

Approved: 2-2-98  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:10 a.m. on January 28, 1998, in Room 254-E of the Capitol.

All members were present except:  
Senator Sherman Jones, excused

Committee staff present: Mary Galligan, Legislative Research Department  
Robin Kempf, Legislative Research Department  
Theresa Kiernan, Office of the Revisor of Statutes  
Midge Donohue, Committee Secretary

Conferees appearing before the committee:  
Mr. Tracy T. Diel, Executive Director, State Gaming Agency  
Mr. William Minner, Executive Director, Kansas Human Rights Commission

Others attending: See attached list.

Senator Oleen opened the meeting by inquiring if there were any requests for introduction of bills. There were none.

The chair recognized Senator Schraad who introduced Ms. Lauren Sands and Ms. Julie Merideth, students from his district, who were serving as pages for the committee today.

The committee was then briefed by staff on the provisions of **SB 486**, relating to the powers and duties of certain employees of the state gaming agency. It was explained that current law provides guidelines for the State Gaming Agency with regard to hiring various employees, and that **SB 486** would change the title of "compliance officer" to "enforcement agent". Further, that all enforcement agents would be vested with law enforcement powers which would give the agency direct, rather than indirect, access to information needed for background investigations from other agencies via ASTRA terminals. The committee was told the bill would also change the title of the current "Director of Compliance" to "Director of Enforcement and Compliance".

The hearing was opened on:

**SB 486 An act concerning gaming; relating to the powers and duties of certain employees of the state gaming agency**

Mr. Tracy Diel, Executive Director of the State Gaming Agency, appeared in support of **SB 486** (Attachment #1). He responded to a question asked earlier by a committee member concerning ASTRA terminals, saying it is a criminal information linkup throughout the country and is called ASTRA in Kansas because there is a board that oversees law enforcement entities who may obtain this type of information. Mr. Diel explained that having access to ASTRA was a key element for obtaining the type of information needed in conducting background investigations, and that this is one of the issues **SB 486** is designed to address.

Mr. Diel told the committee the purpose of the bill is to amend the Tribal Gaming Oversight Act passed by the 1996 Legislature and that the proposed language changes are necessary for the State Gaming Agency to do a more complete job of monitoring and complying with the Tribal-State Compacts. He discussed the responsibilities of the State Gaming Agency and stated that **SB 486** would provide statutory reinforcement for his agency as it interacts with other law enforcement entities in Kansas and across the United States, as well as the federal government and international criminal justice agencies. Mr. Diel related some difficulties his agency experienced in interacting with other criminal justice agencies because current language in the Tribal Gaming Oversight Act has been a hindrance. He said that compliance inspectors, as a result of their title, were viewed as accountants and auditors whose duties were to inspect profit and loss sheets of the casinos, rather than to enforce.

## CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE, Room 254-E, Statehouse, at 11:10 a.m. on January 28, 1998.

Mr. Diel explained that enforcement agents of the Gaming Agency are certified law enforcement officers who have completed the Kansas Law Enforcement training courses required to maintain that certification. He urged the committee to act favorably on **SB 486** which he said would enable his agency to do a better and more complete job of meeting its responsibilities.

Senator Oleen asked if the provisions of **SB 486** were within the bounds of the Tribal Compact, and Mr. Diel responded that he currently has the discretion to do what the bill would allow, but he said he is asking that it be made a statutory requirement.

Senator Oleen addressed another issue involving background investigations and inquired if a statutory change would be required in the bill before the committee. Mr. Diel explained that would not be necessary because the issue is being addressed through the budget process and is part of the Governor's recommendation for six enforcement agent positions to be added to the three currently assigned to the agency. Senator Oleen inquired about funding of the positions, and Mr. Diel stated that all such costs are assumed by the Tribes.

In response to a question from Senator Bleeker concerning the frequency of instances requiring law enforcement authority, Mr. Diel told the committee it was almost every day and that it was not feasible to call local law enforcement agencies due to internal control of the facilities.

Senator Gooch expressed concern over having additional individuals vested with law enforcement powers, fearing abuse of that authority. Mr. Diel responded that the enforcement agents would not have time to respond to situations outside their area of responsibility; further, he said the Tribes would object to funding the positions if they were not totally dedicated to tribal related business.

Senator Biggs asked about billing for services of the agency and whether the tribes paid the bills on time. Mr. Diel related a billing controversy last November, indicating it had been resolved, and said that payments from the three tribes have generally been on time. He added that he anticipates all will be in compliance within the next sixty to ninety days when the fourth casino is in operation.

Senator Becker inquired about fringe benefits for members of the Gaming Agency and whether the tribes reimbursed the agency for these costs. Mr. Diel responded that these costs are built into the assessments of the tribes and, to his knowledge, there is no liability to the state.

