Approved: 1-25-93
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairman, Representative Michael R. O' Neal at 3:30 p.m. on January 19, 1993 in room 313-S of the Statehouse.

All members were present except:

Representative Joan Wagnon - Excused

Committee staff present:

Jerry Donaldson, Legislative Research
Jill Wolters, Revisor of Statutes
Cindy Wulfkuhle, Committee Secretary

Conferees appearing before the Committee:

Representative Kathleen Sebelius
Representative Ellen Samuelson
David Sutton, SRS
Phyllis Woolard, The Association of Children for Enforcement of Support, Inc.,
Judge Herbert Walton
Judge James Buchele
Peggy Elliott, District Court Trustee, Tenth Judicial District
Audrey Magana, District Court Trustee, Geary County
Kay Farley, Office of Judicial Administration

Committee minutes for January 12, 13, & 14 were distributed.

Hearings on HB 2013 were opened relating to enforcement of child support & court trustee's charges.

Jill Wolters, Revisor, gave the committee a briefing on HB 2013 which would eliminate court trustee fees on title of IV-D cases. Currently the Court Trustees office is authorized to charge up to 5% of the funds collected through their office for administrative expenses.

Representative Kathleen Sebelius appeared before the committee as a proponent. Kansas is in noncompliance with federal requirements of a uniform statewide policy regarding fees. Currently, SRS does not charge fees in IV-D cases for services provided by the Department. Kansas court trustees impose fees for non-AFDC cases that range up to 5% of child support paid through the 13 district courts where trustees have been designed. (After 20 years, court trustee offices exist in only 13 of the 31 jurisdictions and offer different services, and charge different fees.) The Joint Committee on Children and Families recommend that no new court trustee offices be established until a uniform statewide system of child support enforcement is established. (Attachment #1)

Representative Ellen Samuelson appeared as a proponent. Representative Samuelson said that when the state is in compliance with federal requirements, three sources of funding are available from the federal government for the program. These include: approximately 42% of recovered AFDC support collections; reimbursement for 66% of program costs; and incentive payment of 6% of total collections. (Attachment #2)

David Sutton, SRS, appeared as a proponent. He stated that they would like to delete the effective date of January 1, 1994 and replace statute book with Kansas Register on page 2 line 18 of the bill. He commented that the initial penalty would be from $700,000 to 1.4 million dollars if we remain out of compliance . (Attachment #3)

Minutes of the House Committee on Judiciary, Room 313-S, Statehouse, at 3:30 p.m. on January 19, 1993.

Phyllis Woolard, The Association of Children for Enforcement of Support, Inc., appeared as a proponent. She said that our children are paying for the service of the collection of their court ordered child support. (Attachment #4)

Judge Herbert Walton appeared before the committee as an opponent of the bill. He stated that the passage of this bill would send a message to all obligors and obligees that the state should assume and pay the entire bill for child support enforcement without any user fee contribution. (Attachment #5)

Judge James Buchele, District Judge, Topeka, appeared before the committee as an opponent to the bill. The Judge Buchele believes that this bill should not be passed for several reasons. First, it is not necessary at this time. If the state is found not in compliance, it has one year to get into compliance before any penalties are levied. Second, he believes that the United States Congress will mandate states to levy fees. Last, the net effect of this bill will reduce the amount of money available to District Court Trustees to enforce child support. (Attachment #6)

Peggy Elliott, District Court Trustee, Tenth Judicial District, appeared before the committee as an opponent to the bill. Elliott stated that approximately 60% of their case load is IV-D cases. She believes that if this bill is passed it will adversely affect the effective child support enforcement performed by the District Court Trustees' offices. (Attachment #7)

Audrey Magana, District Court Trustee, Geary County, appeared as an opponent. Audrey touched on the fact that with the passage of this bill that the future financial security of all court trustee programs would be effected by increasing the dependence upon federal reimbursements. (Attachment #8)

Kay Farley, Office of Judicial Administration, appeared as an opponent. Kay explained that the IV-D compliance audit began in November 1992. The audit field work will not be completed for several months. The first draft of the audit report will probably not be available until late summer or early fall of 1993. A final report probably would not be available until fall of 1993. Once the final report is issued, the state will have sixty days to develop a corrective action plan. Assuming that the corrective action plan is accepted, the state has up to one year to implement the plan. (Attachment #9)

Hearings on HB 2013 were closed.

Hearings on HB 2008 were opened relating to district coroners duties, functions and compensation.

Dr. Carol Moddrell, Kansas Society of Pathologists, appeared as a proponent. She is in favor of having a statewide medical examiner system. (Attachment #10)

The Chairman announced that the hearings on HB 2008 will be left open to accommodate other interested parties who were unable to attend this meeting.

Representative Pauls moved to approve the committee meeting minutes from January 12, 13, &14. Representative Wells seconded the motion. The motion carried.

The Committee adjourned at 5:15 p.m. The next Committee meeting is January 20, 1993 at 3:00 p.m. in room 313-S.

GUEST LIST

COMMITTEE: JUDICIARY DATE: 1/19/93

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
David Sutton	300 SW Oakley	SRS
AUDREY MAGANA	Geary Co Courthouse Junction City, KS.	GE. CO. Dist Ct
Donny J. Vopat	Rm 207, 200 SE 7th St. Topeka, KS 66603	Shawnee County District Court Trustee office
[illegible]	Topeka	SRS
[illegible]	Paola, KS	Bar Ex.
Angie Kane	Baxter Springs KS	Intern
Kathie Sparks	Topeka	Div. of Budget
Paul Shelby	Topeka	OIA
Howard Schwartz		
James P. Budeke	Topeka	Shawnee Co Dist Ct
James Clark	Topeka	Ks Co. & Dist Atty's Ass
David Furnas	"	Ks Press Assoc.
Carl Hill	—	Ks Motor Carriers Assn
Lorne Phillips	Topeka	KOHE
Helen Stephens	✓	KPOA
Jerry B Slattery	—	KPOA
KEITH R LAWS	✓	CHRISTIAN SCIENCE Committee on Publication for Ks
Mack Smith	✓	Ks St. Bd of Mortuary Arts
Doug Bowman	"	Corporation For Change
ALLISON PETERSON	TOPEKA	KS. MEDICAL SOCIETY
Cindy Tinsley	Paola Ks	Intern Gilbert
Marjorie VanBuren	TOPEKA	Corp for Change

HOUSE OF REPRESENTATIVES

KATHLEEN SEBELIUS
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OFFICE OF THE MINORITY WHIP

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER: FEDERAL & STATE AFFAIRS COMMITTEE
MEMBER: JOINT COMMITTEE ON CHILDREN & FAMILIES
KANSAS FILM COMMISSION
KANSAS SENTENCING COMMISSION

Testimony to the House Judiciary Committee
January 19, 1992
Representative Kathleen Sebelius, former Chair
Joint Committee on Children and Families

The Joint Committee on Children and Families had extensive public hearings and numerous work sessions on the issue of child support enforcement, which was assigned to us by the Legislative Coordinating Council. As part of that work effort, we requested assistance from a national expert, Ms. Paula Roberts, who came to Kansas to testify before our Committee, and also met for a five hour work session with representatives from the Child Support Enforcement Division of SRS, representatives of the Court Trustees system, and a variety of experts from the private bar to discuss the Kansas situation.

