



September 9, 2024

To: Joint Committee on State-Tribal Relations

From: Kate Smeltzer, Research Analyst

Re: Past Meetings of the Joint Committee on State-Tribal Relations

JOINT COMMITTEE ON STATE-TRIBAL RELATIONS HISTORICAL TIMELINE AND PAST MEETINGS

In 1999, the Joint Committee on Gaming Compacts¹ was reconstituted as the Joint Committee on State-Tribal Relations (Committee) through the enactment of HB 2065. This bill additionally changed the membership, structure, and charge specifications from those of the previous committee. Since its creation, the Committee has met for purposes beyond the statutorily-required organizational meeting ten times. The purpose of this memorandum is to highlight topics considered in non-organizational meetings.

Past Meetings of the Joint Committee on State-Tribal Relations

2024

The Committee has met twice thus far in 2024, once in February for organizational purposes and again in April to consider and approve a proposed amendment to the gaming compact between the Iowa Tribe of Kansas and Nebraska and the State of Kansas. The Committee recommended the approval of the proposed amendment, and two resolutions were introduced recommending such approval.

[*Note:* On April 2, 2024, the resolutions were adopted: SR 1750 was adopted by the Senate, and HR 6045 was adopted by the House of Representatives.]

2023

In 2023, the Committee met for two days with the charge to review and propose gaming contracts, hold hearings and discuss issues concerning state and Tribal relations. The first day was used to elect Committee membership, and day two was utilized for consideration of a proposed amendment to the gaming compact between Prairie Band Potawatomi Nation and the

1 The Joint Committee on Gaming Compacts was created in 1993 through the enactment of HB 2023.

State of Kansas, and to review the Committee's statutory responsibilities. The Committee recommended the approval of the proposed amendment; and introduced two resolutions to that effect.

[Note: On April 28, 2023, those resolutions were adopted: SR 1725 was adopted by the Senate and HR 6026 was adopted by the House of Representatives.]

2006

The Committee met two days in 2006, during which the Committee heard the following:

- The Revisor of Statutes briefed the Committee on the status of 2 Congressional bills, H.R. 4893 and S.R. 2078, which would have prohibited lands from being placed into trust;
- A brief regarding state police powers on reservations and recent legislation, including 2004 SB 9 and 2006 SB 320;
- The Assistant Attorney General briefed the Committee on Tribal litigation; and
- The Kansas Department of Transportation (KDOT) and the Prairie Band Potawatomi Nation discussed Tribal cooperation with the State.

The Committee concluded by making the following conclusions and recommendations to the Legislative Coordinating Council (LCC):

- A Senate bill, be prefiled, that would require insurance companies to report liability insurance for state police powers on reservations to the Office of the Attorney General. It would establish a cap of \$2.0 million on the liability insurance, and delete the sunset clause of the state police powers as contained in KSA 2005 Supp. 22-2401a;
- The Kansas Legislative Research Department and the Department of Revenue obtain information on resolution of the license plate issue in other states and report that information to the Committee members by December 15, 2006; and
- The Senate Transportation Committee reach consensus with interested parties to solve the Indian license plate problem and to recommend a bill to accomplish this task during the 2007 legislative session.

2005

In 2005, the Committee met one day during the interim, during which the Committee heard the following:

- A brief on proposed gaming compacts submitted by the Governor in 2004 and 2005 between Sac and Fox Nation of Missouri in Kansas and Nebraska, the Kickapoo Tribe in Kansas, and the State of Kansas;

- A brief on the status of the proposed state-owned and operated destination casino where the tribes were designated as casino managers;
- An Iowa Tribe proposal for a state-owned casino in South Central Kansas;
- An update on pending litigation dealing with motor fuels and reservation license plates;
- A National Conference of State Legislatures (NCSL) and National Congress of American Indians (NCAI) update on the Kellogg Foundation grant dealing with the State-Tribal Relations project;
- A Kickapoo Tribe request for more gaming to improve the economic situation on the reservation;
- A Prairie Band Potawatomi Nation opposition to state-owned and operated destination casinos; and
- A review of 2004 House Sub. for SB 9, which passed the 2004 Legislature and allowed tribal police to have state police powers within the exterior boundaries of the reservation. The question arose if the tribes had complied with a provision in the bill that requires liability insurance coverage by the tribes to be subject to verification by the Attorney General.

