

Approved _____ Date 4-3-91

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Carol H. Sader at _____
Chairperson

1:30 //a.m./p.m. on March 26, 1991 in room 423-S of the Capitol.

All members were present except:

Representative Hackler, excused

Committee staff present:

Emalene Correll, Research
Bill Wolff, Research
Norman Furse, Revisor
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Representative Duane Goossen
Representative Henry Helgerson
Senator Doug Walker
Tom Bell, Kansas Hospital Association
Chip Wheelen, Kansas Medical Society
Harold Riehm, Kansas Association of Osteopathic Medicine
John Alquest, Acting Commissioner/Income Support/Medical Services/ Department of SRS
John Grace, Kansas Association of Homes for the Aging
Marilyn Bradt, Kansans for Improvement of Nursing Homes
John Kiefhaber, Kansas Health Care Association

Chairperson Sader called meeting to order, recognizing Rep. White.

Rep. White stated he voted on the prevailing side to kill HB 2566, and now wishes to make a motion to have that bill reconsidered by Committee. Motion seconded by Rep. Bishop. No discussion. Vote taken, motion carried.

Chair announced, in regard to the reconsideration of HB 2566, she would like to permit a member of the SRS Task Force to speak on the bill. However, further discussion and action would be held at a later meeting. Chair noted both Representatives Goossen and Helgerson would make comments.

Representative Goossen, Chair of the SRS Task Force's, Sub-committee on Medical Services, gave background information in regard to pre-screening for Adult Care Homes. He noted the concept for this originally began in a sub-committee on Appropriations, then was also a recommendation of the SRS Task Force. He spoke of extremes in increased costs of reimbursement to Nursing Homes for persons on State assistance. The state is under court injunction to reimburse nursing homes for unpaid costs and even without this consideration, state costs will double within the next 5 years. Increases are averaging 20% per year. Kansas has one of the highest numbers of elderly on assistance in Institutions. It is vital that persons remain in their homes as long as possible and the prescreening is a way to help to achieve that goal. He noted as many as 2000 per year who entered as private pay patients revert to state assistance. This large number of individuals who are currently not prescreened is their rationale for proposing that all individuals be prescreened.

Representative Helgerson also spoke to HB 2566, noting he is Chairman of the Appropriations Sub-committee on Human Services. He noted information on options of services should be given to all persons thinking about admittance to an adult care home facility. Once a person is a client he/she cannot be denied admittance. It is the responsibility of the state to care for them if they need financial assistance for health care. A good comprehensive program still needs to be developed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S Statehouse, at 1:30 a.m./p.m. on March 26, 1991

DISCUSSION AND QUESTIONS ON HB 2566 CONTINUED.

Rep. Helgerson and Representative Goossen both answered numerous questions, i.e., thought had been given to the State paying pre-screening cost, but the fiscal impact is still an unknown figure; currently there are 12,000 prsons in Kansas on assistance with 2000 per year moving over from private pay to state assistance; the main focus of pre-screening is to enable the elderly or disabled to remain in their homes as long as possible. A difference of 2 or 3 years can make an enormous fiscal impact on the SRS budget.

It was noted the lack of statistical data causes concern when members try to work the bill. Chair noted that a pre-screening form would be made available to members before the bill would be discussed further in Committee. It was noted a better way is public education on this issue, and a need to expand community services is vital.

Representatitve Helgerson and Representative Goossen thanked the Chair and members of this Committee for hearing their comments, and asked for consideration for the budget they are trying to work with.

Chair drew attention to the agenda. She requested a staff briefing on SB 180.

Mr. Wolff explained SB 180 in detail.

HEARINGS BEGAN ON SB 180.

Senator Doug Walker offered hand-out (Attachment No. 1). He noted SB 180 would allow public hospitals to purchase professional liability insurance as a recruitment tool. There had been some questions raised by the office of Attorney General. The language in SB 180 will clarify the point in question. He noted this purchase of liability coverage will be an additional recruitment tool for the underserved rural areas of the state. He urged support. He then answered questions.

