

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE.

The meeting was called to order by Chairperson Jim Morrison at 1:32 p.m. on February 3, 2003, in Room 243-N of the Capitol.

All members were present except Representatives Landwehr, Neighbor, and Williams, all of whom were excused.

Committee staff present:

Bill Wolff, Legislative Research Department
Renaë Jefferies, Revisor of Statutes' Office
Gary Deeter, Committee Secretary

Conferees appearing before the committee:

Phyllis Gilmore, Executive Director, Behavioral Sciences Regulatory Board
Michael Byington, President, Kansas Association for the Blind and Visually Impaired
Mark Coates, Chair, Legislative Committee, Kansas Association for the Blind and Visually Impaired

Others attending: See Guest List.

The Chair announced Wednesday, February 5, as the deadline for introducing committee legislation.

By proper motion and second the minutes for the January 28 and January 29 meetings were approved.

Representative Bethell requested the Committee sponsor a bill establishing an independent panel to resolve survey-finding disputes for administrators of Kansas nursing home facilities. (Attachment 1) A motion was made, seconded and passed to sponsor the bill.

Representative Bethell requested a second bill to amend statutes related to the Board of Adult Care Home Administrators, adding two fees and authorizing the Board to establish standards of character, training and experience for those applying for a nursing home license. (Attachment 2) A motion was made, seconded and passed to sponsor the bill.

Phyllis Gilmore, Executive Director, Behavioral Sciences Regulatory Board, requested two bills. (Attachment 3) The first would allow reciprocity and an expedited licensing for those moving into Kansas with valid licenses from their home state. A motion was made, seconded and passed to sponsor the bill. The second bill would change the current law regarding confidentiality and privileged communications; presently BSRB licensees are included under the attorney-client statutes; the proposed legislation would create a uniform confidential and privileged communication act for all BSRB licensees. Ms. Gilmore said there would be no fiscal impact to the state if the proposed law were passed. Ms. Gilmore replied to a question that BSRB comes under the Health Insurance Portability and Privacy Act (HIPPA). A motion was made, seconded and passed to sponsor the bill.

CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at on February 3, 2003, in Room 243-N of the Capitol.

Michael Byington, President, Kansas Association for the Blind and Visually Impaired, introduced Mark Coates, Chair of the Legislative Committee for KABVI, who requested legislation to create a Kansas Commission for the Blind and Visually Impaired. (Attachment 4) He said the bill would shift services and funds from Social and Rehabilitative Services (SRS) to an appointed commission. Answering a question, Mr. Byington said some services and funding imbedded in SRS might be difficult to separate. He explained that by creating a free-standing agency outside SRS, federal regulations required an advisory board to be formed. He said a committee under SRS was on record as supporting the concept of an independent agency for the blind. A motion was made, seconded and passed to sponsor the bill.

The meeting was adjourned at 1:46 p.m. The next meeting is scheduled for 1:30 p.m. on Tuesday, February 4, 2003.

Request for Bill introduction

To: House Health and Human Services

From: Representative Bob Bethell

Re: A Bill establishing a panel for Informal Dispute Resolution

This bill would a mechanism for the Administrator of a Kansas Nursing Facility to request a hearing to resolve a disputed issue relating to a survey finding.

The Administrator is to make a written request to the secretary of health and environment for informal dispute resolution by an independent re-view panel.

The administrator may make one request for informal dispute resolution per inspection to dispute any deficiencies with which such administrator disagrees. The informal dispute resolution may be based upon the statement of deficiencies and any other materials submitted; however, the department shall provide the administrator with a face to face informal dispute resolution meeting upon request by the administrator.