At the outset, it is clear that there are major problems in the Kansas child support collection system, which may result in substantial federal penalties in the near future. From a taxpayer's view, the most troubling is that obtaining assistance in enforcing the Court's order for child support payments varies from location to location in Kansas. Services available in some areas are not available in others, and costs for identical services are very different. Consumers do not know who to call, and informational brochures are not readily available. The Kansas system has improved over the last several years, but it still lags behind the national average in collection measures.

I want to highlight some of Ms. Roberts' findings, and share the full text of her remarks with your Committee

The issue addressed in HB 2013 is the "fee issue", which has been unresolved between SRS and the Court Trustee offices for over one year. This situation must be resolved to meet federal mandates, or Kansas will begin paying a substantial fine. Originally our Committee was hopeful that some mutual agreement could be reached, but after several hearings and informal work sessions, it seems that these two agencies are at a philosophical impasse. Our Committee unanimously voted to recommend that fees be not allowed in IV-D cases in Kansas.

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This would not change the policy of SRS, but would disallow the fees in Court Trustee offices in IV-D cases. The replacement revenue for Trustee Offices would be a higher share of the federal reimbursement dollars, and a percentage of the federal incentive fees, which are now reduced because a fee is charged. I brought handouts from SRS and the Court Trustees Office on the fiscal impact addressed in HB 2013.

Currently, SRS charges no fee for service in IV-D cases, and charges a $1.00 administration fee which the agency pays. In Court Trustee offices, fees are determined by each office on a percentage basis, up to 5% of the monthly payment. The fees come out of the support order, and vary from office to office. In exchange for the fee, the Trustee Offices forego higher federal reimbursement for administration (66%), and higher incentive payments.

SRS does not charge a fee because they believe that many of their clients are only one step off the welfare rolls, and need all of the support money for living expenses. Also they see support enforcement as more of a law enforcement function, rather than a service. The Federal mandates forbid charging a fee in AFDC cases, and allow a fee in other cases to be determined only one of two ways:(1) Either fees have to be determined case-by-case, based on the actual time required, or (2) there has to be a standard fee in all cases. The current variable fee in Court Trustees Offices does not meet either of these requirements.

There are a number of other unresolved issues which our Committee identified this summer, which need to come before this Legislature. Two task forces have been formed, at the Committee's request, to formulate legislative recommendations on paternity establishment and "new hires", and asked to submit reports by February 1, in time for action in the 1993 Session.

The Joint Committee on Children and Families felt that no new court trustee offices should be established until some uniform guidelines were issued, and until the Legislature focused on the need for a uniform statewide system of child support enforcement. After 20 years, court trustee offices exist in only 13 of the 31 jurisdictions, offer different services, and charge different fees. Not only does this put us out of compliance with the federal mandates, but is a real disservice to Kansas children.

The Committee has been given permission by the LCC to continue to meet during the Session, and intends to continue to work on this issue. HB 2013 merely solves one of the many child support issues facing this state. It will make our policy uniform, and satisfy the federal guidelines. Our Committee was satisfied that without the fee the trustee offices will all be self-supporting, and more of the support dollars will go to the children who need them. I urge your favorable consideration of HB 2013.

STATE OF KANSAS

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: ECONOMIC DEVELOPMENT
GOVERNMENTAL
ORGANIZATION
PUBLIC HEALTH AND WELFARE
JOINT COMMITTEE ON
ECONOMIC DEVELOPMENT

January 19, 1993

Chairman O'Neal and Members of Judiciary:

HB 2013 is recommended by the Joint Committee on Children and Families after considerable study during the 1992 interim. This bill would amend KSA 1992 Supp. 23-497 Section 1, Sub a, to say that there would be no charge for any one in the Title IV-D program.

Title IV-D includes two types of clients - those that are AFDC (Aid to Families with Dependent Children) and non-AFDC. In AFDC cases the custodial parent assigns to the state the parent's right to child support. The money collected by the state is used to reimburse the state and federal government for the public assistance provided to the family. The first $50 and any excess in the amount of public assistance received is returned to the family. The federal government requires that non-AFDC cases must be provided the same services as AFDC.

Due to an audit that began in September, 1992 it is expected that Kansas will be found out of compliance in this area of cost recovery fees because the costs and method of operation vary in different locations.

When the state is in compliance with federal requirements, three sources of funding are available from the federal government for the program. These include:

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1. Approximately 42 percent of recovered AFDC support collections;

2. reimbursement for 66 percent of program costs; and

3. an incentive payment of 6 percent of total collections (non-AFDC incentives may not exceed 115 percent of the amount of the AFDC incentive).

This is briefly the reason for the Joint Committee's recommendation for HB 2013.

I ask for your support and favorable passage of HB 2013.

Department of Social and Rehabilitation Services
Donna L. Whiteman, Secretary

Before the House Judiciary Committee
January 19, 1993

H.B. 2013

Mr. Chairman and members of the Judiciary Committee, Social and Rehabilitation Services supports the recommendation of the Joint Committee on Children and Families in the form of H.B. 2013, that Court Trustees should not charge fees in Title IV-D child support cases.

The primary responsibility of the SRS Child Support Enforcement Program is to enhance the lives of children by establishing regular and adequate support. From that perspective, SRS has made every effort to avoid charging custodial parents and children for services.

Kansas has been notified by federal officials that we risk losing millions of dollars in federal funding unless SRS and all court trustees adopt a uniform, statewide policy concerning the collection of cost recovery fees in IV-D non-AFDC cases. Federal sanctions would be taken against federal AFDC funding. The initial penalty would be from $700,000 to 1.4 million dollars. Continued failure to comply could cost the state 80 million dollars in AFDC funding.

Kansas court trustees, who are all IV-D contractors, have established a wide array of fee structures which result in the deduction and retention of between 0 and 5% of child support paid through district courts where trustees have been appointed. These fees are deducted from child support payments even if no legal service is required to prompt the payment.

SRS is charged with the responsibility of administering the federally mandated and funded IV-D Child Support Enforcement Program in Kansas. From that statewide perspective, SRS recognizes that it is not in the best interest of the state, and particularly the children served, to charge a cost recovery fee for the following reasons:

1) The majority of individuals (60% in FY92) receiving non-AFDC services have received public assistance in the past. Although not conclusive, this indicates that these families are not particularly well off financially and that they are the people least able to bear the costs of the program. Many of these parents and children are able to remain independent of public assistance because of non-AFDC services. In FY-92 for example, 2,588 AFDC cases were closed due to CSE services, for a cost avoidance of over $10 million.

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2) Under federal law the amount collected in fees must be subtracted from the administrative expenses the federal government will reimburse at a rate of 66%. Therefore, for each dollar taken away from children, the entity charging the fee only benefits by receiving 34 cents more than if they had not charged the fee and claimed full federal reimbursement. The children lose a dollar, the IV-D operation only benefits by 34 cents, and 66 cents offered by the federal government goes unclaimed.

