

Approved: 2-6-96  
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on January 30, 1996 in Room 519-S of the Capitol.

All members were present except: Representative L. Candy Ruff, Excused  
Representative Dale Swenson, Excused

Committee staff present: Mary Galligan, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes  
June Evans, Committee Secretary

Conferees appearing before the committee: Natalie Haag, Executive Director, State Gaming Agency  
Dale Finger, Kansas Bureau of Investigation

Others attending: See attached list

The Chairperson opened the hearing on **SB 495 - Implementation of Tribal State Gaming Compacts.**

Natalie Haag, Executive Director, State Gaming Agency, stated the agency was created to comply with the state's portion of the Tribal State Gaming Compacts which was passed last session. The State Gaming Agency has been working with the Native American tribal representatives, the Attorney General's office, the Indian Gaming Implementation Group and the Kansas Bureau of Investigation to create adequate forms and procedures for compliance with the compacts and to ensure maximum protection for the State of Kansas and said tribes from organized crime.

**SB 495** would allow the State Gaming Agency and the Tribal State Gaming Commission to receive KBI, FBI and IRS information including nonconviction data and expunged conviction data and arrest without convictions. It is often the nonconviction data, including ongoing criminal investigations, arrests without convictions, and suspected criminal activities, which become the determining factors in a decision not to allow an entity or person to participate in gaming.

This legislation was part of the package that Indian Gaming Implementation Group presented to the Joint Special Committee on Gaming and took this portion out of the legislation and made it a separate bill, **SB 495**, so it could be expedited because of the time structure. The first Indian Gaming Casino is expected to open between March 1 and March 15 which means the backgrounds need to be completed now and those can not be completed without this legislation. (See Attachment #1)

Dale Finger, Assistant Director, Kansas Bureau of Investigation, gave a briefing on the fiscal impact study of **SB 495**, stating this was enabling legislation for the KBI to assist the State Gaming Agency and Kansas Indian Tribes in conducting background investigations for determination of suitability of prospective employees of the State Gaming Agency or of a Tribal Gaming Agency under the Tribal-State Gaming Compacts. The bill allows the KBI and the FBI to disseminate criminal history and other confidential information to the State Gaming Agency and to the Tribal Gaming Agencies for use of their determination of the suitability of persons to be employed in Indian Gaming or corporate entities with whom the Tribes may contract for gaming services or supplies.

All agent personnel are currently assigned other investigative duties and do not have sufficient time available to conduct the required background investigations. Most importantly, no agents are available for enforcement of State Criminal Statutes at the casinos as prescribed by the compacts and **SB 495**.

Hiring of four additional agent personnel (three Special Agent II positions and one Special Agent III position to assist in supervisory duties) is a permanent solution to the shortfall. The agents would be permanently assigned to the four casinos and would conduct category one background investigations and criminal investigations as needed at the casinos. The KBI agents currently assigned to the Gaming Unit will work interchangeably with the new agents and will continue to fulfill duties for the Kansas Racing Commission and

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE FEDERAL AND STATE AFFAIRS, Room 519-S  
Statehouse, at 1:30 p.m. on January 30, 1996.

the Kansas Lottery as prescribed by statute.

The Kansas Bureau of Investigation has ten vacant special agent positions. If nine of those positions are funded, the newly hired agents could be utilized, temporarily, to assist the Gaming unit in completion of the monumental number of initial background investigations for the start-up phase of the casinos. A similar plan was used at the start of parimutuel racing in 1988. After the casinos are staffed and the manufacturer-distributors are licensed, those agents would return to their designated permanent positions in the investigations program.

The State-Tribal Compacts provide for actual cost of services provided by the state to be billed to the individual tribes. Theoretically, costs incurred by the KBI for work conducted for the tribes are reimbursable. The costs associated with those investigations would not impact the Kansas taxpayer. (See Attachment #2)

Senator Lana Oleen stated this legislation needs to be passed without any amendments and the KBI needs it right now to enable them to conduct background investigations. The Native Americans are going to make decisions either with or without this Bill and this is needed now. This just says here is the background information. **SB 410** containing other gaming issues is still in Senate Federal and State Affairs Committee and other items will be coming.

