

M I N U T E S

SPECIAL COMMITTEE ON WAYS AND MEANS

October 14 and 15, 1976
(Room 514 -- State House)

Members Present

Representative Wendell Lady, Chairman
Senator Wint Winter, Vice-Chairman
Senator Billy Q. McCray
Senator D. Wayne Zimmerman
Senator Robert V. Talkington
Representative Bill Bunten
Representative Keith Farrar
Representative Roy H. Garrett
Representative Richard L. Harper
Representative Mike Hayder
Representative John T. Ivy
Representative Irving Niles

Staff Present

Marlin Rein, Kansas Legislative Research Department
Julie Mundy, Kansas Legislative Research Department
Alden Shields, Kansas Legislative Research Department
Carl Tramel, Kansas Legislative Research Department
Robert Epps, Kansas Legislative Research Department
J. Russell Mills, Jr., Kansas Legislative Research Department
Louis Chabira, Kansas Legislative Research Department
Jim Wilson, Revisor of Statutes Office
Mary Torrence, Revisor of Statutes Office

October 14, 1976
Morning Session

Proposal No. 62 - Sunset Laws

Mr. Jim Wilson, Revisor of Statutes Office, distributed a preliminary discussion draft which he had prepared relating to Proposal No. 62 - Sunset Laws (Attachment No. 1). Mr. Wilson explained that this discussion draft had been prepared at the Committee's direction and followed the same general pattern as the recently-enacted Colorado Sunset Law. Mr. Wilson also distributed a memorandum comparing similar Kansas and Colorado agencies which would fall under the provisions of a Sunset law (Attachment No. 2). It was noted that at least two agencies, the Consumer Credit Commissioner and the Department of Credit Unions, had not been included in this discussion draft only because they were not included in the Colorado act.

Following a section-by-section explanation of the draft, the Committee discussed various provisions of the proposed "Kansas Sunset Law." Several members felt that the language in Section 5b should be clarified, since it could be interpreted to mean that an agency would be abolished at the end of each six-year period regardless of whether the legislature decided to continue the agency in existence. It was also noted that New Section 6 directs the Legislative Post Audit Committee to consider both the factors specified in Section 7b of the draft and the existing audit requirements established by K.S.A. 1976 Supp. 46-1108.

Representative Harper noted that New Section 8b is a savings clause to protect the inherent power of the legislature to enact legislation concerning any state agency, despite the provisions of the Kansas Sunset Law. Representative Farrar stated that the one year grace period for an abolished agency established in New Section 5a could lead to problems during budget hearings for an abolished agency. Representative Hayden inquired whether the Post Audit Division really needs to hold a public hearing following the completion of the performance audit. The Chairman stated that the language should probably be clarified to indicate whether the Post Audit Committee merely reviews or reviews and approves the performance evaluation. Representative Hayden felt that copies of the performance audit should be sent to interested legislators only upon request.

Representative Ivy expressed concern that the Kansas Sunset Law could serve to eliminate needed agencies. Several members felt that the factors established in Section 7b for determining whether an agency should be abolished were ill advised in that none really speak to the question of whether the agency serves a public purpose. Other members felt that it was poor to single out one function, such as affirmative action requirements, in determining whether the agency should be abolished or continued in existence. Mr. Wilson noted that these factors had been copied directly from the Colorado act and stated that, with the assistance of the Post Audit Division, better criteria could probably be established. Concern was expressed that New Section 8a transfers all claims against an abolished agency to the Governor rather than to the Legislative Committee on Claims and Accounts. Mr. Wilson also noted that Section 9 is an example section which will have to be put in the bill for each agency which comes under the provisions of the Sunset act.

Senator Winter inquired whether the proposed bill would disrupt the existing audit schedule established by the Post Audit Division. He also inquired whether a fiscal note had been prepared since this large number of performance audits would constitute a massive undertaking by the Legislative Division of Post Audit. Representative Bunten inquired whether the Sunset act should include only fee agencies or any state agency that the Committee desires to include. He noted that no general fund money is reflected in the present agency listing. Mr. Rein noted that the Forestry, Fish and Game Commission is a fee agency which the Committee may wish to consider for inclusion.

Senator Winter expressed concern that this bill would become a false hope with hollow promises in that the capitol would be overrun with lobbyists seeking to protect their particular agencies. Mr. Rein stated that the Sunset law could lead to increased costs as agencies attempt to carryout the various functions noted in Section 7b. Representative Lady noted that the draft would mandate a review every six years and, in effect, eliminate the discretion which the Legislative Post Audit Committee presently possesses. Senator Winter noted that the Department of Health and Environment, which is probably the largest regulatory agency in the state, is not included in the present draft.

Representative Bunten stated that, under Section 7, agencies would be rated on criteria and functions not even authorized by their enabling statutes. Senator Winter felt that the phrase "if required by statute" should be added to the various criteria. Representative Bunten observed that agencies should be judged on how well they perform their statutory responsibilities rather than the other criteria listed in Section 7.

Representative Garrett stated that it might be more realistic to evaluate only part of an agency or some of any agency's programs rather than the entire agency. Mr. Rein felt that costs could be minimized if the termination dates were synchronized with the audit schedule established by the Post Audit Committee. He also noted that one alternative to a Sunset law would be to establish zero based budget reviews every 4, 6, or 8 years. Senator Winter agreed that zero based budget reviews of all state agencies on a scheduled basis may be a realistic alternative.

Mr. Rein distinguished the two types of evaluations by noting that Sunset asks whether the state should be performing a particular function, while zero based budgeting asks how well the state is performing the function. It was noted that the legislature already possesses termination power, although a Sunset law would force the legislature to periodically determine an agency's need.

The Committee directed staff to confer with the Division of Post Audit and develop suggestions for Committee consideration. Staff was also directed to notify affected state agencies of the draft and solicit comments regarding the Sunset concept.

Afternoon Session

The Committee reconvened at 1:45 p.m.

Proposal No. 41 - State Aid Programs to Local
Facilities for the Care of the Mentally
Ill, Retarded and Alcoholic

Chairman Lady introduced Mr. Paul Thomas, Administrator of the Southeast Kansas Mental Health Center. Mr. Thomas read from a prepared statement on behalf of the Association of Directors of Community Mental Health Centers of Kansas (Attachment No. 3.) A committee from that association was appointed to review the various proposals for a funding formula for state aid to community mental health centers. Mr. Thomas said that the prepared statement reflected a consensus recommendation of the association.

