

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Nancy Brown at 1:30 p.m. on February 15, 1993 in Room 521-S of the Capitol.

All members were present.

Committee staff present: Michael Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee: Chris McKenzie, League of Kansas Municipalities
John Torbert, Kansas Association of Counties
Gerry Ray, Johnson County Commission

Others attending: See Guest List (Attachment 1).

The Chairman opened the meeting for discussion and possible action to introduce new bills.

Chris McKenzie, League of Kansas Municipalities, presented a request for the committee to introduce a bill to amend K.S.A. 75-2724, concerning the State Historic Preservation Act, which would authorize the state historic preservation officer to enter into agreements with any city or county, delegating any or all of the responsibilities of the state preservation officer under certain subsections of that statute (see testimony, Attachment 2). The Kansas Historical Society is also recommending the bill.

John Torbert, Kansas Association of Counties, spoke on the issue of state mandates and recommended that the committee introduce a companion bill to one being introduced by Representative Doug Lawrence (**HB 2193**), requiring an election prior to the enforcement of certain mandates and their funding that is enacted by the Kansas Legislature (Attachment 3). It is the Association's and League of Municipalities' recommendation that it be a constitutional amendment, similar to one the State of Florida enacted the past year.

Representative Greg Packer recommended introduction of two bills: (1) to prohibit annexation proceedings if filed within five years of an order disapproving a prior annexation; and (2) to authorize decisions to incorporate cities by a majority vote rather than requiring a unanimous vote.

Representative Jack Wempe recommended legislation to authorize any township board, which maintains state-owned roads, to assess a charge for such maintenance against the State.

On motion of Representative Packer, seconded by Representative Wootton, the Committee voted to introduce the above-referenced new pieces of legislation.

The committee then discussed **HB 2227**. Gerry Ray, Intergovernmental Coordinator for the Johnson County Board of Commissioners, presented testimony in favor of **HB 2227**. The Committee then discussed the amendments recommended by the Committee during its discussion on February 11, 1993 (see Attachment 4). On motion of Representative Hayzlett, seconded by Representative Mays, the amendments were adopted by the Committee. Chairman Brown stated that she is recommending a legislative interim study on fire districts. Then, on motion of Representative Toplikar, seconded by Representative Mays, the Committee passed **HB 2227**, as amended.

Chairman Brown then opened the discussion on **HB 2104**, concerning emergency medical services instructors for initial courses. The Chairman distributed the written testimony of Joseph Thibodeau, President of the Kansas State Firefighters' Association, and Marilyn Harwood, Chairman, and John Griffin, Director, of Glasco Ambulance Board, indicating their support of the bill (Attachments 5 and 6). Considerable discussion was held concerning the changes recommended by the Committee on February 8th. Theresa Kiernan, Revisor's Office, explained the various recommended amendments to the bill. On motion of Representative Mays, seconded by Representative Packer, the Committee approved the amendments set out in Attachments 7). Then, on motion of Representative Mays, seconded by Representative Tomlinson, the Committee passed **HB 2104**, as amended.

The Chairman then opened the discussion on **HB 2103**, concerning emergency medical services relating to Do Not Resuscitate Orders. She stated that the bill has been receiving considerable attention because many mistakenly believe it speaks to euthanasia. She reiterated that the bill does not speak to that issue, rather it is proposed legislation to establish a standardized procedure for Do Not Resuscitate orders upon which

emergency medical services personnel can rely. The intent of the legislation is not to circumvent the use of Living Wills or Durable Powers of Attorney for Health Care, but offers in addition a standardized form to signify a person's choice with respect to Do Not Resuscitate Orders that must be validated by a licensed physician. The bill also provides immunity from civil and tort liability to EMS personnel and their employers. The standardized procedure is not intended to be a mandated requirement. Chairman Brown distributed copies of written testimony from members of the Right to Life Of Kansas, Inc. relating to the issue (see Attachment 8). Representative Wempe suggested a further amendment to the bill (see Attachment 9), which would limit the scope of the legislation to eliminate any reference to a Living Will or a Durable Power of Attorney. Representative Mays suggested that the committee's previously approved amendments could incorporate Representative Wempe's amendment.

Representative Powers stated he is not comfortable with the bill and was not in favor of it. Tuck Duncan, of Medevac Medical Services, Inc. of Topeka, in response to a question of need for the bill, stated that EMS personnel follow strict medical protocols approved by the Kansas Medical Society.

