

Approved _____

2-27-91

Date

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Representative Herman G. Dillon at
Chairperson

1:33 axx p.m. on February 14, 1991 in room 519-S of the Capitol.

All members were present except:

Representative Denise Everhart - Excused
Representative Darrel Webb - Excused
Representative John McClure - Excused

Committee staff present:

Hank Avila - Legislative Research
Tom Severn - Legislative Research
Bruce Kinzie - Revisor of Statutes
Jo Copeland - Committee Secretary

Conferees appearing before the committee:

Senator Don Sallee
Representative Marvin Smith
Mark Pruett
Roy Hallauer

George Wahquahboshkuk
Connie Lewis

Jim Bush, KDOT, Director of Engineering and Design

The meeting was called to order by Chairman, Herman G. Dillon.

Chairman Dillon entertained a motion to approve the February 5th and February 6th minutes. Representative Smith moved the motion and Representative Reinhardt seconded that the minutes be approved. Motion carried.

SCR 1605 - A Concurrent Resolution urging the Kansas Department of Transportation to temporarily discontinue construction or reconstruction of U.S. Highway 75 between the cities of Mayetta and Holton, until the department can conduct a study to determine the feasibility of moving that portion of U.S. Highway 75 at least ½ mile east of the eastern boundary line of the old Pottawatomie Indian Reservation.

Chairman Dillon introduced Senator Sallee, who testified in support of SCR 1605. (Attachment 1)

Questions and discussion followed.

Chairman Dillon introduced Representative Marvin Smith, who testified in support of SCR 1605. (Attachment 2)

Questions and discussion followed.

Chairman Dillon introduced Mark Pruett, who testified in support of SCR 1605 (Attachment 3)

Chairman Dillon introduced Roy Hallauer, who testified in support of SCR 1605. (Attachment 4)

Questions and discussion followed.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,
room 519-S Statehouse, at 1:33 ~~a.m.~~/p.m. on February 14, 1991

Chairman Dillon introduced George Wahquahboshkuk, who testified in opposition of SCR 1605. (Attachment 5)

Questions and discussion followed.

Chairman Dillon introduced Lance Burr who stated he wished to give his time to Connie Lewis a member of the Pottawatomie Indian Tribe.

Chairman Dillon introduced Connie Lewis who briefed the committee on why the Indians were put on the Reservation. It was not their choice. She testified in opposition of SCR 1605.

Questions and discussion followed.

Chairman Dillon introduced Jim Bush, KDOT, Director of Engineering and Design. Mr. Bush answered questions regarding Highway 75 between the cities of Mayetta and Holton.

End of Hearing on SCR 1605.

Meeting adjourned at 2:44 p.m.

GUEST LIST

COMMITTEE: HOUSE TRANSPORTATION COMMITTEE

DATE: 2-14-91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
George Barbee	Topeka	Ks. Consul Gen. Frigo
Chris Walker	Mayetta	Subdivided
Don R. Rouse	Mayetta	Land Owner
Ronnie Robinson	Mayetta	Land owner
Carl Janke	Holtan	Land Owner
JAMES BRIST	Topeka	KDOT
John W. Strahan	Topeka	KDOT-LEGAL
Bill Vicory	Topeka	KDOT
KEN STODGELL	Topeka	KDOT
Tom Whitaker	Topeka	Ks Motor Carriers Assn.
Bob Totten	Topeka	Ks Contractors Assn.
Mary Lundin	Mayetta	—
Jennifer Proffers	Notawaka	—
Karen Cadue	Lawrence	Kickapoo Nation
Nora Paul	Holtan	Kickapoo Nation
Leslie W. Roedger	Rx 1 Mayetta 66509	Roedger Oil Co.
Sue Hallam	R R 1 Holtan	Ray Gb. Hallam
RAY HALLAGER	" "	" "
Mark A. Puvett	Holtan Ks	Concerned Citizen
Roger Aldis	Holtan Ks	CONCERNED LANDOWNER
Christina Norbeck	Holtan Ks	Prin. Band Potomac
Sharon McLean	Mayetta	Prin. Band Potomac
Tom Sharp	Holtan	Landowner

