

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Senator Karin Brownlee at 8:30 a.m. on February 13, 2001 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: April Holman, Legislative Research Department
 Bob Nugent, Revisor of Statutes
 Lea Gerard, Secretary

Conferees appearing before the committee: Senator Derek Schmidt
 Mike Mabrey, S.E. Kansas, Inc.
 Dennis Arnold, Lynn County Economic Development
 John Hotaling, Coffey County Economic Development
 Senator Susan Wagle
 Ron Hein, representing Mental Health Credentialing
 Coalition
 Robert Martin, Attorney
 Tamara Pryer, PHD, LCPCCO-Director P.A.T.H. Clinic LC
 Robert Stockwell, Director of the Budget
 Secretary Dan Stanley
 Barb Hinton, Post Audit

Others attending: See attached list.

Hearings on **SB 146**: Expand job investment credit act to rural counties.

In accordance with KSA 75-3715a, the fiscal note concerning **SB 146** was submitted to committee members (Attachment 1).

Bob Nugent, Revisor of Statutes stated **SB 146** amends the job enlargement and investment credit act. The act originated out of the enterprise zone law in the 1970's. The legislature found the entire state could eventually become an enterprise zone so choose to in effect make the entire state an enterprise zone. There are three levels of incentive provided by the act. The lowest level of incentive is the subject of **SB 146** and it applies to retail establishments that create jobs, make investments and provides for a sales tax exemption for those types of firms.

Senator Derek Schmidt testified in support of **SB 146** (Attachment 2). Senator Schmidt stated the purpose of this bill is to expand the lowest level of incentives that currently exist in our enterprise zone act so that we can also create incentives to people who choose to locate a small retail business in the unincorporated parts of the smallest and poorest counties. This bill is to encourage small scale economic development in the most rural areas of the state.

Mike Mabrey, Southeast Kansas Inc, testified in support of **SB 146**. Mr. Mabrey stated he has worked with retailers in the main street program and is very aware of how the rural communities feel about economic development and incentives. The fiscal note on this bill is insignificant and would provide a real benefit to those people willing to take the risk of investing in their community.

Dennis Arnold, Lynn County Economic Development, testified in support of **SB 146** (Attachment 3). One of those fifteen denials came from my county. We have an unincorporated town, Centerville, in my county that has a bank, postoffice and it's a community that was denied the ability to open a substantial business. The business was a wrecker company that had several hundred thousand dollars worth of equipment and the sales tax exemption would be very significant to them. I helped put this bill together in the Southeast Kansas meetings and everyone is very supportive of this bill which will have a positive impact on our most rural communities.

In response to a question from the Committee, Mr Arnold stated the Department of Revenue makes the decisions based on the 1990 population census. The criteria is that the business can open inside city limits if that population is 2500 or less.

Jon Hotaling, Coffey County Economic Development Department, testified in support of **SB 146** (Attachment 4). The key factors in this bill is that retail business wanting to locate outside city limits of a community of 2500 or less would be eligible. If the community is over 2500, a retail development outside that community would be eligible for the sales tax exemption if the county is 10,000 or less in population. Four or five people in a retail business for a community of 2500 people or less has a major impact similar to a manufacturing firm of 15 to 20 employees in a community of 10,000. The small communities do not have the infrastructure or labor pool to be recruiting manufacturing so their major opportunity is in the retail sector.

The hearing on **SB 146** was concluded.

Hearings on **SB 176**: Professional corporation to include licensed clinical professional counselors.

In accordance with KSA 75-3715a, a fiscal note concerning **SB 176** was submitted to committee members (Attachment 5).

Senator Wagle testified in support of **SB 176**. Several people from the City of Wichita requested that licensed clinical professional counselors be added to the list in the bill. This bill provides for licensed professional counselors to go out and operate as a professional corporation.

Ron Hein on behalf of the Mental Health Credentialing Coalition provided testimony in support of **SB 176**. He stated this bill permits licensed professional counselors to utilize the professional corporation code as an alternative to other business organizations provided by law. Mr. Hein proposed an amendment to **SB 176** by adding Licensed clinical marriage and family therapists and licensed clinical psychotherapists (Attachment 6).

In response to a question from the Committee, Mr. Hein said the advantage to a professional corporation would allow you to take income and rather than tax it once at the corporate level and then again when you distribute income to the shareholders, it would give you the opportunity to tax it just once.

Robert Martin, Attorney testified in support of **SB 176** stating that the advantage of this bill is so the individual can be a professional corporation, a limited liability corporation or a limited liability partnership. Those are basically the three entities that are used. For an LLC or an LLP as they are determined, they have to look to the professional association code for what professions are listed before they can be LLC or LLP or PA. The reason for the corporate entity is two fold in that it prevents double taxation and secondly you preclude that person from having unlimited liability.

The Kansas State Board of Technical Professions submitted a letter requesting that the Committee add geologists to the **SB 176** (Attachment 7).

The hearings on **SB 176** was concluded.

Hearings on **SB 180**: Abolish the Kansas Performance Review Board.

In accordance with KSA 75-3715a, the fiscal note concerning **SB 180** was submitted to the committee (Attachment 8).

Senator Brownlee stated the reason for this bill was the Governor did not include funding for this board in his budget and that is the reason for eliminating this board.

