

Approved: March 3, 1994
Date FM

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Joann Flower at 1:30 p.m. on February 23, 1994 in Room 423-S of the Capitol.

All members were present except: Rep. Weiland, excused

Committee staff present:

William Wolff, Legislative Research Department
Norman Furse, Revisor of Statutes
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Dr. Steven R. Potsic, Director of Health, Ks. Department of Health/Environment
Kay Kent, Ks. Association of Local Health Departments, Douglas County Health Dept.
Dr. Lorne A. Phillips, State Registrar/Director for Center for Health/Environmental Statistics
Stacey Empson, representing the Kansas Hospital Association
Representative Scott

Others attending: See attached list

Chair called the meeting to order welcoming all guests.

Chair requested a staff briefing on **HB 2738**

Chair called the meeting to order drawing attention to Committee minutes for February 21. If there are additions or corrections please call the secretary by 5:00 p.m. tomorrow, February 24, 1994, otherwise these minutes will be considered approved as presented.

Chair drew attention to **HB 2738**, and asked for a staff briefing.

Mr. Furse explained **HB 2738** in detail, noting the Secretary may establish by rules and regulations performance standards that Local Health Departments must meet to be eligible to receive moneys under certain situations. If the Local Health Departments do not meet these standards, there could be penalties imposed, depending on the rules and regulations, and funds could be re-allocated to other Health Departments.

Hearings began on: **HB 2738**

Steven Potsic, M.D., Director of Health, Ks. Department of Health/Environment offered hand-out (Attachment No.1). He noted, the mission of Healthy People 2000 is to protect and promote health and prevent disease and injury. To accomplish this mission, agencies implement three core government public health functions, i.e., assessment, policy development, and assurance. To develop performance measures relating to these core functions, the following scenario is appropriate, i.e., 1) an up-front two year transition in which local health departments would be held harmless for any possible funding reductions. 2) A performance Task Force would be formed including representatives from the Department of Health/Environment, local health departments to recommend performance measures and a process to develop accreditation or certification of local health departments. 3) Performance measures would be incrementally implemented into a multi-year timetable to reach Healthy People 2000 objective. 4) The Department of Health/Environment would provide technical assistance and develop incentives for implementation of agreed upon performance. He recommended passage for **HB 2738**.

Kay Kent, spoke in behalf of Kansas Association of Local Health Departments (see Attachment No.2). She gave background information regarding State financial assistance to local health departments. She noted the State Health Coordinating Council completed an 18 month study of public health services in 1981, recommending increased state funding for local health departments, and an inflationary adjustment in future years. She stated, the inflationary adjustment has never been realized.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S
Statehouse, at 1:30 p.m. on February 23, 1994.

Ms. Kent continued her testimony on **HB 2738**.

Kansas support for public health at the local level is considerably below the national norm, local health departments are stretched to the limit with most funding being spent on providing services, so there is inadequate resources for assessment. She stated support for performance measures with these recommendations, i.e., 1) new outputs/program requirements should not be imposed until new funding is available; 2) performance measures should be developed by both state and local health departments; 3) an annual inflationary adjustment should be built into the funding process.

Ms. Kent and Dr. Potsic both answered questions, i.e., there was discussion regarding multi-county health departments; local health departments are administered by the county officials; fiscal implications were viewed as nil; concerns were expressed regarding funding concerns for rural counties. Dr. Potsic replied to a question, i.e., if no additional funding is made available, will the core function still have a positive effect, and he replied yes, he does think there will be a positive effect, he has seen this occur in other states.

HEARING CLOSED ON **HB 2738**.

Chair requested a staff briefing on **SB 550**.

Mr. Furse noted **SB 550** relates to the vital statistics act. He drew attention to new language proposing, the physician in attendance, or, in the absence of a physician, the person in charge of the institution, or their designee would certify the fact of birth on the proper documentation.

There was discussion regarding the fact this exact same legislation had been heard and discussed last year.

HEARINGS BEGAN ON **SB 550**.

Loren Phillips, State Registrar Director Center for Health/Environmental Statistics (see Attachment No.3), noted **SB 550** would allow the hospital administrator, or their designee, to sign the birth certificate when the physician is unavailable or cannot sign within the required five days. He noted **HB 2407** had been introduced, heard, killed in this Committee last year, however, efforts to enforce existing laws to persuade physicians to sign these documents in a more timely manner have not improved. He asked for favorable consideration for **SB 550** since efforts to link other Department programs to the vital statistics system will also be jeopardized without enactment of this legislation, as many departments are dependent upon timely data, i.e., neonatal screening, infant hearing screening, immunizations, etc.

Stacey Empson, representing the Kansas Hospital Association, (see Attachment No.4), spoke in support of **SB 550**, noting this would promote efficiency in the reporting system. **SB 550** simply provides that when the attending physician's signature cannot be easily obtained, a responsible official of the medical care facility may attest to certain facts.

It was the consensus of members to reaffirm Committee action and the legislative history on **HB 2407**. Mr. Furse obtained documentation that **HB 2407** had indeed been reported adversely by Committee on Public Health and Welfare Committee in 1993. It was agreed the minutes recording discussion and questions might need to be reviewed before discussions resume on **SB 550**.

Chair asked if there was any objections to tabling **SB 550**, in order that other business could be discussed this date, i.e., Sub-Committee reports. There were no objections. Chair tabled **SB 550**.

HEARINGS CLOSED ON **SB 550**.

Chair drew attention to **HB 2709** requesting staff bring members up to date regarding the bill. Mr. Furse noted this legislation would allow for cooperation between health care providers for entering into agreements for review of those agreements by health care providers and the Secretary of Department of Health and Environment. It would authorize the Secretary to weigh public advantage elements against the disadvantages, and make a determination as to whether to approve the agreement on that basis. There are some anti-trust aspects entering into agreements. He noted there are exemptions related to anti-trust laws set out in the language of **HB 2709**. He explained.

Discussion began. Concerns were expressed regarding a nine member advisory board being set up; concerns with the total authority of the Secretary of Health and Environment in regard to the decisions on the approval of contracts. Mr. Furse replied, when asked, there is no legal reason why an Advisory Committee could not be set up in a different manner than proposed in **HB 2709**.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S
Statehouse, at 1:30 p.m. on February 23, 1994.

At this point, Rep. Wagle moved to amend **HB 2709** conceptually, that the advisory committee be composed of health care providers be appointed by the following, i.e., one each by the Governor, the Speaker, the Minority Leader, President of the Senate, Minority Leader of the Senate, making up a 5 member advisory committee that would serve at the pleasure of the appointing authority. Motion seconded by Rep. Freeborn.

HB 2709.

Discussion continued. This conceptual language should appear on page 4, section 7. Concerns were expressed regarding what the role of the Secretary would then play, i.e., would decisions for the contract agreements be made solely by the secretary.

Vote taken, motion carried. remuneration

Further concerns expressed regarding the strengths of the advisory committee. Numerous suggestions on optional language was proposed.

Rep. Samuelson moved to further amend **HB 2709** on page 4, line 17, by changing "advise" to "approve". Discussion continued. Technical concerns were discussed, i.e., if the advisory committee would approve agreements, it would substitute the authority of that of the Secretary of Department of Health/Environment. Still, some members expressed concerns regarding the full authority of contract agreements being given to the Secretary.

Rep. Samuelson withdrew her motion.

Discussion continued, i.e., change the name of the committee; the roll the committee would play; joint participation in contract approval; health care providers to this committee may or may not wish to approve their competitors agreements; delete the word "advise"; suggest the committee serve on a voluntary basis, (no remuneration provided), and to rename the committee, "Health Care Provider Cooperation Committee.

Rep. Wells moved to amend **HB 2709** on page 4, line 16, that would create involvement of the committee in considering of contract agreements, and make recommendations on contact decisions to the Secretary. Motion seconded by Rep. Samuelson.