Senator Becker requested the chair to have staff research the matter, and Senator Oleen indicated she would have staff review the provisions of the Compact.

Mr. Diel told the committee it would be helpful if **SB 486** could become effective upon publication in the Kansas Register.

Senator Gooch inquired about the fiscal impact on the KBI if it no longer does background investigations for the Gaming Agency. Senator Oleen pointed out that this particular issue is addressed in an appropriations bill; that the Tribes were billed for the actual cost of the investigations, and that passage of this bill might free up the KBI, enabling it to conduct other background investigations.

Senator Harrington moved to amend the bill, making it effective upon publication in the Kansas Register, and recommend it favorably to the full Senate. Senator Biggs seconded the motion.

Under discussion, Senator Gooch stated he was not adverse to recommending the bill favorably but indicated, before voting on the floor, he would like information on the fiscal impact its passage would have on the KBI. Senator Oleen explained that the bill before the committee was a statutory piece only; that the fiscal issue, including fringe benefits, is a part of an appropriations bill before the Ways and Means Committee.

Senator Becker reiterated his interest in information on funding of fringe benefits for Gaming Agency employees, and the chair noted his request.

The motion by Senator Harrington, which was seconded by Senator Biggs, carried.

Senator Oleen assured the committee the information requested would be provided before the bill is carried on the floor, and the hearing on **SB 486** was closed.

## CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE, Room 254-E, Statehouse, at 11:10 a.m. on January 28, 1998.

Senator Oleen commented on the amount of mail received last session, as well as during the interim, on the Kansas Human Rights Commission (KHRC) and its backlog of cases. She told the committee that information she received last December indicated the KHRC had made great strides in this area. She that, when an agency rises to the occasion, she felt it should be recognized and had invited Mr. William Minner, Executive Director of the KHRC, to share the information with the committee.

In introducing Mr. Minner, Senator Oleen pointed out that he had been appointed to the position of Executive Director of the KHRC after the 1997 Session of the Legislature had adjourned.

Mr. Minner introduced Mr. James Butler, KHRC vice-chair, and members of his staff: Ms. Patricia Scalia, Assistant Director, and Mr. Brandon Myers, Chief Legal Counsel.

Mr. Minner acknowledged the support the Commission had received from the executive and legislative branches and expressed his appreciation. He cited the number of open cases and the reduction in the backlog of open complaints before the KHRC (Attachment #2), pointing out that this was accomplished with less staff. One of the keys to the turnaround, he credited to the contract the agency established with the Kansas Legal Services, a voluntary third-party mediation program which brings both parties together to work out an arrangement to resolve the complaint on file. Mr. Minner stated this is an integral part of the process and a very successful program which serves as a national model. He explained other internal procedures developed to free investigators from unnecessary paper work, noting that case processing has been reduced to approximately ten months. Mr. Minner told the committee the monetary recovery on behalf of persons alleging discrimination has been highly successful. He indicated that all cases before the Commission are being actively processed; that satellite offices had been opened in Dodge City and Independence to better serve the needs of southeast and southwest Kansas.

Mr. Minner told the committee the federal government is very much interested in the mediation program of the Commission and that he understands it wants to pattern the federal procedures after those of the KHRC.

The chair thanked Mr. Minner for the update.

Senator Oleen announced that time would not permit the review of the State Historical Society audit, and she apologized to those who were scheduled to appear before the committee today. She indicated the review would be rescheduled for a later date.

The meeting adjourned at 12:02 p.m. The next meeting is scheduled for January 29.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE  
 GUEST LIST

DATE: 1-28-98

NAME	REPRESENTING
RANDY TONGIOR	POST AUDIT
Tom Caches	McGill & Asso.
Ramon Powers	KSHS
Courtney B Swann	"
Carl Magnusson	KSHS
Michelle Peterson	Peterson Public Affairs Group

JAN 29 1998

KANSAS  
STATE GAMING AGENCY

**TO:** Senate Committee on Federal and State Affairs  
**FROM:** Tracy T. Diel, Executive Director  
State Gaming Agency  
**DATE:** January 28, 1998  
**SUBJECT:** Testimony regarding Senate Bill No. 486`



Racing & Gaming Commission

The purpose of Senate Bill No. 486 (SB 486) is to amend the Tribal Gaming Oversight Act which was passed by the 1996 Legislature. The proposed language changes are necessary for the State Gaming Agency to do a more complete job of monitoring and complying with the Tribal-State Compacts.

