

Approved: 3-30-94
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on March 21, 1994 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Norman Furse, Revisor of Statutes
William Wolff, Legislative Research Department
Jo Ann Buntin, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Action on HB 3028 - Accessibility standards; conformance with Americans with disabilities act

The Chair noted that the State Historical Society does not have any problems with the bill, and staff briefed the Committee on the balloon of the bill. (Attachment 1)

After Committee discussion, Senator Lee made a motion to delete language, "in the name of the state of Kansas" on page 6, line 31, seconded by Senator Walker. The motion carried.

Senator Walker made a motion on page 7, line 28, to strike "this act" and insert "K.S.A. 58 1301 et seq.", seconded by Senator Salisbury. The motion carried.

Senator Walker made a motion that the term "facility" on page 8, lines 12-14, not apply to K.S.A. 79-32,175 and on page 2, which essentially leaves the definition of "facility" alone in the tax code sections, seconded by Senator Langworthy. The motion carried.

Senator Walker made a motion to delete Section 11 from the bill, seconded by Senator Lee. The motion carried.

Senator Salisbury made a motion to adopt the balloon amendments of the bill, seconded by Senator Langworthy. The motion carried.

Senator Ramirez made a motion **HB 3028 as amended** be recommended favorably for passage, seconded by Senator Salisbury. The motion carried.

Action on HB 2605 - Civil penalties for violation of pharmacy act on uniform controlled substance act

After Committee discussion and reconsideration, Senator Lee made a motion **HB 2605** be recommended favorably for passage, seconded by Senator Jones. The motion carried.

Action on HB 2786 - Durable power of attorney for health care decisions

After Committee discussion, Senator Papay made a motion **HB 2786** be recommended favorably for passage, seconded by Senator Lee. The motion carried.

Action on HB 2740 - Rules and regs for laboratories testing for controlled substances and metabolites thereof

During Committee discussion, the question of confidentiality in the bill was raised and how far back it would apply. Staff noted that the statute talks only about officers or employees of the laboratory and should also read "or former officers or employees."

Senator Walker made a motion to insert on page 2, line 40, "or former officers or employees", seconded by Senator Lee. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S
Statehouse, at 10:00 a.m. on March 21, 1994.

Bob Harder, Secretary, Kansas Department of Health and Environment, addressed the Committee and recommended that **SB 519** (neonatal screening program) be amended into the bill as outlined in the balloon copy of the bill. (Attachment 2)

A member expressed concern with the funding of the fee fund in the bill. Dr. Harder noted there is general fund money for one year, and the expectation is that after the one year, it would be totally self-supporting. The cost for those individual tests would be \$22.00.

Senator Ramirez made a motion to amend **SB 519 into HB 2740** as noted in the balloon of the bill, seconded by Senator Langworthy.

Senator Salisbury made a substitute motion that would amend all provisions of **SB 519 into HB 2740** except New. Sec. 7 and 8 that relates to the funding, seconded by Senator Hardenburger. The substitute motion failed. Back on the original motion. The original motion carried.

Senator Walker made a motion **HB 2740 as amended** be recommended favorably for passage, seconded by Senator Ramirez. The motion carried.

Action on HB 2603 - Kansas nurse practice act amendments concerning licensure and prohibited acts

After Committee discussion, Senator Ramirez made a motion that 120 days be changed to 90 days on page 5, line 7, seconded by Senator Walker. The motion carried. This amendment would allow the student to work 90 days while waiting for their license to be approved.

Senator Salisbury made a motion to strike "or professional nursing" on page 3, line 16, lines 21 and 22, seconded by Senator Lee. The motion carried.

Staff noted that nurses from another state that have not taken the national exam would have to take the exam as noted in the bill.

Staff called attention to two technical amendments regarding relettering two subsections (c) in the Sec. 1 and two subsections (c) in Sec. 2. Senator Papay made a motion to reletter the subsections as noted by staff, seconded by Senator Hardenburger. The motion carried.

Senator Walker made a motion **HB 2603 as amended** be recommended favorably for passage, seconded by Senator Ramirez. The motion carried.

Action on HB 2602 - Qualifications of licensed practical nurses to administer intravenous fluid therapy

Staff briefed the Committee on the recommended amendments.

After Committee discussion, Senator Hardenburger made a motion to delete the reference to rules and regulations on page 1, lines 27 and 30; on page 2, line 36, delete "under the order" and insert "by delegation", and on line 37, before the period, "or dentistry" be inserted, seconded by Senator Ramirez.