Representative Wempe then offered an amendment to **HB 2103**, seconded by Representative Wootton, to delete subsections (1) in Section 1 of the bill (See Attachment 10). After discussion, the motion was withdrawn. Further discussion was held, and upon motion of Representative Mays, seconded by Representative Wempe, the Committee agreed that the bill be amended to include the standardized form for Do Not Resuscitate Orders and to delete subsections 2 and 3 of Section (e) and to delete any reference to Living Wills or Durable Powers of Attorney. Theresa Kiernan, Revisor's Office, was instructed to prepare these amendments and distribute them as early as possible as the bill will be on tomorrow's agenda for action. (Representatives Toplikar and Mollenkamp voted no on the motion.)

The meeting was adjourned at 2:50 p.m. The next meeting is scheduled at 1:30 p.m., February 16, 1993, in Room 521-S of the State Capitol.

cc ATTN: House Local Government

DATE: February 11 1993

15

[illegible]



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

Memo

TO: Representative Nancy Brown, Chair, House Local Government Committee

FROM: *CM* Chris McKenzie, Executive Director

DATE: February 11, 1993

RE: Request for Introduction of Bill Amending Historic Preservation Act

On behalf of the Kansas State Historical Society and the League of Kansas Municipalities, I am writing to request the introduction by the House Committee on Local Government of the attached bill which would amend K.S.A. 75-2724, part of the State Historic Preservation Act, to authorize the state historic preservation officer to enter into agreements with any city or county delegating any or all of the responsibilities of the state historic preservation officer under certain subsections of that statute. The League and Kansas State Historical Society staff have worked closely in the development of this legislation, and we would appreciate the introduction of the bill at the Committee's earliest convenience.

Please let me know if you have any questions about this matter. Thank you very much.

CC: Raymond Powers, Executive Director, Kansas State Historical Society

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President: Joseph E. Steineger, Mayor, Kansas City * **Vice President** Donald L. Anderson, Mayor, Lindsborg * **Past President:** Ed Eilert, Mayor, Overland Park * **Directors:** * Chris Cherches, City Manager, Wichita * Yvonne Coon, City Administrator, Clearwater * John Divine, Commissioner, Salina * Harry L. Felker, Mayor, Topeka * Idella Frickey, Mayor, Oberlin * Ralph T. Goodnight, Mayor, Lakin * Nancy Maze, Commissioner, Fort Scott * Mark Mingenback, Councilmember, Great Bend * John Nalbandian, Commissioner, Lawrence * William Phillipi, Councilmember, Marysville * Mary E. Reed, City Clerk/Director of Finance, Parsons * Neil Shortlidge, City Attorney, Roeland Park * **Executive Director:** Christopher K. McKenzie

HOUSE BILL NO. _____

By _____

AN ACT concerning historic preservation; concerning certain government projects; amending K.S.A. 75-2724 and repealing the existing section.

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

Section 1. K.S.A. 75-2724 is hereby amended to read as follows: 75-2724. (a) The state or any political subdivision of the state, or any instrumentality thereof, shall not undertake any project which will encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places or the environs of such property until the state historic preservation officer has been given notice, as provided herein, and an opportunity to investigate and comment upon the proposed project. Notice to the state historic preservation officer shall be given by the state or any political subdivision of the state when the proposed project, or any portion thereof, is located within 500 feet of the boundaries of a historic property located within the corporate limits of a city, or within 1,000 feet of the boundaries of a historic property located in the unincorporated portion of a county. Notwithstanding the notice herein required, nothing in this section shall be interpreted as limiting the authority of the state historic preservation officer to investigate, comment and make the determinations otherwise permitted by this section regardless of the proximity of any proposed project to the boundaries of a historic property. The state historic preservation officer may solicit the advice and recommendations of the historic sites board of review with respect to such project and may direct that a public hearing or hearings be held thereon. If the state historic preservation

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officer determines, with or without having been given notice of the proposed project, that such proposed project will encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places or the environs of such property, such project shall not proceed until: (a) (1) The governor, in the case of a project of the state or an instrumentality thereof, or the governing body of the political subdivision, in the case of a project of a political subdivision or an instrumentality thereof, has made a determination, based on a consideration of all relevant factors, that there is no feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use and (b) (2) five days' notice of such determination has been given, by certified mail, to the state historic preservation officer.

(b) Any person aggrieved by the determination of the governor pursuant to this section may seek review of such determination in accordance with the act for judicial review and civil enforcement of agency actions. Any person aggrieved by the determination of a governing body pursuant to this section may seek review of such determination in accordance with K.S.A. 60-2101 and amendments thereto.

(c) The failure of the state historic preservation officer to initiate an investigation of any proposed project within 30 days from the date of receipt of notice thereof shall constitute such officer's approval of such project.

(d) Failure of any person or entity to apply for and obtain the proper or required building or demolition permit before undertaking a project that will encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places, or the environs of such property, shall be subject to a civil penalty not to exceed \$25,000 for each violation. The attorney general

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may seek such penalties and other relief through actions filed in district court.