Attachment 1
HHS 2-3-03

Request for Bill introduction

From: Representative Bob Bethell

To: House Health and Human Services

January 29, 2003

Re: A Bill concerning the Board of Adult Care Homes

This bill amends four statutes that concern the Board of Adult Care Home Administrators and the licensing and regulation of administrators. The bill adds two fees to those the Board may establish by rules and regulations – a wall or wallet card replacement license fee; and a duplicate wall license fee for an administrator who serves as administrator of more than one adult care home facility. New language added to the act by this bill authorizes the Board of Adult Care Home Administrators to establish standards for good character, training, and experience to be met by persons applying to take the Kansas license examination. The statute that prescribes the membership of the Board and the Board's relationship with the Department of Health and Environment is amended to require any orders of the Board to be issued in compliance with the Kansas Administrative Procedures Act. The last statute to be amended concerns those disciplinary actions that may be taken against a licensee and the grounds for such actions. The amendments authorize the Board to deny a license and set out two additional causes for which an action may be taken against a licensee. The bill also effects two additional statutes, one of which concerns persons who are prohibited from being employed in adult care homes and one of which concerns persons who are prohibited from employment by a home health agency. While the amendments to the two statutes do not expand the convictions that would bar employment in an adult care home or home health agency, they do add the crime of theft as defined in KSA 21-3701, including misdemeanor theft, to those the Secretary of Health and Environment may have access to from criminal history records in the possession of the Kansas Bureau of Investigation (KBI);

Attachment 2
HHS 2-3-03

BILL SUMMARIES

Requested by: Kansas Behavioral Sciences Regulatory Board – Phyllis Gilmore, Executive Director

Bill One

Brief overview: This bill allows for out-of-state licensed professionals, when applying to the BSRB for licensure, to obtain Kansas licensure through a simplified process if certain criteria are met.

Fiscal impact: There would be no fiscal impact to the state.

Rationale: In our society today people are quite mobile and move from state to state. Under our present system of licensing individuals who move into Kansas, we require information from previous supervisors that many people cannot obtain, as well as course work not required in previous years. This bill is an attempt to remove unnecessary barriers to obtaining a Kansas license from our board by individuals moving into the state, while still maintaining a high level of professionalism by our licensees.

Bill Two

Brief overview: Under current law BSRB licensees, except for Marriage and Family Therapists, are under attorney client privilege. This bill creates a uniform confidential and privileged communication act for all of the BSRB licensees.

Fiscal impact: There would be no fiscal impact to the state.

Rationale: The placement of confidential relations and communications between a licensed professional¹ and the professional's client on the same basis as those between an attorney and the attorney's client involves two distinct bases:

(1) The lawyer client privilege: This refers to a statutorily created right that exempts a client of a lawyer, under most circumstances, from having their confidential communications revealed in a court proceeding without first granting permission to do so.

(2) The confidential information rule: This refers to a judicial rule that denotes an obligation of a lawyer, under most circumstances, not to reveal client information in an out-of-court setting without the client's permission.

A licensed professional must understand this statute and this rule because these, and not a professional code of ethics, establish the requirements and exceptions with which licensed professional legally must comply.

The attorney-client privilege and the confidential information rule are designed to protect communications made in the context of an attorney-client relationship. Since the role of an attorney is functionally different from the role of a licensed professional, neither basis "fits" the relationship of a licensed professional and the professional's client, and both are problematic to apply.

Under the lawyer client statutory privilege, a "client" is a person who consults a lawyer for the purpose of securing legal services or advice, and "communication" is understood primarily in terms of "advice" given by the lawyer in the course of "representing" the client.

¹"Licensed professional" means a licensed psychologist, a licensed clinical psychotherapist, a licensed masters level psychologist, a licensed specialist clinical social worker, a licensed masters social worker, a licensed baccalaureate social worker, a licensed associate social worker, a licensed clinical professional counselor, a licensed professional counselor, a licensed clinical marriage and family therapist, and a licensed marriage and family therapist.

Attachment 3
HHS 2-3-03

The terms are not descriptive of the relationship between a licensed professional and his or her client, which is understood generally as assessment and treatment of mental disorders or problems of living. This process involves much more than obtaining "just the facts" and the giving of advice.