Senator Walker made a substitute motion to delete the reference to rules and regulations on page 1, lines 27 and 30, and delete subsection (h) on page 2, lines 334 through 37, seconded by Senator Jones.

After Committee discussion, Senator Ramirez called for the question. The substitute motion failed. Back to the original motion. The original motion carried.

Senator Hardenburger made a motion **HB 2602 as amended** be recommended favorably for passage, seconded by Senator Ramirez. The motion carried.

The Chair noted **HB 2929**, the welfare reform bill, was received today and the hearing will be held March 22nd.

The meeting was adjourned at 11:10 a.m.

The next meeting is scheduled for March 22, 1994.

GUEST LIST

COMMITTEE: SENATE PUBLIC HEALTH & WELFARE

DATE: 3-21-94

[illegible]

HOUSE BILL No. 3028

By Committee on Public Health and Welfare

2-15

[Material within brackets would be deleted]

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

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

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

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

(b) All parking shall conform to Title II or Title III, as required by the Americans with disabilities act of 1990, 42 USCA 12101 et seq. and 28 CFR Parts 35 and 36.

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

This section seems to cover New Sec. 11.

Senate PK & W
Attachment #1
3-21-94

1 and commercial facilities, 28 CFR Part 36, as required by the
 2 Americans With Disabilities Act of 1990, 42 USCA 12101 et
 3 seq., enacted on July 26, 1990. Such standards may be modified
 4 by rules and regulations adopted by the secretary of admin-
 5 istration in accordance with the provisions of K.S.A. 77-415 et
 6 seq., and amendments thereto. Any public building or facility
 7 or any governmental building or facility, or any addition to any
 8 such building or facility, to which the provisions of this section
 9 were applicable prior to January 26, 1992, shall be governed
 10 by the provisions of this section which were in effect on the
 11 date the contract for the construction or renovation of such
 12 public building or facility or such governmental building or
 13 facility, or addition thereto, was entered into.

14 (b) A building or facility for which a standard has been
 15 waived or modified pursuant to K.S.A. 58-1307, and amend-
 16 ments thereto, shall be deemed to conform to the standards
 17 established pursuant to this section if such building or facility
 18 conforms to all such standards which have not been waived or
 19 modified and to any modified standard approved for such build-
 20 ing or facility pursuant to K.S.A. 58-1307, and amendments
 21 thereto existing facilities, and the design and construction of all
 22 new, additions to and alterations of, facilities in this state shall
 23 conform to Title II or Title III, as appropriate. The design and
 24 construction of new, ~~additions to or alterations~~, of addition to or
 25 alteration of, any facility which receives a building permit or permit
 26 extension after the effective date of this act shall be governed by
 27 the provisions of this act.

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

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

35 (c) "Title II" means 28 CFR Part 35, nondiscrimination in state
 36 and local government services ~~programs, or activities~~ as required
 37 by ~~section 204~~ sections 201 to 205, inclusive, of the Americans with
 38 disabilities act of 1990, 42 USCA ~~12134~~, 12,115 et seq.

39 (d) "Title III" means 28 CFR Part 36, nondiscrimination on the
 40 basis of disability by public accommodations and commercial facilities
 41 as required by ~~section 308~~ 301 et seq. of the Americans with dis-
 42 abilities act of 1990, 42 USCA ~~12186~~, 12,181 et seq.

43 Sec. 4. K.S.A. 1993 Supp. 58-1303 is hereby amended to read

[R (a)

(e) "Facility" means all or any portion
 of buildings, structures, sites, complexes,
 equipment, rolling stock or other conveyances,
 roads, walks, passageways, parking lots or
 other real or personal property, including the
 site where the building, property, structure or
 equipment is located.

1 as follows: 58-1303. ~~It~~ *This act* is intended to prohibit discrimination
 2 on the basis of disability by ~~public entities and public accom-~~
 3 ~~modations. All buildings and Title II and Title III entities. All~~
 4 facilities covered by this act are to be designed, constructed and
 5 altered to be readily accessible to and usable by ~~persons individuals~~
 6 with a disability.