Mr. Thomas said the association preferred the formulas presented in Tables V-A and V-B and Tables VI-A and VI-B of the Kansas Legislative Research Department's report (Attachment No. 4.) After an explanation of why the other formulas were not acceptable to the association, Mr. Thomas recommended that the Committee adopt either of the formulas presented in Tables II or III, with the addition of a grandfather clause. He emphasized that it was important to assure all centers that they would not receive less than they received in the last current year.

Representative Hayden commented that the addition of a grandfather clause would cost between \$200,000 and \$250,000. Representative Buntin asked what the actual impact would be if either of the formulas were implemented. Staff explained that although the projections in the tables were based on FY 1976 data, and FY 1977 was as of yet unknown, the relative impact would be the same. Since it would be likely that more money would be available, the centers would gain or lose more actual dollars than reflected in the tables. The effect of the formula would be accentuated by more money being available; however, the same relative impact would exist.

Mr. Thomas was asked to comment on the formula presented in Table VIII, which was based on a cost/reimbursement method. Mr. Thomas said the various centers had expressed interest in the concept but were not in favor of the formula since it was based only on outpatient data.

Representative Farrar asked Mr. Thomas if the association would accept a one-year grandfather clause that would put all centers under the formula after the first year. Mr. Thomas said he was not sure if the centers would favor such a clause.

Chairman Lady introduced Mr. Hal Boyts, Executive Director of the Johnson County Community Mental Health Centers. Mr. Boyts read from a prepared statement (Attachment No. 5). He said that he would support the consensus recommendation of the association. He also stressed that the formula should be simple, logical, and defensible and that mental health and mental retardation funding should each be considered on the basis of need without predicting the level of one upon the other.

Mr. Boyts said that the per capita distribution formula presented in the staff's Table VII was a sound theory but would cause many implementation problems. He explained that a lot of services offered by local centers do not lend themselves to a direct fee basis that would be used for reimbursement. If such a formula were adopted, a separate reimbursement schedule for each type of service offered would be necessary.

Mr. Boyts also discussed Project Interweave, the current effort to develop a five-year state plan for the delivery of mental health and mental retardation services in Kansas. He discussed the philosophy behind the project and difficulties encountered in its developments.

Representative Harper asked Mr. Boyts what impact S.B. No. 26 has had on his center. Mr. Boyts said that there had been a significant increase in the number of persons who were being kept in the community rather than being committed to an institution and that he assumed part of the increase could be attributable to S.B. No. 26. He said that since July 1 his center's requests from police for afterhour and weekend screening services have increased by 100 percent.

Representative Bunten asked Mr. Boyts if he could explain conflicting budget information that implied a duplication of services between Topeka State Hospital and local community mental health centers. Mr. Boyts said that the appearance of duplication might be attributed to inclusion of alcohol or drug patients. He said that Johnson County had reduced its state admissions of drug and alcohol patients by one-half. He commented that right now those state services are still needed, especially for smaller communities who did not have such programs.

Chairman Lady introduced Mr. Julius Cohen, Director of the High Plains Comprehensive Community Mental Health Center. Mr. Cohen presented the Committee with packets of his recommendation on state funding formulas. He discussed the nine recommendations detailed in the packet. Included in those recommendations was a new formula based on 50 percent existing formula, 20 percent poverty rates, 15 percent population and 15 percent cost of travel and communication.

Staff asked Mr. Cohen to further comment on his ninth recommendation which related to data processing of a patient face sheet for state hospitals and mental health centers. Mr. Cohen explained the need for a much more substantial body of data on which to base decisions. He said that the \$60,000 necessary to implement such a program was less than one percent of what was currently being spent by the state on mental health.

Chairman Lady introduced Mr. Max F. Field, Administrative Advisor to the Sedgwick County Mental Retardation Governing Board. He presented the Committee with a statement which opposed the changes in the present formula. He said the present formula helped continue services where there was local support. He suggested that legislation be enacted to allow up to a three-fourth mill levy to provide services for mental health centers in highly populated counties.

Representative Ivy asked Mr. Field if he thought the legislature should budget separately for mental health and mental retardation. Mr. Field said they should be considered independently.

Chairman Lady thanked all of the persons who appeared before the Committee and opened the floor for general questions and discussion of Proposal No. 41.

Staff asked if a comprehensive state plan defining the relationship between state and local mental health delivery systems currently existed. Mr. Boyts said that at this time no functional plan existed but progress was being made. Staff then asked if it were possible to develop a rational funding system for delivery of services without such a statewide plan. Mr. Boyts and Mr. Klausen said that a rational funding formula was not possible without a statewide service delivery plan. Mr. Boyts emphasized the necessity for legislative commitment for the development of a state plan.

Representative Farrar commented that the unemployment rate could be used as a factor in the formula. He said it might benefit the urban areas.

Senator Talkington made a motion to adopt the mental health funding formula used in Table V-A with the addition of a grandfather clause based on FY 1977. Representative Ivy seconded the motion and it passed on a four to three vote. The vote was as follows: Yeas -- Ivy, Talkington, Zimmerman, Lady; Neas -- Bunten, Farrar, Garrett; Abstentions -- Niles, Hayden.

Senator Talkington made a motion to adopt the mental retardation formula used in Table V-B, with the addition of a grandfather clause based on FY 1977. Representative Ivy seconded the motion and it passed on a five to four vote. The vote was as follows: Yeas -- Ivy, Talkington, Zimmerman, Niles and Lady; Neas -- Farrar, Garrett, Hayden, and Bunten.

Representative Farrar made a motion that the Committee recommend in its report that Social and Rehabilitation Services (SRS) should, in cooperation with local units, develop a state plan for the delivery of mental health, mental retardation, and alcoholism services. Representative Garrett seconded the motion and it passed unanimously.

Chairman Lady instructed the staff to draft a bill based on the funding formula adopted by the Committee and to prepare a final report with recommendations.

The meeting was adjourned at 4:00 p.m.

October 15, 1976

The Special Committee on Ways and Means was called to order October 15, 1976, at 9:00 a.m. by Chairman Lady.

