

HOUSE BILL No. 2228

By Committee on Federal and State Affairs

2-6

AN ACT redesignating and establishing the Persian Gulf War veterans health initiative board as a separate state agency to be known as the Kansas veterans health commission; redesignating the Persian Gulf War veterans health initiative act as the Kansas veterans health initiative act; prescribing and providing for the transfer of certain powers, duties, functions, records, documents and property; preserving certain rights; amending K.S.A. 73-1221, 73-1222, 73-1223, 73-1224, 73-1225, 73-1226, 73-1227, 73-1229, 73-1230 and 73-1231 and repealing the existing sections.

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

New Section 1. (a) The Kansas veterans health commission, as established and redesignated by K.S.A. 73-1223, and amendments thereto, is hereby established as a separate state agency within the executive branch of state government. The Kansas veterans health commission shall implement and administer the Kansas veterans health initiative act and shall have such other powers, duties and functions as may be prescribed by statute. Nothing in this act shall affect the office or term of office of any person who is a member of the Persian Gulf War veterans health initiative board on the date preceding the effective date of this act and each such person shall be a member of the Kansas veterans health commission.

(b) On the effective date of this act, all of the powers, duties and functions of the Kansas commission on veterans affairs under the Kansas veterans health initiative act, including the power to administer, expend and distribute funds now or hereafter made available in accordance with any appropriation act for the purposes of the Kansas veterans health initiative act, shall be and hereby are transferred to and conferred and imposed upon the Kansas veterans health commission, except as otherwise specifically provided by this act. The Kansas veterans health commission shall be the successor in every way to such powers, duties and functions of the Kansas commission on veterans affairs under the Kansas veterans health initiative act, in which the same were vested prior to the effective date of this act. Every act performed by or under the authority of the Kansas veterans health commission under the Kansas veterans

1 health initiative act shall be deemed to have the same force and effect as
2 if performed by the Kansas commission on veterans affairs under the
3 Kansas veterans health initiative act in which the authority to perform
4 such act was vested prior to the effective date of this act.

5 (c) On the effective date of this act, the Kansas veterans health com-
6 mission shall succeed to the title to all property and records of the Kansas
7 commission on veterans affairs which were used for or pertain to the
8 performance of the powers, duties and functions transferred to the Kansas
9 veterans health commission pursuant to this act.

10 (d) On and after the effective date of this act, whenever the Kansas
11 commission on veterans affairs is referred to or designated by a statute,
12 contract or other document and such reference relates to powers, duties,
13 functions, records or property of the Kansas commission on veterans af-
14 fairs under the Kansas veterans health initiative act prior to the effective
15 date of this act, such reference or designation shall be deemed to apply
16 to the Kansas veterans health commission, except as otherwise specifically
17 provided by this act.

18 (e) All rules and regulations of the Kansas commission on veterans
19 affairs which are in existence on June 30, 2003, and which relate to a
20 power, duty or function of the commission under the Kansas veterans
21 health initiative act prior to the effective date of this act, shall continue
22 to be effective and shall be deemed to be duly adopted rules and regu-
23 lations of the Kansas veterans health commission until revised, amended,
24 revoked or nullified pursuant to law.

25 (f) All policies, orders and directives of the Kansas commission on
26 veterans affairs which are in existence on June 30, 2003, and which relate
27 to a power, duty or function of the Kansas commission on veterans affairs
28 under the Kansas veterans health initiative act prior to the effective date
29 of this act, shall continue to be effective and shall be deemed to be pol-
30 icies, orders and directives of the Kansas veterans health commission until
31 revised, amended, revoked or nullified pursuant to law.

32 New Sec. 2. (a) The Kansas veterans health commission shall provide
33 that all officers and employees of the Kansas commission of veterans
34 affairs, who are engaged in the exercise and performance of the powers,
35 duties and functions that are transferred by this act, are transferred to
36 the Kansas veterans health commission if the Kansas veterans health com-
37 mission deems that the transfer of such officers and employees is nec-
38 essary to the exercise and performance of such powers, duties and
39 functions.