The Committee ended by making the following conclusions and recommendations:

- That 2004 House Sub. for SB 9 be clarified to provide for verification by the Attorney's General Office that a tribe carries the required liability insurance coverage for law enforcement.

2004

In 2004, the Committee met four days, during which the Committee heard:

- A brief regarding statutory framework;
- Tribal gaming compact timelines between Sac and Fox Nation of Missouri in Kansas and Nebraska and the Kickapoo Tribe in Kansas and the State of Kansas.
- A brief regarding 2004 SB 9; and
- A review of Attorney General Opinion No. 2004-29, which concluded that the Committee's authority to act on a compact is not precluded if the gaming is conducted on land other than land on a Tribal reservation.

The Committee made no recommendations or conclusions to present to the LCC.

2003

The Committee met for four days during the interim of 2003, and heard the following:

- Updates on the status of Tribal-related litigation involving the Wyandotte Tribe of Oklahoma's casino operation in Kansas City;
- An update regarding the issuance of Tribal license plates, and taxation of Tribal gasoline sales;
- An update on the Office of Native American Affairs activities;
- An NCSL review of current joint projects of NCSL and NCAI;
- History of the State Historical Marker program;
- A brief regarding the impact of historic preservation laws on the new casino operations in Kansas City;
- A brief about the South Lawrence Trafficway proposal;
- A brief regarding the Lewis and Clark Bicentennial Commission;
- An update on programs from the Department of Social and Rehabilitation Services (SRS);
- An update on the Kansas Arts Commission; and
- A review of Tribal-related issues as charged by the LCC to discuss the issue of placing lands into trust.

The Committee made the following recommendations:

- Regarding the Tribal law enforcement issue, the Committee recommended that the House Committee on Federal and State Affairs continue to work 2003 House Sub. for SB 9;
- The Committee, with the approval of the LCC, has sent a letter to the members of the Kansas Congressional delegation seeking their support in establishing a Congressional Inquiry or Government Accountability Office Audit into certain actions of the U.S. Department of Interior which resulted in the Wyandotte Tribe of Oklahoma operating a gaming casino in downtown Kansas City, Kansas;
- The Committee will continue to monitor the controversy over the South Lawrence Trafficway and its possible impact on the Baker Wetlands and Haskell Indian Nations University; and

- The Committee will continue to monitor the status of Tribal-related litigation and has requested expenditure information relative to these Tribal cases.

2002

In 2002, the Committee met five days in the interim, and heard the following:

- Input regarding various issues from the four resident Tribes;
- A review of the status of Tribal-related bills considered by the 2002 Legislature:
 - A concept recommended by the Committee in its 2001 report – amending the Interlocal Cooperation Act to allow Native American Tribes to enter into interlocal agreements with public agencies – was enacted in 2002 Sub. for HB 2831;
- Updates on the status of Tribal-related litigation from the Office of the Attorney General;
- A review of an NCSL publication on Tribal relations with states; and
- Various testimony relative to:
 - Powers of Tribal law enforcement agencies;
 - State and federal statutes concerning Native American burial grounds;
 - Motor fuel tax;
 - Tribal license plates;
 - Appellate court decisions;
 - Tribal gaming revenue sharing plans in other states;
 - A new casino proposal in Wyandotte County;
 - Pikitanoi Water Project; and
 - A review of Kansas Statutes concerning Tribal gaming compacts.

The Committee recommended legislation authorizing certain Tribal law enforcement officers to exercise their law enforcement powers: anywhere within the limits of the reservation of the Tribe employing such officer; in any place where a request for assistance has been made by law enforcement officers from that place or when in fresh pursuit of a person; on the streets and highways immediately adjacent to the boundaries of the reservation; and when transporting persons in custody to a facility. The bill would apply to only the four resident Kansas Tribes. The bill would clarify that Tribal law enforcement officers must complete initial law enforcement training and any continuing education required by statute for law enforcement officers.

