



**Kansas Legislative Research Department**

*Providing nonpartisan, objective research and fiscal analysis for the Kansas Legislature since 1934*

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**To:** Joint Committee on State -Tribal Relations

**From:** Elaina Rudder, Senior Research Analyst

**Re:** Recent Legislation

## **STATE-TRIBAL LEGISLATION 2013-2024**

This memorandum provides brief summaries of legislation related to state-tribal relations that have been introduced or passed in Kansas since 2013. For legislation that was passed, detailed summaries of each bill can be found in the Summaries of Legislation for the corresponding year produced by the Kansas Legislative Research Department (KLRD). Additional bill information can be found on the archived bill page through the Kansas Legislature's website.

### **[2013 HR 6008](#)**

**HR 6008** designated February 6, 2013, as "Native American Legislative Day at the Capitol."

### **[2013 HB 2120](#)**

**HB 2120** would have amended the criminal code concerning the collection of DNA samples by the Kansas Bureau of Investigation (KBI), gambling crimes, and a special sentencing rule related to firearms.

To align the law concerning the KBI's collection of DNA samples with current practices, the bill would have removed references to drawing blood, and would have required specified persons to submit biological samples to the KBI when a person is fingerprinted as part of the booking procedure. The KBI would have provided the necessary kits and supplies for collection, and samples would not be accepted for admission or comparison unless obtained in substantial compliance with the provisions of the bill by an accredited forensic laboratory meeting the national DNA index guidelines established by the Federal Bureau of Investigation. If the person's DNA sample was not properly obtained, the person would be required to provide another sample. Additionally, a sample collected by a law enforcement agency or juvenile justice agency in substantial compliance with the provisions of the bill, or any evidence based upon or

derived from such sample, could not be excluded as evidence in any criminal proceeding on the basis that the sample was not validly obtained.

The bill also would have amended provisions outlining who must submit such a sample. The bill would have clarified that a person must submit a sample when convicted of lewd and lascivious behavior only if the crime was committed in the presence of a person 16 years of age or older. Further, the bill would have specified that persons who were incarcerated on May 2, 1991, for a crime committed prior to that date must submit a sample prior to final discharge or conditional release. Finally, the bill would have stricken outdated provisions, made other technical amendments, and defined key terms.

In the area of gambling crimes, the bill would have amended the definition of “bet” to provide that a bet does not include a “raffle,” which is defined in the bill as a fundraising event in which:

- Participants donate or agree to donate something of value for an opportunity to win something of value;
- Winning opportunities are represented by tickets differentiated by sequential enumeration;
- Winners are picked by a random drawing of tickets or some other similar method of determining a winner or by a race utilizing inanimate objects floated along a river, stream, canal, or other body of water; and
- The raffle is conducted for the benefit of a nonprofit organization, a state or federal agency, or a political subdivision.

Finally, the bill would have amended a special sentencing rule related to firearms that applied when an offender carried a firearm to commit a drug felony or possessed a firearm in furtherance of a drug felony. The bill would have changed this language to apply the rule when an offender possesses a firearm and such firearm was readily accessible during the commission of, or in furtherance of, a felony involving controlled substances, or any attempt to commit such a crime.

The bill was vetoed by the Governor.

## **2013 SB 111**

**SB 111** designates the first Wednesday of February 2014 and the first Wednesday of February each year thereafter as “Native American Legislative Day at the Capitol” and also changes the title of “American Indian Day” to “Native American Day,” which continues to be recognized on the fourth Saturday of September.

The bill also adds children “in the custody of a federally recognized Indian tribe in this state” to the list of individuals awarded a high school diploma upon the completion of existing requirements.

## **2015 Senate Sub. for HB 2124**

**Senate Sub. for HB 2124** amends the statute prohibiting smoking in an enclosed area or at a public meeting to add an exemption for a separately ventilated portion of a medical or clinical research facility used exclusively for clinical research activities conducted in accordance with U.S. or Kansas regulations.

The bill also amends various statutes in the chapter governing requirements for sale of cigarettes related to the Master Settlement Agreement (MSA) and escrow funds for nonparticipating tobacco product manufacturers, as detailed below.

The bill amends the definition of “units sold” and adds definitions for “Indian tribe” and “qualified tribal land.”