40 (b) Officers and employees of the Kansas commission of veterans
41 affairs who are transferred to the Kansas veterans health commission shall
42 retain all retirement benefits and leave rights which had accrued or vested
43 prior to the date of transfer. The service of each such officer and em-

1 ployee so transferred shall be deemed to have been continuous. All trans-
2 fers, layoffs and abolition of classified service positions under the Kansas
3 civil service act which may result from transfers of powers, duties and
4 functions shall be made in accordance with the civil service laws and any
5 rules and regulations adopted thereunder. Nothing in this act shall affect
6 the classified status of any transferred person employed by the Kansas
7 commission on veterans affairs prior to the date of transfer. The Kansas
8 veterans health commission shall be responsible for administering any
9 layoff that is a part of the transfer. Notwithstanding the date of transfer
10 of personnel from the Kansas commission on veterans affairs to the Kan-
11 sas veterans health commission pursuant to the provisions of this act, the
12 date of such transfer shall be effective at the start of a payroll period.

13 New Sec. 3. (a) When any conflict arises as to the disposition of any
14 power, function or duty or the unexpended balance of any appropriation
15 as a result of any transfer or change effected by or under authority of this
16 act, such conflict shall be resolved by the governor, whose decision shall
17 be final.

18 (b) Any conflict as to the proper disposition of property or records
19 arising under authority of this act, and resulting from any transfer of
20 powers, duties and functions effected by or under authority of this act,
21 shall be determined by the governor, whose decision shall be final.

22 New Sec. 4. (a) On and after the effective date of this act, the Kansas
23 veterans health commission shall have the legal custody of all records,
24 memoranda, writings, entries, prints, representations or combinations
25 thereof of any act, transaction, occurrence or event of the Kansas com-
26 mission on veterans affairs which relate to a power, duty or function of
27 the commission under the Kansas veterans health initiative act prior to
28 the effective date of this act.

29 (b) No suit, action or other proceeding, judicial or administrative,
30 lawfully commenced, or which could have been commenced, by or against
31 any state agency or program mentioned in this act, or by or against any
32 officer of the state in such officer's official capacity or in relation to the
33 discharge of such officer's official duties, shall abate by reason of this act.
34 The court may allow any such suit, action or other proceeding to be
35 maintained by or against the successor of any such state agency or any
36 officer affected.

37 (c) No criminal action commenced or which could have been com-
38 menced by the state shall abate by reason of the governmental reorgan-
39 ization effected under the provisions of this act.

40 New Sec. 5. (a) On the effective date of this act, the balance of all
41 funds appropriated or reappropriated to the Kansas commission on vet-
42 erans affairs which relate to powers, duties or functions of such commis-
43 sion under the Kansas veterans health initiative act prior to the effective

1 date of this act, are hereby transferred to the Kansas veterans health
2 commission and shall be used only for the purpose for which the appro-
3 priation was originally made.

4 (b) On the effective date of this act, the liability for all accrued com-
5 pensation or salaries of officers and employees who, immediately prior to
6 such date, were engaged in the performance of powers, duties or func-
7 tions of the Kansas commission on veterans affairs under the Kansas vet-
8 erans health initiative act prior to the effective date of this act, shall be
9 assumed and paid by the Kansas veterans health commission.

10 Sec. 6. K.S.A. 73-1221 is hereby amended to read as follows: 73-
11 1221. ~~This act~~ *The provisions of K.S.A. 73-1221 through 73-1231, and*
12 *amendments thereto, and sections 1 through 5, and amendments thereto,*
13 shall be known *and may be cited* as the ~~Persian Gulf War~~ *Kansas veterans*
14 *health initiative act.*

15 Sec. 7. K.S.A. 73-1222 is hereby amended to read as follows: 73-
16 1222. As used in ~~K.S.A. 2001 Supp. 73-1221 through 73-1231, and~~
17 ~~amendments thereto~~ *the Kansas veterans health initiative act*, unless the
18 context clearly indicates otherwise:

19 (a) “Birth defect” means any physical or mental abnormality or con-
20 dition, including any susceptibility to any illness or condition other than
21 normal childhood illnesses or conditions.

22 (b) ~~“Board”~~ *“Commission”* means the ~~Persian Gulf War~~ *Kansas vet-*
23 *erans health initiative board commission* established by K.S.A. 73-1223,
24 and amendments thereto.