7 Sec. 5. K.S.A. 1993 Supp. 58-1304 is hereby amended to read
 8 as follows: 58-1304. (a) The responsibility for enforcement of ~~K.S.A.~~
 9 ~~58-1301 to 58-1309, inclusive, and 58-1311, and amendments~~

10 ~~thereto, [This] act~~ shall be as follows: (1) For all school building
 11 ~~construction or renovation existing Title II school facilities, and~~
 12 ~~the design and construction of all new, additions to and alterations~~
 13 ~~of Title II school facilities, the state board of education, by plan~~
 14 ~~approval as required by K.S.A. 31-150, and amendments thereto.~~
 15 *School facilities under the control of the state board of regents shall*
 16 *not be subject to the provisions of this subsection;*

17 (2) for all ~~construction or renovation existing state government~~
 18 ~~facilities, and the design and construction of all new, additions to~~
 19 ~~and alterations of, facilities for which federal, state, county, mu-~~
 20 ~~nicipality funds or funds of other political subdivisions of the state~~
 21 ~~or private funds are utilized on state property, the secretary of~~
 22 ~~administration;~~

23 (3) for all ~~construction or renovation existing facilities, and the~~
 24 ~~design and construction of all new, additions to and alterations of,~~
 25 ~~any local government facilities where funds of a county, municipality~~
 26 ~~or other political subdivision are utilized, the governing body gov-~~
 27 ~~ernmental entity thereof or an agency thereof designated by the~~
 28 ~~governing body governmental entity;~~

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

36 (b) The attorney general of the state of Kansas shall oversee the
 37 enforcement of this act ~~by the persons listed in paragraphs (1),~~
 38 ~~(2), (3) and (4) of subsection (a).~~

39 Sec. 6. K.S.A. 1993 Supp. 58-1306 is hereby amended to read
 40 as follows: 58-1306. The international symbol of access to ~~persons~~
 41 ~~individuals with a disability shall be permanently displayed at the~~
 42 ~~entrance of buildings and all facilities that are in compliance with~~
 43 ~~the standards established pursuant to K.S.A. 58-1301, and amend-~~

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ments 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 disability.

Sec. 7. K.S.A. 1993 Supp. 58-1307 is hereby amended to read as follows: 58-1307. (a) If a person or governmental entity undertaking the construction or renovation of any building or facility which is subject to the provisions of K.S.A. 58-1301 through 58-1309, and amendments thereto, determines that full compliance with any standard established pursuant to K.S.A. 58-1301, and amendments thereto, is impractical or unreasonable in that it would defeat the purpose of such construction or renovation, such person or governmental entity may apply to the person, agency or governing body responsible for the enforcement of the provisions of this act with respect to such construction or renovation for a waiver or modification of such standard. The application for waiver or modification shall be accompanied by reasons for the determination and a proposal setting forth the maximum extent of compliance with the particular standard which is believed practical. The application shall include all relevant data that may be helpful in evaluating the request for waiver or modification, including cost of the total project, cost of construction and facilities necessary to comply with standards established pursuant to K.S.A. 58-1301, and amendments thereto, and one copy of the building plans for the applicable areas of the construction or renovation.

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

(c) Upon the basis of the findings of the investigation, the person, agency or governing body responsible for enforcement may waive or modify a particular standard if: (1) The purpose of K.S.A. 58-1301 through 58-1309, and amendments thereto, can be fulfilled by an acceptable alternative to the particular standard, or (2) the incremental construction cost to conform to the standards exceeds 20% of the total construction or ren-

1 ovation costs. Such person, agency or governing body shall
2 notify the applicant for waiver or modification of its action
3 thereon. Any action by a state officer or agency pursuant to
4 this section is subject to review in accordance with the act for
5 judicial review and civil enforcement of agency actions. Any
6 action pursuant to this section by another person or entity is
7 subject to review by the district court of the county where the
8 building or facility is located.

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

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

41 (a) Any governmental entity undertaking an addition to or al-
42 teration of a qualified historic facility, as defined in section 504(c)
43 of the Americans disabilities act of 1990 as required by Title II.

1 shall follow 28 CFR Part 35.150(b)(2) and 35.150(d).

2 (b) Any person undertaking an addition to or alteration of a
3 qualified historic facility, as defined in section 504(c) of the Amer-
4 icans with disabilities act of 1990 as required by Title III, shall
5 follow 28 CFR Part 36.405.

