

Approved: March 9, 1994
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:08 a.m. on March 8, 1994 in Room 519-S of the Capitol.

Members present: Senator Langworthy, Senator Tiahrt, Senator Martin, Senator Bond, Senator Corbin, Senator Hardenburger, Senator Lee, Senator Reynolds, Senator Sallee

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Bill Edds, Revisor of Statutes
Don Hayward, Revisor of Statutes
Elizabeth Carlson, Committee Secretary

Conferees appearing before the committee: Sharon Huffman, Kansas Commission on Disability Concerns
Wendell Lewis, Kansas Planning Council on Developmental Disabilities
Josie Torrez, Families Together, Inc.
Richard Charlton, Paralyzed Veterans
Tim O'Sullivan, Kansas Bar Association

Others attending: See attached list

APPROVAL OF MINUTES

Senator Tiahrt moved approval of the minutes of March 7, 1994. The motion was seconded by Senator Sallee. The motion carried.

MEMO ON BINDING ARBITRATION PROCESS PILOT PROGRAM

Senator Langworthy called the attention of the committee to a memo from David C. Cunningham, Director, Property Valuation Division, regarding the binding arbitration process pilot program adopted for use in four counties. (Attachment 1)

HB--2687--INCOME TAX CREDIT FOR DISABLED PERSONS ACCESSIBILITY TO CERTAIN BUILDINGS

Sharon Huffman, Kansas Commission on Disability Concerns, spoke in support of **HB 2687**. (Attachment 2) She spoke of the mandates for KCDC and said they were pleased with the effect that passage of **HB 2687** will yield. She spoke of **HB 3028** which has some language they would like to have amended into this bill. She will present the proposal in writing.

The committee had a question regarding an increase in property tax for the improvement made to ready the building for persons with disabilities. Ms. Huffman said she thought there should be an increase in the taxes since the building had been improved. She said if the building is available to persons with disabilities, it would bring in more business.

Wendell Lewis, Chairperson, Kansas Planning Council on Developmental Disabilities, said **HB 2687** is very important to individuals with disabilities who have to make expensive changes in their homes to make them accessible. (Attachment 3) He outlined the costs related to making his home accessible for him. People with disabilities should be encouraged to become homeowners--this contributes to the economy and assists individuals to live in the community. He also said in answer to the above question about the improvements in making buildings accessible to persons with disabilities, the Kansas Planning Council on Developmental Disabilities feels the property taxes should not be increased.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:08 a.m. on March 8, 1994.

Josie Torrez, Families Together, Inc. spoke in favor of **HB 2687**. (Attachment 4) She said their group serves families in Kansas that include a child or youth with disabilities. She said they are happy to see a bill such as this presented in the Legislature. Many families have to borrow money to widen doorways, hallways and to make bathrooms accessible. She presented a letter from a mother with a 22 year old son who has a disability. The letter spoke about the cost of making their home accessible and she said being able to claim even a part of these expenses on their income taxes would be beneficial.

Richard Charlton, Paralyzed veterans, also spoke in favor of **HB 2687**. (Attachment 5) He said when a newly injured person requires the use of a wheelchair for mobility their choice of living arrangements becomes a nursing home or making their homes accessible. Nursing homes are much the greater expense. He also spoke of the cost of making a home accessible to persons with disabilities. The proposed increased tax credits will encourage taxpayers to remodel existing residences or businesses to make them accessible. He said his group would appreciate support and approval of **HB 2687**.

A member of the committee asked if insurance or medicaid assisted in the cost of making a building or home accessible. Mr. Charlton said they did not, but if an elderly person was unable to get in and out of the bathtub, remodeling is available to make it accessible and they would be eligible for the tax deduction in his opinion. There was also discussion of the definition of disabled and staff said the definition is in the Americans with Disabilities Act.

The hearing was closed on **HB 2687**.

HB 2471--DIVISION AND MERGER OF TRUSTS--MARITAL DEDUCTION GIFTS

Tim O'Sullivan, Kansas Bar Association, appeared before the committee to explain **HB 2471**. (Attachment 6) This bill would allow a trustee to divide trusts into two or more separate trusts or merge two or more trusts into a single trust without a judicial proceeding if such trustee has determined that such actions would result in a significant decrease in current or future federal income, gift, estate, or generation-skipping transfer tax liability. Mr. O'Sullivan said this bill is patterned after two statutes--one in Texas law and the other in California law. It allows more flexibility and management of trusts and it allows for a trust to be divided. Mr. O'Sullivan gave several examples in answer to questions from the committee. The intent of the bill is to reduce tax liability.

