

MINUTES OF THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Doug Mays at 1:40 p.m. on March 7, 2001 in Room 313-S of the Capitol.

All members were present.

Committee staff present: Theresa M. Kiernan, Revisor of Statutes
Russell Mills, Legislative Research Department
Shelia Pearman, Committee Secretary

Conferees appearing before the committee:

Representative Tony Powell
Dan Stanley, Secretary of Administration
Duane Goossen, Director of the Budget
Robert Stockwell, Performance Review Board Executive Director
Terry Leatherman, Vice President, Kansas Chamber Commerce & Industry
Robert Longino, Alcohol Beverage Control Acting Director
Ezra Ginzburg, Assistant Attorney General
R.E. "Tuck" Duncan, Kansas Wine and Spirits Association

Others attending: See attached list

Chairman Mays opened the hearing on SB 75 - Joint committee on state-tribal relations.

Mr. Mills provided background information about **SB 75** including the Report of the Joint Committee on State-Tribal Relations to the 2001 Kansas Legislature regarding the State Tribal Gaming Compacts (Attachment #1) This bill provides that the Governor (or designee) would serve as temporary chair and call an organizational meeting of the Joint Committee at the start of each legislative session; and the Joint Committee is given the responsibility of making recommendations on issues of state-tribal relations. This bill would also add the Governor (or designee) and the Attorney General (or designee) to be voting members except for approval or disapproval of gaming compacts.

Representative Powell is former chair and presently the vice chair of the committee. The primary part of bill is to address the technical transition of the bill. Current law allows the committee to elect the chair and vice chair, however technically no one is able to call the meeting in January.

The hearing on SB 75 was closed.

Representative Powell moved that Committee recommend SB 75 favorable for adoption. Representative Benlon seconded the motion. The motion passed.

Chairman Mays opened the hearing on SB 180 - Abolish the Kansas Performance Review Board.

Mr. Goosen encouraged the committee to abolish the Kansas Performance Review Board because it has not worked. He noted the approved budget for FY 2001 for the Performance Review Board totals \$338,070, of which \$291,570 is from the State General Fund. This amount, along with 3.0 FTE positions, would be deleted from the state budget starting in FY 2002. Savings from the passage of SB 180 are already taken into account in The FY 2002 Governor's Budget Report inasmuch as it has been reallocated the funds to programs in other agencies for FY 2002. (Attachment #2)

Mr. Stanley supported **SB 180** because it replicates many audit functions. He stated the claims of savings generated by KPRB have been overstated inasmuch as steps were already progressing toward similar results. (Attachment #3) He believes the Legislative Post Audit is fully capable of conducting most all of the same reviews with highly skilled, professional auditors rather than low bid consultants of varying quality.

Mr. Stockwell noted the KPRB was created during the 1996 Legislative Session. He stated during the 42 month existence of the Board, it has not had enough appointed members to achieve a quorum for one-

third of that time. This in addition to lack of funding has hampered the board from progressing toward its mission to investigate and recommend opportunities to improve Kansas' government. Seven reviews of different agencies were conducted and the board has assisted in savings. (Attachment #4 page 5) KPRB members volunteer the time and experience as they evaluate state programs for efficiency and cost effectiveness.

Mr. Leatherman stated the Chamber was a major supporter of the creation of KPRB. (Attachment #5) He cited in order to succeed, KPRB would need executive branch support of this concept of outside review and to encourage its efforts. It appears this administration has taken the opposite view. Ironically, a board which promoted government efficiency is up for abolition in a time when tight state budgets exist. He urged the committee to oppose **SB 180**. He sees the roles of KPRB and Legislative Post Audit to be contrasting.

The hearing on SB 180 was closed and will be continued on March 8.

Chairman Mays opened the hearing on SB 178 - Notify members of legislature of the availability of agency reports.

No conferees appeared on this bill. **SB 178**, as introduced, required additional copies of state agency publications to be sent to the Secretary of the Senate and the Chief Clerk of the House of Representatives. Also, the bill required each state agency to notify legislative members of the availability of such copies. Currently, the publications are sent to the Governor, State Librarian, Secretary of the State Historical Society, the Secretary of the Legislative Coordinating Council, and to each member of the Legislature.

However, a substitute amendment (Attachment #6) distributed by Mr. Longino to the committee addressed the wholesale retailers residency license law stricken by the District Court within the last two weeks. Current statute requires background checks and did not anticipate out-of-state background checks. Speeding the process through the Legislature would provide an opportunity to get an amend to K.S.A. 41-311 for the Governor's consideration by March 13, 2001.

The proposed substitute bill would allow the Director of Alcoholic Beverage Control to require any applicant provide information deemed necessary to process an application for licensure. The applicant must:

1. Submit to a national criminal history record check and provide two legible sets of fingerprints;
2. Disclose any financial interest the applicant owns in any entity that receives proceeds from the sale of alcoholic beverages;
3. Submit a release allowing ABC Director to review the applicant's financial records to verify ownership;
4. Provides 90 days to act on any license application received after January 31, 2001.

Mr. Duncan provided additional suggestions for amending the bill to address the issue of a non-resident applicant on pages 2, 6 and 8. It is theoretically possible that if appeal proceeds, and if the 10th Circuit reverses the District Court decision, it could subject an owner's license be revoked a year from now, he also suggested a form of "hold harmless" grandfather clause.

Mr. Ginzburg has filed the notice of appeal because the District Judge said K.S.A. 41-3111b is unconstitutional. The stay has not yet been ruled.

The hearing on SB 178 was closed.

Representative Freeborn moved that Committee strike the current language and insert language contained in Substitute for SB 178 be adopted. Representative Benlon seconded the motion. The motion passed.