3) Administrative costs to collect, account for, and distribute a fee would increase. In addition, the state would be subject to yet another federal audit to evaluate whether the state has a uniform method to determine the amount of the fee and whether the fee was as close to actual costs as possible.

4) In 1984, SRS experimented with charging a 4% non-AFDC fee. As a result, SRS lost one-third of its paying non-AFDC cases, collections decreased considerably, and federal incentive payments dropped, as did program generated state revenue. The result of this experiment was that the families served were hurt and the state lost money. Even with circumstances as they exist today with the federal 115% cap on non-AFDC incentives, it is estimated that if SRS charged a 2% cost recovery fee and the program lost one-third of its non-AFDC paying cases, the state would gross $105,475 in additional revenue. After deducting additional administrative costs for processing and accounting for fee collections, Kansas would net less than $50,000. However, such a decision would cost Kansas children $554,000 in child support diverted to pay fees.

   (NOTE: The federal government does not pay a six percent (6%) incentive on all Non-AFDC collections. They cap the Non-AFDC incentives at 115% of AFDC collected.)

5) Because court trustees charge fees which range from 0 to 5%, with no standard method for determining the amount, SRS could not avoid federal sanctions by simply charging a fee. The problems of statewide uniformity and a uniform method for determining the amount of a fee would remain.

Available federal funding and incentives are sufficient to allow any viable IV-D contractor to be revenue producing without the need for cost recovery fees. With the 66% federal funding of administrative costs and the 6% collection incentive payments which are passed from the state to the counties, all court trustee operations, except for Dodge City, would have made profit from Title IV-D casework in FY92, without charging a fee; even Dodge City would have turned a profit in the last quarter of FY92. While the trustee in Dodge City was unprofitable, the administrative judge decided not to charge a fee in non-AFDC cases as a way to maximize the use of federal dollars.

New court trustees established in areas with sufficient case potential and with reasonable budgets are capable of generating a profit from their first quarter of operation. For example, the court trustee for the 8th Judicial District (Manhattan/Junction City) has been generating a profit from its first quarter of operation (April through June, 1990.) This profitability was achieved even though this particular trustee does not extract a fee from child support collections in IV-D cases.

If SRS and the court trustees are generating enough revenue to cover costs, why should we establish or continue a policy which takes more money away from children to make yet a greater profit? This question is especially relevant when considering national statistics which show that one in four children, and 44% of children in single parent families, live in poverty.

In return for eliminating non-AFDC fees, the Office of Judicial Administration (OJA) has suggested that SRS guarantee that court trustees will break even or guarantee the current 66% federal reimbursement rate. SRS is opposed to such guarantees because they would encourage the establishment and maintenance of low potential and unneeded court trustee operations, they would remove the incentive needed by contractors to operate cost effectively, and SRS would be deprived of its ability to budget for and manage costs.

We can appreciate the desire of the Judiciary to establish a court trustee system which is fully self-supporting and not dependent on federal funds. However, given the current financial situation of our government and our citizens, we must strive to avoid the loss of federal funds and to maximize the use of available federal funding. The current judicial policy concerning non-AFDC fees not only places Kansas in jeopardy of losing several million federal dollars, it also prevents Kansas from collecting the full measure of federal funding to which our citizens are entitled. A policy which elects to make our most vulnerable citizens pay for a government service, while rejecting available federal funding, should not be the public policy of Kansas.

Respectfully submitted,

Donna L. Whiteman
Secretary
913-296-3271

HB 2013

Phyllis Woolard
Michel Staley

Thank you for allowing me to present this testimony to you today.

I represent ACES, The Association for Children for Enforcement of Support, the largest grassroots child support advocacy organization in the United States. We currently have six chapters in the State of Kansas with the largest being in Johnson County.

The non-payment of court ordered child support is a crime. Kansas and several other states recognize this as a felonious crime against our children. In October 1992, President Bush signed into law Senate Bill 1002, making the non-payment of child support a federal felony offense when certain criteria are met.

Our children are the innocent victims of this crime. They suffer when child support goes uncollected, comes in late, payments are skipped or only partial payments are made.

When families rely on this money to survive and stay off the welfare rolls, every penny counts. When support payments are late the custodial parent must pay the bills plus additional late charges. Extracurricular activities for the children are out of the question due to the lack of money and the uncertainty of receiving the child support. Heaven forbid that a medical crisis arise! Most of these children are probably not covered by health insurance, although the non-custodial parent has been ordered by the court to provide coverage for them.

When the family does receive their court ordered support the District Court Trustee's office finds it necessary to take a percentage of this money that rightfully belongs to the children. Yes, Federal law allows 1-5% of this money to be withheld, but it still does not justify the action. One dollar fifty cents ($1.50) will buy a school lunch; $3.00 will buy some socks or underwear. This small amount could help keep the heating on for one more month. It **does** make a difference. If it is necessary for a percentage of the money to be withheld it should be the responsibility of the non-custodial parent. The children should not be financially penalized.

Essentially, our children are paying for a service - the collection of **their** court ordered child support. This technically makes the State of Kansas the client - not our children. The State agency, SRS, does not charge our children a percentage of their money.

The children are paying for the privilege of using the Court Trustee. Why is it so difficult to get prompt, courteous service from them? Why do custodial parents not receive timely updates on the status of their cases, hearings and court rulings? Why can we contact them, only by telephone, during alloted times

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and on specific days? The children are paying the fees, but the services are not forthcoming. The majority of cases we see have received positive results due to the hard work and diligence of the custodial parent - **not** through the efforts of the Court Trustee's office.

SOLUTIONS:

Charge the non-custodial parent a service fee.

Get money allocated from the County Commissioners Office. Recently the Johnson County Commissioners signed a $40,000 contract with Frito-Lay to provide snacks. Obviously, they are looking for ways to spend "their" money. Most ACES children get snacks as a special, once in awhile treat.

Increased collection of child support means increased Federal incentive money.

THE LEGISLATURE OF THE STATE OF KANSAS

HOUSE JUDICIARY COMMITTEE

January 20, 1993

HOUSE BILL NO. 2013
COURT TRUSTEES & ENFORCEMENT OF CHILD SUPPORT

May it please this Honorable Committee. My name is Herbert W. Walton and I am a Retired District Judge of the State of Kansas. I retired on April 17, 1992, after serving some 31 plus years on the bench. Much of my service involved emphasis on the important area of family law. During my last eight years on the bench I was privileged to be Administrative Judge of Johnson County, Kansas. In addition, I served as a member of the Judicial Council of Kansas for fifteen (15) years with direct involvement as the first Chair of the Family Law Advisory Committee and the second Chair of the Pattern Jury Instruction Committee. Furthermore, I have been involved with the enforcement of child support, both state and national, for many years. I was the first Chairman of the Governor's Commission on Child Support in Kansas and presently Chair the Supreme Court Advisory Committee on Child Support Guidelines. Furthermore, I have been privileged to Chair the Supreme Court Advisory Committee on Alternate Dispute Resolution. In sum, I am very interested in effective laws to protect our greatest asset - our children.