Laura Abeyta, Prairie Band Potawatomie Gaming Commission Chairperson, stated there has been a Memorandum of Understanding with the Tribal Indian Gaming Commission since March, 1994. That Memorandum of Understanding allows the Tribal Gaming Commission to receive the background investigation information that are trying to get the law passed for now. The state will be able to share that information with the Tribal Gaming Commission. The state and the compact wanted regulatory authority over the tribes. Regardless of the fact there was tribal regulatory authority in place, there is a federal regulatory authority in place, the state wanted to make sure that its citizens and interests were protected. That is why it was put in the compacts that it was needed to have the KBI do the investigation. The Tribal Gaming Commission agreed to this arrangement.

Mary Torrence, Revisor of Statutes, stated under the compact the tribal nations have the responsibility to reimburse the state for the expenses so there should not be any expenses to the state for background checks.

The Chairperson closed the hearing and stated further discussion and final action would be taken on January 31. The meeting adjourned at 2:30 p.m.

The next meeting is scheduled for January 31, 1996.

# FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE: January 30, 1996

NAME	REPRESENTING
Laura Ameglio	Prinipi Band Pottawatomie
David Ameglio	ll ll ll
JUDY MAYO	SELF
Ted Clark	KBI
Bob Blecha	KBI
Dale Singer	KBI
Natalie Naag	State Gaming Agency
Sharon L. Morris	P.B. Pottawatomie
Abeta Morrison	Kickapoo - Potawatomie
Carolyn Jacobson	P.B. Pot.
Rene Mesquart	P.B. Pottawatomie
Sarah Patterson	P.B. Pottawatomie
Eugene Mesquart	Kickapoo
Larsie McPhail	
Rosemary Wahweellen	Potawatomie
Eugene Mesquart	
Marella Hernandez	Potawatomie
Julia Levier	Potawatomie
Eileen McKinney	Potawatomie



## STATUS ON NATIVE AMERICAN GAMING

Mr. Chairman, members of the committee, my name is Natalie Haag and currently I am serving as executive director of the State Gaming Agency. By executive order Governor Graves designated the Department of Commerce and Housing as the State Gaming Agency referenced in the Tribal-State Gaming Compacts.

Secretary of Commerce and Housing, Gary Sherrer, selected me to serve as executive director of the State Gaming Agency. I have been in that position since September 19, 1995. The State Gaming Agency now has two additional employees, including an office assistant and an assistant director. The assistant director, Allen Jones, retired from the Kansas Bureau of Investigation on December 16, 1995 and assumed a primary role in the compliance issues of the State Gaming Agency on December 18, 1995.

It is the responsibility of the State Gaming Agency to ensure compliance with the Tribal-State Gaming Compacts. Thus, we have been working with Native American tribal representatives, the Attorney General's office, the Indian Gaming Implementation Group and the Kansas Bureau of Investigation (KBI) to create adequate forms and procedures for compliance with the compacts and to ensure maximum protection for the State of Kansas and said tribes from organized crime. Additionally, our agency has held the quarterly meetings with the tribal gaming commissions as required by the compacts. We have also assisted several tribal gaming commissions in drafting rules, regulations and policies for protection of their gaming operations.

At this time the four Native American tribes with approved compacts are at various stages in the establishment of a gaming operation. Several tribal governments are continuing to negotiate consulting agreements and others are in the process of expanding their existing facilities for use as a Class III gaming facility. The State Gaming Agency was invited to and did participate in a job information seminar sponsored by the Kickapoo Nation. Additionally, the Prairie Band Potawatomi Nation of Kansas is sponsoring a job fair. The State Gaming Agency has been invited to participate in said fair.