Tom Bell, Kansas Hospital Association, offered hand-out (Attachment No.2). He stated a financial package that includes paid professional liability insurance would be very beneficial to most hospitals, especially those in rural areas of the state. SB 180 would give private hospitals this authority, thus providing an additional tool in recruitment of physicians. This would place governmentally-owned hospitals on an equal footing with non-governmental hospitals while recruiting additional physicians.

Chip Wheelen, Kansas Medical Society, offered hand-out (Attachment No.3). He drew attention to costs a physician encounters during his education and start-up costs in establishing a practice. This recruitment tool would lessen the financial burden somewhat. He noted also that this is not a subsidy for physicians.

Harold Riehm, Kansas Association of Osteopathic Medicine, offered hand-out (Attachment No.4). He noted a recent report issued 12/1990 indicates that of 64 counties listed as medically underserved, 51 are critically underserved. He noted the recruitment of physicians in rural medically underserved areas of the state has long been a concern. A recruitment tool with hospitals given the authority to pay the liability insurance premiums is an outstanding idea, and others feel it is perhaps the best tool in recruitment efforts. He urged support.

HEARINGS CLOSED ON SB 180.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 a.m./p.m. on March 26, 1991.

Chair requested a staff briefing on HB 2567. Mr. Furse gave a detailed explanation of the bill.

HEARINGS BEGAN ON HB 2567.

John Alquest, Acting Commissioner Income Support/Medical Services, SRS, offered hand-out (Attachment No. 5). He stated support for HB 2567, noting the bill would prohibit expenditures by SRS for newly created or converted long-term care beds. It is the belief of SRS that in controlling the number of available beds, it will help promote quality care by encouraging an investment in existing facilities. Medicaid costs will increase as residents choose new facilities over older ones; and once existing beds are full, the state will be in a better position to divert possible residents to lower-cost alternative services. He noted this legislation would have no adverse impact on the current adult care home resident. He answered numerous questions.

John Grace, Kansas Association of Homes for the Aging, offered hand-out (Attachment No. 6). He stated support for the free market system. He outlined hand-out that shows graph indicating applications filed for increased adult care home beds, an occupancy report, and actual beds added. He noted, if in the view of Committee it is in the best interest to limit construction or conversion of adult care homes, he suggested a "one year time out" on all licensure, both for medicaid or private pay. As HB 2567 is written, it would allow a company to build a "private pay", but would not allow a current facility to expand. He noted this would create an unfair competitive situation in communities. He answered questions.

Marilyn Bradt, Kansans for Improvement of Nursing Homes (KINH), offered a hand-out (Attachment No. 7). She stated this is the only proposal coming from the SRS Task Force package that cannot be supported by KINH. She noted that since few nursing homes are able to operate entirely with private pay residents, this prohibition on an increase in beds will cause deep concerns in areas of the state where there is a need for additional facilities. It is the belief of KINH that a competitive marketplace provides incentives for nursing homes to try to offer better services and higher standards of care in order to attract consumers. She pointed out if a private nursing home were to build for private-pay patients only, it is possible persons could be put out of the home if their funds were depleted. She answered questions.

John Kiefhaber, Kansas Health Care Association, offered hand-out (Attachment No. 8). He stated support for HB 2567, noting latest occupancy rate figures in Kansas range from a high of 92% to a low of 74%. He noted Kansas has a great disparity in availability of services. He feels allowing the demand to catch up with the supply would be a step in the right direction. He noted he is, however, disappointed this measure would affect Medicaid beds only, as it should in his opinion be across the board, not just for the medicaid population. He answered questions, i.e., costs per day range from \$38 to \$45 to as high as \$68 in some facilities. State reimbursement is \$45 a day. He stated he agrees there are areas in the state where this legislation would not be a good idea.

HEARINGS CLOSED ON HB 2567.

Chair adjourned the meeting.

STATE OF KANSAS



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

MEMBER: CONFIRMATIONS
EDUCATION
ENERGY AND NATURAL RESOURCES
FEDERAL AND STATE AFFAIRS
PUBLIC HEALTH AND WELFARE

DOUG WALKER
SENATOR, 12TH DISTRICT
MIAMI, BOURBON, LINN,
ANDERSON, ALLEN AND
NEOSHO COUNTIES
212 FIRST
OSAWATOMIE, KANSAS 66064
(913) 755-4192 (HOME)
(913) 296-7380 (STATE CAPITOL)

TESTIMONY IN SUPPORT OF S.B. 180
HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

Senate Bill 180 makes it clear that public hospitals have the authority to purchase professional liability insurance in order to recruit and retain professional staff. It is my understanding that there are currently no statutory prohibitions against purchasing such insurance but several of the opinions handed down by the Attorney General have raised questions as to its legality. This bill clarifies that point. Also, it can be used as an additional recruitment tool in getting much needed doctors to practice in under-served and rural areas of the state.