(e) The state historic preservation officer may enter into an agreement delegating to a city or county any or all responsibilities of the state historic preservation officer under subsections (a), (b) and (c) if the state historic preservation officer determines that the city or county is capable of carrying out such responsibilities.

Sec. 2. K.S.A. 75-2724 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

ATTACHMENT 2-4
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"Service to County Government"

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John T. Torbert, CAE

PROPOSED MANDATE SCR

A PROPOSITION to amend article 2 of the constitution of the state of Kansas by adding a new section thereto, requiring an election prior to the enforcement of certain enactments of the Legislature.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 2 of the constitution of the state of Kansas is hereby amended by adding a new section to read as follows:

§ 31. Laws requiring local governmental units to spend funds or limiting their ability to raise revenue or receive state tax revenue.

(a) Any law, rule, or administrative regulation requiring the use of a local governmental unit's personnel, facilities, or equipment, or requiring the expenditure of a local governmental unit's funds to provide a new service, program, or which imposes any direct service or cost obligation upon a local governmental unit under penalty of civil or criminal sanction shall be binding upon such local governmental unit only if the state legislature provides, by appropriation, reimbursement for any such cost as certified by such local governmental unit, and unless the state legislature provides, by appropriation, reimbursement in each successive year for any such cost as certified by such local governmental unit.

(b) A law granting or increasing exemptions from, or otherwise limiting, local property taxation shall be binding upon a local governmental unit only if the state legislature, at the same session in which the law is enacted and in each successive year, provides, by appropriation, for payment by the state to each local governmental unit for any loss of taxes resulting from such exemption or limit as certified by such local governmental unit.

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(c) Any funds appropriated by the state as provided in subsections (a) or (b) shall be in addition to, and shall not supplant, any other state financial assistance for local governmental units in existence on July 1, 1993. Local governmental units shall also receive any additional state financial assistance as may be generated by any expansion of the state tax base, using the formulas in place on July 1, 1993.

(d) Subject to the other provisions in this section, failure by the legislature to appropriate sufficient funds to fully reimburse a local governmental unit as provided for in subsections (a) or (b) shall automatically permit such local governmental unit to not comply with such unfunded mandate or mandates until such time as full state reimbursement is received.

(e) The legislature may enact exemptions from the provisions of this section if such legislation is approved by no less than two-thirds of the members elected (or appointed) and qualified to the senate and two-thirds of the members elected (or appointed) and qualified to the house of representatives.

(f) For the purposes of this section, "local governmental unit" shall be defined as: "city or county unit of government, or any instrumentality thereof". Also, "civil or criminal sanction" shall include, but not be limited to, ouster from office, mandamus, civil fines, criminal fines, and terms of imprisonment.

Section 2. The following statement shall be printed on the ballot with the amendment as a whole:

Explanatory Statement.

ATTACHMENT 3-2

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HOUSE BILL No. 2227

By Committee on Local Government

2-4

8 AN ACT concerning certain fire districts; relating to the governing
9 body thereof; relating to the powers and duties thereof; amending
10 K.S.A. 19-3614, 19-3617 and 19-3622 and K.S.A. 1992 Supp. 19-
11 3616 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 19-3614 is hereby amended to read as follows:
15 19-3614. (a) Except as provided in subsection (b) and K.S.A. 19-
16 3614a, and amendments thereto, within 60 days following the creation
17 of the fire district the ~~county~~ board of county commissioners shall
18 appoint ~~three persons who the governing body of the fire district.~~
19 *The governing body shall consist of three or five members as de-*
20 *termined by the board of county commissioners. Members of the*
21 *governing body shall have been residents of the district at least three*
22 *years preceding the date of their appointment. Such persons shall*
23 *constitute the governing body of the fire district so created.*
24 The members of the governing body shall hold office for a term of
25 three years, except that the members of the first governing body
26 appointed shall hold office for terms as follows: (1) *In the case of a*
27 *three-member governing body, one for a term of one year; one for*
28 *a term of two years; and one for a term of three years; and the*
29 *county board; or (2) in the case of a five-member governing body,*
30 *one for a term of one year; two for a term of two years; two for*
31 *a term of three years. The board of county commissioners shall*
32 *designate the term which each is to serve.*

33 (b) *The governing body of any fire district appointed prior to*
34 *the effective date of this act may be expanded to a five-member body*
35 *upon adoption of an appropriate resolution by the board of county*
36 *commissioners. The terms of the newly appointed members of the*
37 *governing body shall be staggered so that not more than two of the*
38 *five board members are appointed at the same time.*

39 (c) In the case of a vacancy in the membership of such governing
40 body occurring before the expiration of term, the successor shall be
41 appointed in like manner as regular appointments are made and the
42 member so appointed shall serve for the remainder of the unexpired
43 term. The members of the governing body shall receive no com-

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2/15

1 district, for the purpose of furnishing fire protection service to the
2 residents of such district.

