

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on February 8, 2010, in Room 346-S of the Capitol.

All members were present except:

Representative Aaron Jack- excused
Representative Marvin Kleeb- excused

Committee staff present:

Jason Long, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Jill Wolters, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Sue VonFeldt, Committee Assistant

Conferees appearing before the Committee:

Charles Branson, Douglas County District Attorney
John House, SRS Attorney
Rocky Nichols, Disability Rights Center of Kansas
Randy Hearrell, Kansas Judicial Council
Richard Cram, Kansas Revenue Department

Others attending:

See attached list.

The hearing on **HB 2467 - Marking of vehicles owned by public subdivision; exception** was opened.

Jill Wolters gave the committee an overview of the bill explaining under current law, all motor vehicles owned or leased by any political subdivision are required to have the name of the political subdivision owning or leasing such vehicle plainly printed on both sides of the vehicle. Municipal fire apparatus, police patrols and ambulances; passenger vehicles used by plain clothes police officers or community corrections personnel; and motor vehicles owned or leased by any municipal university are exempted from this requirement. This bill would also exempt passenger vehicles used by county or district attorney investigators.

(Attachment 1)

Charles Branson, Douglas County District Attorney, appeared before the committee in support of the bill and the requestor of the bill. He stated his office hired an investigator to assist in the prosecution of cases and by law must have lettering on it clearly identifying the vehicle as belonging to his office. Some of the duties of the investigator includes locating witnesses, interviewing of witnesses and serving process on witness. Witnesses are often reluctant to become further involved in criminal investigations and on occasion attempt to avoid service of process. The advertising on the car can give unwilling witness opportunity to avoid service of process. In addition, the arrival of their marked vehicle advertises the fact a witness is in contact with their office, which in some circumstances, can jeopardize. For these reasons, he is asking that statute K.S.A, 8-305 be amended and that the phrase "county or district attorney investigators" be added to the list of exceptions.

(Attachment 2)

The hearing on **HB 2467** was closed.

The hearing on **HB 2532 - Concerning the use of restraints and seclusion on mentally ill persons, persons with alcohol or substance abuse and committed sexually violent predators,** was opened.

Matt Sterling, Office of Revisor Statutes, provided an overview of the bill that amends the care and treatment act for mentally ill persons. The care and treatment act for persons with an alcohol or substance abuse problem and the sexually violent predator act to provide for treatment in preventing the spread of communicable diseases. (Attachment 3)

CONTINUATION SHEET

Minutes of the House Judiciary Committee at 3:30 p.m. on February 8, 2010, in Room 346-S of the Capitol.

John House, SRS Attorney, spoke in support of the bill on behalf of the Kansas Judicial Council. The bill was drafted by the Council's Guardian and Conservatorship Committee, and he is a part of that committee. He explained the bill was drafted to clean up some language and technical changes such as clarifying the subject of restraints and seclusion; the difference between isolation vs quarantine, or defining medical restraints such as traction-casts for broken bones are not subject to a paragraph regarding restraints associated with restraint procedures for actually physically restraining a person who may harm themselves or others. (Attachment 4)

Rocky Nichols, Executive Director of the Disability Rights Center of Kansas (DRC), addressed the committee as an opponent. He expressed they had several concerns about the proposed bill and urged the committee to request the Judicial Council committee to further review their concerns before proceeding with this bill. He stated these issues are very complex and are also subject to Federal guidelines and if not fully complied with can affect our state's Medicaid payments. (Attachment 5)

The hearing on **HB 2532** was closed.

The hearing on **HB 2557 - Removing references to the inheritance tax and limiting the applicability of its provisions** was opened.