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Atch #1

Report on the Status of  
Native American Gaming

Currently, at least one tribe is training employees for jobs they will be performing in the gaming facility. Two tribal gaming commissions have submitted background investigations for potential employees and consultants. Three consultant/ key employee background investigations have been completed by the KBI, with a report of said investigation being forwarded to the Tribal Gaming Commission for a licensing decision. The tribes have also cumulatively deposited \$112,000 with the State Gaming Agency to reimburse the KBI for the costs and expenses of conducting said background investigations.

During the start up process of this agency we have discovered several statutory inconsistencies which prevent the State Gaming Agency from adequately performing its job. Specifically, the compacts provide that the Tribal Gaming Commission is to submit information to the State Gaming Agency for an extensive background investigation prior to making a licensing decision on certain employees and companies which will be providing gaming services. The compacts provide that the KBI will perform said background investigations. The State Gaming Agency is to review the background investigations and the decisions of the Tribal Gaming Commission regarding licensing to ensure said decisions adequately protect the interest of the general public.

Although the compacts provide a procedure for conducting background investigations to ensure informed employment decisions and to reduce the potential involvement of organized crime, current Kansas statutes do not authorize the KBI or the FBI to provide nonconviction data and expunged conviction data to the State Gaming Agency and the Tribal Gaming Commissions. Thus, background investigation reports are currently being forwarded to the State Gaming Agency and the Tribal Gaming Commissions without this critical licensing information. As you may know, it is often the nonconviction data, including ongoing criminal investigations, arrests without convictions, and suspected criminal activities, which become the determining factors in a decision not to allow an entity or person to participate in gaming.

Report on the Status of  
Native American Gaming

Thus, legislation allowing the collection and dissemination of information necessary to make informed decisions regarding who to do business with and who to allow to participate in gaming is a top priority. Uninformed decisions can damage tribal gaming operations and the State of Kansas.

The Indian Gaming Implementation Group (IGIG) presented to the Joint Special Committee on Gaming a proposed bill which would amend Kansas statutes to make them consistent with the Tribal-State Gaming Compacts. This proposed legislation included new statutes which would allow the Tribal Gaming Commissions and the State Gaming Agency access to the KBI and FBI information critical to the licensing decisions. This committee is now assigned the legislation proposed by IGIG. On behalf of the State Gaming Agency I would request immediate attention to SB495 authorizing the dissemination of information from the KBI and FBI to both the Tribal Gaming Commissions and the State Gaming Agency.



LARRY WELCH  
DIRECTOR

**KANSAS BUREAU OF INVESTIGATION**  
DIVISION OF THE OFFICE OF ATTORNEY GENERAL  
STATE OF KANSAS



CARLA J. STOVALL  
ATTORNEY GENERAL

**FISCAL IMPACT STUDY OF SENATE BILL #495  
ON THE KANSAS BUREAU OF INVESTIGATION  
(AMENDED)**

Date: January 30, 1996  
To: Gloria M. Timmer, Director of the Budget

**Brief of the proposed legislation:**

The following is an amended version of the fiscal note previously submitted for SB #410. Pursuant to the State-Tribal Gaming Compacts, the Kansas Bureau of Investigation is expected to conduct criminal investigations and investigations of violations of rules and regulations adopted under Tribal-State Gaming Compacts in conjunction with the State Gaming Agency. Further legislation (as in SB #410), specifically obligating the Kansas Bureau of Investigation to conduct those investigations, is anticipated.

Senate Bill #495 is enabling legislation for the Kansas Bureau of Investigation to assist the State Gaming Agency and Kansas Indian Tribes in conducting background investigations for determination of suitability of prospective employees of the State Gaming Agency or of a Tribal Gaming Agency under the Tribal-State Gaming Compacts. The bill allows the Kansas Bureau of Investigation and the Federal Bureau of Investigation to disseminate criminal history and other confidential information to the State Gaming Agency and to the Tribal Gaming Agencies for use in their determination of the suitability of persons to be employed in Indian Gaming or corporate entities with whom the Tribes may contract for gaming services or supplies.

