

MINUTES

JOINT COMMITTEE ON STATE TRIBAL RELATIONS

September 11, 2024
Room 152-S—Statehouse

Members Present

Representative Will Carpenter, Chairperson
Senator Larry Alley, Vice-chairperson
Representative Christina Haswood, Ranking Minority Member
Senator Elaine Bowers
Representative John Alcala
Representative Tom Kessler
Representative Sean Tarwater

Members Absent

Senator David Haley - Excused
Senator Tom Holland - Excused
Senator Dan Kerschen - Excused

Staff Present

Elaina Rudder, Kansas Legislative Research Department (KLRD)
Kate Smeltzer, KLRD
Kyle Hamilton, Office of Revisor of Statutes
Adam Siebers, Office of Revisor of Statutes
Connie Burns, Committee Assistant

Conferees

Jancita Warrington, Executive Director, Kansas Native American Affairs Office
Kala Loomis, Executive Director, Kansas State Gaming Agency
Professor Burke W. Griggs, Washburn University School of Law
Joseph Rupnick, Tribal Chairman, Prairie Band Potawatomi Nation
Timothy Rhodd, Tribal Chairman, Iowa Tribe of Kansas and Nebraska
Lance Foster, Tribal Historic Preservation Officer, Iowa Tribe of Kansas and Nebraska
Alan Kelley, Deputy Tribal Historic Preservation Officer, Iowa Tribe of Kansas and Nebraska
Gail Cheatham, Tribal Chairwoman, Kickapoo Tribe in Kansas
Howard Allen, Tribal Council Secretary, Kickapoo Tribe in Kansas
Erik Sheets, Environmental Director, Kickapoo Tribe in Kansas
Napoleon Crews, Tribal Attorney, Kickapoo Tribe in Kansas

Wednesday, September 11, 2024
All-day Session

Welcome

Chairman Representative Will Carpenter called the meeting to order at 9:05 a.m.

Approval of Minutes

Chairman Carpenter called for a motion to approve the minutes from February 28, 2024, and April 1, 2024.

Senator Alley moved to approve the minutes from February 28, 2024, and April 1, 2024, as presented. Representative Haswood seconded the motion. The motion carried.

Review of Topic and Resources

Elaina Rudder, Senior Research Analyst, Kansas Legislative Research Department (KLRD), presented an overview of state and federal resources related to State-Tribal relations. Her overview included brief summaries of federal laws, U.S. Supreme Court decisions, and presidential directives ([Attachment 1](#)).

Additional information was provided to the Committee:

- Maps of the Kansas Tribal Reservations ([Attachment 2](#));
- A memorandum by Jason Long, Senior Assistant Revisor, regarding a review of gaming compacts ([Attachment 3](#)); and
- A memorandum by Mr. Long which relays the summary and implications of the 2023 West Flagler Associates case, which relates to sports wagering and remote sports wagering ([Attachment 4](#)).

History of the Joint Committee on State-Tribal Relations

Kate Smeltzer, Research Analyst, KLRD, provided an overview of Joint Committee on State-Tribal Relations (Committee) meeting history ([Attachment 5](#)). She explained the Joint Committee on Gaming Compacts was reconstituted in 1999 as the Joint Committee on State-Tribal Relations, and the Committee has met for purposes beyond the statutorily-required organizational meeting ten times.

Review of Recent State-Tribal Legislation

Ms. Rudder provided brief summaries of legislation related to State-Tribal relations that have been introduced or passed in Kansas since 2013 ([Attachment 6](#)). Ms. Rudder also provided the Committee with a table detailing State-Tribal bills and resolutions passed in other states from 2019 through 2024 ([Attachment 7](#)).

Kansas Native American Affairs Office

Jancita Warrington, Executive Director, Kansas Native American Affairs (KNAA) Office, provided an overview of KNAA's responsibilities and roles ([Attachment 8](#)). She explained KNAA is responsible for maintaining, strengthening, and enhancing the state's government to government relationship with the four Tribal Nations of Kansas and works to strengthen state-tribal relations by providing education and support regarding laws and regulations. She informed the Committee that the KNAA also performs the following roles:

- Assisting state agencies in implementing tribal consultation and outreach activities to promote access to state services;
- Coordinating intergovernmental communications within the State, Tribes, and state agencies;
- Providing counsel to the Governor and state agency leaders on laws and policies related to or impacting Tribal Nations; and
- Leading consultations, collaborating, and coordinating educational and informative programs with state agencies to help build relationships with Tribal leaders in areas of mutual interest.