The bill expands a provision prohibiting persons from selling, offering, possessing for sale, or importing cigarettes of a tobacco product manufacturer (manufacturer) brand family not included in the directory of manufacturers and brand families required by the chapter, by eliminating a requirement that such cigarettes be for personal consumption in the state.

The Attorney General is allowed to remove a manufacturer or brand family from the directory if the Attorney General concludes the manufacturer or certain affiliates, officers, or directors have pleaded guilty or *nolo contendere* to, or have been found guilty of, a felony related to the sale or taxation of cigarettes or tobacco products, or if the manufacturer and its brand families have been removed from the directory of another state for acts or omissions that would be the basis for removal in Kansas, unless the removal in another state was without due process. A manufacturer removed from the directory will be eligible for relisting upon curing the violation or being reinstated to the other state’s directory. A nonparticipating manufacturer deemed an elevated risk may be required to post a bond for reinstatement.

The annual certification nonparticipating manufacturers are required to provide is amended to include information regarding certain stamping agents, wholesalers, and distributors involved in the sale or purchase or who receive the manufacturer’s cigarettes and a declaration that all sales or shipments made by the manufacturer and affiliates are made to a stamping agent, wholesaler, distributor, or retailer that is licensed in Kansas.

The bill adds a requirement that to be listed and have brand families listed in the directory, a manufacturer must certify annually that it has a federal manufacturer permit and is in compliance with federal reporting and registration requirements and must pay an annual \$500 directory fee to the Attorney General, to be deposited in the Tobacco Master Settlement Agreement Compliance Fund.

An existing provision requiring that invoices and documentation of sales of all nonparticipating manufacturer cigarettes be made available to the Director of Taxation upon request is amended to allow the Attorney General also to request this information. The Attorney General also is added to the Department of Revenue as an entity authorized to promulgate rules and regulations regarding units sold.

The bill amends the statute governing disclosure of information to allow the Director of Taxation and the Attorney General to share specified information with federal, state, or local agencies for the purpose of enforcement of other states’ laws or with a court, arbitrator, data clearinghouse, or similar entity to assess compliance with or make calculations under the MSA, or with counsel for the parties or expert witnesses in a related proceeding. The bill requires the

information remain confidential. A specific confidentiality provision regarding tobacco sales data is added and will expire on July 1, 2020, unless reviewed by the Legislature prior to that date. [Note: The sunset of July 1, 2020, was removed by 2020 HB 2137. The confidentiality provision remains in effect.]

Criminal penalties for selling, distributing, acquiring, holding, owning, possessing, transporting, or importing cigarettes in violation of the chapter are increased from a class B misdemeanor, as follows:

- Upon a first conviction, a class A misdemeanor with a sentence of up to one year in confinement and a fine of \$1,000 to \$2,500;
- Upon a second conviction, a severity level 9 nonperson felony and a fine of \$10,000 to \$100,000; and
- Upon a third or subsequent conviction, a severity level 9 nonperson felony and a fine of \$50,000 to \$100,000.

Such penalties are cumulative to remedies or penalties, including civil penalties, provided under other Kansas laws.

Finally, a statute in the chapter governing the Department of Revenue is amended to allow the Secretary of Revenue or designee to share confidential information with the Attorney General for the purposes of determining compliance with or enforcing the MSA statutes, the MSA, and all related agreements. Similar confidentiality provisions to those added to the MSA statutes, as described above, are also to be added here.

### **2015 SB 203**

**SB 203** would have authorized the Governor, subject to ratification by the Kansas Legislature, to negotiate and execute an agreement with the governing body of any federally recognized Indian tribe within the state concerning the collection and dissemination of any cigarette tax or other tobacco tax and escrow collected pursuant to state law on the sales of cigarettes, cigars, or other tobacco products sold on the tribe's federally recognized reservation. The bill died in committee.

### **2016 HB 2552**

**HB 2552** would have changed the designation of Columbus Day to Indigenous Peoples Day. The bill died in committee.

### **2016 SB 484**

**SB 484** approves and adopts by reference as state law the compact relating to cigarette and tobacco sales, taxation, and escrow collection between the Prairie Band Potawatomi Nation and the State of Kansas printed in the Journal of the House and the Journal of the Senate on

March 2, 2016. The bill requires the Secretary of State to publish the Compact in the *Kansas Register*.

