

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Steven Brunk at 1:30 p.m. on March 03, 2011, in Room 346-S of the Capitol.

All members were present except:

Representative Rocky Fund – Excused  
Representative Mike Kiegerl – Excused  
Representative Mike Peterson – Excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes  
Doug Taylor, Office of the Revisor of Statutes  
Julian Efid, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

Marjorie A Blaufuss, Kansas National Education Association

Others attending:

See attached list.

The minutes of 1/12/11, 1/24/11, 1/25/11 and 1/26/11 were approved.

The Chairman opened the hearing on **HB 2229 Schools; equal access by employee associations and organizations.**

Mike Heim explained the changes in the bill. Representative Wolfe Moore said this would require additional action but it would not be difficult to do. Mike said drafting the amendment would be easy but it would be a significant change in the way things are done.

Marjorie Blaufuss, Kansas National Education Association, presented testimony as an opponent of **HB 2229 (Attachment 1)**. She said that the definition of “education employee association” is exceedingly broad in this bill. Once a professional employees' organization is duly elected, it has certain rights that other professional employees' organizations do not have. Among those are the use of facilities for meetings, the mail systems and bulletin boards. Representative Rubin asked if the school district negotiates with the exclusive bargaining agent and then decides on its own after negotiations are completed to grant that same access to other organizations, that does not interfere with your bargaining rights, does it? Marjorie said that it depends on how the negotiations were concluded. Representative Gregory said Riley County does not use KNEA. Representative Goico asked why any organization should have exclusive rights to communicate. Representative Loganbill asked if there were any contracts that you know of that limit access to the other groups? Marjorie said she was not familiar with other contracts. Representative O'Hara said that this bill with some changes to the Professional Negotiations Act would prevent the exclusion of access to all professional organizations.

The Chairman said that he would hold the hearing open to be heard at a later date.

The Chairman opened the hearing on **HB 2242 Vital statistics; Concerning death and stillbirth certificates.**

Mike Heim explained the changes made in the bill.

Senator Mary Pilcher Cook presented testimony as a proponent of **HB 2242 (Attachment 2)**. She said that the bill makes two changes. One is a scientific definition, “living individual organism of the species homo sapiens” is replacing the outmoded and unscientific definition, “product of conception.” The other is that the causes of stillbirth would be better reported in Kansas. Representative Brunk said that the language is consistent with the language we are using in other bills. Representative Knox asked if a woman miscarries and there is no evidence that it is under 250 grams would the state issue a stillbirth

## CONTINUATION SHEET

The minutes of the House Federal and State Affairs Committee at 1:30 p.m. on March 03, 2011, in Room 346-S of the Capitol.

certificate? Mary said that was correct.

The Chairman called on Dr. Elizabeth Saadi, Deputy Director, Kansas Department of Health and Environment to answer questions. She said that in Kansas you do not get a choice in filing a certificate. If a death occurs it has to be filed by law. If you are looking at a loss of unborn children below 350 grams it is considered a miscarriage. So we are trying to get better information on miscarriage events. Representative Boman asked what the minimum weight was that would require a record be made? Elizabeth did not have an answer for the minimum. However smoking, uncontrolled diabetes and exposure to toxins can cause miscarriages. So we need the health community to report on them. We are looking at any losses that can be filed. Representative Knox asked if there was no system in place now to actually have statistics on early miscarriages? Elizabeth said not that they maintain. Hospitals may have some statistics but not for the state and for public health.

Robert Moser, MD, Secretary Kansas Department of Health and Environment, presented written only testimony as neutral on **HB 2242** (Attachment 3). His concern was that the changes in **HB 2242** would create deviations from national health standards. He suggested that a new group of vital events be reported to KDHE – miscarriages.

The Chairman said that he would hold the hearing open to be heard at a later date.

The next meeting is scheduled for March 07, 2011.

The meeting was adjourned at 2:35 p.m.

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

3.03.11

ROOM 346-S

[illegible]



Making public schools great for every child

KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

Marjorie A. Blaufuss Testimony  
Kansas National Education Association  
House Federal and State Affairs Committee  
March 3, 2011  
**House Bill 2229**

Mr. Chairman and members of the Committee, I am an attorney with the Kansas National Education Association and appreciate the opportunity to present this testimony in opposition to House Bill 2229. The KNEA believes that the requirements set out in HB 2229 are unnecessary and conflict with current Kansas statutes governing negotiations between the State's school districts and their professional employees.

HB 2229 requires that all "education employees' associations" be granted equal access to a school's mailboxes, email system, and teacher orientations in order to recruit new members.

First, the definition of "education employee association" in this bill is extremely broad and applies to all employee organizations of any type. Currently, there are more than two dozen professional employee organizations for teachers, counselors, librarians, nurses, school psychologists, social workers on the Kansas Department of Education website.

