

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Kathleen Sebelius at _____
Chairperson

1:30 ~~AM~~/p.m. on Monday, April 6, 1992 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Lynne Holt, Kansas Legislative Research Department
Mary Galligan, Kansas Legislative Research Department
Mary Torrence, Office of the Revisor of Statutes
Connie Craig, Secretary to the Committee

Conferees appearing before the committee:

Chair Sebelius called the meeting to order and introduced Dan Wildcat, Chair, Natural and Social Sciences, Haskell Indian Jr. College.

Professor Wildcat gave a brief statement on Haskell Indian Jr. College and its involvement in Federal Tribal Relations. He referred to his handout, Attachment #1.

Don Bread, Professor of Tribal Management, Haskell Indian Jr. College, expressed his pleasure of being allowed to address the Committee. He reminded the Committee that Indian people are also citizens of this state, and through no fault of their own they had entered into treaties with the federal government.

Robert Daugherty, Professor of Native American Studies, Haskell Indian Jr. College, explained that there is such a thing as tribal self government. Indians are a nation with a set of laws like counties. He stated there is nationwide concern with infiltration of serious criminality and organized crime in areas such as casino gambling.

Chair Sebelius thanked the three gentlemen for coming to the Committee and stated that Federal Tribal Relations is one of the most complicated and fascinating issue. She added that she intended to request an Interim Study and asked for their continued assistance. She requested Mr. Wildcat make every effort to contact whoever the Chairpeople are of the House and Senate Federal and State Affairs Committees immediately at the beginning of the 1993 Session and remake the offer to spend some time with us.

Professor Wildcat suggested Haskell proposing a legislative symposium in December where we can talk about these issues.

Professor Wildcat showed a 30 minute video on Indian issues.

Chair Sebelius adjourned the meeting.

GUEST LIST

DATE 4-6-92

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Grace May	Topeka	KAGC
DON BREAD	1231 Prairie Ave	Lawrence, KS 66044 HIJ
John Noltensmeyer	Lawrence	
MARK A. BURSHART	TOPEKA	DEPT. of REVENUE
LEANNE VANCE	OLATHE, KS	CONSTITUENT
Rep. Nancy Brown	Starley, KS	
R.W. Rexler	June	New York
Paul Shelby	Topeka	OTA
Ry Joann Flower	Oskaloosa	"The People"

"I take pride in acknowledging and reaffirming the existence and durability of our unique government-to-government relationship."

"... a vibrant partnership in which over 500 tribal governments stand shoulder to shoulder with the other governmental units that form our Republic."



On June 14, 1991, President George Bush issued an American Indian policy statement which reaffirmed the government-to-government relationship between Indian tribes and the Federal Government.

The President's policy builds upon the policy of self-determination first announced in 1970, and reaffirmed and expanded upon by the Reagan-Bush Administration in 1983. President Bush's policy moves toward a permanent relationship of understanding and trust, and designates a senior staff member as personal liaison with all Indian tribes. President Bush's policy statement follows:

Reaffirming the Government-to-Government Relationship Between the Federal Government and Tribal Governments

On January 24, 1983, the Reagan-Bush Administration issued a statement on Indian policy recognizing and reaffirming a government-to-government relationship between Indian tribes and the Federal Government. This relationship is the cornerstone of the Bush-Quayle Administration's policy of fostering tribal self-government and self-determination.

Quasi-Sovereign Domestic Dependent Nations

This government-to-government relationship is the result of sovereign and independent tribal governments being incorporated into the fabric of our Nation, of Indian tribes becoming what our courts have come to refer to as quasi-sovereign domestic dependent nations. Over the years the relationship has flourished, grown, and evolved into a vibrant partnership in which over 500 tribal governments stand shoulder to shoulder with the other governmental units that form our Republic.

This is now a relationship in which tribal governments may choose to assume the administration of numerous Federal programs pursuant to the 1975 Indian Self-Determination and Education Assistance Act.