Proposal No. 40 - Retirement Matters

The Committee considered each of four retirement matters under Proposal No. 40: (1) commencing date of retirement benefits; (2) employer contribution rates; (3) benefit provisions of KSRS/KPERS merger legislation; and (4) expansion of the definition of "participating employer."

Commencement Date of Retirement Benefits. Discussion followed the staff review of the proposal during which Senator Talkington proposed that the definition of the academic year be modified to remedy the problems arising from the use of September 1 as the commencing date of retirement. However, Representative Farrar expressed concern about changing the date until some assessment had been made of any proposed alternate dates. Representative Farrar moved that the Committee make no recommendation with respect to changing the September 1 retirement date. The motion was seconded by Representative Niles and subsequently passed. Senator Talkington asked to be recorded as having voted against the motion.

Employee Contribution Rates. Chairman Lady noted that each approved increase in retirement benefits precipitates a comparable increase in employer contribution rates while leaving unchanged the level of contributions made by employees. He indicated that it may be desirable for employees to share in the cost of any subsequent increases in benefits. To that end, the discussion which followed centered on the method by which that might be accomplished.

Chairman Lady suggested that the "normal cost" contributions be shared equally by employers and employees and that the level of each contribution be calculated on a three-year basis in order to ensure some measure of stability in the distribution of benefits. At this point in the discussion, John Corkhill, Executive Secretary of the Kansas Public Employees Retirement System (KPERS), commented that the proposed formula was not without its difficulties. As an example, he indicated that the value of employer contributions was at least one-third greater than that of employee contributions because employer contributions are not withdrawn as a result of employee transfers and terminations. He indicated that an additional weakness in the formula was the lack of a statutory definition of a "normal cost." His primary concern with the proposal, however, centered on the problems that may arise each time the formula was scheduled for modification. Specifically, he believed that political considerations would be introduced into the process of establishing a new formula.

In support of the proposal, Representative Farrar expressed concern about the consequences of delaying resolution of the matter. It was his contention that a delay would result in a contribution differential in which instance political realities might preclude the subsequent resolution of the matter on the basis of equal contributions.

The Committee deferred action on the measure until the questions raised by the proposal were satisfactorily resolved. In addition, the Committee suggested that the views of Dr. Mackin, consulting actuary to KPERS, again be solicited in order to facilitate their resolution.

Provisions of KSRS/KPERS Merger Legislation. On a motion by Representative Hayden, seconded by Representative Farrar, the Committee acknowledged the prevailing benefit inequities associated with the merger legislation but recommended that no action be taken at the present time.

In support of the motion, Representative Harper said that a thorough examination of the state's financial resources is necessary before anything may be done. Representative Farrar expressed concern that other inequities might arise as well if the total benefit picture is not investigated.

Expansion of the Definition of "Participating Employer." Representative Bunten made a motion, which was seconded by Representative Hayden, that no change be made in the definition of a "participating employer." The motion carried.

Proposal No. 42 - Review of Master Comprehensive
Corrections Plan

Staff reviewed the work of the Committee to date. The discussion which followed centered on the current level of development of the Governor's plan for improving correctional facilities. It was revealed that specific information on the construction of facilities and their respective locations is not yet available, pending completion of a study by the State Architect.

A motion by Senator Talkington, seconded by Senator Winter, stated that a recommendation by the Committee concerning approval of the Comprehensive Corrections Plan by Touche Ross and Company would be premature without knowledge of the results of the State Architect's study. The motion passed.

Senator Winter then moved that the Committee recommend introduction of a bill for consideration by the 1977 Legislature which would include a provision making pre-sentence investigations mandatory for all felony cases. The motion was seconded by Representative Hayden. Subsequent discussion emphasized the impact which mandatory pre-sentence investigations would be expected to have on correctional facilities and the prison population. The motion carried.

Proposal No. 43 - Conservation of Energy at
State Institutions

Following staff review of the proposal, Representative Farrar expressed interest in pursuing the study of the potential for utilizing hydroelectric power at certain state institutions located near federal reservoirs. In addition, Representative Farrar suggested that along with that study, an assessment should be made of the legal aspects associated with using water from those reservoirs.

Representative Hayden indicated the need for a building-by-building evaluation of energy use and a comparison of current energy operations in those buildings with proposed alternatives. Subsequently, he made a motion, seconded by Representative Farrar, that the Committee recommend approval for an inventory of the thermal conditions of each building under the jurisdiction of the Board of Regents for the purpose of determining the energy needs of all such institutions. Representative Farrar's suggested study of the utilization of hydroelectric power was included in the motion as was his additional recommendation that students and faculty be encouraged to participate in the evaluation. The motion passed.

Proposal No. 44 - Arson Detection

The Committee reviewed a draft of the report to the Ways and Means Committee and recommended modifications to reflect the need for additional arson inspectors.

Proposal No. 45 - Survey of State Computer
Capability

Staff advised the Committee that information in the report was in the process of being verified for accuracy.

The meeting was adjourned at 12:30 p.m., with approval by the Committee to meet again on November 17, 1976, at 9:30 a.m.

Prepared by Louis Chabira

Approved by Committee on:



(Date)

PERSONS IN ATTENDANCE

<u>Name</u>	<u>Representing</u>
Julius Cohen	High Plains Comprehensive Community Mental Health Center
Paul R. Thomas	Southeast Kansas Mental Health Center
Max N. Field	Sedgwick County Mental Retardation
Jim Claussen	Shawnee County Mental Health Association
R.A. Haines, M.D.	Department of Social and Rehabilita- tion Services
Ruth C. Dickinson	Division of Planning and Research
Lyn Klein	High Plains Comprehensive Community Mental Health Center
Hal Boyts	Johnson County Mental Health Center

PRELIMINARY DISCUSSION DRAFT

For Consideration by Special Committee on Ways and Means

Re: Proposal No. 62--Sunset Laws

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

New Section 1. This act, and all acts amendatory thereof or supplemental thereto, shall be known and may be cited as the "Kansas sunset law."