Secretary Dan Stanley testified in support of **SB 180**. The background Performance Review Board was generated as a result of the closure of Topeka State Hospital and to look at items for privatizing. As it evolved, the Performance Review Board began to contract consultants for study to look at efficiencies in state government and to make a determination as to whether the function should be retained, privatized or modified. The Governor believes that the board is duplicitous and has not generated the savings claimed. Mr. Stanley stated that we have an auditing function with the Legislative Post Audit and the boards existence is unnecessary. Should the state want to utilize Post Audit for the same studies, there are professional auditors trained a number of the disciplines for which the board seeks consultants. If you wish to retain the board structure itself, that board could be retained and in an event that there are audits to examine, business practices to be modified or privatized, the board could convene, review and comment on the work of post audit without having to set-up this separate group.

Dan Goossen, Director of the Budget, testified in support of **SB 180** (Attachment 9). Mr. Goossen stated that as they considered items during budget review this fall with the Governor, the conclusion was made that the duties of the board either needed to be completely redefined or the board should be abolished. The current budget of the board total \$338,070, with \$291,570 from the State General Fund.

Robert Stockwell, Executive Director of Performance Review Board testified in opposition to **SB 180** (Attachment 10). Mr. Stockwell stated the Governor's recommendation is to abolish the board in its present form because it has ill defined legislation that overlaps Legislative Post Audit Division functions. He stated the Performance Review Board's mission was to review state agencies for efficiency and cost effectiveness. We would recommend retention, modification, elimination or privatization to the Governor and Legislature. The Performance Review Board is the gateway to serve with both the public and private sectors to review government efficiencies in ways that the private sector may feel they can do the job better, faster or cheaper than the government.

In response to a question from the Committee regarding Secretary's Stanley's comment regarding projects the board had reviewed in 1998 and 1999 were being done and the board did not affect any savings, Mr. Stockwell stated the facts that are laid out in the recommendations differ slightly from the Secretary's recollection; however, I will say that I agree with him the savings aren't generated unless they are implemented.

Dale Davis, member of the Performance Review Board, testified in opposition to **SB 180** (Attachment 11). Without a mechanism like the Performance Review Board, the state will lose its only mechanism to methodically review state programs, services and functions.

Terry Leatherman, KCCI testified in opposition to **SB 180** (Attachment 12) stated the concept behind the Performance Review Board is sound. The idea of having private sector executives evaluate and recommend opportunities to improve Kansas government to be more efficient seems to be based on a sound principle. The challenge for this board seems to be the natural tendency for government to be defensive toward the board's efforts.

Bob Totten, Public Affairs Director, Kansas Contractors Association, Inc. presented written testimony in opposition to **SB 180** (Attachment 13).

Barb Hinton, Legislative Post Audit, gave an overview if it was possible to put this function under Post Audit (Attachment 14).

Andy Sanchez, Executive Assistant to the President, KAPE presented written testimony in opposition to **SB 180** (Attachment 15).

The hearings on **SB 180** were concluded.

Senator Emler moved to approve minutes of January 26, 30, 31 and February 1, 2001 meetings. Senator Jenkins seconded the motion. Motion carried.

The meeting was adjourned at 9:30 a.m.

The next meeting is scheduled for February 14, 2001 at 8:00 a.m.

SENATE COMMERCE COMMITTEE

GUEST LIST

DATE: FEBRUARY 13, 2001

NAME	REPRESENTING
Paley Paine	Ks. Rep. Rees Blvd.
Terry Leatherman	KCCT
Denise Ivory	
Leslie Kaser	
Jamara Pujon	
Bob Martin	
Mike Mahren	Southeast Kansas, Inc.
Dennis Arnold	Lincoln County Eco. Dev.
Jan Hotaling	Coffey Co. Econ Dev & SER, INC
Roger Bryzdek	KEE
David L. Koss	KDOCH
Barb Hinton	Post Audit
Robert L. Stockwell	KPRB
Kevin Stockwell	Speaker Kent Glasscock
Seth Bridge	Sen. Brungardt
Kevin Berore	Men/wear chrt.
Ron Hein	Mental Health Credentialing Coalition
Jelly Farnes	Ks Public Health

STATE OF KANSAS



DIVISION OF THE BUDGET
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March 5, 2001

Bill Graves
Governor

Duane A. Goossen
Director

CORRECTED

The Honorable Karin Brownlee, Chairperson
Senate Committee on Commerce
Statehouse, Room 136-N
Topeka, Kansas 66612

Dear Senator Brownlee:

SUBJECT: Corrected Fiscal Note for SB 146 by Senator Schmidt, et al.

In accordance with KSA 75-3715a, the following corrected fiscal note concerning SB 146 is respectfully submitted to your committee.

SB 146 would amend current law to allow a retail business to receive a sales tax exemption, if it expands or locates outside a city in a county having a population of 10,000 or less, as determined by the United States federal census. Current law allows an exemption for retail businesses locating or expanding in a city with a population of 2,500 or less. There were 52 retail businesses that qualified for the sales tax exemption under KSA 3606(cc) in calendar year 1999. The exemptions totaled \$1.94 million.

There are 62 counties in Kansas with a population under 10,000. The Kansas Department of Revenue indicates that of the credit applications received in 1999, the amount of credit per retailer was \$25,000. Assuming that one retailer in 50 percent of the 62 counties were to utilize the exemption and the average exemption amount is one-half of the amount for businesses located in a city, the annual amount of sales tax credits granted would be \$388,000.

