

Approved: February 14, 1997
date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on February 13, 1997 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Barone, Brownlee, Feleciano, Gooch, Harris, Jordan, Ranson, Steffes, Steineger and Umbarger.

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Committee Secretary

Conferees appearing before the committee:
Phil Wages, Deputy Secretary of State
Melissa Wangemann, Office of the Secretary of State
Terry Leatherman, Kansas Chamber of Commerce and Industry (KCCI)
Vernon McKinzie, McKinzie Pest Control, Emporia
Hal Hudson, National Federation of Independent Business

Others attending: See attached list

Upon motion by Senator Steineger, seconded by Senator Steffes, the Minutes of the February 12, 1997 Meeting were unanimously approved.

SB 175 - Foreign corporations, applications to do business and annual report

Phil Wages, Deputy Assistant Secretary of State, testified in support of **SB 175**. Mr. Wages stated Section 1. eliminates the balance sheet from a foreign application. A foreign application which applies to any corporation outside of the State of Kansas which wishes to do business in the State, must be filed with the Secretary of State. Mr. Wages advised the balance sheet currently required by statute, is not used by the Secretary's office or legislative research, nor is it used to qualify or disqualify a corporation from being doing business in Kansas. Mr. Wages testified a corporation authorized to do business in Kansas can apply for a confidential annual report, which has caused some businesses to ask what is accomplished by filing a confidential annual report when their balance sheet has already been made public on the foreign application. Attachment 1

Mr. Wages stated Section 2. eliminates question 14 from the annual report of foreign-for-profit corporations. The question asks "The value of the property owned and used by the company in Kansas, where situated, and the value of the property owned and used outside of Kansas and where situated." The answers to this question are not used by the Secretary's office or by legislative research. Mr. Wages stated the examiners in the office receive numerous questions regarding the accounting method used to determine value for which there is no response, inasmuch as the statute does not define "value".

Mr. Wages testified that **SB 175** reduces paper work for customers and the Secretary's office, eliminates a piece of information that is not used, and addresses customers' complaints about the confidentiality of annual reports.

SB 227 - Confidentiality of financial information in the annual reports of business associations

Terry Leatherman, KCCI, testified in support of **SB 227**, which eliminates the requirement of corporations filing a "balance sheet" with their annual report. Mr. Leatherman stated the requirement of filing the balance sheet has jeopardized Kansas businesses with financial rating bureaus, attorneys looking for a deep pocket, and business competitors. Attachment 2

Melissa Wangemann, Legal Counsel, Deputy Assistant Secretary of State, testified in favor of **SB**

227. Ms. Wangemann stated Kansas modeled its corporate code after the Delaware corporate code; however, does differ with Delaware in requiring a balance sheet be included in the annual report. The annual report includes a formula that the corporation uses to calculate its franchise fee, which is based on the net worth listed on the balance sheet. The Secretary of State's office simply checks to be sure assets equal liabilities and the computation of the franchise fee. **SB 227** will allow the corporation to use a worksheet created by the Secretary's office to calculate the franchise fee, thereby eliminating the need for the balance sheet for that purpose and reducing paper work. Attachment 3

Ms. Wangemann testified current law allows a corporation to file a confidential annual report for a fee of \$20 if meeting certain statutory requirements. **SB 227** eliminates the need for confidential filings and results in a loss to the fee fund of approximately \$60,000. An additional loss for copying fees is estimated at approximately \$25,000, resulting in a total loss to the office of approximately \$85,000. Ms. Wangemann proposed an amendment allowing the Secretary of State to receive \$1 from each franchise fee. The amendment would create a loss to the General Fund of approximately \$85,000.

Vernon McKinzie, McKinzie Pest Control, testified in support of **SB 227**. Mr. McKinzie stated current Statutes allow public access to all corporate reports unless an additional filing fee is paid and the confidential form is used. Mr. McKinzie stated the requirement for privately held corporations to include their balance sheet information in their annual report is an infringement on the privacy of the owners. Corporations have the right to privacy and to know who is reviewing their financial statements. Attachment 4

Hal Hudson, State Director, National Federation of Independent Business, testified in support of **SB 227**. Mr. Hudson stated he represents 8,000 businesses in the state, over 80% which have 15 or fewer employees. Many organized as either "C" or "S" corporations with only family members as shareholders. The requirement of financial information is not only a concern to corporations, but is untasteful to family members who are required to reveal financial information. Attachment 5

The Chair noted that written testimony has been distributed from Dun & Bradstreet opposing both **SB 175 and SB 227**. Attachment 6

The Committee discussed the effect of eliminating the "balance sheet" as provided for in **SB 175 and SB 227** and the impact on reducing the Secretary of State's FTE and budget.

The Chair requested information on whether the Delaware Code has a similar requirement for foreign company applications.

The hearings on **SB 175 and SB 227** are concluded.

Senator Ranson moved, seconded by Senator Feleciano that **SB 227 be recommended favorable for passage**. The recorded vote was unanimous in favor of the motion.

Senator Steineger moved, seconded by Senator Ranson that **SB 175 be recommended favorable for passage**. The recorded vote was Yes-10; No - 1. The motion carried.

The Chair requested that the Committee reconsider action taken February 12, 1997 on **SB 3**. The bill was not in possession of the Commerce Committee on that date, as it had been double referred and had been sent first to the Committee on Financial Institutions and Insurance.

Senator Barone moved, seconded by Senator Feleciano, to reconsider action taken on **SB 3**. The motion carried.

The Chair announced the bill was now re-referred to the Commerce Committee and could be considered.

