

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:10 a.m. on February 22, 2000 in Room 245-N of the Capitol.

All members were present.

Committee staff present: Mary Galligan, Legislative Research Department  
Russell Mills, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Judy Glasgow, Committee Secretary

Conferees appearing before the committee:  
Ron Hein, Indian Nations in Kansas  
Representative Becky Hutchins  
Doug Fletcher, Circleville  
Daina Durham, Sheriff Jackson County

Others attending: See attached sheet

Senator Biggs introduced his daughter, Donna Warden and two of his grandchildren, Erin and Blaine, of Warrensburg, Missouri. Senator Oleen welcomed them on behalf of the committee.

Mary Galligan reviewed information from the National Conference of State Legislatures (NCSL) on a project to improve state-tribal relations. She stated that the NCSL and National Congress of American Indians (NCAI) are working jointly to sponsor projects to improve relationships between tribes and state legislatures. A "Call for Papers" relating to the theme of "Tribal-State Partnerships: Models of Cooperation in Government" are being requested for the NCAI Midyear Session in Juneau, Alaska. (Attachment 1) Mary Galligan provided copies of a report from Dr. Charles J. Barden, Kansas State University, describing a project to establish several riparian buffer demonstration sites on the Prairie Band Potawatomi Reservation. It is described as a water and land conservation activity. (Attachment 2). The project received excellent cooperation with young people from the Potawatomi Band as well as students and faculty from Kansas State.

Chairman Oleen stated that it would be her intention to offer this project as an example of a partnership that has worked between a tribal reservation and the state of Kansas. The paper could be prepared and submitted as a future resource for tribes and states to consider in other jurisdictions. It was the general consensus of the committee that the paper be prepared and submitted to the NCAI Midyear Session 2000.

Chairman Oleen opened hearing on:

**SB 607 – Interlocal agreements with Native American Indian tribes**

Chairman Oleen recognized Ron Hein, appearing on behalf of the Indian Nations in Kansas (INK). Mr. Hein stated that the Indian Nations support **SB 607**; this bill would permit the tribes to enter into agreements with any county, township, city, school district, or any other political subdivision or any other state or any state agency of the State of Kansas pursuant to the terms of that act. (Attachment 3) Mr. Hein stated that there are areas where the tribes and various local units of government would benefit from having cooperative agreements. He strongly urged the committee to support **SB 607**.

There were no opponents to the bill.

Chairman Oleen closed the hearing on **SB 607**.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS, Room 245-N Statehouse, at 11:00 a.m. on February 22, 2000.

Questions and discussion by the committee concerned the definition of Native American Indian tribe and if there were a need to limit the measure to tribes which had entered into gaming compact with the state of Kansas. Senator Biggs moved to recommend the bill favorably to the full Senate. Senator Becker seconded the motion. On discussion, Senator Vratil offered a substitute motion to amend the bill to "Native American Indian Nation, shall mean any Native American Indian nation which is recognized by the government of the United States and which has a reservation in the state of Kansas. Senator Jones seconded the motion. The motion carried. Senator Vratil moved to recommend the bill favorable to the full Senate. Senator Jones seconded the motion. Chairman Oleen ask staff for further clarification on the language change and use of definition between Indian tribe(s) and Indian Nation(s) and stated that the committee would return to the bill.

Chairman Oleen opened hearings on:

**SB 608 – Issuance of temporary memberships at class B clubs located at tribal gaming facilities**

Chairman Oleen called on opponents of the bill first and recognized Representative Hutchins. Representative Hutchins stated that the compact between the State of Kansas and the Prairie Band Potawatomi tribe states that sale and consumption of alcoholic and cereal malt beverages in gaming facility shall be regulated pursuant to the tribal compacts. Transactions must be in conformity with the liquor laws of the State. (Attachment 4). Representative Hutchins stated that in 1986 the State of Kansas approved a constitutional amendment which permitted the counties to decide on liquor by the drink in public places. Jackson County voted the issue down in 1986, and again in 1998. She ask that the committee honor Jackson County's decision and not pass **SB 608**.