The hearing was closed on **HB 2471**.

The meeting adjourned at 11:50 a.m.

The next meeting is scheduled for Wednesday, March 9, 1994.

GUEST LIST
SENATE ASSESSMENT AND TAXATION COMMITTEE

DATE: March 8, 1994

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
RO CHARLTON, SR	1451 SW MISSOURI, TOPEKA 66604	SUNFLOWER PVA
Wendell Lewis	Topeka	KPCDD
Jane Rhys	"	KPCDD
Josie Torrez	Topeka	Families Together, Inc.
Reg Spencer	Topeka	SRS
Misty Walker	Topeka	KCDC
George Wall	Topeka	Kansas Information Exchange
Sharon Huffman	Topeka	KCDC
Steve Hots	"	Revenue
MARK CIARDULLO	TOPEKA	REVENUE
MARK A. BURGART	"	"
Tim O'Sullivan	Wichita	Kansas Bar Assoc.
BEV BRADLEY	Topeka	KS Assoc of Counties
PORT BROWN	- -	KS. LBR Dealer

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



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FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

MEMORANDUM

TO: Audrey Langworthy
Chairperson, State Assessment & Taxation Committee

Keith Roe
Chairman, House Assessment & Taxation Committee

A handwritten signature in dark ink, appearing to be "KR", is written over the name "Keith Roe".

FROM: David C. Cunningham
Director of Property Valuation

DATE: February 22, 1994

The binding arbitration process pilot program was adopted for use in Lyon, Ellis, Saline and Shawnee Counties. See K.S.A. 1993 Supp. 79-1494. The pilot program was for the 1993, 1994 and 1995 tax years and is scheduled to expire on December 31, 1995.

Annually on or before August 25 of each year, the four participating counties are required to fix the salary of their arbitrators. In 1993, each of the four counties fixed the salary of their respective arbitrators at the same salary they paid to hearing officers and panel members appointed pursuant to K.S.A. 1992 Supp. 79-1611. K.S.A. 1993 Supp. 79-1494 provides that the state shall assume a portion of the cost of the arbitration process in accordance with the appropriation acts of the legislature; however, no appropriations have been made to date.

The Director of Property Valuation is required to prepare and adopt the forms necessary for binding arbitration. This was done and the forms were distributed to the four participating counties. Also, the Director of Property Valuation is required to set the training requirements for arbitrators. This was done and arbitrators are required to attend a specified valuation school sponsored by the Division of Property Valuation and be licensed or certified as an appraiser by the Kansas Real Estate Appraisal Board. See PVD Directive #92-008.

On March 29, 1993, the Director of Property Valuation promulgated a list of 16 individuals who met the training requirements to be arbitrators.

During tax year 1993, four Kansas taxpayers used the binding arbitration process---two in Ellis County, one in Saline County and one in Lyon County. No Shawnee County taxpayer requested binding arbitration.

*Senate Assessment + Taxation
March 8, 1994
attach 1-1*

Sen. Langworthy
Rep. Roe
Binding Arbitration Memorandum
February 22, 1994

I have prepared this memorandum to provide a status report on the binding arbitration process adopted by the 1992 legislature. If either of you have any questions or required any additional information, please contact me at your convenience.

KANSAS COMMISSION ON DISABILITY CONCERNS

1430 SW Topeka Blvd
Topeka, KS 66612-1877
(913)296-1722 (V) 296-5044 (TTY) 296-1984 (Fax)

**TESTIMONY PRESENTED TO SENATE
ASSESSMENT AND TAXATION COMMITTEE**

by

Sharon Joseph, Chairperson
March 8, 1994

House Bill 2687

Esteemed Members of the Senate Assessment and Taxation Committee;

My name is Sharon Huffman. I am the Legislative Liaison for the Kansas Commission on Disability Concerns (KCDC). I am speaking today on behalf of Sharon Joseph of Overland Park, KS, chairperson of KCDC, who was unable to make it today due to illness.

Thank you very much for this opportunity to express our support for House Bill 2687.

KCDC is mandated by KSA 74-6706 to:

"Carry on a continuing program to promote a higher quality of life for people with disabilities;

*Assist in developing societal acceptance of people with disabilities;
and*

Submit to (the governor and the) legislature any recommendations believed necessary in promoting the independence of people with disabilities."

