

Approved 3-26-86  
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by REPRESENTATIVE ROBERT H. MILLER at  
Chairperson

1:30 a.m./p.m. on March 25, 1986 in room 526S of the Capitol.

All members were present except:

Representatives Hensley, Charlton & Peterson

Committee staff present:

Lynda Hutfles, Secretary  
Mary Torrence, Revisor's Office  
Russ Mills, Research

Conferees appearing before the committee:

Alonzo Harrison  
Representative Love  
Representative Cribbs  
Jim Bolden  
Marc Marcano, Kansas Advisory Committee on Mexican American Affairs  
Henry Boeten  
Billie McCray, Kansas Department of Economic Development  
Glenn Coulter, Kansas Contractors Association  
Tom Slattery, Association of General Contractors  
George Barbee, Kansas Consulting Engineers

The meeting was called to order by Chairman Miller.

HB2780 - State contracts awarded to minorities &  
women-owned businesses

Alonzo Harrison gave testimony in support of the bill which would allow an equal, open and honest opportunity to participate in the free market enterprise. He said he has a construction business and has done business with the state as a subcontractor, but is unable to compete as a prime contractor. See attachment A.

There was discussion about fronts and shams Mr. Harrison talked about in his testimony and why the Federal auditors have not picked up on this type of activity. Mr. Harrison said the Federal auditors are in New Mexico at this time and will be in Kansas next.

Representative Love gave testimony in support of the bill which would enact new legislation to be administered by the Secretary of Economic Development and aimed at promoting and encouraging the economic development of minority and women-owned businesses. The bill would encourage these businesses to participate in the state's procurement process as both subcontractors and prime contractors. See attachment B.

Representative Cribbs endorsed HB2780 wholeheartedly. If this bill is passed you will see a difference in the scope of minority people. It will enhance employment among minorities.

Jim Bolden, Small businessman in Topeka, gave testimony in support of the bill because it could enhance minorities and women-owned businesses in Kansas. Mr. Bolden is President of Mid-American Aviation and serves as Vice-President of Topeka Sahwnee County Development Corporation.

Marc Marcano, Kansas Advisory Committee on Mexican American Affairs, gave testimony in support of the bill. It will open the doors of opportunity to women-owned and minority businesses in Kansas. See attachment C.

Henry Boeten, Topeka Attorney, gave testimony in support of the bill. He explained the mechanics and operation of the bill. Disadvantaged small business have two major problems: exposure to the state contracts and money.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Federal & State Affairs,  
room 526S, Statehouse, at 1:30 a.m./p.m. on March 25, 1986.

There was discussion of Section 4 and the "goals" to be met. Also discussed was whether disadvantaged businesses should be strictly limited or prohibitive of joint venture subcontractors.

Billie McCray, Director of the Kansas Department of Economic Development, gave testimony in support of the bill and encouraged all state agencies to set goals for a specific amount for both minorities and women-owned businesses. Currently minority business owners in Kansas are being awarded less than  $\frac{1}{2}$  of 1% of all contracts awarded throughout the Division of Purchasing. See Attachment D.

Glenn Coulter, Kansas Contractors Association, gave testimony in opposition to the bill and said he did not think KDOT should be included in the provisions of the bill. KDOT already has one of the most outstanding minority and womens business enterprise programs in America. In the last fiscal year KDOT awarded \$20,028,272.00 to Minority Business enterprises. This reflected 11.38% of the total expended on all federally funded projects. In addition, \$3,024,808 was awarded to Women business enterprises.

Mr. Coulter was asked if he knew if any of the sham type things were going on as suggested by supporters of the bill and Mr. Coulter said he was unaware of any activity of this type.

Tom Slattery, Association of General Contractors (building contractors), gave testimony in opposition to the bill. The competitive bidding system is the best way to award jobs. If this bill passes, jobs might be taken out of competitive bidding system done another way and we would oppose that.

George Barbee, Kansas Consulting Engineers, gave testimony in opposition to the bill. He was concerned with the section which requires 10% of the total dollar amount of state contracts to be established as a goal to be awarded to minorities and women-owned businesses. There are not enough engineering firms to take care of that 10%.

Hearings were concluded on HB2780.

HB2846 - Preservation of juvenile court records

Representative Goosen made a motion, seconded by Representative Walker, to report HB2846 favorable for passage. A vote was not taken for lack of a quorum.

The meeting was adjourned.