Jason Long, Office of Revisor of Statutes, provided the committee with a brief overview of the bill which provides limitations on the liability of estates under Kansas inheritance tax laws. (Attachment 6)

Randy Hearrell, Kansas Judicial Council, spoke in support of the bill and explained the inheritance tax was repealed as to decedents dying on or after July 1, 1998 and "sunset" on July 1, 2008, reference to inheritance tax still appears in the statutes. This proposed legislation repeals reference to inheritance tax in the Kansas statutes when the reference is to the Kansas inheritance tax. He noted that a few references to inheritance tax will remain in the statutes when it refers to the inheritance tax of other states. In addition, two other changes the word reference to "inheritance tax" is stricken and reference to "estate tax" is inserted to reference the correct tax. (Attachment 7)

Richard Cram, Director of Policy and Research, addressed the committee in support of the bill. He explained:

- The Kansas inheritance tax was first enacted decades ago and it applied to the estates of decedents dying prior to July 1, 1998. Then the inheritance tax was repealed and replaced with an estate "pick-up" tax;
- The pick-up tax was in effect for estates of decedents dying after June 30, 1998 and prior to January 1, 2007. Then the "pick-up tax was repealed and replaced with a stand alone estate tax;
- The stand alone estate tax was in effect for estates of decedents dying after December 31, 2006 and prior to January 1, 2010. The stand alone estate tax was repealed for estates of decedents dying after December 31, 2009.
- Because both the "pick-up tax and the stand alone estate tax have now been repealed it is appropriate to "sunset" both of these tax acts, as was done with the inheritance tax by Legislature in 2001.

Mr. Cram did include in his written testimony the need for a technical amendment. (Attachment 8)

There were no opponents.

The hearing on **HB 2557** was closed.

HB 2364 - Court procedure; time limitations for filing.

Representative Pauls made a motion to report HB 2364 favorably with technical amendment to update the year 2009 to 2010 and change the effective date to "upon publication in the register."

Representative Ward seconded the motion. Motion carried.

CONTINUATION SHEET

Minutes of the House Judiciary Committee at 3:30 p.m. on February 8, 2010, in Room 346-S of the Capitol.

Representative Brookens made a substitute motion to change the terminology, starting on Line 32, and wherever the phrase "and days on which the court is not accessible," to read "and days on which the office of the clerk of the court is not accessible."

Representative King seconded the motion. Motion carried.

Representative Brookens made a motion to report **HB 2364** favorably for passage as amended.

Representative Colloton seconded the motion. Motion carried.

HB 2528 - Amending the court procedure for the forfeiture of an appearance bond.

Jill Wolters gave a brief overview of the bill for the committee.

Representative King made a motion to report substitute bill for **HB 2528** favorably for passage as amended. The substitute bill would restore all language back to the original statute currently in effect with the exception of changing the language from 10 days to 30 days under Section 1 (4), Page 2, Line 3 to read "No default judgement shall be entered against the obligor in an appearance bond until more than 30 days after notice is served as provided herein."

Representative Brookens seconded the motion. Motion carried.

HB 2530 - Rules and regulations filing act.

Representative Pauls made a motion to report **HB 2530** favorably for passage.

Representative Brookens seconded the motion. Motion carried.

The next meeting is scheduled for February 9, 2010.

The meeting was adjourned at 5:10 p.m.

JUDICIARY COMMITTEE GUEST LIST

DATE: 02-08-10

NAME	REPRESENTING
John House	Jud. Council
Christy Molzen	Judicial Council
Kendra Hanson	Hein Law Firm
Charles Brandon	Douglas County District Attorney

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MEMORANDUM

To: Chairman Kinzer and members of the House Committee on Judiciary
From: Jill Ann Wolters, Senior Assistant Revisor
Date: 8 February, 2010
Subject: HB 2467

Under current law, all motor vehicles owned or leased by any political subdivision are required to have the name of the political subdivision owning or leasing such vehicle plainly printed on both sides of the vehicle. Municipal fire apparatus, police patrols and ambulances; passenger vehicles used by plain clothes police officers or community corrections personnel; and motor vehicles owned or leased by any municipal university are exempted from this requirement.

HB 2528 would amend K.S.A. 8-305 to also exempt passenger vehicles used by county or district attorney investigators.