In my judgment the basic thrust or basis of House Bill No. 2013 is extremely illusory. On the one hand, it sounds like an appropriate action to assist our children by terminating the requirement of fees for the enforcement of child support cases administered under part D of title IV of the federal social security act as contained in 42 U. S. C. 651, et seq. At first blush it seems that our present law requires our children to pay for child support enforcement by receiving a reduction in support - an obligation that should be paid by our government. Advocates against the bill would appear, at first blush, to be harsh on children. Nothing could be farther from the truth. A careful look and analysis by the committee will reveal, on the other hand, that the contrary is true and that a partial user fee makes sense - particularly in our present financially troubled nation.

With your permission, I would like to review some the reasons why this bill should not be favorably considered.

I. User Fees Are The Trend Of The Future.

(a) Federal Health & Human Services. User fees are encouraged by the federal government. Outgoing Secretary of Health and Human Services, Louis W. Sullivan, M. D., in a letter of February 25, 1992, to The Honorable Thomas S. Foley, Speaker of the House of Representatives, commented in essence that users fees should be considered and used to reduce the enormous expense to the federal government.

(b) U. S. Commission On Interstate Child Support. The U. S. Commission On Child Support, a blue ribbon commission with representatives from all over the the United States, made research recommendations that users fees should be used. The commission members, all experts in family law, completed a comprehensive study of child

support in the United States and came to the conclusion as stated.

II. User Fees Are Not A Burden On Obligors or Obligees.

(a) The District Court Trustee is empowered to charge a fee not to exceed 5% from funds collected from obligors to enforce child support. Most Trustees in Kansas charge less than the 5%. In Johnson County, Kansas, where the District Court Trustee law was pioneered, the fee is one (1%) per cent with a monthly cap of $3.00. It is my understanding that the office collected some $37,000,000.00 in child support in the year 1992. The office further provides a full service to the obligees and obligors in the nature of vigorous attorney enforcement; an automated information system whereby the obligors and obligees call and obtain information about their individual cases; a "hero" system to encourage and assist obligors to pay child support by helping to find employment; and provides a computer print out of actual payments for other legal use. It is a real service for a small fee. It is often considered as a form of insurance to the obligees and children for the effective enforcement of child support. Furthermore, judges usually consider the fee in making appropriate equitable adjustments.

III. Uncertainty of Future Federal Funding.

Proponents of House Bill 2013 presume that the federal government will continue the high level of funding of child support enforcement. We know that the financial problems of the federal government are enormous and that future funding for child support as well as many other projects could be impaired. It is entirely possible that federal funding for this important aspect will be drastically reduced or eliminated with the full responsibility or burden being placed upon the state of Kansas. Obviously, this would

present a real problem for the Kansas Legislature to find the necessary funding for our children and the Kansas family.

IV. Burdens On The State General Fund. The amendment and passage of the bill will impact the State General Fund budget. In FY 1992 there would have been a loss of $167,986.11 had the court trustees not charged fees. Furthermore, had the Department of S. R. S. been required to charge a 5% fee on Non-ADC cases in FY 1992, it would have realized the sum of $231,101.77. Both being considered together would have effected the general fund by a sum of approximately $400,000.00.

V. Domino Effect. I have a real concern over the future of the trustee system with the passage of the amendment. While the economic effect of the amendment on our trustees is not that significant, the future effect could be catastrophic. It will start the beginning of the end of the district court trustee system. It will send a message to all obligors and obligees that the state should assume and pay the entire bill for child support enforcement without any user fee contribution. The non-ADC clients will change their present designations to obtain the same financial effect as the IV D obligors and obligees, which is mandated by law. This will cause an anaemic effect which will erode and finally terminate an excellent program - a program that was put into action by citizens of this state who are concerned for the welfare of our children and not what agency administers the program. Surely, such result is not in the interests of the children of Kansas and should not be the public policy of this great state.

Respectfully submitted,

Herbert W. Walton

STATEMENT OF JAMES P. BUCHELE
DISTRICT JUDGE
TOPEKA, KANSAS

HOUSE JUDICIARY COMMITTEE
JANUARY 19, 1993

Mr. Chairman and Members of the Committee:

My name is James P. Buchele. I am a District Judge in Topeka, Kansas. Presently I am handling all of the divorce cases, including child support enforcement, in Shawnee County. My work with child support enforcement formally began in 1972 when, as a member of the Kansas Legislature, I was a co-sponsor of the bill authorizing District Courts to establish District Court Trustees for child support enforcement. More recently I was a member of the Kansas Child Support Commission which drafted the first statewide Child Support Guidelines.

I am here to suggest that you should not pass House Bill 2013 for three reasons.

1. The first is, it is unnecessary at this time. I am told that the impetus for this bill is that the Regional Office of Child Support Enforcement (O.C.S.E.) has advised S.R.S. that Kansas is not in compliance with Federal regulations because we do not have a statewide uniform enforcement fee on NON-ADC-IV-D cases. At this point in time, O.C.S.E. is doing a compliance audit on Kansas child support enforcement. Once the audit is completed it will be necessary for the report to be drafted. There are several steps before it is finalized. The best estimate for completion of this compliance audit is late 1993. Assuming that Kansas is found to be not in compliance, then the State has <u>one year</u> to get into compliance before any penalties are levied. This is assuming that S.R.S. does not choose to appeal any of the determinations made in the compliance audit which is much broader than just the uniform fee issue. If an appeal is taken, the realistic date on when compliance must be done would be mid-1995. In other words, certainly the 1994 and probably the 1995 legislature will have an opportunity to address this issue <u>before</u> any penalties are assessed.

2. The second reason for encouraging you not to pass this bill is that I believe, given a little time, the United States Congress and/or the Clinton administration, through the Office of Child Support Enforcement, will mandate states to levy fees. Both the General Accounting Office and the Department of Health and Human Services, of which O.C.S.E. is a part have recommended that statewide fees be mandated. Financial pressure to cut the budget

deficit and to find additional money for social programs make mandated statewide fees an attractive proposition at the Federal level. By doing so, they can either increase spending on child support enforcement or cut federal spending without cutting back the program.

I would note that the state of Arkansas has a statewide uniform fee of 13% or $9.00, whichever is less. This formula is down from a 25% statewide fee which Arkansas levied when they first implemented their program under the administration of Governor Clinton. I believe that it is better than 50/50 that if we could look at January 19, 1995, the issue before the legislature will be, what amount should the federally mandated uniform statewide fee be? Or, if this bill is enacted, we could be discussing its repeal to avoid a federal reimbursement penalty for not having fees.

3. My final point in opposition is this - the net effect of this bill will reduce the amount of money available to District Court Trustees to enforce child support. Most Trustees offices could broaden their programs or take new initiatives if they had more money. This is especially true of some of the newer and smaller District Court Trustees offices outside of the urban counties. It is these offices that will be hurt the most by this bill.