Any additional corrections to properly address this issue could be revised during Conference Committees.

Representative Freeborn moved that Committee recommend Substitute for SB 178 as amended favorable for passage. Representative Hutchins seconded the motion. The motion passed.

The committee meeting adjourned at 2:58 p.m. The next scheduled meeting is March 8, 2001.

Report of the
Joint Committee on State-Tribal Relations
to the
2001 Kansas Legislature

CHAIRPERSON: Representative Tony Powell

VICE-CHAIRPERSON: Senator Lana Oleen

OTHER MEMBERS: Senators Don Biggs, Mark Gilstrap, Audrey Langworthy, and John Vratil; Representatives Tom Klein, Mike O'Neal, Susan Wagle, and Galen Weiland

NONLEGISLATIVE MEMBERS: Governor's Representative—Natalie Haag; Attorney General's Representative—Julene Miller

December 2000

House Fed. &

State Affairs

Date 3/7/01

Attachment No. 1

Page 1 of 5

JOINT COMMITTEE ON STATE-TRIBAL RELATIONS

CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee notes the following issues of concern regarding relations with tribal entities at both the state and federal levels. The Joint Committee:

- Encourages the continuing litigation against the Wyandotte of Oklahoma and will support the posting of an appeal bond of up to \$5 million if the state is ordered to do so by the court.
- Supports the Connecticut Attorney General in his request of the U.S. Department of the Interior to impose a moratorium on federal tribal recognition decisions until the decision-making process can be reviewed by a national commission.
- Requests the Department of Revenue to discuss tax compacts with the four resident tribes and present any such compact to the Joint Committee for approval.
- Joins the Governor in opposing any federal legislation to streamline the federal recognition of tribes unless there is substantial input from the states.
- Joins the Governor in opposing the Department of the Interior's proposed rules and regulations regarding land-to-trust requests by tribes due to the inequitable application of these proposed regulations to states and the loss of tax revenue to states and counties. Additionally, the Committee encourages the Kansas Congressional delegation to support a payment in lieu of taxes for those counties losing tax revenue from lands placed in trust for a tribe.
- Encourages Jackson County officials and Prairie Band Potawatomi officials to continue discussions with the U.S. Attorney's office regarding a potential resolution of the law enforcement issues.
- Requests that the Kansas Congressional delegation oppose the Wyandotte of Oklahoma's proposed federal legislation granting this non-resident tribe rights to purchase land for gaming purposes in the State of Kansas.
- Encourages the U.S. Attorney to take all possible steps to prohibit the Wyandotte of Oklahoma or other tribes from engaging in gaming without a compact.
- Requests that the Senate Ways and Means Committee and the House Appropriations Committee consider the addition of funding for an attorney within the Governor's office to specialize in the practice of Indian law.
- Encourages the Kansas Congressional delegation to introduce federal legislation to define the term "reservation" as used in the Indian Gaming Regulatory Act.

Proposed Legislation: The Joint Committee believes that the issues addressed by 2000 SB 543 and 2000 HB 2926 continue to be relevant and recommends that the following versions of the legislation be re-introduced in the upcoming session—SB 543 as amended by Senate Committee and HB 2926 as introduced.

The Joint Committee also recommends the introduction of legislation amending the statute governing the Joint Committee to provide that: the Governor (or designee) and the Attorney General (or designee) would be voting members except for approval or disapproval of compacts; the Governor (or designee) would serve as temporary chair and call an organizational meeting of the Joint Committee at the start of each legislative session; and the Joint Committee would be able to make recommendations on issues of state and tribal relations.

House Fed. &
State Affairs
Date 3/7/07
Attachment No. 1

BACKGROUND

The Joint Committee on State-Tribal Relations was created through the enactment of 1999 HB 2065. The responsibilities and organization of the Joint Committee are summarized below.

- The Joint Committee is authorized by statute to:
 - Establish and transmit to the Governor proposed guidelines reflecting the public policies and state interests that the Joint Committee will consider in reviewing proposed compacts;
 - Recommend to the Governor that any gaming compact provide for the imposition and collection of state sales and excise taxes on sales of nongaming goods and services to persons other than tribal members and imposition and collection of state income tax on revenues derived from sales of nongaming goods and services;
 - Hold public hearings on proposed gaming compacts submitted to the Joint Committee by the Governor;
 - Recommend modification of proposed gaming compacts submitted by the Governor and introduce resolutions approving proposed gaming compacts and recommend that such resolutions be adopted or be not adopted, or report such resolutions without recommendation, and notify the Governor, in writing, of the Joint Committee's action;
- Meet, discuss, and hold hearings on issues concerning state and tribal relations; and
- Introduce such legislation as deemed necessary in performing its functions.
- Six members of the Committee constitute a quorum. However, actions of the Committee regarding approval of state-tribal gaming compacts require the affirmative vote of at least eight members—at least four senators and four representatives. The Committee could report a compact without recommendation on the affirmative vote of any five legislative members.
- Annually, the Committee will elect its chair and vice chair. The chair will alternate between the House (even years) and Senate (odd years).
- The Committee is authorized to appoint subcommittees and members may be paid and reimbursed for travel and subsistence for attendance at subcommittee or full Committee meetings.