3 Where such fire district does enter into a contract with any other
4 fire district, city or township or private entity within the vicinity of
5 the fire district for furnishing fire protection service to the residents
6 of such district, the fire district governing board shall have the power
7 to levy a tax not to exceed 8.5 mills upon the dollar of the assessed
8 valuation of all taxable, tangible property in the district, for the
9 purpose of carrying out the provisions of the contract so made,
10 ~~which~~. Such tax levy shall be in addition to all other tax levies
11 authorized or limited by law except that no other levies for fire
12 department purposes shall be made on such property.

13 Sec. 4. K.S.A. 19-3622 is hereby amended to read as follows:
14 19-3622. (a) *The governing body of the fire district shall prepare an*
15 *annual budget for the operation of the fire district. Prior to the*
16 *adoption of its budget, the governing body shall meet for the purpose*
17 *of answering and hearing objections of taxpayers relating to the*
18 *proposed budget and for the purpose of considering amendments to*
19 *such proposed budget. The governing body shall give at least 10*
20 *days' notice of the time and place of the meeting by publication in*
21 *a weekly or daily newspaper having a general circulation in the fire*
22 *district. Such notice shall include the proposed budget and shall set*
23 *out all essential items in the budget except such groupings as des-*
24 *ignated by the director of accounts and reports on a special pub-*
25 *lication form prescribed by the director of accounts and reports and*
26 *furnished with the regular budget form. The public hearing required*
27 *to be held herein shall be held no later than July 1. After such*
28 *hearing a proposed budget shall be adopted or amended and adopted*
29 *by the fire district. The governing body, not later than July 10 of*
30 *any year, shall submit its proposed budget to the board of county*
31 *commissioners for review and approval thereof. The board shall*
32 *approve or disapprove the budget no later than July 25. After the*
33 *board of county commissioners approves the budget, the governing*
34 *body shall submit the budget to the county clerk as provided by*
35 *K.S.A. 79-2930, and amendments thereto.*

36 (b) The governing body of the fire district shall have the power
37 to levy a tax not to exceed 8.5 mills upon the dollar of the assessed
38 valuation of all taxable, tangible property in the district, for the
39 purpose of paying any lawful cost or expense incurred by the fire
40 district and to pay a portion of the principal and interest on bonds
41 issued pursuant to K.S.A. 12-1774, and amendments thereto. No
42 other levies for the operation and maintenance of a fire department
43 shall be made on such property by any other taxing district. If any

not less than 10 days prior to the date
on which the fire district is required to
submit its budget to the board of county
commissioners for review and approval there
by

August 1

August 10

ATTACHMENT 4-3
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1 incorporated city is partly within the boundaries of one or more fire
2 districts, and partly outside the boundaries of any fire district, the
3 governing body of such city may cause a tax to be levied in that
4 portion of the city outside of the boundaries of any fire district for
5 fire protection, and may contract with any fire district, city, township
6 or other organized fire department, to furnish fire protection in that
7 portion of the city not lying within the boundaries of a fire district,
8 in the same manner as though the city lay wholly without the bound-
9 aries of a fire district.

10 {b} (c) The governing body of the fire district may increase the
11 mill levy authorized by subsection {a} (b) in an amount not to exceed
12 11.5 mills by adoption of a resolution. Such resolution shall be
13 published once each week for two consecutive weeks in a newspaper
14 of general circulation in the fire district. If within 30 days after the
15 last publication of the resolution, a petition signed by not less than
16 5% of the qualified electors in the fire district is filed in the office
17 of the county election officer requesting an election thereon, no levy
18 in an amount exceeding 8.5 mills shall be made unless the question
19 is submitted to and approved by a majority of the voters of the fire
20 district voting at an election called by the governing body. Such
21 election shall be called and held in the manner provided under the
22 general bond law.