Discussion continued regarding the Secretary have full authority to decide on whether or not to award contracts. It was noted these contracts would be mutually agreed upon. Mr. Furse explained the legality of retaining some of the language that was being questioned, and he stated there is essential language (used in the bill) that is essential regarding the anti-trust regulations.

Question called for.

Rep. Wells repeated her motion, vote taken, motion carried.

Rep. Van Fleet wished to be recorded as a NO vote.

Rep. Wagle then moved to report **HB 2709** favorable as amended, seconded by Rep. Samuelson. Motion carried.

Rep. Wagle will carry **HB 2709** on the floor for debate

Chair drew attention to **HB 2581**.

It was noted after a late Sub-Committee meeting on **HB 2581** last evening, the completed draft on the Committee report is not quite finished.

Chair then drew attention to **HB 2603**.

It was noted the final draft of amendments proposed to **HB 2603** is not yet completed.

Chair drew attention to **HB 3028**.

It was noted there was a balloon amendment provided at the hearing on February 22, 1994. (Note:--this will again be recorded as an attachment, i.e., Attachment No. 5)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S
Statehouse, at 1:30 p.m. on February 23, 1994.

Attention drawn to the amendment in Attachment No. 5, and Dr. Wolff detailed changes proposed in this balloon amendment on **HB 3028**. Discussion began regarding Title I, Title II, Title III, which would be correctly applied to **HB 3028**. It was determined the balloon language is correct except for a change proposed by a conferee.

Rep. Samuelson moved to amend **HB 3028** on page 3, line 10, to add "design and", also to further amend per the balloon detailed by Dr. Wolff. Motion seconded by Rep. Morrison. Motion carried.

HB 3028

Rep. Morrison moved to pass **HB 3028** favorably out of committee, as amended, seconded by Rep. Mayans. Motion carried. Rep. Mayans will carry **HB 3028** for House debate.

Chair drew attention to the Sub-Committee on both **HB 2772 and HB 2786** and requested the Chair, Rep. Scott offer the Committee report.

Rep. Scott distributed a balloon amendment with the recommendations of the Sub-Committee on **HB 2772**. He detailed the proposed changes, (see Attachment No.6) After offering a detailed explanation and noting the agreements had been reached by all parties concerned, Rep. Scott moved to adopt the Sub-Committee report by amending **HB 2772**, per the balloon as follows:-on page 1, line 37, delete "Kansas"; on page 2, line 34, add "cremation", in line 42, add "direct" just before the word "personal"; on page 3, line 12, add "direct" just before the word "personal" and again on line 15, and line 25; also on page 3, line 26, after the word "embalmer", add new section (d), As used in this section, "direct personal supervision" means the physical presence of the licensee is required".

Motion seconded by Rep. Morrison. No questions, no discussion. Vote taken, motion carried.

Rep. Freeborn moved to further amend **HB 2772** on page 1, line 28, to strike out the word "registered". Motion was seconded by Rep. Scott. Motion carried.

On the bill as a whole, Rep. Scott moved to pass **HB 2772** out favorably as amended, seconded by Rep. Wells. Motion carried.

Rep. Scott then drew attention to the Sub-Committee recommendations indicated in (Attachment No. 7), a balloon on **HB 2786**. He explained the proposed changes, and noted the cooperation and agreement with the interested groups, i.e., Board of Mortuary Arts, the Kansas Bar Association, Kansas Funeral Directors. Rep. Scott thanked the Sub-Committee and staff members for their hard work. Rep. Scott then moved to amend **HB 2786** on page 2, and to strike language in lines 36-42, and to add (g), in lieu thereof, "Any person who in good faith acts pursuant to the terms of a durable power of attorney for health care decisions without knowledge of its invalidity shall be immune from liability that may be incurred or imposed from such action.", and to pass out favorably as amended. Motion seconded by Rep. Wells.

Rep. Goodwin will carry **HB 2786** for House debate.

Chair drew attention to **HB 2740**. Chair requested staff give a short explanation of **HB 2740**.

Mr. Furse explained the bill, noting this would provide for rewording and eliminate certain lab tests for syphilis and HIV. This would bring the state regulations into compliance with the federal regulations. It was noted, there was discussion, but no recommendations suggested regarding language on page 1, line 17 in respect to procedures and qualifications for approving of authorized personnel.

Rep. Wagle then moved to report **HB 2740** favorably, seconded by Rep. Rutledge. No discussion. Motion carried

Rep. Swall will carry **HB 2740** for House debate.

Chair stressed to Committee members, there is a large amount of business still to be conducted tomorrow. She asked members to be prepared and on time.

Meeting adjourned at 3:10 p.m.

The next meeting is scheduled for February 24, 1994.

VISITOR REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-23-94

NAME	ORGANIZATION	ADDRESS
Kay Kent	Ks. Association of Local Health Depts	336 Main St. Lawrence, Mo. 64501
Dobson Netherly	Jefferson Co. Health Dept	Osborne, Mo.
Steve R. Borsic	KDHE	LSOB
Sam R. Chaffin	KDHE	LSOB
Charles Fatzler	KDHE	LSOB
Freddie Gron	Am Inst of Architects	Topeka
Ann Harrison	County Commission	General
Chip Wheelen	Ks Medical Soc	Topeka
Kathy Beardon	Ks. Assn / Medically Under Served	Topeka
Charol Couch	Ks Chiropractic Assn	Topeka
Richard Morrissey	KDHE	Topeka
Abby Anah	KDHE	Topeka
Rich Guthrie	Health Midwest	KC
Robert Harder	KDHE	Topeka-LSOB
Stacey Empson	KHA	Topeka
KEITH R. LANDIS	CHRISTIAN SCIENCE COMM on PUBLICATION FOR KS	"
Julie Hoen	Hein, Ebert & Wair	Topeka
Shirley Norris	HA/E/C	Topeka
Michael & Nelson	KPHA / Nebraska Heart & Lung Program	Wattena

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

Testimony presented to

House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

House Bill 2738

House Bill 2738 amends K.S.A.65-242 which relates to the financial assistance to local health departments and would allow the Secretary of Health and Environment to make receipt of state general health funding contingent on compliance with performance measures specified in rules and regulations. Additionally, any general health funds not allocated under this provision would be reallocated to complying local health departments.

Healthy People 2000 includes in its objectives "increase to at least 90% the proportion of people who are served by a local health department that is carrying out the core functions of public health". The mission of public health is to protect and promote health, and prevent disease and injury. To accomplish this mission, agencies implement three core government public health functions, i.e. assessment, policy development, and assurance.

Assessment is the regular collection, analysis, and sharing of information about health conditions, risks and resources in a community. It identifies trends in illness and injury as well as the factors which may cause these events. Assessment determines available health resources, unmet needs, and what people believe to be the most important health issues facing their community.

Information gathered from assessment is used to develop health policies. Local health departments should provide the leadership in developing local priorities and plans for interventions.

Assurance means making sure that needed health services and functions are available and includes the ability to respond to critical situations and emergencies, such as disease outbreaks and natural disasters.

As part of the review of the 1988 Institute of Medicine Report, The Future of Public Health, a corollary document was developed (Protecting and Promoting the Health of Kansans, 1991) in which representatives in state and local public health concurred with the core functions and further recommended that KDHE "initiate a process of accreditation or certification of local health departments." In this regard, development of performance measures relating to core functions is an appropriate focus with the following scenario to be considered:

1. There would be an up-front two year transition period in which local health departments would be held harmless for any possible funding reductions.

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Attm #1.

2. A performance Task Force would be formed which would include representatives from KDHE and the local health departments to recommend performance measures and a process to develop accreditation or certification of local health departments.
3. Performance measures would be incrementally implemented into a multi-year timetable to reach the Healthy People 2000 Objective.
4. KDHE would provide technical assistance and develop incentives for implementation of agreed upon performance.