In Shawnee County, we collect approximately $19.75 for every dollar we spend on child support enforcement.

I am told that if this bill is passed, the cost to the general fund through the S.R.S. budget will be $167,000. If the Legislature would direct S.R.S. to collect a 2% fee (which would also put us in compliance with O.C.S.E. federal regulations) approximately $200,000 could be collected. Arguably then, this bill has a net negative revenue impact of $367,000 on child support enforcement funding. If that amount of money were spent on additional efforts to collect child support in a Court Trustees office, there is a potential of a return of several fold that amount in new child support collections.

I want to make one final point. The NON-ADC-IV-D Court Trustee fee does not take food out of the mouths of starving children. The cases we are talking about here are not A.F.D.C. cases and the fee is a contingent fee. In other words, it is 2% of whatever is collected. I believe it is the better policy to ask those who are receiving something to contribute 2% towards financing the collection system, than to take nothing and do less. Many custodial parents who presently get nothing might receive something if we spent more on collecting child support. By eliminating this fee, the net dollars available for child support enforcement will be reduced. There will be thousands of dollars less paid in child support because of it. I can not understand what policy reasons would support eliminating the fee when the Child Support Enforcement programs are not fully funded.

So to summarize my opposition, I leave you with the three points:

1. We don't have to do anything now;

2. The Federal policy may change; and,

3. Passing this bill reduces the net amount of dollars available to enforce child support.

I would be pleased to answer any questions.

House Judiciary Committee
H.B. 2013
January 19, 1993

Testimony of Peggy A. Elliott
District Court Trustee
Tenth Judicial District

Mr. Chairman and Members of the Committee:

Thank you for allowing me to testify before you today regarding H.B. 2013.

I am the District Court Trustee for the Tenth Judicial District and have been involved in child support since 1973. Our office has approximately 10,000 open cases to monitor and enforce. Last year we collected over $37 million dollars, an increase of approximately $4 million over 1991. Our attorneys represent the office in approximately 6,000 court hearings per year.

I oppose H.B. 2013 which prohibits the collection of fees in cases administered under part D of Title IV of the federal Social Security Act. My reasons for opposition are as follows:

1. Federal regulations DO NOT prohibit the charging of fees in IV-D non-ADC cases. Quite the contrary, former Secretary of Health and Human Services, Louis W. Sullivan, M.D., has recommended that states charge an initial fee when they make application for the program and an annual or percentage fee for continuing in the program to make the program more self-sufficient and reduce the

cost to the federal government. Federal regulations do, however, require that the criteria used to determine the fees be uniform across the state.

2. If fees are prohibited in IV-D non-ADC cases, this means that the wealthiest obligee in the state of Kansas can make use of this service with no charge whatsoever. However, the cost will be borne by the entire citizenry of the state, including those persons on fixed incomes who can least afford to pay higher taxes. It is my contention that this fee should be considered a "user" fee and the cost of the operation paid for by those persons who use the service. By offering the IV-D non-ADC program as a free service, it encourages the "welfare mentality" of getting something for nothing and makes the state responsible for the support enforcement. It also prohibits the parties from "buying into" the program and feeling as if they have some responsibility over their own destiny, instead of just letting the state take care of them.

3. K.S.A. 23-497 presently does not allow a fee to be charged over five (5) percent of the collections. Most trustees in the state do not charge the full amount allowed but instead charge a lesser amount. Our office, for example, has never charged more than two (2) percent. This amount has been reduced from time to time until at the present time we only charge 1 percent of collections up to a cap of $3.00 per month. However, even at 5 percent of collections, this is a bargain for the services rendered. In addition to having a record of the payments made in the case, obligees get enforcement services if the obligor fails to

pay. I believe this fee works much the same way as insurance - you hope enforcement action will never be needed but it is a lifesaver if you do.

4. Much has been said about the fee being taken out of the collections instead of making the obligor pay for the service. In my opinion this could be easily solved by increasing the child support guidelines amount by a percentage or by changing Kansas law to allow charging the obligor an annual or monthly fee.

5. The ability to charge a fee to cover the expenses of the Trustee's offices allows for improved services to be implemented. Some of the services offered by the Johnson County District Court Trustee's office in recent years have been an automated voice response system where the parties can call to obtain payment or other information on their case; the implementation of the H.E.R.O. program in conjunction with the Kansas Private Industry Council to assist unemployed or under-employed obligors in gaining skills necessary to become better employed and thus better able to pay the child support; beginning an outreach with the schools in our district to provide them with materials to assist them in their efforts to curb teen pregnancy; and, just recently, re-dubbing public service announcements from Florida regarding child support so they can be broadcast over local Kansas City area television stations.

6. Another reason to make the child support enforcement offices in Kansas more self-sufficient is that no one knows when the federal money will be withdrawn. While I do not believe that

they will cut off funds altogether in the near future, there is always the danger that they will reduce their funding or that the Gramm-Rudman Act will curtail federal funds.

Thank you for allowing me to testify before this committee. I urge you not to pass H.B. 2013 as I believe it will adversely effect the effective child support enforcement performed by the District Court Trustees' offices in our state.

COURT TRUSTEE

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Testimony of Audrey B. Magana,
Geary County District Court Trustee
House Bill No. 2013
Judiciary Committee
January 19, 1993

Rep. O'Neal and members of the Committee

Thank you for the opportunity to engage in a dialogue with you regarding House Bill No. 2013

The Office of the Geary County District Court Trustee in Junction City, Kansas does not charge a fee on the cases it enforces which are categorized as Non-ADC IV-D cases. The enactment of the proposed bill will not directly or immediately effect the financial operation of the Office of the Geary County District Court Trustee.

A long term aspect of the enactment of the proposed legislation without amendment would be that the future financial security of all court trustee programs would effected by increasing the dependence upon federal reimbursements and the benevolence of the Kansas IV-D agency (SRS).

Those court trustee programs which charge a fee on NON-ADC IV-D cases presently have the benefit of the use of the operational cash flow of the fees charged. Taking away this cash flow and replacing it with the incentive reimbursements from the IV-D agency sounds fair but it may not be as fair as it sounds. Please understand that the IV-D agency is presently operating a reimbursement system that reviews incentive reimbursements on a quarterly basis. An example of how the system works is that my office will not expect to receive the incentive reimbursements from the IV-D agency for the months of October, November and December, 1992 until sometime in February of 1993 at the earliest. It should be noted that the example may be a best case scenario. It is not unusual for the incentive reimbursements to be delayed for longer periods of time. It is thus the case that the proposed statute would deprive those court trustee program which charge fees on NON-ADC IV-D cases the use of some of their cash flow for five months or more.

Because the IV-D agency receives advance incentive reimbursement payments from the federal government it would seem possible for the proposed statute to be amended to require the IV-D agency to provide court trustee programs a share of the advance reimbursement payments shortly after the IV-D agency receives the federal advance. Such an amendment alone could remedy the cash flow problem to be

created by the proposed statutes present form when viewed in the light of the present IV-D agency reimbursement policy.