Senator Feleciano moved, seconded by Senator Steffes that **SB 3** be amended on Page 2, Line 38, by striking the words "without a requirement that there", and on Line 39 striking the words "be a bidding process", and on Line 41 before the "period (.)" insert the following "through a competitive bidding process". The voice vote was in favor of the motion.

Senator Feleciano moved, seconded by Senator Steffes that **SB 3 be recommended favorable for passage as amended**. The recorded vote was Yes - 9; No - 2. The motion carried.

The Chair informed the Committee there would be discussion and possible action on **SB 136, SB 151 and SB 152** at the meeting Friday, February 14th.

The meeting adjourned at 9:00 a.m.

**TESTIMONY TO SENATE COMMERCE COMMITTEE
ON SENATE BILL 175
FEBRUARY 13, 1997**

Madam Chair and Members of the Senate Commerce Committee:

The Secretary of State appreciates the opportunity to appear before you today on SB175. We believe that SB175 will reduce paper work and eliminate questions for our customers, which will make doing business with our office much easier.

SECTION 1 OF SB175 eliminates the balance sheet from the foreign application. The balance sheet is not used by our office in any manner other than to satisfy the current statutory requirement. The balance sheet is not used by legislative research for any purpose. The balance sheet is not used to qualify or disqualify a corporation from qualification in Kansas. By eliminating the balance sheet from the application, we will be removing a complex piece of information that requires time and effort to complete but is not used for any purpose by our office.

After a corporation has been granted authority to do business in Kansas, it can apply for a confidential annual report. If it qualifies, its balance sheet is closed to the public. Many of our customers have complained that there is no reason to file a confidential annual report when their balance sheet has already been made public on the foreign application, thus removing all confidentiality.

In summary, by removing the balance sheet we will reduce paper work for our customers. We will eliminate a piece of information that our office does not use, and our customers' complaints about the confidential annual reports will be addressed.

*Senate Commerce Committee
February 13, 1997*

Attachment 1-1 thru 1-14

SECTION 2 OF SB 175 refers to eliminating question number 14 from the annual report for foreign-for-profit corporations. The question asks for “The value of the property owned and used by the company in Kansas, where situated, and the value of the property owned and used outside of Kansas and where situated.” The answers to this question are not used by our office or by legislative research. Also, the statute does not define “value.” Many of our foreign customers telephone our examiners and ask them what accounting method to use to determine value. They ask whether it should be book value, market value, depreciated value, among others. Our examiners are unable to tell our customers what accounting method to use, because the statute does not define the term “value” or set out the proper accounting method.

By eliminating the question, we will reduce confusion among our customers.

I appreciate the opportunity to discuss SB175, and I thank you for your consideration of these comments.

Phil Wages



Deputy Assistant Secretary of State

Secretary of State/Corporation Division **Form FA**

Foreign Corporation Application

To the Secretary of State of the State of Kansas:

_____, a for profit/
Name of corporation EXACTLY as shown on attached certificate

not for profit (circle one) corporation organized under laws of the state of _____,
 applies for authority to engage in business in the state of Kansas, and submits the following statement:

1. The date the corporation commenced, or intends to commence, doing business in Kansas _____

2. A certificate issued within 90 days prior to the date of filing by the proper officer of the jurisdiction where the corporation is incorporated, attesting to the fact that the corporation is in good standing in that jurisdiction, must be attached.

Is certificate enclosed? Yes _____ No _____ Was it issued within 90 days of filing? Yes _____ No _____ (If answer is no to either question, application will be returned.)

Do not write in this space.

3. The place where the principal office of the corporation is located:

Street City

State Zip Code

4. The place, if known, where the principal office or place of business in Kansas is to be located:

Street City State Zip Code

5. The address of its registered office in Kansas is:

Street Address or Rural Route City County Zip Code

and the name of the resident agent in charge at that address is: _____

6. The full nature and character of the business the corporation proposes to conduct in Kansas:

 7. The name and address of each of the officers, trustees or directors of the corporation: (If this space is insufficient, a complete list should be attached. Names and titles of the officers must be typed exactly the same throughout this application and all documents submitted with it.)

Officers

Name	Title	Street Address	City, State, Zip

Trustees or Directors

Name	Street Address	City, State, Zip

8. Does the corporation have perpetual existence? Yes _____ No _____

If the answer is no, give specific date of expiration: ____/____/____.

9. Provide a detailed statement of the assets and liabilities of the corporation. Is the date of the balance sheet within 12 months of the filing date? Yes _____ No _____ (If answer is no, application will be returned.) A previously prepared balance sheet may be attached to this application in lieu of the following form. The penalty of perjury statement on this page must be completed.

Give specific date of statement: ____/____/____.

ASSETS			LIABILITIES AND SHAREHOLDERS' EQUITY	
	AMOUNT	TOTAL	AMOUNT	TOTAL
1. Cash			15. Accounts payable	
2. Trade notes & accounts receivable			16. Mortgages, notes, bonds payable in less than 1 year	
- Less allowance for bad debts			17. Other current liabilities	
3. Inventories			18. Loans from shareholders	
4. Government obligations			19. Mortgages, notes, bonds payable in 1 year or more	
- U.S. and instrumentalities			20. Other liabilities	
- State, subdivisions thereof, etc.			21. Total liabilities	
5. Other current assets			22. Capital stock:	
6. Loans to shareholders			- Preferred stock	
7. Mortgage and real estate loans			- Common stock	
8. Other investments			23. Paid-in or capital surplus	
9. Buildings and other fixed depreciable assets			24. Retained earnings - appropriated	
- Less accumulated depreciation			25. Retained earnings income fund - unappropriated	
10. Depletable assets			26. Less cost of treasury stock ()	
- Less accumulated depreciation			27. Net worth (total shareholders' equity)	
11. Land (net of any amortization)			28. TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	
12. Intangible assets (amortizable only)				
- Less accumulated amortization				
13. Other assets				
14. TOTAL ASSETS				

(Lines 14. and 28. must be identical)

10. The corporation's fiscal year closing date is: _____
Month, day

I declare under penalty of perjury under the laws of the State of Kansas that the foregoing is true and correct.