During the 1970's there was significant effort made to develop health departments in each county of Kansas in the belief that a governmental presence would assure delivery of needed public health services. However, there are wide disparities in local public health programming. Local departments range from essentially one nurse operations to very comprehensive agencies offering a large range of services. Although size does not necessarily determine quality of services, it is apparent that the mere presence of a health department does not assure that Kansas citizens have access to essential services.

This legislation would allow the public health community to continue its initial efforts to improve the current system in Kansas by developing performance measures and creating a organized process to improve capacity and thus improve the public health system in Kansas.

This bill should result in increasingly competent public health services for all our citizens, regardless of where they reside. The Kansas Department of Health and Environment recommends passage of HB2738.

Testimony presented by: Steven R. Potsic, M.D., M.P.H.
Director of Health
Kansas Department of Health and Environment
February 23, 1994

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Testimony to
House Public Health & Welfare Committee
February 23, 1994
on HB 2738

by
W. Kay Kent, RN, MS
Legislative Chair
Kansas Association of Local Health Departments
Administrator/Health Officer of the
Lawrence-Douglas County Health Department

We appreciate the opportunity to present testimony on HB 2738, an act relating to state financial assistance to local health departments; performance measures, amending KSA 65-242 and repealing the existing section.

Background regarding State financial assistance to local health departments

- During the 1980 Legislative Session the Legislature passed SB 541 which directed the Statewide Health Coordinating Council (SHCC) to undertake a study of public health services.
- In December 1981, the State Health Coordinating Council completed an 18 month study of public health services.
- The report made several recommendations for increased state funding for local health departments. \$1,913,993 was recommended to be newly provided to local health departments at the rate of \$.75 per capita with a minimum funding level of \$7,000.
- The report also called for an inflationary adjustment in future years, and suggested that the Secretary of Health and Environment should annually recommend such an adjustment to the Legislature.
- The 1982 Legislature passed a state formula funding bill designed to provide financial assistance to local health, but it was not funded until 1984. At that time the level of funding from that source was about \$.50 per capita or \$7,000, whichever was greater; it was increased to \$.75 per capita in 1989. The current level is approximately \$.73 due to budget cuts in recent years for a total amount from the state of \$1,996,479.
- An annual inflationary adjustment has never been realized.
- Kansas support for public health at the local level is considerably below the norm for the nation. (See Issue Paper FY 1995, State Support of Local Health Departments "General Public Health Programs".)

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Attn #2

- Local health departments are stretched to the limit. We are experiencing: increased demand for services; increased cost of providing services (health insurance, pharmaceuticals, clinic supplies); decreased revenues (not keeping up with inflation, under the tax lid, inadequate reimbursement from Medicaid).
- Most funding is currently spent on providing services. There are inadequate resources for assessment. No state dollars are given for capacity building or infrastructure.

Performance measures background

- The Public Health System Study, of which local health departments were a major participant, recommended that: a process be initiated for accreditation or certification of local health departments; and the accountability criteria be developed as a joint endeavor between Kansas Department of Health and Environment and local health departments. However, the study recognized "that many of the specific recommendations for bringing adequacy to the public health system in Kansas cannot be implemented without additional resources."
- Kansas Department of Health and Environment has given as an example of initial performance measures the completion of one cycle of Patch or APEX PH (Assessment Protocol for Excellence in Public Health). However, the APEX PH manual states "Users caution that the staff time required should not be underestimated... It is recommended that a health department director review the entire process at the outset to get a firm understanding of the time and resources needed to complete APEX PH satisfactorily." Since we already are stretched to the limit, how is this and other proposed measures to be done without additional resources or a curtailment of current service delivery?

Recommendations

We support performance measures for local health departments with the following stipulations:

1. New outputs and program requirements should not be imposed until new funding becomes available. Added services/requirements should be tied directly to additional funding. (Note: In Michigan it was recommended that almost \$2 million be allocated for local health department accreditation development and implementation.)
2. Performance measures should be mutually developed by both state and local health departments.
3. An annual inflationary adjustment should be built into the funding process.

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State Support of Local Health Departments
"General Public Health Programs"
Issue Paper - FY 1995

I. Issue Definition

Kansas support for public health at the local level is considerably below the norm for the nation. To paraphrase statements in the 1988 Institutes of Medicine (IOM) report, The Future of Public Health "...state has lost sight of its public health goals..", "...effective public health activities are essential to the health and well being of Kansas people now and in the future." Due to inadequate state and local support, local health departments are struggling to successfully meet their mission of assuring conditions in which people can be healthy.

II. Background

Local health services have been a part of Kansas government since 1885. In 1901, the state legislature started a shared concept of local health delivery by mandating local health officers; infectious or contagious disease control; quarantines; and related prevention, suppression and control of contagious diseases. Since 1901 the bulk of direct local health services has increasingly been delegated to the local health departments without sufficient state resources to meet those responsibilities. Prior to 1980 Kansas provided little state general fund support to local health departments. As a result, Kansas was ranked fourth from the bottom in state support of local health. A state formula funding bill to provide general financial assistance to local health departments was designed and passed in 1982. It was not funded until 1984 and with a funding level of about \$0.50 per capita. There was an increase to \$.75 per capita or \$7,000 whichever is greater in 1989.

In 1993 Kansas supported local personal and environmental health programs by contributing \$2.37 per capita out of state general funds (see attachment A). The national projected average for 1993 was \$5.67 per capita (see attachment B). Demands on local government resources have increased in order to maintain its infrastructure while at the same time receiving increased delegation of responsibility from the federal and state level. Concurrently, local health departments have experienced an increased utilization of services due to the public seeking alternatives to rising health care costs. In addition to the increased utilization, local health departments are faced with a 15% inflation rate in medical costs. They are responding to both of these issues primarily by increasing efficiency and raising fees.

Because local dollars are frozen by the tax lid, health departments are losing the ability to match additional grant dollars. Because Kansas is a state with such diverse populations as relates to ethnicity, age, income, and service location it becomes increasingly important to have state monetary resources to guarantee a minimal level of public health service in all counties.

The recent survey by KDHE demonstrated the wide discrepancy in funds available to local health departments. The range was from no funding to a high of \$50.00 per capita. Often the counties with the biggest needs were the counties with the fewest resources. Public Health is sufficiently important that it deserves a state guarantee of minimum performance in each county. Without it we will see a resurgence of tuberculosis and diseases preventable with adequate immunizations. The result being the increased vulnerability of communities to disease outbreaks.

To summarize, increased state support will allow local health departments to 1) help the state fulfill its mandates; 2) provide programs tailored to the needs of the local community; 3) help equalize funding differences between counties; and 4) give increased priority to the public health's role of disease prevention and control.

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III. Options

Option 1: Increase state general fund support to local public health programs to the average national level of \$5.67 per capita.

Option 2: Continue the phased in funding for local health departments by increasing the general health contribution to local health departments from \$0.75 to \$1.00.

Option 3: Contribute some increase less than the \$0.25 per capita that at least gives counties a consumer price index that in the medical field is approaching 15%.

IV. Recommendations

Clearly the need for increased state support has been documented by The Kansas Public Health System Study, Protecting and Promoting the Health of Kansas, the Statewide Health Coordinating Committee report; and the Public Health Foundation report of state support. KALHD recommends Option 1 with Option 2 being seen as a minimum commitment to local health departments.

V. Fiscal Impact

Option 1: The fiscal impact to Kansas would be approximately \$7,400,000.00.

Option 2: The increase from \$0.75 to \$1.00 would increase state support by \$591,059.00.