Another long term consideration of the proposed statute is that the federal government is more likely to reduce the reimbursements it provides than it is to increase the reimbursements. Should federal reimbursements be significantly reduced and court trustee programs be unable to charge fees on a large percentage of it's caseload it will be difficult if not impossible for the court trustee offices to replace the lost federal money and operate a break even level.

I feel it is important to add that when the Office of the Geary County District Court Trustee was initially developed in May, 1989, it was decided not to charge a fee on IV-D NON-ADC cases but that if the federal reimbursement rates decreased the charging of a fee on IV-D Non-ADC cases would have to be reconsidered.

Another long term consideration of the proposed statute is whether it would effect the development of a statewide family court system. If a statewide family court system is being seriously considered for development, it seems to me that the uniform charging of very low fee would go a very long way toward payment of the operating expense of such a

system and that the persons using the system would be the ones largely paying for the operation of the system rather than the general taxpayers. Other than commenting that people like certainty rather than continual change I cannot define the public response to having a fee charged, then having the fee dropped, and then having a fee reinstated to accomodate a fiscally responsible conversion to a family court system.

Thank You.

HOUSE BILL NO. 2013
House Judiciary Committee
January 19, 1993

Testimony of Kay Farley
Coordinator of Children and Families Programs
Office of Judicial Administration

Representative O'Neal and Members of the Committee:

Thank you for the opportunity to appear before you today. I appear as an opponent to House Bill 2013.

Background on the Issue of Fees

The Office of Child Support Enforcement (OCSE) of the U. S. Department of Health and Human Services (HHS) has advised the state of Kansas that charging court trustee program fees on Non-ADC cases conflicts with the IV-D state plan prepared and submitted to OCSE by the State Department of Social and Rehabilitation Services (SRS). Fees have been the historic and traditional method for supporting the court trustee program services since the court trustee programs were legislatively authorized in 1972. As such, the court trustee programs have charged these fees on Non-ADC cases, as well as on Non IV-D cases. Since 1985, OCSE has raised this issue of fees on Non-ADC cases on several occasions, but has then dropped it. Most recently, OCSE raised the issue with then Secretary Robert C. Harder in a letter dated February 11, 1991. A series of letters were then exchanged. In October 1991, OCSE officials threatened to make a finding that Kansas was out of compliance with their IV-D state plan which would have resulted in a $60 million loss of federal funding to the state. However, in December 1991 after Kansas officials had asked for additional information and clarification, OCSE advised that they would not approach this issue as a state plan violation, but as a component of the next tri-annual IV-D program compliance audit which was tentatively scheduled to begin in the spring or summer of 1992.

I want to make sure that it is understood that throughout this process, OCSE officials have not opposed court trustee program fees or any other fees. Their only concern has been that the court trustee program fees are in conflict with

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the IV-D state plan prepared by SRS staff. OCSE officials have made it clear in their correspondence that there are two resolutions that would satisfy their concerns - 1) the Kansas IV-D state plan can be amended and SRS can also begin charging fees on Non-ADC cases or 2) the court trustee programs can cease charging fees on the Non-ADC cases.

From our perspective in trying to resolve the concerns expressed by OCSE, we support the amendment of the Kansas IV-D state plan and the implementation of a uniform policy of charging fees.

The IV-D program compliance audit began in November 1992. The audit field work continues at this time and will probably not be completed for several more months. Attachment I of my testimony is an explanation of the IV-D program compliance audit process. Previous experience has shown that the first draft of the audit report will not be available to state officials until late summer or early fall 1993. A final audit report probably will not be available to the state until at least late fall 1993. Once the final report is issued, the state will have sixty days to develop a corrective action plan for any identified problem area. I share this information with you about the IV-D program compliance audit process so that you will understand that Kansas has the time to make a thoughtful and forward looking decision on this issue of fees.

Rationale for Opposition to the Bill

As Judicial Branch representatives have discussed this issue with SRS officials, the two branches of government have approached this issue with differing philosophies. SRS officials have taken the position that Non-ADC child support enforcement services should be available to all individuals requesting Non-ADC services at no cost to the Non-ADC applicant. (It should be understood that Non-ADC child support enforcement services are available to any custodial parent or guardian regardless of the applicant's income or state of residency.) The Judicial Branch, however, has approached the issue from the perspective that individuals receiving these child support enforcement services should bear at least a small portion of the costs of the services. Though the fee doesn't begin to pay the actual costs for services, it does give the services recipient a greater stake in the services provided and it reduces the tax burden to the general population.

One of our concerns related to this issue is the stability of the funding sources. If the court trustee programs cease charging fees on Non-ADC cases, we have a real concern over whether that loss of revenue will be replaced with an equally stable and timely source of funding. Currently, the fees provide a very reliable source of funding for the court trustee programs. We have hesitated to become more dependent

on federal funding when the history of the IV-D funding since 1975 shows rate reductions in the reimbursement. At the national and state level, funding for all programs is being constantly reevaluated, as it should be, in an effort to reduce government spending. However, if the federal funding rate is reduced again, we have no assurance that state funding will be available to replace the loss to the counties.

The Judicial Branch has over the years been fiscally responsible and minimized its requests for state general fund dollars. We feel that we have also addressed the issue of trustee fees in a fiscally responsible manner and want to continue to do so.

SRS officials have made much in previous discussions about the court trustee programs continuing to be able to be self-sufficient even if the programs ceased to charge fees on the Non-ADC cases because the loss of the fees would be made up by increased federal reimbursement. This is true, if certain assumptions become reality.

1) The federal financial participation (FFP) rate remains at 66%. (FFP is matched against whatever program costs exist and has no limit.)

2) More of the federal incentive money received by the state is released to the court trustee programs. (The federal incentive money is a finite amount of money available to the state based on a formula that considers collections and cost effectiveness and does have a limit.)

For every dollar that the court trustee programs would give up in fees, increased FFP would replace $ .66. The other $ .34 would have to be made up from the state's existing incentive monies. Therefore, if the state policy is to prohibit fees on Non-ADC cases, incentive money that has previously gone into the state general fund would have to be diverted to the court trustee programs to offset the loss of fee monies. Attachment II of my testimony provides you with some indication of the fiscal impact of the policy decision regarding fees. If court trustee program fees had not been charged in FY 92, our calculations indicate that $167,986.11 would have to have been diverted to the court trustee programs and lost to the state general fund. On the other hand, if SRS had charged fees on the Non-ADC cases for which they are responsible for enforcing the support, the state general fund could have been enriched by $231,101.77 in FY 92. Further, the charging of fees reduces the amount of the IV-D program costs for the federal incentive formula calculations. It is possible that Kansas could qualify for more than the current minimum 6% incentive level if fees were charged; unfortunately, our office

does not have the data necessary to complete this calculation.