Sincerely,

A handwritten signature in blue ink that reads "Duane A. Goossen".

Duane A. Goossen
Director of the Budget

cc: Sherry Brown, Commerce & Housing
Judy Moler, KS Association of Counties

Kim Gulley, League of KS Municipalities
Steve Neske, Revenue Senate Commerce Committee

February 13, 2001
Attachment 1-01



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Bill Graves
 Governor

Duane A. Goossen
 Director

February 13, 2001

The Honorable Karin Brownlee, Chairperson
 Senate Committee on Commerce
 Statehouse, Room 136-N
 Topeka, Kansas 66612

Dear Senator Brownlee:

SUBJECT: Fiscal Note for SB 146 by Senator Schmidt, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning SB 146 is respectfully submitted to your committee.

SB 146 would amend current law to allow a retail business to receive a sales tax exemption, if it expands or relocates outside a city in a county having a population of 10,000 or less, as determined by the United States federal census.

Estimated State Fiscal Effect				
	FY 2001 SGF	FY 2001 All Funds	FY 2002 SGF	FY 2002 All Funds
Revenue	--	--	(\$368,000)	(\$388,000)
Expenditure	--	--	--	--
FTE Pos.	--	--	--	--

The Honorable Karin Brownlee, Chairperson
February 13, 2001
Page 2—146fn

The Kansas Department of Revenue indicates that the bill would have a fiscal effect of \$388,000. The bill would decrease revenues to the State General Fund by \$368,000 and Highway Fund by \$20,000.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Sherry Brown, Commerce & Housing
Steve Neske, Revenue
Kim Gulley, League of Kansas Municipalities
Judy Moler, KS Association of Counties

15th District
Allen, Chautauqua,
SE Coffey, Montgomery,
Wilson and Woodson counties



KANSAS SENATE

Committee Assignments

Chairman: Agriculture
Member: Judiciary
Reapportionment
Natural Resources
Elections and Local
Government
Legislative Post Audit

**Testimony Before Senate Commerce Committee
In Support of Senate Bill 146
by Senator Derek Schmidt
February 13, 2001**

Madam Chair and members of the committee, thank you for conducting this hearing and allowing me to appear before you in support of Senate Bill 146. I introduced this legislation along with 14 of our colleagues on January 29.

In many parts of our state, "economic development" means luring a new manufacturing plant or taking a new technology from its birth at one of our universities to its application in a high-technology business. We are all proud of our state's successes in manufacturing, in telecommunications, in pharmaceuticals, in biomedical research, and in many other sectors in which our economy is world-class.

But as we work hard to make our state as a whole competitive in the new economy of this 21st century, we also have to work hard to ensure that our poorest and most rural communities are not left behind. This legislation is about helping our state's smallest and poorest counties – counties where "economic development" is not about Boeings or Sprints or shopping malls but about getting a new convenience store or opening a small mom-and-pop shop.

Our bill would expand a sales tax incentive that exists in our current Kansas Enterprise Zone Act for the purpose of encouraging retail businesses to locate or expand in the state's most rural areas. Under current law, a retail business that creates at least two new jobs by opening or expanding in a town of 2,500 or fewer people can be exempt from paying sales tax on materials and labor used in the expansion. Our proposal would expand eligibility for this sales tax exemption so it is also available to retail businesses that locate or expand in the unincorporated areas of a county of 10,000 or fewer people.

This expansion will make the incentive available to the new bait shop that wants to open along the highway between town and the fishing lake. Or to the new gas station that wants to open at the junction where the new highway bypassed town. Or to the small hardware or grocery store that wants to open in the unincorporated town on the far side of the county.

District Office
304 N. 6th Street
P.O. Box 747
Independence, Kansas 67301-0747
(316) 331-1800

Senate Commerce Committee
February 13, 2001
Attachment 2-1

Sixty-two of our 105 counties have 10,000 or fewer people, according to preliminary figures from the 2000 census. Yet virtually all of our non-metropolitan counties would benefit from this regional approach to economic development – and our metropolitan areas benefit from a healthy rural Kansas.

That is why this measure was conceived and brought forward by SEK, Inc., the regional economic development entity for Southeast Kansas. We have many counties in Southeast Kansas that would not directly benefit from the expansion we are proposing – including my home county of Montgomery. But we in Southeast Kansas understand that what helps our least-developed counties is good for all of our region. The same is true throughout the state.

At the time this testimony is being prepared, I have not seen a fiscal note on this bill. But the committee may find it helpful to consider the following information from calendar year 1999, which I obtained from the Department of Revenue:

- The Department approved 52 sales-tax exemption requests from retail businesses in towns of 2,500 or fewer people. These 52 business expansions had a total estimated project cost of \$50,240,065 and an estimated total sales tax exemption of \$1,941,069.
- The Department denied 15 other requests from retail businesses for sales tax exemption. The 15 denials were made for one or more of the following reasons: The business applying was located in a city of more than 2,500 people; *the business was not actually located within the city limits of the city with a population of 2,500 or fewer people*; or the business expansion was not going to create at least two new jobs. These 15 denied requests had a total estimated project cost of \$10,990,609 and an estimated total sales tax exemption of \$332,873.