Signature of President or Vice President (circle one) EXACTLY as shown on previous page

Date

Signature of Secretary or Assistant Secretary (circle one) EXACTLY as shown on previous page

Date

Resolution

The Board of Directors (Managers or Trustees) of _____
Name of Corporation

_____ adopted the following resolution:

RESOLVED, That the President or Vice President and Secretary or Assistant Secretary of this corporation are hereby authorized and instructed to execute the written consent thereof to be sued in the state of Kansas in the manner provided in K.S.A. 17-7301 *et seq.*, as amended.

The undersigned, duly certifies, states that he/she is an officer of the above-named corporation and that the foregoing is a true and correct copy of the resolution adopted by the Board of Directors (Managers or Trustees) of said corporation.

Signature of Officer (EXACTLY as shown on application)

Office

I declare under penalty of perjury under the laws of the State of Kansas that the foregoing is true and correct.

Signature of officer EXACTLY as shown on application

Date

Irrevocable Consent

Know all Men by these Presents:

That _____,
Name of Corporation
a corporation organized under the laws of the state of _____,
hereby consents, without power of revocation, that actions may be commenced against it in the proper court of any county in the state of Kansas where there is proper venue by service of process on the Secretary of State of the State of Kansas; and the corporation stipulates and agrees that such service shall be taken and held in all courts to be as valid and binding as if due service had been made upon the President and Secretary of the corporation.

IN WITNESS WHEREOF, Said corporation has caused these presents to be executed by its President or Vice President and its Secretary or Assistant Secretary this _____ day of _____, A.D. 19_____.

Signature of President or Vice President (circle one) EXACTLY as shown on application

Signature of Secretary or Assistant Secretary (circle one) EXACTLY as shown on application

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Instructions

Article 1. Date the corporation commenced or will commence doing business in Kansas.

Article 3. Principal office of the corporation. The address shown in this blank is the address to which all forms and correspondence will be mailed, unless otherwise provided by statute.

Article 4. Principal office or place of business in Kansas, if known.

Article 5. The corporation must designate a Kansas registered office and resident agent. Kansas statutes provide that a resident agent may be either an individual or a Kansas corporation at the registered office. A Post Office box may be used in conjunction with a street address or rural route, but may not be used alone as the registered office.

Article 6. Nature of corporation's business in Kansas. The nature must be fully explained. If the corporation is non-profit, please indicate in this article.

Article 7. Names and addresses of all officers and directors.

Article 8. Corporate existence. "Perpetual" or the specific date corporate existence will expire in home state should be shown.

Article 9. Statement of assets and liabilities. We cannot accept an application when the balance sheet is dated more than 12 months prior to the date the application is received in this office. The balance sheet must balance. A consolidated balance sheet cannot be accepted unless it is the parent corporation who is applying for authority.

6 steps to assist you in expediting the application for authority to engage in business in the state of Kansas

1. Submit in duplicate.

Applications for authority to do business in Kansas must be submitted in duplicate. Each application must be accompanied by the written irrevocable **consent** of the corporation that actions may be commenced against it in the proper court of any county where there is proper venue by the service of process on the Secretary of State, and the duly certified copy of the order of **resolution** of the Board of Directors authorizing the execution of the consent. All items must be completed on all documents.

2. Certificate of good standing or existence.

This application must be accompanied by an original certificate issued by the appropriate government official (usually the Secretary of State) in the state of incorporation attesting that the corporation is a viable corporation in that state. **The certificate must not be more than 90 days old when filed.**

3. Enclose \$95 fee.

A fee of \$95 must be included with the application before the corporation can be authorized to do business in Kansas.

4. Use *exact* corporate name.

The corporate name on all documents must be exactly the same as it appears on the certificate, including punctuation.

However, if the corporation applying for authority has the same name as a corporation already on file, the new corporation must show the state of incorporation in all of its dealings in Kansas.

5. Mail to:

Office of the Secretary of State
300 SW 10th
Topeka, KS 66612-1594
(913) 296-4564

6. File with register of deeds.

Kansas statutes provide that the certificate of authority issued by the Kansas Secretary of State **must be forwarded to the resident agent in Kansas** for recording with the register of deeds in the county where the registered office is located. The certificate must be recorded with the register of deeds within 20 days of the date filed in this office or the register of deeds may assess a penalty when filed.

7. Provide contact person.

Enclose a cover letter with the name and phone number of a person who may be contacted if there is a problem with the application. Many errors can be corrected over the telephone.

Note: Please type or complete in
State of Kansas/Domestic and Foreign For Pro.

Corporate Annual Report Form AR

In this box, enter the corporation ID number, the exact corporation name and mailing address. If a preprinted name and address is shown, correct if necessary.

Corporation ID No. _____

1. Tax Closing Date _____
month/day/year
2. Due Date _____
3. State of Incorporation _____

Do not write in this space.

(Complete all items or make corrections to existing information in the space provided below.)