25 ~~(c) “Commission” means the Kansas commission on veterans affairs.~~

26 ~~(d) (c) “Director” means the executive director of the Kansas com-~~
27 ~~mission on veterans affairs~~ *Kansas veterans health commission.*

28 ~~(e) (d) “Gulf War syndrome” means the wide range of physical and~~
29 ~~mental conditions, problems and illnesses that are connected with service~~
30 ~~in the armed forces of the United States during and in the area of op-~~
31 ~~erations of the Persian Gulf War.~~

32 ~~(f) (e) “Veteran” means a person who is a resident of Kansas who was~~
33 ~~a member of the armed forces of the United States of America and who~~
34 ~~served in such armed forces in the area of operations of the Persian Gulf~~
35 ~~War during the Persian Gulf War or thereafter~~ *or who served in such*
36 *armed forces in any other area of military operations occurring after the*
37 *Persian Gulf War*, regardless of whether such person is still actively serv-
38 ing in the armed forces or reserve.

39 Sec. 8. K.S.A. 73-1223 is hereby amended to read as follows: 73-
40 1223. (a) There is hereby established ~~with the commission an advisory~~
41 ~~board known to be~~ *the Persian Gulf War veterans health initiative board*
42 *which is hereby redesignated the Kansas veterans health commission. The*
43 ~~board shall be advisory to the commission in the implementation and~~

1 ~~administration of this act.~~

2 (b) The ~~board~~ *commission* shall consist of ~~nine~~ 10 members ap-
3 pointed as follows:

4 (1) At least ~~three~~ four members shall be veterans *who represent vet-*
5 *erans' organizations.* The director shall ~~notify the state level unit of the~~
6 ~~Disabled American Veterans, the Veterans of Foreign Wars of the United~~
7 ~~States and the American Legion~~ *contact each veterans' organization*
8 *known to the commission* and request a list of three nominations of vet-
9 ~~erans from each such veterans' organization~~ *who have an interest in vet-*
10 *erans' health issues be submitted to the commission. The commission shall*
11 *prepare and submit to the governor a list of not more than three nominees*
12 *for each vacancy on the commission. The nominees included on any such*
13 *list shall be selected from among the nominees submitted by the veterans'*
14 *organizations, except that not more than one representative shall be se-*
15 *lected from each veterans' organization. The governor shall appoint one*
16 *veteran as a member of the commission from each list.*

17 (2) ~~One member~~ Four members shall be appointed by the governor
18 and shall be expert clinicians or research scientists with qualifications in
19 areas of expertise, as follows:

20 (A) Three members shall be qualified ~~from each of~~ by expertise in the
21 medical ~~specializations~~ sciences of pharmacology, public health, epide-
22 miology, toxicology and genetics or in any other specialty deemed rele-
23 vant by the commission and shall have an interest in veterans' health
24 issues. At least one of the three members shall be a doctor of medicine or
25 a doctor of osteopathy who is licensed to practice medicine and surgery
26 in Kansas by the state board of healing arts. At least one of the three
27 members shall be a research scientist who has a doctoral degree, which
28 is either a doctor of philosophy degree (Ph.D.) or an equivalent degree,
29 or who has another doctoral degree with relevant research experience.
30 Each of the three members shall be qualified in a different area of expertise
31 from the areas of expertise of the other two members. No two members
32 shall be nominated by the commission for expertise in the same area.

33 (B) One member shall be a clinician qualified in one of the behavioral
34 sciences ~~in the speciality area of family dynamics~~ and shall have an in-
35 terest in veterans' health issues. This member may be a psychiatrist, psy-
36 chologist, licensed clinical social worker or a similar level mental health
37 professional who has a full and unrestricted license from the state of Kan-
38 sas to practice and provide unsupervised mental health care in an area of
39 mental health care deemed relevant by the commission.