6 (c) Any consultation for alternative methods of access with the
7 state historic preservation officer required by 28 CFR Part
8 35.150(b)(2) or 35.150(d) or 28 CFR Part 36.405 shall include de-
9 scriptions of alternative methods of providing access, one copy of
10 the facility plans, with dimensions, for the applicable areas of the
11 addition or alteration, and photographs of the existing conditions.

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

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

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

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

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

43 (b) Any willful violation of the terms of any injunction or court

? City applying in name of the state of Kansas.

1 order issued pursuant to this act shall render the violator liable for
2 the payment of a civil penalty in such amount as the court shall
3 determine to be necessary and proper.

4 (c) In administering and pursuing actions under this act, the
5 attorney general and the *city*, county attorney or district attorney
6 are authorized to sue for and collect reasonable expenses and in-
7 vestigation fees as determined by the court. Civil penalties sued for
8 and recovered by the attorney general shall be paid into the general
9 fund of the state. Civil penalties sued for and recovered by the *city*,
10 county attorney or district attorney shall be paid into the general
11 fund of the *city* or county where the proceedings were instigated.

12 (d) Any person, agency or ~~governing body~~ governmental entity
13 responsible for the enforcement of this act may refer evidence con-
14 cerning violation of the standards established pursuant to this act to
15 the attorney general or the proper *city*, county or district attorney,
16 who may institute, with or without such a reference, proceedings
17 under this section.

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

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

25 (c) *The secretary of administration may adopt any rules and*
26 *regulations necessary to implement the provisions of paragraph (2)*
27 *of subsection (a) of K.S.A. 58-1304, and amendments thereto*
28 *this act.*

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

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

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

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

? City attorney

*Delete
Sec. 11*

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insert

This section seems to be covered by section 1.

1 (b) "Building or facility" means any building, structure, rec-
2 reational area, street, curbing or sidewalk, or access thereto, or
3 any accommodation in any building, structure or recreational
4 area, including bathrooms, toilet stalls, dining areas, drinking
5 fountains, phone booths and lodging rooms or quarters. Such
6 term shall not include any addition made to an existing building
7 or facility.

8 (a) "Accessible to individuals with a disability" means in con-
9 formance with Title I and Title III of the Americans with disabilities
10 act of 1990, 42 USCA 12101 et seq. and 28 CFR Part 36 and 29
11 CFR 1630 et seq.

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

15 (c) "Expenditures for the purpose of making all or any portion
16 of an existing building or facility accessible to the persons indi-
17 viduals with a disability" includes only those expenditures specifically
18 attributable to the ~~elimination or adaptation~~ removal or equivalent
19 facilitation of an existing architectural barrier, which ~~elimination~~
20 ~~or adaptation~~ when removal or equivalent facilitation is for the
21 purpose of making an existing building or facility accessible to per-
22 sons individuals with a disability. Such term shall not include any
23 part of any expense paid or incurred in connection with the con-
24 struction or comprehensive renovation of a building or new
25 construction or substantial alteration of a facility or the normal
26 replacement of depreciable property.

27 (d) "Expenditures for the purpose of making all or any portion
28 of a building or an existing facility or of equipment usable for the
29 employment of persons with a disability" includes only those ex-
30 penditures specifically attributable to the modification or adaptation
31 of a building or an existing facility or of equipment, which modi-
32 fication or adaptation is for the purpose of employing persons in-
33 dividuals with a handicap disability.

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

of such expenditures eligible for credit shall be as set forth in the following schedule:

Taxpayers Kansas Adjusted Gross Income	% of expenditures 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%
Over \$30,000 but not over \$35,000	70%
Over \$35,000 but not over \$40,000	60%
Over \$40,000 but not over \$50,000	50%
Over \$50,000	0

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

(b) Notwithstanding the provisions of subsection (a), if the amount of the taxpayer's tax liability is less than \$312.50 in the first year in which the credit is claimed under this section, an amount equal to the amount by which $\frac{1}{4}$ of the credit allowable under this section exceeds such tax liability shall be refunded to the taxpayer and the amount by which such credit exceeds such tax liability less the amount of such refund may be carried over for the next three succeeding taxable years. If the amount of the taxpayer's tax liability is less than \$312.50 in the second year in which the credit is claimed under this section, an amount equal to the amount by which $\frac{1}{3}$ of the amount of the credit carried over from the first taxable year exceeds such tax liability shall be refunded to the taxpayer and the amount by which the amount of the credit carried over from the first taxable year exceeds such tax liability less the amount of such refund may be carried over for the next two succeeding taxable years. If the amount of the taxpayer's tax liability is less than \$312.50 in the third year in which the credit is claimed under this section, an amount equal to the amount by which $\frac{1}{2}$ of the amount carried over from the second taxable year exceeds such tax liability shall be refunded to the taxpayer and the amount by which the amount of the credit carried over from the second taxable year exceeds such tax liability less the amount of such refund may be carried over to

