

## MINUTES

### JOINT COMMITTEE ON STATE-TRIBAL RELATIONS

April 21, 2005  
Room 313-S—Statehouse

#### Members Present

Senator Pete Brungardt, Chairperson  
Representative Becky Hutchins, Vice Chairperson  
Senator Les Donovan  
Senator Mark Gilstrap  
Senator David Haley  
Representative Tom Sawyer  
Representative Bonnie Sharp  
Representative Arlen Siegfried  
Matt All, Chief Counsel, Governor's Office  
Julene Miller, Attorney General's Office

#### Members Absent

Senator John Vratil  
Representative John Edmonds

#### Tribes Represented

Emily Conklin, Kickapoo Tribe  
Steve Cadue, Kickapoo Tribe  
Fredia Perkins, Sac & Fox Nation  
Louis DeRoin, Iowa Tribe  
Zach Pahmahmie, Prairie Band Potawatomi Tribe (absent)

#### Staff Present

Athena Andaya, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Mary Ann Torrence, Revisor of Statute's Office  
Dee Woodson, Committee Secretary

#### Others Attending

See attached list.

Chairman Brungardt stated the purpose of the meeting was to revisit and discuss the Gaming Compact between the Sac and Fox Nation of Missouri in Kansas and Nebraska, the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas and the State of Kansas that was presented to the Joint Committee last fall. He explained the intent was to determine where the Committee was in its support or non-support of the compact, decide if there were any further changes that needed to be made, and also give consideration to the required time lines as the Joint Committee moved forward with its work on the compact.

Chairperson Brungardt asked Dennis Hodgins, Legislative Research Department, to give an overview on the Report of the Joint Committee on State-Tribal Relations to the 2005 Kansas Legislature (Attachment 1).

Mr. Hodgins briefly reviewed the Joint Committee's responsibilities, activities, and recommended modifications, plus the Governor's subsequent renegotiations regarding the recommended modifications as detailed in the Interim Report, December 2004.

Committee questions followed regarding the 4 percent revenue sharing that Brown County would receive from existing casinos for economic development and compensation for the loss of revenue with the closing of two casinos operated by the Sac & Fox Nation and Kickapoo Tribe, and whether state taxes are imposed on employees and contractors who work for the casinos.

Chairperson Brungardt called upon Matt All, General Counsel, Governor's Office, to explain the compact and give an update on the status of the proposed gaming compact (Attachment 2).

Mr. All explained the Governor's objectives for the compact and its main components. The State Gaming Agency will have the primary role in the regulation and enforcement of the provisions of the compact. The Tribal Governments will create a single, joint Tribal Gaming Commission which will have the day-to-day responsibility for ensuring compliance with the compact. The State of Kansas and the Tribes will jointly establish the Gaming Oversight Authority to serve as an appeals entity to review and resolve certain disputes as provided under the compact. Mr. All reviewed the revenue sharing provisions included in the compact as well as the market protections and limitations on future expansion of gaming in Kansas. It is estimated the revenue sharing called for under the compact would generate over \$50 million for the state. He explained the sunset provision of existing tribal compacts with the opening of the Kansas City Tribal Casino. He spoke briefly about the expiration and termination provisions of the new compact, and said the initial term will be 12 years from the date of opening to the public with an automatic renewal for successive five-year terms.

Mr. All stated that the Tribes have agreed to reimburse the State for costs of regulation, and gave a breakdown of the figures covering the costs to be reimbursed as outlined in the compact. He related that the Gaming Enterprise will be required to submit monthly statistical reports to the State Gaming Agency which will be available to the public. He explained the limitations of tribal sovereignty in the compact, and said the Tribes have agreed to certain irrevocable waivers of sovereign immunity which are detailed in the compact.

In regard to problem gambling, Mr. All detailed the compact's provisions, including employee training in the symptoms of problem gambling and notification to designated management personnel, no credit card terminals will be located at any electronic game or table game position, the Gaming Enterprise shall contribute .375 percent of its adjusted gross revenue to the Problem Gambling Fund, and the Gaming Enterprise will implement a Problem Gambler Self Exclusion Policy whereby a patron may request to be placed on a self-exclusion list.

Mr. All explained the effective date of this compact in regard to the trust land determination, and stated he was available at any time to answer questions relating to the complex issues involving the interaction of state law and the Federal Indian Gaming law.

Committee questions and discussion followed regarding the land trust for the casino and awaiting the Secretary of the Department of Interior's decision on same, the two-year requirement to acquire the land or the compact is not enacted, how disagreements between tribes would be handled through dispute resolution, clarification regarding percentage of revenue sharing, definition of adjusted gross gaming revenue, and what is meant by participation fees for wide area progressive games.