New Sec. 2. Except as otherwise provided in section 5, on July 1, 1978, the following state agencies and offices shall be and are hereby abolished:

(a) The state corporation commission created by K.S.A. 1976 Supp. 74-601, as amended, and the offices of attorney and secretary of said commission;

(b) the insurance department and the office of commissioner of insurance established by K.S.A. 1976 Supp. 40-102, as amended;

(c) the athletic commission of the state of Kansas designated by K.S.A. 1976 Supp. 74-2901, as amended, and the office of executive secretary of said commission;

(d) the board of barber examiners created by K.S.A. 1976 Supp. 74-1805, as amended, and the office of administrative officer and chairman of said board;

(e) the Kansas state board of cosmetology created by K.S.A. 74-2701, as amended, and the office of executive director of said board; and

(f) the state board of embalming of the state of Kansas established and created by K.S.A. 1976 Supp. 74-1701, as amended, and the office of secretary of said board.

New Sec. 3. Except as otherwise provided in section 5, on July 1, 1980, the following state agencies and offices shall be

and are hereby abolished:

(a) The commission on civil rights created by K.S.A. 1976 Supp. 44-1003, as amended, and the office of executive director of said commission;

(b) the Kansas real estate commission created by K.S.A. 74-4201, as amended, and the office of director of said commission;

(c) the Kansas dental board created by K.S.A. 1976 Supp. 74-1404, as amended, and the office of secretary-treasurer of said board;

(d) the state board of healing arts appointed pursuant to K.S.A. 1976 Supp. 65-2812, as amended, and the office of secretary of said board;

(e) the board of nursing appointed pursuant to K.S.A. 1976 Supp. 74-1106, as amended, and the office of executive administrator of said board;

(f) the board of examiners in optometry appointed pursuant to K.S.A. 1976 Supp. 74-1501, as amended, and the office of secretary-treasurer of said board;

(g) the state board of pharmacy created by K.S.A. 1976 Supp. 74-1603, as amended, and the office of executive secretary of said board; and

(h) the state board of veterinary medical examiners appointed pursuant to K.S.A. 47-818, as amended, and the office of secretary-treasurer of said board.

New Sec. 4. Except as otherwise provided in section 5, on July 1, 1982, the following state agencies and offices shall be and are hereby abolished:

(a) The state banking board created by K.S.A. 1976 Supp. 74-3004, as amended, and the office of the state bank commissioner appointed pursuant to K.S.A. 75-1304, as amended;

(b) the savings and loan board created by K.S.A. 74-3113, as amended, the office of the savings and loan commissioner appointed pursuant to K.S.A. 1976 Supp. 74-3104, as amended, and the savings and loan department created by K.S.A. 1976 Supp.

74-3104, as amended;

(c) the office of the securities commissioner of Kansas appointed pursuant to K.S.A. 17-1270, as amended;

(d) the state board of technical professions appointed pursuant to K.S.A. 1976 Supp. 74-7004, as amended, and the office of secretary of said board;

(e) the abstractors' board of examiners created by K.S.A. 1976 Supp. 74-3901, as amended, and the office of executive secretary of said board;

(f) the board of accountancy created by K.S.A. 1-201, as amended, the advisory council created by K.S.A. 1-201, as amended, and the office of secretary of said board;

(g) the state board of examiners of psychologists created by K.S.A. 74-5303, as amended;

(h) the Kansas state board of examiners in fitting and dispensing of hearing aids established by K.S.A. 74-5801, as amended, and the office of executive officer of said board;

(i) the board of social work examiners created by K.S.A. 1976 Supp. 75-5349, as amended, and the office of the director appointed by the secretary of social and rehabilitation services pursuant to K.S.A. 1976 Supp. 75-5350, as amended; and

(j) the mobile home and recreational vehicle commission created by K.S.A. 1976 Supp. 75-1219, as amended.

New Sec. 5. (a) For the purposes of concluding its affairs, each state agency or office abolished under the Kansas sunset law shall continue in existence until the July 1 next succeeding the date of abolition of such state agency or office. During this period of time and notwithstanding the abolition of the state agency or office under the Kansas sunset law, each such state agency and each person holding such state office, or his or her successor, shall exercise all of the powers, duties and functions of such state agency or office. Upon the expiration of this period on the next succeeding July 1, each such state agency and each person holding such state office, or his or her successor, shall cease all activities and shall have no further authority to

act unless such state agency or office is continued or reestablished in accordance with subsection (b). No state agency or office abolished and not continued or reestablished, shall have less than the period of time provided for in this subsection to conclude its affairs.

(b) Any state agency or office subject to abolition under the Kansas sunset law may be continued in existence or reestablished by act of the legislature, but no such continuance or reestablishment shall be for a period of time in excess of six (6) years and each such continued or reestablished state agency or office shall be abolished at the end of such six-year period. Only one state agency or office shall be continued in existence or reestablished in any one act of the legislature and the name of such state agency or office shall be included in the title of such act. No new state agency or office which has the same or substantially the same jurisdiction as any state agency or office subject to abolition under the Kansas sunset law shall be created, established or organized by act of the legislature or executive reorganization order, for a period of time in excess of six (6) years and each such new state agency or office shall be abolished at the end of such six-year period. Each such state agency or office continued or reestablished and each such new state agency or office created, established or organized, shall be subject to abolition under the Kansas sunset law.

New Sec. 6. The legislative post audit committee shall direct the post auditor to conduct a performance audit of each state agency and office which is subject to abolition under the Kansas sunset law. The performance audit shall be completed prior to the commencement of the regular session of the legislature immediately preceding the date of abolition of such state agency or office. In conducting each such performance audit, the post auditor shall include a determination of the factors specified in subsection (b) of section 7 and of such other factors as may be directed to be included by the legislative post audit committee, including the factors specified in K.S.A. 1976 Supp.

46-1108, and any amendments thereto. Upon completion of the performance audit, the legislative post audit committee shall hold a public hearing to review the final report. A copy of the final report of each performance audit conducted pursuant to this section shall be made available to each member of the legislature.

New Sec. 7. (a) Prior to the abolition of a state agency or office under the Kansas sunset law or to the continuation or reestablishment of such state agency or office, a committee of reference in each house of the legislature shall hold a public hearing on such abolition, continuation or reestablishment. Each such committee shall receive testimony from the public, the state agency or officer involved and other appropriate state officers. In all such hearings, the state agency or officer involved shall have the burden of demonstrating a public need for continued existence and the necessity for and extent of any changes in the state agency or office or in its enabling statutes which would increase the efficiency or effectiveness of the administration or operation of the state agency or office.

