

Journal of the Senate

FIFTEENTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Monday, January 29, 2001—2:30 p.m.

The Senate was called to order by President Dave Kerr.
The roll was called with thirty-nine senators present.
Senator Jackson was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Not everyone in Kansas
Is a native of our state.
I came from Alabama
In nineteen fifty-eight.

When couples are adopting
Little girls and boys,
Later they sometimes tell them,
“You’re our child by choice.”

That’s what I feel for Kansas, Lord,
Though I’m not a native son.
Of all the fifty states,
This is my chosen one.

On Kansas Day I thank You, Lord,
For the things about our state
Which I continue to enjoy
And which make our Kansas great.
While Texas boasts it is the West,
Nothing can be seen
To match the western flavor of
Dodge City and Abilene.

And for spectacular beauty
You ain’t seen nothing yet
Until you’ve watched in wonder
As the sun in Kansas sets.

The first time I saw Flint Hills
I knew that I was hooked.
If heaven has a golf course,
This must be how it looks!

We praise You for Your handiwork
From Galena to St. Francis;
From Liberal to Leavenworth,
Happy Birthday, Kansas!!

I pray in the Name of our Creator,
AMEN

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 146. An act concerning the job investment credit act; expanding eligibility for sales tax exemptions thereunder; amending K.S.A. 2000 Supp. 74-50,115 and repealing the existing section, by Senators Schmidt, Barnett, Brungardt, Clark, Corbin, Emler, Huelskamp, Jackson, Lee, Morris, Salmans, Taddiken, Teichman, Tyson and Umbarger.

SB 147. An act concerning wildlife and parks; relating to certain fees; amending K.S.A. 32-988 and 32-1172 and repealing the existing sections, by Committee on Ways and Means.

SB 148. An act concerning fishing licenses; amending K.S.A. 32-906 and 32-988 and repealing the existing sections, by Committee on Ways and Means.

SB 149. An act enacting the addictions counselor licensure act; amending K.S.A. 2000 Supp. 74-7507 and repealing the existing section; also repealing K.S.A. 65-6601 through 65-6606, by Committee on Public Health and Welfare.

SB 150. An act concerning health care; establishing a spinal cord injury research fund and advisory committee; amending K.S.A. 28-172a and K.S.A. 2000 Supp. 12-4117 and 20-367 and repealing the existing sections, by Committee on Public Health and Welfare.

SB 151. An act concerning the state employees benefit program; relating to children of participants; relating to the payment of certain costs, by Committee on Financial Institutions and Insurance.

SB 152. An act concerning alcoholic beverages; relating to the regulation thereof; amending K.S.A. 21-3610, 41-204, 41-311 and 41-2703 and repealing the existing sections; also repealing K.S.A. 21-3610a, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Assessment and Taxation: **SB 138.**

Education: **SB 145.**

Financial Institutions & Insurance: **SB 142, SB 143.**

Judiciary: **SB 136, SB 137, SB 139, SB 141.**

Utilities: **SB 144; SR 1808.**

Ways and Means: **SB 135, SB 140.**

REPORTS OF SELECT COMMITTEES

Report of the Joint Committee on State-Tribal Relations to the 2001 Kansas Legislature

CHAIRPERSON: Representative Tony Powell

VICE-CHAIRPERSON: Senator Lana Oleen

OTHER MEMBERS: Senators Don Biggs, Mark Gilstrap, Audrey Langworthy, and John Vratil; Representatives Tom Klein, Mike O'Neal, Susan Wagle, and Galen Weiland

NONLEGISLATIVE MEMBERS: Governor's Representative-Natalie Haag; Attorney General's Representative-Julene Miller

December 2000

JOINT COMMITTEE ON STATE-TRIBAL RELATIONS

CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee notes the following issues of concern regarding relations with tribal entities at both the state and federal levels. The Joint Committee:

- Encourages the continuing litigation against the Wyandotte of Oklahoma and will support the posting of an appeal bond of up to \$5 million if the state is ordered to do so by the court.
- Supports the Connecticut Attorney General in his request of the U.S. Department of the Interior to impose a moratorium on federal tribal recognition decisions until the decision-making process can be reviewed by a national commission.

