Approved: 3-10-94
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 21, 1994 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Norman Furse, Revisor of Statutes
William Wolff, Legislative Research Department
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Chip Wheelen, Director of Public Affairs, Kansas Medical Society
Rose R. Rousseau, Executive Director, Douglas County AIDS Project

Others attending: See attached list

Continued Hearing on SB 198 - HIV/AIDS monitoring and research

Chip Wheelen, KMS, addressed the Committee in support of **SB 198** with proposed amendments relating to anonymous HIV test sites, reasonable access to those test sites, and a 30 day period for reporting as noted in his written testimony and a balloon of the bill. Mr. Wheelen also opposed the provisions in **SB 430** dealing with the nature of testing for the presence of HIV antibodies. (Attachment 1)

Rose Rousseau, Executive Director, Douglas County AIDS project, Lawrence, appeared before the Committee with written testimony in opposition to **SB 198** noting that the bill would require names reporting, both for those living with AIDS and those who are HIV positive. She strongly believes that no good can come from name reporting and that irreparable harm may be done if those names are made public. (Attachment 2)

During Committee discussion, Ms. Rousseau stated that she does not support the proposed amendments as suggested by KMS regarding anonymous HIV test sites. Sally Finny Brazier, KDHE, commented that the unique identifier system is just another number tacked onto the report and does not believe this process would be effective. Ms. Brazier noted that HIV surveillance funds are available to states and applicants that have HIV reporting by name. Most of KDHE test results come from private physicians, the identity of the individual is known, 252 HIV reports were submitted last year, and KDHE was able to follow-up and contact 105 partners of the HIV infected persons from these reports.

Action on SB 555 - Dietitian license renewal and reinstatement

Staff briefed the Committee on balloon amendments of **SB 555**. (Attachment 3) After Committee discussion, Senator Langworthy made a motion the Committee adopt the balloon amendments, seconded by Senator Lee. The motion carried.

Senator Langworthy made a motion the Committee recommend **SB 555 as amended** favorably for passage, seconded by Senator Salisbury. The motion carried.

Action on SB 519 - Neonatal screening program for genetic diseases

The Chair called the Committee's attention to a memo prepared by Legislative Research staff regarding births paid by Medicaid (Attachment 4) and the fiscal note of the bill (Attachment 5). Staff briefed the Committee on proposed amendments in a balloon of the bill (Attachment 6) After Committee discussion, Senator Lee made a motion the Committee adopt the amendments in the balloon of the bill, seconded by Senator Papay. The motion carried.

Senator Lee made a motion the Committee recommend **SB 519 as amended** favorably for passage, seconded by Senator Hardenburger. The motion carried.

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for February 22, 1994.

GUEST LIST

COMMITTEE: SENATE PUBLIC HEALTH & WELFARE DATE: 2-21-94

NAME	ADDRESS	COMPANY/ORGANIZATION
Melissa Hungerford	Topeka	Ks Hosp. Assn
David Hanzlick	Topeka	CS Govtal Assn
John J Federico	"	McGill + Assoc
Bob Williams	Topeka	Ks Pharmacists Assoc
Joe Turjanic	Topeka	KCA
Dan Scott	Topeka	Ks Funeral Directors Assn
Ray H. Bell	Topeka	Topeka AIDS Project
John Peterson	Topeka	Ks Assn of Psychologists
Greg Adon	Topeka	Citizen
Rose Rousseau	Lawrence	DCAP - Lawrence
Deborah M Williams	Carbondale	KU MPA program KHEL. City Seroprevalence monitoring, Ks Assn - Med. Underserved
Kathy Reardon	Kansas City	
Andrew Pelletier	Topeka	KDHE
Sally Finney Brazier	Topeka	KDHE
Chip Wheelen	Topeka	Ks Medical Soc.
Joseph Kroll	Topeka	KDHE
Greg Lesser	Topeka	KDHE

KANSAS MEDICAL SOCIETY
623 SW 10th Ave. • Topeka, Kansas 66612 • (913) 235-2383
WATS 800-332-0156 FAX 913-235-5114

February 18, 1994

To: Senate Public Health and Welfare Committee

From: Chip Wheelen, KMS Director of Public Affairs

Subject: Senate Bill 198; Identification of HIV Positive Patients
Senate Bill 430; Court Ordered HIV Testing

The Kansas Medical Society wishes to request amendments to SB198 prior to any action that your Committee may take on the bill. We have collaborated with representatives of the Department of Health and Environment in an effort to make SB198 acceptable to the KMS.