Ms. Warrington explained KNAA recognizes the inherent sovereignty of the Kansas Tribes, works only with constitutionally elected tribal officials, and assists with issues on tribal lands only at the request of the tribal elected officials. Ms. Warrington explained KNAA identifies and streamlines processes while developing opportunities for forums to address policies, programs, challenges, and services that support the needs of Tribal Nations and assists tribal governments and organizations to access programs and services throughout state agencies.

Ms. Warrington informed the Committee of the KNAA 2025 initiatives, which include:

- Reinstating the Native American Law Symposium; and
- Assuming the responsibilities of the Native American Legislative Day at the Capitol.

Ms. Warrington provided historical information regarding the four federally recognized Tribes in Kansas:

- Prairie Band Potawatomi established their original 30x30 mile reservation through the Treaty of 1832, and today they reside on a 11x11 mile reservation in Jackson County;

- Kickapoo Tribe in Kansas established their original reservation through the Treaty of 1832, and the Treaty of 1854 provided terms of the reservation they currently reside on in Brown County, Kansas;
- Sac and Fox Nation of Missouri in Kansas and Nebraska was removed from Iowa to Kansas through the Treaty of 1837, and the 1861 Treaty established their original reservation. Currently, the Tribe resides on a reservation in Brown and Doniphan Counties; and
- Iowa Tribe of Kansas and Nebraska established their original Kansas reservation through the Treaty of 1836. The Treaty of 1854 reduced their reservation land, which was further reduced through the Treaty of 1861 to the 12,038 acre reservation in which they currently reside. The Treaty of 1861, through the reduction of their lands, provided lands that established the Sac and Fox reservation.

Ms. Warrington provided the Committee with information relating to treaties. She explained the Tribal Nations treaties are a contract between tribal governments and the federal government and must be ratified by the U.S. Senate. She stated treaties are significant in defining the relationship between the tribes and the U.S. Government, and serve as the basis for tribal rights to territory, water, jurisdiction, religious freedom, hunting grounds, and numerous other rights. She noted ratified treaties affirm an agreement made by the United States with a sovereign nation, but treaties remain the supreme law of the land.

Ms. Warrington informed the Committee about federal recognition of a tribe, which is the legal acknowledgment of the sovereign and separate political status of tribes by the federal government. She explained federal recognition establishes a political and legal relationship between a tribe and the United States and permits tribes to access certain federal resources. Ms. Warrington stated most tribes have gained their federal recognition based on treaties, but there are three other ways a tribe gain federal recognition:

- An act of Congress;
- Presidential Executive Orders; and
- The Federal Acknowledgment Process found in Title 25 Code of Federal Regulations Part 83 (1978).

Ms. Warrington provided background about tribal sovereignty. She explained tribal sovereignty is the inherent authority of tribes to govern themselves and includes the rights to:

- Assert independent nationhood and govern itself;
- Establish its own form of government;
- Determine its own citizenship or membership;
- Enact laws and legislation;
- Establish a judicial system including law enforcement and a tribal court;
- Preserve its unique culture; and
- Control its own economy.

She noted the federal government recognizes and affirms the political status of tribes as a unique sovereign government.

Ms. Warrington provided information regarding the way in which Kansas Tribes operate. She said each tribe in Kansas operates according to a unique tribal constitution that is approved by the U.S. Secretary of the Interior. She highlighted that the four tribal councils in Kansas serves as both the executive and legislative bodies of each tribe, and each tribe in Kansas has a separate judicial branch of government.

Ms. Warrington explained federal recognition of a tribe provides a unique membership status within a sovereign nation. Individual tribal members carry a triplex of citizenship, meaning they are citizens of each of the following:

- The federally recognized tribe in which they are enrolled;
- The United States [*Note: U.S. citizenship was granted to all Native Americans born in the United States by the Indian Citizenship Act of 1924*]; and
- The state in which they are domiciled.

Ms. Warrington briefly discussed the misclassification of “Native American” or “American Indians” as a racial minority. She provided insight regarding differences between tribal membership and racial minority groups and two Supreme Court Cases which affirmed tribal membership as a political designation, not a racial designation.