4. Officers	Name	Residential Address	City, State, Zip Code	Director Y/N
Pres.				
Sec.				
Treas.				

5. Board of Directors	Name (if not listed above)	Residential Address	City, State, Zip Code

KANSAS CORPORATIONS ONLY

6. Stockholders who own 5% or more of capital stock	Post Office Address	City, State, Zip Code

(if additional space is needed, attach a separate sheet)

7. Shares Issued & Type		*Stock Paid Up	*Must agree with line v. of balance sheet	8. FEIN No.
		\$		
		\$		
		\$		
		\$		9. Phone No. _____

Federal Employer Identification Number

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ASSETS			LIABILITIES AND SHAREHOLDERS' EQUITY	
	AMOUNT	TOTAL	AMOUNT	TOTAL
a. Cash			o. Accounts payable	
b. Trade notes & accounts receivable - Less allowance for bad debts			p. Mortgages, notes, bonds payable in less than 1 year	
c. Inventories			q. Other current liabilities	
d. Government obligations - U.S. and instrumentalities - State, subdivisions thereof, etc.			r. Loans from shareholders	
e. Other current assets			s. Mortgages, notes, bonds payable in 1 year or more	
f. Loans to shareholders			t. Other liabilities	
g. Mortgage and real estate loans			u. Total liabilities	
h. Other investments			v. Capital stock: - Preferred stock - Common stock	
i. Buildings and other fixed depreciable assets - Less accumulated depreciation			w. Paid-in or capital surplus	
j. Depletable assets - Less accumulated depletion			x. Retained earnings - appropriated	
k. Land (net of any amortization)			y. Retained earnings income fund - unappropriated	
l. Intangible assets (amortizable only) - Less accumulated amortization			z. Less cost of treasury stock ()	
m. Other assets			aa. Net worth (total shareholders' equity)	
n. TOTAL ASSETS			bb. TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	

(Lines n. and bb. must be identical)

11. Shareholders' equity attributable to Kansas means the shareholders' equity of a corporation multiplied by a percentage, which is the average of the following three percentages.

	Total in KS	Total everywhere	Percent to KS
a. Average value of real and tangible personal property owned or rented during the preceding year	\$ _____	÷ \$ _____	= _____ %
b. Compensation paid	\$ _____	÷ \$ _____	= _____ %
c. Sales	\$ _____	÷ \$ _____	= _____ %
d. AVERAGE percentage of the three percentages			= _____ %

If there is no property or activity mentioned in one of the above factors, the appropriate percentage for that factor is 100% (KSA 17-7501).

12. Tax Computation:

- a. Enter net worth (Total shareholders' equity - item aa on balance sheet)..... \$ _____
- b. Enter average percentage from line 11d..... _____ %
- c. Multiply 12a by 12b and enter result \$ _____
- d. Multiply 12c by .001 \$ _____

TOTAL TAX DUE (round off to nearest dollar) _____

Minimum fee is \$20; maximum fee is \$2,500. Make check payable to Secretary of State. Do not send cash.

13. Nature and kind of business in which the corporation is engaged: _____

NON-KANSAS CORPORATIONS ONLY

14. State the value of property owned and used by the corporation in and outside of Kansas, and where located:

	Value of Property	Where Located
Within Kansas		
Outside Kansas		

ALL CORPORATIONS

15. Does the corporation own or lease land in Kansas that is suitable for use in agriculture?

This question does not apply to: 1) Tracts of land of less than 10 acres; 2) Contiguous tracts of land that in the aggregate are less than 10 acres; 3) State-assessed railroad operating property.

YES _____ Complete items 16 and 17.

NO _____ Skip section 17 and complete item 16.

16. I declare (or verify, certify or state) under penalty of perjury that the foregoing is true and correct.

Executed on this _____ day of _____, 19 ____.

Name of signer (printed or typed)

Authorized Signature

Title/Position

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If the answer to Question 15 is "No" discard this page.
 If the answer to Question 15 is "Yes" complete the following:

17. Agricultural Land

- a. Total number of stockholders of the corporation _____
- b. Value of agricultural and non-agricultural assets that are owned and controlled by the corporation, both within and outside Kansas, and location of land:

		Value	Where Located
Within Kansas	Agricultural	\$	
	Non-Agricultural	\$	
Outside Kansas	Agricultural	\$	
	Non-Agricultural	\$	

c. Provide information on each lot, tract or parcel of agricultural land in Kansas that is owned or leased by the corporation. If extra space is needed, attach additional pages.

Location of tract or lot					Was this tract acquired after July 1, 1981?		Purpose for which land is owned or leased	Indicate for each tract or parcel if the tract is . . .			
County	Section	Township	Range	Number of acres in tract or lot	Yes	No		OWNED BY the corporation	LEASED TO the corporation	LEASED BY the corporation	If leased by the corporation, indicate to whom leased

d. Provide total agricultural acres for:

- 1. Total acres owned and operated _____
- 2. Total acres owned and operated *and* irrigated _____
- 3. Total acres leased *by* the corporation _____
- 4. Total acres leased *by* the corporation *and* irrigated _____
- 5. Total acres leased *to* the corporation _____
- 6. Total acres leased *to* the corporation *and* irrigated _____

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Filing Information

Please type or print legibly in ink.

The corporate information on the first page is printed from the records in this office. Please make changes or corrections on the line following the printed data. This information should be listed as of the tax closing date stated in item 1.

Be sure to complete all applicable items to the best of your knowledge. Use zeros and N/A if needed.

If additional space is needed, attach a separate sheet.

DUE DATE-Annual reports are due when the Kansas annual income tax report is due, generally the 15th day of the fourth month following the close of the tax period. *State law provides that, in addition to penalties, the failure to file the annual report or to pay its annual taxes within 90 days of the time for filing and paying will result in the forfeiture of the corporation in Kansas.* The annual report must be filed every year if the corporation wishes to remain in good standing in Kansas.