DON SALLEE
SENATOR, FIRST DISTRICT
ATCHISON, BROWN, DONIPHAN, JACKSON
AND JEFFERSON COUNTIES
R.R. 2
TROY, KANSAS 66087



COMMITTEE ASSIGNMENTS

CHAIRMAN: ELECTIONS
VICE-CHAIRMAN: ENERGY AND NATURAL RESOURCES
MEMBER: AGRICULTURE
LABOR, INDUSTRY AND SMALL BUSINESS
TRANSPORTATION AND UTILITIES

TOPEKA

SENATE CHAMBER

TESTIMONY TO HOUSE TRANSPORTATION COMMITTEE
SENATOR DON SALLEE
FIRST DISTRICT
FEBRUARY 14, 1991

I WOULD LIKE TO THANK CHAIRMAN DILLON AND MEMBERS OF THE HOUSE TRANSPORTATION COMMITTEE FOR HEARING SENATE CONCURRENT RESOLUTION 1605. I AM DON SALLEE, SENATOR, 1ST DISTRICT.

I WILL BE BRIEF IN MY REMARKS HIGHLIGHTING THE ESSENTIAL POINTS. I RESPECTFULLY REQUEST YOU READ THE FULL TEXT OF MY WRITTEN TESTIMONY.

SENATE CONCURRENT RESOLUTION 1605 WAS INTRODUCED BECAUSE OF NUMEROUS PROBLEMS THAT HAVE ARISEN, MOST OF THEM QUITE COSTLY. THE RIGHT OF WAY AS IT NOW EXISTS WILL HAVE TO BE TOTALLY RECONSTRUCTED. THERE ARE A LARGE NUMBER OF HOMES AND BUSINESSES ALONG THIS RIGHT OF WAY THAT WILL REQUIRE COMPENSATION OR OUTRIGHT PURCHASE ADDING TO THE COST OF THE HIGHWAY. THE AREA WHICH IS BEING CONSIDERED IS FREE OF ANY BUILDINGS, IS PRIMARILY OPEN AND IF THERE ARE ANY OBSTACLES THERE WOULD BE NO MORE THAN ONE HOUSE IN THE ENTIRE DISTANCE. THERE ARE FEWER TRIBUTARIES TO DEAL WITH, AND THEREFORE WOULD NOT REQUIRE THE BUILDING OF SHOOLIES AND ROADWAYS FOR USE WHILE CONSTRUCTION IS UNDER WAY. ALSO, THE LARGE NUMBER OF DRIVEWAYS TO HOMES ON THE PRESENT ROUTE WOULD ALMOST NECESSITATE AN ACCESS ROAD BEING BUILT IN SOME AREAS TO ELIMINATE THE HAZARD OF SO MANY ENTRIES.

THE ISSUE HAS BEEN RAISED THAT WE DO NOT ATTEMPT TO TRY AND COLLECT NOR TRANSFER TAXES FROM MISSOURI AND AS THE INDIAN NATIONS ARE AS SOVEREIGN AS MISSOURI THE SAME SHOULD HOLD TRUE FOR THEM. THE FALLACY LIES IN THE FACT THAT THE TRIBES DEMAND

*House Transportation
2-14-91
ATTACHMENT 1-1*

AND REQUIRE SERVICES SUCH AS SCHOOLS AND ROADS. MISSOURI DOES NOT DEMAND THAT WE PROVIDE THEM WITH HIGHWAYS, SCHOOLS OR OTHER SERVICES WHICH THEY USE, LAW ENFORCEMENT, ROADS, SCHOOLS, ETC.

WHAT APPEARS VERY UNFAIR IN THIS ENTIRE ISSUE IS THAT THE LEADERS OF THE TRIBES KEEP INSISTING THEY BE ALLOWED TO TAKE THE SOURCES THAT FUND SERVICES TO THEM UNDER THE GUISE OF BEING A SOVEREIGN NATION. THE ATTITUDE OF THE TRIBE WOULD APPEAR TO BE "LEAVE US ALONE AND DON'T INTERFERE IN ANY WAY." SENATE CONCURRENT RESOLUTION 1650 DOES JUST THAT. THE RESOLUTION SAYS WE WILL NOT ENCROACH ON THEIR SOVEREIGN TERRITORY, EVEN WITH A HIGHWAY.