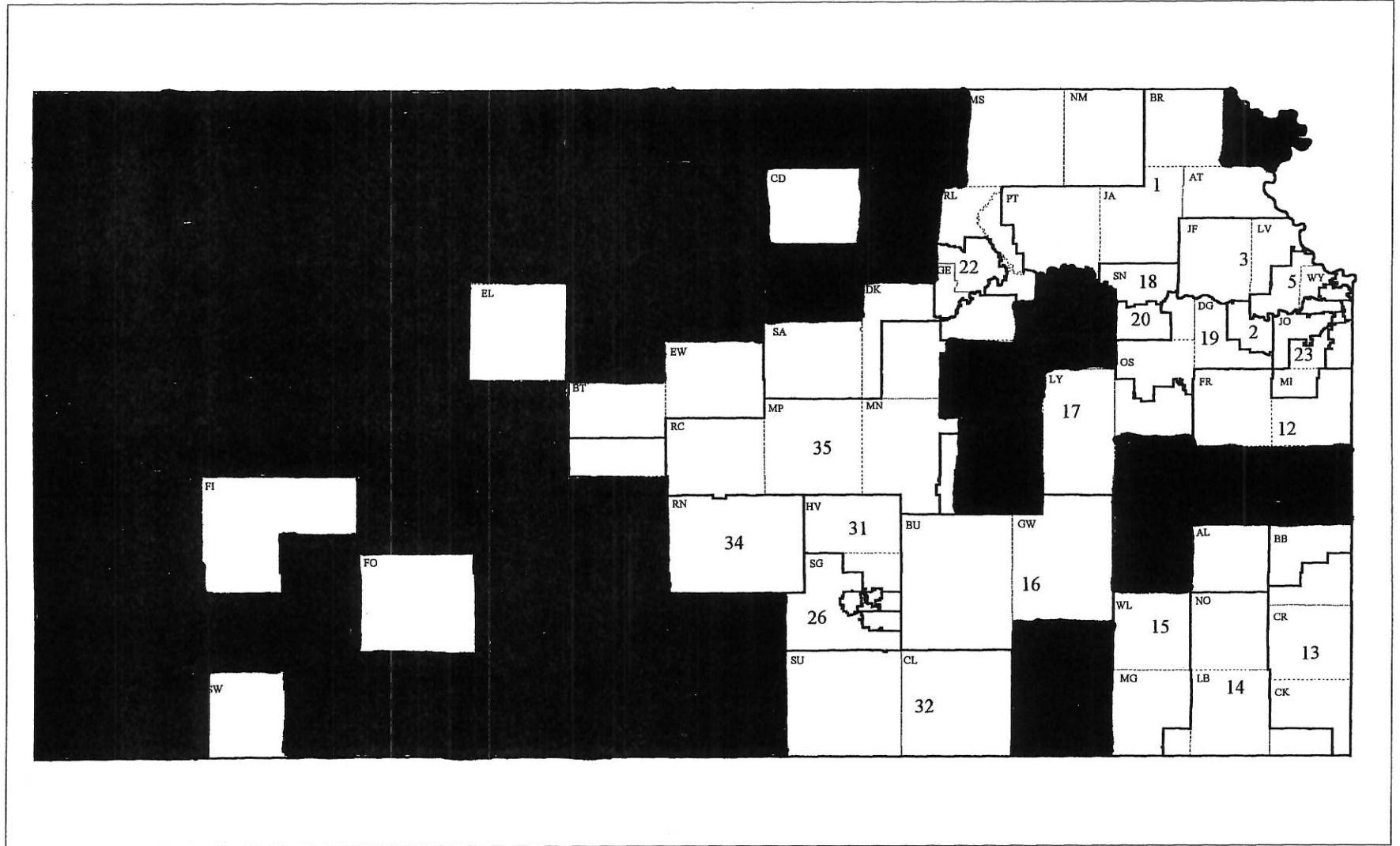
Madam chairman, thank you again for considering this bill in your committee. I would be happy to answer any questions, and I hope to work with you and your committee members to advance this proposal through the legislative process.

COUNTIES UNDER 10,000 POPULATION
WHICH WOULD BENEFIT FROM SB 146

There are 62 counties in Kansas with populations under 10,000 based on estimated figures from the 2000 Census.

Anderson	Morris
Barber	Morton
Chase	Ness
Chautauqua	Norton
Cheyenne	Osborne
Clark	Ottawa
Clay	Pawnee
Coffey	Phillips
Comanche	Pratt
Decatur	Rawlins
Doniphan	Republic
Edwards	Rooks
Elk	Rush
Ellsworth	Russell
Gove	Scott
Graham	Sheridan
Grant	Sherman
Gray	Smith
Greeley	Stafford
Hamilton	Stanton
Harper	Stevens
Haskell	Thomas
Hodgeman	Trego
Jewell	Wichita
Kearny	Wallace
Kingman	Washington
Kiowa	Wabaunsee
Lane	Woodson
Lincoln	
Linn	
Logan	
Meade	
Mitchell	

KANSAS COUNTIES WITH 10,000 OR LESS POPULATION



Testimony to Senate Commerce Committee
February 13, 2001
Jon Hotaling, Director
Coffey County Economic Development Department

It is my opinion that the sales tax exemption provided to qualifying retail businesses locating in communities having a population of 2,500 or less under the 1992 Kansas Enterprise Zone Act, was adopted for several reasons:

1. To provide an incentive for business development to small communities who may not have the infrastructure or labor pool to attract small manufacturing firms.
2. To increase retail sales in small communities.
3. Increase property values in small communities.
4. Increase bank deposits in small communities.