EXTENSIONS-An extension of the filing deadline may be obtained by submitting a copy of an application for an extension of time for filing a Kansas or federal income tax return. The request for extension must be filed not more than 90 days after the due date of the annual report. No fee is necessary until the report is filed.

INTERIM REPORT-An interim report must be filed if the tax period changes. The franchise tax for an interim report can be prorated for the number of months the report covers. However, there is a minimum fee of \$20.00. An interim report cannot be filed for a period greater than 12 months from the date of the last report filed.

AMENDED REPORT-If this is an amended report, indicate by printing "amended" at the top of the first page.

Please be sure to enclose a check with the annual report. Make checks payable to Secretary of State. Do not send cash. Please return to:

Ron Thornburgh
Kansas Secretary of State
2nd Floor, State Capitol
300 S.W. 10th Ave.
Topeka, KS 66612-1594

For general information and forms requests, please call: (913) 296-4564
For questions on completing report, please call: (913) 296-4579

NOTICE

CONFIDENTIALITY-Corporation annual reports are available for public inspection. An application to keep the corporation's financial information confidential can be obtained by calling the Office of the Secretary of State. Complete the 4-page confidential application and enclose a \$20 application fee in addition to the franchise tax due.

Note: Please type or complete in ink.

Annual application for profit corporations Confidentiality of Financial Information



Name of Corporation _____ Tax year ending _____
month/day/year

Corporate No. _____ State of Incorporation _____ Telephone No. _____

Mailing Address _____
(street address) (city, state, zip)

Complete each of the following:

1. Does the corporation have a net worth of \$5,000 or more, and does the net worth equal at least 5 percent of total assets?
2. Has the corporation ever been the subject of a proceeding under Chapter 7, 11 or 13 of the Federal Bankruptcy laws?
3. Is the corporation subject to the reporting requirements of the Securities Exchange Act?
4. Does the corporation have 35 or fewer holders of its voting shares?
5. Is the corporation an applicant or holder of a license under the Kansas Parimutuel Racing Act?
6. Is the corporation a vendor under the Kansas Lottery Act?

YES NO

YES	NO

If any answer falls in a darkened area, the corporation does not meet the statutory requirements for confidentiality as set forth in K.S.A. 17-7515.

DO NOT WRITE IN THIS SPACE

Include

\$20 non-refundable application fee
and franchise fee, payable to:
Ron Thornburgh
Office of the Secretary of State
2nd Floor, State Capitol
300 S.W. 10th Ave.
Topeka, KS 66612-1594
(913) 296-4579
Do not send cash.

I declare (or verify, certify or state) under penalty of perjury that I executed this application and balance sheet on behalf of the corporation and that to the best of my knowledge the items contained herein are true and correct.

Authorized Signature

Print or type name of signer

Title/Position

**Second signature and date
required on page 4 of 4**

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Confidential

Corporate Balance Sheet

1. Complete the balance sheet of the corporation for the tax year ending _____ (month, day, year)

ASSETS			LIABILITIES AND SHAREHOLDERS' EQUITY	
	AMOUNT	TOTAL	AMOUNT	TOTAL
a. Cash			o. Accounts payable	
b. Trade notes & accounts receivable - Less allowance for bad debts			p. Mortgages, notes, bonds payable in less than 1 year	
c. Inventories			q. Other current liabilities	
d. Government obligations - U.S. and instrumentalities - State, subdivisions thereof, etc.			r. Loans from shareholders	
e. Other current assets			s. Mortgages, notes, bonds payable in 1 year or more	
f. Loans to shareholders			t. Other liabilities	
g. Mortgage and real estate loans			u. Total liabilities	
h. Other investments			v. Capital stock: - Preferred stock - Common stock	
i. Buildings and other fixed depreciable assets - Less accumulated depreciation			w. Paid-in or capital surplus	
j. Depletable assets - Less accumulated depletion			x. Retained earnings - appropriated	
k. Land (net of any amortization)			y. Retained earnings income fund - unappropriated	
l. Intangible assets (amortizable only) - Less accumulated amortization			z. Less cost of treasury stock ()	
m. Other assets			aa. Net worth (total shareholders' equity)	
n. TOTAL ASSETS			bb. TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	

(Lines n. and bb. must be identical)

2. Shareholders' equity attributable to Kansas means the shareholders' equity of a corporation multiplied by a percentage, which is the average of the following three percentages.

	Total in KS	Total everywhere	Percent to KS
a. Average value of real and tangible personal property owned or rented during the preceding year	\$ _____ ÷ \$ _____		= _____ %
b. Compensation paid	\$ _____ ÷ \$ _____		= _____ %
c. Sales	\$ _____ ÷ \$ _____		= _____ %
d. AVERAGE percentage of the three percentages			= _____ %

If there is no property or activity mentioned in one of the above factors, the appropriate percentage for that factor is 100% (K.S.A. 17-7501).

3. Tax Computation:

a. Enter net worth
(Total shareholders' equity - item aa on balance sheet)..... \$ _____

b. Enter average percentage from line 2d..... % _____

c. Multiply 3a by 3b and enter result \$ _____

d. Multiply 3c by .001 \$ _____

Tax due (round off to nearest dollar) \$ _____

Minimum tax is \$20, maximum tax is \$2,500. Make check payable to Secretary of State.