House Judiciary

Date 2-8-10

Attachment # 1



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Charles E. Branson
District Attorney

February 8, 2010

House Judiciary Committee

Dear Committee:

K.S.A. 8-305 provides that all publicly owned vehicles of a political subdivision be plainly marked with the political subdivision's name plainly printed on both sides of the vehicle. The statute provides for exceptions in the case of municipal fire apparatus, police patrols and ambulances. Additionally, there are exceptions for passenger vehicles used by plain clothes police officers and community corrections personnel.

In 2006 my office hired an investigator for the purpose of assisting our office in the prosecution of cases. Some of the duties of the investigator include locating witnesses, interviewing of witnesses and serving process on witnesses.

To assist our investigator in carrying out her duties, our office obtained a passenger vehicle for her official use. By statute, that vehicle must have lettering on it clearly identifying the vehicle as belonging to our office.

Witnesses are often reluctant to become further involved in criminal investigations and on occasion will attempt to avoid service of process. The marking requirement of K.S.A. 8-305 hinders the ability of our investigator to carry out her duties. The advertising of our approach can give an unwilling witness opportunity to secret their location or devise a way of avoiding service of process.

In the case of a cooperating witness, the arrival of our marked vehicle advertises the fact that the witness is in contact with our office which, in some circumstances, can jeopardize the safety of that witness.

For these reasons I am asking that K.S.A. 8-305 be amended and that the phrase "county or district attorney investigators" be added to the list of exceptions.

Sincerely yours,

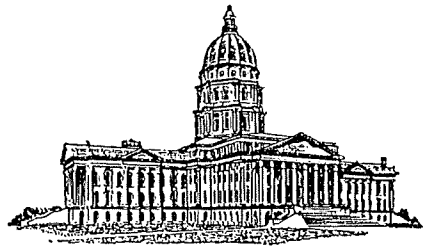
Charles E. Branson
District Attorney

House Judiciary
Date 2-8-10
Attachment # 2

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MEMORANDUM

To: Chairman Kinzer and members of the House Committee on Judiciary
From: Matt Sterling, Assistant Revisor of Statutes
Date: February 8, 2010
Subject: House Bill No. 2532

HB 2532 amends the care and treatment act for mentally ill persons, the care and treatment act for persons with an alcohol or substance abuse problem and the sexually violent predator act to provide for treatment in preventing the spread of communicable diseases.

The proposed changes in section 1 would amend the care and treatment for mentally ill persons act by removing the limitation on the use of restraints or seclusion to two hours without review by a physician or facility head, removing the use of restraints for a patient who is likely to cause physical injury to themselves or others and adding the use of restraints and seclusion for treatment of an illness or to quarantine a patient. Section 1 would also put limits on the length of time that a period of time out can last. The proposed changes in section 3 that amend the persons with an alcohol or substance abuse problem act are identical to the changes made in section 1.

The substantive changes proposed to the sexually violent predator act would remove the limitation on the use of restraints or seclusion to two hours without review by a physician or facility head, remove the use of restraints for a patient who is likely to cause physical injury to themselves or others and add the use of restraints and seclusion for treatment of an illness or to quarantine a patient. The bill would also clarify that the patient would not have the right to refuse treatment, including quarantine, that would be used by facility staff to prevent the spread of a communicable disease.



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MEMORANDUM

To: House Judiciary Committee
From: Judicial Council - John House
Date: February 8, 2010
Re: 2010 HB 2532

The Judicial Council recommends 2010 HB 2532, which would clarify the rules relating to restraint and seclusion of patients committed pursuant to the Care and Treatment Act for Mentally Ill Persons, the Care and Treatment Act for Persons with an Alcohol or Substance Abuse Problem, and the Sexually Violent Predator Act. The bill was drafted by the Council's Guardianship and Conservatorship Advisory Committee. A list of that Committee's members is attached.

The amendments to both the Care and Treatment Act for Mentally Ill Persons (Section 1; K.S.A. 59-2977) and the Care and Treatment Act for Persons with an Alcohol or Substance Abuse Problem (Section 3; K.S.A. 59-29b77) are identical, because the two

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sections are virtually identical and the two codes were purposely written to parallel each other.