In contrast, the definition of a "professional employees' organization" in the Professional Negotiations Act (PNA), K.S.A. 72-5413, *et seq.* includes only those organizations "that exist for the purpose, in whole or part, of engaging in professional negotiation with boards of education with respect to the terms and conditions of professional service." K.S.A. 72-5413(3). The PNA already provides for equal access for these professional employees' organizations. School districts are not allowed to give preferential treatment to one professional employees' organization over another. They are not allowed to endorse one professional employees' organization over another. Schools are not allowed to "assist in the formation, existence, or administration of one professional employees' organization over another." K.S.A. 72-5430(b)(2). To do so would constitute a prohibited practice under the PNA.

Once a professional employees' organization is duly elected by a district's professional employees as its exclusive bargaining representative, however, it has certain rights and responsibilities that other professional employee organizations do not. The bargaining representative has a duty to establish, maintain, protect, or improve the terms and conditions of professional service. K.S.A. 72-5414. Toward that end, the PNA gives the bargaining representative the right to negotiate use of facilities for meetings, the mail systems and bulletin boards for dissemination of information regarding the professional negotiation process and related matters to members of the bargaining unit. The PNA allows it to negotiate leaves of absence for members of the bargaining unit for organizational purposes such as engaging in professional negotiation and partaking of

instructional programs properly related to the representation of the bargaining unit. K.S.A. 72-5413(l)(1)(B).

The PNA further provides that these privileges shall not be granted to any other professional employees' organization. K.S.A. 72-5413(l)(1)(B).

In accordance with the PNA, those KNEA's local affiliates that have been elected exclusive bargaining representatives do negotiate use of school mailboxes, email systems, and facilities. This is the bargaining representative's right and it is necessary to carry out their responsibilities under the PNA. It does not constitute preferential treatment or an endorsement by the district.

Local KNEA affiliates also negotiate Association leave for the purposes enumerated in the PNA. The leave is called "Association leave" because the Association is the bargaining representative. In response to Section (2)(e) of HB 2229, however, there has not been even one day of time off built into a district calendar to attend a KNEA convention or meeting for well over twenty years.

Regarding new teacher orientation, some districts ask the presidents of our local affiliates to appear as representatives of the professional staff to welcome their new colleagues. Others conduct sessions during which they go over the terms of the negotiated agreement with the new employees. These activities are not for the purpose of recruitment. Many of our local affiliates also provide breakfast or lunch during new teacher orientation as a tool to recruit new members. Because attendance at these functions is voluntary on the part of the new hires, any other organization is free to do the same under current law.

Although it may appear that an education employees' association is being given preferential treatment, it is more likely that it is merely exercising the rights that are accorded to it by Kansas law and that are necessary to do the work of a duly elected bargaining representative.

Because the changes required in HB 2229 are not necessary and will only cause great confusion in the schools, we ask that you not support HB 2999.

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Testimony by Senator Mary Pilcher Cook  
 House Federal and State Affairs Committee – **HB 2242**  
 Thursday, March 3, 2011

Chairman Brunk, and members of the committee:

Thank you for the hearing on HB 2242, the vital statistics bill that will help us gather more information about infant mortality in Kansas. This bill makes two key changes: 1) a scientific definition, "living individual organism of the species homo sapiens" is replacing the outmoded and unscientific definition, "product of conception," and 2) every unborn child's death shall be reported in Kansas and a copy of a death certificate can be given to a grieving mother.

1) The scientific definition, "living individual organism of the species homo sapiens" would be replacing "product of conception."

- a. The term "product of conception" is an unscientific definition, as it can mean a placenta, an umbilical cord, amniotic fluid, etc. It is not precise and does not relate to the dignity of the human being.
- b. Product of conception is a term that conveys "property," which can be owned or disposed of as if the human being were insignificant. Kansas law should convey inherent dignity to every human being.
- c. In contrast, scientists agree that when human sperm and human egg unite, a separate, unique, living human organism results. The new definition, "living individual organism of the species homo sapiens" encapsulates the science of a living human being.

2) Every unborn child's death shall be reported in Kansas.

- a. The 2008 KDHE Infant Mortality document, on page 9, states (emphasis mine):

*The causes of stillbirths are not as well documented as infant deaths. The American Congress of Obstetricians and Gynecologists recommends an increase in the percentage of stillbirths for which placental evaluation is preformed and autopsy is offered. Additionally, since KSA 65-2401 defines stillbirth by weight of the fetus (>350 grams) vital records data does not represent the full picture of all fetal deaths.*

- b. This bill would give Kansas the ability to gather more information about the death of unborn children, at every stage of life. Just as one example – if there are certain

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regions in Kansas where there is a high rate of stillborns; the data collected from the death certificates would provide those facts and possibly give the Legislature the ability to take action to protect human life and prevent future stillborns.

- c. A copy of a death certificate can be given to a grieving mother. Today that is not possible for some women, and can be heartbreaking when her child's life is not being recognized by law.