Chairman Oleen recognized Daina Durham, Sheriff of Jackson County, as an opponent to **SB 608**. Sheriff Durham stated that in 1996 there were 60 DUI arrests in Jackson and by 1998 there were 213 DUI's. She said Harrah's expects approximately 3.4 million visitors this year, and with the limited number of officers in Jackson County, an increase of DUI's in Jackson County would create a hardship. Sheriff Durham stated that the people in Jackson County have already voted that Jackson County should remain a dry county and that their decision should be honored.

Chairman Oleen called on Doug Fletcher, Circleville, as an opponent to **SB 608**. Mr. Fletcher stated that when counties were given the option in 1986 to be wet or dry, Jackson County voted to be dry and has remained a dry county. (Attachment 5) The Indian gaming facilities agreed to follow state laws in Kansas, including the counties of which they are located. Mr. Fletcher stated that treating Native American class B clubs as a sovereign nation is to treat non-Native American class B clubs in a different manner.. Mr. Fletcher ask the committee to let the residents of all counties, (in which Indian gaming facilities are located) determine the way in which alcohol is purchased and served.

Chairman Oleen noted that written testimony had been received from Ellen Schirmer, Jackson County Commissioner, proponent to **SB 608**. (Attachment 6)

Chairman Oleen announced that because of time constraints, Proponents of **SB 608** would be heard on a later date. The committee will continue to accept written testimony from on the bill.

The meeting adjourned at 12:15 p.m. The next meeting will be held on February 23, 2000 at 11:00 a.m.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE  
GUEST LIST

DATE: FEB 22 2000

NAME	REPRESENTING
Doug Zetter	Jackson County
William DeLan	Jackson County
Allen Jones	SGA
Bob Longm	KDOR ABC
Alan Steppat	Harrah's Entertainment
Pete Bodyk	KDOR/ABC
Mel [unclear]	KDOR/ABC
Verna Weber	SRS
JEDI SPINDLER	Native American Affairs
Laurie Williams	Governor's Office



## PROJECT TO IMPROVE STATE-TRIBAL RELATIONS

This project is for the purpose of promoting intergovernmental cooperation between states and tribes by researching, assessing and disseminating information about how devolution will affect Indian tribes and the state-tribal relationship, and providing neutral forums for communication between state legislators and tribal leaders.

As a result of efforts to reform the size and appropriate function of the federal government, program authorities and responsibilities for public management are shifting from the federal government to the states--and in some cases--to Indian tribes. Although some tribes have made great strides in developing administrative capacities in the past decade, many tribes do not have adequate resources or institutional capabilities to manage programs or provide necessary services to their communities. In some cases, responsibilities for managing programs that serve Indian communities fall to the states. In all cases, tribal sovereignty and state-tribal relationships need to be better understood by both state and tribal leaders.

We are working with the National Congress of American Indians (NCAI) to expand upon our ongoing efforts to educate state legislators on issues related to tribal sovereignty in general and governance on particular issues and educate tribal leaders on issues related to state governance. We ultimately hope to promote greater state-tribal cooperation in substantive program areas such as protecting the environment, managing natural resources and implementing welfare reform.

### Project Activities

1. Advisory council of state legislators, legislative staff and tribal leaders to provide direction for all project components, assist in identifying key state-tribal issues, and determine what state and tribal leaders need for more cooperative relationships.
2. Two national meetings of state legislators and staff, tribal leaders and others will be organized to discuss tribal sovereignty within the context of the substantive issues affected by devolution and identified by the advisory group.
3. Focused conferences in Arizona and Washington, and technical assistance to any state that would like to understand tribal sovereignty and establish cooperative state/tribal relationships on specific issues.
4. Information clearinghouses by tracking legislative developments, answering questions about state-tribal issues and producing state-tribal guidebooks.