Plus application fee..... \$20.00

TOTAL DUE \$

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State of Kansas/Office of the Secretary of State Form

Corporate Annual Report AC

1. Corporate No. _____ 2. Name of Corporation _____

3. Date of tax year ending _____ 4. Address _____
month/day/year (street address) (city, state, zip)

5. Mailing Address _____
(street address)

(city, state, zip)

Office Use Only

6. State of Incorporation _____

7. Officers

	Name	Residential Address	City, State, Zip	Director
Pres.				Y/N
Sec.				
Treas.				

8. Board of Directors (If not listed in 7)

Name	Residential Address	City, State, Zip

KANSAS CORPORATIONS ONLY

9. Stockholders who own 5% or more of capital stock

Name	Post Office Address	City, State, Zip

(If additional space is needed, attach a separate sheet.)

ALL CORPORATIONS

10.

Shares Issued and Type	* Stock Paid Up
	\$
	\$
	\$

*Must agree with line v. on balance sheet

11. Telephone No. _____

12. FEIN No. _____
Federal Employer Identification Number

13. Nature and kind of business in which the corporation is engaged: _____

NON-KANSAS CORPORATIONS ONLY

14. State the value of property owned and used by the corporation in and outside of Kansas, and where located:

	Value of Property	Where Located
Within Kansas		
Outside Kansas		

1-13

ALL CORPORATIONS

15. Does the corporation own or lease land in Kansas that is suitable for use in agriculture?

This question does not apply to: 1). Tracts of land of less than 10 acres; 2). Contiguous tracts of land that in the aggregate are less than 10 acres; 3). State-assessed railroad operating property.

YES _____ If yes, complete the section below.

NO _____ If no, skip the section below and go to section 16.

a. Total number of stockholders of the corporation _____

b. Value of agricultural and non-agricultural assets that are owned and controlled by the corporation, both within and outside Kansas, and location of land:

		Value	Where Located
Within Kansas	Agricultural \$		
	Non-Agricultural \$		
Outside Kansas	Agricultural \$		
	Non-Agricultural \$		

c. Provide information on each lot, tract or parcel of agricultural land in Kansas that is owned or leased by the corporation. If extra space is needed, attach additional pages.

Location of tract or lot					Was this tract acquired after July 1, 1981?		Purposes for which land is owned or leased	Indicate for each tract or parcel if the tract is . . .			
County	Section	Township	Range	Number of acres in tract or lot	Yes	No		OWNED BY the corporation	LEASED TO the corporation	LEASED BY the corporation	If leased by the corporation indicate to whom leased

d. Provide total agricultural acres for:

- | | |
|--|--|
| 1. Total acres owned and operated _____ | 4. Total acres leased <i>by</i> the corporation <i>and</i> irrigated _____ |
| 2. Total acres owned and operated <i>and</i> irrigated _____ | 5. Total acres leased <i>to</i> the corporation _____ |
| 3. Total acres leased <i>by</i> the corporation _____ | 6. Total acres leased <i>to</i> the corporation and irrigated _____ |

16. I declare (or verify, certify or state) under penalty of perjury that the foregoing is true and correct.

Executed on this _____ day of _____, 19 ____.

Authorized Signature

Name of signer (printed or typed)

Title/Position

Instructions

Please type or print legibly in ink.

DUE DATE-Annual reports are due when the Kansas annual income tax report is due, generally the 15th day of the fourth month following the close of the tax period.

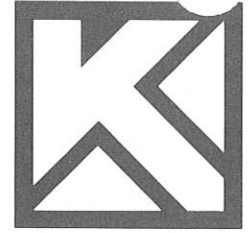
INTERIM REPORT-An interim report may need to be filed if a corporation changes its tax period. The franchise tax for an interim report is prorated with a minimum fee of \$20.

EXTENSIONS-An extension of the filing deadline may be obtained by submitting a copy to the Secretary of State of the application for an extension of time for filing the Kansas or federal income tax return. The request for extension must be filed not more than 90 days after the due date of the annual report. No fee is necessary until report is filed.

1-14

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732

SB 227

February 13, 1997

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Committee on Commerce

by

Terry Leatherman
Executive Director
Kansas Industrial Council

Madam Chairperson and members of the Committee:

I am Terry Leatherman, with the Kansas Chamber of Commerce and Industry. On behalf of the members of the Kansas Chamber, thank you for this opportunity to explain why KCCI enthusiastically supports passage of SB 227.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 47% of KCCI's members having less than 25 employees, and 77% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

Approval of SB 227 would accomplish a double feat. It would reduce the regulatory burden and paperwork requirements a business must complete to file a corporate annual report, by

*Senate Commerce Committee
February 13, 1997
Attachment 2-1 thru 2-2*

Approval of SB 227 would accomplish a double feat. It would reduce the regulatory burden and paperwork requirements a business must complete to file a corporate annual report, by eliminating a section of the report which has concerned privately held corporations for years. SB 227 proposes to simplify corporate annual reports by eliminating the section of the report called the "balance sheet," where corporations detail financial information about their business.

The balance sheet reveals a corporation's assets and liabilities. In nearly every state, the information is considered so sensitive that the information is kept confidential. However, Kansas has historically considered balance sheet information open for public inspection. As a result, financial rating bureaus, attorneys looking for a deep pocket, and business competitors have used this policy to take a peak at the financial underwear of Kansas businesses.

In 1989, the Kansas Legislature recognized the disadvantage being placed on businesses in our state by allowing companies to have their balance sheet information declared confidential. To receive this financial information protection, a business was required to meet a series of qualification hurdles and pay a fee to achieve confidential file status.

Now, SB 227, proposes a logical solution to this longtime concern. In helping to craft SB 227, the Secretary of State's office has indicated confidence that balance sheet information is not needed to determine the franchise fee a corporation pays the state of Kansas. As a result, its elimination will literally cut the annual report in half, permitting employers to meet this paperwork requirement much more quickly. In addition, the long-held concern of private employers regarding public inspection of financial information will finally be put to rest.