The Kansas Bureau of Investigation is permitted to enter into agreements, as necessary, with Federal, State, and local agencies to carry out the aforementioned duties. The cost of which is paid by the State Gaming Agency to be assessed in accordance with the State-Tribal Gaming Compacts.



**Statement of affect on the areas of responsibility:**

The State-Tribal Gaming Compacts expand the jurisdiction of the Kansas Bureau of Investigation for criminal investigation, arrest, and assistance in prosecution to include the casinos located on Kansas Indian reservations.

Language in the State-Tribal Gaming Compacts and in Senate Bill #495 implies the Kansas Bureau of Investigation will be expected to conduct background investigations for the State Gaming Agency and the Tribal Gaming Commissions to assist in their determinations of suitability and qualification of prospective employees and licensees. Criminal history information inquiries and processing of fingerprint cards for the four Tribes are specifically assigned to the Kansas Bureau of Investigation.

**Assumptions:**

There will be an increased criminal investigation load placed on the Kansas Bureau of Investigation. This assumption is based on information provided over the last several years by law enforcement agencies with experience in casino gambling. It is anticipated Agents will conduct investigations of felony crimes and gaming related criminal offenses at the casinos. Tribal and local law enforcement agencies, contracted with by the Tribes for services, along with casino security officers will investigate, arrest, and assist in prosecution of non-gaming related and misdemeanor criminal offenses. Agents will require more than the minimal training already received in detection and investigation of casino related criminal activity.

Each of the four Tribes will open and operate only one casino located on their respective reservations. The Kansas Bureau of Investigation will be conducting about two hundred fifty (250) background investigations for each Tribe, a total of one thousand (1,000) background investigations. The projection is based on information provided by the two Tribes expected to open this year.

Category one investigations (per Appendix "C" of the State-Tribal Gaming Compacts) will comprise approximately one third of the one thousand (1,000) background investigations or about three hundred and thirty (330) investigations. The remaining six hundred and seventy (670) investigations will be category two investigations (per Appendix "C" of the State-Tribal Gaming Compacts).

Category one investigations will be conducted by Agents and will require substantial travel and an average of one hundred forty (140) hours of Agent time to complete each investigation. Kansas is a fledgling State for casino gambling and experienced management, key employees, and manufacturer-distributors will be recruited by the Tribes from locations outside of Kansas.

Category two investigations are expected to be of people from areas surrounding the casinos, requiring minimal travel and forty (40) hours of a investigative time each to complete. Some experienced gaming employees will come from the Riverboats in Missouri, others may be Tribal members, and others will be hired in communities near the casinos.

Increased volume of criminal history record inquiries and fingerprint research is expected for the Tribes' needs for background investigations purposes. The Kansas Bureau of Investigation Records and Identification Sections will process the one thousand (1,000) criminal history inquiries and the two thousand (2,000) fingerprint cards for the Federal Bureau of Investigation and in house inquiries.

The Kansas Bureau of Investigation Business office will be required to bill the State Gaming Agency for services provided to the Tribes, as per the Compacts, on those one thousand (1,000) investigations. Billing information will be compiled by the Kansas Bureau of Investigation Gaming Unit Office Assistant as reported by Agents and Special Investigators.

An increased number of inquiries for information is anticipated by the Kansas Bureau of Investigation Communications Division based on increased criminal activity at the casinos and the one thousand (1,000) driver history profiles, required by compact for background investigations.

Three hundred thirty (330) category one investigations, each requiring one hundred forty (140) hours of Agent time, will require forty-six thousand two hundred (46,200) hours of Agent time. Therefore, twenty (20) agents are required to complete the anticipated background investigations in a one year period. Industry experience indicates an ongoing need for background investigations due to an anticipated turnover rate of thirty percent (30%) of casino key employees and others.