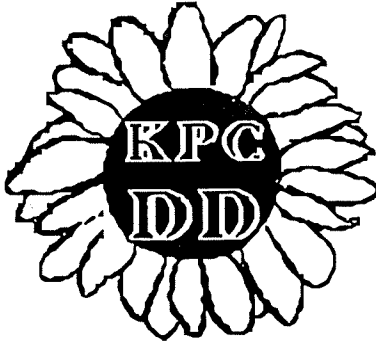
KCDC is pleased with the significant effect that passage of HB 2687 will yield.

*Senate Assess + Tax
March 8, 1994
attach 2-1*

For example:

1. Increasing the tax credit allowable for adding accessibility features to a taxpayer's residence could mean the difference between one's ability to stay independent and viable within the community or to face the isolation and constraints of life in a nursing home;
2. By allowing more people with disabilities to remain at home, it will provide an obvious benefit to the state tax coffers;
3. Expanding the amount of the potential tax credit (from 25% to 50%) will afford a significant and attractive incentive for businesses to become accessible to individuals with disabilities. It firmly demonstrates the legislature's commitment to the mandates and the spirit of the of the Kansas Act Against Discrimination (KAAD) and the Americans With Disabilities Act (ADA) of 1990.

Thank you for your consideration of the views of KCDC.



Kansas Planning Council on Developmental Disabilities

JOAN FINNEY, Governor
WENDELL LEWIS, Chairperson
JANE RHYS, Executive Director

Docking State Off. Bldg., Room 141, 915 Harrison
Topeka, KS 66612-1570
Phone (913) 296-2608, FAX (913) 296-2861

"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"

SENATE COMMITTEE ON ASSESSMENT AND TAXATION

MARCH 8, 1994

Testimony in Regard to H. B. 2687

AN ACT RELATING TO INCOME AND PRIVILEGE TAXATION; CONCERNING CREDITS FOR MAKING CERTAIN PROPERTY ACCESSIBLE TO PERSONS WITH A DISABILITY.

To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities.

Madam Chairperson, Members of the Committee, I am appearing today on behalf of the Kansas Planning Council on Developmental Disabilities in support of H.B. 2687 relating to income and privilege taxation; concerning credits for making certain property accessible to persons with a disability.

The Kansas Planning Council is a federally mandated, federally funded council composed of individuals who are appointed by the Governor, including representatives of the major agencies who provide services for individuals with developmental disabilities, and at least half of the membership is composed of individuals who are persons with developmental disabilities or their immediate relatives. Our mission is to advocate for individuals with developmental disabilities, to see that they have choices in life about where they wish to live, work, what leisure activities they wish to participate in and so forth.

This bill is very important to individuals with disabilities who have to make expensive changes in their homes to make them accessible. Most Americans have a dream of owning their own home. I, too, share this dream and have particular knowledge of the costs involved since I bought a single story house in Topeka last year. In the copy of my testimony I have outlined the costs related to making a house accessible. They are as follows:

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Attach 3-1*

General Structural Costs

To ramp steps, per step = \$300 *2	\$ 600
To widen doorways, per doorway = \$500 *2	1,000
For automatic doorway, per doorway	300
To lower light and fan switches, per switch = \$100*8	800
Lever door handles, per handle = \$15*8	120

Kitchen Costs

To lower cabinet counter, lower sink	1,000
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Bathroom Costs

To lower cabinet and mirror, raise sink, make roll-in shower	7,000
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Bedroom Costs

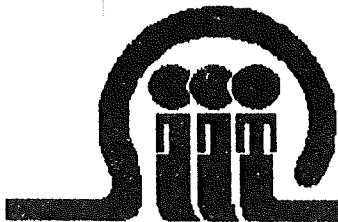
To lower closet	200
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TOTAL COSTS **\$11,020**

As you can see, making a house accessible is very expensive. However, we should encourage individuals with disabilities and parents of children with disabilities to become homeowners. This not only contributes to our economy (property taxes, builders' services, materials, etc.), it assists individuals who have disabilities to live in the community. To do this the house must be made accessible to the individuals who live in them. H.B. 2687 would permit these homeowners to recoup part of the expense incurred in making the home accessible.

The Kansas Planning Council on Developmental Disabilities is very supportive of H. B. 2687 and urge you to recommend its passage to the full House of Representatives. Thank you. I would be happy to respond to any questions you may have.