(b) In such public hearings, the committee of reference shall take into consideration the following factors, among others, in developing its recommendations and determining whether the state agency or office involved has demonstrated a public need for continued existence of the state agency or office:

(1) The extent to which the state agency or office has permitted qualified applicants to serve the general public;

(2) the extent to which affirmative action requirements of state and federal statutes and constitutions have been complied with by the state agency or office and the persons it regulates;

(3) the extent to which the state agency or office has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, the procedures and practices of other state agencies and offices, and any other circumstances, including budgetary, resource and personnel matters;

(4) the extent to which the state agency or office has recommended statutory changes to the legislature which would benefit the public as opposed to the persons it regulates;

(5) the extent to which the state agency or office has required the persons it regulates to report to it concerning the impact of rules and regulations and decisions of the state agency or office on the general public regarding improved service, economy of service and availability of service;

(6) the extent to which persons regulated by the state agency or office have been required by it to assess problems in their industry which affect the general public;

(7) the extent to which the state agency or office has encouraged participation by the general public in adopting rules and regulations and in making decisions as opposed to participation solely by the persons it regulates;

(8) the efficiency with which formal public complaints filed with the state agency or office concerning persons regulated by it, have been processed to completion by the state agency or office, by the attorney general, and by any other applicable department of state government; and

(9) the extent to which changes are necessary in the enabling statutes of the state agency or office to adequately comply with the factors specified in this subsection.

(c) As used in sections 7 and 8, "person" shall include any individual, partnership, association, or corporation.

New Sec. 8. (a) No provision of the Kansas sunset law shall affect any vested right or result in the dismissal of any lawful claim or right of any person against any state agency or office abolished under the Kansas sunset law or of any lawful claim or right of any such state agency or office which is the subject of litigation. All such claims and rights shall be imposed upon and assumed by the governor and are hereby transferred to and devolved upon the governor.

(b) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been com-

menced, by or against any state agency or office abolished under the Kansas sunset law or by or against any officer of such state agency or office in relation to the discharge of duties imposed by law, shall abate by reason of the abolition of such state agency or office under the Kansas sunset law. The court may allow any such suit, action or other proceeding to be maintained by or against the governor as the chief executive officer of the state.

(c) No criminal action commenced or which could have been commenced by the state shall abate by the abolition of a state agency or office under the Kansas sunset law.

(d) No provision of the Kansas sunset law shall affect the inherent power of the legislature to enact legislation concerning any state agency or office subject to abolition under said law.

(e) All transfers of personnel and any abolition of personnel positions under the Kansas civil service act resulting from the abolition of any state agency or office under the Kansas sunset law, shall be in accordance with the provisions of the Kansas civil service act and any rules and regulations adopted thereunder.

(f) Upon the conclusion of the affairs of an abolished state agency or office in accordance with section 5, the title to all property held by such state agency or office shall be and is hereby transferred to and devolved upon the governor and such property shall be disposed of as directed by the governor. The records of such state agency or office shall be transferred to the secretary of state and shall be kept and maintained in the office of the secretary of state for a period of time of not less than six (6) years. Any conflict as to the proper disposition of property or records arising under this section, and resulting from the abolition of any state agency or office under the Kansas sunset law, shall be determined by the governor and the reconciliation of such conflict pursuant to this section shall be final.

*Sec. 9. K.S.A. 1976 Supp. 74-601 is hereby amended to read

as follows: 74-601. (a) There is hereby created a commission to be known as the state corporation commission, which shall be composed of three (3) members, who shall be appointed by the governor, by and with the advice and consent of the senate. No more than two (2) members of the commission shall belong to the same political party. Upon the expiration of any member's term of office, each succeeding member shall be appointed and shall have been appointed and qualified. In case of a vacancy in the office of a member of said state corporation commission, the governor shall appoint a successor to fill the vacancy for the unexpired term.

(b) The commission shall elect one of its members as chairperson of the commission. The salary of the chairperson of said commission shall be twenty-nine thousand five hundred dollars (\$29,500) per year, and the salary of each of the other members of said state corporation commission shall be twenty-seven thousand dollars (\$27,000) per year, payable monthly. Each of the members of the commission shall devote full time to the duties of the office.

(c) The provisions of the Kansas sunset law apply to the state corporation commission created by this section and said commission is subject to abolition thereunder.

Sec. 10. K.S.A. 1976 Supp. 74-601 is hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

*Example amendatory section.

TO: Special Committee on Ways and Means

FROM: James A. Wilson, Assistant Revisor of Statutes

Colorado Regulatory Agencies
and Sunset Dates

July 1, 1977

Public Utilities Commission
Division of Insurance
Division of Racing Events
Colorado Racing Commission
State Athletic Commission of
Colorado
State Board of Barber Examiners
Collection Agency Board
State Board of Cosmetology
Board of Mortuary Science
Passenger Tramway Safety Board
State Board of Shorthand Reporters
Board of Examiners of Nursing
Home Administrators
Board of Examiners of Institutions
for Aged Persons
Board of Registration for
Professional Sanitarians

Comparable Kansas Agencies

State Corporation Commission
Insurance Department
Commissioner of Insurance
[No comparable agency]
Athletic Commission of the
State of Kansas
Board of Barber Examiners
[No comparable agency]
Kansas State Board of Cosmetology
State Board of Embalming of the
State of Kansas
[No comparable agency]
State Board of Examiners of
Court Reporters* [created,
K.S.A. 20-915, Rules of the
Supreme Court No. 301]
Secretary of Health and
Environment* [Adult care homes,
licensing agency, 39-925]
[See Secretary of Health and
Environment]
[See Secretary of Health and
Environment]

July 1, 1979

Division of Civil Rights and
Colorado Civil Rights Commission
Colorado Commission on the Status
of Women
Real Estate Commission
Colorado State Board of
Chiropractic Examiners
State Board of Dental Examiners
Colorado State Board of Medical
Examiners
Colorado Podiatry Board
State Board of Nursing

Commission on Civil Rights
[No comparable agency]
Kansas Real Estate Commission
[See State Board of Healing
Arts, below]
Kansas Dental Board
State Board of Healing Arts
[See State Board of Healing Arts]
Board of Nursing

July 1, 1979, cont.