01-10

1 the next succeeding taxable year. If the amount of the credit carried
2 over from the third taxable year exceeds the taxpayer's income tax
3 liability for such year, the amount thereof which exceeds such tax
4 liability shall be refunded to the taxpayer.

5 Sec. 14. K.S.A. 1993 Supp. 79-32,177 is hereby amended to read
6 as follows: 79-32,177. Any taxpayer who makes expenditures for the
7 purpose of making all or any portion of an existing ~~building or~~
8 facility accessible to ~~persons~~ *individuals* with a disability, or who
9 makes expenditures for the purpose of making all or any portion of
10 a ~~building or~~ facility or of equipment usable for the employment
11 of ~~persons~~ *individuals* with a disability, which ~~building,~~ facility or
12 equipment is on real property located in this state and used in a
13 trade or business or held for the production of income, shall be
14 entitled to claim an income tax credit in an amount equal to 50%
15 of such expenditures or, the amount of \$10,000, whichever is less,
16 against the income tax liability imposed against such taxpayer pur-
17 suant to article 32 of chapter 79 of the Kansas Statutes Annotated.
18 Such tax credit shall be deducted from the taxpayer's income tax
19 liability for the taxable year in which the expenditures are made by
20 the taxpayer. If the amount of such tax credit exceeds the taxpayer's
21 income tax liability for such taxable year, the amount thereof which
22 exceeds such tax liability may be carried over for deduction from
23 the taxpayer's income tax liability in the next succeeding taxable year
24 or years until the total amount of the tax credit has been deducted
25 from tax liability, except that no such tax credit shall be carried over
26 for deduction after the fourth taxable year succeeding the taxable
27 year in which the expenditures are made.

28 Sec. 15. K.S.A. 1993 Supp. 8-1,128, 8-1,128a, 58-1301, 58-
29 1301a, 58-1303 to 58-1311, inclusive, 58-1316 to 58-1324, inclusive,
30 79-32,175, 79-32,176 and 79-32,177 are hereby repealed.

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

HOUSE BILL No. 2740

By Committee on Public Health and Welfare

1-25

AN ACT relating to laboratories; rules and regulations of the secretary of health and environment; amending K.S.A. 65-1,107, 65-1,108 and 65-1,108a and repealing the existing sections.

The neonatal screening program

65-180, 65-181, 65-183

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

Section 1. K.S.A. 65-1,107 is hereby amended to read as follows: 65-1,107. The secretary of health and environment is hereby authorized and empowered to promulgate may adopt rules and regulations establishing:

(a) The procedures and qualifications for approving of authorized personnel, instruments and methods used in laboratories performing prenatal tests for syphilis, tests for human immunodeficiency virus and tests for the presence of controlled substances included in schedule I or II of the uniform controlled substances act or metabolites thereof;

(b) the procedures, qualifications of personnel and standards of performance in the testing of human breath for law enforcement purposes, including procedures for the periodic inspection of apparatus, equipment and devices, other than preliminary screening devices, approved by the secretary of health and environment for the testing of human breath for law enforcement purposes;

(c) the requirements for the training, certification and periodic testing of persons who operate apparatus, equipment or devices, other than preliminary screening devices, for the testing of human breath for law enforcement purposes;

(d) criteria for preliminary screening devices for testing of breath for law enforcement purposes, based on health and performance considerations; and

(e) a list of preliminary screening devices which are approved for testing of breath for law enforcement purposes and which law enforcement agencies may purchase and train officers in the use of to use as aids in determining probable cause to arrest and grounds for requiring testing pursuant to K.S.A. 8-1001 and amendments thereto.

Sec. 2. K.S.A. 65-1,108 is hereby amended to read as follows: 65-1,108. (a) It shall be unlawful for any person or laboratory to

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1 perform prenatal tests for syphilis, tests for human immuno-
2 deficiency virus or tests to evaluate biological specimens for the
3 presence of controlled substances included in schedule I or II of the
4 uniform controlled substances act or metabolites thereof, unless the
5 laboratory in which such tests are performed has been approved by
6 the secretary of health and environment to perform such tests. Any
7 person violating any of the provisions of this section shall be deemed
8 guilty of a class B misdemeanor.