Chairperson Brungardt called upon Bob Knight, former Mayor of Wichita and President of Chisholm Creek Ventures, a company that has contracted with the Iowa Tribe of Kansas and Nebraska to develop a \$270 million destination casino and resort in Sedgwick County, to speak for the Iowa Tribe regarding the gaming compact as presented. Mr. Knight asked the Joint Committee to delay action on the Wyandotte County compact until it receives a similar compact for the Sedgwick County project which is equally meritorious. He said his criticism of the Governor's compact mainly was because the result of the compact would result in three out of the four Indian tribes in Kansas being owners of world-class destination casinos near major cities, while the Iowa Tribe would be locked out. Mr. Knight spoke negatively regarding the Governor's consideration and treatment of the Iowa Tribe's proposal for the Sedgwick County project. He pointed out various happenings and comparisons in the proposed projects, and the different treatment he felt the Iowa Tribe was receiving from the Governor. He talked briefly about an April 18, 2005 poll by KWCH-TV which found that 64 percent of Sedgwick County residents favor a destination casino at the proposed location.

Mr. Knight explained that recently the Iowa Tribe had received a commitment from Foxwoods Development Corporation owned by the Maskantucket Pequot Tribe of Connecticut for management and for financing of \$270 million to build a world class destination resort and casino in Sedgwick County. He read a letter from Gary Armentrout, Chief Development Officer for Foxwoods, which stated that the Maskawtucket Pequot Tribal Nation, through its Foxwoods Development Company, stands ready to finance, develop and manage the \$270 million project in south central Kansas without asking for any tax abatements, financial subsidies or other money incentives from the State. A copy of Mr. Armentrout's letter is attached to Mr. Knight's written testimony ([Attachment 3](#)).

Dee Stuart, Mayor, Park City, spoke briefly regarding the destination casino proposed to be located in Park City, Sedgwick County, by the Iowa Tribe. She stated there is a broad base of support for destination casinos in south central Kansas as shown by the polls that have been taken and the number of buses that leave that area each day to travel to the casinos north of Topeka. She said south central Kansas is facing the threat of another casino proposed to be built in just south of the border in Oklahoma. She has received a lot of phone calls requesting and supporting a destination casino in south central Kansas, but she has not seen a lot of support for 600 slot machines at the Greyhound Park in Wichita. No one has come to Park City and asked or expressed a concern regarding the city possibly having more problems with gambling addictions and traffic issues due to increased gambling. Ms. Stuart stated the city needed to seriously look at what the costs were going to be to the city and the entire area. The costs would have to be offset by revenues coming to Park City (no written testimony provided).

Richard Taylor, American Federation of Labor in south central Kansas, spoke in strong support of a destination casino in the Park City area because of the numerous construction jobs and employment opportunities that construction of such a new facility would give to the area. Economic development would be enhanced for years to come for south central Kansas, including the drawing of businesses to the area as well as tourists from all over. He stated that south central Kansas should have the same opportunities as some of the rest of the state to have such a facility built to help the economy in that area (no written testimony provided).

Chairperson Brungardt acknowledged Matt All for clarification comments and rebuttal. Mr. All said that he wanted to clarify what he felt was a deep misunderstanding about the Governor's policy on the south central proposal. He explained the Governor is dealing with the Iowa Tribe

project the way she is, not because she is treating them differently from the Sac & Fox or Kickapoo Tribes, but because she is treating them exactly the same way. It is a very similar type project as the Wyandotte project, and the same type of background work needs to be done on the Iowa Tribe project as has been done on the Wyandotte project. He stated the notion of having the consent of one small town like Park City, compared to having the Unified Government of Wyandotte County in Kansas City, Kansas' approval, is mistaken. Mr. All emphasized that this is not something that the Governor is proposing; it is a recognition of the process that the Secretary of Interior will go through and require of any Tribe.

Mr. All explained that the Sac & Fox and Kickapoo proposal has taken 18 months to go through all the steps and requirements needed to be completed in order to be approved in Washington. The Governor's Office has a great amount of respect for the Iowa Tribes, and in many ways the project that they are pulling together is very attractive. He felt there was a misunderstanding about why the Governor is doing what she is doing, whether the Iowa project is different, and whether the Iowa Tribe is being singled out for different treatment. Mr. All stated that the Iowa Tribe is being treated exactly the same as the other tribes in Kansas are treated. The Governor's Office had sent the Iowa Tribe a list of prerequisites, and told them once they had those prerequisites fulfilled, the negotiations would begin. The Governor will do that with any tribe that wants to go off the reservation, and believes it is necessary to do these projects the right way, up front, because if the projects are not done the right way up front, they will not get approved in Washington, D.C.

Whitney Damron, on behalf of the Kickapoo Tribe and Sac & Fox Nation, offered comments in support of the gaming compact that was before the Committee today. He reviewed the history of the proposed gaming compact in which the Kickapoo Tribe and the Sac and Fox Nation ultimately decided to work together on the project. He stated that he Prairie Band Potawatomi Nation and the Iowa Nation opted not to participate in the project. He talked about the state-wide poll commissioned by the Tribes and conducted by Cooper & Secrest Associations in March of this year. The poll was to assess the attitudes of voters toward the expansion of gaming in Kansas. Mr. Damron related the poll results and detailed those results in his written testimony. He urged the Legislature to work with the Governor to put together a compact which could receive the majority of support in both the House and the Senate (Attachment 4).