Thank you for this opportunity to comment on the legislation before you today and to urge the Committee's approval of SB 227. I would be happy to answer any questions.

Ron Thornburgh
Secretary of State



2nd Floor, State Capitol
300 S.W. 10th Ave.
Topeka, KS 66612-1594
(913) 296-4564

TESTIMONY ON SB 227
SENATE COMMERCE COMMITTEE
FEBRUARY 13, 1997

Madam Chairperson and Members of the Committee:

I appreciate the opportunity to speak in support of Senate Bill 227. SB 227 will eliminate the requirement that business entities include a balance sheet listing their assets, liabilities, and shareholder equity when filing annual reports with our office.

Kansas, like many other states, modeled its corporate code after the Delaware corporate code. The state of Delaware is considered the leader in the field of corporate law because of its well-developed corporate statutes and its strong body of case law. Most Fortune 500 companies are incorporated in Delaware and over one-half of companies registered on the New York Stock Exchange are Delaware corporations. Although the Kansas Corporate Code is similar to the Delaware code, one important difference between the two codes is the inclusion of a balance sheet in the annual report under the Kansas code. Delaware has not used the balance sheet in its annual report for than 40 years. Kansas and Arizona are the only two states that continue to require a balance sheet as part of the corporate annual report. If the state of Kansas wishes to follow the lead of Delaware and encourage business development it will need to pattern its corporate provisions after the Delaware code and eliminate balance sheets from the annual report.

The Model Business Corporation Act has likewise eliminated the balance sheet from the annual report. In fact, the Delaware corporate code and the Model Business Corporation Act contain the same provisions on annual reports. Both the Delaware code and the Model Act require only general information in the annual report such as the registered office, resident agent,

*Senate Commerce Committee
February 13, 1997
Attachment 3-1 thru 3-4*

names and addresses of the directors, shareholders and the information regarding the corporation's shares of stock. According to the Official Comments to the Model Act, the Act was modified in 1980 to make the annual report a "limited information document." These revisions and comments demonstrate the current direction in corporate law, which is to eliminate the requirement that corporations provide detailed financial information in annual reports.

KANSAS LAW

Current Kansas law requires corporations, professional corporations, limited liability companies, and limited partnerships to register with our office and to file an annual report containing a balance sheet. The annual report requires the corporation to list information on the corporation's officers, directors, shareholders, properties, and, if the corporation holds agricultural land, specific information on acreage and location. The annual report also requires the business entity to assemble a detailed balance sheet listing 27 categories of assets, liabilities, capital, and net worth.

SB 227 would allow the state of Kansas to catch up with the current trend in corporate law by implementing changes that have already been made by Delaware and the Revised Model Business Corporation Act.

SIMPLIFICATION FOR BUSINESS


The only purpose the balance sheet serves for the Secretary of State is the calculation of the annual franchise fee. The annual report includes a formula that the corporation uses to calculate its franchise fee, which is based on the net worth listed on its balance sheet. Our office examines corporate annual reports to check all information including the balance sheet and the computation of the franchise fee. Under SB 227 the corporation will instead use a worksheet created by our office to calculate the franchise fee and examinations by our office of the balance

sheet and franchise computation will no longer be necessary. Eliminating the balance sheet would reduce government's involvement with business and limit the paperwork the business must submit to our office.

FISCAL IMPACT

Current Kansas law allows a corporation to file a confidential annual report. The provision permits a corporation to pay a \$20 fee and close its financial information to the public if the corporation meets certain criteria set out in statute. Confidential filings will no longer be necessary and therefore SB 227 eliminates the confidential filing statute. The elimination of the confidential filing fee as a source of revenue for our office will result in a loss of approximately \$60,000 to our fee fund. We also expect to lose \$20,000 in copying fees from Dunn & Bradstreet and a \$4,425 loss in copying fees from others who request copies of the financial information. Because the Secretary of State's office cannot afford the loss of almost \$85,000, the Secretary of State requests an amendment to SB 227, which would allow the Secretary of State to receive \$1 from each franchise fee. Approximately 80,000 corporations file annual reports with our office and therefore we would receive \$80,000 from a \$1 administrative fee, which would limit our loss to \$4,425.

I appreciate the opportunity to appear before you today and discuss SB 227.



Melissa A. Wangemann, Legal Counsel
Deputy Assistant Secretary of State

AMENDMENTS TO SB 227

1. The following language should be added to: 56-1a606(d); 56-1a607(d); 17-7503(c); 17-7504(c); 17-7505(b)(7); 17-7647(c); 17-7648(c); 17-2718(b).

One dollar of the annual franchise tax shall be deposited to the secretary of state's franchise tax fee fund.

2. The following NEW statute shall be added:

K.S.A. 75-443. Franchise tax fee fund.

There is hereby created in the state treasury the franchise tax fee fund. \$1 from each franchise tax payment made to the secretary of state pursuant to chapter 17 and 56 shall be deposited in the state treasury to the credit of the franchise tax fee fund.



McKINZIE PEST CONTROL
A McKINZIE INC. COMPANY



DIRECT INQUIRIES TO:

- MPC EMPORIA INC. • 209 Commercial • Emporia, Kansas 66801 • (316) 342-4222
- MPC PARSONS INC. • 1612 Washington St. • Parsons, Kansas 67357 • (316) 421-2070
- MPC MANHATTAN INC. • 1129 Hayes Drive • Manhattan, Kansas 66502 • (913) 776-6063

13 February 1997

**Comments to Senate Commerce Committee
Senate Bill 227**

Good morning! My name is Vernon McKinzie. I am owner of McKinzie Pest Control, a small business with 16 employees. We have offices in Emporia, Manhattan and Parsons. Each location is a separate corporation.