9 (b) As used in this section and in K.S.A. 65-1,107 and amend-
10 ments thereto, "laboratory" shall not include: (1) The office or clinic
11 of a person licensed to practice medicine and surgery in which
12 laboratory tests are performed as part of and incidental to the ex-
13 amination or treatment of a patient of such person; (2) the Kansas
14 bureau of investigation forensic laboratory; (3) urinalysis tests for
15 controlled substances performed only for management purposes on
16 inmates, parolees or probationers by personnel of the department
17 of corrections or office of judicial administration and which shall not
18 be used for revoking or denying parole or probation; (4) urinalysis
19 tests approved by the secretary of corrections for controlled sub-
20 stances performed by the community corrections programs; (5) uri-
21 nalysis tests approved by the secretary of corrections for controlled
22 substances performed by personnel of the community correctional
23 conservation camp in Labette county which is operated under agree-
24 ments entered into by the secretary of corrections and the board of
25 county commissioners of Labette county pursuant to K.S.A. 1992
26 1993 Supp. 75-52,132 and amendments thereto; or (6) urinalysis tests
27 performed for management purposes only by personnel of alcohol
28 and drug treatment programs which are licensed or certified by the
29 secretary of social and rehabilitation services.

30 Sec. 3. K.S.A. 65-1,108a is hereby amended to read as follows:
31 65-1,108a. (a) Information obtained through prenatal tests for syph-
32 ilis, tests for human immunodeficiency virus or tests for tests
33 performed under 42 CFR Part 493 and amendments thereto (CLIA
34 '88) or tests to evaluate biological specimens for the presence of
35 controlled substances included in schedule I or II of the uniform
36 controlled substances act or metabolites thereof, conducted by a
37 laboratory approved under K.S.A. 65-1,107 and 65-1,108 and amend-
38 ments thereto by the secretary of health and environment to perform
39 such tests shall be confidential and shall not be disclosed or made
40 public by officers or employees of such laboratory, except that such
41 laboratory test results shall be released only to: (1) The person who
42 ordered such tests be made; (2) the secretary of health and envi-
43 ronment if required by the secretary as part of the approval of the

or former

laboratory under K.S.A. 65-1,107 and 65-1,108 and amendments thereto; and (3) the secretary of health and environment for data collection purposes so long as such information is released in such a manner ~~which~~ *that the information* will not reveal the identity of the person who is the subject of the information.

(b) A violation of this section shall constitute a class C misdemeanor.

~~Sec. 4. K.S.A. 65-1,107, 65-1,108 and 65-1,108a are hereby repealed.~~

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

Section 4. K.S.A. 65-180 is hereby amended to read as follows: 65-180. The secretary of health and environment shall:

(a) Institute and carry on an intensive educational program among physicians, hospitals, public health nurses and the public concerning congenital hypothyroidism, galactosemia ~~and the disease,~~ phenylketonuria and other genetic diseases detectable through an established neonatal screening program. This educational program shall include information about the nature of such conditions and examinations for the detection thereof in early infancy in order that measures may be taken to prevent the mental retardation or morbidity resulting from such conditions.

(b) Provide recognized screening tests for phenylketonuria, galactosemia, hypothyroidism and such other diseases as may be appropriately detected with the same ~~procedures for which laboratory services are required~~ specimen. The initial laboratory screening tests for these diseases shall be performed by the department of health and environment for all infants born in the state. ~~Such services shall be performed without charge.~~

(c) Provide a follow-up program by providing test results and other information to identified physicians; locate infants with abnormal newborn screening test results; with parental consent, monitor infants to assure appropriate testing to either confirm or not confirm the disease suggested by the screening test results; with parental consent, monitor therapy and treatment for infants with confirmed diagnosis of congenital hypothyroidism, galactosemia, phenylketonuria or other genetic diseases being screened under this statute; and establish ongoing education and support activities for individuals with confirmed diagnosis of congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases being screened under this statute and for the families of such individuals.

~~(e)~~(d) Maintain a registry of cases including information of importance for the purpose of follow-up services to prevent mental retardation or morbidity.