Mr. Damron introduced some of the professionals in attendance that have been retained to provide counsel to this project. He indicated that these individuals were available to answer any questions the Committee members might have regarding the proposed project. Those individuals included: Paul Alexander, General Counsel to the Sac & Fox Nation; Bob Winter, Special Counsel to the Kickapoo Tribe and a former General Counsel to Foxwoods Casino; Dan Watkins, Special Counsel to both Tribes, and an attorney in Lawrence, Kansas; and Lance Burr, Special Counsel to the Kickapoo Tribe.

Mr. Damron said with the Chairperson's permission, the Chair of the Sac & Fox Nation, Sandra Keo, would make a few brief comments, followed by closing remarks by Kickapoo Tribal Chairperson, Steve Cadue. Chairperson Brungardt expressed his appreciation and welcomed the comments of the Tribes.

Sandra Keo, Chair of the Sac & Fox Nation of Missouri in Kansas and Nebraska, gave a brief history of the compact and formation of the Kansas City Intertribal Gaming Management consortium to develop and manage a destination resort/gaming casino. She stated that in the Tribe's view it was the best gaming proposal that has been made in and for Kansas in the 13 years the Legislature has been debating gaming (Attachment 5).

Steve Cadue, Chairperson of the Kickapoo Tribe in Kansas, said he has been in an elected capacity of tribal leadership for nearly 30 years. He stated that as an elected leader he takes his

responsibilities very seriously, and knows of the processes involved with government management as well as the challenging tasks of elected leaders. Mr. Cadue expressed his disappointment with Mr. Knight's presentation regarding insinuations made about the Kickapoo and Sac & Fox compact. He stated that the four resident tribes of Kansas all responded to the invitation of former Governor Bill Graves to participate in a joint destination casino project in the Kansas City area. The Iowa and Potawatomi Tribes chose not to participate in a Wyandotte County/Kansas City, Kansas project, and the Sac & Fox and Kickapoo decided to continue on with the joint project, which has been a very arduous and challenging process. He said that the toughest economic places in this state to develop are the four Indian reservations. Mr. Cadue included with his written testimony a copy of the Infrastructure Assessment of the Kickapoo Reservation performed by the Poe & Associates Engineering firm that show the many infrastructure systems and improvements needed on the Kickapoo Reservation. He strongly urged the approval of the compact and that the Legislature vote for its passage (Attachment 6).

Don Denning, on behalf of Mayor/CEO Joe Reardon, Unified Government of Wyandotte County/Kansas City, Kansas, spoke about that community's continued support of a destination casino in Wyandotte County and the State-Tribal Compact. He said in 1996, the citizens of Wyandotte County sent a very clear mandate when 82 percent of the electorate said they supported expanded casino gaming in their community. He pointed out the possible revenue that has been projected for the Unified Government, the Tribes, and the State of Kansas. Mr. Denning urged the approval of the State-Tribal Compact which benefits their community and the entire State of Kansas (Attachment 7).

Doug Lawrence, on behalf of the Kansas Greyhound Association (KGA), submitted written testimony in opposition to the approval of the proposed compact before the Committee today (Attachment 8).

Chairperson Brungardt explained that the Committee's options were: (1) recommend this compact with recommendation to the full Legislature which requires at least four members voting to do so from each Chamber; (2) advance without recommendation which takes a total of five votes from any five members or a majority vote; (3) do nothing but discuss it; or (4) remand the compact back to the Governor with recommendations to modify the compact and request renegotiation as was done last Fall. The Chairperson opened the floor for Committee questions and discussion.

Committee discussion and questions followed with concerns expressed about the compact not having significant provisions for handling problem gamblers, the compact being too broad in bringing in various questionable entities, and reservations regarding the gaming oversight authority. Committee members also commented that it was not clear how dispute resolution would be handled, and that this compact did nothing for the citizens in the western half of the state. It was pointed out that there were problems with the exclusivity provisions of the compact, and that it was possibly a false promise which could open the door for other tribes to come to the state.

Representative Hutchins made a motion take no action at this time on the compact, and the motion was seconded by Senator Donovan.

Chairperson Brungardt explained that by taking no action, the committee could meet again should it wish to do so, and then start that 10 day clock ticking on submission to the Legislature for its action, should the Committee approve something. This action would keep the compact alive, and would be available for action should the Committee decide at some point in the foreseeable future to take that initiative.

*Chairperson Brungardt called for a the vote on the motion. The motion carried.*

The meeting was adjourned at 1:20 p.m.

Prepared by Dee Woodson  
Edited by Dennis Hodgins

Approved by the Committee on:

April 30, 2005  
Date