

Approved WED. 5-6-92  
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION

The meeting was called to order by SENATOR DAN THIESSEN at  
Chairperson

11:00 a.m./~~pm~~ on Thursday, April 9, 1992 in room 519-s of the Capitol.

All members were present except:

Committee staff present:

Bill Edds, Revisor's Office  
Don Hayward, Revisor's Office  
Chris Courtwright, Research Department  
Tom Severn, Research Department  
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Mark Burghart, Legal Counsel, KS Department of Revenue  
Lance Burr, Attorney, Lawrence KS-representing the Kickapoo Nation

Chairman Dan Thiessen called the meeting to order at 11:17 and said the agenda calls for hearings on SB784, SB785, SB786 and SB 787 and he said, all four of the bills deal with the tax compacts with various Indian Tribes, and he asked staff to brief the committee on the four bills, starting with SB784.

Tom Severn said the four compacts authorize the Governor to execute proposed tax compacts with the four tribes. He said, the term tribes mean, nation tribe or band of indians and each bill contains a brief statement of the purposes of which the tribe would spend the money that was raised by its taxes, and precribes the minimum tax rates on the part of the tribes, and the State relinquishes its authority with respect to imposing, enforcing or collecting on merchants on reservations. Dr. Severn said, there are certain requirments on the tribes to effecting enforce and maintain their tax status, and the terms are for 5 years, and he said, if the Congress of the U.S. Supreme Court should nullify the State's authority to impose a tax with respect to reservation sales to non-indians, they would be void from that time forward.

He said, each tribe is unique and has a different set of minimum rates, and each has the right to impose higher taxes.

After committee discussion Chairman Thiessen recognized Mark Burghart, Legal Counsel, KS Department of Revenue.

Mark Burghart said basically the bills just put in statutory formats to impose tax compacts with the tribes.

He said, he and Mr. McCormick have worked with the tribes over the past summer and he said, some of the rationale they were considering as they went about the process is, the tribes are very much like states and the Federal Government is cutting back on some of their funding and they have to look at other sources. He said, they want the tribes to be more self sufficient and self reliant, and in order for them to do that and to be able to fund their tribal services, they are just like the state and local communities, they have water systems they have to maintain, and health programs, and in order to maintain these, you have to raise taxes in some manner.

He said, if you impose a state tax and a tribal tax on a single transaction, that transaction will not take place on a reservation.

Mr. Burghart, said you would basically be precluding and sort of activity taking place on a reservation, and they therefore have no revenue sources, and you would impose taxes on transactions that don't exist.

He said, they looked at what other state's have done, and came up with what came out of the state of Mississippi, which basically says, the state sort of gives up its share of those transactions, if the tribes are imposing a local tax, a tribal tax and are using that tax revenue to fund their local operations.

He said, in looking at the four bills before the committee, there are different rates, and he said, when they 1st went into this, they thought all tribes were the same, and they are not, each is unique.

He said, the direction they received from the Governor is if, the tribe is imposing a tax they would continue to impose that tax, if the state would agree to relinquish its jurisdiction, to collect state tax on the reservation.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION,

room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Thursday, April 9, 1992

He said **SB786** the Potawatomi compact is different from the other three, because the percentage that they have to collect is higher, and the reason we made it higher, is their location is such that they didn't feel there was a real strong competition factor regarding reservation retailers. He said, they are located in a pretty remote area.

After additional committee discussion; regarding the compacts that have been made by the Governor with the Indians and the ramifications with pending litigation;

Senator Fred Kerr made a motion to send all 4 bills, SB784, SB785, SB786 and SB787 to interim study, 2nd by Senator Don Montgomery.

Senator Jack Steineger made a substitute motion to favorably pass SB784, SB785, SB786 and SB787, 2nd by Senator Phil Martin.

Chairman Thiessen asked Lance Burr if he would like to comment on these bills before a vote on the motion.

Lance Burr, Attorney from Lawrence said he represents the Kickapoo Nation and he said, the compacts represent a long hard road of negotiations with the State and the Governor, especially with the Kickapoo compact. He said, the enabling clause in the Constitution does state that unless the President of the United States, makes a request which takes civil jurisdiction, that the State has no jurisdiction on the Kickapoo Nation Reservation. He said, this has been a consistent position of the Kickapoo Nation throughout the 20 years, that he has represented them.

He said, since they are so isolated, 7 miles east of Hwy. 75 and 7 miles on K-20, with hardly no traffic at all, and their main source of income is a service station, and they have a small bingo hall, a power shop, and they have a buffalo herd, which that is their only means of support for the Nation, which has 1400 members.

He said, they don't charge as much taxes as the state does in many cases, and they felt it would be good to have the figures set out in **SB785**. He said, they can't get anyone to come to their station unless they lower their prices a bit lower than the state's prices. He said, no complaints have been brought to their attention, in regards to this. He said, they have one small cafe, and what they basically sell is food, candy, cigarettes and fuel. He said, they are very much in favor of passage of this bill in it's present form. (**NO WRITTEN TESTIMONY**)

Chairman Dan Thiessen asked for a vote on Senator Steineger's substitute motion. ON A DIVISION VOTE the motion tied 5 to 5.

Senator Fred Kerr withdrew his above motion, 2nd by Senator Don Montgomery.

Senator Dan Thiessen adjourned the meeting at 11:52 a.m.