Contacts for more information:

Susan Johnson or Jeanne Kaufmann, NCSL, (303) 830-2200

Sarah Hicks, NCAI, (202) 466-7767

Sen. Federal & State Affairs Com  
Date: 2-22-00  
Attachment: # 1-1



Report Submitted to the Joint Legislative Committee on State-Tribal Relations

**RIPARIAN BUFFER INITIATIVE FOR THE POTAWATOMI RESERVATION**

I am here at the request of Madam Chair Oleen, to describe a project I have been conducting to establish several riparian buffer demonstration sites on the Prairie Band of the Potawatomi Reservation in Jackson county. My name is Dr. Charles Barden, I am a faculty member with the Department of Horticulture, Forestry and Recreation Resources at K-State.

The 121 square mile reservation is actually a mosaic of land ownership and land uses. Almost 60% of the area is in non-tribal ownership, with pasture/range the predominant land use (approximately 55%,) followed by cropland at approximately 35%, with lesser components of woodland and residential/commercial areas. Big Soldier and Little Soldier Creeks drain the reservation and run into the Kansas River, from which several eastern Kansas municipalities draw their water supply. Eroding streambanks and excessive levels of sediment, nutrients and pesticides are found in many Kansas streams draining cropland. Establishment of riparian forest buffers and streambank stabilization can help address these issues and improve water quality.

Conservation techniques being demonstrated include redcedar revetments and willow posts to stabilize eroding streambanks, and the planting of native prairie grass and woodland buffers to reduce pesticide and nutrient runoff. Staff from several tribal departments, as well as high school and college student tribal members have worked alongside K-State students and faculty and agency personnel to install the demonstration areas, thereby building tribal capacity to continue the establishment of these practices.

Two riparian buffer demonstration sites have been planted along Big Soldier and Crow Creeks. The riparian buffers consist of a 20' wide prairie grass filter strip along the crop field edge. Two rows of shrubs were planted next including American plum, Nanking cherry, choke cherry, and red twig dogwood. Tree seedlings planted near the stream include black walnut, bur oak, pecan, green ash, hackberry, sycamore, and silver maple. Red elm (*Ulmus rubra*) is of special cultural significance to the tribe, and will be added to the planting. Two more sites will be established next year.

The project has received excellent cooperation from several Potawatomi departments, and the Tribal Council. Other project cooperators include Haskell Indian Nations University, KDHE, local offices of the NRCS and BIA, and the Jackson County Extension office. Please feel free to contact me if you have any other questions. Thank you for your interest.

Dr. Charles J. Barden, Kansas State University, 2021 Throckmorton Hall, Manhattan, KS 66506.  
Ph (785) 532-1444, Fax (785) 532-5780, E-mail [cbarden@oz.oznet.ksu.edu](mailto:cbarden@oz.oznet.ksu.edu).

11 November 1999

Sen. Federal & State Affairs Comm  
Date: 2-22-00  
Attachment: # 2-1

# HEIN AND WEIR, CHARTERED

*Attorneys-at-Law*

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*Stephen P. Weir\**

Email: sweir@hwchtd.com

\*Admitted in Kansas & Texas

## Testimony before Senate Federal and State Affairs

**Re: SB 607**

**Presented by Ronald R. Hein**

**on behalf of**

**Indian Nations In Kansas**

**February 22, 2000**

Madam Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Indian Nations in Kansas (INIK). INIK is an ad hoc coalition of three of the four Kansas Native American Indian Tribes, the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, the Prairie Band Potawatomi Nation, and the Sac and Fox Nation of Missouri.

The Indian Nations support SB 607. The addition of the Native American Indian Tribes to the provisions of the Interlocal Cooperation Act would permit the tribes to enter into agreements with any county, township, city, school district, or any other political subdivision, or any other state or any state agency of the State of Kansas pursuant to the terms of that act.

The bill would permit the tribes to contract with those other agencies or political subdivisions, but would also permit those political subdivisions or agencies to contract with the tribes. Any such agreement would be recognized by the State of Kansas with the same degree of recognition of contracts that are entered into between other political subdivisions of the state.

There are many areas where the tribes and various local units of government would benefit from having such agreements, including law enforcement issues such as cross deputization; education issues such as would be applicable with agreements between school districts and the tribes; and a myriad of other issues.

As I have testified before to this committee, it is important that the mechanisms exist that would permit cooperation and agreement between the tribes and state and local government and their agencies. In the absence of such ability to communicate and to come to agreement, there will be a natural tendency to be confrontational and to let litigation solve disputes that arise.