This bill comes from Recommendation Number 28 in the Governor's Commission on Health Care Report, November 1990. It passed the Senate on a vote of 40 to 0. I encourage your favorable consideration of S.B. 180.

PK/W
3-26-91
Attn. #1



Memorandum

Donald A. Wilson
President

TO: House Public Health and Welfare Committee

FROM: Thomas L. Bell,
Vice President

DATE: March 25, 1991

RE: **SENATE BILL 180**

The Kansas Hospital Association appreciates the opportunity to comment regarding Senate Bill 180. This bill would change Kansas law to make it clear that governmentally owned hospitals could purchase professional liability insurance for medical staff members as an aid in recruitment or retention of such staff.

It goes without saying that the presence of one or more physicians is absolutely necessary for the continued existence of a given hospital. Historically, Kansas hospitals, especially those in rural areas, have struggled to recruit physicians to their communities. Over the past several years, it has become essential for a recruiting hospital to be able to offer a physician a financial package that provides incentives to locate in that community. Certainly one aspect of this incentive package is professional liability insurance. The prospect of a substantial insurance premium is often difficult to cope with, especially for someone just beginning his or her medical practice.

Our laws have made it difficult to include professional liability insurance as part of a physician recruitment package. Laws applicable to governmental hospitals have never specifically allowed those hospitals to consider liability insurance for such a package. Senate Bill 180 would change those laws. It would provide governmental hospitals with an additional tool to use in the task of physician recruitment. It would also put those hospitals on an equal footing with non-governmental hospitals.

Thank you for your consideration of our comments.

TLB / pc

PHW
3-26-91

Attm # 2



KANSAS MEDICAL SOCIETY

1300 Topeka Avenue • Topeka, Kansas 66612 • (913) 235-2383
Kansas WATS 800-332-0156 FAX 913-235-5114

March 26, 1991

TO: House Public Health and Welfare Committee
FROM: Kansas Medical Society *Chip Weelen*
SUBJECT: Senate Bill 180; Hospital Purchase of Liability Insurance for Medical Staff

Thank you for this opportunity to express the support of the Kansas Medical Society for the provisions of SB 180. The authorization granted to municipal hospitals to purchase liability insurance for members of the medical staff could be a genuine asset to those hospitals for purposes of recruiting and retaining physicians to practice medicine in the respective communities.

As you are probably aware, most medical students upon completing their medical education have accrued a substantial debt. Upon completing their academic curriculum, they then engage in residency training at a very modest income level. Then upon commencing their practice, they must oftentimes borrow additional money in order to capitalize the new business. This means that the physician getting started is confronted with existing debt, as well as the need to borrow additional funds. The provisions in SB 180 would lessen this burden and eliminate one of the obstacles to recruiting physicians to practice in a given community.

Perhaps the most important issue in SB 180 is one of simple equity. It would allow county and district hospitals to do something that private hospitals may do already.

Thank you for considering our comments. We urge your favorable recommendation on SB 180.

/cb


Chip Weelen
3-26-91
Attn #3

Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

1260 S.W. Topeka
Topeka, Kansas 66612
(913) 234-5563

March 26, 1991

To: Chairperson Sader and Members, House Public Health Committee
From:  Harold Riehm, Executive Director, Kansas Association of Osteopathic Medicine
Subject: Testimony in Support of S.B. 180

Thank you for this opportunity to express our support for S.B. 180. It is our understanding that this is to clarify that hospitals and their responsive governing boards, may pay from their own funds, the costs of professional liability insurance for professional staff--both to recruit and retain those staff persons.

Of course such payment by hospitals will be an advantage to those in practice that are relieved from making such payments themselves. We tend to view it, however, as a practical way to attack a problem that remains one of serious proportions.

