

JUDICIARY SUBCOMMITTEE ON CIVIL PROCEDURE

Senator Richard Rock, Chairman

February 21, 1991  
10:00 a.m.  
Room 514-S

SB 80 - civil jurisdiction for Indian reservations.  
Would allow the state to impose taxes on goods and gasoline sold on  
Indian reservations.

**PROPONENTS**

Senator Don Sallee, District One (ATTACHMENT 1)  
Representative Marvin Smith, 50th District

**OPPONENTS**

Verna Simon, Tribal Council Secretary, Kickapoo Nation  
(ATTACHMENT 2)  
Steve Cadue, Kickapoo Nation  
George Wahquahboshkuk, Potowatomie Nation

Subcommittee recommendation: no action taken; on HOLD.



STATE OF KANSAS

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



TOPEKA

SENATE CHAMBER  
FEBRUARY 21, 1991

COMMITTEE ASSIGNMENTS

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

THANK YOU MR. CHAIRMAN AND COMMITTEE MEMBERS FOR YOUR PROMPTNESS IN HOLDING HEARINGS ON SB-80. FOR THE RECORD MY NAME IS DON SALLEE, STATE SENATOR, FIRST DISTRICT.

A SIGNIFICANT PROBLEM, OF WHICH I AM SURE YOU ARE BY NOW AWARE, PRESENTLY EXISTS IN JACKSON COUNTY IN THE AREA OF MOTOR FUEL, SALES AND TOBACCO TAX. THIS MAJOR PROBLEM INVOLVES THE OBLIGATION OF PEOPLE TO PAY THESE TAXES BUT WHO ARE AVOIDING THESE PAYMENTS.

*But, must have Indian approval*

THE ABILITY OF PEOPLE TO AVOID SUCH TAX PAYMENTS INVOLVES THE UNIQUE STATUS OF INDIAN RESERVATIONS AND THE FACT THAT YOU DO NOT HAVE TO BE AN INDIAN TO OPERATE A BUSINESS ON THESE RESERVATIONS. LIKewise, A NON INDIAN MAY MAKE PURCHASES AT THESE BUSINESSES AND AVOID THE TAXES HERETOFORE MENTIONED. IT IS, OF COURSE, A VIOLATION OF THE LAW NOT TO COLLECT OR PAY THESE TAXES ON NON INDIAN SALES BUT WE HAVE NO WAY WITHIN THE RESERVATION BOUNDARIES TO ENFORCE THE LAW. SENATE BILL 80 WOULD PROVIDE THE MECHANISM BY WHICH WE MIGHT NEGOTIATE WITH THE TRIBES TO ESTABLISH THIS JURISDICTION. THE BILL IS STRUCTURED UNDER THE GUIDELINES SET FORTH IN FEDERAL LAW 25 U.S.C. 1322. IT DOES NOTHING WITHOUT AN AGREEMENT FROM THE TRIBE THAT OCCUPIES THE PARTICULAR RESERVATION.

THIS ACTIVITY HAS BEEN GOING ON FOR QUITE A LONG TIME, BUT NOT TO THE EXTENT THAT IT DAMAGED LOCAL ECONOMIES. PREVIOUSLY IT HAS SUPPLIED TRIBES WITH SOME REVENUE AND WAS AT LEAST BENEFICIAL TO TRIBAL MEMBERS OPERATING THE BUSINESS AND WE HAVE NOT INTERFERED. WE NOW HAVE ON THE POTAWATOMI RESERVATION THREE BUSINESSES OWNED

*Attachment 1  
Subcommittee - Judiciary  
2-21-91*

AND OPERATED BY NON TRIBAL MEMBERS, LOCATED ON 75 HIGHWAY, WHICH IS A WELL TRAVELED ROAD. GASOLINE SALES AT ONE STATION ALONE IS OVER 350,000 GALLONS A MONTH. THERE ARE 3 STATIONS, A LUMBER YARD, TOBACCO SHOPS, AND I BELIEVE SOME GROCERY RETAILERS. IT IS ESTIMATED THAT TAX REVENUES LOST ARE IN THE NEIGHBORHOOD OF ONE MILLION DOLLARS PER YEAR. THE POTAWATOMI TRIBE RECEIVES NO MONETARY SUPPORT FROM THIS, YET THEY AND 3 OTHER TRIBES IN NORTHEAST KANSAS, FOR SOME STRANGE REASON, HAVE CHOSEN TO PROTECT AND DEFEND THIS ILLEGAL ACTIVITY. I FAIL TO UNDERSTAND WHY! THEY QUOTE THE LAW CONSTANTLY AND STAND FIRMLY ON THE SPECIAL PRIVILEGES THEY ARE AFFORDED BY THE LAW, BUT ALSO MAINTAIN THEY CAN IGNORE THAT SAME SET OF LAWS IF THEY CHOOSE. THE LOSS OF REVENUE IS HURTING THE LOCAL COMMUNITY AND BUSINESSES. IT IS VERY APPARENT THE UNFAIR ADVANTAGE IN PRICE WITH NO TAX BEING CHARGED HAS DRIVEN SOME BUSINESSES TO BANKRUPTCY. IT WILL GREATLY ERODE THE ABILITY TO FUND THE SERVICES PROVIDED BY TAX REVENUES (SCHOOLS, ROADS, HOSPITALS, ETC.). THESE SERVICES ARE ALSO USED BY THE TRIBES. I HAVE GREAT DIFFICULTY UNDERSTANDING WHY THE TRIBES DEFEND THIS ACTIVITY THAT WILL EVENTUALLY CAUSE A SHORTAGE OR DEGRADING OF SERVICES AND THINGS THAT ARE SURELY IMPORTANT TO THE TRIBE.