A retail business that employs 4 or 5 people in a community with a population under 2,500 provides as much economic impact to that community as a new manufacturing operation employing 15 to 20 people in a community of 10,000 population.

Many small communities cannot compete with the larger communities in the recruitment of manufacturing businesses. The retail sales tax exemption for new or expanding retail businesses also provides an incentive for existing qualified retail stores to renovate and expand their operations. This is important to small communities who are fighting to keep stores open on main street. The economic impact of retail businesses opening or closing in larger communities is not nearly as great. Retail businesses open and close almost daily in large communities but when a new retail store opens in a community under 2,500 population the entire community celebrates.

The change in the existing legislation will address several problems:

1. Retail operations desiring to locate on a highway outside the city limits of a community of 2,500 would not be eligible under the current act. This impacts businesses such as motels, convenience stores, restaurants, car dealers, etc., that desire to locate along highways outside of the city limits. The proposed change in the legislation would make these businesses

Senate Commerce Committee
February 13, 2001
Attachment 4-21

eligible for the sales tax exemption even if they located outside the city limits as long as the county is 10,000 or less in population.

2. If the county has a community over 2,500 in population, retail development outside that community would be eligible for the sales tax exemption if the county is 10,000 or less in population. Burlington, in Coffey County, is an example of a community that is over 2,500 that could benefit under this change to the legislation. Since highway frontage available within the city is very limited, development along the highway outside the city limit is the best option for business wanting to locate in high traffic areas.

I think the sales tax exemption for qualifying retail businesses in the 1992 legislation was implemented to provide an incentive for business development in the small communities most needing this type of incentive. I don't think the population limit needs to be increased for the city requirement or the county requirement proposed in the change to the act. Larger cities and counties do not have near the challenge in recruiting retail businesses that the small (under 2,500) communities and counties (under 10,000) have because retailers want to go where the population numbers provide a larger and growing customer base.

STATE OF KANSAS



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Bill Graves
Governor

Duane A. Goossen
Director

February 12, 2001

The Honorable Karin Brownlee, Chairperson
Senate Committee on Commerce
Statehouse, Room 136-N
Topeka, Kansas 66612

Dear Senator Brownlee:

SUBJECT: Fiscal Note for SB 176 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 176 is respectfully submitted to your committee.

SB 176 would add licensed clinical professional counselors to the list of professional service corporations listed in statute.

The bill is technical in nature and has no fiscal or administrative cost.

Sincerely,

A handwritten signature in blue ink that reads "Duane A. Goossen".

Duane A. Goossen
Director of the Budget

cc: Steve Neske, Revenue
Marsha Schremp, Behavioral Sciences
Joan Scott, Revisor

Senate Commerce Committee
February 13, 2001
Attachment 5-1

HEIN AND WEIR, CHARTERED

Attorneys at Law

5845 S.W. 29th Street, Topeka, KS 66614-2462

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Ronald R. Hein

Email: rhein@hwchtd.com

*Stephen P. Weir**

Email: sweir@hwchtd.com

*Admitted in Kansas & Texas

**Testimony re: SB 176
Senate Commerce Committee
Presented by Ronald R. Hein
on behalf of
Mental Health Credentialing Coalition
February 13, 2001**

Madame Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Mental Health Credentialing Coalition. The Coalition is comprised of the members of the Kansas Association for Marriage and Family Therapy, the Kansas Association of Masters in Psychology, and the Kansas Counseling Association/Kansas Mental Health Counselors Association.

The MHCC supports SB 176, but believes that several other clinical level mental health practitioners should be added to the list so that all of the licensees of the Behavioral Sciences Regulatory Board that can operate in independent practice are covered by the professional corporation code. Licensed clinical marriage and family therapists and licensed psychotherapists, which is the clinical level licensure name for masters level psychologists, should be added to the list in addition to the licensed professional counselors.

A copy of a balloon amendment making such changes is attached to my testimony.

The passage of this bill and the proposed amendments will permit these professionals to utilize the professional corporation code as an alternative to other business organizations provided by law.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

Senate Commerce Committee

February 13, 2001

Attachment 06-1

SENATE BILL No. 176

By Committee on Judiciary

1-31

6-2

9 AN ACT concerning corporations; relating to professional corporations;
10 amending K.S.A. 2000 Supp. 17-2707 and repealing the existing
11 section.
12

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

14 Section 1. K.S.A. 2000 Supp. 17-2707 is hereby amended to read as
15 follows: 17-2707. As used in this act, unless the context clearly indicates
16 that a different meaning is intended, ~~the following words mean:~~

17 (a) "Professional corporation;" *means* a corporation organized under
18 this act.