BUSINESSES AND TAXES HAVE EXISTED ON THESE TWO RESERVATIONS FOR A NUMBER OF YEARS. AT ONE TIME THERE WAS A BALANCE IN THE COMMUNITIES. THE TRIBES PROVIDED PRETTY GOOD EFFORT IN THE AREA OF ROAD REPAIR. PRESENTLY THE IDEA SEEMS TO EXIST ON THE POTTAWATOMIE RESERVATION THAT THE TAX OR TAX BREAK WAS A FAIR METHOD TO ENRICH THE WEALTH OF A FEW WITH NO BENEFITS PROVIDED EITHER TO THE TRIBE OR THE COMMUNITY. IN MY OPINION THIS CANNOT EXIST. WE DO NOT TAX, IN ANY INSTANCE, FOR THE BENEFIT OF INDIVIDUAL WEALTH OR THE ABILITY TO OBTAIN WEALTH. WE TAX TO PROVIDE SERVICES FOR ALL COLLECTIVELY TO PROVIDE THINGS WHICH PEOPLE CANNOT PROVIDE INDIVIDUALLY.

A COUNTER TO THE SERVICES AGREEMENT YOU WILL HEAR IS THAT THE TRIBES OBTAIN GRANTS AND FEDERAL MONIES PROVIDED FOR CERTAIN ACTIVITIES, ONE OF THEM BEING SCHOOLS. ONCE AGAIN, FEDERAL MONEY IS TAX MONEY AND IS OBTAINED FROM THOSE WHO HAVE THE ABILITY TO PAY.

THERE IS A REASONABLY SOUND EXPLANATION AS TO WHY POVERTY IS SO WIDESPREAD ON RESERVATIONS IN KANSAS. YOU CANNOT ISOLATE THAT MANY PEOPLE TO SUCH A SMALL AREA AND GENERATE

SENATOR DON SALLEE TESTIMONY
FEBRUARY 14, 1991
PAGE 3

SUFFICIENT INCOMES, AS THE AREAS ARE PRIMARILY FARM LAND AND WILL NOT ADEQUATELY SUPPORT THE NUMBER OF PEOPLE INVOLVED WITHOUT OUTSIDE EMPLOYMENT. THIS IS EVIDENCED BY THE FARMING COMMUNITY AS A WHOLE. MANY OF THOSE ENGAGED IN FARMING, ETIHER THE MAN WORKS A JOB ALONG WITH THE OPERATION OR THE WIFE HOLDS A JOB. THE FEW THAT CONTROL IN THIS SITUATION DO NOT DO THAT POORLY IN MOST INSTANCES AND TRICKLE DOWN A SMALL AMOUNT TO KEEP THE MULTITUDE UNDER CONTROL AND BEHOLDEN TO THEM. ECONOMIC DEVELOPMENT ON RESERVATIONS HAS NOT OCCURRED NOR WILL IT EVER OCCUR AS LONG AS THESE CONDITIONS CONTINUE TO EXIST.

MARVIN E. SMITH
REPRESENTATIVE, FIFTIETH DISTRICT
JACKSON AND SHAWNEE COUNTIES
123 N.E. 82ND STREET
TOPEKA, KANSAS 66617-2209
(913) 484-3417

CAPITOL-ROOM 155E
TOPEKA, KS 66612
(913) 296-7646



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: EDUCATION
TAXATION
TRANSPORTATION

House Transportation Committee

Senate Concurrent Resolution 1605

February 14, 1991

Mr. Chairman and Members of the Committee:

Thank you, Mr. Chairman, for holding the hearing this week on SCR 1605.

I support this resolution because, first, I believe that K.D.O.T. should look seriously at relocating Highway 75 from the east side of Mayetta to Holton.

Secondly, this area's topography will require less cuts and fills, thus less "road-bed" cost preparation. This relocation could be constructed with a very minimal acquiring of farmsteads, homes and businesses. This relocation would substantially reduce the construction of ACCESS ROADS and shoe-fly accesses to present homes, farmsteads and businesses, because the present north and south county roads could be the access roads for the homes and farmsteads in that relocation.

Thirdly, the cost for acquisition of right-of-way could be more cost effective.

Fourth, in all probability this could be constructed on an earlier time table and specifically by fiscal year 1993 as planned as a MAJOR MODIFICATION PROJECT.