In the recent Medically Underserved Areas Report for Kansas, issued December 1990, 64 Kansas Counties were listed as Medically Underserved. Of those 64, 51 Counties were labeled Critically Underserved. At times, we think, the problem has existed so long that we tend to become accustomed to its existence, if not partially oblivious to its consequences. Neither should be the case.

We know that there are examples of hospitals making professional liability premium payments of hospital staff persons now. S.B. 180 will eliminate, hopefully, at least some of the questions that have arisen concerning this practice.

I would be pleased to respond to any question you may have.

PHW
3-26-91
Attn # 4

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Robert C. Harder, Acting Secretary

House Public Health and Welfare Committee
Testimony on House Bill 2567

The Kansas Department of Social and Rehabilitation Services (SRS) supports the passage of House Bill 2567. Essentially, the bill would prohibit expenditures by SRS for newly created or converted long-term care beds.

As background we note that Kansas had an adult care home certificate of need (CON) program until July 1985. This meant a prospective builder had to go through a lengthy application and hearing process with the Department of Health and Environment (KDHE) staff before new nursing facility beds could be approved and constructed. This gave KDHE the power to control the number of new beds constructed and the location.

When CON was eliminated in 1985, builders became responsible for determining the number of new beds and locations. The primary growth areas were Wichita, Topeka, Manhattan, Lawrence, Kansas City and Johnson County. Nursing facility construction has fallen off as the market became saturated with new beds. The current statewide occupancy level is 87%.

We recognize the benefits of House Bill 2567 in controlling the number of available beds. We believe this will promote quality care by encouraging an investment in existing facilities.

Arguments in support of House Bill 2567 are that Kansas ranks high in the number of nursing home beds per 1,000 population 65 years or over.

Second, the cost of new facilities is traditionally higher than the older established facilities. The Medicaid Program expenditures will increase as residents choose the new facilities over the older ones.

Third, a cost-savings measure is to fill all existing beds. Once the beds are full, the State will be in a better position to divert possible nursing home residents to lower-cost alternative services.

With our current occupancy of 87%, it would take several years before the existing beds would fill up. We estimate that with a 2 1/2% growth of residents it would take over five years to fill the current number of vacant beds. House Bill 2567 would have no adverse impact on the current resident population.

John W. Alquest
Acting Commissioner
Income Support/Medical Services
(913) 296-6750

3/26/91

PAW
3-26-91
Attn #5



John R. Grace

MEMORANDUM

Date: March 26, 1991

To: Representative Carol Sader, Madam
Chairman, House Public Health and
Welfare, & Members of the Committee

From: John R. Grace, President, Kansas
Association of Homes for the Aging

RE: House Bill No. 2567

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*Enhancing the
quality of life
of those we serve
since 1953.*

The Kansas Association of Homes for the Aging is a trade association of 130 not-for-profit retirement and nursing homes of Kansas.

For the past 5 years since the expiration of Certificate of Need, we have favored the free market system versus some sort of government mandate or control mechanism. In the nursing home environment, we have plenty of government involvement and would prefer a private market approach to some sort of mandatory government control.

I have 3 attachments that have been distributed by Health and Environment with my testimony. Attachment I is the number of applications for new beds since 1985. Attachment II is an occupancy report of Kansas nursing homes since 1985. Attachment III reports the actual increase in beds since 1985.

We understand the concern on the part of legislators about the increase occurring in health care expenditures in our state. The number of medicaid recipients in long term care has increased by 5% since 1985 or about 600 people.

To control excess capacity, the Department of SRS does have a minimum 85% occupancy level at which they will no longer pay for medicaid costs. Adjusting occupancy of nursing homes data for the 85% minimum level of SRS, occupancy in 1986 becomes 92.1 and in 1989 91.5 (compare with data in Attachment II). These figures and other similar data should be reviewed and studied to determine what services are available, what effect these issues have upon quality of care and upon the cost of this care.

*PAK (el)
3-26-91*

attm #6

House Public Health and Welfare
Date: March 26, 1991
page 2

The goal of our particular system is to have a long term care system that offers a variety of services that are available and accessible and provided in an economic and efficient manner to the clients.