~~(d)~~(e) Provide the necessary treatment product for diagnosed cases for as long as medically indicated, when the product is not available through other state agencies.

Sec. 5. K.S.A. 65-181 is hereby amended to read as follows: 65-181. ~~It shall be the duty of~~ The administrative officer or other person in charge of each institution or the attending physician, caring for infants 28 days ~~or less~~ of age ~~to cause to~~ or younger shall have administered to every such infant or child in its or such physician's care, tests for congenital hypothyroidism, galactosemia ~~and,~~ phenylketonuria ~~and such other diseases as may be appropriately detected with the same procedures~~

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~~used in such tests other genetic diseases which may be detected with the same specimen in accordance with rules or and regulations prescribed adopted by the secretary of health and environment. Testing and the recording of the results of such tests shall be performed at such times and in such manner as may be prescribed by such secretary.~~

Sec. 6. K.S.A. 65-183 is hereby amended to read as follows: 65-183. Every physician having knowledge of a case of congenital hypothyroidism, galactosemia or phenylketonuria and ~~such other~~ other genetic diseases as may be detected with tests given pursuant to this act in one of such physician's own patients shall report the case to the secretary of health and environment on forms provided by the secretary.

New. Sec. 7. The secretary of health and environment shall establish a system of cost recovery for the neonatal screening program described in K.S.A. 65-180 through 65-183 and amendments thereto. The secretary shall remit to the state treasurer all moneys collected for such fees. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the neonatal screening program fee fund created by section 8 and amendments thereto.

New Sec. 8. (a) There is hereby established in the state treasury the neonatal screening program fee fund. Revenue from the following sources shall be deposited in the state treasury and credited to such fund: (1) Fees collected from agencies and individuals submitting specimens for neonatal screening under section 7 and amendments thereto; and (2) interest attributable to investments of moneys in the fund.

(b) Moneys deposited in the neonatal screening program fee fund shall be expended only to support the comprehensive neonatal screening program.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the neonatal screening program fee fund the amount of money certified by the pooled money investment board in accordance with this subsection. Prior to the 10th day of each month, the pooled money investment board shall certify to the director of accounts and reports the amount of money equal to the proportionate amount of all the interest credited to the state general fund for the preceding month, pursuant to K.S.A. 75-4210a and amendments thereto, that is attributable to moneys in the neonatal screening program fund. Such amount of money shall be determined by the pooled money investment board based on: (1) The average daily

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balance of moneys in the neonatal screening program fee fund during the preceding month as certified to the board by the director of accounts and reports; and (2) the average interest rate on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board for that period. On or before the fifth day of each month, the director of accounts and reports shall certify to the pooled money investment board the average daily balance of moneys in the neonatal screening program fee fund during the preceding month.

(d) All expenditures from the neonatal screening program fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment for the purposes set forth in this section.

New Sec. 9. There is hereby created an advisory committee to advise the secretary of health and environment regarding the expansion or contraction of the diseases screened in the neonatal screening program; cost recovery program; education needs; tests used for screening; and other matters related to a comprehensive neonatal screening program. The advisory committee shall consist of members appointed by the secretary and shall include neonatal screening consultants representing endocrinologists and geneticists, one neonatologist, one pediatrician, one family practice physician, one representative of the state Medicaid program, five individuals or parents of a child with a diagnosis of one of the diseases for which screening is done under this act, two representatives of support groups for one of the diseases for which screening is done under this act, one representative of the local health departments participating in the submission or follow-up activities related to neonatal screening, one member of the laboratory staff of a hospital involved in collection of the specimens for submission for neonatal screening, one member of the nursery staff of a hospital involved in collection of the specimens for submission for neonatal screening and one hospital administrator. Members of the advisory committee attending meetings of the committee, or attending a subcommittee meeting thereof authorized by the committee, shall be paid amounts provided in subsection (e) of the K.S.A. 75-3223 and amendments thereto.

New Sec. 10. The secretary of health and environment shall adopt rules and regulations necessary for the implementation of the program provided for in K.S.A. 65-180 through 65-183 and amendments thereto and sections 7, 8, 9 and 10 and amendments to such sections.

Sec. 11. K.S.A. 65-180, 65-181, 65-183, 65-1,107, 65-1,108
and 65-1,108a are hereby repealed.

Sec. 12. This act shall take effect and be in force from and
after its publication in the statute book.