The amendments to K.S.A. 59-2977(b) are in four parts (see pages 1-2 and 8-9):

1) The strike-type removes language that is inappropriate (and probably left over from a prior edition of the law). When the codes were rewritten in 1996 and 1998, the provisions of paragraph (a) were intended to address the subject of restraints and seclusion. The provisions of paragraph (b) were intended to address situations that might appear to be restraint or seclusion, but which on closer examination are clearly not. The strike-type removes unnecessary language (again, language likely from an earlier time) that addresses actual restraint and seclusion, which is more specifically and correctly addressed in paragraph (a).

2) Re-numbered subparagraph (b)(2) [old (b)(3)] makes clear that medical restraints for the examination or treatment of a physical illness or injury (for example, traction-casts for broken bones) are not subject to paragraph (a).

3) New subparagraph (b)(3) is added to make clear that, just as the medical "restraints" referred to in subparagraph (b)(2) are not "restraints" as described in paragraph (a), medical quarantine to prevent the spread of a communicable disease is not "seclusion" as addressed in paragraph (a).

4) The added language in subparagraph (b)(4) makes clear that a "time out" treatment methodology is (and must be) associated with a short term process and is not a substitute for the seclusion addressed in paragraph (a).

There are three amendments to K.S.A. 59-29a22 of the Sex Predator Act (see pages 3-5):

1) At subparagraph (b)(6), the striking of the "2" and substitution of a "B" is a technical correction of a typographical error in the original drafting, and the substitution of the word "paragraph" for "clause" in subparagraph (b)(6)(B) is also a technical correction.

2) New subparagraph (b)(6)(B)(vii) is added to make clear that medical quarantine to prevent the spread of a communicable disease is not a restraint or seclusion as contemplated by paragraph (a). The language of this amendment is the same as the language added to the other two care and treatment acts and is done for the same reason.

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(2/2/10)



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Testimony regarding HOUSE BILL 2532

Chairman Kinzer and members of the Judiciary Committee, I thank you for the opportunity to present testimony regarding House Bill 2532.

My name is Rocky Nichols, Executive Director of the Disability Rights Center of Kansas (DRC). DRC is the federally mandated, officially designated protection and advocacy organization for Kansans with disabilities. One critical role of DRC, as empowered by federal law, is to advocate for the legal and civil rights of people with disabilities, including the rights of those residing in state hospitals and other units impacted by this proposal.

During 2009 we expressed concerns regarding the proposed changes to K.S.A. 59-2977 with the Department of Social and Rehabilitation Services (SRS). We requested from SRS the opportunity to address our concerns about these complex issues with SRS (because they are advancing this issue) and the Judicial Council committee. I am told by our attorneys that we expressed several initial concerns to SRS about the proposal, and we believed that SRS agreed to bring us to the Judicial Council committee to further discuss our concerns, as DRC is not a member of the Judicial Council committee where this matter was under discussion. However, we were never given the opportunity to address our concerns to the Judicial Council committee. As this is a very complicated matter, we figured that we would meet in the spring with SRS and the Judicial Council committee about our concerns. We were then surprised to see HB 2532 introduced and set for a hearing in this committee. We respectfully appear in front of the Judiciary Committee today to request that you not act on this bill and instead ask the Judicial Council committee further review these issues and concerns. This is a complex issue. There are existing federal laws and strict rules on the use of seclusion and how it interacts with the laudable goals in the bill. These rules are quite detailed and if not fully complied with can affect our state's Medicaid payments. In short, HB 2532 needs some more work and consideration of these complex issues, and we would ask this committee to not move forward at this time, but instead ask the Judicial Council committee to consider our concerns and study this matter further.

It appears the intent of House Bill 2532 is to prevent the spread of communicable disease within state hospitals. While this intent is certainly a worthwhile endeavor, it is not necessary to make unwarranted and rushed changes to K.S.A. 59-2977 to accomplish this goal. Extensive state and federal regulations exist that govern the identification of communicable disease, the need to isolate individuals, and the need to quarantine individuals. K.S.A. 14-307, K.S.A. 65-119, and K.S.A. 65-118.

