

Approved: 3-9-93
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Jerry Moran at 10:05 a.m. on February 22, 1993 in Room 514-S of the Capitol.

All members were present except: All present

Committee staff present: Michael Heim, Legislative Research Department
Mary Galligan, Legislative Research Department
Gordon Self, Revisor of Statutes
Mary Ann Torrence, Revisor of Statutes
Sue Krische, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Chairman Moran announced the following subcommittee assignments: (1) to the Civil Law Subcommittee--SB 356; (2) to the Criminal Law Subcommittee--SB 170, SB 362, SB 245, SB 341 and SB 354; and (3) to the Family Law Subcommittee--SB 275, SB 338 and SB 339.

Sub HB 2023 - Procedures for negotiating and entering Indian gaming compacts.

Staff reviewed for the Committee the provisions in the draft of Senate Substitute for House Substitute for HB 2023 (Attachment 1). With regard to adjustments in the draft, it was suggested that in subsection (b) the "shall" should be changed to "may" as the Governor has authority in subsection (c) to either renegotiate on recommended modifications by the Legislature or not. To clarify in subsection (f) (1) on page 2 it was explained that all the Legislature can do through concurrent resolution is to request the Governor to renegotiate. In subsection (b) (1) on page 3, it was suggested in order to clarify the meaning of the word "law" to change the wording to "Shall establish and transmit to the governor guidelines reflecting the public policies and laws and interests of the state" and to strike the language "as embodied in the statutes and constitution of the state of Kansas." In this case the word "law" should include case law as well as the statutes and constitution. Staff noted the Committee has not discussed whether "quorum" in subsection (d) on page 3 means two senators and two representatives or simply a majority of the six.

Senator Bond questioned the scope of the mechanism and it was noted that this mechanism will apply to whomever the Governor opens negotiations with and that might include tribes that have trust land in Kansas. Senator Bond asked if sales taxes will apply to non-Indian patrons of the gambling establishments. Senator Parkinson stated that this important issue should appropriately be addressed in the compacts. Staff from the Attorney General's office suggested the issue could be mentioned in this mechanism for approving compacts as a reminder to the joint committee reviewing the compacts.

Senator Parkinson moved to amend Senate Substitute for Sub HB 2023 to add the provision in Section 2 (c) stating the Governor will give the legislative committee notice if she does not plan to resume negotiations and at that point the committee will have 10 days to approve or not approve the compact; to change "shall" to "may" in Section 2, subsection (b); to add clarification in subsection (f) (1) of the intent of the concurrent resolution; to change the language regarding state law in subsection (b) (1) on page 3 as quoted earlier; and to specify a quorum would be a vote of two senators and two representatives rather than a total of four. Senator Martin seconded. Motion carried. Senator Rock moved to recommend Senate Sub for Sub HB 2023, as amended, favorably for passage. Senator Martin seconded. Senator Oleen made a substitute motion to amend Senate Sub for Sub HB 2023 to provide that the full Legislature approve any compact. Senator Brady seconded. Motion carried. Senator Bond moved to amend Senate Sub for Sub HB 2023 to add language that the joint committee recommend that the compacts shall impose state sales and income tax upon transactions to non-Indians. Senator Parkinson seconded. Motion carried. Senator Oleen moved that Senate Sub for Sub HB 2023, as amended, be recommended favorably for passage. Senator Brady seconded. Motion carried.

The meeting was adjourned at 11:15 a.m. The next meeting is scheduled for February 23, 1993.

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 2-22-93

[illegible]

DRAFT

Senate Substitute for House Substitute for HOUSE BILL NO. 2023

By Committee on Judiciary

AN ACT concerning tribal-state gaming compacts; providing procedures for negotiating and entering such compacts.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act:

(a) "Class III gaming" has the meaning provided by the Indian gaming regulatory act (25 U.S.C. 2701 et seq.).

(b) "Gaming compact" means a tribal-state compact regarding class III gaming as provided by section 11 of the Indian gaming regulatory act (25 U.S.C. 2710).