Placement of a licensed professional's client under these attorney-client rules strains the purpose of the rules by including separate unrelated relationships. Clients of licensed professionals deserve a privilege and confidentiality, but rules devised specifically for those relationships. They should not be made to share a privilege statute and a confidentiality rule designed for clients of lawyers.

Under the proposed law regarding confidential and privileged communications, the following benefits would accrue to both licensed professionals and their clients:

1. Licensed professionals would no longer need to be familiar with attorney-client privilege statute and attorney-client confidential information rule.
2. The rule of confidential and privileged communications and the included definitions are designed to fit and be applicable to the relationship of between a licensed professional and client.
3. The exceptions to confidentiality are designed to address public policies that are appropriate to a licensed professional's practice.
4. Instead of practicing in relation to a privilege statute and a separate confidential information rule, with differing exceptions, licensed practitioners would practice in relation to a single statute that addressed confidentiality and privilege, with the same exceptions, whether in relation to court proceedings or an out of court setting.
5. All of the rules relating to confidentiality and privileged communications, and all of the exceptions, would be found within one statute.
6. This would facilitate greater clarity and certainty as to the legal limits of confidential information and communications, making a licensed professional's "informed consent" or other information disclosure document easier to draft and easier for the client to understand.
7. The law of confidentiality and privileged communications would be consistent across professions, thus benefitting clients who would no longer be subject to differing laws depending on whether they were being treated by a marriage and family therapist or another licensed professional.
8. A greater consistency would be established with Confidential Communications and Information Act which is applicable to treatment facility patients and licensed professionals employed by treatment facility.
9. The authority of a licensed profession to warn persons of threats of violence made by a client would be a clearly permissive "allowed to warn" instead of a perceived "duty to warn," thus substantially reducing the licensed professional's risk of liability for failure to warn.

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BILL REQUEST TO THE 2003 LEGISLATURE
HOUSE HEALTH AND HUMAN SERVICES

The bill would remove the services for the blind and visually impaired functions from the Kansas Department of Social and Rehabilitation Services (SRS), and instead place a gubernatorially appointed commission of Kansans who are blind or visually impaired, and experts in the field of blindness who are Kansas residents, in administrative charge and control of the services. All monies spent by SRS on services specifically or largely targeted toward Kansans who are blind and visually impaired would be transferred to the new Kansas Commission for the Blind and Visually Impaired.

25 States have blind services entities which are operated by commissions or committees of blind and visually impaired citizens and experts in the field of blindness rather than having such services be a part of a large, generic human service agency such as SRS. Although there is no perfect form of governance, in most of these States, blind and visually impaired citizens feel that their State blind services are more responsive and that State and federal dollars committed to serving the blind are more efficiently allocated and spent. This bill would place Kansas among States having this form of governance.

When a similar bill was introduced a couple of sessions ago, it received a zero fiscal note from Budget Director Goosen. We anticipate that the fiscal note would continue to be nil or very small. The only cost would be in the administrative time required in separating the blind services functions from the areas where they are embedded within SRS. The bill requires separation of services in accordance with practices in force prior to December 2000, because at that time, SRS did more combining of services.

The bill is based on statutes which were adopted in Nebraska in 2000. It has of course been adapted to Kansas statutes.

Attachment 4
HHS 2-3-03

Act, how cited.

This Act shall be known and may be cited as the Commission for the Blind and Visually Impaired Act.

Purposes of act.

The purposes of the Commission for the Blind and Visually Impaired Act are to assist blind and visually impaired persons in gaining remunerative employment, to assist blind and visually impaired persons in gaining and maintaining skills needed to live in community settings, to increase economic opportunities for blind and visually impaired persons, to increase the available occupational range and diversity for blind and visually impaired persons, and to stimulate other efforts that aid blind and visually impaired persons in becoming self-supporting.

Terms, defined.