Wendell J. Lewis, Chairperson
Kansas Planning Council on Developmental Disabilities
913-296-2608



**FAMILIES
TOGETHER,
INC.**

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Toll Free in Kansas for Parents 1-800-264-6343

Date: March 8, 1994

To: Senate Assessment and Taxation Committee

From: Josie Torrez, Families Together, Inc.

Re: HB 2687 Income tax credit for disabled persons accessibility to certain buildings

Thank you for allowing me to testify to your committee.

My name is Josie Torrez and I'm with Families Together, Inc. here in Topeka. We serve families that include a child or youth with disabilities in Kansas. We offer resources, referrals and parent assistance regarding their children. The staff are parents of children with disabilities.

We are in favor of this bill and happy to see one such as this come through the legislature as there are many families who call our office seeking financial resources to assist them in making their homes accessible for their children. Many of these families borrow money from financial institutions to widen doorways, and hallways and to make bathrooms accessible.

Thank you for your consideration of this bill.

*Senate Assess & Tax
March 8, 1994
attach 4-1*

My name is Lee Anne Skinner. My husband and I have 2 children at home. We both work full time and it is difficult to get off, so I apologize for not being here in person.

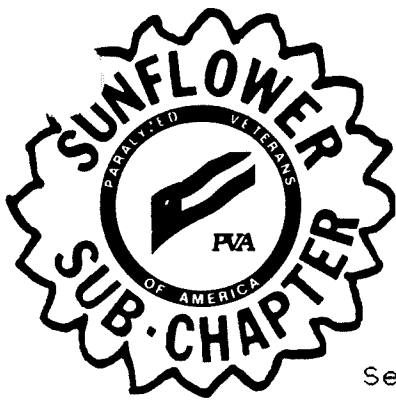
We have a 22 year old son that has a disability that requires full time care. He is in a wheelchair, which means we needed to ramp our house. In 1992 we put out \$600.00 of our pocket to build a ramp to make our house accessible for him to get into.

We are currently looking at the imminent needs of widening doorways due to the clearance only being 1 inch on each side of his wheelchair and having a roll in shower put in (due to carrying him to put him in a tub is getting more difficult). These types of renovations are costly, especially to an 80 year old house. The current bid we have is \$5800.00, the shower of course being the biggest expense.

So, being able to claim even part of these expenses on our income taxes would be greatly beneficial to not only our family but to the other families that are out there that we know are in similar situations.

Thanks for your time and consideration.

Lee Anne Skinner



HOUSE BILL 2687 TESTIMONY

before the

Senate Assessment and Taxation Committee

A Division of
Mid-America Chapter PVA

March 8, 1994

Chairperson Langworthy and members of the Assessment and Taxation Committee, I am Richard D. Charlton, Sr, Legislative Director of the Sunflower Sub-Chapter/ Mid-America/ Paralyzed Veterans of America (PVA). We appreciate this opportunity to speak to you in favor of HB 2687.

PVA membership is limited to veterans with a spinal cord injury or disease that significantly limits your mobility. Almost all of our members need to use a wheelchair for mobility. We are only one small part of the most significantly disabled population that would benefit from HB 2687.

When a newly injured person requires the use of a wheelchair for mobility their choices of living arrangements become a nursing home or making their home accessible. Nursing homes would be a long term expensive cost just to warehouse a person with a disability for the rest of their life.

The most cost effective method is modifications to an existing home so that the person with a disability can remain active in their own community. Some of your decisions & modifications may have to include:

- * Ramp or porch lift for entry to the home. \$ 500-\$3,500 Each
- * Enlarged entry way with level threshold. \$ 400-\$1,000 Each
- * Enlarge & Remodel one bathroom. \$1,000-\$5,000
- * Enlarge bedroom, closet, or hall doors @ \$ 300-\$ 500 Each
- * Stairlift to 2nd floor. \$3,200-\$4,800
- * Add or remodel downstairs room for a bedroom \$1,000-\$5,000+

A majority of person's with a disability have an annual income under \$5,000 and generally have little if no tax liability. In the past this has limited the ability to put off some needed remodeling of their own homes for accessibility. The increases in this legislation will assist, a person with a disability, in securing a loan to make some improvements using the refunds for payment.

The businesses in our country and more importantly the great state of Kansas are becoming more accessible every year. The proposed increased tax credits, will encourage taxpayers to remodel existing residences or businesses to make them accessible to a person with a disability. Therefore, we would appreciate your support and approval of House Bill 2687.