Ms. Warrington discussed tribal self-determination with the Committee. She explained self-determination includes:

- The ability of a tribe to assert control over its own affairs;
- A tribe’s right to freely determine their political status; and
- The right to freely pursue their distinct economic, social, and cultural development.

Ms. Warrington provided an overview of various tribal-related federal policies, federal committee efforts focused on tribal issues, memorandums, and presidential executive orders.

Ms. Warrington explained tribes are quasi-sovereign entities that continue to exercise inherent sovereignty on their lands and reservations which includes the fundamental right to uphold tribal laws within their jurisdiction. She noted on reservations, the type of crime and what type of land on which the violation occurs determines jurisdiction over the crime. She explained courts have reaffirmed tribes have civil regulatory jurisdiction on their lands within their reservation boundaries. Ms Warrington informed the Committee about tribal jurisdiction over tribal members, stating each tribe is said to retain its original or inherent jurisdiction unless the jurisdiction has been:

- Relinquished or ceded by the tribe itself through a treaty or other agreement;
- Expressly abrogated or taken away by Congress; or
- Deemed by the judiciary to have been implicitly lost by virtue of the tribe’s historical circumstances and contemporary status.

Ms. Warrington also provided insight into tribal jurisdiction over non-Indians and non-tribal members, and the 1885 Major Crimes Act, which gives the federal government exclusive jurisdiction to prosecute crimes that occur within Indian country by or against Indians for seven major crimes:

- Murder;
- Manslaughter;
- Rape;
- Assault with intent to kill;
- Arson;
- Burglary; and
- Larceny.

Ms. Warrington briefly discussed the Kansas Act of 1940, which was passed to address the jurisdictional gap caused by lack of tribal law enforcement and judicial systems. She noted changes in three areas:

- Tribal law and order codes;
- Tribal court systems; and
- Tribal law enforcement.

Ms. Warrington discussed tribal law enforcement in Kansas, stating the following:

- All four tribes have trained and certified tribal law enforcement officers;
- All tribal officers attend state and federal law enforcement academies; and
- When training is completed, tribal officers become certified deputized law enforcement officers like other law enforcement officers across the country.

The Committee had questions regarding the following:

- The dissolution of the Native American Law Symposium;
- The Kansas Act of 1940 and its interaction with the Double Jeopardy Clause of the Fifth Amendment of the *U.S. Constitution*;
- The Federal Acknowledgment Process;
- State recognition of tribes; and
- KNAA staffing and resources.

Kansas State Gaming Agency

Kala Loomis, Executive Director, Kansas State Gaming Agency (KSGA), provided the Committee with an overview of agency information ([Attachment 9](#)). She provided the following history of the agency:

- In 1995, the Iowa Tribe of Kansas and Nebraska, the Prairie Band Potawatomi Nation of Kansas, the Kickapoo Tribe in Kansas, and the Sac and Fox Nation of Missouri in Kansas and Nebraska each signed a Tribal-State Compact with the State of Kansas; and
- By 1998, each had opened its own Class III casino which continue to operate today.

Ms. Loomis explained a Tribal Gaming Commission regulates each casino and the gaming activities for each are overseen by the KSGA. She noted the Wyandotte Nation in Kansas City, Kansas, and a newer casino in Park City, Kansas, are not subject to a current Tribal-State Compact and are Class II casinos which are not regulated by the State. Ms. Loomis highlighted 2022 Senate Bill 84, which provided the opportunity to introduce sports wagering to the tribal casino industry.

Ms. Loomis explained the KSGA has a mission and goal of protecting the integrity of gaming by ensuring compliance with the Tribal-State Compacts, the Tribal Gaming Oversight Act, and all applicable federal and state laws. She stated the KSGA is made up of an enforcement unit and a special investigations unit, and the KSGA's staff includes enforcement agents (sworn law enforcement officers), special investigators (not sworn law enforcement officers), and technical and support staff. Ms. Loomis noted the KSGA is responsible for conducting background investigations on all employees connected with the gaming operations at each casino and on all vendors who sell more than \$10,000 per year in gaming equipment to a tribal casino in Kansas. She highlighted, in FY 2023, the KSGA completed 467 individual employee background investigations and 18 vendor background investigations.

Ms. Loomis provided information regarding enforcement agents, noting the KSGA attempts to provide collaborative training with tribal personnel. She briefly discussed the KSGA's relationship with the Kansas Racing and Gaming Commission and the differences between the two agencies. Ms. Loomis mentioned KSGA funding, which is based on Section 25 of the compacts with the four Kansas tribes.