In addition to the fiscal impact of a policy decision on fees, we believe that it is important to consider the national trend. The current trend is toward charging fees for Non-ADC child support enforcement services, not the elimination of fees. At this time there are at least 21 states (including Colorado and Iowa), the District of Columbia, and the Virgin Islands that charge fees for Non-ADC child support enforcement services. A list of these states is included in my testimony as Attachment III. Some jurisdictions charge a percentage of collections, while others charge specific dollar amounts for certain services. President Bush's January 1992 budget proposal included service fees on Non-ADC cases. In June 1992, the U. S. General Accounting Office (GAO) issued a report, "Child Support Enforcement: Opportunity to Defray Burgeoning Federal and State Non-AFDC Costs". The report was prepared for the Senate Committee on Finance and the House of Representatives Subcommittee on Human Resources of the Committee on Ways and Means. In the report, it is stated that HHS "is proposing legislative changes to the Non-AFDC child support enforcement fee structure because of increasing Non-AFDC caseloads and expenditures and its belief that the current Non-AFDC population has the ability to pay for services". The GAO report concludes with a recommendation to Congress, "because most states have opted to implement minimal fee policies and the federal government is bearing the lion's share of the unrecovered Non-AFDC child support administrative costs, we recommend that the Congress amend title IV-D of the Social Security Act to require states to charge a minimum percentage service fee of each successful child support collection." Additionally, the U. S. Commission on Interstate Child Support issued a report to Congress, "Supporting Our Children: A Blueprint for Reform" in the fall of 1992. Recommendation #119 of their report also speaks to the issue of fees on Non-ADC cases. As a member of the U. S. Commission on Interstate Child Support, Senator Bill Bradley of New Jersey introduced a bill that contained most of the Commission's recommendations (including recommendation #119) in the last days of the 102nd Congress. It is my understanding that Senator Bradley intends to reintroduce his bill to the 103rd Congress. Between the HHS proposal, the GAO recommendation, and Senator Bradley's bill, it seems most likely that Congress will be addressing the issue of fees for Non-ADC services this coming year.

In summary, we oppose the elimination of the court trustee fees on Non-ADC cases for the following reasons:

1) individuals receiving services should share in the cost of the services,

2) a reliable and timely source of funds is needed for the court trustee programs,

3) we want to minimize the demands on the state general funds, and

4) the national trend is toward fees for Non-ADC services.

If Kansas is to make a state policy decision on the issue of fees for Non-ADC services, we hope that the decision is in keeping with the national trend and is mindful of the fiscal impact to the state. As such, I stand in opposition to HB 2013.

Thank you for the opportunity to address you today and for your consideration of my comments. I would be glad to answer any questions that you may have.

IV-D Program Compliance Process

After a IV-D program compliance audit begins, it generally takes 9-12 months for OCSE officials to submit a draft audit report to the state.

Once the draft audit report is received, the state has sixty days to respond to OCSE regarding the findings in the draft report.

After OCSE receives the state's response, OCSE will issue a final report. This generally takes 3-6 months from the date OCSE receives the state's response.

If the state is considered to be substantially out of compliance with the federal regulations, OCSE will notify the state as part of the final audit report of proposed fiscal sanctions. Once the final audit report is received, the state has sixty days to prepare and submit to OCSE a corrective action plan that addresses the compliance problems identified in the audit.

If OCSE approves the corrective action plan, the fiscal sanction is stayed and the state has one year for implementation of the corrective plan plan.

Within 3-4 months following the corrective action implementation year, OCSE will conduct a re-review of the compliance problems. If the problems have been corrected, the matter is closed. If the problems have not been corrected, the state is notified of a fiscal penalty of 1% of total IV-A payments.

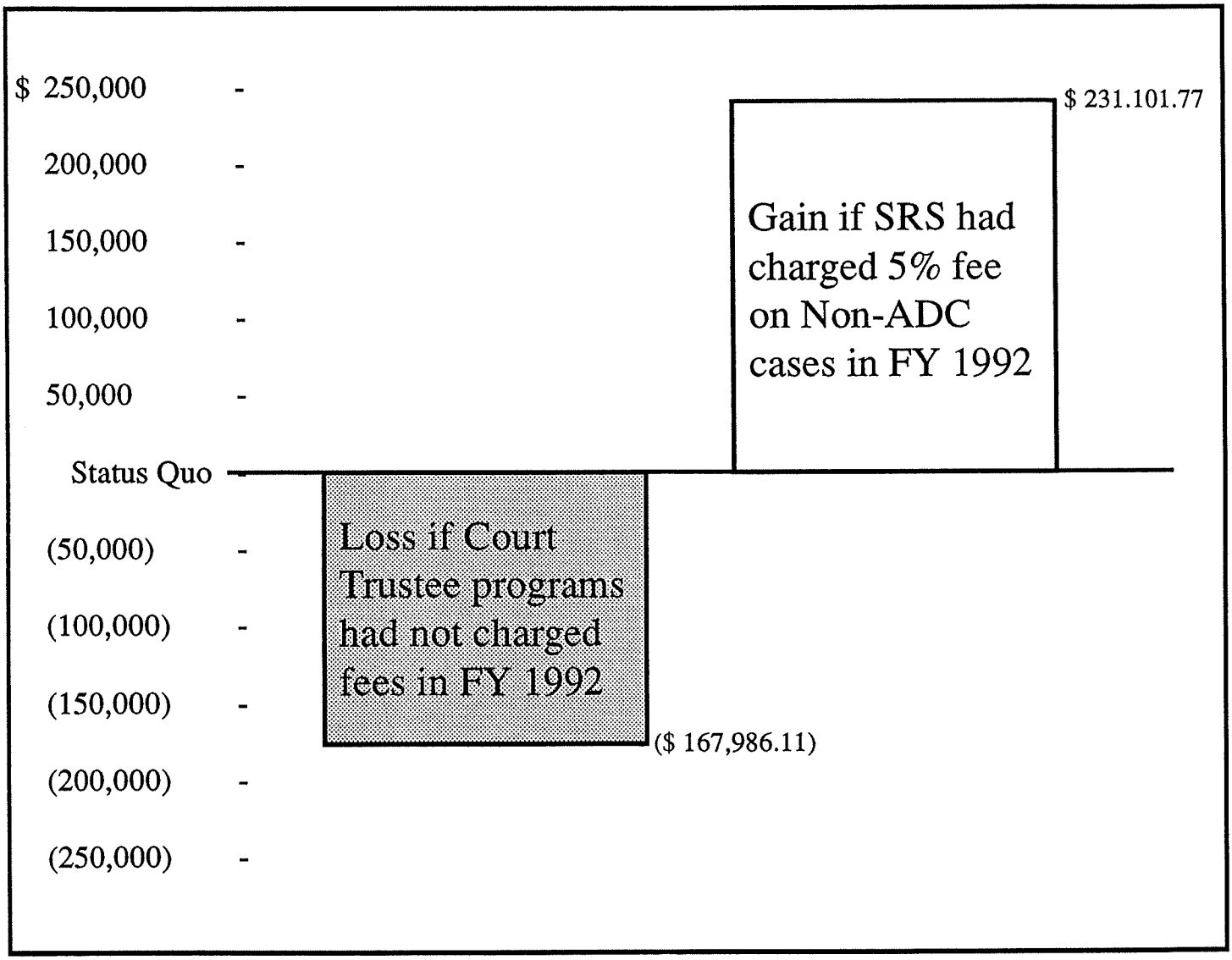
The state has 30 days to request an appeal of the re-review findings. If the state continues to receive federal funding during the appeal process, the state will be charged interest, if the eventual decision on the appeal is not in favor of the state.