If the Committee feels it in the best interest to limit construction or conversion, we would favor a "one year time out" on all licensure, both for medicaid or private pay. As proposed, HB 2567 would allow a company to build a "private pay" facility only, and would not allow a current facility to expand. It is our belief this would create an unfair competitive situation in the community.

We look forward to continuing dialogue about these issues and welcome the opportunity to provide further information about the coordination of various delivery systems.

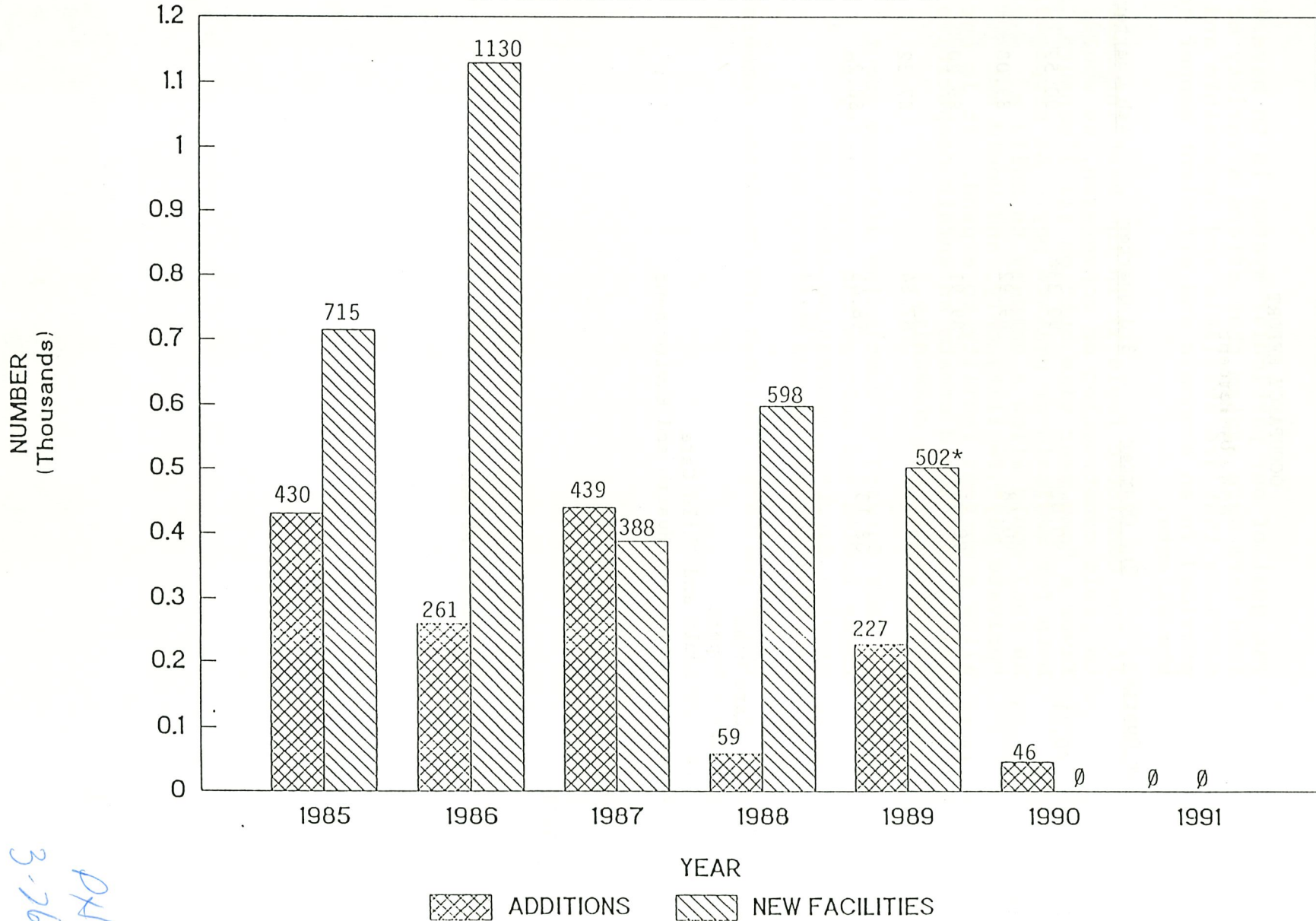
Thank you Madam Chairman and Committee members.