The Committee asked questions about the following topics:

- Historical horse racing;
- The membership of the Tribal Gaming Commission;
- The budgeting process for the KSGA;
- The KSGA's regulatory authority; and
- The expertise and training of the KSGA's staff.

Staff provided the FY 2024 Budget Analysis for the Kansas Racing and Gaming Commission ([Attachment 10](#)).

Lunch

Chairperson Carpenter recessed the meeting at 11:00 a.m. and reconvened the meeting at 1:00 p.m.

Staff provided several pages from the *Coen's Handbook of Federal Indian Law* ([Attachment 11](#)).

Presentation on Tribal Water Rights

Professor Burke W. Griggs, Washburn University School of Law, provided a presentation on tribal water rights and justice and tribal sovereignty ([Attachment 12](#)). Professor Griggs discussed western water law, which is originally and mostly established under state law. He explained a water right is the right to put water to beneficial use, not the ownership of the water itself. He briefly highlighted, under most state regimes, an entity's use right could be lost for non-use. He stated western water rights are severable, meaning they can be severed from the land and moved around. He explained eastern water rights cannot be as easily severed from the land. He informed the Committee that around the 1880s, states began to designate a state official to conduct all of the regulatory work and property work associated with water rights. He provided two principal duties of most western state water officials:

- Put water to beneficial use by granting water rights. Professor Griggs highlighted the State of Kansas has granted approximately 50,000 water rights; and
- In times of shortage, administer (shut off) rights according to their relative priorities.

In Kansas, the state official responsible for administering water laws and regulations, including granting water rights and determining priority of rights, is the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (KDA).

Professor Griggs discussed two issues with water rights:

- Private owners routinely claim more water rights than the system can provide;
- The state's duty to put water to beneficial use generally conflicts with its duty to protect senior rights in times of shortage. He explained this is the larger problem of the two, stating granting water rights is easier than it is to shut them off.

He stated the result of these two issues is over-appropriation.

Professor Griggs discussed the Kansas Water Appropriation Act of 1945 (KWAA), codified at KSA 82a-701 *et seq.*, which adopts the prior appropriation doctrine statewide for both surface and groundwater. He explained the KWAA puts the administration of all water rights in Kansas under the jurisdiction of the Chief Engineer and the policies in place have allowed and effectively encouraged the over-appropriation of water supplies and the under protection of senior water rights. He stated one of the biggest problems in several western states, including Kansas, is more water rights have been granted than there is water to supply them. He explained there are defensible historical reasons for this; however, the biggest problem is the

Kansas High Plains Aquifer is not renewable. He explained new water rights were able to be granted between 1950 and 1970, but, in several regions in Kansas today, there are twenty times more water rights than water.

Professor Griggs briefly discussed Kansas water right data from the Kansas Geological Survey and highlighted the decreased thickness of the Kansas High Plains Aquifer. He also provided information from the KDA regarding groundwater pumping and the depletion of stream flows statewide.

Professor Griggs discussed sovereignty with the Committee. He explained there are three sovereigns:

- The United States, which is the supreme sovereign under our federal system;
- Native American Tribes, which are sovereigns that enjoy autonomy over tribal real property (land and water rights); however, the United States acts as the trustee for tribes, especially regarding state affairs; and
- The State of Kansas.

He explained, therefore, recognizing and adjudicating tribal water rights necessarily involves the participation and cooperation of at least three sovereigns: federal, tribal, and state. Professor Griggs provided a chronological time line of historical tribal events, legislation, and court decisions impacting tribal water rights from time immemorial to 1981. He informed the Committee that, legally, the United States interacts with tribes in two basic ways:

- Establishment through treaties with tribes; and
- Acts of Congress.

He highlighted the General Allotment Act of 1887, which allowed for tribal land that was held by the tribe as a corporate body to be individually parceled out and allotted to individual members of the tribe. He noted those tribal members who then had individual land ownership were called allottees, but reservations then had many different owners. He provided the Kickapoo Reservation as an example because reservation land is owned by a combination of the Tribe, allottees, and non-Indians who purchased land from allottees.

Professor Griggs provided information on several court decisions impacting tribal water rights, including:

- *Winters v. United States* (1908);
- *Arizona v. California* (1963); and
- *Colville Confederated Tribes v. Walton* (1981).