A

HOUSE BILL 2780  
TESTIMONY ALONZO HARRISON  
MARCH 24 1986

LADIES AND GENTLEMEN, I COME BEFORE YOU TODAY AS A MINORITY BUSINESS ENTERPRISE AND AS A STRUGGLING ENTREPRENEUR TRYING TO REDEEM A CHECK THAT HAS COME BACK TO ME MARKED "INSUFFICIENT FUNDS". AS A BUSINESS MAN HERE IN KANSAS, I SEEK NOTHING MORE THAN AN EQUAL, OPEN AND HONEST OPPORTUNITY TO PARTICPATE IN FREE MARKET ENTERPRISE. FOR A NUMBER OF REASONS THAT HAS NOT BEEN POSSIBLE.

THEREFORE, I AM HERE FOR THE PURPOSE OF ENGAGEING IN MEANINGFUL DIALOGUE AROUND THE ISSUES ESTABLISHED IN HOUSE BILL 2780. ONE MIGHT WELL ASK THE QUESTION, WHY IS SUCH A BILL NEEDED? WHO WILL BENEFIT? AND DO WE NOT HAVE A SMALL BUSINESS SET ASIDE PROGRAM ALREADY? THE ANSWER TO THESE QUESTIONS REQUIRE SOMETHING MORE THAN A SIMPLE "YES" OR "NO", RATHER IT IS REQUIRED, THAT WE LOOK AT SOME EXISTING CONDITIONS THAT PRECIPITATED THE DRAFTING OF THIS BILL.

WHY IS SUCH A BILL NEEDED?

THE STATE OF KANSAS WILL DO NEARLY \$350 MILLION DOLLARS WORTH OF PROCUREMENT THIS YEAR, (THIS DOES NOT INCLUDE ANY WORK DONE BY KDOT WHICH DOES ANOTHER 200 MILLION DOLLARS PER YEAR), OF THE 300 MILLION SPENT IN 1982 THE LAST YEAR IN WHICH RECORDS WERE KEPT, LESS THAN ONE HALF OF ONE PERCENT OR 900,000. DOLLARS WAS SPENT WITH MINORITIES AND OR WOMEN. IT IS "SPECULATED" THAT IN 1985 THAT A TOTAL OF "ONE PERCENT" OR THREE AND ONE HALF MILLION WAS SPENT WITH MINORITIES AND WOMEN.

WHO WILL BENEFIT?

ALL OF KANSAS. CONSIDER, KDOT WHO BOAST OF MINORITY BUSINESS ENTERPRISE PARTICPATION, YET, THEY MUST DO SO UNDER SOMETHING OF A DARK CLOUD, DUE MAINLY TO THE FACT THAT MBE/WBE PARTICPATE ONLY IN THOSE PROJECTS THAT ARE FUNDED BY FEDERAL FUNDS. UNDER THE FEDERAL HIGHWAY RESURFAING ACT KANSAS RECIVES FUNDS BASED ON THE "FACT", THAT WE WILL INSURE THAT NOT LESS THAN TEN PERCENT OF ALL HIGHWAY WORK WILL BE DONE BY MBes. ON ALL PROJECTS FUNDED BY STATE FUNDS MINORITY PARTICPATION IS ALL BUT NON EXISTANT.

DO WE NOT HAVE A SMALL BUSINESS SET ASIDE PROGRAM ALREADY?

AS 2780 SUGGEST, THE ANSWER TO THAT QUESTION IS YES. FURTHER, IT SEEMS TO BE WORKING BASED ON THE FACT THAT A SMALL BUSINESS IS CONSIDERED ANY BUSINESS THAT DOES FIFTEEN MILLION DOLLARS OR LESS OF BUSINESS EACH YEAR, AND IN KANSAS COMPANIES OF THIS SIZE AND SMALLER, HAVE DONE AND DO NEARLY THIRTY (30%) PERCENT OF ALL KANSAS PROCUREMENT. HOWEVER , AS HAS BEEN POINTED OUT

H. FISA  
3/25/86

IT HAS NOT AND DOES NOT WORK FOR MINORITIES.