It is the responsibility of the State Gaming Agency to enforce, monitor and comply with the provisions of the Tribal-State Compacts entered into with the four (4) resident tribes of Kansas under the provisions of the Indian Gaming Regulatory Act. The amended language set forth in SB 486 brings the Tribal Gaming Oversight Act into line with what the agency is required to accomplish. SB 486 will provide statutory reinforcement to the agency as it interacts with other law enforcement entities within the State of Kansas and across the United States, as well as the federal government and international criminal justice agencies.

As the State Gaming Agency has sought to interact with other criminal justice agencies, it has found the present language contained in the Tribal Gaming Oversight Act to be a hindrance to accomplishing its mission. This includes dealing with the FBI and other gaming commissions throughout the United States. When the titles of compliance inspectors were used, this agency was seen as a group of accountants and auditors who traveled to the different casinos to inspect the profit and loss sheets. It was not viewed as an agency which needed criminal history information or access to criminal intelligence information. As time has moved forward, the State Gaming Agency through the use of the terminology which has been proposed in SB 486, has been able to gain access to the information it has needed to perform its duties and responsibilities. However, this access has been gained through constant explaining rather than through statutory recognition.

It has taken well over a year for the State Gaming Agency to "convince" the FBI that it was a criminal justice agency. Without their approval, the agency would not be entitled to apply for an ASTRA terminal link. Access to this terminal is the heart of the criminal information network in Kansas and the United States. Finally, the FBI was convinced that this agency met the requirements contained in their regulations, even though the statute did not specify the law enforcement language which is being proposed. This acquiescence by the FBI has become important in this past week. The Missouri Gaming Commission under Missouri law can only

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disclose information which they term "closed information" to another law enforcement agency. Closed information is sensitive criminal investigation material. If you are not a law enforcement agency, then there is no access to this information. Again, through an explanation of what the agency does, its responsibilities, powers and the subsequent FBI approval, the Missouri Gaming Commission has agreed to provide this type of information when requested. However, if in the future Missouri, along with other states, or the FBI should change their minds, the State Gaming Agency would not be able to do anything about it. However, with this language change this would not be an issue. This proposed language change will also be beneficial in the agency's effort to obtain approval for an ASTRA terminal. The agency's application is presently under consideration.

The enforcement agents of the State Gaming Agency are certified law enforcement officers. They are required to have undergone the Kansas Law Enforcement training courses just like any other police officer in this State and are required to maintain that certification. Under the State personnel code, individuals in this employment category are involved in the enforcement of laws, rules and regulations. They monitor security procedures and investigate a variety of crimes. These are the same types of job responsibilities enforcement agents of the State Gaming Agency carry out everyday. In addition, pursuant to the Tribal Gaming Oversight Act these individuals are vested with arrest authority, search warrant authority and carry firearms. The proposed language changes in SB 486 will serve to solidify this position.

By changing the title of director of compliance to director of enforcement and compliance, and vesting this position with law enforcement authority, the true nature of what the individual in this position does is communicated to those having dealings with the State Gaming Agency. Given the law enforcement responsibilities of the enforcement agents, which are conveyed through the Tribal Gaming Oversight Act, it is necessary to have an individual, in the direct supervisory position, who is knowledgeable and experienced in the law enforcement area. This change will assist in accomplishing this goal.

The Tribal-State Compacts place upon the State Gaming Agency, on behalf of the State, the responsibility to make sure that the appropriate individuals are working in the tribal casinos. It further requires the State Gaming Agency to make sure the tribes and the casinos are meeting their responsibilities under the Tribal-State Compacts. Finally, the Tribal Gaming Oversight Act places upon the agency the requirement to enforce the laws of the State and all of its prohibitions. SB 486 would enable the State Gaming Agency to do a better and more complete job of meeting these responsibilities. I would encourage the committee to act favorably on this proposed legislation.

I will be glad to answer any other questions the Committee may have regarding this proposed legislation.

ROBERT A. WESLEY, Chairman  
INDEPENDENCE

CORIN R. BENHAM, Vice-Chairman  
MULVANE

PHILLIP E. DeLaTORRE  
LAWRENCE

JAMES E. BUTLER  
MANHATTAN

BRENDA C. JONES  
KANSAS CITY

CAROL EARLS-FRANKLIN  
TOPEKA

ONOFFRE E. ASTORGA  
DODGE CITY

BILL GRAVES, GOVERNOR  
STATE OF KANSAS



KANSAS HUMAN RIGHTS COMMISSION

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January 28, 1998

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Honorable Lana Oleen, Chairwoman and Members  
Federal and State Affairs Committee  
State Capitol Building, Room 254-E  
Topeka, Kansas 66612

Dear Senator Oleen and Committee Members:

We are pleased to use this opportunity to update you at this point on these important matters. The Commission is very grateful to you and the members of the Senate Federal and State Affairs Committee for your interest and support of the Commission through the periods of crisis experienced by the agency over the past few years.