VI. Legislative Implications None

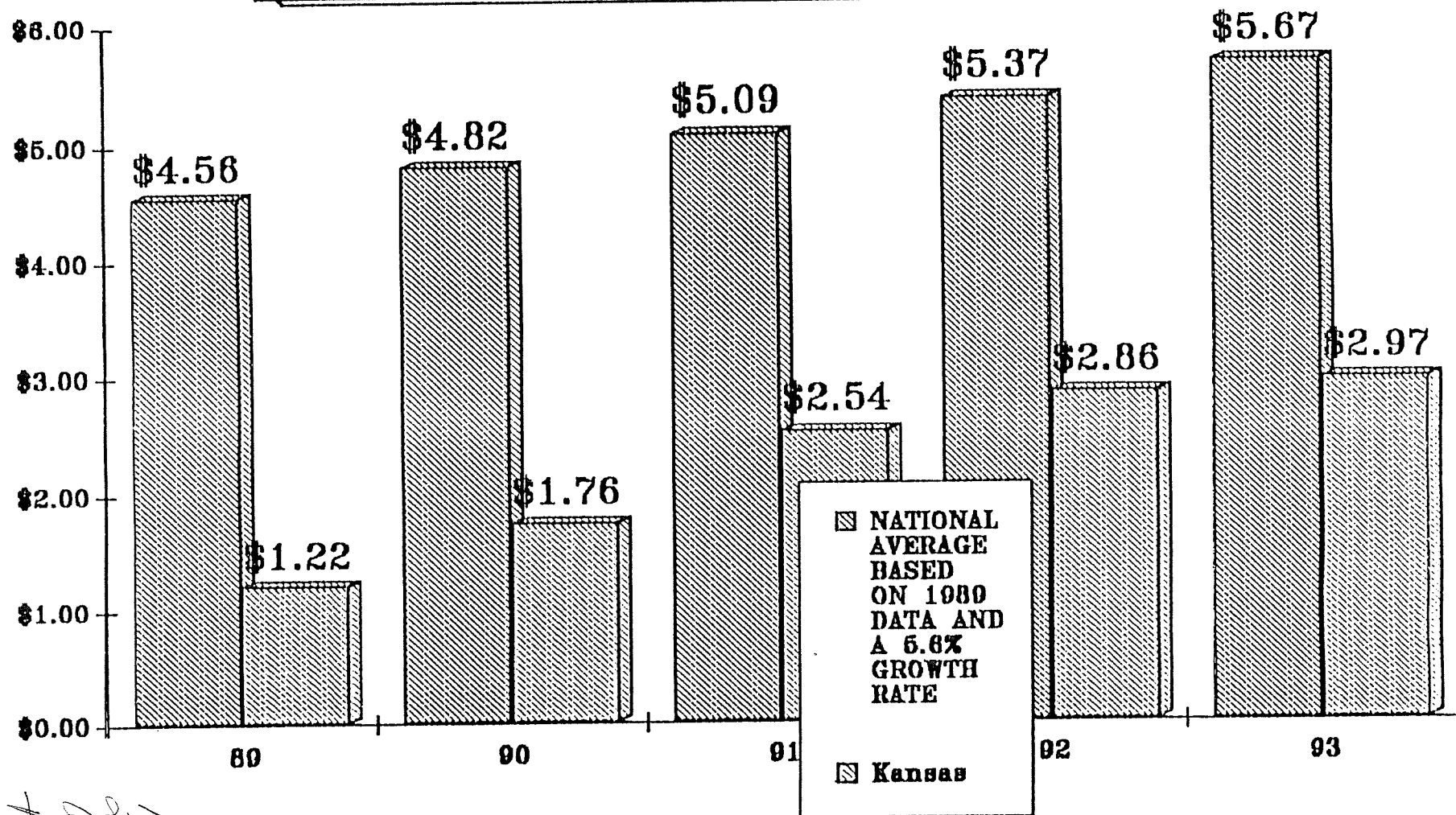
VII. Impact on other agencies None

VIII. Supporting documents (attached)

*Per Capita State General Funds to Local Health and Environment", The Kansas Public Health System Study.

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PER CAPITA STATE GENERAL FUNDS TO LOCAL HEALTH DEPARTMENTS FOR HEALTH AND ENVIRONMENT



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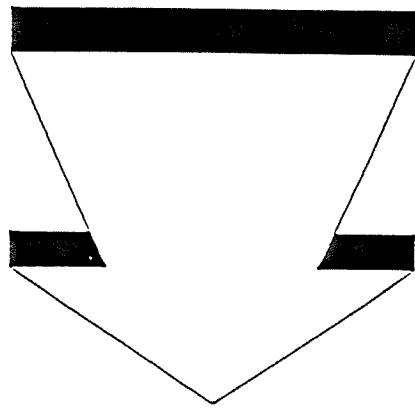
<u>State Funds</u>	<u>1989</u>	<u>Population</u>
Alabama	10,179,000	4,041,000
Alaska	1,259,000	550,000
Arizona	8,504,000	3,665,000
California	291,560,000	29,760,000
Colorado	4,152,000	3,276,000
Connecticut	4,163,000	3,287,000
Florida	150,519,000	12,939,000
Georgia	46,685,000	3,487,000
Hawaii	7,529,000	1,108,000
Idaho	65,000	1,007,000
Illinois	46,521,000	11,431,000
Indiana	2,357,000	5,544,000
Iowa	4,047,000	2,777,000
Kansas	2,777,000	2,478,000
Kentucky	15,979,000	3,685,000
Louisiana	1,593,000	4,220,000
Maine	163,000	1,228,000
Maryland	44,388,000	4,781,000
Massachusetts	2,749,000	6,016,000
Michigan	69,824,000	9,295,000
Minnesota	19,822,000	4,375,000
Mississippi	4,964,000	2,573,000
Missouri	7,768,000	5,117,000
Nevada	1,838,000	1,202,000
New Jersey	8,596,000	7,730,000
New York	140,491,000	17,990,000
North Carolina	25,215,000	6,629,000
North Dakota	524,000	639,000
Ohio	3,656,000	10,847,000
Oklahoma	19,606,000	3,146,000
Oregon	2,270,000	2,842,000
Pennsylvania	32,315,000	11,882,000
South Carolina	20,367,000	3,487,000
Tennessee	6,440,000	4,877,000
Texas	13,999,000	16,987,000
Utah	1,754,000	1,723,000
Washington	7,250,000	4,867,000
West Virginia	6,312,000	1,793,000
Wisconsin	2,116,000	4,892,000
	<hr/>	<hr/>
	1,040,316,000	228,173,000

4.56 per capita

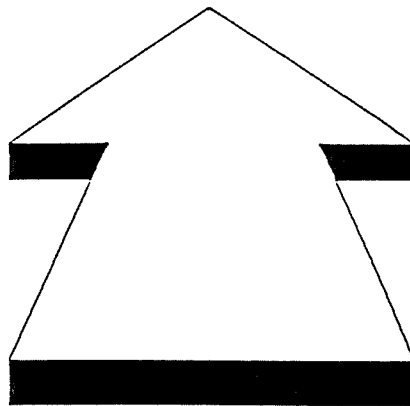
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Tax Lid



Local Health Departments



Increased Demand
Insufficient State Support
Increased Cost

P74+6
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State of Kansas

Joan Finney



Governor

Department of Health and Environment

Robert C. Harder, Secretary

Testimony presented to
Committee on House Public Health and Welfare
by
The Kansas Department of Health and Environment
Senate Bill 550

S.B. 550 would allow the hospital administrator, or their designee, to sign the birth certificate when the physician is unavailable or cannot sign within the required five days.

Currently the law states that only the physician in attendance at birth shall certify to the facts of birth, provide the medical information required and sign the birth certificate. Frequently, the physician is not available to sign the certificate within five days. Since the medical information is available in hospital records and is usually entered on the certificate by hospital staff, the hospital administrator or their designee could sign the certificate.

Currently there is no statutory authority for anyone other than the physician to sign the birth certificate if the birth occurs in an institution. If the event occurs outside an institution, there is a line of authority as to who can sign including the person in charge of the premises where the birth occurred.

This revision would allow the hospital to meet the five-day statutory deadline and would allow the Office of Vital Statistics to receive and process the birth records in a more timely manner which in turn means that the family could have access to certified copies more quickly. Frequently families need certified copies to carry on personal business.

The revision being proposed has been enacted in other states where they experience the same problems in obtaining the signature of the physicians.