During the 2000 Legislative Session, several bills pertaining to state-tribal relations were introduced. Sub. for SB 492 would have authorized the issuance of distinctive license plates to enrolled members of the resident tribes. SB 543 (as amended by Senate Committee) would have provided tribal law enforcement officers and agencies with the same powers, duties, and immunities held by state, county, or city law enforcement officers and agencies. HB 2926 would have established procedures for state-tribal agreements other than gaming compacts. SB 607 would have amended existing law regarding interlocal agreements to allow

House, Fed. &
State Affairs
Date 3/7/2001

Attachment No. 1
on State-Tribal Relations
Page 3 of 5

local units of government to enter into agreements with resident tribes. SB 608 would have amended the Liquor Control Act to allow Class B clubs located in Indian gaming casinos to offer temporary memberships without any waiting period or statutory membership fee. Finally, HB 2845 would have established the Kansas Indian Advisory Commission as an advisory body to the Governor. None of the bills were enacted.

COMMITTEE ACTIVITIES

The Joint Committee met for four days during the 2000 Interim: three days in Topeka and one in Kansas City. The Joint Committee received input on all issues from the four resident Kansas tribes: the Prairie Band Potawatomi Nation of Kansas, the Kickapoo Tribe, the Sac and Fox Nation of Missouri in Kansas and Nebraska, and the Iowa Tribe of Kansas and Nebraska.

The Joint Committee heard a great deal of testimony during the interim concerning the proposed Kansas City casino of the Wyandotte Tribe of Oklahoma. In addition to touring the site and speaking with the tribe's chief and attorneys, the Joint Committee received information concerning historical preservation requirements for the site and pending litigation regarding the tribe's right to conduct gaming in the state.

The drought conditions experienced by Northeast Kansas and especially the Kickapoo Tribe were reviewed at length. Possible solutions to the problem, such as the General Watershed Plan for the Upper Delaware and Tributaries Watershed and the Pikitanoi Rural Water System Project, were also discussed. The Joint Committee sent a letter to the Kansas Congress-

sional Delegation encouraging support for federal assistance and the funding of the General Watershed Plan for the Upper Delaware and Tributaries Watershed.

The Joint Committee also heard testimony concerning the decision by the U.S. Department of Labor's Division of Indian and Native American Programs to transfer the administration of a portion of the Workforce Investment Act Program from the United Tribes of Kansas and Southeast Nebraska, Inc. (comprised of resident tribes), to the Wyandotte Tribe of Oklahoma. The Joint Committee sent a letter to the Kansas Congressional Delegation requesting a review of the decision and a determination of the impact on the Kansas tribes.

Other topics reviewed by the Joint Committee included: pending litigation involving Indian-related issues, taxation, payments in lieu of taxes, activities of the State Gaming Commission and the Kansas Office of Native American Affairs, cross-deputization in Brown and Jackson Counties, a request by the Connecticut Attorney General for a moratorium on tribal recognition decisions by the Department of the Interior, and the history of the Northern Cherokee Nation.

CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee notes the following issues of concern regarding relations with tribal entities at both the state and federal levels. The Joint Committee:

- Encourages the continuing litigation against the Wyandotte of Oklahoma and will support the posting of an appeal bond of up to \$5 million if the state is ordered to do so by the court.

Reviewed by the
State Affairs

Date 3/7/2001

Attachment No. 1

Page 4 of 4

- Supports the Connecticut Attorney General in his request of the U.S. Department of the Interior to impose a moratorium on federal tribal recognition decisions until the decision-making process can be reviewed by a national commission.
- Requests the Department of Revenue to discuss tax compacts with the four resident tribes and present any such compact to the Joint Committee for approval.
- Joins the Governor in opposing any federal legislation to streamline the federal recognition of tribes unless there is substantial input from the states.
- Joins the Governor in opposing the Department of the Interior's proposed rules and regulations regarding land-to-trust requests by tribes due to the inequitable application of these proposed regulations to states and the loss of tax revenue to states and counties. Additionally, the Committee encourages the Kansas Congressional delegation to support a payment in lieu of taxes for those counties losing tax revenue from lands placed in trust for a tribe.
- Encourages Jackson County officials and Prairie Band Potawatomi officials to continue discussions with the U.S. Attorney's office regarding a potential resolution of the law enforcement issues.
- Requests that the Kansas Congressional delegation oppose the Wyandotte of Oklahoma's proposed federal legislation granting this non-

resident tribe rights to purchase land for gaming purposes in the State of Kansas.

- Encourages the U.S. Attorney to take all possible steps to prohibit the Wyandotte of Oklahoma or other tribes from engaging in gaming without a compact.
- Requests that the Senate Ways and Means Committee and the House Appropriations Committee consider the addition of funding for an attorney within the Governor's office to specialize in the practice of Indian law.
- Encourages the Kansas Congressional delegation to introduce federal legislation to define the term "reservation" as used in the Indian Gaming Regulatory Act.
- The Joint Committee believes that the issues addressed by 2000 SB 543 and 2000 HB 2926 continue to be relevant and recommends that the following versions of the legislation be re-introduced in the upcoming session—SB 543 as amended by Senate Committee and HB 2926 as introduced.

The Joint Committee also recommends the introduction of legislation amending the statute governing to the Joint Committee to provide that: the Governor (or designee) and the Attorney General (or designee) would be voting members except for approval or disapproval of compacts; the Governor (or designee) would serve as temporary chair and call an organizational meeting of the Joint Committee at the start of each legislative session; and the Joint Committee would be able to make recommendations on issues of state and tribal relations.