The requested amendments are described in the attached document. The first change would define "anonymous HIV test site," the second significant amendment would allow a 30 day period for reporting, and the third, extremely important amendment would assure that all Kansans would have reasonable access to an anonymous test site in the event that the person is fearful of discovery. The other amendments are technical.

We also wish to express serious reservations as to the provisions of SB430. We believe that a volunteer who has been exposed to the blood of another person would be better served if he or she would submit to HIV screens rather than to rely on results of a test of the other person. This is because of the nature of testing for the presence of HIV antibodies.

As you deliberate on these bills, we would ask that you keep in mind some important considerations. Historically, physicians and public officials have given special protections to information obtained by a physician as a result of his or her relationship with a patient. This physician-patient privilege is both an ethical obligation in the medical profession and a legal standard under Kansas law (K.S.A. 1992 Supp. 60-427). Furthermore, there are court cases which have established that the U.S. Constitution protects the patient's medical information by virtue of his or her right to privacy.

There are, however, specific statutory exceptions to the physician-patient privilege for reporting of persons suffering from contagious diseases. In the past, public officials have chosen to suspend the privileged nature of communications between patient and physician in an effort to prevent epidemics. But there is a risk involved in such exceptions.

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The knowledge that his or her condition may not be privileged information can deter patients from seeking needed medical care, particularly if there is likely to be stigmatization of those persons suffering from the malady. This can actually be counterproductive to disease prevention strategies.

Most contagious diseases cause significant symptoms to develop within a rather brief period from the time of exposure. This usually compels the patient to seek medical care regardless of his or her concerns about loss of physician-patient privilege. A patient who is suffering or dying and knows that there are medical interventions that will likely cure his or her disease, will probably sacrifice the privilege in order to be cured or at least relieved of symptoms.

Infection with human immunodeficiency virus is almost entirely different from other infectious diseases for a variety of reasons. There is no test for HIV but instead the available technology allows us to test for the presence of antibodies to HIV. This means that a patient may be infected and extremely contagious, but test negative because his or her immune system has not yet produced sufficient antibodies to test positive. That is the principal reason for our opposition to SB430.

Even if the patient is infected, he or she may not suffer any symptoms of illness for an extended period of time, perhaps several years. One must ask what motivation exists for a person to seek testing for HIV status when he or she is not ill, and whether the knowledge that his or her name will be reported to public health officials will discourage or deter the patient from submitting to testing. If this is the case, the opportunity to counsel such individuals would be lost entirely.

In this context, it is important to note that a nationwide survey published in the October 6, 1993 edition of the Journal of the American Medical Association concluded that "An alarmingly high proportion (more than 60%) of those at highest risk for HIV infection have not yet been tested for HIV antibody." The study also concludes that "While some in high-risk groups may still be unaware of the availability of testing or of their risk for infection, others may deny their risk or be deterred by their fears." This is why we urge you to proceed cautiously and guarantee that Kansans who may be reluctant to submit to an HIV screen have access to an anonymous test site.

In the past the Kansas Medical Society has maintained the position that HIV test results must be privileged and that patients should be given the opportunity to be tested anonymously in order to provide absolute assurance that the results will never be known by anyone else. Our reason for that position was based on the assumption that such heightened confidentiality would encourage testing among persons who had engaged in behavior that may have

exposed them to HIV. This, in turn, would provide the extremely important opportunity to counsel the patient regardless of his or her test results. The goal, of course, is to urge such patients to modify their behavior in a way that would preclude future exposure of themselves or others; not only to HIV but hepatitis B and other similarly transmitted diseases.

Our previous position regarding HIV testing was endorsed by the Kansas Legislature and has been the law for several years. There are many critics who do not agree with our strategy for HIV prevention who insist that public health officials must intervene in order to prevent further spread of this insidious illness. They argue that patients will not respond to counseling in a responsible fashion and that they must be "monitored." They assert that we lack the data necessary for epidemiological studies and that anonymity prevents the physician from providing recommended medical care to the patient. And finally, our critics insist that Kansas is missing the opportunity to derive the benefit of federal grant funds that are available to states where HIV reporting is mandated.