KDHE initiated this same legislation during the 1993 legislative session in the form of H. B. 2407; however, the bill was killed in committee. Committee members felt more effort needed to go into education and efforts to enforce the existing laws to persuade the physicians to sign in a more timely manner. Every effort has been made during this past year to do so, however, there has been little if any improvement in reporting. The delinquency rates continue to be staggering. Therefore, we are proposing once again that the hospital administrator be allowed to sign the birth certificate in the absence of the physician.

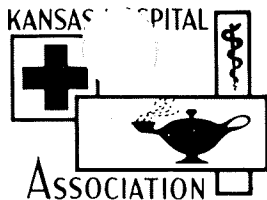
We are confident that this change in legislation will have no impact on the accuracy or validity of the information being reported. The positive impact would be a significant improvement in the timeliness of reporting.

If this provision is not implemented, efforts to link other Department programs to the vital statistics system will also be jeopardized as many of those programs are dependent upon timely data; i.e., neonatal screening, infant hearing screening, immunizations, etc.

We, therefore, recommend passage of S.B. 550.

Testimony presented by: Dr. Lorne A. Phillips
State Registrar and Director
Center for Health and Environmental Statistics
February 23, 1994

PHW
2-23-94
Attn #3



Stacey E. Jones

Donald A. Wilson
President

February 23, 1994

TO: House Public Health and Welfare Committee
FROM: Kansas Hospital Association
RE: Senate Bill 550

The Kansas Hospital Association appreciates the opportunity to comment on Senate Bill 550. This bill would authorize the hospital chief executive officer or his or her designated representative to certify the facts of birth to the Department of Health and Environment.

In many ways this bill can be seen as a technical change. Current law already requires the hospital CEO or his or her designated representative to gather the necessary information and file the birth certificate with the state. The language of SB 550 is therefore consistent with current statutes.

SB 550 also promotes efficiency in the system. Current statutes contain an absolute requirement without regard for the practicalities that may accompany a given situation. SB 550 simply provides that when the attending physician's signature cannot be easily obtained, a responsible official of the medical care facility may attest to certain facts.

Thank you for your consideration of our comments.

PH:W
2-23-94
Attn #4

HOUSE BILL No. 3028

By Committee on Public Health and Welfare

2-15

8 AN ACT concerning individuals with disabilities; relating accessibility
9 to certain facilities; amending K.S.A. 1993 Supp. 8-1,128, 58-1301,
10 58-1303, 58-1304, 58-1306 to 58-1310a, 79-32,175, 79-32,176 and
11 79-32,177 and repealing the existing sections; also repealing
12 K.S.A. 1993 Supp. 8-1,128a, 58-1301a, 58-1305, 58-1311 and 58-
13 1316 to 58-1324, inclusive.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 1993 Supp. 8-1,128 is hereby amended to read
17 as follows: 8-1,128. (a) Notwithstanding the provisions of K.S.A. 8-
18 2003, and amendments thereto, all designated accessible parking
19 spaces shall be clearly marked by vertically mounted signs bearing
20 the international symbol of access. Such signs shall be displayed with
21 the bottom of the sign not less than 32 inches above the surface
22 of the roadway between 36 and 60 inches above the surface of the
23 parking space.

24 (b) As of January 26, 1992, any owner of private property
25 available for public use establishing a new parking space or
26 relocating an existing parking space for persons with a disa-
27 bility, shall conform to the following federal regula-
28 tion: Section 4.6 of appendix A to part 36; nondiscrimination
29 on the basis of disability by public accommodations and com-
30 mercial facilities, 28 CFR part 36, as required by the Americans
31 with disabilities act of 1990, 42 USCA 12101 et seq.

32 (b) All parking shall conform to Title II or Title III, as required
33 by the Americans with disabilities act of 1990, 42 USCA 12101 et
34 seq.

[and 28 CFR Parts 35 and 36,

35 Sec. 2. K.S.A. 1993 Supp. 58-1301 is hereby amended to read
36 as follows: 58-1301. (a) Except as provided in K.S.A. 58-1307, and
37 amendments thereto, all public buildings and facilities in this
38 state, and additions thereto, and all governmental buildings and
39 facilities in this state, and additions thereto, shall conform to
40 the following federal regulations: Nondiscrimination in state
41 and local government services, 28 CFR Part 35, and nondis-
42 crimination on the basis of disability by public accommodations
43 and commercial facilities, 28 CFR Part 36, as required by the

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Americans With Disabilities Act of 1990, 42 USCA 12101 et seq., enacted on July 26, 1990. Such standards may be modified by rules and regulations adopted by the secretary of administration in accordance with the provisions of K.S.A. 77-415 et seq., and amendments thereto. Any public building or facility or any governmental building or facility, or any addition to any such building or facility, to which the provisions of this section were applicable prior to January 26, 1992, shall be governed by the provisions of this section which were in effect on the date the contract for the construction or renovation of such public building or facility or such governmental building or facility, or addition thereto, was entered into.

(b) A building or facility for which a standard has been waived or modified pursuant to K.S.A. 58-1307, and amendments thereto, shall be deemed to conform to the standards established pursuant to this section if such building or facility conforms to all such standards which have not been waived or modified and to any modified standard approved for such building or facility pursuant to K.S.A. 58-1307, and amendments thereto existing facilities, and the design and construction of all new, additions to and alterations of, facilities in this state shall conform to Title II or Title III, as appropriate. The design and construction of new, ~~additions to or alterations of~~ any facility which receives a building permit or permit extension after the effective date of this act shall be governed by the provisions of this act.

[addition to or alteration of,

leaves is

New Sec. 3. As used in this act: "Governmental entity" means a "public entity" as defined in Title II, but shall not include the national railroad passenger corporation, and any commuter authority, as defined in section 103(8) of the rail passenger service act (45 U.S.C. §541).

(b) "Person" means an individual, partnership, corporation or other association of individuals.

(c) "Title II" means 28 CFR Part 35, nondiscrimination in state and local government services ~~programs, or activities~~ as required by ~~section 204~~ of the Americans with disabilities act of 1990, 42 USCA ~~12101~~.

[sections 201 to 205, inclusive,

(d) "Title III" means 28 CFR Part 36, nondiscrimination on the basis of disability by public accommodations and commercial facilities as required by section ~~305~~ of the Americans with disabilities act of 1990, 42 USCA ~~12106~~.

[12,115 et seq

[301 et seq.

[12,181 et seq

Sec. 4. K.S.A. 1993 Supp. 58-1303 is hereby amended to read as follows: 58-1303. It ~~This act~~ is intended to prohibit discrimination on the basis of disability by public entities and public accom-

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modations. All buildings and Title II and Title III entities. All facilities covered by this act are to be designed, constructed and altered to be readily accessible to and usable by persons individuals with a disability.

Sec. 5. K.S.A. 1993 Supp. 58-1304 is hereby amended to read as follows: 58-1304. (a) The responsibility for enforcement of K.S.A. 58-1301 to 58-1309, inclusive, and 58-1311, and amendments thereto, This act shall be as follows: (1) For all school building construction or renovation existing Title II school facilities, and the construction of all new additions to and alterations of Title II school facilities, the state board of education, by plan approval as required by K.S.A. 31-150, and amendments thereto. School facilities under the control of the state board of regents shall not be subject to the provisions of this subsection;

(2) for all construction or renovation existing state government facilities, and the design and construction of all new, additions to and alterations of, facilities for which federal, state, county, ~~municipality~~ or private funds are utilized on state property, the secretary of administration;

funds or funds of other political subdivisions of the state

(3) for all construction or renovation existing facilities, and the design and construction of all new, additions to and alterations of, any local government facilities where funds of a county, municipality or other political subdivision are utilized, the ~~governing body~~ thereof or an agency thereof designated by the ~~governing body~~;

governmental entity

(4) for all other construction or renovation of buildings or facilities which are subject to the provisions of K.S.A. 58-1301 to 58-1309, inclusive, and amendments thereto the design and construction of all other new, additions to and alterations of, facilities which are subject to the provisions of this act, the building inspector or other agency or person designated by the municipality governmental entity in which the building or facility is located.