First of all, I would like to mention that former Executive Director Robert G. Lay has taken a well-deserved retirement from state service September 30, 1997, commensurate with the attainment of age 62. His familiar presence will be missing before the legislature on behalf of the Kansas Human Rights Commission for the first time in many years. However, it has long been his plan to retire at age 62, and he did so with the thanks and congratulations of the Commission for a job well done.

I was appointed as Executive Director effective October 1, 1997, in continuance of my employment with the agency since 1972. Enclosed is Commission memorandum announcing my selection.

It is an enjoyable task to report the progress and success accomplished by the Commission.

--As of November 30, 1997, the Commission has 1,286 open cases, (which is down from the peak of 2,768 cases in March, 1995). This constitutes a 53.5% reduction in the so-called backlog of open complaints before KHRC. In addition to the 2,768 open cases in March, 1995, complaints have continued to be filed with KHRC, and to have reached the 1,286 level, the agency has processed approximately 4,800 complaints in the 33-month period since March, 1995, when concerted efforts and changes were instigated to address the backlog problem. This was accomplished at times after we had experienced staff reductions and the agency has met its mandate to "do more with less".

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Attachment: #2

--As of December 1, 1997, we estimate the average processing time per complaint is approximately 10 months.

--We have received uniform support and compliments from lawyers involved in representing parties in KHRC complaints for the statutory amendment allowing a party to proceed to court by requesting closure of the KHRC complaint if the Commission has not made a finding on the complaint within 300 days of the complaint being filed. (As you can see, our average case processing time is reaching consistency with the 300-day option).

--We have instigated more effective screening procedures at our Intake Department.

--The Kansas Legal Services' voluntary third-party mediation program for KHRC complaints has been tremendously successful and has become a model for agencies nationwide that have duties similar to those of KHRC. As you know, this program is a private-public partnership in that it is funded 25% by private funds and matched by 75% funding from the legislature. The novelty and success of the program has been such that the Commission and KLS were invited to present a workshop on the program during the August, 1997 convention of the International Association of Official Human Rights Agencies in Miami, Florida. (The seminar materials are attached hereto for your reference). KLS and KHRC have been consulted by other states, as well as federal EEOC, for assistance and guidance in setting up such programs following the Kansas model. The program has truly been recognized as a national model.

--KHRC's monetary recovery on behalf of persons alleging discrimination has been highly efficient and effective. In addition to accomplishing policy changes, accommodations, job hiring/reinstatements and other remedies where appropriate, KHRC programs have recovered over two million dollars in the 33 month period since March, 1995 (which compares favorably to the 4.3 million dollars recovered by KHRC (formerly KCCR) in the previous 20 year span from fiscal year 1976 through fiscal year 1995). As of December 1, 1997, the Commission has already recovered over \$809,000 for FY 98.

--All cases with the Commission are being actively processed. Cases are either being addressed by the KLS mediators, are being addressed first by EEOC (if first-filed with EEOC), are in the hands of our Preliminary Investigative Conference investigators or our followup investigative staff or being investigated under contract by city human relations commission staff, are with Commissioners pending a determination of probable cause/no probable cause or other action, are in conciliation, or in public hearing or some other posture of legal proceedings.

--The Commission has opened satellite offices in Dodge City and Independence to better serve the needs of southeast and southwest Kansas, and has received compliments from the Governor and many other officials and individuals for those actions.



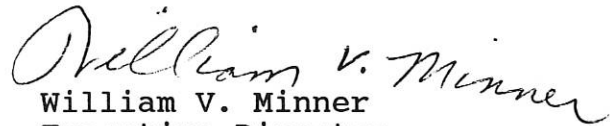
--The Commission has not sought any inordinate budgetary enhancements to perform its duties and continuously improve and progress in the relevant period (although the legislature and Governor have been forthcoming with assistance to help us progress even faster). Again this session the Commission anticipates being able to proceed generally within the budget recommendations anticipated from the Governor.

--The Commission has established an informational website at <http://www.ink.org/public/KHRC>.

The agency feels that it would be difficult to find a comparable state agency anywhere in the country that has improved and progressed so markedly as has KHRC in the past months. Our staff members have referred to what has occurred as nothing short of a "bureaucratic miracle" in state government. The agency stands committed to staying its course of improvement and we look forward to more thoroughly briefing you and the other members of the legislature about our efforts when the legislative session arrives.

Our success is due to your efforts on behalf of this agency last session and we hope we can count on your support and the support of the members of the committee again this year.

Sincerely,

  
William V. Minner  
Executive Director

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