At the end of the first year of fiscal penalty, OCSE will conduct another follow-up review. If the state is still out of compliance, the penaly is increased to 3%.

At the end of the second year of fiscal penalty, OCSE will conduct a second follow-up review. If the state is still out of compliance, the penaly is increased to 5%.

The penalty remains at 5% until the state comes into compliance with the federal regulations.

State General Fund



States that Charge Fees on Non-ADC Cases

Alabama
Arkansas
Colorado
Delaware
District of Columbia
Florida
Idaho
Indiana
Iowa
Kentucky
Louisiana
Maryland
Michigan
Nevada
New Mexico
New York
Ohio
Oregon
Utah
Vermont
Virgin Islands
Virginia
Wyoming

NOTE: The sources for this list are a letter from Linda Carson of the Office of Child Support Enforcement dated April 6, 1992 and the GAO report, "Child Support Enforcement: Opportunity to Defray Burgeoning Federal and State Non-AFDC Costs".

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J. Alan Sanders, M.D.
Carol A. Moddrell, M.D.
L.W. Price, M.D.
Pathologists

January 19, 1993

To: House Judiciary Committee

From: Carol A. Moddrell, M.D., representing the Kansas Society of Pathologists

Subject: House Bill 2008 dealing with changes in coroner statutes

The changes being made are the result of a meeting in Wichita in December 1991 chaired by Dr. Hancock, the President of the Kansas Coroners Association. I was present at that meeting.

The coroner statutes for Kansas are in dire need of updating. The salary figures alone are ridiculously low. The items in the current bill are an attempt to improve the current system.

1. A coroner may not deliver a body of a deceased person for final disposition to a funeral home against the family's wishes.
I have no problem with this. A body may be taken to a funeral home for autopsy, but the final disposition is up to the family.

2. The salaries of coroners and deputies are outlined in detail in the current law. The revision suggests such salaries be fixed by the administrative judge and district judges who appoint the coroner in the first place. If a district is composed of several counties, the salary expenses would be shared based on population of the individual ones. This may be looked upon as putting the coroner budget under the umbrella of the judicial budget. I agree with this, and does District Judge Mike Malone of Lawrence who appointed me.

3. Inquest language is organized into one section of the law. Before, there were several statutes in random arrangement.

4. The jurisdiction of the coroner is next addressed. Currently, the coroner takes charge of the dead body if he or she dies in his or her county or is found dead there. If an autopsy is performed at a trauma center where a patient might be transferred and die, the coroner there would order an autopsy, and the originating county would be charged for the autopsy. The reports are filed in the county of death.
The amended law provides that the coroner wherever the cause of death occurred would be able to take charge of a dead body, request and pay for the autopsy. The bill before you has one error, in that the autopsy report is to be filed in the county of death while the coroner's report is filed in the county where the cause of death occurred. These need to be consistent.

5. The bill provides that the coroner may hold his or her report if its release early would hamper law enforcement's investigation. I support this also.

6. There is further jurisdictional language about the autopsy. It is to be done by a person designated by the coroner. The fee is to be the usual and reasonable fee allowed by the judges. It is still paid for by the county in which the cause of death occurred. The proposed law requires saving certain materials for a full three years. This needs to be clarified if that is wet tissue, slides, or paraffin blocks.

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7. There are time deadlines in the current law which are sometimes difficult to meet. The proposed change allows the death certificate to be filled out as soon as possible after the coroner takes charge of a case.

The state registrar under the proposed amendment shall not certify any death not marked natural if filed by someone other than a coroner. The bill proposes that any changes in a coroner-signed death certificate may be made only by the coroner.

8. An item addresses the fact that faxed coroner's permits for cremation are acceptable.

9. The last section deals with the reporting of finding bones to the Kansas State Historical Society. I know very little about this and have no idea how the proposal found its way into these revisions that are proposed.

My position on these issues is that they offer some positive changes and should not result in any state expense. The counties funding the coroners' offices will be negotiating with their respective judges.

Ultimately I am hoping that a statewide medical examiner system will be established. The testimony I have attached was written by me in February when I testified about this to the House Local Government Committee.

The Interim Judiciary Committee that met over the summer approved funding a position for a forensic pathologist at the K.U. Medical Center who eventually would help develop a totally new medical examiner law and train pathologists to be high quality forensic experts.

Thank you for allowing me to speak to these issues.

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Pathologists

TO: House Local Government Committee

FROM: Carol A. Moddrell, M.D., representing
The Kansas Society of Pathologists Carol Moddrell M.D.

DATE: February 24, 1992

SUBJECT: House Bill 3047; Creation of a State Medical Examiner System

Kansas for many years has utilized the coroner system of death investigation. This requires that each district of one or more counties have available an M.D. or D.O. to assume the responsibility of examining certain dead bodies to determine the manner and cause of death and to sign the death certificates. These dead bodies may be recently deceased or decomposed. They may be in homes, in water, in burned motor vehicles, or anywhere else. Physicians practicing medicine throughout the state of Kansas who assume the role of coroner are, in most cases, not adequately trained for the degree of responsibility given them. Some counties have encountered difficulties in even locating a willing individual. Pathologists such as myself are trained to recognize causes of death and perform autopsies but have very limited exposure to forensic pathology, which is specifically the study of patterns of injuries causing unexpected and violent death.

Coroners are asked to decide if an autopsy is indicated. A pathologist coroner can perform his or her own autopsies. Other coroners have to locate a capable and willing pathologist to do autopsies, and that is a real problem at this time in Kansas. Many pathologists do not want to testify in court and do the tedious evidence gathering required by a complete forensic autopsy.

Coroners throughout the state are independent of each other with no supervision. A coroner in one jurisdiction might order an autopsy in one circumstance, whereas another coroner would not. One of the factors considered in the decision-making process has to be the cost to the county, and another is the logistics of finding a suitable pathologist.

There is no central repository of information on death investigation in Kansas. Reports are filed with the Clerk of the District Court of the jurisdiction in which the death occurred. A person may be injured in Douglas County and transported to Wyandotte County where he dies. The report is then filed in Wyandotte County. A family member or other interested party might want a copy of the report and have difficulty ever finding it.

The coroner system needs to be replaced with a centralized medical examiner system. There should be a chief medical examiner, board certified in forensic pathology, who trains the local medical examiners and is available to perform autopsies for them and assist them in decision-making.

There should be an adequate facility for autopsies to be performed. Mortuaries are utilized in many areas of Kansas. Some have the availability of refrigerated storage, which is mandatory for adequate death investigation. Others are variably lit and ventilated.

The pathologists of Kansas Strongly urge your committee to further investigate the establishment of a State Medical Examiner System in Kansas. I am willing to be a resource person for you should you have additional questions about the current system and why its revision is so desperately needed.

CAM:nr