(b) The attorney general of the state of Kansas shall oversee the enforcement of this act by the persons listed in paragraphs (1), (2), (3) and (4) of subsection (a).

Sec. 6. K.S.A. 1993 Supp. 58-1306 is hereby amended to read as follows: 58-1306. The international symbol of access to persons individuals with a disability shall be permanently displayed at the entrance of buildings and all facilities that are in compliance with the standards established pursuant to K.S.A. 58-1301, and amendments thereto. Entrances of multi-family dwellings as defined in the K.S.A. 44-1001 et seq., and amendments thereto, and the fair housing act of 1968, as amended, 42 U.S.C. 3601 et seq., also shall display the international symbol of access to individuals with a dis-

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1 ability.

2 Sec. 7. K.S.A. 1993 Supp. 58-1307 is hereby amended to read
3 as follows: 58-1307. (a) If a person or governmental entity un-
4 dertaking the construction or renovation of any building or
5 facility which is subject to the provisions of K.S.A. 58-1301
6 through 58-1309, and amendments thereto, determines that full
7 compliance with any standard established pursuant to K.S.A.
8 58-1301, and amendments thereto, is impractical or unreason-
9 able in that it would defeat the purpose of such construction
10 or renovation, such person or governmental entity may apply
11 to the person, agency or governing body responsible for the
12 enforcement of the provisions of this act with respect to such
13 construction or renovation for a waiver or modification of such
14 standard. The application for waiver or modification shall be
15 accompanied by reasons for the determination and a proposal
16 setting forth the maximum extent of compliance with the par-
17 ticular standard which is believed practical. The application
18 shall include all relevant data that may be helpful in evaluating
19 the request for waiver or modification, including cost of the
20 total project, cost of construction and facilities necessary to
21 comply with standards established pursuant to K.S.A. 58-1301,
22 and amendments thereto, and one copy of the building plans
23 for the applicable areas of the construction or renovation.

24 (b) The person, agency or governing body responsible for
25 enforcement shall consider the submitted application and any
26 other data it may find helpful, including data collected from
27 on-site inspection of the construction or renovation project.
28 Such person, agency or governing body shall investigate the
29 application and determine the estimated building costs and the
30 incremental cost of construction or renovation to conform to
31 the standards established pursuant to K.S.A. 58-1301, and
32 amendments thereto.

33 (c) Upon the basis of the findings of the investigation, the
34 person, agency or governing body responsible for enforcement
35 may waive or modify a particular standard if: (1) The purpose
36 of K.S.A. 58-1301 through 58-1309, and amendments thereto,
37 can be fulfilled by an acceptable alternative to the particular
38 standard; or (2) the incremental construction cost to conform
39 to the standards exceeds 20% of the total construction or ren-
40 ovation costs. Such person, agency or governing body shall
41 notify the applicant for waiver or modification of its action
42 thereon. Any action by a state officer or agency pursuant to
43 this section is subject to review in accordance with the act for

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1 judicial review and civil enforcement of agency actions. Any
2 action pursuant to this section by another person or entity is
3 subject to review by the district court of the county where the
4 building or facility is located.

5 (d) If a person or governmental entity undertaking a ren-
6 ovation of a historic building or facility which is subject to the
7 provisions of K.S.A. 58-1301 through 58-1309, and amendments
8 thereto, determines that full compliance with any standard es-
9 tablished pursuant to K.S.A. 58-1301, and amendments thereto,
10 would threaten or destroy the historical significance of the
11 building or facility, such person or governmental entity may
12 apply to the state historic preservation officer for a waiver or
13 modification of such standard. The application for waiver or
14 modification shall be accompanied by reasons for the deter-
15 mination and a proposal setting forth the maximum extent of
16 compliance with the particular standard which is believed pos-
17 sible without threatening or destroying the historical signifi-
18 cance of the building or facility. The application shall contain
19 all relevant data that may be helpful in evaluating the request
20 for waiver or modification, including descriptions of alternative
21 methods of providing access, one copy of the building plans,
22 with dimensions, for the applicable areas of the renovation and
23 photographs of the existing conditions.

24 (e) The state historic preservation officer shall evaluate the
25 submitted request for waiver or modification of standards and
26 any other relevant data, including additional information solie-
27 ited from the applicant and gathered through on-site inspection
28 of the historic building or facility and consult with the Kansas
29 commission on disability concerns, or other suitable entity with
30 a primary responsibility to ensure nondiscrimination on the
31 basis of physical disabilities. The state historic preservation
32 officer, on the basis of the evaluation and consultation, will
33 allow waivers and modifications of the standards to the extent
34 necessary to eliminate, or where elimination is not possible,
35 to minimize threats to, or the destruction of, the historical sig-
36 nificance of the building or facility.

37 (a) Any governmental entity undertaking an addition to or al-
38 teration of a qualified historic facility, as defined in section 504(c)
39 of the Americans disabilities act of 1990 as required by Title II,
40 shall follow 28 CFR Part 35.150(b)(2)

[and 35.150(d)]

41 (b) Any person undertaking an addition to or alteration of a
42 qualified historic facility, as defined in section 504(c) of the Amer-
43 icans with disabilities act of 1990 as required by Title III, shall

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1 follow 28 CFR Part 36.405.

2 (c) Any consultation for alternative methods of access with the
 3 state historic preservation officer required by 28 CFR Part
 4 35.150(b)(2) ~~for 28 CFR Part 36.405~~ shall include descriptions of or 35.150(d)
 5 alternative methods of providing access, one copy of the facility
 6 plans, with dimensions, for the applicable areas of the addition or
 7 alteration, and photographs of the existing conditions.

8 (d) In addition to subsection (c), the state historic preservation
 9 officer shall solicit additional information from the requestor and
 10 perform an on-site inspection of the qualified historic facility.

11 ~~(f)~~ (e) The state historic preservation officer shall initiate eval-
 12 uation and consultation regarding properly submitted appli-
 13 cations for waiver or modification of standards consultation and
 14 evaluation of properly submitted requests within 30 days from the
 15 date of receipt of applications the request was received.

16 ~~(g)~~ (f) Any action by a state officer or agency pursuant to this
 17 section is subject to review in accordance with the act for judicial
 18 review and civil enforcement of agency actions. Any action pursuant
 19 to this section by ~~another~~ any other person or entity is subject to
 20 review by the district court of the county where the building or
 21 facility is located.

22 Sec. 8. K.S.A. 1993 Supp. 58-1308 is hereby amended to read
 23 as follows: 58-1308. The attorney general, the city, county or district
 24 attorney or any person, agency or ~~governing body~~ responsible for governmental entity
 25 the enforcement of K.S.A. 58-1301 to 58-1309, inclusive, and 58-
 26 1311, and amendments thereto, this act may apply in the name
 27 of the state of Kansas to the district court for a temporary or per-
 28 manent injunction restraining any individual, corporation or part-
 29 nership from violating the standards established by K.S.A. 58-1301,
 30 and amendments thereto this act. Such court shall have jurisdiction
 31 upon hearing and for cause shown to grant such injunction. Such
 32 court may require the ~~(modification)~~ of any public or governmental alteration
 33 building or facility by mandatory injunction to ensure compliance
 34 with the provisions of this act.

35 Sec. 9. K.S.A. 1993 Supp. 58-1309 is hereby amended to read
 36 as follows: 58-1309. (a) An aggrieved ~~person~~ individual with a dis-
 37 ability shall not be a required party in actions brought by the attorney
 38 general or a city, county or district attorney pursuant to this section.

39 (b) Any willful violation of the terms of any injunction or court
 40 order issued pursuant to this act shall render the violator liable for
 41 the payment of a civil penalty in such amount as the court shall
 42 determine to be necessary and proper.