Professor Griggs explained, based on these court decisions, tribal water rights are strong, established, and consistently recognized under federal law. However, even though the Supreme Court may find that a tribe is entitled to large amounts of water and have a senior water right, it does not mean such tribe will get “wet water” (actual water) to its reservation. He explained the challenge is, on paper, tribes have large and strong water rights, but without political support to translate legal rights to actual water projects, the rights are not worth much.

Professor Griggs stated many reservations across the Midwest are so water-deficient, they have to truck water in for domestic use, often 30 to 40 miles.

Professor Griggs addressed adjudications, which are ways the western states, tribes, and the federal government have tried to reconcile the federal system of water rights with a state system of state-based water rights. He briefly discussed water rights adjudications (general stream adjudications), which are typically authorized by state legislation, and noted the significant role of tribes in adjudications because of their large and senior rights.

Professor Griggs provided information regarding tribal water rights settlements, noting tribes have strong legal claims, but are frequently politically weak and economically disadvantaged. He explained non-Indian state water rights holders, state-law irrigators, have junior rights under state law, but have strong support from state legislatures and access to credit. Professor Griggs provided an overview of common settlement terms, which include:

- Tribes accept less water than they are entitled to receive in exchange for certain funding, rights, leasing abilities, and other benefits; and
- State parties accept (some) reductions in their water rights, in exchange for certain agreements and lease abilities.

Professor Griggs provided examples of settlements in various states and concluded his presentation with the following remarks:

- Negotiated settlements are unquestionably superior to litigated results;
- States, tribes, and the United States have accomplished creative and effective solutions;
- Trustworthy data and enforceable laws are critical;
- Kansas faces fewer obstacles, both in terms of hydrology and state-tribal relations, to reaching effective settlements compared to other western states; and
- Congressional support is usually the most difficult obstacle.

Professor Griggs addressed questions from the Committee regarding the following topics:

- The tribal compacts established in Montana;
- Congressional funding for water infrastructure projects;
- Permanent depletion of water supplies in Kansas;
- Determining when water rights are tied to time immemorial versus the establishment by reservation by treaty;
- Whether the four tribes in Kansas have the most senior water rights; and
- The current status of the water rights settlement with the Kickapoo Tribe of Kansas in Congress.

Updates from Kansas Tribes

Prairie Band Potawatomi Nation

Joseph Rupnick, Tribal Chairman, Prairie Band Potawatomi Nation (PBPN), shared his thoughts on state-tribal relations ([Attachment 13](#)). Chairman Rupnick provided background information on the PBPN, noting he represents approximately 4,500 Potawatomi individuals, most of whom reside on the PBPN reservation, established through the Treaty of 1846. Chairman Rupnick noted before 1846, the PBPN was a Great Lakes Tribe. In 1834, after President Jackson signed the Indian Removal Act of 1830, the PBPN was moved to Illinois, Missouri, and Iowa. In Iowa, a Council Bluffs Treaty was signed in 1846, which established the PBPN reservation land.

Chairman Rupnick explained the Tribe purchased over 900 square miles within the reservation in Kansas, noting the funds came from the land the Tribe ceded in Illinois and Iowa. He noted the PBPN began occupying their reservation in 1847. He informed the Committee that due to the General Allotment Act of 1887, development pressure, and theft, most of the PBPN's land was lost to non-Indians. He stated this combination of events left the PBPN land "checker boarded", meaning there are mixed parcels of land within the reservation owned by the PBPN, individual Nation citizens, and non-Indians. He explained because the status of the land differs based on ownership, so too does the jurisdiction and taxing authority of the tribal, federal, state, and county governments.

Chairman Rupnick reviewed the Kansas Act of 1940 and noted that because of this Act, Indians are the only individuals who may be prosecuted in three different courts.

Chairman Rupnick explained that because tribes recognized the federal government and the federal government recognized American Indian Tribes as independent nations, tribes and the federal government were able to come to policy agreements through treaties. He noted multiple sections of the *U.S. Constitution* recognize tribes as separate from the federal or state governments. He stated there is a need to understand and support treaty obligations and tribal sovereignty. He also highlighted the importance of state-tribal relations and the importance of Tribal Nations holding the federal government accountable to the treaties in place.

Chairman Rupnick provided an overview the Kansas-Nebraska Act of 1854 and its interactions with the *Kansas Constitution* and the Act for the Admission of Kansas Into the Union.