40 (C) The director shall notify ~~one or more~~ professional societies or,
41 associations ~~which~~ known to the commission to represent ~~the medical or~~
42 ~~behavioral science specialty area~~ required appropriate specialists within
43 Kansas who satisfy qualifications for membership under this subsection

1 (b)(2) and request a list of *not more than* three nominations from ~~that~~
2 ~~the~~ specialty area *represented who have an interest in veterans' health*
3 ~~issues.~~ The commission shall ~~appoint one member of the board from each~~
4 ~~list~~ *consider such lists and shall prepare a list of nominees for each mem-*
5 *ber to be appointed under this subsection (b)(2) in a manner that provides*
6 *balance between the specialties represented and the nominating organi-*
7 *zations. The governor shall appoint each member to be appointed under*
8 *this subsection (b)(2) from the list of nominees submitted by the commis-*
9 *sion therefor.*

10 (3) Two legislators, one from each house, shall be appointed to the
11 ~~board~~ *commission* with the speaker of the house of representatives and
12 president of the senate each appointing a member. ~~One legislator shall~~
13 ~~be a member of the democratic party and one legislator shall be a member~~
14 ~~of the republican party.~~

15 (D) *The governor may reject all nominees on any list submitted by*
16 *the commission under subsection (b)(1) or (b)(2) and may request an*
17 *additional list of nominees prepared in accordance with subsection (b)(1)*
18 *or (b)(2), as the case may be, by the commission to consider for appoint-*
19 *ment as a member of the commission.*

20 (c) ~~Within 90 days of the effective date of this act, the governor, the~~
21 ~~commission, the speaker of the house of representatives and the president~~
22 ~~of the senate shall appoint the initial members of the board. Of the initial~~
23 ~~appointments to the board by the governor, one shall be for a term of~~
24 ~~one year, one shall be for a term of two years and one shall be for a term~~
25 ~~ending three years after the date of the initial appointment. Of the initial~~
26 ~~appointments to the board by the commission, two shall be for a term of~~
27 ~~one year, one shall be for a term of two years and one shall be for a term~~
28 ~~ending three years after the date of the initial appointment. After the~~
29 ~~initial appointments, The terms of office of the members of the Kansas~~
30 ~~veterans health commission appointed by the governor or the commission~~
31 ~~shall be for three years but no person shall be appointed for more than~~
32 ~~two successive three-year terms. The term of office of each member ap-~~
33 ~~pointed by the speaker of the house of representatives or the president~~
34 ~~of the senate shall end on the first day of the regular session of the leg-~~
35 ~~islature which commences in the first odd-numbered year occurring after~~
36 ~~the year such member was appointed.~~

37 (d) Each member of the ~~board~~ *commission* shall serve until a suc-
38 cessor is appointed and qualified. Whenever a vacancy occurs in the mem-
39 bership of the ~~board~~ *commission* for any reason other than the expiration
40 of a member's term of office, the governor, the commission, speaker of
41 the house of representatives or president of the senate shall appoint a
42 successor of like qualifications to fill the unexpired term in accordance
43 with this section. In the case of any vacancy occurring in the position of

1 a ~~board~~ member of the commission who was appointed from a list of
2 nominations submitted by a veterans' organization, the ~~governor~~ director
3 shall notify ~~that~~ veterans' ~~organization~~ organizations of the vacant position
4 and request a list of ~~three~~ nominations of veterans from which the gov-
5 ernor shall appoint a successor to the ~~board~~ as provided in this section.
6 In the case of any vacancy occurring in the position of a ~~board~~ member
7 of the commission who is qualified in one of the speciality areas listed in
8 subsection ~~(b)(3)~~ after the initial appointments ~~(b)(2)~~, the director shall
9 notify one or more professional societies or associations which represent
10 the medical or behavioral science speciality required for the vacant po-
11 sition and request a list of three nominations from that speciality area
12 from which the commission shall appoint a successor to the ~~board~~ com-
13 mission as provided in this section.

14 (e) Annually, the ~~board~~ commission shall elect a chairperson, vice-
15 chairperson and secretary from among its members and shall meet at
16 least four times each year at the call of the chairperson. A quorum of the
17 commission shall be six members and all actions of the commission shall
18 be by the affirmative votes of a majority of the quorum.