Sec. 2. (a) Any request by a tribe for negotiation of a gaming compact with the state of Kansas, including any request for renegotiation of an existing gaming compact or resumption of negotiation of a proposed gaming compact negotiated and signed by the governor before January 1, 1993, shall be submitted in writing to the governor.

(b) The governor or the governor's designated representatives are authorized to negotiate a gaming compact upon receipt of a written request as provided by subsection (a). At the conclusion of negotiations, the governor shall submit the proposed compact to the joint committee on gaming compacts for the joint committee's approval or recommendations for modification. If the joint committee approves the proposed compact, the governor is authorized to enter into the compact on behalf of the state. If the joint committee recommends modification of the proposed compact, the governor or the governor's representatives shall resume negotiations in accordance with the joint committee's recommendations and the modified proposed compact shall be submitted to the joint committee in the same manner as the original proposed compact.

(c) If the governor fails or refuses to resume negotiations,

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within 5 days after receiving recommended modifications from the joint committee on gaming compacts, the joint committee shall either approve or reject the proposed compact. If the joint committee fails or refuses to reject the proposed compact within 10 days after the governor receives the joint committee's recommended modifications, the compact shall be considered to have been approved by the joint committee.

(d) Upon approval of a compact by the joint committee, the governor is authorized to enter into the compact on behalf of the state.

(e) The attorney general shall be the legal counsel for the governor or the governor's representatives in negotiating a gaming compact under this section and for the joint committee on gaming compacts in reviewing proposed compacts.

(f) A gaming compact negotiated on behalf of the state under this section shall contain:

(1) A provision recognizing the right of each party to the compact, (including the legislature by concurrent resolution,) to request that the compact be renegotiated or replaced by a new compact and providing the terms under which either party, including the legislature, may request a renegotiation or the negotiation of a new compact; and

(2) a provision that, in the event of a request for a renegotiation or a new compact, the existing compact will remain in effect until renegotiated or replaced.

(g) The governor, or the governor's designated representatives, and the attorney general shall report to the joint committee on gaming compacts, at such times as requested by the joint committee, regarding gaming compacts negotiated and prospective negotiations.

Sec. 3. (a) There is hereby established the joint committee on gaming compacts, which shall consist of three senators and three members of the house of representatives. Of the senate members, two shall be appointed by the president of the senate and one by the minority leader of the senate. Of the house of

representative members, two shall be appointed by the speaker of the house of representatives and one by the minority leader of the house of representatives.

(b) The joint committee on gaming compacts:

(1) Shall establish and transmit to the governor guidelines reflecting the public policies and ^{laws + interests of the state} ~~state~~ interests, ~~as embodied in the statutes and constitution of the state of Kansas,~~ that the joint committee will consider in reviewing proposed compacts;

(2) may hold public hearings on proposed gaming compacts submitted to the joint committee by the governor; and

(3) shall approve or recommend modification of any proposed gaming compact submitted to the joint committee by the governor. The joint committee shall notify the governor, in writing, of the joint committee's action on the proposed compact.

(c) The president of the senate shall designate a senator member to be chairperson of the joint committee on gaming compacts in even-numbered years and the vice-chairperson in odd-numbered years. The speaker of the house of representatives shall designate a representative member to be chairperson of the committee in odd-numbered years and the vice-chairperson in even-numbered years. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(d) A quorum of the joint committee on gaming compacts shall be four. Actions of the joint committee approving, recommending modification of or rejecting a proposed compact shall be only on the affirmative vote of four members of the joint committee. All other actions of the joint committee may be taken by a majority of those present when there is a quorum.

(e) The joint committee on gaming compacts may meet at any time and at any place within the state on the call of the chairperson.

(f) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee on gaming compacts to the extent that the same do

not conflict with the specific provisions of this act applicable to the joint committee.

(g) In accordance with K.S.A. 46-1204 and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee on gaming compacts.

(h) The joint committee on gaming compacts may introduce such legislation as it considers necessary in performing its functions.

Sec. 4. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application. To this end the provisions of this act are severable.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.