- Requests the Department of Revenue to discuss tax compacts with the four resident tribes and present any such compact to the Joint Committee for approval.
- Joins the Governor in opposing any federal legislation to streamline the federal recognition of tribes unless there is substantial input from the states.
- Joins the Governor in opposing the Department of the Interior's proposed rules and regulations regarding land-to-trust requests by tribes due to the inequitable application of these proposed regulations to states and the loss of tax revenue to states and counties. Additionally, the Committee encourages the Kansas Congressional delegation to support a payment in lieu of taxes for those counties losing tax revenue from lands placed in trust for a tribe.
- Encourages Jackson County officials and Prairie Band Potawatomi officials to continue discussions with the U.S. Attorney's office regarding a potential resolution of the law enforcement issues.
- Requests that the Kansas Congressional delegation oppose the Wyandotte of Oklahoma's proposed federal legislation granting this non-resident tribe rights to purchase land for gaming purposes in the State of Kansas.
- Encourages the U.S. Attorney to take all possible steps to prohibit the Wyandotte of Oklahoma or other tribes from engaging in gaming without a compact.
- Requests that the Senate Ways and Means Committee and the House Appropriations Committee consider the addition of funding for an attorney within the Governor's office to specialize in the practice of Indian law.
- Encourages the Kansas Congressional delegation to introduce federal legislation to define the term "reservation" as used in the Indian Gaming Regulatory Act.

Proposed Legislation: The Joint Committee believes that the issues addressed by 2000 SB 543 and 2000 HB 2926 continue to be relevant and recommends that the following versions of the legislation be re-introduced in the upcoming session SB 543 as amended by Senate Committee and HB 2926 as introduced.

The Joint Committee also recommends the introduction of legislation amending the statute governing the Joint Committee to provide that: the Governor (or designee) and the Attorney General (or designee) would be voting members except for approval or disapproval of compacts; the Governor (or designee) would serve as temporary chair and call an organizational meeting of the Joint Committee at the start of each legislative session; and the Joint Committee would be able to make recommendations on issues of state and tribal relations.

BACKGROUND

The Joint Committee on State-Tribal Relations was created through the enactment of 1999 HB 2065. The responsibilities and organization of the Joint Committee are summarized below.

- The Joint Committee is authorized by statute to:
 - Establish and transmit to the Governor proposed guidelines reflecting the public policies and state interests that the Joint Committee will consider in reviewing proposed compacts;
 - Recommend to the Governor that any gaming compact provide for the imposition and collection of state sales and excise taxes on sales of nongaming goods and services to persons other than tribal members and imposition and collection of state income tax on revenues derived from sales of nongaming goods and services;
 - Hold public hearings on proposed gaming compacts submitted to the Joint Committee by the Governor;
 - Recommend modification of proposed gaming compacts submitted by the Governor and introduce resolutions approving proposed gaming compacts and recommend that such resolutions be adopted or be not adopted, or report such resolutions without recommendation, and notify the Governor, in writing, of the Joint Committee's action;
 - Meet, discuss, and hold hearings on issues concerning state and tribal relations; and
 - Introduce such legislation as deemed necessary in performing its functions.
- Six members of the Committee constitute a quorum. However, actions of the Committee regarding approval of state-tribal gaming compacts require the affirmative vote of at

least eight members—at least four senators and four representatives. The Committee could report a compact without recommendation on the affirmative vote of any five legislative members.

- Annually, the Committee will elect its chair and vice chair. The chair will alternate between the House (even years) and Senate (odd years).
- The Committee is authorized to appoint subcommittees and members may be paid and reimbursed for travel and subsistence for attendance at subcommittee or full Committee meetings.

During the 2000 Legislative Session, several bills pertaining to state-tribal relations were introduced. Sub. for SB 492 would have authorized the issuance of distinctive license plates to enrolled members of the resident tribes. SB 543 (as amended by Senate Committee) would have provided tribal law enforcement officers and agencies with the same powers, duties, and immunities held by state, county, or city law enforcement officers and agencies. HB 2926 would have established procedures for state-tribal agreements other than gaming compacts. SB 607 would have amended existing law regarding interlocal agreements to allow local units of government to enter into agreements with resident tribes. SB 608 would have amended the Liquor Control Act to allow Class B clubs located in Indian gaming casinos to offer temporary memberships without any waiting period or statutory membership fee. Finally, HB 2845 would have established the Kansas Indian Advisory Commission as an advisory body to the Governor. None of the bills were enacted.

COMMITTEE ACTIVITIES

The Joint Committee met for four days during the 2000 Interim: three days in Topeka and one in Kansas City. The Joint Committee received input on all issues from the four resident Kansas tribes: the Prairie Band Potawatomi Nation of Kansas, the Kickapoo Tribe, the Sac and Fox Nation of Missouri in Kansas and Nebraska, and the Iowa Tribe of Kansas and Nebraska.