YOU MIGHT WELL ASK THE QUESTION CAN YOU NOT WAIT AND PERHAPS SHOULD YOU NOT WAIT FOR THE NATURAL EVOLUTIONARY PROCESS TO TAKE PLACE? MY RESPONSE WOULD HAVE TO BE NO. NO, BECAUSE THE NOTION OF "WAIT", RINGS WITH AN EVER PIERCING FAMILIARITY TO MBES. THIS "WAIT" HAS ALMOST ALWAYS MEANT "NEVER". CLEARLY THE POINT TO BE GAINED HERE IS QUITE SIMPLE, HOUSE BILL 2780 RECOGNIZES, THAT MINORITIES ARE NOT PARTICIPATING FULLY AND OR RESPONSIBLY IN THE PROCUREMENT ACTIVITIES OF THE STATE. FURTHER, AS MINORITIES REPRESENT NEARLY 10 PERCENT OF THE STATES POPULATION AND AS THEIR ARE NEARLY 650 MINORITY OWNED AND OPERATED BUSINESS ENTERPRISES HERE IN KANSAS IT IS NEITHER TRUE NOR PLAUSABLE THAT THERE IS EITHER A SHORTAGE OF MINORITIES OR BUSINESS ENTERPRISES AVAILABLE OR WANTING TO DO BUSINESS HERE IN OUR STATE. THEREFORE, IT IS FAIRLY OBVIOUS, THAT THE UNDERLING PROBLEM REST IN A NON RECEPTIVE MARKET PLACE AND NOT WITH A NON AVAILABLE MINORITY PROVIDER. CLEARLY, THE KANSAS MINORITY BUSINESS ENTERPRISE IS STILL LANGUISHING IN THE CORNERS OF OUR SOCIETY, AND EFFECTIVELY FINDS HIMSELF IN EXILE IN OUR PURSUIT OF ENTREPRENEURIAL OPPORTUNITIES HERE IN KANSAS. HOUSE BILL 2780 BEGINS TO SPEAK TO THE PROBLEM AND OFFERS UP SOME SOLUTIONS. SOLUTIONS THAT WARRANT MY BEING HERE TO CONVEY MY CONCERNS AND THE CONCERNS OF MBES THROUGHOUT KANSAS.

IN A SENSE MY PRESENT HERE, IS INTENDED TO DRAMATIZE AN APPALLING CONDITION OF BENIGN NEGLECT AND OR INDIFFERENCE. I TRULY BELEIVE, THAT THE ARCHITECTS OF OUR STATE CONSITUTION AND CERTAINLY THIS WAS TRUE WHEN THOSE MAGNIFICENT WORDS OF THE CONSITUTION AND DECLARATION OF INDEPENDENCE, WERE PENNDE TO PARCHMENT, THAT EVERY CITIZEN WOULD FALL HEIR TO A PROMISSORY NOTE. THIS NOTE WAS A PROMISE THAT ALL CITIZENS WOULD BE ABLE TO PURSUE AND HAVE EQUAL ACCESS TO OPPORTUNITY. OBVIOUSLY, THIS IS NOT THE CASE, OBVIOUSLY MBE ARE NOT PARTICIPATING FULLY AND OR AS RESPONSIBLY AS THEY WOULD LIKE TO AND OR HAVE THE ABILITY TO. IT IS EQUALLY OBVIOUS THAT KANSAS HAS DEFAULTED ON THIS PROMISSORY NOTE INSOFAR AS HER MBES ARE CONCERNED. INSTEAD OF HONORING THIS SACRED OBLIGATION KANSAS HAS GIVEN HER MBES A BAD CHECK; A CHECK WHICH HAS COME BACK MARKED "INSUFFICIENT FUNDS". BUT WE ARE HERE IN SUPPORT OF HOUSE BILL 2780, BECAUSE WE REFUSE TO BELIEVE, THAT THE BANK OF JUSTICE IS BANKRUPT. WE REFUSE TO BELIEVE, THAT THERE ARE INSUFFICIENT FUNDS IN THE GREAT VAULTS OF OPPORTUNITY IN THIS STATE. SO WE HAVE COME THIS DAY, TO PETITION YOU TO CASH THIS CHECK - A CHECK THAT ONCE HONORED, WILL REUSULT IN THE RICHES OF RESPONSIBLE AND PRODUCTIVE PARTICIPATION IN THE PROCUREMENT OPPPORTUNITIES HERE IN KANSAS.

WE ARE NOT HERE ASKING THAT YOU CHANGE THE SPECIFICATIONS OR ACCEPT INFERIOR PRODUCTS OR SERVICE. RATHER WE ARE HERE ASKING THAT THOSE LEFT OUT FOR WHAT EVER REASONS, BE ALLOWED TO COME INTO THE MAINSTREAM OF OPPORTUNITY TO WORK WITH AND FOR THE STATE OF KANSAS.

THANK YOU

CLARENCE C. LOVE  
REPRESENTATIVE, THIRTY-FIFTH DISTRICT  
WYANDOTTE COUNTY  
2853 PARKVIEW  
KANSAS CITY, KANSAS 66104  
(913) 371-3625



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER COMMUNICATION COMPUTERS  
AND TECHNOLOGY  
GOVERNMENTAL ORGANIZATION  
INTERSTATE COOPERATION

House Bill No. 2780 -- The Minority and Women-Owned  
Business Enterprise Act

Brief of H.B. 2780

H.B. 2780 would enact new legislation to be administered by the Secretary of Economic Development and aimed at promoting and encouraging the economic development of minority and women-owned businesses. In addition, the bill would encourage these businesses to participate in the state's procurement process as both prime contractors and subcontractors.