House, Fed. &
State Affairs
Date 3/7/2001
Attachment No. 1
on State-Tribal Relations
Page 5 of 5



DIVISION OF THE BUDGET
 State Capitol Building, Room 152-E
 Topeka, Kansas 66612-1575
 (785) 296-2436
 FAX (785) 296-0231
<http://da.state.ks.us/budget>

Bill Graves
 Governor

Duane A. Goossen
 Director

MEMORANDUM

TO: House Committee on Federal and State Affairs

FROM: Duane A. Goossen, Director of the Budget

DATE: March 7, 2001

SUBJECT: Senate Bill 180

Mr. Chairman, Members of the Committee:

SB 180 abolishes the Kansas Performance Review Board. It implements a part of the Governor's budget recommendations for Fiscal Year 2002. PERB was created by the 1996 Legislature to study programs and activities of state government and recommend whether they should be retained, eliminated, modified, or privatized. The role of the Board has never been clearly defined. Some of its functions appear to overlap those of the Legislative Division of Post Audit. Its recommendations have been questioned by the agencies studied. Efforts to capture savings to support the Board's operations have not proven successful, so the board is a drain on budgetary resources. In addition, the organizational placement of the board in the Department of Administration has not fit well with the other functions and responsibilities of the Department. For these reasons, the Governor recommends that the Board be abolished.

The current budget of the Board totals \$338,070, with \$291,570 from the State General Fund. Concurrent with the recommendation to abolish the Board, the Governor has reallocated these funds to programs in other agencies for Fiscal Year 2002.

Passage of SB 180 is necessary to repeal the statutes that created the Board in order to make the law consistent with the Governor's budget recommendation. As of today, the Senate Ways and Means Committee has concurred with the Governor's recommendation. This issue has been discussed by the Subcommittee of House Appropriations that is responsible for the Department of Administration's budget and the Subcommittee has verbally concurred with the Governor's recommendation.

House Fed. &
 State Affairs
 Date 3/7/2001
 Attachment No. 2
 Page 1 of 1

**Testimony by
Dan Stanley, Secretary of Administration
Before
House Federal and State Affairs Committee
March 7, 2001**

Mr. Chairman and Members of the Committee;

Thank you for the opportunity to testify on behalf of SB-180 which provides for the statutory repeal of K.S.A. 75-7101-7105 and 7107. This bill provides the legislative changes in support of the Governor's budget recommendation that zeros the funding for the Performance Review Board (PRB). I am here today to provide you with the rationale of the Governor's recommendation.

Simply stated, the Performance Review Board, albeit a well-intended initiative, simply has not worked; is duplicative of many available audit functions; and has not been responsible for savings it has claimed.

The Performance Review Board concept grew out of the closing of Topeka State Hospital. The original intent was to have a process whereby an independent board composed of private sector business people would review government functions being considered for privatization. During the legislative deliberations, the concept was expanded to provide for examination of any government function by any legislator or private business or citizen. In practice, these reviews were conducted through consultants contracted by the board's staff. Recommendations to "continue, modify, or privatize" were provided by the staff to the board comprised of senior business executives from around the state. The quality of the board has been outstanding. However, the quality of the contract studies has generally been poor leading to recommendations which ranged from the impractical to the absurd.

I submit that claims of savings generated by PRB recommendations have been vastly overstated and would have been accrued by ongoing agency action regardless of the existence of the PRB. As an example, the PRB was doing a review of DISC operations and looking specifically at the long distance rates the state is charged on its KANS-A-N (Kansas Access Network) network. Existing provisions in our long distance carrier contracts call for periodic renegotiations of these rates as market rates change. These are provisions that we placed in those contracts and are provisions we routinely exercise. DISC was actually in negotiations with AT&T at the time of this review and showed the consultants and PRB staff the contract provisions calling for renegotiations. In their report, the PRB recommended that DISC execute those provisions. That fruit had already fallen off the tree, but OK. However, the PRB reported to the legislature that the savings in long distance costs had resulted from their recommendations completely ignoring a longstanding business practice that was underway at the time of the review. In my view, the \$20,000 expenditure on private consultants for this recommendation was unnecessary.

House Fed. &
State Affairs
Date 3/7/2001
Attachment No. 3
Page 1 of 2

Another example of inflated or illusionary savings is the case of the Central Motor Pool. The use of Fuel Man, a company that arranges discounts on gasoline for large fleets, was already under consideration at the time of the PRB's review of the Central Motor Pool operations. Paying consultants to validate potential savings was, again, unnecessary. Moreover, there was a significant miscalculation in the savings the PRB claimed to achieve in testimony before the legislature. The PRB study calculated the number of miles our cars are driven each year, about 26,000,000 miles, and determined savings of about 1 cent a gallon if we used Fuel Man. They calculated the savings resulting from their recommendation would be \$260,000 annually. Where the analysis broke down was the savings were derived from multiplying the 26,000,000 miles times the 1 cent a gallon in savings -- \$260,000. It should have been calculated by multiplying the number of actual gallons the state uses by the amount saved per gallon -- \$12,000. The good news is that our cars do significantly better than one mile per gallon. The bad news is that this miscalculation overstated the savings by about \$248,000. The real point is, we were already making plans to use Fuel Man so even these more modest savings would have accrued without the PRB recommendations.

There are other examples and other agencies with similar experiences, but I think the point is clear. I do not oppose scrutiny or oversight. Indeed, the Department of Administration as well as many other agencies have vastly improved and modernized our business practices. We look for ways to do things better, smarter, and cheaper every day. And I freely admit there is always room for improvement. The Governor's concerns are not about scrutiny or oversight. They are about effectiveness and waste.

In my view, we have an excellent and professional audit function in Legislative Post Audit. At best, the Performance Review Board staff is duplicative. I submit that LPA is fully capable of conducting most all of these reviews and do it with highly skilled, professional auditors rather than low bid consultants of varying quality. Further, I would suggest that it is possible to receive input from private sector business people simply by retaining the board members or similar group and tasking them with providing review and comment of LPA analyses in cases where the input would be germane. Funding a separate organization with its own offices, an executive director and staff that simply contracts out for consultants is unnecessary.