*House Federal & State Affairs
April 6, 1992
attachment # 1*

Office of Self-Governance

This is a partnership in which an Office of Self-Governance has been established in the Department of the Interior and given the responsibility of working with tribes to craft creative ways of transferring decision-making powers over tribal government functions from the Department to tribal governments.

Office of American Indian Trust

An Office of American Indian Trust will be established in the Department of the Interior and given the responsibility of overseeing the trust responsibility of the Department and of insuring that no Departmental action will be taken that will adversely affect or destroy those physical assets that the Federal Government holds in trust for the tribes.

I take pride in acknowledging and reaffirming the existence and durability of our unique government-to-government relationship.

Personal Liaison

Within the White House I have designated a senior staff member, my Director of Intergovernmental Affairs, as my personal liaison with all Indian tribes. While it is not possible for a President or his small staff to deal directly with the multiplicity of issues and problems presented by each of the 510 tribal entities in the Nation now recognized by and dealing with the Department of the Interior, the White House will continue to interact with Indian tribes on an intergovernmental basis.

Permanent Relationship

The concepts of forced termination and excessive dependency on the Federal Government must now be relegated, once and for all, to the history books. Today we move forward toward a permanent relationship of understanding and trust, a relationship in which the tribes of the nation sit in positions of dependent sovereignty along with the other governments that compose the family that is America.

*Publication services were provided by the Office of Administrative Services,
Branch of Visual Communication Services (Office of the Secretary).*

HFSA
4-6-92
#1-2

1987 U.S. SUPREME COURT DECISION

CALIFORNIA v. CABAZON BAND OF MISSION INDIANS

___ U.S. ___, 107 S. Ct. 1083 (U.S. Sup. Ct. 1987)

JUSTICE WHITE delivered the opinion of the Court.

[The Cabazon Band of Mission Indians, located in Riverside County, California, conducts on-reservation bingo games, as well as poker and other card games, which are open to the public and are predominantly played by non-Indians. The games are the tribe's sole source of income, and are a major source of tribal employment. The tribe seeks to prevent the state of California, a Public Law 280 state, from enforcing its state statute that prohibits bingo games not operated by charitable organizations and sets a \$250 per game limit. The tribe further seeks to prevent Riverside County from imposing its gambling ordinance, which would prohibit the tribe from conducting its card games, upon the tribe. The similarly situated Morongo Band of Mission Indians is also a party to this suit.]

....
In § 2 [of Public Law 280], California was granted broad criminal jurisdiction over offenses committed by or against Indians within all Indian country within the State. Section 4's grant of civil jurisdiction was more limited (footnotes omitted). . . . The Act plainly was not intended to effect total assimilation of Indian tribes into mainstream American society. (Citation omitted.) . . . Accordingly, when a State seeks to enforce a law within an Indian reservation under the authority of Pub. L. 280, it must be determined whether the law is criminal in nature, and thus fully applicable to the reservation under § 2, or civil in nature, and applicable only as it may be relevant to private civil litigation in state court.

In [*Barona Group of the Capitan Grande Band of Mission Indians v. Duffy*, 694 F.2d 1185 (9th Cir. 1982), cert. denied, 461 U.S. 929 (1983)], applying what it thought to be the civil/criminal dichotomy drawn in *Bryan v. Itasca County*, the Court of Appeals drew a distinction between state "criminal/prohibitory" laws and state "civil/regulatory" laws: if the intent of a state law is generally to prohibit certain conduct, it falls within Pub. L. 280's grant of criminal jurisdiction, but if the state law generally permits the conduct at issue, subject to regulation, it must be classified as civil/regulatory and Pub. L. 280 does not authorize its enforcement on an Indian reservation. The shorthand test is whether the conduct at issue violates the State's public policy. . . .

....
California does not prohibit all forms of gambling. . . . In light of the fact that California permits a substantial amount of gambling activity, including bingo, and actually promotes gambling through its state lottery, we must conclude that California regulates rather than prohibits gambling in general and bingo in particular (footnote omitted).