For purposes of the Commission for the Blind and Visually Impaired Act:

- (1) Blind person means:
 - (a) A person having sight which is so defective as to seriously limit his or her ability to engage in the ordinary vocations and activities of life; or
 - (b) A person, to be eligible and licensed as a blind vending facility operator under K.S.A. 75-3337 et seq:
 - (i) Having no greater than 20/200 central visual acuity in the better eye after correction; or
 - (ii) Having an equally disabling loss of the visual field in which the widest diameter of the visual field subtends an angle no greater than twenty degrees;
- (2) Board means the governing board of the commission;
- (3) visually impaired person means a person whose best corrected vision in the better eye is not greater than 20/70 but is better than light perception or light projection or whose visual fields have a maximum diameter of no greater than 30 degrees.
- (4) Commission means the Commission for the Blind and Visually Impaired;
- (5) Committee of Blind Vendors means the committee created pursuant to 20 U.S.C. 107b-1;
- (6) State workforce investment board means the board authorized by the federal Workforce Investment Partnership Act of 1998 and established in Kansas;
- (7) Vending facility means:
 - (a) Shelters, counters, shelving, display and wall cases, refrigerating apparatus, and other appropriate auxiliary equipment necessary for the vending of articles approved by the office, agency, person having control of the property on which the vending facility is located, or licensed blind vendor; and
 - (b) Manual or coin-operated vending machines or similar devices for vending articles approved by the office, agency, person having control of the property on which the vending

facility is located, or licensed blind vendor; and

(8) Vending facility program means the program established and maintained pursuant to K.S.A. 75-3337 et seq.

Commission for the Blind and Visually Impaired; created; per diem; expenses.

(1) The Commission for the Blind and Visually Impaired is created. The governing board of the commission shall consist of five members appointed by the Governor with the approval of a majority of the members of the Legislature. All board members shall have reasonable knowledge or experience in issues related to blindness which may include, but is not limited to, reasonable knowledge or experience acquired through membership in consumer organizations of the blind or visually impaired, experience in delivering services to people who are blind, or documented academic expertise in the field of blindness and visual impairment. No board member shall be a current employee of the commission. At least three board members shall be blind persons: One member shall be a member or designee of the National Federation of the Blind of Kansas; one member shall be a member or designee of the Kansas Association for the Blind and Visually Impaired Inc, an affiliate of the American Council of the Blind; and one member may be a member of another consumer organization of the blind.

(2) Board members shall be appointed for staggered terms with the initial members appointed for terms as follows: Two members for terms ending on December 31, 2004, and three members for terms ending December 31, 2006. Subsequent appointments shall be for terms of four years with no board member appointed to more than two consecutive terms. Board members whose terms have expired shall continue to serve until their successors have been appointed. In the case of a vacancy, the Governor shall appoint a successor for the unexpired term. Board members may be removed for cause.

(3) A majority of the board members constitutes a quorum for the transaction of business. The board shall annually elect a chairperson from its membership.

(4) Board members shall receive \$70.00 per day per diem for days during which the Board meets or during which official duties of board membership are discharged. In addition, Board members shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as provided in K.S.A. 75-3206 et seq., and such expenses shall include, if documented as necessary, reimbursement for a reasonable quantity of reader and driver services.

(5) Aside from the provisions of this subsection, a board member shall not receive other compensation, perquisites, or allowances for the performance of official duties.

Commission; director; employees.

(1) The commission shall employ a director

who is the administrative officer of the commission. The director shall hire employees as necessary for the efficient operation of the commission. The director shall serve at the pleasure of the commission.

(2) The commission shall have power in each instance (a) to establish standards of qualification for personnel employed pursuant to the Commission for the Blind and Visually Impaired Act and (b) to employ necessary field agents, teachers, and other personnel in accordance with such standards and fix their compensation. All employees of the commission, except the director, shall be included within the classified civil service.

Rehabilitation council; membership; duties; expenses.

