

## MINUTES

### JOINT COMMITTEE ON STATE-TRIBAL RELATIONS

November 9, 2004  
Room 313-S—Statehouse

#### Members Present

Representative Bill Mason, Chairperson  
Senator Lana Oleen, Vice Chairperson  
Senator David Adkins  
Senator Pete Brungardt  
Senator Mark Gilstrap  
Senator David Haley  
Representative Becky Hutchins  
Representative Doug Patterson  
Representative Tom Sawyer  
Representative Bonnie Sharp  
Matt All, Governor's Representative  
Julene Miller, Attorney General's Office

#### Tribal Representatives Present

Louis DeRoin, Iowa Tribe  
Emily Conklin, Kickapoo Tribe  
Zach Pahmahmie, Prairie Band Potawatomi Nation

#### Staff Present

Russell Mills, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Mary Torrence, Revisor of Statutes Office  
Judy Swanson, Committee Secretary

The Joint Committee on State-Tribal Relations was called to order by Representative Bill Mason, Chairperson, on November 9, 2004, in Room 313-S of the Statehouse at 10:15 a.m.

Chairperson Mason welcomed Committee members and members of the audience to the meeting for the purpose of reviewing the revised proposed tribal gaming compact. Staff distributed a comparison of existing proposed gaming compacts with Joint State-Tribal Committee recommendations made at the October meeting (Attachment 1).

A memorandum from Attorney General Phill Kline with his comments and concerns to the Committee also was distributed (Attachment 2).

*After a brief discussion, Representative Patterson moved that the Committee recess for a closed meeting to confer with the Committee's legal counsel, the Attorney General's representative on the Committee, regarding matters privileged under the attorney-client relationship, as authorized by subsection (b)(2) of KSA 2003 Supp. 75-4319 and that the open meeting resume in Room 313-S at 11:00 a.m. Representative Hutchins seconded the motion. Motion passed. Committee staff did not attend the meeting, nor were minutes taken of the closed meeting.*

The Committee reconvened at 11:05 a.m.

Matt All, Governor's Representative, presented an update on the changes made in the proposed compact since the last Committee meeting ([Attachment 3](#)).

These changes included the following:

- Added a provision for the expiration of the compact if it does not receive approval by the U.S. Secretary of Interior within two years of submission of the compact for approval.
- Added a requirement for submission to the Governor and Legislature of an annual financial report.
- Added a provision that audits of the gaming activities would be coordinated with the Director of the Budget and the Legislative Post Auditor.
- Limited state-owned and operated electronic gaming devices (EGDs) to 600 each at the Woodlands, the Wichita Greyhound Park, and the Camptown Racetrack.
- Required all licensees to be current on their state taxes.
- Required that gubernatorial appointments to the Gaming Oversight Authority be subject to confirmation by the Senate, and that the appointees be residents of Kansas upon confirmation.
- Provided revenue sharing contributions to counties where gaming facilities are currently operated to assist those counties to adapt to economic losses when the facilities are closed.
- New subsection 22(E) requires the state to establish the Brown County Economic Development Fund.
- Did not change the time of termination of the existing tribal gaming compacts from seven to five years.
- Increased the contribution to the Problem Gambling Fund from 0.25 percent to 0.375 percent of the adjusted gross gaming revenue.
- The proposed compact does not require a charitable contribution, but the new revenues could be used for that purpose.

Mr. All clarified that the effective date of the compact is now the latter of:

- the date the Secretary approves the compact; or
- the date the Governor concurs with the trust land determination.

Committee members received a copy of the revised Gaming Compact (Attachment 4).

Mr. All thanked everyone who assisted in getting the revised compact completed. Committee discussion ensued. It was clarified that there could be no movement among racetrack facilities with the 600 slot machines; each would only be allowed 600 machines. The Legislature does not have the authority to add additional machines without losing the state's share of the gaming revenue. Once the facilities close down in Brown County, the 4 percent payment to the state ceases. Senator Haley disagreed with the fact that a charitable contribution was not included in the revised compact. The tribes have a signed contract with JE Dunn Company requiring the project to be a union project.

Chairperson Mason said that the Committee certainly appreciates the diligence that Mr. All and the tribes put forth on working on the compact.

*Senator Adkins moved that the compact be advanced to the Legislative Coordinating Council without recommendation. Senator Brungardt seconded the motion. Discussion followed.*

Staff stated that the Legislative Coordinating Council (LCC) does not have authority to make changes to the compact. If the LCC does not vote to approve the compact, the Governor could renegotiate it, and have the compact go back through the process. The LCC is not obligated to act upon the compact. Representative Hutchins presented a Joint Resolution from the Brown County Board of Commissioners opposing the closure of the Golden Eagle Casino and the Sac & Fox Casino (Attachment 5). She said she could not support the compact unless a provision for assistance to Jackson County also was included.

*Representative Hutchins made a substitute motion to deny compact approval to the LCC. Representative Mason seconded the motion. Discussion followed.*

Representative Hutchins pointed out that this issue did not have to be addressed today, and the impact on Brown County and Jackson County should be further explored. Senator Haley said he supports Representative Hutchins, because he feels the compact is flawed because there is no provision for charitable contributions. Representative Mason said he feels this compact would start the spread of gambling across the state.

*The substitute motion failed with seven members voting no, and three members voting yes. The statute requires an affirmative vote of four Senators and four House members to recommend a compact favorably.*

*Senator Adkins' original motion, seconded by Senator Brungardt, to advance the compact to the Legislative Coordinating Council without recommendation was passed with six members voting yes, and two members voting no.*

The statute requires five affirmative votes to report a compact without recommendation.

*Senator Adkins made a motion to approve the minutes of the October 20-21 Committee meeting. Representative Sharp seconded the motion. Motion passed.*

Vice Chairperson Oleen introduced Ernie Stevens, Jr., Chairman of the National Indian Gaming Association, Washington, D.C., to the Committee.

Senator Adkins acknowledged the leadership of Chairperson Mason and Vice Chairperson Oleen in guiding the Committee through the compact process. He said their efforts were appreciated.

The following letters were received and entered into the Committee record:

- □ Delaware Tribe of Indians opposing compact ratification (Attachment 6).
- □ United States Department of the Interior to the Delaware Tribe stating that a review of placing its land in trust application is being done (Attachment 7).

There being no further business, the Committee adjourned at 12:00 p.m.

Prepared by Judy Swanson  
Edited by Russell Mills and Dennis Hodgins

Approved by Committee on:

December 30, 2004

(date)