Board of Practical Nursing	[See Board of Nursing]
State Board of Optometric Examiners	Board of Examiners in Optometry
State Board of Pharmacy	State Board of Pharmacy
State Board of Physical Therapy	[See State Board of Healing Arts]
State Board of Veterinary Medicine	State Board of Veterinary Medical Examiners

July 1, 1981

Division of Banking	State Bank Commissioner
	State Banking Board
Division of Savings and Loan	Savings and Loan Department
	Savings and Loan Commissioner
	Savings and Loan Board
Division of Securities	Office of Securities Commissioner of Kansas
State Board of Examiners of Landscape Architects	State Board of Technical Professions
Colorado State Board of Examiners of Architects	[See State Board of Technical Professions]
Abstractors' Board of Examiners	Abstractors' Board of Examiners
State Board of Accountancy	Board of Accountancy
State Board of Registration for Professional Engineers and Land Surveyors	[See State Board of Technical Professions]
Colorado State Board of Psychologist Examiners	State Board of Examiners of Psychologists
Examining Board of Plumbers	[No comparable agency]
State Electrical Board	[No comparable agency]
Board of Hearing Aid Dealers	Kansas State Board of Examiners in Fitting and Dispensing of Hearing Aids
State Board of Social Worker Examiners	Board of Social Work Examiners [Advisory]
	Secretary of Social and Rehabilitation Services* [duties of examination and license issuance]
Colorado Mobile Home Licensing Board	Mobile Home and Recreational Vehicle Commission
	Director of Architectural Services* [issuance of seals]

*Kansas state agencies and offices not included in Preliminary Discussion Draft on Proposal No. 62--Sunset Laws.

PRESENTATION TO THE SPECIAL COMMITTEE ON WAYS AND MEANS

ON
Thursday, October 14, 1976

REGARDING

Proposal No. 41

Consideration Of Legislation to Change The Formula Of State Financing
To Community Mental Health Centers

Presented By:

Paul R. Thomas
Administrator
Southeast Kansas Mental Health Center
Humboldt, Kansas

On Behalf Of

ASSOCIATION OF DIRECTORS OF COMMUNITY MENTAL
HEALTH CENTERS OF KANSAS

I am chairman of a committee of the Association of Directors of Community Mental Health Centers of Kansas which was appointed to review the various proposals on a new funding formula for State Financial Assistance to Community Mental Health Centers. The charge given to this committee was to try to reach a consensus recommendation to be presented to this committee.

A consensus recommendation has been reached by this committee and has been reviewed with a majority of the Directors of Mental Health Centers who also concurred with this consensus recommendation.

The basic approach used by the Directors Association Committee approached the funding formula problem with the basic premise of a formula that would do the best job of adjusting some inequities in the present formula in those areas of the state in which basic economic situations make it difficult to raise the matching income. Thus, the committee described the concept put forth originally in Senate Bill 965 in the last session of the Legislature of some type of adjustment for the inability to generate local income but we are also concerned with an additional factor in this formula which would help adjust for population differences. The committee also considered what would do the maximum amount of adjustment to those areas who have an inability to generate local income but were also concerned about becoming a crippling effect to the Centers in which the current formula has been a distinct advantage.

In the committees deliberation two formulas surfaced which seemed to meet the criteria established by this committee and this was plan V and VI presented in Table V and VI of the material presented to this committee by the Legislative Research Department. This was allocation of funds on a formula based upon current matching income, population, and a per capita income ratio.

I would like to take one moment for a brief review of some of the reasons for ruling out the other five formulas.

Plan 1. Plan one based strictly on catchment area population would have an extremely large loss for the larger Centers from the current formula but still would have no adjustment factor for the difference in economic ability to generate income.

Plan 2. This had the largest loss for the larger Centers and was also the one which gave the largest increase to the smaller Centers. This formula did not take into consideration the local income generated which would take away a very positive motivating force for the generation of income by the local Centers.

Plan 3. This is currently the basic formula set forth under Senate Bill 965 from the 1976 legislative session. This formula did make a large adjustment based upon the basis of per capita income but there was no way for population which had a tremendous increase for smaller Centers without any population factor being weighed in the formula.

Plan 4. The formula by Mr. Hal Boyd was the first plan to begin to meet the criteria of the committee of an adjustment factor for all three of generating local income, population factor, and per capita. There was some confusion in terms of the original formula as proposed by Mr. Boyd and the final product presented by the committee.

There was some question concerning the overall adjustment factor in terms of what it would mean to basically rural Centers.

Plan 7. This was the plan based upon a cost reimbursement method of allocating funds to Mental Health Centers based upon the units of outpatient service. The main criticism that the Committee had of this formula was that the outpatient statistical base was too narrow and that if it was just based upon outpatient services only it would have a disastrous effect upon providing and expanding of indirect preventative type of services. This basic type of formula is being used in many states but it would have to be adjusted to include all services provided by Mental Health Centers and in the end result does become a very complicated formula.

Recommendation: The Committee of the Association of Directors of Community Mental Health Centers wish to recommend to the committee the methodology for re-allocation of State Funds as presented in Table 5 and 6 of the material developed by the Legislature Research Department.

The method presented in Plan 5 and 6 was accepted by the consensus of the Directors Association and the only specific recommendations between 5 and 6 came down to the consideration of what it would do for each individual Center. Overall the factors used in the formula are quite acceptable.

The Committee also hopes that the same approach taken in Senate Bill 965 in the 1976 Legislature be considered in terms of any new funding formula in that no Center would receive less than they received in the last current year. This would allow a period of time for adjustments to be made in income and programs rather than for some Centers to be faced with a reduction that may have an impact on one specific program or the overall program.