Lastly, I am aware that some of the employee associations are on record in support of retaining the PRB. Perhaps they feel a level of comfort with the fact that PRB has never recommended the actual privatization of any government function it has reviewed. This is telling of both the PRB and these organizations. I submit that any concerns of fair treatment and due process for state employees can be handled through other means than the Performance Review Board as it is currently configured.



BILL GRAVES
Governor

ROBERT L. STOCKWELL
Executive Director
Mercantile Building, Suite 817
800 SW Jackson
Topeka, KS 66612
Tel (785) 296-4393
Fax (785) 296-4360
E-mail: kprb@parod.com

KANSAS PERFORMANCE REVIEW BOARD

March 7, 2001

The Honorable Doug Mays
Chairman, House Federal and State Affairs Committee
Kansas State Capitol
Topeka, Kansas 66612

Dear Representative Mays and members of the Committee;

Governor Graves' budget proposal for Fiscal Year 2002 includes his recommendation to abolish the Performance Review Board:

"...The Board was created during the 1996 Legislative Session. Its role in state government in the four years of its existence has not been well defined. Some of its functions appear to overlap those of Legislative Post Audit. And the Board's organizational location in the Department of Administration has been a poor fit. For these reasons, the Governor proposes abolishing the Board in its current form."

Two weeks ago the Senate passed SB 180 that repeals the Performance Review Act and sent it to the House for consideration. Unfortunately it appears that this legislation will pass without any dialogue for the need of government review or even an assessment of the Performance Review Board's recommendations to achieve efficiency and cost-effectiveness in the agencies it reviewed. Last week, the Legislative Post Audit Committee approved a 100-hour audit to seek alternatives to KPRB for access by the private sector to government.

From the onset of the Board, there was no consensus between the Governor and the Legislature about which was responsible for the Board. The Governor believes the Board is a legislative initiative and, as such, should be supported by the Legislature. Indeed, in each of the past three years, the Budget Director's recommendation for the Board's annual budget has been **\$0.00**. Although the Board received partial funding the last two years, all support has been withdrawn for FY 02. Moreover, in the 42 month existence of the Board, it did not have enough appointed members to achieve a quorum for 1/3 of that time. This, combined with the lack of funds to review agencies, hampered the Board from making rapid progress towards accomplishing its mission.

Even so, as business men and women, the Board observed that the state has few management

House Fed. &

State Affairs

Date 3/7/2001

Attachment No. 4

Page 1 of 1

controls to measure its programs routinely; no systematic means to review policies, procedures and systems for efficiency; no method to initiate, harmonize or synchronize best practices across agency boundaries; and no incentives to do any of these. Although state government and business may seek different goals in their pursuits, both must find ways to save money through efficient and cost-effective systems and innovative ways to improve service to their customers if they are to remain viable.

Although the lack of support from the Governor and the leadership of the legislature disheartens me, I am here to encourage you and your colleagues in the legislature to take the time to find the right mechanism for Kansas government to review its programs, organizational structures, and procedures for efficiency and cost-effectiveness.

For this reason, I am providing you a brief summary about the history, missions and roles of the Board, its methodology for conducting reviews, budget summary, lessons learned, and my conclusions.

History:

The Performance Review Board's history is rooted in bipartisan efforts in reviewing the efficiency and effectiveness of state government in order to provide the citizens of Kansas with the best possible services at the lowest cost. In March of 1993, Governor Finney assembled a panel of business executives and agency heads to investigate, analyze, and recommend opportunities to improve Kansas's government. The resulting series of recommendations are entitled "*Reinventing Kansas Government: A Public & Private Initiative.*" In 1994, the Legislature established a Council on Privatization under the provisions of Senate Concurrent Resolution 1626. That Council was established to study the issues surrounding contracting for private performance of government services, to identify state services that may be in competition with the private sector, and to develop recommendations that would make state government more competitive and improve the delivery of services to Kansas' citizens. In the resulting study, "*Privatize, Eliminate, Retain or Modify: A Strategy for Competitiveness in Government,*" dated January 20, 1995, the Council concluded that the State lacked an overall framework for privatization decisions. The Council recommended that the Legislature establish a mechanism for reviewing the effectiveness and efficiency of state government. On May 11, 1996, the State Legislature passed Senate Bill 102, codified in KSA 75-7101 et seq., creating the Kansas Performance Review Act and establishing the Kansas Performance Review Board (KPRB). Governor Graves appointed five business and industrial leaders to comprise the first Board. They were confirmed by the Senate in April 1997 and held their first organizational meeting the following month.

With the appointment of an Executive Director and the hiring of the Chief of Research and a Senior Financial Analyst, KPRB officially opened its office on July 1, 1997, in the Mercantile Building, Suite 817, 800 SW Jackson, Topeka. It immediately began coordinating with the agencies and organizations of state government to carry out its mandate to provide the citizens of Kansas the most effective and cost-efficient form of government possible. As the first order of business the Board established its policies and procedures and began operations immediately.

Mission and Roles:

Mission Statement: To provide a continuing process to review functions of state government to determine whether they are being executed in the most efficient and effective manner. To encourage innovation; and to recommend privatization, elimination, retention, or

House Fed. &
Modification of
Date 3/7/2001
Attachment No. 4
Page 2 of 7

State-run functions and activities to the Governor and the Legislature.

Objectives:

1. Develop a cost model for use throughout state government to ensure that all costs are captured in relation to their true activities; this model will be the basis on which further cost analysis and comparisons will be performed.
2. Establish a process for evaluation of state functions and/or programs based on their true cost to be measured against a corresponding proposal from the private sector.
3. Develop and encourage methods of providing certain government services or government produced programs by the private sector based on a competitive contracting program.
4. Develop a program to encourage innovation and competition within state government and with the private sector.
5. Recommend methods that will provide better value for less cost of state functions and programs to the Governor and the Legislature.