To be eligible for receipt of Medicaid funds, all state hospitals must comply with the applicable Federal laws relating to the health and safety of patients and comply with certain mandated patient's rights, including 42 C.F.R. §482.1, 42 C.F.R. §482.13. These state and federal quarantine regulations apply within the state hospital context, as well as all other settings.

The President has executive power to order federal isolation and quarantine of individuals diagnosed with certain communicable diseases. (42 U.S.C. 264(b) (Section 361 of the Public Health Service Act). Additionally, Executive Order 13295 allows for individuals to be detained, isolated, etc to prevent the spread of the following communicable diseases: “cholera; diphtheria; infections Tuberculosis; Plague, Smallpox; Yellow Fever; Viral Hemorrhagic Fevers, and Severe Acute Respiratory Syndrome.”

Unlike Executive Order 13295, House Bill 2532 fails to define “communicable disease”, and fails to provide guidance on when patients will be subjected to quarantine, length of quarantine, setting of quarantine, conditional release from quarantine and medical review of quarantine. This lack of specificity raises the possibility that patients may be isolated arbitrarily without a diagnosis of a communicable disease of public health significance. The restrictive nature of the quarantine is also unclear in the proposed amendment. Isolation and quarantine measures must be implemented in a manner that complies with the patient's due process rights to receive this medical treatment in the least restrictive setting necessary to maintain public health.

The amendments to K.S.A. 59-2977 further fail to distinguish between isolation of a patient and quarantine of patients. The Centers for Disease Control and Prevention (CDC) defines *isolation* to be “the separation of persons who have a specific infectious illness from those whom are healthy and to restrict their movement to stop the spread of that illness.” The CDC defines “quarantine” to mean “the separation and restriction of movement of persons who, while not yet ill, have been exposed to an infectious agent.” K.S.A. 59-2977 presumably seeks to

isolate patients identified as ill. Instead, the language proposed actually may require the separation and restriction of the majority of patients in a hospital.

House Bill 2532 also seeks to unnecessarily amend K.S.A. 59-2977 to address an issue of medical restraint already adequately addressed by federal regulations. 42 C.F.R. §482.13 outlines the rights of all patient's in state hospitals which all hospitals receiving Medicaid must comply with as a condition of their participation in the Medicaid program. 42 C.F.R. §482.13(e) sets the general standard that all patients have the right to be free from restraint and seclusions. 42 C.F.R. §482.13(e)(1)(i)(C) specifically excludes from the definition of restraint certain medically necessary restrictions on a patient's movements. The listed exceptions are "orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a patient for the purpose of conducting routine physical examinations or tests, or to protect the patient from falling out of bed, or to permit the patient to participate in activities without the risk of physical harm (this does not include a physical escort)." 42 C.F.R. §482.13(e)(1)(i)(C).

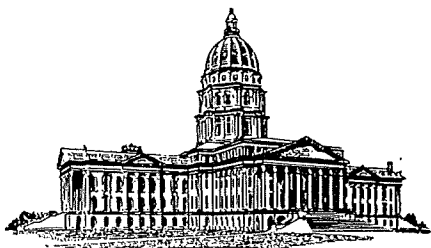
Eliminating the safety measures contained in K.S.A. 59-2977(1)(b) of requiring the facility director, physician or psychologist to review and approve restricting an individual's movement within the facility for longer than two hours raises significant implementation concerns and the potential for misuse by facility staff. Removing this safety measure for patients is not necessary to address communicable diseases within state hospitals.