[The Court next determined that, based on the "public policy test," the federal Organized Crime Control Act authorizes neither the application nor enforcement of California's gambling laws in Indian Country.]

[U]nder certain circumstances a State may validly assert authority over the activities of nonmembers on a reservation, and . . . in exceptional circumstances a State may assert jurisdiction over the on-reservation activities of tribal members." *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 331-332 (1983) (footnotes omitted). . . .

Decision in this case turns on whether state authority is pre-empted by the operation of federal law; and "[s]tate jurisdiction is pre-empted . . . if it interferes or is incompatible with federal and tribal interests reflected in federal law, unless the state interests at stake are sufficient to justify the assertion of state authority." *Mescalero*, 462 U.S., at 333, 334. The inquiry is to proceed in light of traditional notions of Indian sovereignty and the congressional goal of Indian self-government, including its "overriding goal" of encouraging tribal self-sufficiency and economic development. *Id.*, at 334-335. (Footnote and citations omitted.)

HF § 5A
4-6-92
#1-3

CALIFORNIA v. CABASON BAND OF MISSION INDIANS

....

[The Court proceeded to discuss federal actions which either approved or promoted tribal bingo enterprises.]

These policies and actions, which demonstrate the Government's approval and active promotion of tribal bingo enterprises, are of particular relevance in this case. The Cabazon and Morongo Reservations contain no natural resources which can be exploited. The tribal games at present provide the sole source of revenues for the operation of tribal governments and the provision of tribal services. They are also the major sources of employment on the reservations. Self-determination and economic development are not within reach if the Tribes cannot raise revenues and provide employment for their members. The Tribes' interests obviously parallel the federal interests.

....

The sole interest asserted by the State to justify the imposition of its bingo laws on the Tribes is in preventing the infiltration of the tribal games by organized crime. . . .

We conclude that the State's interest in preventing the infiltration of the tribal bingo enterprises by organized crime does not justify state regulation of the tribal bingo enterprises in light of the

INDIAN TRIBES AS SOVEREIGN GOVERNMENTS

compelling federal and tribal interests supporting them. State regulation would impermissibly infringe on tribal government, and this conclusion applies equally to the county's attempted regulation of the Cabazon card club. We therefore affirm the judgment of the Court of Appeals and remand the case for further proceedings consistent with this opinion.

It is so ordered.

HF 5A
4-6-92
#1-4

GENERAL STATEMENT

The Bureau of Indian Affairs, created in the War Department in 1824, was transferred to the Department of the Interior in 1849. The history of the relationship between Indian tribes and the U. S. Government reveals that the mission of the BIA was founded on a government-to-government relationship and a trust responsibility emanating from treaties and other agreements with Native groups. The bureau, therefore, as an agent of the U. S. Government, recognizes a fundamental responsibility to American Indian tribes, Alaska Native groups, and the tribal form of government. The bureau's mission is to: (1) recognize and preserve the inherent rights of tribal self-government; (2) strengthen tribal capacity for self-government; (3) provide resources for tribal government programs; (4) protect the rights of Indian people in dealing with other governmental entities and the private sector; and (5) fulfill and execute the Federal Government's responsibility for trust resources and property.

The Snyder Act of 1921 (42 Stat. 208; 25 U.S.C. 13) provides substantive law for appropriations covering the activities of the Bureau of Indian Affairs. The scope and character of the authorizations contained in this Act were broadened by the Indian Reorganization Act of 1934 (45 Stat. 984; 25 U.S.C. 461 et seq.); by the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.); by the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450); by Title XI of the Elementary and Secondary Education Amendments Act of 1978, as amended (92 Stat. 2316; 25 U.S.C. 2001 et seq.); by the Indian Child Welfare Act of 1978 (92 Stat. 3069; 25 U.S.C. 1901 et seq.); by the Tribally Controlled Community College Assistance Act of 1978, as amended (85 Stat. 646; 25 U.S.C. 640a); and by the Anti-Drug Abuse Act of 1986, as amended (25 U.S.C. 2401 et seq.).