2001

The Committee met for five days in the 2001 interim. The Committee heard a review of Tribal-related bills considered in the 2001 Legislative Session² and about the following:

- Pending federal legislation that would impact Kansas;
- Updates on the status of Tribal-related litigation in Kansas;
- Updates of activities in the State Gaming Agency and Kansas Office of Native American Affairs;
- An agenda review of the 53rd Governor’s Interstate Indian Council;
- A brief about the state office building named after former Vice President Charles Curtis;
- A review of the Kickapoo Tribe’s efforts to develop a long-term project to supply adequate water to the Kickapoo Reservation and to other areas in Northeast Kansas;
- Information about the lawsuit concerning the issuance of Tribal license plates by the Prairie Band Potawatomi Nation;
- Legislation proposals concerning Tribal taxes and license plates;
- Resolutions signed by all four resident Kansas Tribes;
- A history review of the outdoor pageant “Voices of the Wind People”;
- A review on the current status of litigation relating to the Prairie Band license plate issue;
- A presentation by NCSL on the State-Tribal project;
- A brief regarding payments in-lieu of taxes;
- A review of activities of the State Gaming Agency and the Kansas Office of Native American Affairs; and
- The deputization of Tribal law enforcement personnel.

The Committee recommended the introduction of two bills for consideration during the 2002 Session:

² SB 75, SCR 1611, SB 74, SB 76, HB 2224, and HB 2216.

- The first bill would amend the Interlocal Cooperation Act to allow Native American Indian Tribes to enter into interlocal agreements with public agencies; and
- The second bill would authorize the Governor to negotiate and execute agreements with Native American Indian Tribes on behalf of the State of Kansas.

2000

In 2000, the Committee met four days during the interim, during which the Committee heard the following:

- A brief on the Kansas City casino of the Wyandotte Tribe of Oklahoma;
- Information regarding the drought conditions experienced by Northeast Kansas and the Kickapoo Tribe;
- A presentation regarding the U.S. Department of Labor's Division of Indian and Native American Programs to transfer the administration of a portion of the Workforce Investment Act Program from the United Tribes of Kansas and Southeast Nebraska, Inc. to the Wyandotte Tribe of Oklahoma;
- A brief of pending litigation involving Tribal-related issues and taxation;
- A brief regarding payments in-lieu of taxes;
- An overview of activities of the State Gaming Commission and the Kansas Office of Native American Affairs;
- Information relating to the cross-deputization of Tribal law enforcement officers in Brown and Jackson counties;
- A request by the Attorney General of Connecticut for a moratorium on Tribal recognition decisions by the Department of the Interior; and
- A presentation about the history of the Northern Cherokee Nation.

The Committee made the following conclusions and recommendations to present to the LCC:

- The Committee encourages the continuing litigation against the Wyandotte Tribe of Oklahoma and will support the posting of an appeal bond of up to \$5.0 million if the state is ordered to do so by the court;
- The Committee supports the Attorney General of Connecticut in his request of the U.S. Department of the Interior to impose a moratorium on federal Tribal recognition decisions until the decision-making process can be reviewed by a national commission;

- Requests the Department of Revenue to discuss tax compacts with the four resident Kansas Tribes and present any such compact to the Committee for approval;
- Joins the Governor in opposing any federal legislation to streamline the federal recognition of Tribes unless there is substantial input from the states;
- Joins the Governor in opposing the Department of the Interior's proposed rules and regulations regarding land-to-trust requests by Tribes due to the inequitable application of these proposed regulations to states and the loss of tax revenue to states and counties. Additionally, the Committee encourages the Kansas Congressional delegation to support a payment in-lieu of taxes for those counties losing tax revenue from lands placed in trust for a Tribe;
- Encourages Jackson County officials and Prairie Band Potawatomi officials to continue discussions with the U.S. Attorney's Office regarding a potential resolution of the law enforcement issues;
- Requests that the Kansas Congressional delegation oppose the Wyandotte Tribe of Oklahoma's proposed federal legislation granting this non-resident Tribe rights to purchase land for gaming purposes in the State of Kansas;
- Encourages the U.S. Attorney General to take all possible steps to prohibit the Wyandotte Tribe of Oklahoma or other tribes from engaging in gaming operations without a compact;
- Requests that the Senate Ways and Means Committee and the House Appropriations Committee consider the addition of funding for an attorney within the Governor's Office to specialize in the practice of Indian law; and
- Encourages the Kansas Congressional delegation to introduce federal legislation to define the term "reservation" as used in the Indian Gaming Regulatory Act.