After years of resisting pressure from those who desire name reporting of HIV positive patients, our Medical Services Committee agreed that such a requirement as envisioned in 1993 SB 198 would be acceptable, but only if conditioned upon: (1) the availability of anonymous test sites within 100 miles of any location in Kansas, (2) a "grace" period of at least 30 days between test results and reporting in order to assure time for the physician to counsel the patient prior to public health intervention, and (3) appropriation of funds to provide early medical intervention and coordination of medical care. In September the KMS Council adopted the recommendations of our Committee, thus altering the official position of the KMS.

For the above reasons we respectfully request that you adopt our proposed amendments to SB198 prior to recommending passage and that you recommend that SB430 not be passed. Thank you for considering our comments and concerns.

Session of 1993

SENATE BILL No. 198

By Committee on Public Health and Welfare

AN ACT relating to HIV infection; amending K.S.A. 65-6001, 65-6002, 65-6003, 65-6004, 65-6006 and 65-6007 and repealing the existing sections.

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

Section 1. K.S.A. 65-6001 is hereby amended to read as follows: 65-6001. As used in K.S.A. 65-6001 to 65-6007, inclusive, and amendments thereto, unless the context clearly requires otherwise:

(a) "AIDS" means the disease acquired immune deficiency syndrome.

(b) "HIV" means the human immunodeficiency virus.

(c) ~~"Positive reaction to an AIDS test" means a positive screening test, approved by the secretary, indicating infection by HIV, with a positive specific test as specified by the secretary comprising confirmed analytical results which are evidence of HIV infection~~ *"Laboratory confirmation of HIV infection" means positive test results from a confirmation test approved by the secretary.*

(d) "Secretary" means the secretary of health and environment.

(e) "Physician" means any person licensed to practice medicine and surgery.

(f) "Laboratory director" means the person responsible for the professional, administrative, organizational and educational duties of a laboratory.

(g) "HIV infection" means the presence of HIV in the body.

(h) "Racial/ethnic group" shall be designated as either white, black, Hispanic, Asian/Pacific islander or American Indian/Alaskan Native.

(i) "Law enforcement officer" means police officer or law enforcement officer as such terms are defined under K.S.A. 74-5602 and amendments thereto.

Sec. 2. K.S.A. 65-6002 is hereby amended to read as follows: 65-6002. (a) Whenever any physician ~~has information indicating~~ that a person is suffering from or has died from AIDS, such knowledge or information shall be reported immediately to the secretary, together with the name and address of the person who has AIDS, ~~or~~

These amendments are the product of collaboration between representatives of the Kansas Department of Health and Environment and the Kansas Medical Society.

(j) "Anonymous HIV test site" means a location where a person may be tested to determine the presence of antibodies to HIV infection without providing his or her name or address.

knows

~~the name and former address of the deceased individual who had such disease. Any laboratory director shall report all positive reactions to an AIDS test to the secretary~~. Any physician who is in receipt of a ~~report indicating a positive reaction to a test for HIV infection~~ *laboratory confirmation of HIV infection* resulting from the examination of any specimen provided to a laboratory by such physician shall report all such ~~positive reactions~~ *information* to the secretary. Reports ~~by physicians and laboratory directors~~ shall be provided within ~~one week~~ of receipt or interpretation of the positive test results and shall ~~designate~~ *include the name and address of the person tested,* the type of test or tests performed, the date of performance of the test or tests, the results of the test or tests, the sex, date of birth, county of residence and racial/ethnic group of the person tested. ~~For the purpose of reporting HIV infection only, the name of the patient shall not be reported. The provisions of this subsection shall not apply to a physician who, while performing services, other than the direct rendition of medical services, for an insurance company, health maintenance organization or nonprofit medical and hospital service corporation, becomes aware that a person has tested positive for HIV or is suffering from or has died from AIDS.~~

30 days

(b) Whenever any laboratory director has information on laboratory confirmation of HIV infection, this information shall be reported to the secretary. Reports shall be provided within ~~one week~~ of testing and shall include the type of test or tests, the results of the test or tests, dates of performance of the test or tests, the name of the physician or facility requesting the test or tests, and any identifying information about the person tested as the laboratory director has access to, such as the name and address of the person tested, the sex, date of birth, county of residence and racial/ethnic group of the person tested.