The Central Office of the Bureau of Indian Affairs is located in Washington, D.C., but the majority of headquarters staff work in Albuquerque, New Mexico with smaller staff contingents located in other western states. The Bureau has 12 area offices, 83 agencies, 3 sub-agencies, 6 field stations, 3 irrigation project offices, 2 post-secondary institutions, 111 day schools, 57 boarding schools, and 14 dormitories. These totals include 78 schools which are funded by the bureau and operated by tribes under contract pursuant to P.L. 93-638 or under grants pursuant to P.L. 100-297.

The bureau provides services directly or through contract to 949,000 Indians, Eskimos, and Aleuts who reside in 31 states. The bureau carries out the government-to-government functions for the Federal Government with 310 Indian tribes in the "lower 48 states" and with 197 Alaskan Native organizations. The bureau administers 42,385,031 acres of tribally-owned land and 10,226,180 acres of individually-owned land which is held in trust status. It also administers 442,755 acres of federally-owned land.

The following pages provide a comparison between the appropriations enacted for FY 1990, the adjustments pursuant to the Deficit Reduction Act, the FY 1991 base, and the FY 1991 request.

HF3SA
4-6-92
#1-5



HASKELL IND COLLEGE
BIA
LAWRENCE

HEP SA
4-6-92
#1-6

BISHINIK

The Official Publication of the Choctaw Nation of Oklahoma

February 1992

Bingo helps tribal members and community

Approximately 160,000 people visit Choctaw Bingo in a year. Twenty percent of the players come from Oklahoma. 80 percent are from Texas. The hall operates on a high-tech computer system.

The community and the Choctaw Nation of Oklahoma benefit greatly from the funds generated by Bingo. As well as being one of the area's

largest employers, it also does community services such as a Halloween carnival to offer the children free games and can do so that they will have a safe Halloween.

The Choctaw Nation's percentage of Bingo revenues goes into a budget called General Fund.

This fund is used to benefit services such as the energy assistance pro-

gram, the Higher Education Program, the Choctaw Nation Head Start Center, Elderly Nutrition Program, Commodity Program, and help provide medicines for Choctaw people. Free games are offered to players who bring a toy in the months of November and December. These toys are given to the Indian children at Choctaw Childrens Christmas

Parties.

Bingo profits have made many tribal economic development projects available, such as the Travel Plaza in Durant and the Finishing Company in Hugo.

Choctaw Bingo also plays special games to raise money for MDA: over \$20,000 was raised last year.

continued on page 3

Employees, their friends and families participated in the March of Dimes Walk-A-Thon to give Choctaw Bingo a total of \$5,956.55 in donations for 1990, and \$5,718.79 are raised by playing special games in the hall.

Also provided are sponsorship donations to organizations such as Gifted Children, Special Olympics, Boys Home, Boy Scouts, area school and others.

Choctaw Indian High Stakes Bingo has more to offer than just a bingo session. Located in the middle of the Lake Texoma Resort area, 90 miles from Dallas, Texas, the Nation is a

premier choice entertainment spot. It offers pulltabs with payouts up to \$5,000, weekend promotions such as the \$25,000 Key Day, \$10,000 Wheel-of-Fortune, Car Bazaar where at least one car will be won on that weekend, and other give-aways. Also included is a form of Class II horse racing in which each B row number is considered a horse.

Bingo numbers are quickly called and the first column under the B row numbers to be completely lit up is the winning horse. The bingo session that consists of an assortment of games paying \$200 to \$10,000 also includes Bonanza and Do-It-Your-

self jackpot games that begin at \$25,000 each and progress until won. \$1,000,000 MegaBingo is played via satellite on Friday and Saturday. \$500,000 MegaCash on Sunday.

All of the packages may be played on paper or on ElectroBingo handsets, on which you can play up to 40 cards. It will signal when you have a bingo.

Choctaw Indian High Stakes Bingo works toward always improving and increasing what it has to offer the players, community and the Choctaw Nation.