19 (b) "Professional service;" *means* the type of personal service ren-
20 dered by a person duly licensed by this state as a member of any of the
21 following professions, each paragraph constituting one type:

- 22 (1) A certified public accountant;
- 23 (2) an architect;
- 24 (3) an attorney-at-law;
- 25 (4) a chiropractor;
- 26 (5) a dentist;
- 27 (6) an engineer;
- 28 (7) an optometrist;
- 29 (8) an osteopathic physician or surgeon;
- 30 (9) a physician, surgeon or doctor of medicine;
- 31 (10) a veterinarian;
- 32 (11) a podiatrist;
- 33 (12) a pharmacist;
- 34 (13) a land surveyor;
- 35 (14) a licensed psychologist;
- 36 (15) a specialist in clinical social work;
- 37 (16) a registered physical therapist;
- 38 (17) a landscape architect;
- 39 (18) a registered professional nurse;
- 40 (19) a real estate broker or salesperson; ~~and~~
- 41 (20) ~~a licensed clinical professional counselor.~~

42 (c) "Regulating board;" *means* the board or state agency which is
43 charged with the licensing and regulation of the practice of the profession

- ;
- (21) a licensed clinical marriage and family therapist;
and
- (22) a licensed psychotherapist.



KANSAS STATE BOARD OF TECHNICAL PROFESSIONS

(785) 296-3053

<http://www.ink.org/public/ksbtp/>

Suite 507, Landon State Office Building 900 S.W. Jackson Street Topeka, Kansas 66612-1257

February 8, 2001

Senator Karin Brownlee
Chairperson, Commerce Committee
Room 143-N
State Capitol

Re: SB 176

Dear Senator Brownlee:

SB 176 provides a list of professional services that are provided by persons licensed in Kansas. In 1997 legislation was passed for the Board of Technical Professions to license geologists.

Perhaps the Committee would consider adding geologists to this proposed legislation.

Thank you.

Sincerely,

Betty Rose
Executive Director

Attachment

SENATE BILL No. 176

By Committee on Judiciary

1-31

9 AN ACT concerning corporations; relating to professional corporations;
10 amending K.S.A. 2000 Supp. 17-2707 and repealing the existing
11 section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

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17 (a) "Professional corporation;" *means* a corporation organized under
18 this act.

19 (b) "Professional service;" *means* the type of personal service ren-
20 dered by a person duly licensed by this state as a member of any of the
21 following professions, each paragraph constituting one type:

- 22 (1) A certified public accountant;
- 23 (2) an architect;
- 24 (3) an attorney-at-law;
- 25 (4) a chiropractor;
- 26 (5) a dentist;
- 27 (6) an engineer;
- 28 (7) an optometrist;
- 29 (8) an osteopathic physician or surgeon;
- 30 (9) a physician, surgeon or doctor of medicine;
- 31 (10) a veterinarian;
- 32 (11) a podiatrist;
- 33 (12) a pharmacist;
- 34 (13) a land surveyor;
- 35 (14) a licensed psychologist;
- 36 (15) a specialist in clinical social work;
- 37 (16) a registered physical therapist;
- 38 (17) a landscape architect;
- 39 (18) a registered professional nurse;
- 40 (19) a real estate broker or salesperson; ~~and~~
- 41 (20) *a licensed clinical professional counselor;* ~~and~~ _____ (21) *a geologist.*

42 (c) "Regulating board;" *means* the board or state agency which is
43 charged with the licensing and regulation of the practice of the profession

STATE OF KANSAS



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Bill Graves
Governor

Duane A. Goossen
Director

February 6, 2001

The Honorable Karin Brownlee, Chairperson
Senate Committee on Commerce
Statehouse, Room 136-N
Topeka, Kansas 66612

Dear Senator Brownlee:

SUBJECT: Fiscal Note for SB 180 by Senate Committee on Commerce

In accordance with KSA 75-3715a, the following fiscal note concerning SB 180 is respectfully submitted to your committee.

SB 180 abolishes the Kansas Performance Review Board by repealing its enabling statutes.

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*.

Sincerely,

Duane A. Goossen
Director of the Budget

Senate Commerce Committee
February 13, 2001
Attachment 8-01



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Bill Graves
Governor

Duane A. Goossen
Director

MEMORANDUM

TO: Senate Committee on Commerce

FROM: Duane A. Goossen, Director of the Budget

DATE: February 13, 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 Subcommittee in Senate Ways and Means responsible for this budget has discussed this issue and concurs with the Governor's recommendation. However, its report has not yet been presented to the full committee for adoption. This issue has not yet been discussed on the House side.

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BILL GRAVES
Governor

KANSAS PERFORMANCE REVIEW BOARD

February 13, 2001

The Honorable Karin Brownlee
Chairwoman, Senate Commerce Committee
Kansas State Capitol
Topeka, Kansas 66612

Dear Senator Brownlee and members of the Committee;

My name is Bob Stockwell and I am the Executive Director of the Kansas Performance Review Board. I am here to provide you with 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

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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 modification of 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.

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

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 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 during its first two years of operation. To the extent possible, they will be turned into lessons learned by amending policies and procedures to take

into account the impact these observations have on the ability of the KPRB to fulfill its mandate. In this way these observations can truly become lessons learned.

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.
- 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:

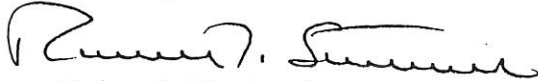
The Kansas Performance Review Board has struggled to meet the intent and expectations of the Council on Privatization as enacted by the Legislature. Without a political "champion" in either the Executive branch or the Legislature to encourage agencies to systematically evaluate their programs with a sound methodology, there is no impetus for state agencies to do so. But despite this slow beginning, KPRB does provide the State *added value* in its efforts to reduce the cost of government and improve services to the citizens of Kansas.