The definition section of the bill declares that a minority person is a United States citizen who is Negro, Hispanic, Oriental, American Indian, Eskimo or Aluet. A minority business is defined as a business that is more than 50 percent owned by one or more minority persons or in the case of a corporation, more than 50 percent of the stock is owned by minorities. The management and operations of the business must be controlled by one or more of the minority owners. Women-owned businesses are defined as those which are more than 50 percent owned by one or more women who are United States citizens. In the case of a corporation, more than 50 percent of the stock must be owned by one or more women, and the daily management and operation must be controlled by one or more of the women who own the business. Other definitions include sheltered market which means a procurement procedure whereby certain contracts are selected and set aside for minority or women-owned businesses on a competitive bid or negotiated bid.

The bill provides that at least 10 percent of the total dollar amount of state contracts, shall be the goal to be awarded to minority and women-owned businesses. At least 50 percent of the total amount of contracts awarded to minority and women-owned businesses shall be awarded to women-owned business. The target date for these goals shall be within three years of the effective date of the Act.

In administering this Act, the Secretary of Economic Development would work with a liaison from each state agency to further the law's objectives. Duties of the liaison include submitting to the Secretary any necessary reports and documents.

ATTACHMENT B

H. FLSA  
3/25/86

Duties of the Secretary will be to:

1. Formulate a certification procedure that will assure that businesses wanting to take advantage of the Act are legitimate minority or women-owned businesses.
2. Maintain a list of all valid minority and women-owned businesses.
3. Review rules and regulations for the implementation of the program.
4. Review compliance plans submitted by each agency pursuant to this Act.
5. Make annual reports to the Governor and the Legislature on the status of the program.
6. Serve as a coordinator for all of the state's minority and women-owned business programs and as the repository of information and referrals for all state minority and women-owned business initiatives.
7. Recommend rules and regulations for the use of sheltered market procurement procedures.
8. Establish an enforcement procedure which could include the following:
  - a. termination of the contract involved;
  - b. prohibition of participation by the respondent in public contracts for a period not to exceed one year;
  - c. imposition of a penalty not to exceed any profit acquired as a result of violation; or
  - d. any combination thereof.
9. Devise appropriate policies, rules and regulations, and procedures for including minority and women-owned business participation as prime contractors including, but not limited to:
  - a. Encouraging the inclusions of qualified minority and women-owned businesses on solicitation lists.
  - b. Investigating the potential of blanket bonding programs for small construction jobs.
  - c. Investigating and making recommendations concerning the use of the sheltered market process.
10. Devise procedures for the waiver of the participation goals in appropriate circumstances.

Duties of the state agencies will be to file an annual compliance plan that will outline the agency's minority and women-owned business goals for the current fiscal year. The compliance plan will need to include the following:

1. a policy statement, expressing a commitment to use minority and women-owned business participation;

2. the designation of the liaison officer;
3. procedures to distribute to potential contractors and vendors the list of all bona fide minority and women-owned businesses certified under this Act;
4. procedures to set separate contract goals on specific prime contracts and purchase orders with subcontracting possibilities based upon the type of work or services and subcontractor availability;
5. procedures to assure that contractors and vendors make good faith efforts to meet contract goals;
6. procedures for contract goal exemption, modification, and waiver;
7. if applicable, procedures by which the agency will implement sheltered market techniques; and
8. the delineation of separate contract goals for minority and women-owned businesses.

The Secretary may either reject or approve the compliance plans.

If a state agency administers a construction program that is covered by federal law or regulations regarding minority or women-owned businesses, the agency may use the federal standards and procedures for the establishment of goals and utilization procedures.

In the bill there are exemption provisions for contract(s) to be excluded, either wholly or partially, from the requirements of the Act when it is determined that there is an insufficient number of minority or women-owned businesses to ensure adequate competition and an expectation of reasonable prices.

Conflicts that may occur with provisions of this Act and federal mandates shall be resolved in favor of the federal mandates. Conflicts between the Act and the Kansas Small Business Procurement Act shall be resolved according to this Act.

Upon a finding of noncompliance by a state agency, the Secretary may recommend any or all of the following actions:

1. termination of the contract involved;
2. prohibition of participation of the respondents in public contracts for a period not to exceed one year;
3. imposition of a penalty not to exceed any profit acquired as a result of violation; or
4. any combination thereof.