*P. Kelly
3-26-91*

Attn # 6-2

NEW ADULT CARE HOME BEDS

APPLICATIONS FILED 1985 THRU 2/22/91



* Of the applications for 502 beds in new homes 267 were skilled or intermediate and 235 beds were personal care or mental retardation beds.

*Attch # 6-3
3-26-91
DHW*

Attachment II

ADULT CARE HOME

OCCUPANCY REPORT

by Percent

	<u>1st Quarter</u>	<u>2nd Quarter</u>	<u>3rd Quarter</u>	<u>4th Quarter</u>	<u>Annual</u>
1985	90.01	90.02	90.33*	90.59	90.17
1986	90.60	90.48	89.92	89.08	90.22
1987	89.41	90.06	89.91	89.20	89.64
1988	87.80	87.11	87.64	87.32	87.46
1989	87.34	88.13	88.45	88.24	88.04
1990	86.68	86.09	87.34		

Source: Adult Care Home
Quarterly Report
Bureau of Adult and Child Care
Kansas Department of Health and Environment

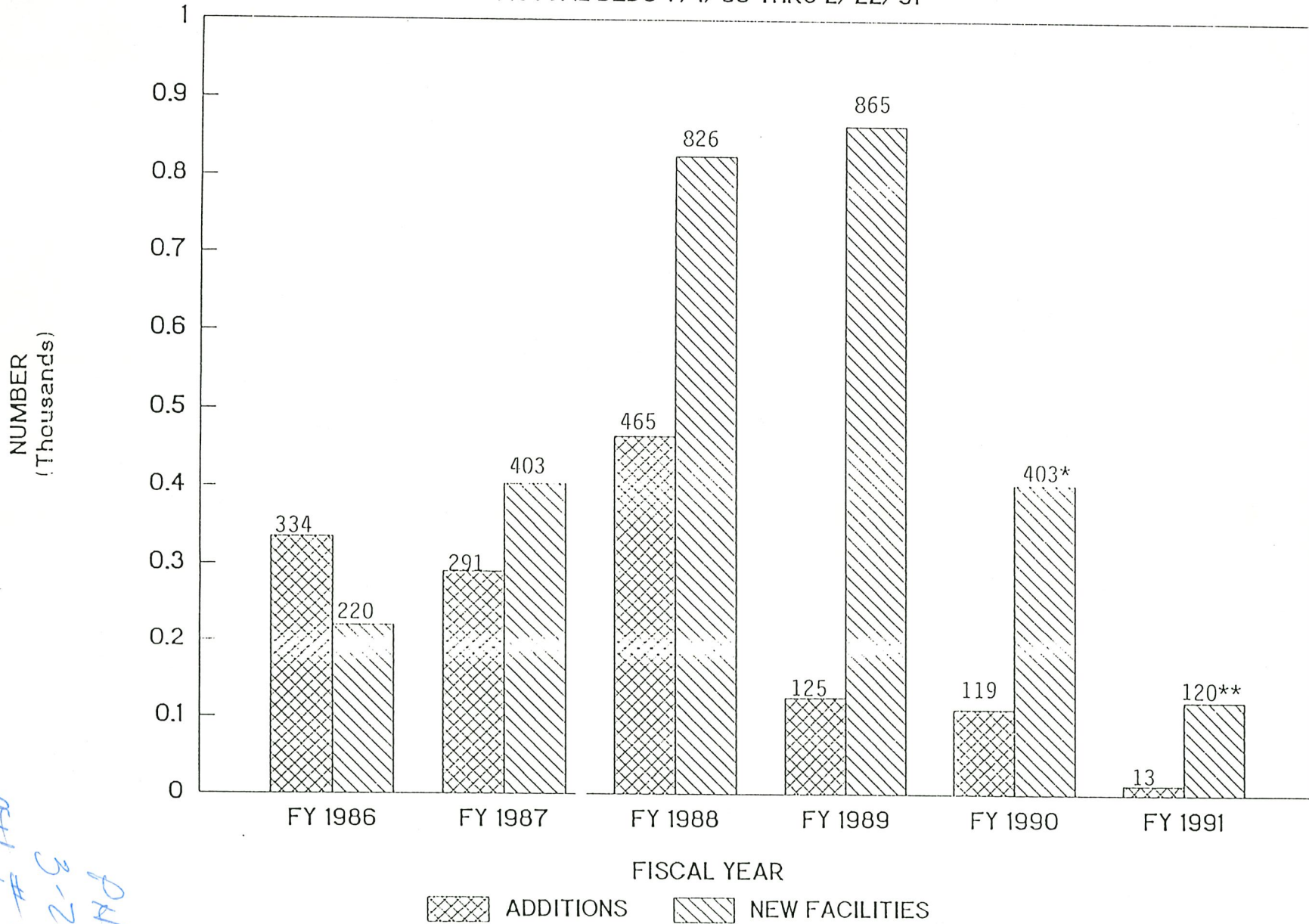
February 1991

* First quarter post Certificate of Need

PXKED
3-26-91
Adm # 6-4

NEW ADULT CARE HOME BEDS

ACTUAL BEDS 7/1/85 THRU 2/22/91



* 269 of the 403 beds were licensed skilled or intermediate

** 60 of the 120 beds were licensed skilled or intermediate

*Placed
3-26-91
Att # 6-5*



KINH Kansans for Improvement of Nursing Homes, Inc.

913 Tennessee, suite 2 Lawrence, Kansas 66044 (913) 842 3088

TESTIMONY PRESENTED TO
THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE
CONCERNING HB 2567

March 26, 1991

Madam Chairperson and Members of the Committee:

Several legislative proposals have been offered over the past few years to limit nursing home construction. KINH has consistently opposed the concept, believing that it does not work to the best interest of consumers of nursing home care. HB 2567 is a variation on the theme which does not limit construction outright but accomplishes much the same objective by prohibiting Medicaid payment for newly constructed or converted long-term care beds. Since few nursing homes are able to operate entirely on private paying residents, the effect of that prohibition would be much the same as if either a construction limitation or moratorium were enforced.

Our concern for construction limits such as the Certificate of Need of past years, construction moratoriums, and other methods for discouraging nursing home construction is quite simply that they tend to protect existing nursing homes from competition, no matter what the quality of care available in those homes. Surely the state would not wish to protect from competition a home that could not compete successfully because of the poor quality of its services. Nor does HB 2567 recognize that there may be geographic areas of the state where there is a need for additional nursing home facilities.