THE PROBLEM WAS ACTUALLY STARTED BY ONE INDIVIDUAL. THIS PERSON IS NOT A MEMBER OF THE TRIBE NOR DO HIS ACTIONS BENEFIT THE TRIBE IN ANY WAY. HE, ALONE, DERIVED THE BENEFITS FROM THE PROFITS OF THIS ILLEGAL OPERATION.

NOTHING IN SB-80 INFRINGES ON THE STATUS OF INDIVIDUALS OR TRIBAL RIGHTS OR THE SOVEREIGNTY OF THEIR LAND, YET THEY ARE ALREADY REJECTING THE PROVISIONS CONTAINED IN SB-80. NONETHELESS, WE NEED THIS BILL. WE NEED THE MECHANISM IN PLACE SINCE, AT SOME FUTURE DATE, THEY COULD CHANGE THEIR MINDS. I URGE YOUR FAVORABLE CONSIDERATION AND STAND FOR QUESTIONS.

1-2/2

# KICKAPOO TRIBE IN KANSAS

P.O. BOX 271 HORTON, KANSAS 66439-0271  
PHONE: (913) 486-2131 FAX: 913/486-2801

February 21, 1991

## ADDRESS ON KANSAS SENATE BILL NO. 80

My name is Verna Simon and I am the elected Tribal Council Secretary of the Kickapoo Indian Nation with six other elected Tribal Council members.

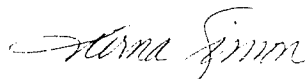
The governing powers of the Kickapoo Nation are inherent and these sovereign powers of self-government are recognized in treaties made between the Kickapoo Nation and the United States of America. These powers are subject to qualification by treaties and by express legislation of the United States Congress.

It should be understood by this state of Kansas legislative committee that the Kickapoo Nation practiced Indian self-government long before the organs of Kansas state government were established. It was the Kickapoo's cession of thousands of acres of land that enabled the first settlers a place to be called Kansas. The honored founders of the Kansas Enabling Act and the Kansas Constitution so recognized the sovereign powers of the Indian nations.

Now Senate Bill No. 80 asks this committee to violate the Indian nation treaties, the federal constitution, and the Kansas Constitution. Today Senate Bill No. 80 asks this committee to ignore the federal constitution, to ignore supreme Indian treaty law, and finally, to ignore the Kansas constitutional law. Good government cannot ignore civilization and law.

The Kickapoo people ask now that you reaffirm the civilization values of all people, the laws of all men and do not recommend passage of Senate Bill No. 80.

Respectfully,



Verna Simon  
Tribal Council Secretary

*Attachment 2  
Subcommittee - Judiciary  
2-21-91*

SAC & FOX TRIBE OF MISSOURI

Reserve, Kansas 66434 (913) 742-7471

February 4, 1991

Senator Don Sallee  
Room 128-S State Capitol  
Topeka, KS 66612

Kickapoo Tribal Office  
RECEIVED  
FEB 07 1991  
DATE

Dear Honorable Sallee:

The Sac and Fox Nation of Missouri, located in Kansas and Nebraska, have received a copy of Senate Bill No. 80, introduced by yourself, which would allow the State of Kansas to assume civil jurisdiction over Kansas tribes.

It is apparent that the State of Kansas did not want to assume any responsibility for the Kansas tribes when they were admitted into the Union. Seemingly, things change.

According to the proposed Senate Bill, the governor must receive a resolution from the tribal governing body accepting this jurisdiction. It is my duty to inform you that the Sac and Fox Nation of Missouri are not in agreement with your proposed Senate Bill and will not provide such a document now or in the future. We will continue to uphold our sovereign immunity from the State of Kansas civil jurisdiction.

We find your actions in this matter and the suggestion of relocating Highway 75 predjudicial and unfair to the Native American people.

I thank you for your time and consideration.

Sincerely,

*Sandra Keo*

Sandra Keo, Chairperson  
Sac and Fox Nation of Missouri  
in Kansas and Nebraska

SK;mdw

cc: Iowa Tribe of KS & NE  
Kickapoo Tribe of KS  
Potawatomi Tribe of KS  
Sen. Robert Dole  
Sen. Nancy Kassebaum  
Cong. Jim Slattery

2-2/2