Alternatively, the Secretary may recommend that the agency revise its plan to provide to more fully comply with the goals of the Act.

Prepared by,

Jerry Ann Donaldson  
Research Analyst

TESTIMONY TO THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS  
CONCERNING H.B. 2780

by Marc Marcano  
Executive Director  
Kansas Advisory Committee on Mexican American Affairs (KACMAA)

Chairman and Committee Members:

The Kansas Advisory Committee on Mexican American Affairs fully supports the passage of H.B. 2780. This bill proposes to open the doors of opportunity to women and minorities owning businesses in Kansas.

In the case of Kansas Hispanics, we find that many of us who have entrepreneurial skills and resources with which to exercise those skills are choosing to try their luck in other states. Most of them choose to relocate to the Southwest and the East. This leaves us in Kansas with an over abundance of labor and not enough minority-owned companies to employ all.

KACMAA's Board of Directors has placed, as a legislative priority, the support of a minority set-aside bill. We all feel that in order for Hispanics to participate in a healthy state economy, the state must lead the way in offering some meaningful incentives and opportunities for our businesses to succeed.

ATTACHMENT C

H. FJSA  
3/25/86



D

**KANSAS DEPARTMENT OF ECONOMIC DEVELOPMENT**

Minority Business Division  
503 Kansas Avenue, Sixth Floor, Topeka, Kansas 66603  
Phone (913) 296-3805



JOHN CARLIN  
Governor

CHARLES J. "Jamie" SCHWARTZ  
Secretary

**M E M O R A N D U M**

TO: Robert H. Miller, Chairman  
House Federal & State Affairs  
Committee

FROM: Billy McCray - Director  
KDED - OMB

RE: HB 2780 - Minority and Women  
Owned Business Enterprise Act.

DATE: March 25, 1986

Mr. Chairman:

I would like to mention that the Office of Minority Business has been trying to do their job in a frugal and conservative manner. Our budget has been cut already by \$14,000. We did this by excluding a small personal computer which we need. We cut our out-of-state travel almost in half by refusing to go to National Conferences which could have exposed us to the latest technical information about Minority Business Enterprise and we decided to use national agency personnel for speakers and conference presentors. They charged us for travel expenses only.

I might add, that the highly touted Tony Redwood Report does not speak of minority business enterprise at all. Instead, in that proposal our office is being downgraded to a public and community relations operation with no emphasis on job or economic development, yet we have added 200 new businesses to the Division of Purchases Bidders List and have caused to be certified, 100 new minority prime and sub-contractors for the new 750 million dollar GM plant being built in the Kansas City Fairfax Industrial District.

The state has not set goals or made any special effort to cause minority and women contractors to win contract awards with the state. HB 2780 will remedy this situation.

BQM:bj0

ATTACHMENT D

A. FLSA  
3/25/86

KANSAS DEPARTMENT OF ECONOMIC DEVELOPMENT

Minority Business Division  
503 Kansas Avenue, Sixth Floor, Topeka, Kansas 66603  
Phone (913) 296-3805



JOHN CARLIN  
Governor

CHARLES J. "Jamie" SCHWARTZ  
Secretary

M E M O R A N D U M

TO: House Federal and State Affairs Committee  
FROM: Billy Q. McCray - Director Office of Minority Business **B.Q.M.**  
RE: HB 2780 - by Representative Cribbs and Others  
DATE: March 25, 1986

Purpose of HB 2780:

Currently minority business owners in Kansas are being awarded less than one-half ( $\frac{1}{2}$ ) of one percent (1%) of all contracts awarded through the Division of Purchases. There are no available documented statistics on women owned businesses at the present.

HB 2780 will encourage all state agencies to set goals for a specific amount for both minorities and women.

What the bill does:

Section four (4) is the key provision of the bill. It provides that not less than ten percent (10%) of the total dollar amount of the state contracts shall be established as a goal to be awarded to minority and women owned businesses. It also provides that fifty percent (50%) of that amount shall be awarded to women owned businesses.

Other Provisions:

The Secretary of Economic Development shall administer the Act. The head of each agency under the jurisdiction of this Act shall appoint a liason to the Secretary of Economic Development. The liason shall be responsible for submitting to the Secretary any reports or documents necessary under the Act.

Each agency under this Act shall file with the Secretary an Annual Compliance Plan which shall outline the agency's minority and women owned business contracting goal, the manner in which they plan to meet those goals and utilization procedures. The Secretary shall have the authority to enforce this Act under the procedures provided therein.

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