19 (f) The members of the ~~board~~ commission attending meetings of the
20 ~~board~~ commission or attending a subcommittee meeting thereof author-
21 ized by the ~~board~~ commission shall receive no compensation for their
22 services but ~~shall~~ may be paid subsistence allowances, mileage and other
23 expenses as provided in subsections (b), (c) and (d) of K.S.A. 75-3223,
24 and amendments thereto, *subject to the provisions of appropriation acts*
25 *and the availability of appropriations therefor.*

26 Sec. 9. K.S.A. 73-1224 is hereby amended to read as follows: 73-
27 1224. (a) The commission shall develop comprehensive surveys, or adopt
28 one or more existing surveys, to be conducted to determine and study
29 the physical and mental conditions, problems and illnesses, including
30 birth defects, as well as the employment, social, emotional and family
31 problems experienced by veterans, their spouses and family members
32 since the veteran's return to Kansas and by any other persons residing in
33 Kansas who are suffering from Gulf War syndrome or any new or emerg-
34 ing health problems which result from military service after the Persian
35 Gulf War. The commission shall administer such surveys. The commission
36 may provide for research to be conducted regarding Gulf War syndrome
37 or any new, emerging health problems which result from military service
38 after the Persian Gulf War or other veterans' health problems related to
39 military service arising during or after the Persian Gulf War.

40 (b) ~~The commission shall develop or adopt the surveys within the first~~
41 ~~four months after the effective date of this act.~~ The Kansas veterans health
42 commission shall administer the surveys and review the completed sur-
43 veys and the results of any such research with the ~~board~~ Kansas commis-

1 *sion on veterans affairs and other appropriate state and federal agencies.*
2 The *Kansas veterans health* commission shall compile the results of the
3 *surveys and research* and develop recommendations for the legislature
4 based thereon. The director shall report the results to appropriate federal
5 agencies and shall request additional assistance for veterans commensu-
6 rate with the ~~director's duties of the Kansas veterans health commission~~
7 ~~under K.S.A. 73-1200, and amendments thereto~~ *the Kansas veterans*
8 *health initiative act.*

9 ~~(e) The aggregate amount expended for the development and ad-~~
10 ~~ministration of surveys and studies set out under this section and for board~~
11 ~~expenses, including the position established by K.S.A. 73-1225, and~~
12 ~~amendments thereto, shall not exceed \$100,000 per fiscal year.~~

13 ~~(d) (c)~~ The commission shall request the different media, including
14 radio, television and newspaper, to make public service announcements
15 publicizing information on the Persian Gulf War *and other surveys and*
16 *research* and to inform Kansans of the health problems identified and
17 where help is available. The public service announcements should be
18 published no less than four times a year. *Upon request of the commission,*
19 *the state educational institutions, as defined in K.S.A. 76-711, and amend-*
20 *ments thereto, the university of Kansas medical center and the university*
21 *of Kansas hospital authority shall assist the commission in the develop-*
22 *ment and distribution of public service announcements through the public*
23 *information staff and facilities of such institutions.*

24 Sec. 10. K.S.A. 73-1225 is hereby amended to read as follows: 73-
25 1225. There is hereby established with the commission a full-time posi-
26 tion dedicated to seeking and applying for grants and other moneys to
27 fund activities under ~~this~~ *the Kansas veterans health initiative act*, to assist
28 in the preparation and administration of surveys under ~~this~~ *the Kansas*
29 *veterans health initiative act*, to promote programs and activities designed
30 to assist persons affected by Gulf War syndrome, *or any new or emerging*
31 *health problems which are associated with military service after the Per-*
32 *sian Gulf War*, to receive the help they need and to perform such other
33 duties as the chairperson of the commission may prescribe. ~~Within 90~~
34 ~~days of the effective date of this act, the commission shall appoint a qual-~~
35 ~~ified individual to this position.~~

36 Sec. 11. K.S.A. 73-1226 is hereby amended to read as follows: 73-
37 1226. (a) The commission shall request that the department of health and
38 environment contact families of any children born after August 1, 1991,
39 who are on any state birth defect list maintained by the department, to
40 inform the families of the availability of the survey and the registry if
41 either parent served in the Persian Gulf War. If the family voluntarily
42 participates in the survey, the veteran's child's name shall be listed in the
43 state Persian Gulf War registry.

1 (b) The commission shall determine the appropriate health programs
2 and the confidential mechanisms that shall be utilized to ask participants
3 in such programs whether they are Persian Gulf War veterans, and if so,
4 offer the veterans voluntary participation in the survey under K.S.A. 73-
5 1224, and amendments thereto.