Finally, House Bill 2532 seeks to permit the use of seclusion as part of a treatment methodology. K.S.A. 59-2977(b)(4). Both Kansas and Federal law prohibit the use of seclusion for "punishment, or for the convenience of staff." K.S.A. 59-2977(A), 42 C.F.R. §482.13(e). The only permissible use of seclusion is "when the head of the facility has determined seclusion to be necessary to prevent immediate bodily injury to the patient...." 42 C.F.R. §482.13(e)(1)(ii) defines seclusion to be "the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving. Seclusion may only be used for the management of violent or self-destructive behavior." Allowing seclusion to be used as a treatment methodology when a patient is disruptive or refusing to participate in treatment appears to be in conflict with the intent and general prohibition against the use of seclusion. Permitting the use of seclusion in this manner raises concerns of misuse by staff, as well as violating the federal rules surrounding the use of these tactics.

In summary, we do not want to be making these complex arguments to this committee today. We wanted, and still want, to work with the Judicial Council committee and others on our concerns to find a way to address the laudable goals of the bill, but in a manner that is effective for the rights of persons with disabilities in our state hospitals. We would ask that you have this issue and our concerns be further reviewed by the Judicial Council committee. We stand ready to work with that committee on these issues.

Thank you for your time and attention to our concerns and issues.

MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES
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Briefing on House Bill 2557
Applicability of Inheritance Tax Statutes

Jason B. Long
Assistant Revisor
Office of Revisor of Statutes

February 8, 2010

HB 2557 provides limitations on the liability of estates under Kansas inheritance tax laws. Section 1 is a new section of law addressing the inheritance tax laws found in K.S.A. 79-15,100 through 79-15,119, which were repealed January 1, 2007. This section provides that in the event an estate tax return is filed on or after January 1, 2017, for an estate where the decedent died between July 1, 1998 and December 31, 2006, then there is no inheritance tax liability imposed on the estate pursuant to K.S.A. 79-15,100 through 79-15,119.

Section 2 is a new section of law addressing the inheritance tax laws found in K.S.A. 79-15,201 through 79-15,253, which pursuant to K.S.A. 79-15,253 were repealed on January 1, 2010. This section provides that in the event an estate tax return is filed on or after January 1, 2020, for an estate where the decedent died between January 1, 2007 and December 31, 2009, then there is no inheritance tax liability imposed on the estate pursuant to K.S.A. 79-15,100 through 79-15,119.

The remainder of the bill are amendments to various statutes to the remove all references to “inheritance taxes” from the statutes due to the repeal of the inheritance tax laws.



KANSAS JUDICIAL COUNCIL

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BRANDY M. WHEELER

MEMORANDUM

TO: House Judiciary Committee

FROM: Kansas Judicial Council - Randy M. Hearrell

DATE: February 8, 2010

RE: HB 2557 Relating to Removal of the Reference to "Inheritance Tax" from the Kansas Statutes

Effective July 1, 1998, the Legislature repealed the Kansas Inheritance Tax and in 2001 the Legislature amended K.S.A. 79-15,119 to "sunset" the inheritance tax act. The amended language is found in Chapter 63, Section 1 of the 2001 Session Laws. It reads:

"The provisions of K.S.A. 2001 Supp. 79-15,100 through 79-15,199, and amendments thereto, shall be applicable to the estates of all decedents dying after June 30, 1998. The provisions of article 15 of chapter 79 of the Kansas Statute Annotated in effect immediately before the effective date of the Kansas estate tax act shall be applicable to the estates of all decedents dying before July 1, 1998, for which an inheritance tax return is not filed with the director before July 1, 2008, no liability which may have been imposed if the return was so filed by such accrue to either the estate or the distributees of the estate."

The Probate Law Advisory Committee has removed reference to the inheritance tax from the probate forms in recent years. Although the inheritance tax was repealed as to decedents dying on or after July 1, 1998, and "sunset" on July 1, 2008, reference to the tax still appears in the statutes. The proposed legislation repeals reference to inheritance tax in the Kansas statutes when the reference is to the Kansas inheritance tax. It should be noted that a few references to inheritance tax

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will remain in the statutes. The references that remain refer to the inheritance tax of other states.

In addition, on page 26, in line 43, and on page 31, in line 35, the word reference to “inheritance tax” is stricken and reference to “estate tax” is inserted. These two changes insert the reference to the correct tax.