All Agent personnel are currently assigned other investigative duties and do not have sufficient time available to conduct the required background investigations. Most importantly, no agents are available for enforcement of State Criminal Statutes at the casinos as prescribed by the compacts and Senate Bill #495.

Hiring of four (4) additional Agent personnel (three Special Agent II positions and one Special Agent III position to assist in supervisory duties) is a permanent solution to the shortfall. The Agents would be permanently assigned to the four casinos and would conduct category one background investigations and criminal investigations as needed at the casinos. Kansas Bureau of Investigation Agents currently assigned to the Gaming Unit will work interchangeably with the new agents and will continue to fulfill duties for the Kansas Racing Commission and the Kansas Lottery as prescribed by Statute.

The Kansas Bureau of Investigation has ten (10) vacant Special Agent positions. If nine (9) of those positions are funded, the newly hired Agents could be utilized, temporarily, to assist the Gaming Unit in completion of the monumental number of initial background investigations for the start-up phase of the casinos. A similar plan was used at the start of parimutuel racing in 1988. After the casinos are staffed and the manufacturer-distributors are licensed, those agents would return to their designated permanent positions in the Investigations Program.

Two Tribes have estimated opening dates in the current calendar year. Therefore, the one hundred fifteen (115) category one investigations could be completed this calendar year by thirteen (13) Agents dedicated full-time to those investigations. Those same thirteen (13) agents would complete the additional background investigations the following year. The four (4) permanently assigned Gaming Unit Agents would continue to conduct background investigations caused by attrition, conduct criminal investigations, and monitor the casinos for compliance to the State-Tribal Gaming Compacts in subsequent years working interchangeably with Agents currently assigned to the Gaming Unit.

Half of the anticipated six hundred and seventy (670) category two background investigations or three hundred and thirty-five (335) are expected to occur this year. The Kansas Bureau of Investigation employs three Special Investigators who could conduct a large percentage of those investigations. The remaining category two investigations would be conducted by the Special Agents temporarily assigned to the Gaming Unit. The borrowed Special Agents and Special Investigators would not be needed to conduct category two investigations for the casinos beyond the start-up phase. The permanently assigned Gaming Unit Agents would continue to conduct the category two investigations due to attrition within the casinos.

The Gaming Unit currently employs only one office assistant to support the eight Agent positions. The Gaming Unit, under this study, would be augmented to a total permanent strength of twelve Agents and a temporary strength of twenty-one agents necessitating more clerical support. Other state police gaming units have employed Information Analysts (Office Specialist III), with great success, for some clerical work and analysis of criminal activity reported in the casinos to be shared with other police agencies involved in casino law enforcement, Tribal Police, and casino security. KBI currently utilizes similar positions to track missing persons and narcotics traffickers. The Office Specialist would assist with background investigation inquiries, office and clerical work, and would maintain the investigation files for the unit.

The State-Tribal Compacts provide for actual cost of services provided by the State to be billed to the individual Tribes. Theoretically, costs incurred by the Kansas Bureau of Investigation for work conducted for the Tribes are reimbursable. Therefore, the costs associated with those investigations would not impact the Kansas taxpayer.

The Kansas Bureau of Investigation is impacted because it is expected to make initial outlays for Agent training, overhead, and equipment. Investigative costs must be paid, initially, with the expectation of being reimbursed by the Tribes through the State Gaming Agency at a later date.

**Fiscal impact for FY97:**

The second half of calendar year 1996 will bring the need for the additional personnel enumerated above. The costs associated with the hiring are stated below. One fourth of the anticipated investigations will begin and two of the casinos will open for business.

**Fiscal impact for following years:**

The remaining three fourths of the anticipated investigations will begin. The last two casinos will open. The estimated costs are stated below. The need for background investigations in year three and four will diminish by an estimated seventy percent (70%). Additional time will be spent on criminal investigation and monitoring by permanently assigned Gaming Unit Agents. The Agents borrowed from other divisions will return to their respective permanent assignments.