23 Sec. ~~6~~. K.S.A. 19-3614, 19-3617 and 19-3622 and K.S.A. 1992

24 Supp. 19-3616 are hereby repealed.

25 Sec. ~~6~~. This act shall take effect and be in force from and after
26 its publication in the statute book.

See attached

ATTACHMENT 4-4
2-15-93

2-15-93
ATTACHMENT 4-5
Sec. 5. K.S.A. 19-3621

19-3621. Fire districts; contracts for reciprocal services; privileges, immunities and exemptions. The governing body of the fire district may enter into contracts with cities and other fire districts, townships, or duly organized and incorporated volunteer fire departments whether within or without the county or state, for cooperation between fire departments of the respective cities, districts and townships, and may include in such contracts provisions by which the fire department of such cities, townships or other districts or volunteer fire departments will furnish fire protection to ~~a-part-of~~ the fire district in question in consideration of cash payments or reciprocal services. The governing body of the fire district may also include in such contracts provisions to provide, furnish and pay for a bond in such amount as shall be agreed upon to indemnify any such city, fire district, or township against any loss which it may sustain as result of damage to property or injury to persons arising out of the furnishing of fire protection services to such districts. ✓

The supervision and control of the fire district fire department shall always be with the governing body of the fire district. The fire chief or person in charge of the fire department shall have the right in every case, where a contract exists for reciprocal service, to determine whether or not the district can spare all or any portion of its fire equipment and firemen at that particular time.

* Renumber sections; amend title and repealer.



Kansas State Firefighters' Association Inc.

Organized August 13, 1887

February 10, 1993

The Honorable Nancy Brown
Room 183 W
State Capitol Building
Topeka, Kansas 66612


Dear Mrs. Brown,

On behalf of the Kansas State Firefighters' Association I wish to inform you of our support of HB 2104. As you are aware this bill would allow training officers to instruct/coordinate First Responder Training Programs.

I have attended several Board of EMS meetings where I testified in favor of this proposed piece of legislation. This act would allow more access and availability of training to those fire departments that must comply to the first responder laws. Often times it is rather difficult to "match up" an instructor with a fire department because of the various working shifts. The costs involved are also of concern facing departments these days. This option of allowing a departments training officer to conduct training would certainly be a welcomed relief both time wise and budget wise.

I thank you for your consideration of this matter and truly hope that your colleagues see this as an enhancement of services that will be beneficial to some of their departments.

Sincerely yours,


Joseph C. Thibodeau, President
Kansas State Firefighters' Assoc.

ATTACHMENT 5
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Dedicated to the Safety and Education of the Kansas Firefighter

GLASCO AMBULANCE SERVICE

P.O. BOX 356

AMB. TELEPHONE: 568-2255
CITY HALL: 568-2705

GLASCO, KANS. 67415

February 12, 1993

Rep. Nancy Brown
183-W State Capitol Bldg.
Topeka, Ks. 66616

Dear Rep. Brown,

RE: H.B. 2104

Last year, at the Dec. Board of E.M.S. meeting in Topeka I testified in three committee meetings relative to a change in legislation that would allow certification of training officers by B.E.M.S. to provide First Responder training classes locally. It was my understanding that you were going to pre-file a bill (voted on by the board) to make this possible early in the Legislative Session. This would allow the Staff to establish Rules and Regulations to have a training session in place by June, 1993. Classes could then be taught during the summer and fall, enabling Volunteer Ambulance Services in rural areas to comply with the state law.

Earlier, I had visited with our District Rep., Joann Freeborn, about this. When she did not find the pre-filed bill, I called Mr. Bob McDanel and he told me you had in fact not pre-filed the bill and that it was a part of the "Board Package"-and that it "would be o.k., no problem".

NOW, Rep. Freeborn has informed me that the committee may not pass this portion of the "package" out of committee, to the full house, even though it was recommended by the Board, because no one has called or written in favor of it and you have had lots of opposition from I.C.'s or **SOMEBODY!** The I.C.'s have been a part of the problem with this course, making them 80 or 90 hours in length (the law prescribes "not less than 45 hrs") so they can teach them through community colleges or vo-tech schools for credit hours. (I suspect it may also enhance reimbursement).

I feel that many legislators, coming from large urban areas, may not be sympathetic to the unique travel and manpower restrictions of rural areas. But unless we can capture the attention of the legislature soon, rural Kansas will be without many essential services and businesses. Many people consider communities of 5,000 to be "small towns". Glasco's population is less than 600, but it supports a 32 bed nursing home and a Rural Health Clinic that has become a "model" for innovative medical care in rural communities. Loss of readily available ambulance service would seriously endanger the mission of both of these facilities.

ATTACHMENT 6-1
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Cont. Letter to Rep. Brown RE: H.B.2104

Glasco is proud of it's Volunteer Ambulance Crew, who through their dedication and conscientious service have been instrumental in saving a number of lives in this community.

Because of the VOLUNTEER nature of this service, it can operate at a fraction of the cost necessary to staff a full time county wide emergency service. This cost effective feature should not go unnoticed by a legislature whose goals are efficient apportionment of limited State and County financial resources.

It is my hope and prayer that your committee will strongly consider this portion of the BEMS Package and report it favorably to the house so that the entire house can have an opportunity to consider this portion of the bill which is very important to many of us in rural Kansas.