43 (c) In administering and pursuing actions under this act, the

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1 attorney general and the city, county attorney or district attorney
 2 are authorized to sue for and collect reasonable expenses and in-
 3 vestigation fees as determined by the court. Civil penalties sued for
 4 and recovered by the attorney general shall be paid into the general
 5 fund of the state. Civil penalties sued for and recovered by the city,
 6 county attorney or district attorney shall be paid into the general
 7 fund of the city or county where the proceedings were instigated.

governmental entity

8 (d) Any person, agency or ~~governing body~~ responsible for the
 9 enforcement of this act may refer evidence concerning violation of
 10 the standards established pursuant to this act to the attorney general
 11 or the proper city, county or district attorney, who may institute,
 12 with or without such a reference, proceedings under this section.

13 Sec. 10. K.S.A. 1993 Supp. 58-1310a is hereby amended to read
 14 as follows: 58-1310a. (a) The attorney general of the state of Kansas
 15 may adopt any rules and regulations necessary to implement the
 16 provisions of K.S.A. 58-1304 and 58-1308, and amendments thereto.

17 (b) The state board of education may adopt any rules and reg-
 18 ulations to implement the provisions of paragraph (1) of subsection
 19 (a) of K.S.A. 58-1304, and amendments thereto.

20 (c) The secretary of administration may adopt any rules and
 21 regulations necessary to implement the provisions of ~~paragraph (2)~~
 22 ~~of subsection (a) of K.S.A. 58-1304, and amendments thereto.~~

this act

23 New Sec. 11. (a) All parking shall conform to the appropriate
 24 Title II or Title III requirements.

25 (b) Notwithstanding the provisions of K.S.A. 8-2003, and amend-
 26 ments thereto, each designated accessible parking space shall be
 27 marked clearly by vertically mounted signs bearing the international
 28 symbol of access. Such signs shall be displayed with the bottom of
 29 the sign between 36 and 60 inches above the surface of the parking
 30 space.

31 Sec. 12. K.S.A. 1993 Supp. 79-32,175 is hereby amended to read
 32 as follows: 79-32,175. As used in this act:

33 (a) "Accessible to persons with a disability" means in con-
 34 formity with the following federal regulation: Nondiscrimina-
 35 tion on the basis of disability by public accommodations and
 36 commercial facilities, 28 CFR part 36, as required by the Amer-
 37 icans with disability act of 1990, 42 USCA 12101 et seq.

38 (b) "Building or facility" means any building, structure, rec-
 39 reational area, street, curbing or sidewalk, or access thereto, or
 40 any accommodation in any building, structure or recreational
 41 area, including bathrooms, toilet stalls, dining areas, drinking
 42 fountains, phone booths and lodging rooms or quarters. Such
 43 term shall not include any addition made to an existing building

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1 or facility.

2 (a) "Accessible to individuals with a disability" means in con-
3 formance with Title I and Title III of the Americans with disabilities
4 act of 1990, 42 USCA 12101 et seq. and 28 CFR Part 36.

and 29 CFR 1630 et seq

5 (b) "Facility" means facility as such term is defined in 28 CFR
6 Part 36.104, but shall not mean new construction or any addition
7 made to an existing facility.

8 (c) "Expenditures for the purpose of making all or any portion
9 of an existing building or facility accessible to the persons indi-
10 viduals with a disability" includes only those expenditures specifically
11 attributable to the elimination or adaptation removal or equivalent
12 facilitation of an existing architectural barrier, which elimination
13 or adaptation when removal or equivalent facilitation is for the
14 purpose of making an existing building or facility accessible to per-
15 sons individuals with a disability. Such term shall not include any
16 part of any expense paid or incurred in connection with the con-
17 struction or comprehensive renovation of a building or new con-
18 struction or substantial alteration of a facility or the normal re-
19 placement of depreciable property.

20 (d) "Expenditures for the purpose of making all or any portion
21 of a building or an existing facility or of equipment usable for the
22 employment of persons with a disability" includes only those ex-
23 penditures specifically attributable to the modification or adaptation
24 of a building or an existing facility or of equipment, which modi-
25 fication or adaptation is for the purpose of employing persons in-
26 dividuals with a handicap.

disability

27 Sec. 13. K.S.A. 1993 Supp. 79-32,176 is hereby amended to read
28 as follows: 79-32,176. (a) Any resident individual taxpayer who makes
29 expenditures for the purpose of making all or any portion of an
30 existing building or facility accessible to persons individuals with
31 a disability, which building or facility is used as, or in connection
32 with, such taxpayer's principal dwelling, shall be entitled to claim
33 a tax credit in an amount equal to the applicable percentage of such
34 expenditures or \$1,250, whichever is less, against the income tax
35 liability imposed against such taxpayer pursuant to article 32 of chap-
36 ter 79 of the Kansas Statutes Annotated. The applicable percentage
37 of such expenditures eligible for credit shall be as set forth in the
38 following schedule:

Taxpayers Kansas Adjusted	% of expenditures
Gross Income	eligible for credit
\$0 to \$20,000.....	100%
Over \$20,000 but not over \$25,000	90%
Over \$25,000 but not over \$30,000	80%

1	Over \$30,000 but not over \$35,000	70%
2	Over \$35,000 but not over \$40,000	60%
3	Over \$40,000 but not over \$50,000	50%
4	Over \$50,000	0

5 Such tax credit shall be deducted from the taxpayer's income tax
6 liability for the taxable year in which the expenditures are made by
7 the taxpayer. If the amount of such tax credit exceeds the taxpayer's
8 income tax liability for such taxable year, the amount thereof which
9 exceeds such tax liability may be carried over for deduction from
10 the taxpayer's income tax liability in the next succeeding taxable year
11 or years until the total amount of the tax credit has been deducted
12 from tax liability, except that no such tax credit shall be carried over
13 for deduction after the fourth taxable year succeeding the taxable
14 year in which the expenditures are made.

15 (b) Notwithstanding the provisions of subsection (a), if the amount
16 of the taxpayer's tax liability is less than \$312.50 in the first year in
17 which the credit is claimed under this section, an amount equal to
18 the amount by which $\frac{1}{4}$ of the credit allowable under this section
19 exceeds such tax liability shall be refunded to the taxpayer and the
20 amount by which such credit exceeds such tax liability less the
21 amount of such refund may be carried over for the next three suc-
22 ceeding taxable years. If the amount of the taxpayer's tax liability is
23 less than \$312.50 in the second year in which the credit is claimed
24 under this section, an amount equal to the amount by which $\frac{1}{3}$ of
25 the amount of the credit carried over from the first taxable year
26 exceeds such tax liability shall be refunded to the taxpayer and the
27 amount by which the amount of the credit carried over from the
28 first taxable year exceeds such tax liability less the amount of such
29 refund may be carried over for the next two succeeding taxable
30 years. If the amount of the taxpayer's tax liability is less than \$312.50
31 in the third year in which the credit is claimed under this section,
32 an amount equal to the amount by which $\frac{1}{2}$ of the amount carried
33 over from the second taxable year exceeds such tax liability shall be
34 refunded to the taxpayer and the amount by which the amount of
35 the credit carried over from the second taxable year exceeds such
36 tax liability less the amount of such refund may be carried over to
37 the next succeeding taxable year. If the amount of the credit carried
38 over from the third taxable year exceeds the taxpayer's income tax
39 liability for such year, the amount thereof which exceeds such tax
40 liability shall be refunded to the taxpayer.