In light of this, the Indian Nations would strongly urge you to support SB 607. Thank you very much for permitting me to testify, and I will be happy to yield to questions.

Sen. Federal & State Affairs Comm

Date: 2-22-00

Attachment: # 3-1

BECKY HUTCHINS  
REPRESENTATIVE, FIFTIETH DISTRICT  
JACKSON AND SHAWNEE COUNTIES  
700 WYOMING  
HOLTON, KANSAS 66436  
(785) 364-2612

ROOM 427-S  
STATE CAPITOL  
TOPEKA, KANSAS 66612-1504  
(785) 296-7698



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
VICE CHAIR: FEDERAL AND STATE AFFAIRS  
MEMBER: ENVIRONMENT  
TOURISM

## SENATE FEDERAL & STATE AFFAIRS

Testimony Regarding

Senate Bill 608

February 22, 2000

Chairman Oleen and Members of the Senate Federal & State Affairs Committee:

Thank you for the opportunity today to come before you and speak in opposition to Senate Bill 608. I will make my remarks brief.

1. Section 21, subsection C of the compact between the State of Kansas and the Prairie Band Potawatomi Nation states "Sale, possession and consumption of alcoholic and cereal malt beverages in the gaming facility shall be regulated pursuant to state law as provided in 18 U.S.C. 1161."

18 U.S.C. 1161 - dealing with Application of Indian Liquor Laws states the transaction must be "in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the tribe having jurisdiction over such area of Indian country."

2. In 1986 the State of Kansas approved a constitutional amendment to have the state legislature license, regulate and tax the sale of liquor by the drink in public places located in counties where the **majority** approved the amendment. In essence, "Let the counties decide". Jackson County voted down the liquor by the drink issue in 1986. The liquor by the drink issue was voted on again in Jackson County on November 3, 1998 where it failed by over 1000 votes.

3. I feel that the voters of Jackson County have sent a strong message with regard to liquor by the drink. I also feel the State should honor their decision.

A handwritten signature in cursive script that reads "Becky Hutchins".

Becky Hutchins  
Representative 50<sup>th</sup> District

Sen. Federal & State Affairs Comm  
Date: 2-22-00  
Attachment: # 4-1

(8) Other applicable local building codes and standards.

(B) **Emergency Service Accessibility.** The Tribal Gaming Commission shall make provisions for adequate emergency accessibility and service.

(C) **Alcoholic and Cereal Malt Beverages.** No alcoholic or cereal malt beverages shall be served or consumed on any gaming floor, nor anywhere within the gaming facility between the hours of 2:00 a.m. and 9:00 a.m. Sale, possession and consumption of alcoholic and cereal malt beverages in the gaming facility shall be regulated pursuant to state law as provided in 18 U.S.C. 1161.

(D) **Unemployment Compensation; Workers Compensation.** All key employees, standard gaming employees and non-gaming employees shall be covered by Unemployment Compensation and Workers Compensation benefits equivalent to that provided by state law.

(E) **Consultation With Local Authorities.** The Tribe shall consult with appropriate state and county officials concerning maintenance and safety of roads, bridges and other infrastructure made necessary by implementation of this Compact.

**Section 27: Contribution to Local Government.**

Upon mutual consultation and agreement between the Tribe and the state and local governments, the Tribe agrees that certain related costs of the operation of the Class III gaming facility may be paid for from the operating revenues of the tribal facility. Such costs shall be limited to the cost of increased police patrol and necessary road improvements, if any.

**Section 28: Use of Net Revenues.**

Net revenues from each Class III gaming activity or operation pursuant to this Compact



**Doug Fletcher**  
105 Wilson  
Circleville, Kansas 66416  
Home Phone 785-924-3831  
Email dfletcher@holtonks.net

February 21, 2000

**Senate Bill No. 608**  
**By Joint Committee on State-Tribal Relations**

Dear Committee Members,

I would like to Thank you for the opportunity to share with you my concerns relating to Senate Bill No. 608, an act concerning the club and drinking establishment act; relating to class B clubs; amending K.S.A. 1999 Sup.41-2641 and repealing the existing section.