I would be happy to visit with you about this. I'm very sorry that I did not know when the committee held hearings on this bill. Weather permitting I would have made every effort to be in Topeka to give input on this matter.

I apologize for that lateness of this letter, but do trust that you will share it with your committee before a final vote is taken on passage.

Sincerely,

Marilyn L. Harwood

Marilyn L. Harwood, Chairman of Glasco Ambulance Board

P.S. John Griffin, Director of Glasco Ambulance wants to add his signature to this letter.

John M. Griffin Director of T.O.

ATTACHMENT 6-2

2-15-93

HOUSE BILL No. 2104

By Committee on Local Government

1-22

- 8 AN ACT concerning the emergency medical services board; relating
9 to the powers and duties thereof; amending K.S.A. 65-6111 and
10 repealing the existing section.
11
12 *Be it enacted by the Legislature of the State of Kansas:*
13 Section 1. K.S.A. 65-6111 is hereby amended to read as follows:
14 65-6111. The emergency medical services board shall:
15 (a) Adopt any rules and regulations necessary to carry out the
16 provisions of this act;
17 (b) review and approve the allocation and expenditure of moneys
18 appropriated for emergency medical services;
19 (c) conduct hearings for all regulatory matters concerning emer-
20 gency medical services and first responders attendants certified
21 pursuant to this act;
22 (d) submit a budget to the legislature for the operation of the
23 board;
24 (e) develop a state plan for the delivery of emergency medical
25 services;
26 (f) enter into contracts as may be necessary to carry out the duties
27 and functions of the board under this act;
28 (g) review and approve all requests for state and federal funding
29 involving emergency medical services projects in the state or delegate
30 such duties to the administrator;
31 (h) approve all training programs for ambulance attendants;
32 (i) approve methods of examination of applicants for initial at-
33 tendants' certificates and prescribe examination fees by rules and
34 regulations;
35 (j) develop the criteria for and approve a course of instruction
36 for instructor-coordinators;
37 (k) conduct or contract for the provision of instruction of instruc-
38 tor-coordinators;
39 (l) certify instructor-coordinators;
40 (m) authorize, pursuant to rules and regulations, persons other
41 ~~than instructor-coordinators to conduct courses in the initial training~~
42 ~~of attendants, and~~
43 (n) appoint a medical consultant for the board. Such person shall

training officers to conduct continuing
education programs for attendants and courses
in the initial training of first responders; and

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7/5/93 Attachment 7

1 be a person licensed to practice medicine and surgery and shall be
 2 active in the field of emergency medical services; and
 3 ~~(n) approve all training programs for certified first~~
 4 ~~responders.~~

4 5 ~~Sec. 2.~~ K.S.A. 65-6111 is hereby repealed.

5 6 ~~Sec. 2.~~ This act shall take effect and be in force from and after
 5 7 its publication in the statute book.

7-2
 Sec. 2. Insert K.S.A. 65-6112 (definitions)
 by adding the following definitions:

(s) "Training officer one" means any person who has completed successfully a course of training, approved by the board, to conduct continuing education programs for attendants.

(t) "Training officer two" means any person who has: (1) completed successfully a course of training, approved by the board, to conduct continuing education programs for attendants; and (2) completed successfully a supplemental course of training, approved by the board, to conduct initial training programs for first responders.

Sec. 3. See attached

65-6124. Limitations on liability from giving instructions to certain persons or from following such instructions; limitations on liability of medical adviser. (a) No person licensed to practice medicine and surgery or registered professional nurse, who gives emergency instructions to a mobile intensive care technician, emergency medical technician-defibrillator or emergency medical technician-intermediate during an emergency, shall be liable for any civil damages as a result of issuing the instructions, except such damages which may result from gross negligence in giving such instructions.

(b) No mobile intensive care technician, emergency medical technician-defibrillator or emergency medical technician-intermediate who renders emergency care during an emergency pursuant to instructions given by a person licensed to practice medicine and surgery or a registered professional nurse shall be liable for civil damages as a result of implementing such instructions, except such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of such mobile intensive care technician, emergency medical technician-defibrillator or emergency medical technician-intermediate rendering such emergency care.

(c) No person certified as an instructor-coordinator shall be liable for any civil damages which may result from such instructor-coordinator's course of instruction, except such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of the instructor-coordinator, and no training officer or training officer's or training officer

(d) No medical adviser who reviews, approves and monitors the activities of attendants shall be liable for any civil damages as a result of such review, approval or monitoring, except such damages which may result from gross negligence in such review, approval or monitoring.

Repealed by L. 1988, ch. 201, § 24; L. 1989, ch. 205, § 1; April 27.