41 Sec. 14. K.S.A. 1993 Supp. 79-32,177 is hereby amended to read
42 as follows: 79-32,177. Any taxpayer who makes expenditures for the
43 purpose of making all or any portion of an existing building or

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1 facility accessible to persons *individuals* with a disability, or who
2 makes expenditures for the purpose of making all or any portion of
3 a ~~building or~~ facility or of equipment usable for the employment
4 of *persons individuals* with a disability, which ~~building,~~ facility or
5 equipment is on real property located in this state and used in a
6 trade or business or held for the production of income, shall be
7 entitled to claim an income tax credit in an amount equal to 50%
8 of such expenditures or, the amount of \$10,000, whichever is less,
9 against the income tax liability imposed against such taxpayer pur-
10 suant to article 32 of chapter 79 of the Kansas Statutes Annotated.
11 Such tax credit shall be deducted from the taxpayer's income tax
12 liability for the taxable year in which the expenditures are made by
13 the taxpayer. If the amount of such tax credit exceeds the taxpayer's
14 income tax liability for such taxable year, the amount thereof which
15 exceeds such tax liability may be carried over for deduction from
16 the taxpayer's income tax liability in the next succeeding taxable year
17 or years until the total amount of the tax credit has been deducted
18 from tax liability, except that no such tax credit shall be carried over
19 for deduction after the fourth taxable year succeeding the taxable
20 year in which the expenditures are made.

21 Sec. 15. K.S.A. 1993 Supp. 8-1,128, 8-1,128a, 58-1301, 58-
22 1301a, 58-1303 to 58-1311, inclusive, 58-1316 to 58-1324, inclusive,
23 79-32,175, 79-32,176 and 79-32,177 are hereby repealed.

24 Sec. 16. This act shall take effect and be in force from and after
25 its publication in the statute book.

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Pg. 10810

1 The term "personal supervision" means that a licensed ~~Kansas~~
 2 embalmer takes full responsibility for the actions of the apprentice
 3 embalmer. It does not, however, require any physical presence.

4 Sec. 2. K.S.A. 65-1705 is hereby amended to read as follows:
 5 65-1705. Any person who shall advertise, practice or hold ~~himself~~
 6 ~~or herself oneself out~~ as practicing the science of embalming without
 7 having complied with the provisions of this act shall be guilty of a
 8 class A nonperson misdemeanor; and upon conviction thereof be-
 9 fore any court shall be sentenced to pay a fine of not less than
 10 fifty dollars nor more than one hundred dollars for each and
 11 every offense; or any person, railroad, express company or com-
 12 mon carrier who shall violate the provisions of this act shall
 13 be guilty of a misdemeanor, and shall pay a fine of not less
 14 than one hundred dollars nor more than five hundred dollars
 15 for each and every offense. All fines assessed for the violation
 16 of any of the provisions of this act shall be paid to the state
 17 treasurer as provided in K.S.A. 20-2801, and any amendments
 18 thereto.

19 Sec. 3. K.S.A. 65-1713a is hereby amended to read as follows:
 20 65-1713a. (a) A "funeral establishment," as the term is used herein,
 21 is a place of business premises where funeral services, visitations
 22 or in-states of dead human bodies are arranged and conducted, used
 23 and equipped for funeral services; or for the retail sale or dis-
 24 play of funeral merchandise; or for the care and preparation
 25 and dead human bodies are embalmed or otherwise prepared for a
 26 funeral service, visitation, lying in-state, burial or transportation of
 27 dead human bodies; or for any or all of the above purposes.
 28 It A funeral establishment shall be conducted at a fixed and specific
 29 street address or location and. If embalming is to be performed, the
 30 funeral establishment shall contain a preparation room equipped with
 31 a sanitary floor, walls and ceiling, with adequate sanitary drainage
 32 and disposal facilities, good ventilation and light, and the necessary
 33 instruments, equipment and supplies for the preparation and em-
 34 balming of dead human bodies for burial or transportation. The
 35 preparation room shall be clearly identified by signs on all prepa-
 36 ration room entrance doors, shall be separate from the funeral mer-
 37 chandise display room and chapel or visitation room, and shall not
 38 be a part of the living quarters. Each funeral establishment must
 39 shall have available or employ a Kansas licensed embalmer for all
 40 embalming work, if the funeral director in charge of the establish-
 41 ment is not a Kansas licensed embalmer. Each establishment shall
 42 be under the personal supervision of a Kansas licensed funeral di-
 43 rector.

, cremation

direct

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 Attm #6

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(b) The provisions and requirements herein contained shall apply to all branch establishments as well as principal establishments, except that:

(1) Only the funeral director in charge of the funeral establishment who holds the funeral establishment license shall be eligible to apply for a branch establishment license;

(2) a branch establishment is not required to contain a preparation room or to be a place where dead bodies are prepared for burial or transportation;

(3) a branch establishment ownership shall be identical to the ownership of the funeral establishment which owns the branch;

(4) the funeral director responsible for the personal supervision of the funeral establishment also shall be responsible for the supervision of all branches of that funeral establishment; and

(5) a branch establishment is not required to be under the personal supervision and charge of a licensed funeral director.

(c) *Embalming establishments shall contain a preparation room equipped with a sanitary floor, walls and ceiling, with adequate sanitary drainage and disposal facilities, good ventilation and light, and all necessary instruments, equipment and supplies for the preparation and embalming of dead human bodies for burial, cremation and transportation. They shall embalm for licensed funeral establishments and branch establishments and cannot sell any services or merchandise directly or at retail to the public. Each embalming establishment shall be under the personal supervision of a Kansas licensed embalmer*

direct

and funeral director

(d) As used in this section, "direct personal supervision" means the physical presence of the licensee is required.

Sec. 4. K.S.A. 65-1726 is hereby amended to read as follows: 65-1726. Every person who shall violate any provision of this act article 17, chapter 65, shall be deemed guilty of a class A nonperson misdemeanor, and upon conviction be fined not less than twenty-five dollars (\$25), nor more than two hundred dollars (\$200), or imprisoned not less than ten (10) days, nor more than ninety (90) days, or both.

Sec. 5. K.S.A. 65-1703, 65-1705, 65-1713a and 65-1726 are hereby repealed.

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

thereto, unless the durable power of attorney for health care decisions specifically provides otherwise. Nothing in this act shall be construed as prohibiting an agent from providing treatment by spiritual means through prayer alone and care consistent therewith, in lieu of medical care and treatment, in accordance with the tenets and practices of any church or religious denomination of which the principal is a member.

(c) In exercising the authority under the durable power of attorney for health care decisions, the agent has a duty to act consistent with the expressed desires of the principal.

(d) Neither the treating health care provider, as defined by subsection (c) of K.S.A. 65-4921 and amendments thereto, nor an employee of the treating health care provider, nor an employee, owner, director or officer of a facility described in K.S.A. 1993 Supp. 58-629(a)(2) may be designated as the agent to make health care decisions under a durable power of attorney for health care decisions unless:

(1) Related to the principal by blood, marriage or adoption; or

(2) the principal and agent are members of the same community of persons who are bound by vows to a religious life and who conduct or assist in the conduct of religious services and actually and regularly engage in religious, benevolent, charitable or educational ministrations or the performance of health care services.

(e) A durable power of attorney for health care decisions shall be:

(1) Dated and signed in the presence of two witnesses at least 18 years of age neither of whom shall be the agent, related to the principal by blood, marriage or adoption, entitled to any portion of the estate of the principal according to the laws of intestate succession of this state or under any will of the principal or codicil thereto, or directly financially responsible for the principal's health care; or

(2) acknowledged before a notary public.

(f) Death of the principal shall not prohibit or invalidate acts of the agent in arranging for organ donation, autopsy or disposition of body.

~~(g) [Any funeral establishment, funeral director, embalmer, crematory or any other person responsible for the disposition of a body, who in good faith disposes of a body pursuant to the instructions of an agent designated under a legally executed durable power of attorney for health care decisions, shall be immune from any liability, civil or criminal, that might otherwise be imposed in an action resulting from such disposition.]~~

Sec. 2. K.S.A. 1993 Supp. 58-629 is hereby repealed.

Any person who in good faith acts pursuant to the terms of a durable power of attorney for health care decisions without knowledge of its invalidity shall be immune from liability that may be incurred or imposed from such action.

PHW
2-23-94
Allen #7

H/B 2786
Rep. Scott
James P. H. & W.
2-23-94
Attachment #7