6 (c) The commission shall establish and maintain a state Persian Gulf
7 War registry containing the names of veterans, their spouses, family mem-
8 bers and other persons in Kansas who have been affected by Gulf War
9 syndrome. *The commission may establish and maintain additional regis-*
10 *tries or expand the Persian Gulf War registry to similarly include vet-*
11 *erans and their families who are affected by new or emerging health prob-*
12 *lems which are associated with military service after the Persian Gulf*
13 *War.*

14 (d) The commission shall inform veterans of any state and federal
15 programs available to meet the veterans' needs.

16 (e) Any person who in good faith provides information to the com-
17 mission under the provisions of this section shall be immune from civil
18 or criminal liability therefor.

19 Sec. 12. K.S.A. 73-1227 is hereby amended to read as follows: 73-
20 1227. Subject to funds available, the commission shall conduct a fiscal
21 impact study, aimed at identifying the annual budgetary impact *on Kansas*
22 *of Gulf War syndrome on Kansas and any new or emerging health prob-*
23 *lems, which are associated with military service after the Persian Gulf*
24 *War, in terms of increased costs of education, medical coverage, correc-*
25 *tion of birth defects and other expenses identified through the results of*
26 *the surveys conducted under K.S.A. 73-1224, and amendments thereto.*

27 Sec. 13. K.S.A. 73-1229 is hereby amended to read as follows: 73-
28 1229. The commission shall adopt rules and regulations to implement and
29 administer the provisions of ~~K.S.A. 2001 Supp. 73-1221 through 73-1231,~~
30 ~~and amendments thereto~~ *the Kansas veterans health initiative act.*

31 Sec. 14. K.S.A. 73-1230 is hereby amended to read as follows: 73-
32 1230. The ~~Kansas commission on veterans affairs~~ *commission* shall co-
33 operate and share information with appropriate state and federal agencies
34 as necessary for the purposes of ~~this~~ *the Kansas veterans health initiative*
35 *act to aid veterans and other persons in obtaining aid and relief from the*
36 *effects of Gulf War syndrome and any new or emerging health problems*
37 *which are associated with military service after the Persian Gulf War.*
38 Such cooperation shall include reporting the survey statistics to appro-
39 priate federal agencies to bring issues to the notice of appropriate
40 agencies.

41 Sec. 15. K.S.A. 73-1231 is hereby amended to read as follows: 73-
42 1231. (a) There is hereby established in the state treasury the ~~Persian~~
43 ~~Gulf War~~ *Kansas veterans health initiative fund* which shall be adminis-

1 tered by the ~~Kansas commission on veterans affairs~~ *commission*. All mon-
2 eys received from any grants from federal or other nonstate sources, from
3 contributions or from any other source for the purpose of financing the
4 activities of the ~~board~~ *commission* or the development or administration
5 of the surveys developed by the board under ~~this~~ *Kansas veterans health*
6 *initiative* act, shall be remitted to the state treasurer in accordance with
7 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
8 of each such remittance, the state treasurer shall deposit the entire
9 amount in the state treasury to the credit of the ~~Persian Gulf War~~ *Kansas*
10 *veterans health initiative* fund.

11 (b) All expenditures from the ~~Persian Gulf War~~ *Kansas* veterans
12 health initiative fund shall be for the purposes of financing the activities
13 of the commission for the implementation and administration, ~~including~~
14 *of the activities of the board* *commission* and the development and ad-
15 ministration of the surveys under ~~this~~ *the Kansas veterans health initiative*
16 act and shall be made in accordance with appropriation acts upon war-
17 rants of the director of accounts and reports issued pursuant to vouchers
18 approved by the ~~Kansas commission on veterans affairs~~ *Kansas veterans*
19 *health commission* or the commission's designee.

20 (c) *The Persian Gulf War veterans health initiative fund is hereby*
21 *redesignated the Kansas veterans health initiative fund. On and after the*
22 *effective date of this act, whenever the Persian Gulf War veterans health*
23 *initiative fund is referred to or designated by a statute, contract or other*
24 *document, such reference shall be deemed to refer to the Kansas veterans*
25 *health initiative fund.*

26 Sec. 16. K.S.A. 73-1221, 73-1222, 73-1223, 73-1224, 73-1225, 73-
27 1226, 73-1227, 73-1229, 73-1230 and 73-1231 are hereby repealed.

28 Sec. 17. This act shall take effect and be in force from and after its
29 publication in the statute book.

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