(1) The rehabilitation council to the commission is created to aid in providing services for blind persons. The council shall consist of not to exceed fifteen members who shall be appointed by the Governor. Five members shall be appointed for terms of one year, five members for terms of two years, and the remaining members for terms of three years with the Governor designating the expiration of the term of office of each member of the council when first appointed. Thereafter their successors shall serve for terms of three years. In appointing members to the council, the Governor shall give due consideration to the geographical distribution of blind persons within the state with a view to apportioning membership on the council in accordance with such distribution. The Governor shall appoint representatives of the following as terms expire or vacancies occur: (a) At least two representatives of blindness advocacy groups representing blind persons, to accord fair representation to the several organizations of the blind; (b) at least one representative who is a current or former applicant or recipient of vocational rehabilitation services; (c) a representative from the Client Assistance Program; (d) a qualified vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs, who shall be a nonvoting member if employed by the commission; (e) a representative of a community rehabilitation program service provider; (f) four representatives of business, industry, and labor; (g) a representative of a parent training and information center; (h) at least one representative of individuals with multiple disabilities, including blindness, who have difficulty in representing themselves or are unable to represent themselves due to their disabilities; and (i) a representative of the statewide Independent Living Council. A majority of the members of the council shall be blind persons who are not employed by the commission. In case of vacancy in the office of any member, his or her successor shall be appointed for the unexpired term.

(2) Members of the council shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as provided in K.S.A. 75-3206

et seq., and such expenses shall include, if documented as necessary, reimbursement for a reasonable quantity of reader and driver services

(3) The council shall hold at least four meetings a year at such times and places as determined by the council. A chairperson and such other officers as may be necessary shall be elected by the council by majority vote for terms of office as determined by the council.

(4) The director of the commission shall serve as an ex officio member of the council in a nonvoting capacity.

The director shall furnish any data required by the council in carrying out its functions subject to the limitations prescribed by law relating to the confidentiality of information with respect to individual clients.

(5) The council shall, after consulting with the state workforce investment board:

(a) Review and analyze the rehabilitation services provided by the commission and provide advice to the director of the commission, particularly with respect to eligibility for and the extent, scope, and effectiveness of services and the impact of other agencies on the success of clients;

(b) In partnership with the commission and its director, develop, agree to, and review state goals and priorities on the preparation of applications, the state plan, the strategic plan, reports, needs assessments, and evaluations required by federal law;

(c) Review and analyze the effectiveness of and consumer satisfaction with other public and private agencies providing services to blind persons, including achieved employment outcomes and the provision of health and related benefits;

(d) Prepare and submit an annual report to the director of the commission, the Governor, and the United States Commissioner of Rehabilitation Services on the status of vocational rehabilitation services operated by the commission. This report shall also be made available to the public;

(e) Coordinate with other councils in the state that serve disabled persons;

(f) Advise the commission and provide for coordination and the establishment of working relations with the statewide Independent Living Council and centers for independent living; and

(g) Perform other duties that the council determines to be appropriate.

Commission; powers and duties.

(1) The commission shall:

(a) Apply for, receive, and administer money from any state or federal agency to be used for purposes relating to blindness, including federal funds relating to vocational

rehabilitation of blind persons, including Social Security Trust funds received by the State of Kansas as a result of the successful rehabilitation of blind citizens, but excluding funds administered by the Kansas State Library for the operation of the Kansas library for the blind and physically handicapped, or funds administered by the Kansas State Board of Education or Kansas Department of Education for the operation of the Kansas State School for the Blind;

(b) Receive on behalf of the state any gifts, donations, or bequests from any source to be used in carrying out the purposes of the Commission for the Blind and Visually Impaired Act;

(c) Promote self-support of blind persons;

(d) Provide itinerant training of alternative skills of blindness, including, but not limited to, braille, the long white cane for independent travel, adaptive technology, low vision aids, and lifestyle maintenance;