Our state laws should reflect the dignity of the human person and provide actions to protect the life of all Kansas citizens, especially the weakest and most vulnerable. These changes would give Kansas the opportunity to make a significant step in that direction, respecting the precious lives of men, women and all children, including the unborn.



Robert Moser, MD, Secretary

Department of Health & Environment

Sam Brownback, Governor

**Testimony on Amendments to Kansas Definitions of Live Birth and Stillbirth  
HB 2242**

**Presented in Writing to  
House Federal and State Affairs Committee**

**By  
Robert Moser, MD, Secretary  
Kansas Department of Health and Environment**

**March 3, 2011**

Chairman Brunk and members of the committee, I am Robert Moser, Secretary for the Kansas Department of Health and Environment. Thank you for the opportunity present written testimony on a proposal to change the definitions of live birth and stillbirth in Kansas law.

As you are aware, KDHE is charged with the State responsibility of civil registration of citizens through Article 24—The Uniform Vital Statistics Act—KSA 65-2401 et seq. This process, in place since 1911, involves registering, storing and issuing vital event records on behalf of Kansas citizens. These records are needed by the public for proof of citizenship, international travel, school entry, retirement, settling insurance claims, among other needs. Over 360,000 certified copies of records are issued annually. The vital event registration process also provides data and information for important public and private uses. Population and demographic data generated from this process are needed to plan where to build new schools and hospitals, plan for public services, and assess business markets. The data are also used for monitoring causes of death, birth and fertility rates, and a broad array of other public health indicators.

There are 57 jurisdictions in the United States responsible for civil registration activities for births, deaths, marriages, divorces and stillbirths. Given the length of time civil registration has been in existence, considerable work has been done at the federal level to standardize definitions, reporting processes and quality improvement activities across all jurisdictions. In addition, statutory language used to require reporting of vital events conforms to language used in the respective disciplines. For example, birth reporting conforms to medical language since health care providers are the responsible reporting entity. Standardization assures data and information can be compared and understood from neighborhood to neighborhood, county to county, and state to state. The public health statistics system for the nation and all levels of public health practice depend on high quality standardized information generated from vital events records.

The purpose of my presentation today is to share with you some information that may be helpful as you consider proposed definitional changes to KSA 65-2401 proposed in HB 2242. This information pertains to the bill as introduced.

- Changing the definition of stillbirth as presented in HB 2242 as introduced functionally classifies all miscarriages as stillbirths. This is inconsistent with accepted medical practice. The definition for

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stillbirth involves a 20-week gestational period or the equivalent of more than 350 grams in weight. Events where "fetal demise" results in extraction or expulsion of a product of human conception weighing 350 grams or less are classified as miscarriages but are not currently required to be reported by health care providers. One amendment in HB 2242 would require filings for those events in which the fetus weighs 250 grams and over.

- The proposed language would also result in deviation from national standards. Professionals in obstetrics and federal guidelines recommend requiring reporting stillbirths where the weight is over 350 grams or those more than 20 weeks gestation. HB 2242 proposes to change the reporting requirement of stillbirths from over 350 grams to 250 grams and over, deviating from national standards. This could cause confusion in the medical community and make Kansas data incomparable to other states and the nation as a whole.
- The bill would enable inconsistent reporting of events based on personal preference of the mother. As proposed, if the fetus weighs less than or equal to 250 grams, the mother would have the option of choosing whether or not the certificate is filed with KDHE. This would undermine the integrity of the vital event registration process and make information incomparable across the state.
- HB 2242 exchanges medical language for scientific language for the definitions of live birth and stillbirth. These terms are inconsistent with those used by the medical community who file vital events with the State and the nation.

I appreciate the intent of HB 2242 to gather more information about pregnancy loss. KDHE recognizes the public health significance of pregnancy loss. There is research that shows that miscarriages can be caused by smoking, infection, exposure to toxins and poorly controlled diabetes. Reporting pregnancy loss could help identify regional and local patterns.

I recommend retaining the current definition of stillbirth for Kansas, including the 350 gram standard, so we can maintain consistency with the standard definition used in nearly all of the nation's vital event registration jurisdictions.

However, in recognition of the potential public health value of expanded information about pregnancy loss, we would support creating a new group of vital events to be reported to KDHE -- miscarriages. This new collection would require more work on the part of the health care provider community and our staff to document and report. However, I believe this new reporting could provide a greater understanding about the burden and public health significance of pregnancy loss. It also would allow a mother to, upon request, receive a commemorative or memorial certificate.

This would require creating an entirely new module for a reportable vital event (miscarriage) in KDHE's VSIIS, including functions needed to generate certificate copies, which carries a cost well in excess of the original \$5,000 fiscal note on this bill. An initial estimate of first-year costs of adding miscarriages as a new reportable vital event would be close to \$235,000, depending on the timeline for implementation, with future costs an estimated \$57,000 annually, including one field staff position. These costs could not be absorbed by existing funds and would require a funding source.

Thank you for the opportunity to submit testimony.

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