### **2016 SB 485**

**SB 485** approves and adopts by reference as state law the compact relating to cigarette and tobacco sales and taxation between the Iowa Tribe of Kansas and Nebraska and the State of Kansas printed in the Journal of the House and the Journal of the Senate on March 2, 2016. The bill requires the Secretary of State to publish the Compact in the *Kansas Register*.

### **2017 HR 6028**

**HR 6028** recognizes the Etzanao Conservancy for its work to uncover the history of the great Native American settlement of Etzanao.

### **2017 HB 2073**

**HB 2073** would have changed the designation of Columbus Day to Indigenous Peoples Day. The bill died in committee.

### **2017 HB 2147**

**HB 2147** creates a process by which certain Native American military veterans may apply for a refund of state personal income taxes improperly withheld from such veterans' federal military income in the amount of income taxes paid plus interest.

### ***Findings and Declarations***

The bill states the following findings and declarations:

- Native Americans have a long history of serving their country through active duty in the armed forces of the United States during periods of both war and peace and have made great sacrifices in fulfilling such duty;
- Native American veterans domiciled on their tribal lands during their periods of active military service may have been exempt from paying state income taxes on their military income, but may have had state income taxes improperly withheld from their military income; and
- Native American veterans are now barred by the statute of limitations from claiming refunds of state income taxes that may have been improperly withheld from their military income and, even if not barred by the statute of limitations, the passage of time extending to decades will make it difficult for many Native American veterans to meet strict standards of proof that such veterans are entitled to a refund of improperly withheld state income taxes.

## ***Refund***

The bill provides that on and after October 1, 2018, any Native American veteran domiciled within the boundaries of tribal lands in Kansas during the period of active military duty from tax years 1977 through 2001, and who had Kansas personal income taxes withheld from the veteran's federal military income, may apply to receive a refund of such income tax. The refund is equal to the amount of the tax actually paid by the veteran, plus interest accrued during the period from the original due date of the return through September 30, 2018. No application for refund is allowed after June 30, 2020.

## ***Eligible Applicants Other Than Veteran***

When a person eligible to receive a refund under this bill is deceased, the bill allows an application to be made on behalf of the estate of the deceased by a surviving spouse or by any heir-at-law.

## ***Fund***

The Native American Veterans' Income Tax Fund (Fund) is created by the Director of Taxation within the Kansas Department of Revenue. The Fund comprises moneys collected under the Kansas Income Tax Act in an amount determined by the Director of Taxation as necessary to meet refund requirements provided by the bill. Any additional moneys required for the Fund are transferred from the State General Fund and reported to the State Treasurer.

## ***Report***

On or before February 1, 2019, and February 1, 2020, the Secretary of Revenue is required to report to the House Committee on Veterans and Military, the House Committee on Appropriations, and the Senate Committee on Ways and Means how the provisions of the bill are being administered, including the number of claimants receiving refunds and moneys expended.

## ***"Native American" Defined***

A Native American eligible to receive refunds under this bill is defined as a member of the Prairie Band Potawatomi Nation of Kansas, the Iowa Tribe of Kansas and Nebraska, the Kickapoo Tribe in Kansas, or the Sac and Fox Nation of Missouri in Kansas and Nebraska.

## ***"Tribal Lands" Defined***

Persons eligible to receive refunds under this bill are defined as those domiciled within the following boundaries:

- *Iowa Tribe of Kansas and Nebraska.* Land as established by the treaty between the United States and the Tribe dated May 17, 1854, that is within the boundaries of the State of Kansas and does not include any land affected by the treaty between the United States and the Sauk and Foxes tribes. No lands that have been or may be taken into trust by the United States may be included;

- *Kickapoo Tribe in Kansas*. Land granted in the treaty between the United States and the Tribe dated June 28, 1862;
- *Sac and Fox Nation of Missouri in Kansas and Nebraska*. Land granted in the treaty between the United States and the Tribe dated March 6, 1861, and ratified on February 6, 1863; or
- *Prairie Band Potawatomi Nation*. Land granted in Article 4 of the treaty with the Nation ratified on July 22, 1846, as modified by the treaties with the Nation ratified on April 15, 1862, and July 25, 1868.

### ***Rules and Regulations***

The Secretary of Revenue has the authority to adopt rules and regulations as necessary to administer the provisions of the bill.