The Joint Committee heard a great deal of testimony during the interim concerning the proposed Kansas City casino of the Wyandotte Tribe of Oklahoma. In addition to touring the site and speaking with the tribe's chief and attorneys, the Joint Committee received information concerning historical preservation requirements for the site and pending litigation regarding the tribe's right to conduct gaming in the state.

The drought conditions experienced by Northeast Kansas and especially the Kickapoo Tribe were reviewed at length. Possible solutions to the problem, such as the General Watershed Plan for the Upper Delaware and Tributaries Watershed and the Pikitanoi Rural Water System Project, were also discussed. The Joint Committee sent a letter to the Kansas Congressional Delegation encouraging support for federal assistance and the funding of the General Watershed Plan for the Upper Delaware and Tributaries Watershed.

The Joint Committee also heard testimony concerning the decision by the U.S. Department of Labor's Division of Indian and Native American Programs to transfer the administration of a portion of the Workforce Investment Act Program from the United Tribes of Kansas and Southeast Nebraska, Inc. (comprised of resident tribes), to the Wyandotte Tribe of Oklahoma. The Joint Committee sent a letter to the Kansas Congressional Delegation requesting a review of the decision and a determination of the impact on the Kansas tribes.

Other topics reviewed by the Joint Committee included: pending litigation involving Indian-related issues, taxation, payments in lieu of taxes, activities of the State Gaming Commission and the Kansas Office of Native American Affairs, cross-deputization in Brown and Jackson Counties, a request by the Connecticut Attorney General for a moratorium on tribal recognition decisions by the Department of the Interior, and the history of the Northern Cherokee Nation.

CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee notes the following issues of concern regarding relations with tribal entities at both the state and federal levels. The Joint Committee:

- Encourages the continuing litigation against the Wyandotte of Oklahoma and will support the posting of an appeal bond of up to \$5 million if the state is ordered to do so by the court.

- Supports the Connecticut Attorney General in his request of the U.S. Department of the Interior to impose a moratorium on federal tribal recognition decisions until the decision-making process can be reviewed by a national commission.
- Requests the Department of Revenue to discuss tax compacts with the four resident tribes and present any such compact to the Joint Committee for approval.
- Joins the Governor in opposing any federal legislation to streamline the federal recognition of tribes unless there is substantial input from the states.
- Joins the Governor in opposing the Department of the Interior's proposed rules and regulations regarding land-to-trust requests by tribes due to the inequitable application of these proposed regulations to states and the loss of tax revenue to states and counties. Additionally, the Committee encourages the Kansas Congressional delegation to support a payment in lieu of taxes for those counties losing tax revenue from lands placed in trust for a tribe.
- Encourages Jackson County officials and Prairie Band Potawatomi officials to continue discussions with the U.S. Attorney's office regarding a potential resolution of the law enforcement issues.
- Requests that the Kansas Congressional delegation oppose the Wyandotte of Oklahoma's proposed federal legislation granting this nonresident tribe rights to purchase land for gaming purposes in the State of Kansas.
- Encourages the U.S. Attorney to take all possible steps to prohibit the Wyandotte of Oklahoma or other tribes from engaging in gaming without a compact.
- Requests that the Senate Ways and Means Committee and the House Appropriations Committee consider the addition of funding for an attorney within the Governor's office to specialize in the practice of Indian law.
- Encourages the Kansas Congressional delegation to introduce federal legislation to define the term "reservation" as used in the Indian Gaming Regulatory Act.
- The Joint Committee believes that the issues addressed by 2000 SB 543 and 2000 HB 2926 continue to be relevant and recommends that the following versions of the legislation be re-introduced in the upcoming session-SB 543 as amended by Senate Committee and HB 2926 as introduced.

The Joint Committee also recommends the introduction of legislation amending the statute governing to the Joint Committee to provide that: the Governor (or designee) and the Attorney General (or designee) would be voting members except for approval or disapproval of compacts; the Governor (or designee) would serve as temporary chair and call an organizational meeting of the Joint Committee at the start of each legislative session; and the Joint Committee would be able to make recommendations on issues of state and tribal relations.

REPORTS OF STANDING COMMITTEES

Committee on **Utilities** recommends **SR 1808** be adopted.

REPORT ON ENROLLED BILLS

SR 1806 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on January 29, 2001.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Tuesday, January 30, 2001.

PAT SAVILLE, *Secretary of Senate.*

HELEN A. MORELAND, *Journal Clerk.*