Roles: The Kansas Performance Review Board performs four distinct but interrelated functions.

1. **Arbitrator:** When requested by an outside source the KPRB will review all aspects of a program, service, or function currently performed by the state and brought to its attention in accordance with K.S.A. 75-7101 et seq. The KPRB will recommend an appropriate resolution to the Governor or Legislature.
2. **Facilitator:** The KPRB will assist in creating a broader dialogue among state government, the citizens it serves, and the private sector. The dialogue will focus on state functions, services, and programs that can be provided at the same or better value for less cost.
3. **Educator:** The KPRB will promote a greater understanding of the meaning of efficiency and cost effectiveness in state government for public employees. KPRB will provide a means for distributing ideas, concepts, and new knowledge to state agencies as this knowledge pertains to efficiency and cost effectiveness in government.
4. **Innovator:** KPRB will encourage change, modernization, and present new methods of performance as they relate to greater efficiency and cost effectiveness in state government. KPRB will encourage innovation and creativity among agency directors, employees, and administrators.

Methodology:

Explicit in the Legislative statute establishing KPRB is the requirement for the Board to adopt a performance review methodology based on the Privatization, Elimination, Retention, or Modification (PERM) model. In order to understand fully the model, KPRB invited Michigan's Director of Privatization to discuss their PERM model with the Board on May 13, 1997. The KPRB Executive Director provided Board members with additional information from other state models that were active in privatization efforts including: Virginia's Commonwealth Competition Council, Texas' Council on Competitive Government, Privatization in North Carolina State Government, and Colorado's Privatization Assessment Workbook. The Board reviewed the information from various states and directed the staff to focus the Kansas Performance Review Methodology on the Michigan PERM model.

House Fed. &
State Affairs
Date 3/7/2001

Attachment No. 4
Page 3 of 7

The staff used the Michigan PERM model as the core of its methodology and included features from the Virginia and Texas models. The resulting document was presented to the Board for review in September 1997. The Board accepted the draft document "*Kansas Performance Review Methodology*" and instructed the staff to continue to refine the document over time. The first draft of this "living" document was revised in November 1997, and distributed to all agencies in the State of Kansas.

The Kansas Performance Review Act requires that all agencies use the same methodology (in this case the KPRB methodology), or one similar, when identifying an agency function, service, or program for privatization. The KPRB Methodology can also be used by State agencies as a management tool for internal decision-making. The Board will use the KPRB Methodology as the primary analytical tool as it arbitrates requests for performance reviews. Based on the PERM methodology and the policies and procedures developed for the smooth functioning of the KPRB, a workflow model was developed noting the basic functions performed from the initial identification of an issue to be analyzed, to the presentation of the final recommendation to the Governor, President of the Senate, and Speaker of the House.

The Performance Review Board staff supports the Board by working on projects designed to accomplish the Board's mission. These projects include: fact finding and analysis of issues for performance reviews, staff coordination with other state agencies, public and private sector speaking engagements about KPRB, association with other states, and national public and private organizations with similar mandates.

Budget: The Performance Review Board's budget has been unstable since the Board began. For the past three years the Budget Director has recommended \$0.00. The operating costs for the Board are constant. The variable depends on the number of reviews approved for each year. The dollar amount for each review is calculated at \$25,000 for contract expertise. The Board's budget is a combination of the operating costs and the number of reviews. For FY 02 the Board's budget request is: **Total \$387,207**

Fiscal Year 2002 Budget request

Salaries	\$209,649
Other Fixed Costs	71,351
Office Relocation	6,207
Reviews (4)	<u>100,000</u>
Total	\$387,207

House Fed. &

State Affairs

Date 3/7/2001

Attachment No. 4

Page 4 of 7

Budget Summary:

	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>	<u>FY01</u>	Gov <u>FY02</u>	Req <u>FY02*</u>
Appropriation	150.0	231.6	300.2	344.6	279.9	-0-	387.2
Carryover (prior)	-0-	104.1	127.2	127.4	11.7	-0-	-0-
Funds Available	150.0	335.7	427.4	472.0	291.6	-0-	387.2

Less:

Salaries	24.1	150.5	194.6	203.0	211.5	-0-	209.6
Other	21.8	29.3	29.3	31.0	39.1	-0-	71.4
Consulting (Reviews)	-0-	28.7	76.1	63.0	41.0	-0-	100.0 (4)
Expenditures	45.9	208.5	300.0	297.0	291.6	-0-	387.2

FY Reduction

151.3

Reviews: Although the Performance Review Board has been without a quorum for more than 15 of its 42 months of existence, it still has managed to conduct seven reviews of different agency programs. These reviews provided "common sense" recommendations to the issues at hand. The Board was quick to recognize excellence in management in several of the studies and concluded that these ought to be retained as they are currently operated. In others the Board recommended certain modifications that would achieve considerable savings for the state.

Reviews conducted:

	Annual Rec'd Savings	FY
• Central Motor Pool	\$1M	FY 98
• DISC Long Distance	\$500K	FY 99
• State Printing Operations	\$350K	FY 00
• Health and Environment Laboratories	\$186K *	FY 00
• Department of Agriculture Laboratory	\$0 *	FY 00
* Consolidated Laboratory	\$418K	FY 00
• Division of Purchases	\$18M	ERP Implementation
• KDOT Construction Engineers	\$-0-	Validated KDOT Program

Lessons Learned:

A few useful lessons can be learned from the creation of the KPRB, not the least of which is that recommending the privatization, elimination, retention, or modification of a program belonging to another State department, agency, or organization is an inherently difficult activity.