I appreciate the opportunity to appear in support of S. B. 227 and urge your adoption of the bill. As I am sure you are aware, the current Statutes allow public access to all corporate reports unless an additional filing fee is paid and the confidential form is used.

Any person may go to the Secretary of State's office, pay a small fee, and obtain the annual report of any corporation. If the reports for three consecutive years are obtained it is very easy to calculate the net profit and net worth of the corporation. I believe the requirement for privately held corporations to include their company balance sheet information is an infringement on the privacy of the owners and should not be required. Competitors, vendors or any one else should not be able to obtain such information without the corporation's permission.

Several years ago my company was denied an opportunity to do business with another company, (specifically we were denied the purchase of insurance policies on the principal owners) because Dunn & Bradstreet had given them information on another company with a similar name who just happened to have a less than creditable record. We did get it straightened out, but only after requesting the reason for denial and having our bank and accountant verify the actual condition of our company. I do not know how many times incorrect information may have been disseminated about my company because of unrestricted access to the corporate records in the Secretary of State's office. In any case had S. B. 227 been enacted at that time, this would not have happened.

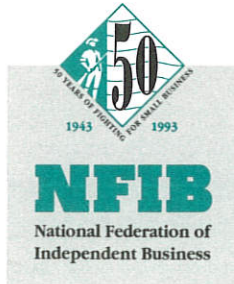
I believe any privately owned corporation has the right to privacy and to know who is reviewing their financial statements. Your adoption of S. B. 227 will provide us such privacy and will prevent unauthorized access to my corporation's financial statements. I urge your adoption of the Bill.

If there are questions, I will try to respond. Thank You.

*Senate Commerce Committee
February 13, 1997*

Attachment 4

LEGISLATIVE



TESTIMONY

**Testimony of Hal Hudson
Kansas State Director
National Federation of Independent Business
Before the Senate Commerce Committee
on Senate Bill No. 227
February 13, 1997**

Madam chair and members of the Commerce Committee:

My name is Hal Hudson, and I am State Director for the 8,000-member Kansas Chapter of the National Federation of Independent Business.

I am here today to support the enactment of Senate Bill 227 -- which you could rename the Kansas Paperwork Reduction Act of 1997.

Elimination of the requirement to include such financial data as a balance sheet with the corporate annual report is a good move, of some importance to small businesses I represent. Over 80 percent of the members of NFIB/Kansas have 15 or fewer employees. Many of these firms are organized as either "C" or "S" corporations, with only family members as shareholders. The data required under current Kansas law provides information not only about the corporation, but also may reveal financial information about the family they would rather not have made public. Yet, once this data is on file with the Secretary of State's office it is available to virtually anyone who requests it.

We have been advised by Secretary of State Thornburgh that the collection of this data, corporate balance sheets, serves no useful purpose for the State of Kansas. In fact, it is filed away, and is not used by the Secretary of State's office except to respond to inquiries, generally from outside State government.

It would seem that elimination of the requirement to report balance sheet data would serve the desires of small business owners, and, at the same time reduce the workload of the Secretary of State's office -- that of responding to inquiries, locating, copying and transmitting the data to the inquirer.

I urge you to report SB 227 favorably and to support its enactment.

Thank you.

*Senate Commerce Committee
February 13, 1997
Attachment 5*



Dun & Bradstreet

One Diamond Hill Road
Murray Hill, New Jersey 07974-1218

Dafydd B. Williams
Director - Legal Affairs
Tel. (908) 665-5140
Fax (908) 665-5125
E-mail: williamsd@mail.dnb.com

February 12, 1997

Alicia Salisbury, Chair
The Senate Commerce Committee
State House
Topeka, KS 66612

Re: Senate Bill 175 and Senate Bill 227

Dear Senator Salisbury:

I am writing to you to express Dun & Bradstreet's opposition to Senate Bills 175 and 227.

Since 1841, Dun & Bradstreet has been in the business of fostering the growth of American commerce.

That growth has been based, in large measure, on the extension of credit from one business to another. Emerging businesses, small businesses, and large businesses all rely on credit to grow and prosper.

For many years, the citizens of Kansas have required all corporations to report annually on their financial condition. This has been the *quid pro quo* for the twin privileges of limited liability and indefinite life. Without doubt, this has not only served to protect the citizenry from unscrupulous operators, but it has contributed to the economic growth of the state.

This Bill will enable all corporations to withhold financial information from the public. In the process, it will inevitably delay and in many cases prevent the necessary flow of information required for informed decision making.

We believe that citizens who are considering a transaction with a corporation should be able to obtain some financial information about that business before extending unsecured

*Senate Commerce Committee
February 13, 1997*


Alicia Salisbury, Chair
February 12, 1997
Page 2

trade credit, signing a contract, extending a loan, changing jobs or giving a deposit for work to be done.

In 1989, the Kansas Legislature gave the Secretary of State the authority to place and maintain, in a confidential file, the financial information of a corporation that did not want its financial information made public, provided several conditions were met. These conditions protect the citizens of Kansas from companies that may have a negative net worth or that filed for bankruptcy. This procedure has worked well to date and need not be changed.

On balance, we believe that the citizens and commercial interests of Kansas are better served by the time-tested current statute than by the one that would result from eliminating the financial information filing requirement. We urge you to oppose these bills.

Sincerely,



Dafydd B. Williams