My concern begins as a resident of Jackson County. The impact of amending the current bill would impact all counties in Kansas where Indian casinos are located. Jackson County is one such county which would be impacted by the amending of this bill in the following ways.

In November of 1998 the citizens of Jackson County voted down a proposal legalizing liquor by the drink. With fifty-nine percent of registered voters coming to the polls there were 2,764 "NO" votes for liquor by the drink and 1,686 "YES" votes, a difference of 1,078 votes. This was not a small effort by the residents of the county nor was the margin of defeat small. The message was sent to those in favor of legalizing liquor by the drink that Jackson County was to remain a dry county.

As stated in the amendment any class B club located on the premises of an Indian gaming facility may establish rules where a person may file for temporary membership for the day such person is using such a facility. This membership will not be subject to the waiting period or fee requirement. The amendment would change this by allowing Indian casinos to serve liquor by the drink without its patrons having a waiting period or membership.

It is this waiting period and membership which makes people think before drinking. When there is a waiting period and need for the signing of one's name, one has to think about how bad they want to drink. It is this current law which might be saving lives on Kansas highways, like Hwy 75, which is the main traffic route used to the casinos in Jackson and Brown counties.

This is the state preempting the county wishes. When counties were given the option beginning in the 1980s' to be "wet" or "dry", Jackson County voted to be "dry" and desired this to mean all establishments in the county. If counties voted to stay dry so then should the tribes as they are a part of the county.

All Indian gaming facilities agreed to follow state laws in Kansas including the counties of which they are residents. The appropriate contracts and agreements were signed by the tribes. Treating Native American class B clubs as a sovereign nation is to treat differently non Native American class B clubs.

Finally, this is all about money. Without having the obligation of paying membership fees and having to sign ones name, Indian gaming facilities are seeing this as another way to make money. More people are likely to drink who had not in the past. The more people drink the looser their pockets become and the more they give the casino.

Changing the current laws governing class B clubs would have a greater likelihood of negatively impacting the communities in which they exist. This would increase the number of people purchasing alcohol who currently do not drink because of the existing membership laws. This places more vehicle operators on the Kansas roads who are under the influence of alcohol.

Gambling addiction causes rational people to perform irrational acts, add alcohol to this and it only increases problems. Like the old saying, "An ounce of prevention is worth a pound of cure".

Please leave this law as it stands. Let the residents of all counties, in which Indian gaming facilities are located, determine the way in which alcohol is purchased and served.

Sincerely,  
*Doug Fletcher*

Sen. Federal & State Affairs Comm  
Date: 2-22-00  
Attachment: # 5-1

# Jackson County Commission

Courthouse - 400 New York  
Holton, Kansas 66436



**JOHN GRAU, SOLDIER**  
FIRST DISTRICT COMMISSIONER

**ELLEN SCHIRMER, HOLTON**  
SECOND DISTRICT COMMISSIONER

**ROY OGDEN, MAYETTA**  
THIRD DISTRICT COMMISSIONER

PHONE 364-2826 OR 364-2891  
FAX 364-4204

To: Senate Federal & Affairs Committee

RE: Senate Bill 608

Liquor by the drink was brought to a County vote on November 3<sup>rd</sup>, 1998. The voters in Jackson County voted 1,686 in favor of liquor by the drink and 2,764 against liquor by the drink. We are disappointed that this should come to you, to reconsider, when the figures clearly show that the people of Jackson County are against this. We hope you will seriously consider leaving this law in place as it is, because we feel like it is in the best interest of the people in Jackson County. Thank you for your time and consideration.

Sincerely,

Ellen Schirmer  
Jackson County Commissioner

Post-it* Fax Note	7671	Date	2-18-00	# of pages	1
To	Repr. Hutchings	From	Ellen Schirmer		
Co./Dept.		Co.	Jackson		
Phone #		Phone #	785-364-2589		
Fax #	785-368-6365	Fax #	785-364-4204		

Sen. Federal & State Affairs Com  
Date: 2-22-00  
Attachment: # 6-1