Bureaucratic inertia (i.e. the defense of the status quo) is a natural reaction to recommendations from outside observers. Likewise, some resistance can be expected from those who are in charge of an agency whose programs are being examined, because they are very busy people with a great deal of responsibility covering numerous areas for which they cannot give equal attention.

Additionally, they are naturally protective of their people, programs, and prerogatives. A challenge for the KPRB is to convince State agencies that they should be seen as the analytical arm of State government available to help those agencies examine issues and programs with an eye towards producing greater efficiency and cost savings in government. The following are observations that highlight some of the problems and issues that have confronted the KPRB.

Observations:

- In order to ensure that recommendations are welcomed and in turn accepted, key stakeholders from the directorate, agency, or organization having ownership of the issue should be involved in the development of the analysis, report, and recommendations.
- The Kansas cash-based accounting system poses inconsistent problems analyzing cost data. Non-compliance with generally accepted accounting principles and the absence of an activity based management system necessitates a labor-intensive study of accounting records. Therefore, the strength of cost analysis hinges on the competency of the agency's accounting staff. Additionally, the conversion process from cash-based to modified accrual opens itself up to arguments on interpretation and measurement of data, which ultimately weakens the methodology.
- Stovepipe organizations and what appears to be a cultural climate of "turf protecting" hinders change in Kansas state government.
- KPRB's methodology is sound; it computes *the total cost of a program*, and should be used routinely to monitor costs.
- Agencies lack adequate property accountability and inventory controls.
- State bureaucracy lacks interest in cost effectiveness, particularly in times of budget surplus, except when routine issues become a crisis.
- Several problems in the area of contract performance reveal a systemic problem in the writing of requests for proposal (RFP) and the subsequent management of privatization efforts.

Conclusions:

KPRB has added a new dimension of corporate expertise to the executive branch. The Board members volunteer their time and experience as they evaluate state programs for efficiency and cost effectiveness. Their business judgment combined with an effective review methodology geared to Kansas government operations provides the Governor and the Legislature a mature, independent voice with which to recommend improvements. The daily KPRB staff interaction with executive branch agencies, legislators, and their staffs generate new and innovative ideas to apply to old problems. KPRB is, by design, a link to innovation and a conduit to the private sector. KPRB can inspire public confidence in government as taxpayers realize the total value they receive for their tax dollars.

But a lack of leadership support and minimal financial resources has caused the

House Fed. &

State Affairs

Date 3/7/2001

Attachment No. 4

Page 6 of 7

Performance Review Board to struggle to meet the intent and expectations of the Legislature. Indeed, the passage of SB 180 last week in the Senate by a margin of 39-1 highlights the indifference of state leaders to sound management practices in the bureaucracy.

Without an instrumentality like the Performance Review Board, the state will lose its only mechanism to methodically review state programs, services and functions. With no political "*champion*" in either the Executive branch or the Legislature to encourage agencies to systematically evaluate their programs with a sound methodology and no Board to facilitate reviews externally, agencies and the bureaucracy have no impetus to do so on their own. For this reason, the Board believes 1) that the concept of governmental self-evaluation embodied in the Performance Review Act should be preserved; 2) that the existing statutes should be refined and strengthened for use in the Executive Branch or under the auspices of the Legislature.

The potential of the Kansas Performance Review Board will be realized when the leadership in government becomes actively involved with the Board to provide the citizens of Kansas with the most efficient and cost-effective government possible.

Thank you for inviting me to appear before you.

Sincerely,

Robert L. Stockwell
Executive Director

House Fed. &
State Affairs

Date 3/7/2001

Attachment No. 4

Page 1 of 7

LEGISLATIVE TESTIMONY



The Unified Voice of Business

835 SW Topeka Blvd. • Topeka, KS 66612-1671 • 785-357-6321 • Fax: 785-357-4732 • E-mail: kcci@kansaschamber.org • www.kansaschamber.org

SB 180

March 7, 2001

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Federal and State Affairs

by

Terry Leatherman
Vice President – Legislative Affairs
Kansas Chamber of Commerce and Industry

Mr. Chairman and members of the Committee:

My name is Terry Leatherman. I am the Vice President for Legislative Affairs for the Kansas Chamber of Commerce and Industry. Thank you for the opportunity to comment on SB 180, which calls for the abolition of the Kansas Performance Review Board.

The Kansas Chamber was a major supporter of the creation of the Kansas Performance Review Board. In advocating for the creation of the Board before the Legislature in 1995, KCCI's Director of Taxation at the time, Bob Corkins, closed his testimony with this bold suggestion.

"KCCI contends that the new Performance Review Board should justify its legislative appropriation by showing at least a ten-fold return on investment at the end of three years or be subject to automatic

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 2,000 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 48% of KCCI's members having less than 25 employees, and 78% 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.

House Fed. &
State Affairs
Date 3/7/2001

Attachment No. 5

Page 1 of 2

ment. In other words, if this new entity were to receive \$500,000 for three years without resulting in cumulative savings of at least \$15 million in state spending, we believe it should be abolished." (KCCI Testimony before the Senate Commerce Committee, March 7, 1995)

The Performance Review Board has had its successes. However, we do not stand here claiming the Board has met the challenge laid down six years ago. If the Legislature's only options are to keep the Performance Review Board in its current structure or to kill it, the state would be better off approving SB 180.

KCCI remains supportive of the concept behind the Performance Review Board to assemble a committee of private sector executives to evaluate and recommend opportunities to improve Kansas government. Talented individuals have been willing to provide the principles they have learned in the private sector to help government perform better. The performance of the Board seems to have been appropriately measured. The challenge for this Board appears to have been the natural defensive tendency government would have towards the Board's efforts. Outsiders are working within the government structure, issuing reports that are potentially critical of government operations, which are then left to government to initiate.