Larry Welch  
Director

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**FISCAL IMPACT STUDY OF SENATE BILL #495  
ON  
THE KANSAS BUREAU OF INVESTIGATION**

**PROJECTED FISCAL IMPACT FOR PERSONNEL AND EQUIPMENT**

	FY97	FY98	FY99	FY00
<b>SALARIES, WAGES AND BENEFITS:</b>				
Special Agent III, One (1) Permanent	\$ 40,850.00	\$ 40,850.00	\$ 40,850.00	\$ 40,850.00
Special Agent II, Three (3) Permanent	112,716.00	112,716.00	112,716.00	112,716.00
Office Specialist, One (1) Permanent	<u>27,592.00</u>	<u>27,592.00</u>	<u>27,592.00</u>	<u>27,592.00</u>
<b>FY TOTAL</b>	<b>181,158.00</b>	<b>181,158.00</b>	<b>181,158.00</b>	<b>181,158.00</b>
 <b>TRAVEL AND EXPENSES:</b>				
Travel & Subsistence (vehicles, training, investigations)	\$ 96,512.00	\$ 96,512.00	\$ 96,512.00	\$ 96,512.00
Rents (additional office space)	9,600.00	9,600.00	9,600.00	9,600.00
Telephone, pagers, office supplies, business cards, Fees, maintenance, repairs & clothing	<u>19,220.00</u>	<u>19,220.00</u>	<u>19,220.00</u>	<u>19,220.00</u>
<b>FY TOTAL</b>	<b>125,332.00</b>	<b>125,332.00</b>	<b>125,332.00</b>	<b>125,332.00</b>
 <b>CAPITAL OUTLAY:</b>				
<b>Office</b>				
Computers (1 work station, 4 lap top)	\$ 9,830.00	\$ 0.00	\$ 0.00	\$ 0.00
Telephone/Computer lines	1,200.00	2,400.00	2,400.00	2,400.00
Installation	600.00	0.00	0.00	0.00
Printer/Supplies	2,000.00	4,000.00	4,000.00	4,000.00
Office furniture	<u>5,619.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>FY TOTAL</b>	<b>19,249.00</b>	<b>6,400.00</b>	<b>6,400.00</b>	<b>6,400.00</b>

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	FY97	FY98	FY99	FY00
<b>Agent Police Equipment: (4 Agents)</b>				
Emergency lights, sirens	\$ 840.00	\$ 0.00	\$ 0.00	\$ 0.00
800 MGHZ radios/antennas	16,000.00			
Installation of electronics	2,400.00			
Scanner	1,156.00			
Handguns & Holsters	3,400.00			
Shotguns & cases	2,000.00			
Protective vests	2,000.00			
Capstun	128.00			
Handcuffs	120.00			
Restraining chains	40.00			
Flashlights	100.00			
Binoculars	600.00			
Hearing Protectors	120.00			
Briefcases	564.00			
Micro cassette recorders	800.00			
Ammunition, duty & training	<u>480.00</u>	<u>960.00</u>	<u>960.00</u>	<u>960.00</u>
<b>FY TOTAL</b>	<b>\$ 30,748.00</b>	<b>960.00</b>	<b>960.00</b>	<b>960.00</b>
 <b>Special Investigative/Monitoring Equipment:</b>				
Kobetron "E" Prom Tester	\$ 2,000.00	\$ 0.00	\$ 0.00	\$ 0.00
Data I/O Unit	2,000.00			
Micrometer Caliper	100.00			
Infrared Lamp	100.00			
Toolmaker's Square	30.00			
Ultraviolet Lamp	100.00			
Balance Caliper	100.00			
Scribe & Permanent Magnet	<u>25.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>FY TOTAL</b>	<b>4,455.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>TOTAL EXPENDITURES</b>	<b>\$ 360,942.00</b>	<b>\$ 313,850.00</b>	<b>\$ 313,850.00</b>	<b>\$ 313,850.00</b>

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