1951 SW MISSION AVENUE . TOPEKA, KANSAS 66604-3371

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1(800)321-5041 (OKLAHOMA CITY)

*Senate Assess + Tax
march 8, 1994
attach 5-1*



**KANSAS BAR
ASSOCIATION**

***Legislative Information
for the Kansas Legislature***

TO: *Rep. Keith Roe,
House Taxation Committee*

FROM: *Ron Smith, KBA General Counsel*

SUBJ: *HB 2471, marital trusts*

My name is Bill Martin and I am General Counsel and Trust Officer for the Smith County State Bank & Trust Company, Smith Center Kansas. I currently serve as Secretary and the Legislative Chair of the Executive Committee of the Real Estate, Probate and Trust Section of the Kansas Bar Association. My appearance is at the request of and on behalf of the Kansas Bar Association.

I handle tax and legal matters affecting trusts and wills for which the Smith County State Bank & Trust Company serves in a fiduciary capacity. In my position, I also direct and review and administer assets and investments held by the Smith County State Bank & Trust Company as a trustee or other fiduciary position.

HB 2471 proposes legislation to provide a "savings mechanism" for trusts, the nature of this proposed legislation covers two general concepts as follows:

I.
**Division and Merger of
Trusts**

Lines 12 through 43 of the first page of the bill and lines 1

through 19 of the second page address the ability of a trustee to divide and merge trusts. The major advantage of division and merger of trusts is to decrease the amount of federal income, gift, estate and generation skipping transfer taxes that may be incurred without the ability to merge or divide trusts.

The most obvious advantage for this technique is in the generation-skipping transfer tax area. Under this GST tax, a trust can have an "inclusion ratio" of either:

- (a) zero (completely except from tax);
- (b) 1 (completely subject to tax) or,
- (c) between zero and 1 (partially subject to tax).

To the extent possible all trusts should have an inclusion ratio that is either 1 or zero to avoid the administrative and investment complications posed by a partially exempt generation skipping trust. For example distributions to a child from a par-

This legislative analysis is provided in a format easily inserted into bill books. We hope you find this convenient.

*Senate Assess + Tax
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Attach 6-1*

ti exempt trust will waste a portion of the exemption, while distributions to a grandchild from the same trust will be subject to tax.

- **Division:** If a trust instrument has not been drafted to specifically allow for such a division of trusts, then the trustee and trust beneficiaries will face cumbersome and possibly costly tax and administrative difficulties.

- **Merger:** trusts with different inclusion ratios should not be merged but merging trusts with the same ratio will not hinder the administration or tax status of trusts.

The ability to merge and divide trusts can also assist in the income tax and estate and gift tax area, especially qualifying trusts for the marital deduction QTIP trust.

Enactment of HB 2471 will provide a trustee with the ability to accomplish this merger and division of trusts in the event the scrivener of the original trust document did not properly provide for this power.

II. Marital Deduction

Lines 20 through 43 of page 2, and lines 1 through 10 of page 3 address the issue of marital deduction. Property held in trust is often structured to qualify for the estate tax "marital deduction." This allows the trustee to defer the payment of federal estate tax on this property until the death of the surviving spouse.

In order to qualify for the marital deduction the trustee and/or the surviving spouse must have certain powers over the trust property. The trust must also meet certain funding

requirements in order to have the trust property comply with this marital deduction.

HB 2471 provides some added savings mechanisms to help insure that trusts which are designed to qualify for the marital deduction do in fact so qualify.

a. *General.* Section 2(b)(1) to (b)(3) contains general savings language in the event such language is omitted from a trust that is designed to qualify for the marital deduction.

b. *Rev. Proc. 64-19.* Section 2(b)(4) is intended to insure that the funding of a marital deduction trust can comply with IRS revenue procedure 64-19. Under the terms of this IRS ruling, should the funding method for the trust not be correctly stated under the terms of the trust instrument, then the marital deduction may be unavailable for the entire trust.

Enactment of HB 2471 will provide a trustee with the ability to accomplish this funding of a marital trust in the event the scrivener of the original trust instrument did not properly draft the funding mechanism.

The Probate, Real Estate and Trust Law Section and the KBA Board of Governors support the enactment of HB 2471.

AMENDMENT

I would further request the effective date of the proposed legislation be amended to the Kansas register. There are certainly trusts throughout the state that may need the immediate benefit of this legislation.

Thank you.