(e) Establish, equip, and maintain a residential training center with qualified instructors for comprehensive prevocational training of eligible blind persons. The center shall also provide comprehensive independent living training, Braille training and other adaptive communications strategies, training in use of adaptive and assistive technology to compensate for, and negate, the impacts of blindness or low vision, as well as orientation and mobility, and adjustment counseling for blind persons;

(f) Administer and operate a vending facility program in the state, in its capacity as the designated licensing agency pursuant to the federal Randolph-Sheppard Act, as amended, 20 U.S.C. 107 et seq., for the benefit of blind persons;

(g) Contract for the purchase of information services for blind persons; and

(h) Perform other duties necessary to fulfill the purposes of the Commission for the Blind and Visually Impaired Act.

(2) The commission may perform educational services relating to blindness and may cooperate and consult with other public and private agencies relating to educational issues.

Promotion of self-support; powers and duties.

To promote self-support of blind persons:

(1) The commission shall:

(a) Provide placement and career development services;

(b) Provide prevocational training;

(c) Support integration with and access to community-based educational and vocational training opportunities;

(d) Support informed vocational choices made by persons who are blind or visually impaired

(e) Implement employer outreach and cultivation; and

(f) Develop inservice community-based recruitment and networking resources; and

(2) The commission may:

- (a) Maintain employment data bases;
- (b) Facilitate small business incubation; and
- (c) Develop recommendations for state contract preferences.

Blindness-related services; qualifications; commission; duties.

(1) For a person to qualify for blindness-related services from the commission, the commission shall find such person to be (a) a blind person as defined in the "terms defined" section of this act, (b) a visually impaired person as defined in the "terms defined" section of this act, or (c) a person who is experiencing a deteriorating condition which is expected to result in blindness. A person seeking to qualify for blindness-related services shall obtain an eye examination from a licensed ophthalmologist or optometrist of his or her choice, cooperate with appropriate commission agents who shall arrange for an for the applicant's eyes to be examined by an ophthalmologist or optometrist of the Commission's designation, and at the commission's expense, or provide other certifying evidence of existing or potential visual impairment as required by the rules and regulations of the commission.

(2) The commission shall maintain a list of all ophthalmologists and optometrists currently licensed in Kansas and establish procedures for a person to obtain evidence to verify that he or she qualifies for blindness-related services.

(3) When an eye examination is required for a person seeking to qualify for blindness-related services, the commission shall pay the cost pursuant to its rules and regulations. The commission may assist any person seeking to qualify for blindness-related services under the Commission for the Blind and Visually Impaired Act in arranging an eye examination or obtaining other evidence pursuant to this section.

Vocational rehabilitation services.

(1) The commission is authorized to accept the provisions of the federal Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq., and to cooperate with the United States Government in any way necessary to enable the commission to receive federal funds for the vocational rehabilitation of blind persons as provided in such act, federal funds allocated under Chapter II of the Rehabilitation Act for the rehabilitation or independent living assistance for older blind Americans, and the provisions of Titles II and XVI of the federal Social Security Act, as amended, 42 U.S.C. 301 et seq.

(2) The commission shall provide vocational rehabilitation services for blind persons, including, but not limited to, prevocational training, maintenance during training, transportation, occupational tools and equipment, vocational training, medical and surgical care and hospitalization, and prosthetic appliances.

Vending facilities; license.

For the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of blind persons, and stimulating blind persons to greater efforts in striving to make themselves self-supporting, the commission shall administer and operate vending facilities programs pursuant to the federal Randolph-Sheppard Act, as amended, 20 U.S.C. 107 et seq. Blind persons licensed by the commission pursuant to its rules and regulations are authorized to operate vending facilities in any federally owned building or on any federally owned or controlled property, in any state-owned or controlled building, on any state-owned or controlled property, or on any county, city, or municipally owned or controlled property, when, in the judgment of the director of the commission, such vending facilities may be properly and satisfactorily operated by blind persons. All vending facilities authorized under this section shall conform to the provisions of JK.S.A. 75-3337 et seq, and all references to the division of services for the blind, or the Kansas division of services for the blind in K.S.A. 75-3317 et seq shall hence forth be regarded as referring to the Commission for the Blind and Visually Impaired,

Commission for the Blind and Visually Impaired Cash Fund; created; use; investment.