30 days

~~(b)~~ *(c)* Any physician or laboratory director who reports the information required to be reported under subsection (a) *or (b)* in good faith and without malice to the secretary shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such report. Any such physician or laboratory director shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

~~(c)~~ *(d)* Information required to be reported under subsection (a) *or (b)* and information obtained through laboratory tests conducted by the department of health and environment relating to HIV or

AIDS and persons suffering therefrom or infected therewith shall be confidential and shall not be disclosed or made public, upon subpoena or otherwise, beyond the disclosure necessary under subsection (a) *or (b)* or under subsection (a) of K.S.A. 65-6003 and amendments thereto or the usual reporting of laboratory test results to persons specifically designated by the secretary as authorized to obtain such information, except such information may be disclosed:

(1) If no person can be identified in the information to be disclosed and the disclosure is for statistical purposes;

(2) if all persons who are identifiable in the information to be disclosed consent in writing to its disclosure;

(3) if the disclosure is necessary, and only to the extent necessary, as specified by rules and regulations of the secretary, to protect the public health;

(4) if a medical emergency exists and the disclosure is to medical personnel qualified to treat AIDS or HIV infection, except that any information disclosed pursuant to this paragraph shall be disclosed only to the extent necessary to protect the health or life of a named party; or

(5) if the information to be disclosed is required in a court proceeding involving a minor and the information is disclosed in camera.

~~(d)~~ *(e)* Information regarding cases of AIDS or HIV infection reported in accordance with this section shall be used only as authorized under this act. Such information shall not be used in any form or manner which would lead to the discrimination against any individual or group with regard to employment, to provision of medical care or acceptance into any facilities or institutions for medical care, housing, education, transportation, or for the provision of any other goods or services.

Sec. 3. K.S.A. 65-6003 is hereby amended to read as follows: 65-6003. (a) The secretary shall investigate cases of persons who have *HIV infection or* AIDS and ~~maintain a supervision over~~ monitor such cases during their continuance. The secretary may adopt and enforce rules and regulations for the prevention and control of *HIV infection or* AIDS and for such other matters relating to cases of persons who have *HIV infection or* AIDS as may be necessary to protect the public health.

(b) Any information relating to persons who have *HIV infection or* AIDS which is required to be disclosed or communicated under subsection (a) shall be confidential and shall not be disclosed or made public beyond the disclosure necessary under subsection (a) or under subsection ~~(a)~~ *(b)* of K.S.A. 65-6002 and amendments thereto to persons specifically designated by the secretary as authorized to

be appropriate. The clerks of the district courts or judges thereof, when applied to for a marriage license, shall ~~provide~~ *make available* copies of such educational material to the parties to the proposed marriage.

Sec. 6. K.S.A. 65-6007 is hereby amended to read as follows: 65-6007. The secretary shall establish and maintain test sites throughout the state where the anonymous testing for HIV may be undertaken. *The secretary shall ~~designate at least one but not more than five such sites throughout the state where anonymous testing for HIV may be undertaken.~~* assure that within 100 miles of any location in this state there shall be at least one anonymous HIV test site where persons may be tested for HIV, including testing by way of a confirmation test approved by the Secretary.

Sec. 7. K.S.A. 65-6001, 65-6002, 65-6003, 65-6004, 65-6006 and 65-6007 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

C. Steeples, KMS

Remarks regarding Senate Bill 198, February 21, 1994
Rose R. Rousseau, Executive Director, Douglas County AIDS Project

My name is Rose Rousseau, and I am the Executive Director of the Douglas County AIDS Project in Lawrence, Kansas. I would like to thank Committee Chairperson, Senator Sandy Praeger, and other members of the Committee on Public Health and Welfare, for permitting me to speak to you about Senate Bill No. 198.

I am here today representing my agency, the Douglas County AIDS Project, with members in excess of 400 persons, as well as clients, both those who are HIV-positive, or living with AIDS, and their families, partners, and friends, some of whom are HIV-positive, and some of whom are not. We are all in opposition to Senate Bill No. 198, especially on the following grounds:

*We take exception to names reporting, both for those living with AIDS, and those who are HIV-positive. We strongly believe that no good can come from names reporting, and irreparable harm may possibly, and may <u>probably</u> be done.