KPRB adds 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.

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,

A handwritten signature in cursive script, appearing to read "Robert L. Stockwell".

Robert L. Stockwell
Executive Director



BILL GRAVES
Governor

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KANSAS PERFORMANCE REVIEW BOARD

February 13, 2001

The Honorable Karin Brownlee
Chairwoman, Senate Commerce Committee
Kansas State Capitol,
Topeka, Kansas 66612

Dear Senator Brownlee and members of the Committee;

Thank you for the opportunity to speak to you about the Performance Review Board as it pertains to Senate Bill 180. Pressing business matters prevent Mr. Bill Falstad, the current Chairman of the Performance Review Board, to appear before you today. He asked me as the previous Chairman to summarize the Board's thoughts about the Governor's latest recommendation to repeal the Performance Review Act and abolish the Board. As you know, 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."

I sat as an original appointee of the Board when it was created late 1996 along with Lynn Markel from Koch Industries and Howard Fricke from Security Benefits. We were enthusiastic about the concept of the Board and discussed different areas where we thought we might be able to lend our expertise in business practices to the state. We hired a competent staff and developed a methodology as well as policies and procedures to conduct reviews of state agencies under the statutes.

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.

The initial reviews the Board conducted looked at various aspects of the government's infrastructure: transportation for employees, telephone rates, purchasing procedures as well as

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several others. While we reached conclusions about the specific matters under review, we also noted that the many business practices of the state were outdated or missing entirely.

We are concerned as a Board that the state lacks sophisticated methods to make economic decisions on major or minor issues. The state has few controls to measure its programs routinely; no systematic means to review policies, procedures and systems for efficiency; no method to initiate, harmonize and synchronize best practices across agency boundaries; and no incentives to do any of these.

I am now serving in a second term on the Board and I find the challenges to be even greater than when I started. For the past three years the Performance Review Board quietly has undertaken its mission to serve the Governor as a trusted advisor and to make recommendations in specific areas under review that are economical and practical. In doing so, however, we found obstacles not only to the changes we recommended but also opposition to the very philosophy of change in government.

From the onset of the Board, there was no consensus between the Governor and the Legislature about whom is 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 a third of that time. This, combined with the lack of funds to review agencies, has hampered the Board from making rapid progress towards accomplishing its mission.

Even so, the Board has made meaningful contributions in its recommendations to privatize, eliminate, retain or modify certain state programs. If enacted, these recommendations could save more than \$2 million annually for the state. At a minimum, these recommendations should serve as a starting point for serious discussion within the Executive Branch and between the agency heads and the Legislature on better ways to be more efficient and cost-effective.

Without a mechanism like the Performance Review Board, the state will lose its only mechanism to methodically review state programs, services and functions. 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.

In the end, if the Performance Review Act is repealed and the Board is abolished, the State still will be faced with the challenge of finding more effective methods for planning, more efficient means to conduct operations, more robust measurements to analyze performance, and a system to institutionalize change.

Thank you for the opportunity to appear before you in this matter.

Sincerely,

Original signed

Dale K. Davis
Member

LEGISLATIVE TESTIMONY



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SB 180

February 13, 2001

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Committee on Commerce

by

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

Madam Chairperson 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 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.

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 this Committee in 1995, KCCI's Director of Taxation at the time, Bob Corkins, closed his testimony with this bold suggestion.

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"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 abolishment. 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 Bob Corkins laid down five years ago. Still, before the Board's abolition is carried out by passing SB 180, KCCI would urge this Committee to thoughtfully consider if there are changes that could take place that would allow the Board to achieve its original lofty goals.

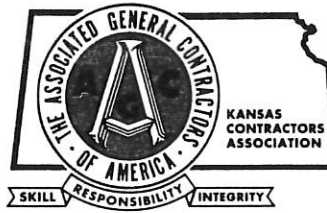
KCCI remains supportive of the concept behind the Performance Review Board. Assembling a committee of private sector executives to evaluate and recommend opportunities to improve Kansas government. The performance of the Board seems to have been appropriately measured. No witch hunts have been undertaken. When appropriate, the Board has issued reports that have lauded the performance of Kansas government.

The challenge for this Board appears to be 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. However, if the Board is not within government, there would be no basis for their recommendations to be taken and initiated.

KCCI hopes you agree there is great potential value in the Performance Review Board. Talented individuals are willing to provide the principles they have learned in the private sector to help government perform better. Rather than abolishing the Board, as called for in SB 180, KCCI urges you consider alternatives so the Board achieves what was expected when it was created.

Joining me today is KCCI's Financial Vice President and a member of the Performance Review Board, Mr. Dale Davis. Mr. Davis is also the President and CEO of Sauder Custom Fabricators, in Emporia and the Mayor of the City of Emporia. Madam Chairperson, thank you for the opportunity to comment on SB 180. I would be happy to respond to questions now or following the presentation by Mr. Davis.

THE KANSAS CONTRACTORS ASSOCIATION, INC.