COMPARISON OF STATE AID ALLOCATION METHODS

Community Mental Health Centers	Allocation of FY 1976 Funds (Actual)	Allocation of FY 1976 Funds by P. Thomas 50-30-20 Formula	Increase or Decrease
Area Mental Health Center	\$ 54,801	\$ 49,431	- \$ 5,370
Bert Nash Comm. Mental Health Center	23,154	28,589	+ 5,435
Center for Counseling and Consultation	23,298	30,555	+ 7,257
Central Kansas Mental Health Center	26,025	36,263	+ 10,238
Cowley County Mental Health Center	5,534	17,237	+ 11,703
Crawford County Mental Health Center	13,237	25,798	+ 12,561
Four County Mental Health Center	19,212	30,071	+ 10,859
Franklin County Mental Health Center	6,516	15,064	+ 8,548
High Plains Comm. Mental Health Center	119,421	89,000	- 30,421
Iroquois Center for Human Development	10,452	16,845	+ 6,393
Johnson County Mental Health Center Northeast/Southwest	130,563	106,167	- 24,396
Mental Health Center of East Central Kansas	47,559	44,546	- 3,013
The Mental Health Institute	42,265	46,001	+ 3,736
North Central Kansas Guidance Center	27,293	38,699	+ 11,406
Northeast Kansas Guidance Clinic	16,653	29,880	+ 13,227
Prairie View Mental Health Center	108,199	74,055	- 34,144
Sedgwick County Dept. of Mental Health	168,035	141,387	- 26,648
SeKan Comp. Mental Health Services	19,601	50,749	+ 31,148
Shawnee County Mental Health Corp.	176,420	121,761	- 54,659
South Central Mental Health Center	21,688	30,726	+ 9,038
Southeast Kansas Mental Health Center	23,695	34,435	+ 10,740
Southwest Guidance Center	16,019	22,655	+ 6,636
Sunflower Guidance Center	15,033	24,893	+ 9,860
Wyandotte County Mental Health Center	54,107	63,973	+ 9,866
TOTAL	\$ 1,168,780	\$1,168,780	

Amount and Percentage of Reallocation

\$178,651 (15%)

TABLE V(b)

COMPARISON OF STATE AID ALLOCATION METHODS

<u>Community Mental Retardation Centers</u>	<u>Allocation of FY 1976 Funds (Actual)</u>	<u>Allocation of FY 1976 Funds by P. Thomas 50-30-20 Formula</u>	<u>Increase or Decrease</u>
Big Lakes Developmental Center	\$ 14,695	\$ 17,263	+\$ 2,568
Chikaskia Area Training Center	10,549	11,488	+ 939
Cottonwood, Inc.	18,796	17,934	- 862
Dodge City Council for Retarded Citizens	4,891	9,402	+ 4,511
Finney County Mental Retardation Services	4,436	9,409	+ 4,973
Franklin County Voc. Rehab. Facility	5,634	8,363	+ 2,729
Homer B. Reed Adjustment and Training Center	21,263	19,558	- 1,705
Johnson County Mental Retardation Center	56,275	45,695	- 10,580
Leavenworth County Assn. for Handicapped	8,429	12,778	+ 4,349
Mental Retardation Board of Wyandotte County	13,883	22,785	+ 8,902
Mid-Kansas D.D. Services	10,500	12,517	+ 2,017
Occupational Center of Central Kansas	20,123	21,439	+ 1,316
Reno Occupational Center	12,545	16,349	+ 3,804
Sedgwick County M.R. Governing Board	130,769	90,008	- 40,761
Sunflower Training Center, Inc.	10,294	13,615	+ 3,321
Terramara, Inc.	5,723	11,729	+ 6,006
Topeka Assn. for Retarded Citizens	23,165	25,990	+ 2,825
Verdigris Valley Assn. for Retarded Citizens	<u>3,307</u>	<u>8,955</u>	<u>+ 5,648</u>
TOTAL	\$ 375,277	\$375,277	
Amount and Percentage of Reallocation			\$53,908 (14%)

TABLE VI(a)

COMPARISON OF STATE AID ALLOCATION METHODS

Community Mental Health Centers	Allocation of FY 1976 Funds (Actual)	Allocation of FY 1976 Funds by P. Thomas 50-25-25 Formula	Increase or Decrease
Area Mental Health Center	\$ 54,801	\$ 49,736	- \$ 5,065
Bert Nash Comm. Mental Health Center	23,154	29,463	+ 6,309
Center for Counseling and Consultation	23,298	31,610	+ 8,312
Central Kansas Mental Health Center	26,025	36,681	+ 10,656
Cowley County Mental Health Center	5,534	18,737	+ 13,203
Crawford County Mental Health Center	13,237	26,889	+ 13,652
Four County Mental Health Center	19,212	31,205	+ 11,993
Franklin County Mental Health Center	6,516	16,757	+ 10,241
High Plains Comm. Mental Health Center	119,421	88,335	- 31,086
Iroquois Center for Human Development	10,452	18,877	+ 8,425
Johnson County Mental Health Center Northeast/Southwest	130,563	101,862	- 28,701
Mental Health Center of East Central Kansas	47,559	45,447	- 2,112
The Mental Health Institute	42,265	45,888	+ 3,623
North Central Kansas Guidance Center	27,293	38,827	+ 11,534
Northeast Kansas Guidance Clinic	16,653	30,965	+ 14,312
Prairie View Mental Health Center	108,199	74,854	- 33,345
Sedgwick County Dept. of Mental Health	168,035	135,349	- 32,686
SeKan Comp. Mental Health Services	19,601	48,407	+ 28,806
Shawnee County Mental Health Corp.	176,420	119,718	- 56,702
South Central Mental Health Center	21,688	31,886	+ 10,198
Southeast Kansas Mental Health Center	23,695	35,188	+ 11,493
Southwest Guidance Center	16,019	23,974	+ 7,955
Sunflower Guidance Center	15,033	26,442	+ 11,409
Wyandotte County Mental Health Center	54,107	61,683	+ 7,576
TOTAL	\$ 1,168,780	\$1,168,780	

Amount and Percentage of Reallocation

\$189,697 (16%)

TABLE VI(b))

COMPARISON OF STATE AID ALLOCATION METHODS

<u>Community Mental Retardation Centers</u>	<u>Allocation of FY 1976 Funds (Actual)</u>	<u>Allocation of FY 1976 Funds by P. Thomas 50-25-25 Formula</u>	<u>Increase or Decrease</u>
Big Lakes Developmental Center	\$ 14,695	\$ 17,470	+\$ 2,775
Chikaskia Area Training Center	10,549	12,134	+ 1,585
Cottonwood, Inc.	18,796	18,280	- 516
Dodge City Council for Retarded Citizens	4,891	9,929	+ 5,038
Finney County Mental Retardation Services	4,436	9,996	+ 5,560
Franklin County Voc. Rehab. Facility	5,634	9,203	+ 3,569
Homer B. Reed Adjustment and Training Center	21,263	19,865	- 1,398
Johnson County Mental Retardation Center	56,275	43,843	- 12,432
Leavenworth County Assn. for Handicapped	8,429	13,382	+ 4,953
Mental Retardation Board of Wyandotte County	13,883	21,801	+ 7,918
Mid-Kansas D.D. Services	10,500	13,187	+ 2,687
Occupational Center of Central Kansas	20,123	21,367	+ 1,244
Reno Occupational Center	12,545	16,403	+ 3,858
Sedgwick County M.R. Governing Board	130,769	87,414	- 43,355
Sunflower Training Center, Inc.	10,294	14,020	+ 3,726
Terramara, Inc.	5,723	12,200	+ 6,477
Topeka Assn. for Retarded Citizens	23,165	25,111	+ 1,946
Verdigris Valley Assn. for Retarded Citizens	<u>3,307</u>	<u>9,672</u>	<u>+ 6,365</u>
TOTAL	\$ 375,277	\$375,277	
Amount and Percentage of Reallocation			\$57,701 (15%)