To succeed, an entity like the Kansas Performance Review Board would need executive branch support of this concept of outside review and to encourage its efforts. From KCCI's perspective, this administration has taken the opposite view. The Performance Review Board has been an operation to first ignore, then impose obstacles for it to function, and finally to abolish. SB 180 is a clear example of the administration's view of the Performance Review Board by advancing a proposal to abolish a problem, rather than nurture an opportunity.

Before the Senate Commerce Committee, KCCI urged that alternatives be considered so the Board achieves what was expected when it was created. The Senate did not close the door entirely. In passing SB 180, it was expressed that a performance audit be performed to review options for private sector input into government operations. The Kansas Chamber feels that audit will show there can be effective private sector advice that leads to positive change, when government is willing to listen.

Permit me one final observation. In today's legislative climate of tight state budgets and with the possibility of tax increases being discussed, it is ironic that this Board which promoted government efficiency is up for abolition. Thank you for the opportunity to comment on the Kansas Performance Review Board. I would be happy to respond to any questions.

House Fed. &
State Affairs
Date 3/7/2001
Attachment No. 5
Page 2 of 2

UNPROOFED

PROPOSED HOUSE Substitute for SENATE BILL NO. 178

By Committee on Federal and State Affairs

AN ACT concerning the liquor control act; relating to the issuance of license thereunder; amending K.S.A. 41-311 and 41-319 and repealing the existing sections.

need to amend
minor cleanup

→ 41-2623.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 41-311 is hereby amended to read as follows: 41-311. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) Who has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions of this act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(4) who has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702 and amendments thereto shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not have a written lease thereon for at least 3/4 of the period for which the license is to be issued; or

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license; or

(13) who does not provide the director with the information deemed necessary to process the application under section 2, and amendments thereto.

(b) No retailer's license shall be issued to:

(1) A person who is not a resident of this state;

(2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;

(3) a person who has beneficial interest in the manufacture, preparation or wholesaling of alcoholic beverages;

(4) a person who has beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;

(5) a copartnership, unless all of the copartners are qualified to obtain a license;

(6) a corporation; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements;

(2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

(4) an individual who is not a resident of this state; or

(5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such

transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

(4) an individual who is not a resident of this state; or

(5) an individual who has not been a resident of this state

for at least 10 years immediately preceding the date of application, except that:

(A) A wholesaler of cereal malt beverages properly licensed on September 1, 1948, shall be eligible for a beer distributor's license; and

(B) a person who has been a resident of the state for at least one year immediately preceding the date of application shall be eligible for a beer distributor's license.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license or farm winery license shall be issued to a:

- (1) Person who is not a resident of this state;
- (2) person who has not been a resident of this state for at least four years immediately preceding the date of application;
- (3) person who has beneficial interest in the manufacture, preparation or wholesaling of alcoholic beverages other than that produced by such brewery or winery;
- (4) person, copartnership or association which has beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702 and amendments thereto;
- (5) copartnership, unless all of the copartners are qualified to obtain a license;
- (6) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or
- (7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply

in determining whether a beneficiary would be eligible for a license.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (d)(4), (f)(1) and (f)(2) shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.

New Sec. 2. (a) If the director determines it is necessary to process an application for licensure:

(1) The individual applicant, or the individual officers, directors, stockholders, copartners, grantors, beneficiary or

trustees, in the case of an applicant that is a corporation, partnership or trust, shall submit to a national criminal history record check and provides the director with two legible sets of fingerprints;

(2) the applicant shall disclose to the director any substantial financial interest the applicant owns in any entity that receives proceeds from the sale of alcoholic beverages; and

(3) the applicant shall submit a release allowing the director to have access to and review of the applicant's financial records to verify ownership and to ensure applicant is not an agent of another person. This release shall remain in effect after the license has been issued until the license is canceled or revoked.

(b) The director shall submit the fingerprints provided under this section to the Kansas bureau of investigation and to the federal bureau of investigation for the purposes of verifying the identity of such applicant or individuals, and obtaining records of criminal arrests and convictions. The director may receive from the Kansas bureau of investigation or other criminal justice agencies, including but not limited to the federal bureau of investigation and the federal internal revenue service, such criminal history record information, including arrest and nonconviction data, criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining qualifications of licensees and applicants for licensure. Upon the written request of the director, the director may receive from the district courts such information relating to juvenile proceedings as necessary for the purpose of determining qualifications of licensees and of applicants for licensure.

(c) All costs incurred pursuant to this section to ensure that the applicant is qualified for licensure shall be paid by the applicant.

Sec. 3. K.S.A. 41-319 is hereby amended to read as follows:
41-319. (a) Except as provided by subsection (b), within 30 days

after an application is filed for a retailer's, microbrewery or farm winery license and within 20 days after an application is filed for a manufacturer's, distributor's or nonbeverage user's license, the director shall enter an order either refusing or granting the license. If the director does not enter an order within the time prescribed, the license applied for shall be deemed to have been refused. The director, with the written consent of the applicant for a license, may delay entering an order on an application for an additional period of not to exceed 30 days.

(b) In order to complete any national criminal history record check of an applicant for a license who submitted any application after January 31, 2001, the director shall enter an order either refusing or granting the license within 90 days after such application is filed. If the director does not enter an order within the time prescribed, the license applied for shall be deemed to have been refused. The director, with the written consent of the applicant for a license, may delay entering an order on an application for an additional period of not to exceed 30 days.

Sec. 4. K.S.A. 41-311 and 41-319 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.