He reviewed the Tribe's struggles with county official overreach, legal representation, utility project developments, federal legislation, and taxes.

He urged that more must be done to support tribal self-sufficiency, tribal sovereignty, and self-determination. He concluded by recommending all blood quantum references should be removed from all state statutes and law.

Iowa Tribe of Kansas and Nebraska

Timothy Rhodd, Tribal Chairman, Iowa Tribe of Kansas and Nebraska (ITKN), also known as the Ioway, expressed concerns about the ITKN reservation located in northeast and southeast Nebraska. Chairman Rhodd also introduced Lance Foster, Tribal Historic Preservation Officer, National Association of Tribal Historic Preservation Office, ITKN, and Alan Kelley, Deputy Tribal Historic Preservation Officer, ITKN. He noted both have previously served in tribal leadership positions and on the executive committee ([Attachment 14](#)).

Mr. Foster spoke about the ITKN relocation and tribal history. He informed the Committee that the state of Iowa was named after the Ioway, explaining Iowa is the heart of the ITKN homelands. He discussed the Treaty of 1836, which moved the ITKN to northeast Kansas, and explained the ITKN had to cede their land in Missouri.

Mr. Kelley spoke about regaining sovereignty.

Chairman Rhodd spoke about wildlife issues, stating the Tribe has its own official wildlife department and tribal codes, and because of the “checker board” effect on the ITKN reservation, the state permits are being used within the borders of the reservation to harvest the Tribe’s wildlife and animals. He explained this issue causes overhunting by putting animals through three different hunting seasons (Tribal, Kansas, and Nebraska). He stated the State of Kansas receives all of the revenue from the state permits even when those permits are used on the ITKN lands; the ITKN’s wildlife department receives none of the revenue and survives solely on Tribal funds. Chairman Rhodd requested the Committee look into this issue, noting his multitude of requests. Additionally, he requested the Committee support the Tribes with their official wildlife department and the laws and rules with the reservation boundaries.

Chairman Rhodd briefly mentioned law enforcement issues. He also stated the ITKN is in support of contesting the Kansas Act of 1940, requesting review, repeal, and the return of jurisdiction to the Tribes. Chairman Rhodd discussed water issues, stating the state’s water is saturated in nitrates. He requested the Legislature help mitigate this water issue and assist tribes in safeguarding natural water supplies.

Chairman Rhodd noted the ITKN’s continued tax issues, stating the Tribe is relatively self sufficient and has its own programs for economic development, law enforcement, infrastructure and reservation management and maintenance, and more. He highlighted that revenue from road maintenance performed by the Tribe is going to the county in which they reside.

Kickapoo Tribe in Kansas

Howard Allen, Tribal Council Secretary, Kickapoo Tribe in Kansas (Kickapoo), provided a presentation on treaties and agreement with foreign entities ([Attachment 15](#)). Mr. Allen briefly overviewed the Kickapoo’s treaty and agreement history. He explained the Kickapoo have agreed to treaties and agreements with France, Great Britain, Spain, Canada, Mexico, and the United States, noting the most recent treaty the Kickapoo signed was with the United States in 1854. Mr. Allen stated all three bands of Kickapoo (the Kickapoo Tribe in Kansas, the Kickapoo Tribe of Oklahoma, and the Kickapoo Tradition Tribe of Texas) still maintain all treaty rights from the Treaty of 1854. He provided an overview of all current reservation lands, and reviewed the Kansas-Nebraska Act, the Act for the Admission of Kansas Into the Union, and the Kansas Act of 1940, which give criminal jurisdiction to the State of Kansas over Indian reservations.

Mr. Allen discussed the issue of taxation with the Committee, stating the State of Kansas:

- Has no legal statutory authority to tax the Kickapoo Tribe or its members through sales tax, fuel tax, use tax, income tax, and property tax;
- Does not allow the Kickapoo Tribe to use certain tax exemptions available to federal, state, and municipal governments. One example provided was Kickapoo Head Start does not get a tax exemption unlike other schools that own property; and
- Imposes income taxes on Indians working on the reservation with no statutory authority.