*House Transportation
2-14-91
ATTACHMENT 2-1*

3rd

The proposed study to relocated "75" highway needs to be approved. Now is the time to study alternate routes, before construction begins. Moving the highway to the east would displace fewer residences, and in all probability, should cost less because you would be purchasing mostly undeveloped land. Reservation officials have cried foul, stating that this move would cause economic hardships on the reservation. This should not be a deciding factor in the move. I make this statement due to the fact that the reservation receives no income from any business located on "75" along the proposed route change. Therefore there can be no economic hardships for the reservation due to the proposed move. Tribal officials have indicated that they are going to implement a reservation tax for businesses located on the reservation. If they were serious about this, they would have established this tax when the first station opened over four years ago. Economic growth can be a reality on the reservation, no matter if the highway is moved. If the tribes offer goods or services that are in demand, there is no reason the reservation economy should not grow. Many businesses or industrial parks do not sit directly on highway frontage, but are within a reasonable driving distance from a major thoroughfare. Since people are already driving 30 miles or more to shop on the reservation, another 1/2 mile is not going to alter the decision to shop on the reservation. One final thought, if the state cannot agree on a price with an owner of reservation land, how will you go about purchasing this land? You could not go through the courts claiming eminent domain, this land does not belong to the State of Kansas. The only thing you could do would be to pay their price, no matter if it is highway robbery.

Mark A. Pruitt

*House Transportation
2-14-91
ATTACHMENT 3-1*

February 14, 1991

TESTIMONY ON SENATE BILL 1605

I own and operate a gasoline station in the city of Holton, In 1989 my sales were 2.1 million gallons of fuel. This year my fuel volume has been reduced by 50% because I can not compete price wise with gasoline being sold on the reservation without the state motor fuel tax on it. My lose in volume has cost the state 168,000 dollars in state revenue.

I spent over \$70,000 bringing my business into compliance with the Enviromental Protection Agency and the Kansas Department of Health and Environment regulations. With the 50% drop in volume I will not be able to recover the money I spent to comply with theses regulations.

If the state can not collect state and county sales tax, state motor fuel tax on the reservation, that tells me stations on the reservation do not have to report to the state of Kansas, what hazard materials they have on hand in the Right to Know program. I was told by a state employee form the weights and measures department, that he was ask to leave a gas station on the reservation where he started to check gasoline pumps. He was told he had no right to be there.

If the state can not enforce the law and regulations for the safety of citizens of this country on the reservation, I believe the highway should be moved off the reservation. By moving the highway off the reservation the heavy flow of traffic will not be hampered by entering and exiting of vehicles for these reservation businesses. There already has been many accidents at theses businesses on the reservations.

Please lets take all this into consideration.

Thank You

Ray Hallauer
Ray Hallauer

House Transportation
2-14-91
ATTACHMENT 4-1

Prairie Band of Potawatomi Indians

Route 2, Box 50A
MAYETTA, KANSAS 66509
913 966-2255

FEBRUARY 14, 1991

HOUSE COMMITTEE ON TRANSPORTATION

Mr. Chairman and Distinguished Members of the Committee

My name is George L. Wahquahboshkuk, Chairman of the Prairie Band Potawatomi Nation, also V-President Haskell Board of Regents.

Thank you for the opportunity to speak in opposition to Senate Concurrent Resolution 1605.

Yesterday, I testified before the House Committee on Taxation in opposition to House Bill 2164. I, being told 5 minutes were left, and would be allowed 3 minutes, then after a minute, was abruptly and rudely interrupted. (I do not blame those that testified) Why I don't know, maybe because I had on slacks, pin striped shirt, and a sports jacket.

Today I come to you dressed like a Native American, with my decorations from service of four years in the United States Marine Corps, over a year of it in Viet-Nam, proud of it. I am also proud of the fact that General Schwartzkoff Commander in Saudi Arabia is an Honorary Osage Chief.

Yesterday testimony was given from an individual that runs a gas station in Mayetta, complaining about the taxes not paid to the state. This very same business sold beer, cigarettes, and gas bootlegged after hours to our Indian adults and non-Indian adults including minors, for over 20 years without paying taxes. They were busted and prevented from such sales. Now they must stand on their own as honest dealers (and I use that term loosely), and it is not working, so blame the Prairie Band Potawatomi Nation. Additional testimony spoke of 2 stations that went under, my sources tell me one had intentions of closing anyway, and the other had to comply with EPA regulations and fix their underground tanks, the cost was too much. So, some of the Holton business's seized the moment, blame the Prairie Band Potawatomi Nation.