1999

The Committee met for 11 days in the 1999 interim, during which the Committee toured the 4 resident Kansas Tribes reservations, the four Indian gaming facilities currently in operation in Brown and Jackson counties, toured the Haskell Indian Nations University and the Tribal Law and Government Center at the University of Kansas School of Law, and reviewed the Attorney General Opinions dealing with State-Tribal relations from 1982 to 1999. Additionally, the Committee heard about:

- The State Gaming Agency;
- The Racing and Gaming Commission;
- The Kansas Bureau of Investigation regarding prior efforts relating to background checks on casino management and employees;

- The Office of Native American Affairs, which was created by the Governor during the 1999 interim;
- The Department of Revenue testimony regarding a review of litigation concerning state and Tribes;
- The Kansas Department of Wildlife and Parks;
- The Kansas Department of Social and Rehabilitation Services (SRS) regarding the coordination efforts between Tribes and SRS, and the status of various programs available to Tribes; [Note: SRS was renamed on July 1, 2012, and became the Kansas Department for Children and Families.]
- The Department of Education (Department) reviewed the role of the Department in providing tech assistance to public school districts with Native American students, as well as federal Title IX funding which is provided under the Improving America's School Act of 1994 to help Native American students achieve high standards;
- A staff brief regarding state responsibilities under 1995 Tribal state gaming compacts, major provisions of Tribal state gaming compacts, federal regulations for acquiring trust lands by the Tribes, budgets and staffing levels of the State Gaming Agency and Racing and Gaming Commission, court cases relevant to Tribal relations, and a comparison of background check requirements for individuals involved in gambling in Kansas; and
- The appointment of a subcommittee on State-Tribal Gaming Compact Guidelines.

The Committee concluded that there are a number of areas in which Tribal relations have been productive and beneficial to both the state and the Tribes. The Committee was of the opinion that these mutually beneficial areas can be the basis of future positive relationships. Examples of these positive relationships include:

- The coordinated efforts of SRS and the four Tribes in the areas of child support enforcement, Medicaid and Healthwave, child welfare agreements, Indian Health Service participation in Medicaid and managed care contracts, Indian Child Welfare Act and the Adoption and Safe Families Act, Alcohol and Drug Abuse Services, Child Protective Services, and Welfare-to-Work Program information;
- The newly-formed (October 4, 1999) Kansas Office of Native American Affairs which was created at the Governor's direction in the Department of Human Resources and has been charged with promoting a greater understanding and awareness of the Native American race, ethnicity, ancestry, and religion in Kansas, as well as programs of public education and awareness to promote an understanding of Native American goals and needs common to all citizens of the State;

- The riparian buffer initiative undertaken by Kansas State University on the Potawatomi Reservation to control erosion of stream banks, implement conservation practices, and protect reservation resources;
- The Tribal Law and Government Center Program at the University of Kansas School of Law which has the two goals of preparing a new generation of advocates, particularly American Indians and other Indigenous peoples, for careers representing Indian nations and peoples, and establishing a forum for the research and study of Tribal legal and governance issues;
- The Tribal Management Program at Haskell Indian Nations University which is an attempt to improve management skills of student interns who also enroll in courses at the University of Kansas. The Committee is aware that the Kickapoo Tribe, Brown County, and the City of Horton have submitted a joint application to the KDOT for a system enhancement to improve Highway K-20 which leads to the Golden Eagle Casino in Brown County. The Governor has supported this project. The members of the Committee are supportive of this project to improve Highway K-20 and have directed the Chair to send a letter to KDOT expressing the Committee's support, with copies of the letter also sent to the Governor, President of the Senate, Speaker of the House, and the four Tribal Chairpersons. The Committee formally adopted and recommended to the Governor the guidelines to be included in any future gaming compacts or in renegotiation of any existing gaming compacts. The Committee also requested that the Revisor of Statutes prepare three bill drafts for review by the Committee in January. The three drafts would:
 - Authorize the Governor to negotiate Tribal compacts on topics other than gaming with the four resident tribes: the Prairie Band Potawatomi Nation of Kansas, the Kickapoo Tribe of Kansas, the Sac & Fox Nation of Missouri In Kansas and Nebraska, and the Iowa Tribe of Kansas and Nebraska. Any compacts would be subject to approval following the same procedures that are currently in place for approval of Tribal gaming compacts;
 - Include the four resident Tribes as entities under the Interlocal Cooperation Act to allow the Tribes and local governmental units to enter into agreements; and
 - Amend the Liquor Control Act to allow Class B clubs located in Indian gaming casinos to offer temporary memberships without any waiting period or membership fees, in the same manner as the existing law allows such memberships to be offered by Class B clubs in hotels and motels. The Committee also is aware that there are some areas where Tribal relations could be improved. The Committee believes that more open communication and cooperation between the state and the Tribes is the key to improving these relationships. The members believe that the Committee will be a useful forum to allow for improved communication and cooperation.