

CONTINUATION SHEET
MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
February 28, 2001

be fair and to save lives, and that it was important to weigh that against concerns about dram shop liability which really were not valid concerns. Senator Barnett stated that he hoped that the bill would be passed out of committee so that it could be heard on the floor.

Senator Vratil stated that it seemed like one of the main purposes of the bill was to make sure all cities and counties had keg registration so that people cannot simply go to another county to buy their kegs, but that the powers of Home Rule denied that.

Senator Barnett stated that he would ask Theresa Kiernan to clarify, and she stated that **SB 328** was a state-wide regulation and that Home Rule would only allow local areas to make it stricter, but not to negate it.

The committee discussed the need to wait on a court decision from the Supreme Court to see if Home Rule in the Constitution preempts the amendment. Both Senator Vratil and Ms. Kiernan agreed that in order to make the bill stronger and avoid problems the committee might want to put it into the criminal statutes, but Senator Brungardt stated that he was concerned about putting intoxicating beverages into other areas of the law.

The committee agreed that if the bill was passed and then the Supreme Court decision had some effect that the bill could be changed if necessary.

Senator Vratil and Theresa Kiernan both stated that no matter what happened to the bill, the preemption language ought to be put in again.

Senator Barnett stated that he respected Senator Vratil's opinion, but that he felt that the bill ought to be worked and then it can be dealt with later.

Rebecca Rice stated that the Supreme Court decision might have a negative effect on the bill and that if the decision is not in favor of the law then cities will continue to charter out from under the bill. In response to comments from Ms. Rice, Senator Barnett stated that he hoped people will try to encourage the bill, not try to opt out.

Senator O'Connor stated that she would like to know if it was possible for someone to buy a registered keg and then transfer the beer to an unregistered keg, and Senator Barnett stated that it would be illegal to be in possession of an unmarked keg. Chairman Harrington stated that anyone can find a way around things like this, just like ethics laws. Following further discussion, Senator Barnett stated that the bill concerns providing alcohol to a minor. Senator O'Connor stated that she did not see it as addressing the problem, only interfering with people trying to tailgate at a Chiefs' game.

Chairman Harrington stated that the point of the bill was to have a registered keg so that if an adult buys a keg and then gives alcohol to a minor and law enforcement is called, the adult who purchased the keg will be held responsible.

Theresa Kiernan stated that under current law, if someone bought a keg and put it in a big room, he should be sure that no one is under 21 or he may be held liable.

Senators Teichman and Gooch expressed concern that perhaps the bill had not been worked enough to be passed on to the entire Senate. Senator Barnett stated that he would be willing to develop a substitute.

Senator Gooch made a motion for a substitute bill to be created and brought back to committee. Senator Barnett seconded that motion. The motion passed.

Russell Mills presented a court decision on the Wyandotte case to the committee concerning tribal relations. (Attachment 2). He stated that the one and a half acres of land in downtown Kansas City, KS was ruled not to be a reservation and that the case is back in district court now.

The meeting was adjourned at 11:30 a.m. The next meeting is scheduled for 10:30 a.m., March 1, 2001.

RON THORNBURGH
Secretary of State



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TESTIMONY TO THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
ON HB 2036
FEBRUARY 28, 2001

The Secretary of State appreciates the opportunity to speak in support of HB 2036, which relates to the rules and regulations filing act.

Under current law, whenever a state agency adopts any material by reference in a regulation, the agency must maintain and make available to the public the adopted reference materials. The agency is also required to file a second copy of the materials with the Secretary of State. HB 2036 would eliminate the requirement that the second copy of materials be filed with and stored by the Secretary of State. The bill also allows the Secretary of State to return any adoption-by-reference materials on hand to the appropriate state agency or to dispose of them.

HB 2036 would save storage space in the Secretary of State's office by eliminating the future need to store these materials, and by eliminating the current stacks of materials that we keep in our basement. Removal of the materials from our office should not affect the public's right to review the materials, as they are available from the adopting state agency. The adopted materials are often available from other sources as well, such as public libraries, federal agencies and the internet. Our office has seen no evidence that storing the materials at our office is beneficial to the public; in fact, we have received only one request for adoption-by-reference materials in the past ten years.

Senate Fed + State
2-28-01
Attachment 1-1

Most importantly, HB 2036 will save state agencies money by not requiring them to produce a second copy of materials. Adoption-by-reference materials can be costly, and eliminating one set will cut the cost in half. Because the materials sit in our basement and are rarely requested by the public, the cost imposed upon a state agency to provide a second copy is unwarranted.

Again, I appreciate the opportunity to appear today in support of HB 2036 and I would be happy to answer any questions of the committee.

Melissa Wangemann, Legal Counsel
Deputy Assistant Secretary of State

From: Holly Zane <HollyZ@kdoc.dc.state.ks.us>
To: "Leah Robinson (E-mail)" <LeahR@klrd.state.ks.us>
Date: 2/28/01 9:56AM
Subject: KCK Tracts

Downtown KCK tracts not an Indian reservation, court rules

The Associated Press

Date: 02/27/01 23:23

DENVER -- A federal appeals court Tuesday said two acres in downtown Kansas City, Kan., belonging to an Oklahoma Indian tribe was not a reservation, meaning a casino cannot be opened by the tribe there.

A three-judge panel of the 10th U.S. Circuit Court of Appeals reinstated a lawsuit filed by competing tribes and Kansas against the Wyandotte Tribe of Oklahoma, saying a lower court erred in throwing it out of court.

However, the judges settled the lawsuit's central question of whether a former Masonic Lodge and the Huron Indian Cemetery, created by an 1855 treaty and a purchase in 1996, is a reservation "in the interests of judicial economy."

The lodge is at Seventh Street and Armstrong Avenue.

The judges said then Interior Secretary Bruce Babbitt did not have the authority to deem the tracts a reservation in 1996 and to allow gambling. The Indian Gaming Regulatory Act, which was passed by Congress in 1988 and which allows gambling on Indian reservations, created the National Indian Gaming Commission as the sole regulatory authority to settle such matters, the appellate court said.

The judges said the lower court erred when it dismissed the lawsuit on a technical legal point.

In sending the case back to U.S. District Court, the panel said Babbitt's actions were at issue in the case, not the economic interest of the tribe.

The Wyandotte Tribe of Oklahoma has done some renovation work on the former Masonic Lodge, but its leaders have said they would prefer to open a casino at The Woodlands racetrack in western Kansas City, Kan. That proposal also has been in limbo.

The Wyandotte Tribe of Oklahoma argued that it is entitled to open a casino on tribal property, which was made a reservation when put into trust by the U.S. Interior Department. Four Indian tribes in Kansas operate casinos on their reservations.

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Thank You,

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