To: MEMBERS; HOUSE LOCAL GOVERNMENT COMMITTEE:

From: RIGHT TO LIFE OF KANSAS, INC.

Right To Life recognizes that there are situations in which resuscitation efforts for a terminally ill patient whose death is imminent would constitute an extraordinary and therefore, not required, means of sustaining life. We agree that at such times, if the patient, the family, and the physician are in agreement, Do Not Resuscitate Orders are appropriate.

During the last two sessions, EMT personnel and others brought to the legislature, concerns that EMT's called to nursing homes might not be able to readily ascertain the validity, or existence of a DNR order. Right To Life had no problems with the language that was eventually agreed upon.

We understood that House Bill 2103 addressed the same problem and did not testify in opposition. However, committee discussion and comments by Representative Brown in the Capital Journal of Friday, February 12, indicate a different, much broader intent. According to Representative Brown, there is now no problem in nursing homes. The extension of the scope of this proposed legislation sets a dangerous precedent. There is no need for this legislation. Where there is no desire for resuscitation EMT's should simply not be summoned. If there is to be an error in judgement it should be on the side of life.

We ask you to reject House Bill 2103.

Sincerely,

Cleta Renyer

Audrey Feldkamp

Pat Goodson

2/12/93

ATTACHMENT 8
2-15-93

1 no health care provider or attendant, who in good faith causes or
2 participates in the withholding or withdrawing of cardiopulmonary
3 resuscitation pursuant to a do not resuscitate order shall be subject
4 to criminal or civil liability or be found to have committed an act
5 of unprofessional conduct.

6 As used in this section, a do not resuscitate order shall be signed
7 by the person making the order, or by another person in the presence
8 of the person making the order and by the expressed direction of
9 the person making the order, and:

10 ~~(1) Signed in the presence of two or more witnesses at least 18~~
11 ~~years of age neither of whom shall be the person who signed the~~
12 ~~order on behalf of and at the direction of the person making the~~
13 ~~order, related to the person making the order by blood or marriage,~~
14 ~~entitled to any portion of the estate of the person making the order~~
15 ~~according to the laws of intestate succession of this state or under~~
16 ~~any will of the person making the order or codicil thereto, or directly~~
17 ~~financially responsible for the medical care of the person making~~
18 ~~the order; or (2) signed by the person's attending physician.~~

19 A health care provider or attendant whose decision about the
20 validity of the signed do not resuscitate order is made in good faith
21 is not subject to criminal or civil liability, or discipline for unpro-
22 fessional conduct with respect to that decision.

23 Sec. 2. K.S.A. 65-6124 is hereby repealed.

24 Sec. 3. This act shall take effect and be in force from and after
25 its publication in the statute book.

upon being presented with a do not resuscitate or

legibly printed or typed and contain at a minimum the following items: (1) The name of the person who is the subject of the do not resuscitate order; (2) the statement "do not resuscitate"; (3) the name and address of the attending physician; (4) the signature of the attending physician; and (5) the date of the attending physician's signature.

ATTACHMENT 9
2-15-93

2/15

HOUSE BILL No. 2103

By Committee on Local Government

1-22

8 AN ACT concerning emergency medical services; relating to do not
9 resuscitate orders; amending K.S.A. 65-6124 and repealing the
10 existing section.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 65-6124 is hereby amended to read as follows:
14 65-6124. (a) No person licensed to practice medicine and surgery or
15 registered professional nurse, who gives emergency instructions to
16 a mobile intensive care technician, emergency medical tech-
17 nician-defibrillator or emergency medical technician-interme-
18 diate during an emergency an attendant, shall be liable for any
19 civil damages as a result of issuing the instructions, except such
20 damages which may result from gross negligence in giving such
21 instructions.

22 (b) No mobile intensive care technician, emergency medical
23 technician-defibrillator or emergency medical technician-inter-
24 mediate attendant who renders emergency care during an emer-
25 gency pursuant to instructions given by a person licensed to practice
26 medicine and surgery or a registered professional nurse shall be
27 liable for civil damages as a result of implementing such instructions,
28 except such damages which may result from gross negligence or by
29 willful or wanton acts or omissions on the part of such mobile
30 intensive care technician, emergency medical technician-defib-
31 rillator or emergency medical technician-intermediate attendant
32 rendering such emergency care.

33 (c) No person certified as an instructor-coordinator shall be liable
34 for any civil damages which may result from such instructor-coor-
35 dinator's course of instruction, except such damages which may result
36 from gross negligence or by willful or wanton acts or omissions on
37 the part of the instructor-coordinator.

38 (d) No medical adviser who reviews, approves and monitors the
39 activities of attendants shall be liable for any civil damages as a result
40 of such review, approval or monitoring, except such damages which
41 may result from gross negligence in such review, approval or
42 monitoring.