### **2017 SB 202**

**SB 202** approves and adopts by reference as state law the compact relating to cigarette and tobacco sales, taxation, and escrow collection between the Kickapoo Tribe in Kansas and the State of Kansas. In addition, the bill approves and adopts by reference as state law the compact relating to cigarette sales, taxation, and escrow collection between the Sac and Fox Nation of Missouri in Kansas and Nebraska and the State of Kansas. The bill requires the Secretary of State to publish the compacts in the *Kansas Register*.

### **2018 HB 2498**

**HB 2498** prohibits state agencies and municipalities from prohibiting individuals from wearing tribal regalia or objects of cultural significance at public events.

The bill defines the following terms:

- “Municipality” means any county, township, city, school district, or other political or taxing subdivision of the state, or any agency, authority, institution, or other instrumentality thereof;
- “Public event” means an event held or sponsored by a state agency or municipality, including, but not limited to, an award ceremony, a graduation ceremony, or a meeting of a governing body; and
- “State agency” means the State of Kansas and any department or branch of state government, or any agency, authority, institution, or other instrumentality thereof.

The bill requires the Secretary of State to send a copy of the bill to each tribal government on the four reservations in Kansas on the effective date of the bill.

The bill states the Kansas Legislature declares the purpose of the bill is to help further the State's recognition of the distinct and unique cultural heritage of Native Americans and the State's commitment to preserving Native Americans' cultural integrity.

### **2018 SB 277**

**SB 277** would have extended full faith and credit to orders, judgments, and other judicial acts of tribal courts of any federally recognized Indian tribe pursuant to rules adopted by the Kansas Supreme Court. The bill died in committee.

### **2019 HB 2009**

**HB 2009** would have changed the designation of Columbus Day to Indigenous Peoples Day. The bill died in committee.

### **2020 HB 2443**

**HB 2443** would have provided that the following persons are eligible for resident tuition rates at any state educational institution under the State Board of Regents:

- Any person who is attending or who has attended Haskell Indian Nations University and who is enrolled as a member of a federally recognized Native American Indian nation or tribe; and
- Any person who is enrolled as a member of the Kickapoo Tribe in Kansas, the Prairie Band Potawatomi Nation, the Iowa Tribe of Kansas and Nebraska, or the Sac and Fox Nation of Missouri in Kansas and Nebraska, regardless of residence prior to admission at a postsecondary institution.

The bill died in committee.

### **2020 SB 455**

**SB 455** would have authorized the Attorney General to coordinate training regarding missing and murdered indigenous persons for law enforcement agencies throughout Kansas, in consultation with Native American Indian tribes, the KBI, the Kansas Law Enforcement Training Center, and other appropriate state agencies. The bill died in committee.

### **2021 HB 2006**

**HB 2006** would have changed the designation of Columbus Day to Indigenous Peoples Day. The bill died in committee.



## **2021 HB 2008**

**HB 2008** authorizes the Attorney General to coordinate training regarding missing and murdered indigenous persons for law enforcement agencies throughout Kansas, in consultation with Native American Indian tribes, the KBI, the Kansas Law Enforcement Training Center, and other appropriate state agencies.

## **2021 HB 2408**

**HB 2048** authorizes and directs the Executive Director of the Kansas State Historical Society (KSHS), on behalf of KSHS, to convey by quitclaim deed, a 9.86-acre parcel of land in Doniphan County to the Iowa Tribe of Kansas and Nebraska.

The legal description of the parcel is provided in the bill, which also states the property is listed in the National Register of Historic Places (National Register) as the “Iowa, Sac and Fox Presbyterian Mission.” The bill provides the conveyance does not require appraisal, bid, or publication, and the conveyance is not subject to appraisal requirements in continuing law. The Attorney General is also required to review and approve the deeds and conveyances.

The bill provides the Iowa Tribe of Kansas and Nebraska agrees to pay all costs related to the conveyance and grants the State a historic preservation easement that reflects current federal preservation laws regarding properties listed in the National Register.

## **2022 SB 405**

**SB 405** authorizes and directs the Executive Director of the KSHS, on behalf of KSHS, to convey by quitclaim deed, a 0.52-acre parcel of land in Johnson County to the Shawnee Tribe. The legal description of the parcel is provided in the bill.

The bill provides that the conveyance will not require appraisal, bid, or publication, and the conveyance shall not be subject to appraisal requirements in continuing law. The Attorney General is also required to review and approve the deeds and conveyances.