Now that we are trying to make economic growth and self-sufficiency work, then, the ugly monster prejudice rears it's head.

House Transportation
2-14-91
ATTACHMENT 5-1

It is common among historians to describe Indian nations as having inadequate governments or no governments. Upon reading colonial journals and ethnohistories, one is amazed at how such opinions could be reached. Writers from 1492 on provide detailed descriptions of Indian government. Such conclusions are obviously because of the different view of what the purpose of life and government is, as Benjamin Franklin explained:

" Savages we call them because their manners differ from ours which we think the perfection of civility; they think the same of theirs...Our laborious manner of life, compared with theirs they esteem slavish and base; and the learning on which we value ourselves they regard as frivalous and useless."

We have not always been at odds with one another, the Indian American contributed much to the revolutionary war as well as the Constitution of the United States of America

The first of the actual battles of the war for Independence resulted from the confrontation between the Minutemen and the British troops at Lexington on April 19, 1775. The issue was self-government. American Indian political ideas were now poised to become fatal to the monarchy. The Indians now had the option of choosing the colonies or the British government as allies. Indian rifles could be just as fatal as Indian ideas.

The Indians were viewed as an important military element in the Revolutionary conflict. The political leaders hoped to use diplomacy to urge the Indian nations to maintain neutrality. The Colonial forces viewed the worst set of circumstances as an Indian military alliance with the British. One other alternative remained.

The Stockridge Indians were part of the Minutemen militia. They had seen action at Lexington (April 19, 1775), Bunker Hill (June 17, 1775), The Battle of Long Island (August 19, 1775), and would continue on with Washington in other engagements through the winter of Valley Forge (1777-78). Along with the Passamaquaddy, and Penobscots, the Stockridge Indian Patriots represented the other alternative a military alliance with the Indians.

The need for an Indian role in the Revolution was seen by all American Leaders. From Valley Forge on March 13, 1778, George Washington wrote to the Commissioners of Indian Affairs of his plan to use 400 men from the Northern Tribes and the Cherokee.

During the bitter winter at Valley Forge Dr. Waldo a surgeon wrote:

"I was called to relieve a soldier thought to be dying. He expired before I reached the hut. He was an Indian, an excellent soldier, and had fought for the very people who disinherited his forefathers."

The United States Government, under the Articles of Confederation, regarded peace and trade with the Indians to be critical to it's survival. In September, 1778, the Continental Congress concluded a treaty of alliance with the Delaware, the first treaty of the United States. Article V focused on the need for a "well regulated trade". It was well-known that cheating traders had caused more than one Indian war on the frontier. Article VI addressed the subject of Indian land which was even more volatile than the issue of honest traders.

" and it is further agreed...should it...be found conducive fore...both parties to invite any other tribe who have been friends to the interest of the United States, to join the present confederation, and the form a state where of the Delaware nation shall be the head, and have a representation in Congress..."

This was an offer that clearly reflected the recognition by the United States of the stature of Indian Governments.

Benjamin Franklin and Thomas Jefferson were students of politics and government; the former studied Indian forms intensively, and the latter used Indian forms in developing his rationale for self-government and personal liberty. The forms consisted of local self-governments. National confederation, elected leaders, popular suffrage, recall of leaders, legislative council where every delegate had the right to be heard, referendum, initiative, and amendment. The qualities were, cherish personal freedom, fear personal aggrandizement, promote the general welfare over self-interest, mutual accommodation, balance and harmony, and time to pursue happiness.

All of these forms and qualities the founding fathers had an opportunity to see and experience in action in Indian Councils of government and Indian communities where they had worked for hundreds of years.

It matters not to those in favor of this resolution, that the Prairie Band Potawatomi had adopted a taxation plan, August 26, 1987 and are now weeks away from implementation. Therefore, no overwhelming tax advantage will exist. All that matters it would seem is to route the highway around the reservation to keep the Prairie Band Potawatomi Nation in poverty and low economic growth.

The initial intent of the expansion of Highway 75 project was safety, but when it comes to the Prairie Band Potawatomi Reservation, the ugly monster rears it's head, again.