He highlighted the self sufficiency of the Kickapoo Tribe, noting the Tribe receives no funding from the State for education, and the Tribe has its own police force, fire department, and roads program, which benefit not only its local tribal members, but the surrounding non-Indian community as well. Mr. Allen explained tax compacts are a possible solution to address these issues and provided examples of states and Tribes that have entered into tax compacts. He provided key features of Tribal-State agreements:

- **Revenue Sharing.** These agreements often include provisions for sharing tax revenues between the Tribe and the State, helping both entities benefit financially;
- **Avoidance of Double Taxation.** By clearly defining tax responsibilities, these agreements help avoid double taxation on businesses and individuals operating tribal lands;
- **Support for Sovereignty.** Agreements respect tribal sovereignty by allowing tribes to impose their own taxes while coordinating with state tax systems; and
- **Streamlining Tax Collection.** These agreements simplify tax collection processes, reducing administrative burdens for both the State and Tribe.

Mr. Allen said the Kickapoo Tribe would like recognition as a sovereign government, recognition of their jurisdictional boundaries, and a comprehensive tax compact.

Mr. Allen answered questions regarding income and property taxation.

Erik Sheets, Environmental Director, Kickapoo, provided information regarding the Kickapoo Tribe's programs, grants, and initiatives to ensure safeguarding of water in Kansas. He discussed challenges related to water resources and infrastructure and provided an overview of the steps the Tribe is taking to address issues. He also highlighted the importance of collaboration between the Tribe and the State. Mr. Sheets informed the Committee the Kickapoo Tribes depends almost entirely on the Delaware River for drinking water and noted there have been significant challenges with quality and reliability due to watershed and upstream activity. Mr. Sheets discussed specific water quality issues, such as high phosphorous and nitrate levels and bacteria contamination. He further stated that these challenges are

compounded by the upstream land use policies which often don't prioritize water quality or the downstream impact on the Tribe.

Mr. Sheets informed the Committee in order to meet the U.S. Environmental Protection Agency's safety standards, the Tribe has to implement costly measures, which is a strain on Kickapoo resources and infrastructure. He stated the Tribe frequently must issue boil water advisories and invest heavily in disinfection processes. Mr. Sheets stated that environmental conditions and seasonal fluctuations in the Delaware River can complicate water treatment efforts. Mr. Sheets explained the Tribe needs a comprehensive approach to address these issues, including:

- Upgrading infrastructure;
- Improving land practices;
- Controlling pollution; and
- Exploring alternative sources of water.

Mr. Sheets briefly described efforts the Tribes have taken to restore and protect current water resources, such as:

- The construction of a watershed plant and other projects;
- The stabilization of stream banks to reduce sediment pollution from entering the Delaware River;
- The restoration of wetlands to provide a natural filtration system, further keeping the water systems in Kansas clean;
- Installing riparian buffers between agricultural land and the river;
- Re-vegetation of native species; and
- Investment in the Kickapoo water treatment plant, which was built in 1977. Mr. Sheets noted the Tribe has invested nearly \$500,000 in critical upgrades and targeted improvements for better reliability, capacity abilities, and efficiency.

Mr. Sheets informed the Committee that recent ground water studies have identified four different aquifer systems that could potentially be used to provide reliable water systems.

Mr. Sheets concluded by providing several ideas to the Committee to further expound engagement, collaboration, and legislative support for the Tribe and for clean water, including:

- The creation of a Tribal Advisory Council;
- Providing technical assistance and capacity building programs tailored specifically for Tribes;

- Encouraging co-management of shared water resources by creating joint monitoring and response teams that include both Tribal and State representatives;
- Legislative support in limiting nutrients and sediment runoff from agricultural lands, mandating buffer zone requirements, setting limits on fertilizer applications, and establishing riparian buffer zones;
- Encouraging sustainable agricultural practices;
- Developing state incentive programs for farmers and landowners to adopt methods like no-till farming, cover cropping, and constructing vegetative buffer strips; and
- Supporting drought management planning and adaptation. (No written testimony was provided by Mr. Sheets.)

Gail Cheatham, Tribal Chairwoman, Kickapoo, requested that the Legislature establish subcommittees to come together and talk about tribal issues.

Committee Discussion and Recommendations

The Committee engaged in a brief discussion about the information provided during the meeting. Chairperson Carpenter asked the Committee to email staff any further questions about what was discussed during the meeting and any recommendations they would like to be considered and included in the Interim Committee Report.

Adjourn

The meeting was adjourned at 3:30 pm.

Prepared by Connie Burns

Edited by Kate Smeltzer and Elaina Rudder

Approved by the Committee on:

January 17, 2025

(Date)