The Commission for the Blind and Visually Impaired Cash Fund is created. On July 1, 2003, all funds held by the Kansas department of social and rehabilitation services, and which have in the traditional practice of the Kansas Department of social and rehabilitation services, been used to provide assistance to persons who are blind and visually impaired, shall be transferred to the Commission for the Blind and Visually Impaired Cash Fund. Such funds to be transferred accordingly shall include all case services funds held in accounts of personnel, or vacant personnel positions, which shall transfer to the commission for the blind and visually impaired, any remaining balances in the Kansas industries for the blind fee fund or other fee funds designated for purposes relating to services for blind Kansans, and any grants targeted solely or for the majority purposes of serving the blind and visually impaired. In no case shall a percentage of vocational rehabilitation funding and rehabilitation services funding be transferred to the Commission for the blind and visually impaired, which is less than the percentage of vocational rehabilitation and rehabilitation services funding which would have been allocated to the Kansas Division of Services for the Blind by the Kansas Department of Social and Rehabilitation Services under funding formulas in effect immediately prior to December 1, 2000. Any custodial funds, gifts, trusts, and federal grants attributable to the Kansas Division of Services for the Blind within the Department of social and rehabilitation services shall be transferred and attributable to the commission for the blind and visually impaired. The fund shall contain

money received pursuant to the Commission for the Blind and Visually Impaired Act and shall include a percentage of the net proceeds derived from the operation of vending facilities. The net proceeds from the operation of vending facilities shall accrue to the blind vending facility operator, except for the percentage of the net proceeds that shall revert to the cash fund. Such fund shall be used for supervision and other administrative purposes as necessary. The commission, in consultation with the Committee of Blind Vendors, shall determine the percentage of the net proceeds that reverts to the fund after an investigation to reveal the gross proceeds, cost of operation, amount necessary to replenish the stock of merchandise, and the business needs of the blind vending facility operator. All equipment purchased from the fund is the property of the state and shall be disposed of only by sale at a fair market price. Any money in the fund available for investment shall be invested by the state investment officer pursuant to applicable Kansas laws.

Separate State plan for the blind

The commission shall file a separate state plan for services to blind Kansas under appropriate provisions of the federal Rehabilitation Act, and as prescribed by the Rehabilitation Services Administration of the U. S. Department of Education.

Hearing authorized.

The commission shall provide an opportunity for a fair hearing to any person applying for or receiving services who is dissatisfied with any action or failure to act arising from the operation or administration of any service or program authorized under the Commission for the Blind and Visually Impaired Act.

Rules and regulations.

The commission shall adopt and promulgate rules and regulations as necessary to implement the purposes of the Commission for the Blind and Visually Impaired Act.

Transfer of property to commission; contracts and agreements; effect.

(1) All property, equipment, supplies, personnel, and positions which belonged to, were allocated to, or were used to support the Kansas Division of Services for the Blind within the Department of Social and Rehabilitation Services prior to December 1, 2000, are transferred to the Commission for the Blind and Visually Impaired. Additionally, any position within the Division of Rehabilitation services of the department of social and rehabilitation services on July 1, 2001, which is engaged in providing services to blind and visually impaired Kansans as 51% or more of the caseload assigned to that position, or for 51% or more of the work hours assigned to that position,

shall also transfer to the Commission for the blind and visually impaired. Further, a percentage of support staff porportional to the total of direct services staff transferred shal also be transferred to the Commission for the blind and visually impaired.

(2) All existing contracts and agreements in effect on July 1, 2003, as to the Division of Rehabilitation Services for the blind within the Department of social and rehabilitation Services are binding and effective upon the Commission for the Blind and Visually Impaired