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Testimony

By the Kansas Contractors Association before the Senate

Commerce Committee regarding the Kansas Performance Review Board

February 13, 2001

Madame Chairman and members of the Senate Commerce Committee,

I am Bob Totten, Public Affairs Director for the Kansas Contractors Association. Our organization represents over 400 companies who are involved in the construction of highways and water treatment facilities in Kansas and the Midwest.

Today, I want to voice our opposition to the abolishment of the Kansas Performance Review Board. Our association has been very supportive of this board since its inception and don't really understand why it has not been funded more fully and given the support it needs to be more successful.

In one of Governor Graves kickoff campaign speeches, I recall he strongly supported the concept of privatizing services. His spokesperson, Mike Matson said in 1996, "We're confident we're moving forward in a way to save taxpayers money." He was referring to this Kansas Performance Review Board.

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As I understand it, this board's purpose is to review functions of state government to determine whether they are being executed in the most efficient manner possible. Our association can not believe that in these times when it appears every one is trying to save money that a board which is designed to help save money through cost savings is on the chopping block itself.

In an area most of our members work in... and I am speaking of the Kansas Department of Transportation, we have seen many times where the department has determined it is less expensive to contract for services from the private sector than to do it themselves.

From mowing to paint striping to inspection to paving, KDOT has learned that it is less expensive to contract for the work then to do it in-house. We believe this board encourages other departments in the state to do the same thing that KDOT has done over the years.

There are many other examples including a Federal HUD report released back in the mid 80's which indicated that many services done by the government could be done for less cost than by government forces. The services included janitorial, refuse collection, turf maintenance, asphalt paving.

For the reasons, I have mentioned, the Kansas Contractors Association is against the abolishment of this board. I stand for questions.



LEGISLATURE OF KANSAS
LEGISLATIVE DIVISION OF POST AUDIT

**Testimony for the
Senate Commerce Committee
on Senate Bill 180**
Barb Hinton, Legislative Post Auditor
February 13, 2001

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Madam Chairman and members of the Committee, thank you for allowing me to appear before you on SB 180. I was asked to share my thoughts on what might happen if a Division similar to the Kansas Performance Review Board were to become part of Legislative Post Audit. My thoughts can be summarized as follows:

1. **In my view, the PERM reviews conducted under this law are primarily an executive branch function.** They were intended to provide a uniform mechanism for analyzing agency cost data so the Governor and State agencies would have better information when making decisions about government functions—especially about privatizing them. In addition, the current structure is designed to tap into the expertise and recommendations of successful businessmen and women in the private sector. For whatever reason, the executive branch never embraced this function as its own.
2. **The Legislative Post Audit Committee already has the authority to direct Post Audit to conduct audits that look into any issues affecting government agencies or programs.** That includes privatization issues.
3. **If the Legislature wants to establish a PERM review function within Legislative Post Audit, that arrangement could be made to work, but there would be a number of difficulties to overcome.** Here's what I think would have to happen:
 - a. **The staff positions currently housed in KPRB would need to be transferred to Post Audit, as would funding for any contracted analyses.** Without the additional positions, any PERM reviews that were authorized would end up being done at the expense of legislative requests for audits.
 - b. **The Post Audit Act would need to be changed to require Post Audit to conduct (or contract out) PERM reviews, and to clarify what these are.** Without such a requirement, it's likely the PERM staff would simply end up being reassigned to conduct regular performance audit work.

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- c. **Private companies may be uncomfortable asking the legislative branch to conduct PERM reviews on their behalf.** One of the original goals of the legislation was to allow private companies to request reviews of State programs or operations they thought they could operate more cost-effectively.

- d. **The private-sector Board's role would need to change dramatically.** KPRB staff do all their work at the direction of the Board, whereas we do all ours at the direction of the Post Audit Committee. To make this dual relationship work, the Board would have to become an advisory committee willing to suggest which programs or operations to review, to review the report draft and any agency comments, and to provide separate input and recommendations. The Committee would decide what to review and would hear the final report at a public hearing. I'm not certain private-sector people would find this more limited role very fulfilling.

- e. **The law and the Committee rules would need to be carefully crafted.** I would not want to do anything to water down our focus on providing legislators with independent and objective information they can use in making more-informed decisions.

Thank you for allowing me to share my comments with you today. I'd be happy to answer any questions.



The Kansas Association of Public Employees

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Testimony of Andy Sanchez, Executive Assistant to the President
The Kansas Association of Public Employees, KAPE/AFT, AFL-CIO
Before the Senate Commerce Committee

Delivered on February 13, 2001

Thank You Madam Chair, I appreciate the opportunity to speak. I will be very brief, but KAPE did want make sure to weigh in on SB180. We speak in opposition to SB180.

Having attended a number of Performance Review Board meetings, I can safely say that the projects taken on have been in depth, thorough, and professional. The staff appeared to adhere to a high level of standards without compromising analysis.

In addition, though much of the analysis always meant probes and inquiries that caused some real uneasiness amongst our members, the presentations I have seen and inquiries I have made were all handled with the utmost professionalism and ethics.

In a year of budget ratcheting, KAPE contends the accountability provided by the Kansas Performance Review Board is only right. The citizens of Kansas deserve the security of knowing privatization will save the State money, because the privatization of public services is an endeavor that once abandoned by the State, is difficult, if not impossible to return to. This is insurance, and as we all know, going without it can be extremely costly in an instant...

Thank You

Senate Commerce Committee

February 13, 2001
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