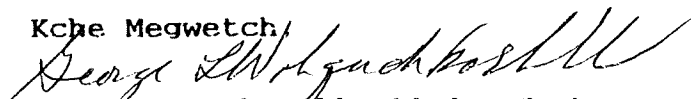
How many unjust acts must the Native American endure ? Have we not given up enough land ? Have we not given enough of our good women and men to just causes, as well as unjust wars ? Have we not suffered enough ? You can answer these questions with words, but God the Creator and your conscience know the truths.

All we, as people ever wanted, was to live in peace with nature, and decide our own destiny. After the wars, we were led on Trails of Death to reservations, to live in peace and these lands to be ours by treaty, unmolested by non-Indians, as long as the sun rises in the east, the winds blow, the rivers flow, and the grasses grow. To us, this means as long as this earth shall live.

We were not allowed to rebuild our Nations as other Nations that were devastated by war with the United States. But, instead we were transferred from the War Department to the Department of the Interior, which is over the United States Parks and Wildlife. Does this mean to you that our reservations are parks and we are the wildlife? If this be your judgment, then let us be put on the endangered species list. Then when man has destroyed this Grandmother Earth with his poisonous greed, then also, the treaties will be no more.

So, then all will be judged for the just and unjust deeds. I urge you to vote against this and other pieces of anti-Indian legislation, and put all this behind us as we head into the 21 century that we all might enjoy what is left of this time here, to progress together.

Kche Megwetch,



George L. Wahquahboshkuk, Chairman

Please read attachments.

THE STUDS OF
McDONALD COUNTY



Poems by Joan Yeagley

The Studs of McDonald County

Joan Yeagley

1944

Nish Nah Bah

(Native American)

Aunt Minnie Wahquahbuskuk
Cries all the time.

I need new glasses.

The B.I.A.* in Horton says,
This year's budget for glasses
Is all used up,
Maybe next year.

They spend most of the Washington money
Spraying marijuana that went to seed
When the government planted it in Kansas
During World War II as a substitute for hemp.

Sure, it's on Indian land
But leased by B.I.A. to white farmers
Who grow fat corn, big pigs,
While we get drunk,
Once a year,
On the lease money.

Do glasses cost that much?

We are Methodists
But our boards are bare.
A meal is fried potatoes
And a box of whiting for twelve people.
There aren't enough forks to go around.

We are Catholics.
Our girls still get pregnant—
No tall, young husbands to fend for them.
If we ask for Welfare
To feed the babies,
We must sign away our land rights.

We are Native American Church.
Is it not good to eat God?
Peyote is sweet!
God, you are medicine;
Take pity on me, medicine.
White law won't recognize
A marriage said by our Holy Man.

Topeka means,
A good place to dig potatoes.
But mostly,
We dig ditches.

Today, the tractor tears up
An old cemetery.
We told B.I.A. it was there.
Would we forget our grandfathers?
But there were no headstones.
That was not our way.
And they leased it out anyway.

My grandfather's bones groan
And his skull screams
Against the tractor blade.

Aunt Minnie Wahquahbuskuk says,
I don't understand.
I cannot see.
White dove, Jesus,
Where are you?
The hawk sings a bloody song.
The American Eagle
Eats the eyes of my children.

*B.I.A.—Bureau of Indian Affairs

DANIEL K. INOUE, HAWAII, CHAIRMAN
JOHN MCCAIN, ARIZONA, VICE CHAIRMAN

DENNIS DeCONCINI, ARIZONA
QUENTIN N. BURDICK, NORTH DAKOTA
THOMAS A. DASCHLE, SOUTH DAKOTA
KENT CONRAD, NORTH DAKOTA
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FRANK H. MURKOWSKI, ALASKA
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ALAN R. PARKER, STAFF DIRECTOR
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ERIC EBERHARD,
MINORITY STAFF DIRECTOR/COUNSEL

United States Senate

SELECT COMMITTEE ON INDIAN AFFAIRS

WASHINGTON, DC 20510-6450

MAY 14 1990

May 7, 1990

1162

The Honorable George L. Wahquahboshkuk
Chairperson
Prairie Band Potawatomi Tribal Council
Route 2, Box 50A
Mayetta, Kansas 66509

Dear Chairperson Wahquahboshkuk:

Thank you for your letter regarding S. 2195 and S. 2196.

I want to assure you that I will not support any legislation which abrogates any treaty entered into between the United States and any Indian nation.

Thank you for taking the time to share your concerns with me.

Sincerely,



John McCain
Vice Chairman