From *Indian Gaming magazine*, December 1991.



RECEIVED

MAR 11 1992

Indian News

week-in-review

Vol. 16, No. 2

TRUST FUNDS MANAGEMENT

March 3, 1992

PRESIDENT BUSH ISSUES PROCLAMATION: YEAR OF THE AMERICAN INDIAN, 1992

President Bush issued the following proclamation March 2 designating 1992 as the Year of the American Indian.

Half a millennium ago, when European explorers amazed their compatriots with stories of a New World, what they actually described was a land that had long been home to America's native peoples. In the Northeast part of this country and long the Northwest coast, generations of tribes fished and hunted; others farmed the rich soils of the Southeast and Great Plains, while nomadic tribes roamed and foraged across the Great Basin. In the arid Southwest, native peoples irrigated the desert, cultivating what land they could. Each tribe formed a thriving community with its own customs, traditions, and system of social order.

The contributions that Native Americans have made to our Nation's history and culture are as numerous and varied as the tribes themselves. Over the years, they have added to their ancient wealth of art and folklore a rich legacy of service and achievement. Today we gratefully recall Native Americans who helped the early European settlers to survive in a strange new land; we salute the Navajo Code Talkers of World War II and all those Native Americans who have distinguished themselves in service to our country; and we remember those men and women of Indian descent -- such as the great athlete, Jim Thorpe and our 31st Vice President, Charles Curtis -- who have instilled pride in others by reaching the heights of their respective fields. We also celebrate, with special admiration and gratitude, another enduring legacy of Native Americans: their close attachment to the land and their exemplary stewardship of its natural resources. In virtually every realm of our national life, the contributions of America's original inhabitants and their descendants continue.

During 1992, we will honor this country's native peoples as vital participants in the history of the United States. This year gives us the opportunity to recognize the special place that Native Americans hold in our society, to affirm the right of Indian tribes to exist as sovereign entities, and to seek greater mutual understanding and trust. Therefore, we gratefully salute all American Indians, expressing our support for tribal self-determina-

HF35A
(Cont'd on Page 2) 4-6-92

#1-7

tion and assisting with efforts to celebrate and preserve each tribe's unique cultural heritage.

The Congress, by Public Law 102-188, has designated as the "Year of the American Indian" and has authorized and requested the President to issue a proclamation in observance of this year.

Now, therefore, I George Bush, President of the United States of America, do hereby proclaim 1992 as the Year of the American Indian. I encourage Federal, State, and local government officials, interested groups and organizations, and the people of the United States to observe this year with appropriate programs, ceremonies, and activities.

In witness whereof, I have hereunto set my hand this second day of March, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.

(signed) GEORGE BUSH

Editor's Note: The Bureau of Indian Affairs plans to issue a series of four-color posters to commemorate the Year of the American Indian, 1992.

HF&SA
4-6-92
#1-8

MEMORANDUM

Kansas Legislative Research Department

Room 545-N – Statehouse
Topeka, Kansas 66612-1586
(913) 296-3181

April 6, 1992

To: Members of House and Senate Federal State Affairs Committees
Re: Presentation on Federal Tribal Relations

The three faculty members of Haskell College who presented information on federal tribal relations on April 6 left staff copies of publications titled *Basic Indian Law* and *Indian Sovereignty*. The latter publication is part of an Indian legal curriculum and training program which was developed and has been implemented by the Institute for the Development of Indian Law. Because these publications are rather hefty and therefore, expensive to reproduce, copies have been made for the Chairpersons of the House and Senate Federal and State Affairs Committees, as well as the Chairpersons of the House and Senate Judiciary Committees. There are also copies on file at the Legislative Research Department. Please contact Mary Galligan or Lynne Holt if you would like a copy.

Finally, demographic facts and figures were provided to the Committees at the April 6 meeting but were not distributed. They are attached to this memorandum for your information.

92-1987/LYN

HF-35A
4-6-92
1-9