

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.