In addition, “sunset” language for the pick-up tax (repealed January 1, 2007) is included in new section 1 of the bill and “sunset” language for the estate tax (repealed January 1, 2010) is included in new section 2 of the bill.

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TESTIMONY REGARDING
HOUSE BILL 2557
Before the House Committee on Judiciary
February 8, 2010

Richard Cram
Director of
Policy & Research

The Kansas inheritance tax was first enacted decades ago. It applied to the estates of decedents dying prior to July 1, 1998. Then the inheritance tax was repealed and replaced with an estate "pick-up" tax.

The "pick-up" tax was in effect for estates of decedents dying after June 30, 1998 and prior to January 1, 2007. Then the "pick-up" tax was repealed and replaced with a stand alone estate tax.

The stand alone estate tax was in effect for estates of decedents dying after December 31, 2006 and prior to January 1, 2010. Then the stand alone estate tax was repealed for estates of decedents dying after December 31, 2009.

No inheritance or estate tax is imposed on the estates of decedents dying after December 31, 2009.

In 2001 the Legislature amended K.S.A. 79-15,119 to "sunset" the inheritance tax. After amendment, the statute provided:

79-15,119. Same; application of act. The provisions of K.S.A. 2001 Supp. 79-15,100 through 79-15,119, and amendments thereto, shall be applicable to the estates of all decedents dying after June 30, 1998. The provisions of article 15 of chapter 79 of the Kansas Statute Annotated in effect immediately before the effective date of the Kansas estate tax act shall be applicable to the estates of all decedents dying before July 1, 1998, for which an inheritance tax return was filed before July 1, 2008. In the event any such inheritance tax return is not filed with the director before July 1, 2008, no liability which may have been imposed if the return was so filed by such date shall accrue to either the estate or the distributees of the estate.

History: L. 1998, ch. 130, § 18; L. 2001, ch. 63, § 1; July 1.

Like the inheritance tax, both the "pick-up" tax and the stand alone estate tax apply to an estate based on the date of death of the decedent. Because both the "pick-up" tax and the stand alone estate tax have now been repealed it is appropriate to "sunset" both of these tax acts, as was done with the inheritance tax.

New Section 1 of HB2557 is a "sunset" provision for the "pick-up" tax. As was the case for the inheritance tax the "sunset" occurs ten (10) years after the repeal of the act.

It should be noted New Section 1 will require a technical amendment because some of the statutes included in the "pick-up" tax act were inadvertently omitted from the statutes referenced in the Section. Subject to review and approval by the Revisor's Office, we suggest the language of the Section be amended to read:

New Section 1. The provisions of K.S.A. 79-15,100 through ~~79-15,119~~, 79-15,125 and K.S.A. ~~79-15,127~~ through 79-15,145, and amendments thereto, applicable to the estates of all decedents dying after June 30, 1998 and before January 1, 2007, shall only apply to estates for which an estate tax return was filed before January 1, 2017. In the event no estate tax return has been filed with the director before January 1, 2017, no liability which may have been imposed if the return was filed by such date shall accrue to either the estate or the distributees of the estate.

K.S.A. 79-15,126, which is the Kansas estate tax apportionment act, should not be included in these references. This is a separate act which should not be included in the "sunset" provision.

New Section 2 is a "sunset" provision for the stand alone estate tax. Again, the "sunset" occurs ten (10) years after the repeal of the act.

New Section 2 will require amendment to fix a typographical error. On line 31 the date should be January 1, 2020 instead of 2010.

The balance of the Bill removes references to the inheritance tax from other statutes. These amendments were suggested by the Probate Law Advisory Committee of the Kansas Judicial Council. A representative of the Department of Revenue met with members of the Advisory Committee during discussions of these amendments, and the Department has no objection to the amendments. The Department believes the law in effect at the time of a decedent's death will continue to apply through the "sunset" of the "pick-up" and stand alone estate taxes, and that the amendments will be prospective.