We believe that marketplace competition provides some incentive for nursing homes to try to offer better services and higher standards of care in order to attract consumers. And we believe, further, that development of home care alternatives statewide will do more toward keeping the elderly or disabled out of nursing homes as long as possible than will denying Medicaid payment for legitimate nursing needs.

KINH opposes HB 2567 on these grounds, and urges you to report the bill unfavorably.

Marilyn Bradt
Legislative Coordinator

PKW
3-26-91
Attn # 7



KHCA

Member of
ahca

Kansas Health Care Association

221 SOUTHWEST 33rd STREET
TOPEKA, KANSAS 66611 • 913-267-6003

TESTIMONY

before the

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

by

John L. Kiefhaber
Executive Vice President
Kansas Health Care Association

March 26, 1991

House Bill 2567

"An Act...prohibiting expenditures for newly created or converted long term care beds."

Chairperson Sader and Members of the Committee:

The Kansas Health Care Association, representing over 200 licensed facilities across the state, appreciates the opportunity to speak in support of House Bill 2567. The Association supports the bill because its members support the idea of health care planning and control generally, and in particular when existing facilities in Kansas have only an 87 percent occupancy rate.

As we mentioned to the Senate Committee on Public Health and Welfare regarding Senate Bill 184, the State has limited resources with which to address the health care needs of its citizens and we believe a "time-out" on new construction or new licensing could help focus those resources.

The latest nursing home occupancy rates in Kansas counties range from a high of 92% to a low of 74%. The State has great disparities in availability of services. Allowing the demand to catch up with the supply would be a step in the right direction.

However, the Association is disappointed that this measure would affect TXIX Medicaid beds only. Low occupancy rates hurt the facility's efficiency per resident across the board, not just for the Medicaid population.

We appreciate the opportunity to support House Bill 2567.

PKW
3-26-91
Attn #8