Statement to Special Committee on Ways and Means
Regarding State Aid to Community Mental Health Centers

October 14, 1976

by: Hal Boyts, Executive Director, Johnson County Mental Health Center

Basic Position

It appears that the majority of mental health centers would prefer to see the current formula retained to the degree that it would comprise at least 50% of the new factors. In the interest of developing consensus among centers and to avoid some radical changes that might otherwise have occurred, I will not defend my proposal submitted to this committee in July 1976 and will support one that gives strong consideration to the number of people within a catchment area if it represents the position of a majority of centers. I would also strongly encourage that a proviso be adopted whereby no mental health center which maintained its local match would receive fewer state funds than they did the year before.

Important Principles

1. Money needs to follow the patients. While a per capita distribution is the most direct way to apply this, it also tends to follow that where services are pre-existing, there's where patients tend to go. This is the concept of the current formula.
2. The formula should be simple, logical, and defensible. For the limited dollars available in this funding mechanism and in the absence of an overriding state plan and philosophy for mental health delivery, the formula should be straightforward. Introducing subjective variables causes a formula to take on political connotations. Although such factors may have good logic behind them, it's impossible to weight them without a balanced philosophical approach to the whole problem.

Items that have been considered but which quickly become argumentative are such things as assessed valuation, utilization of current authorized levy, new programs to be developed, other services as prerequisites, income within the area, distance from state hospitals, amounts of preventive services provided, amounts of clinical services provided, number of square miles covered, the decline of federal funds, etc. Even if consensus could be reached on a formula involving one or more of these items the amount of difference that it would likely make in the formula would probably not offset the problems of monitoring or auditing its administration.

3. Mental Health funding and Mental Retardation funding should each be considered on the basis of need without predicating the level of one upon the other. The problems, other resources, and rationale for distributing funds vary greatly between MH and MR.

Where Does the Funding Problem Lead?

Funding of community and state mental health services in the future must be related to a philosophy of mental health adopted by the state with a delivery system to match. Since the tax payers/voters of this state are saying that public funds cannot continue to expand, we will need to make some changes either on our own initiative or by reason of a tax payer revolt. Perhaps Project Interweave will provide some direction.

Community mental health centers have reduced the number of annual admissions to state hospitals and have been a major factor in the continuing decline in numbers of residents in hospitals. It really is cheaper to keep most people in the community. We may never get to the point of doing without any state hospitals. But, it is time to look at using our resources more flexibly and efficiently.

I propose that a plan be made for mental health centers to assume enough of the state's current obligation that a significant amount of fixed costs along with some variable costs be reduced in order to reallocate the money to new systems of intervention whether they are in the community or specialized state programs. I'm confident that this would provide many of the funds necessary to continue the shift of responsibility for mental health care to local programs.

Summary

Rather than get into highly subjective factors for distributing funds from this particular source, at this time, I recommend that the formula under discussion be kept very simple. Additionally, that legislators and mental health personnel work on the larger problem of freeing up dollars to follow the patients as local mental health centers develop the programs necessary to treat more patients at home.

JOHNSON COUNTY MENTAL HEALTH CENTER

Project Interweave

Philosophical Statement
Delivery of Mental Health Services

To properly address the issue of delivery of mental health services, it is important to identify those philosophical concepts regarding mental health services upon which there is general agreement. It is from these philosophical concepts that current and future decisions will be made regarding how mental health services should be provided to residents of Johnson County. The concepts are as follows:

1. In every community there exist multiple mental health resources available for the mental health of residents. These include family members, friends, natural helpers, various professional people, organizations, agencies etc. The specialized resources of Mental Health Centers, psychiatric hospitals, and mental health professionals are but a part of total community mental health resources. The community as a whole, therefore shares the responsibility for the mental health of its residents with the mental health professionals. A primary task of a mental health delivery system is to support, enhance, and coordinate utilization of those natural community resources that already exist in every person's life experience.
2. When specialized mental health services are necessary they should be provided in a geographically convenient location, with the least disruption of normal patterns of living, and within the context of the usual life-space of the client. These services should be designed in such a way that insures maximum visibility and easy accessibility.
3. Each community is unique in the needs experienced by its people and in the manner in which these needs can best be met. Therefore, local citizens should have a prominent, determining role in the planning and delivery of mental health services.
4. Mental health delivery systems should be structured in a manner which insures priority on efforts of prevention and early intervention equal to acute and long term treatment.
5. Mental health services should be available on an equal basis to all members of every community within the limits of fiscal bounds and provided in a manner which preserves the rights and dignity of all individuals.
6. Mental health services should be delivered in a fiscally responsible and efficient manner.

May 26, 1976

Project Interweave

Statements Concerning Roles and Funding in Delivery of Mental Health Services

- I. The State of Kansas, in its long range planning should direct its priorities toward increased support, including financial, of locally delivered mental health services.
 - A. State Hospitals role in delivery of Mental Health services should be primarily through long term and highly specialized inpatient care.
 - B. Mental Health Centers should be the principal local public agency providing a range of mental health services.
- II. Private resources should be utilized by developing a stronger coordinative program between the public sector and private sector.
- III. S.R.S. should play a supportive role to clientele of Mental Health providers through: social services, information/referral, vocational services, income maintenance, and limited prevention.
- IV. Funding of Mental Health Services should be flexible enough to follow changing Mental Health needs of Community Residents, as determined by each local community.

March 8, 1976