officer could arrest a person in the state without a warrant. It specifies the circumstances in which it would apply.

Thomas A. Nunemaker, Asst. Special Agent in Charge, FBI, Kansas City Division appeared in support of **HB 2784** (Attachment 1). In the aftermath of September 11, 2001, and in the heightened security climate, their agents are being contacted on an increasing basis by Kansas Citizens and law enforcement officers to respond to a myriad of suspicious activities. The cooperation between local, state and federal law enforcement has never been as extensive as it is today.

**HB 2784** would afford federal agents the authority to act as state law enforcement officers in very narrowly defined situations, which are:

1. When in the agent's presence, another individual asserts physical force or uses forcible compulsion which is likely to cause death or great bodily harm to another;
2. When in the agent's presence, an inherently dangerous felony is being committed;
3. When the agent is providing assistance at the request of a Kansas law enforcement officer; and
4. When the agent is providing assistance as part of an established task force in which Kansas law enforcement officers are participating.

The bill would benefit Kansas and would ensure that their agents are protected from potential civil liability. The bill does not confer general peace officer status to federal law enforcement agents.

He requested t

he following amendment: line 32 would be amended to include the phrase "*and assigned to the Federal Bureau of Investigation*" immediately following the words "*the United States government,*" so that definition of "*Federal law enforcement officer*" would mean a person employed by the United States government and assigned to the Federal Bureau of Investigation who is empowered to effect an arrest with or without a warrant for violation of the United States code and who is authorized to carry a firearm in the performance of person's official duties as a federal law enforcement officer.

Discussions followed regarding: rationale behind limiting this to FBI special agents only, national priority of all law enforcement agencies is prevention of crimes, hierarchy of power in law enforcement agencies

## CONTINUATION SHEET

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and potential liability issues for agents and agencies. In response to a question regarding the rationale for limiting the scope of the bill to certain FBI agents, he stated that they had failed to get similar bills passed that had included all law enforcement agencies. They believed that if passed, this bill would give everyone an opportunity to monitor results, and in time it would be expanded to all major law enforcement agencies.

Kyle G. Smith, Asst. Attorney General, Kansas Bureau of Investigation, stressed that the need for cooperation between law enforcement agencies has never been greater, especially due to the limited numbers of law enforcement officers in Kansas (Attachment 2). Throughout the nation Kansas has become a model of cooperation between the federal, state and local law enforcement agencies. He cited an incidence where a criminal, arrested by a federal agent, was set free, because the agent did not have arrest authority for state violations in Kansas.

The advantage of HB 2784 is that it clarifies that federal officers assisting in such state cases are deemed to be acting within the scope of their employment for workers compensation and civil liability purposes.

Discussion followed regarding potential liability issues, interpretation and definitions of **HB 2784**.

Ed Klumpp, on behalf of the Kansas Association of Chiefs of Police, rose in support of the bill (Attachment 3). The bill provides federal law enforcement agents while in Kansas, the same protection and authority as other law enforcement officers. It is vital that local, state and federal law enforcement officers work closely together if they are to maximize their efficiencies and abilities to protect citizens.

In response to a question regarding Mr. Nunemaker's amendment, he responded that *some is better than nothing*, however the Association believed the bill should be extended to cover all law enforcement agencies.

Lieutenant Colonel Terry Maple, on behalf of Colonel William Seck and the Kansas Highway Patrol, recommended giving **HB 2784** a favorable report (Attachment 4). He stated that the bill would clarify jurisdiction concerns, enhance Kansas and national security, and help ensure officer safety.

The Chairman closed the hearing on **HB 2784**. The meeting was adjourned at 3:05 p.m. The next meeting is March 17, 2004.