43 ~~(e) In the event of a person's acute cardiac or respiratory arrest,~~

H. Local Gov. Co.
2/15/93 Attachment 10

1 ~~no health care provider or attendant, who in good faith causes or~~
2 ~~participates in the withholding or withdrawing of cardiopulmonary~~
3 ~~resuscitation pursuant to a do not resuscitate order shall be subject~~
4 ~~to criminal or civil liability or be found to have committed an act~~
5 ~~of unprofessional conduct.~~

6 ~~As used in this section, a do not resuscitate order shall be signed~~
7 ~~by the person making the order, or by another person in the presence~~
8 ~~of the person making the order and by the expressed direction of~~
9 ~~the person making the order, and:~~

10 ~~(1) Signed in the presence of two or more witnesses at least 18~~
11 ~~years of age neither of whom shall be the person who signed the~~
12 ~~order on behalf of and at the direction of the person making the~~
13 ~~order, related to the person making the order by blood or marriage,~~
14 ~~entitled to any portion of the estate of the person making the order~~
15 ~~according to the laws of intestate succession of this state or under~~
16 ~~any will of the person making the order or codicil thereto, or directly~~
17 ~~financially responsible for the medical care of the person making~~
18 ~~the order; or (2) signed by the person's attending physician.~~

19 ~~A health care provider or attendant whose decision about the~~
20 ~~validity of the signed do not resuscitate order is made in good faith~~
21 ~~is not subject to criminal or civil liability, or discipline for unpro-~~
22 ~~fessional conduct with respect to that decision.~~

23 ~~Sec. 2. K.S.A. 65-6124 is hereby repealed.~~

24 ~~Sec. 3. This act shall take effect and be in force from and after~~
25 ~~its publication in the statute book.~~

See attached.

(e) In the event of a person's acute cardiac or respiratory arrest and if presented with a do not resuscitate order or a medical directive, no health care provider or attendant who causes or participates in the withholding or withdrawing of cardiopulmonary resuscitation pursuant to such do not resuscitate order or medical directive shall be subject to criminal or civil liability or be found to have committed an act of unprofessional conduct.

A health care provider or attendant whose decision about the validity of the signed do not resuscitate order or medical directive is made in good faith is not subject to criminal or civil liability, or discipline for unprofessional conduct with respect to that decision.

When used in this subsection, "do not resuscitate" order means:

(1) A written instruction to withhold or withdraw cardiopulmonary resuscitation. Such instruction shall comply with the provisions of section 2; or

(2) a living will executed in accordance with the provisions of K.S.A. 65-28,103, and amendments thereto; or

(3) instructions by a durable power of attorney for health care decisions executed in accordance with the provisions of K.S.A. 58-629, and amendments thereto.

(f) No employer of an attendant who renders emergency care under the provisions of this act or withholds or withdraws cardiopulmonary resuscitation pursuant to a do not resuscitate order shall be liable for civil damages as a result of the attendant's rendering such emergency care or withholding or withdrawing cardiopulmonary resuscitation, except for such damages which may result from gross negligence, or from willful or wanton acts or omissions on the part of the attendant rendering such emergency care.

New Sec.2 A do not resuscitate order shall be in substantially the following form: (See attached)

PRE-HOSPITAL DNR REQUEST FORM

An advanced request to Limit the Scope of Emergency Medical Care

I, _____, request limited emergency care as herein
(name)
described.

I understand DNR means that if my heart stops beating or if I stop breathing, no medical procedure to restart breathing or heart functioning will be instituted.

I understand this decision will not prevent me from obtaining other emergency medical care by pre-hospital care providers or medical care directed by a physician prior to my death.

I understand I may revoke this directive at any time.

I give permission for this information to be given to the pre-hospital care providers, doctors, nurses, or other health personnel as necessary to implement this directive.

I hereby agree to the "Do Not Resuscitate" (DNR) order.

Signature Date

Witness Date

REVOCATION PROVISION

I hereby revoke the above declaration.

Signature Date

I AFFIRM THIS DIRECTIVE IS THE EXPRESSED WISH OF THE PATIENT, IS MEDICALLY APPROPRIATE, AND IS DOCUMENTED IN THE PATIENT'S PERMANENT MEDICAL RECORD.

In the event of an acute cardiac or respiratory arrest, no cardiopulmonary resuscitation will be initiated.

Physician's Signature* Date

Address Facility or Agency Name

*Signature of physician not required if the above-named is a member of a church or religion which, in lieu of medical care and treatment, provides treatment by spiritual means through prayer alone and care consistent therewith in accordance with the tenets and practices of such church or religion.