The bill states the Shawnee Tribe agrees to pay all costs related to the conveyance and grants the State a historic preservation easement that will reflect current federal preservation laws regarding properties listed on the National Register of Historic Places.

## **2022 SB 451**

**SB 451** removes a requirement for which a Kansas resident must provide satisfactory proof that the person is at least 1/16 Indian by blood for purposes of receiving a free, permanent license to hunt, fish, and furharvest in the state.

The bill also changes the definition of “federally recognized tribe,” for purposes of the bill, to an Indian tribe that appears on the list of Indian tribes published by the Secretary of the Interior, in accordance with the Federally Recognized Indian Tribe List Act of 1994.

[*Note:* The bill retains an additional requirement that a person must maintain enrollment on a tribal membership roll maintained by a federally recognized tribe.]

### **2023 HR 6026 and SR 1725**

[HR 6026](#) and [SR 1725](#) approve an amendment to the gaming compact between the Prairie Band Potawatomi Nation and the State of Kansas concerning sports wagering operations on the Nation's reservation lands.

### **2023 Senate Sub. for HB 2058**

**Senate Sub. for HB 2058** amends law to authorize any gaming compact concerning sports wagering to include provisions governing sports wagering outside the boundaries of Indian lands.

### **2023 Senate Sub. for HB 2070**

**Senate Sub. for HB 2070**, as passed by the Senate Committee of the Whole, among other provisions, would have amended law governing jurisdiction of proceedings under the Revised Kansas Code for Care of Children (CINC Code) to specify if orders granting custody for adoption involve a child who is Indian, the federal Indian Child Welfare Act (ICWA) would apply instead of the CINC Code. The bill died in conference on April 30, 2024.

### **2023 HB 2369**

**HB 2369** would have enacted the Kansas Indian Child Welfare Act. The bill died in committee on April 30, 2024.

### **2024 HR 6045 and SR 1750**

[HR 6045](#) and [SR 1750](#) approve an amendment to the gaming compact between the Iowa Tribe of Kansas and Nebraska and the State of Kansas concerning sports wagering on the Tribe's reservation lands.

### **2024 HB 2560**

**HB 2560**, among other provisions, provides that any bank that accepts deposits from certain minors cannot require a cosigner or the consent of a custodian for the funds to be deposited; specifically, these deposit requirements on banks apply to minors in the custody of a federally recognized Indian tribe in Kansas.

## **2024 HB 2772**

**HB 2772** would have established the Kansas Indian Child Welfare Act and provided additional requirements for child custody proceedings involving an Indian child. The bill died in committee on April 30, 2024.

## **2024 SB 28**

**SB 28** provides that, during Fiscal Year 2025, the following persons are eligible for resident tuition rates at any postsecondary education institution, as defined by KSA 74-3201b, regardless of the residence of such person prior to admission:

- Any person who is enrolled as a member of the Kickapoo Tribe in Kansas, the Prairie Band Potawatomi Nation, the Iowa Tribe of Kansas and Nebraska, or the Sac and Fox Nation of Missouri in Kansas and Nebraska, regardless of residence prior to admission at a postsecondary institution; or
- Any person who is enrolled as a member of an indigenous nation with historical connections to Kansas territories, including any federally recognized tribe containing one or more references to the following tribal affiliations within such tribe's name:
  - Apache;
  - Arapaho;
  - Caddo;
  - Cheyenne;
  - Cherokee;
  - Chickasaw;
  - Chippewa and Ojibwe (including Bay Mills);
  - Choctaw;
  - Comanche;
  - Delaware;
  - Iowa (Ioway and Baxoje);
  - Kaw (Kanza);
  - Kickapoo;
  - Kiowa;
  - Miami;
  - Missouriia (including Otoe-Missouria);
  - Modoc;
  - Muscogee (Creek, including Yuchi, Euchee, or Uchee);
  - Nez Perce;

- Omaha;
- Oneida;
- Osage;
- Otoe;
- Ottawa (Odawa);
- Potawatomi (Pottawatomi);
- Pawnee;
- Peoria;
- Ponca;
- Pueblo;
- Quapaw;
- Sac and Fox (including Meskwaki);
- Seminole;
- Seneca-Cayuga;
- Shawnee;
- Stockbridge-Munsee (Mohican);
- Wichita and Affiliated Tribes (Wichita, Keechi, Waco, and Tawakonie); and
- Wyandotte.