*We believe specifically that:
Contrary to the report from the Division of Budget, the revisions would have considerable fiscal impact to KDHE, since the deluge of additional information and supposed increase in partner and past-contact notification would demand more professional staff, support staff, equipment, and systems that would have to be invested in and maintained. This would require money that could far better be spent on targeted prevention education, since teenagers, women and children are the fastest-growing populations of HIV-positive individuals in our country.

*Those who now want and need to be tested would be more reluctant to be tested and treated for HIV disease in this state. The net result of failure to be tested, especially early in the disease, and the consequent decrease in seeking medical treatment, would be that the productive lives of infected people in our communities would be <u>severely limited</u>. Employers would pay for more sick days. HIV-positive individuals are more highly medicated in order for their compromised immune systems to adequately deal with illnessess like the common cold. Without early and aggresssive treatment, the course of the illness would be both more severe, and more protracted.

A decrease in testing and a fear of seeking medical help could cause the number of symptom-free, fruitful years the average HIV-positive person experiences to drastically fall--from the 8-10, or even 12 years now possible before the onset of symptoms, to far less. Both employer, individual, and community would suffer an unnecessary premature loss of productivity.

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*We fail to acknowledge KDHE's contention that HIV surveillance funding is only available to those states requiring by-name reporting of HIV infection.

According to all my information, CDC funding is contingent upon adequate demonstration of the non-duplication of counted individuals; the CDC does not, however, build their case by the use of names. Instead, the use of a "unique identifier" could be employed, a series of numbers or unique code given to each individual for the purpose of the non-duplication of information.

And, since the KDHE is anticipating receipt of additional federals funding that is 87% greater than their previous award, their efforts in applying for funds under the present system must have already served them well.

*We believe that drastic methods like names reporting are unneccesary if one justification is reaching increased numbers of contacts who were at high risk, since according to the CDC's January announcement, the use of latex condoms with "discordant couples," (one infected, and one uninfected partner) results in 1% or less infection of partners per year. Educating Kansans in non-risky behavior may be a much better use of resources than a stepped-up campaign of partner notification,

*Lastly, I would strongly emphasize that the possible and very theoretical increase in the pulbic's right to safety and health that might come as a result of names reporting pales before the potential harm to many Kansas citizens.

One in 250 people nation-wide is now infected with HIV disease, (according to the Centers for Disease Control in Atlanta) a staggering number that is daily growing. I know, only too well, how harmed many people have been through disclosure of their status:

There is the situation of Susan B., who is barely 25 years old. She lost her job as a creative consultant when her employer discovered she was HIV-positive. Her parents turned her out of their home when she returned for their help, fearful that neighbors might discover their daughter's secret.

There is the case of John D., who, when living in Texas, first lost his job, was blackballed in his profession, lost his insurance and eventually saw his name printed in the newspaper alongside the names of other HIV-positive people.

There is the case of Jessie L., who has changed jobs three times, changed apartments many times--all for fear of reprisal--and has been shunned by her own church's congregation. Jessie is HIV-positive.

These are all people whom I know right now. For each of them I know 10 others who live in fear and struggle against an implied shame.

By passing names reporting for HIV-positive individuals into law, we would send a message to them, and to every caring and compassionate person in our country that Kansas has just taken a proud step backwards in the fight against AIDS.

Session of 1994

SENATE BILL No. 555

By Committee on Public Health and Welfare

1-20

AN ACT concerning the dietitians licensing act; relating to licensing dietitians; amending K.S.A. 65-5909, 65-5911 and 65-5912 and repealing the existing sections.

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

Section 1. K.S.A. 65-5909 is hereby amended to read as follows: 65-5909. *(a)* Licenses may be renewed upon payment of the required renewal fee and successful completion of not more than 15 hours of continuing education during the licensure period as specified by the secretary by rules and regulations.

(b) At least 30 days before the expiration of the license, the secretary shall notify the licensee of the expiration by mail addressed to the licensee's last place of residence as noted upon the office records. If the licensee fails to submit an application and fee by the date of expiration of the license, the licensee shall be given a second notice that the license has expired and the license may only be renewed if the application, renewal fee and late renewal fee are received by the secretary within the thirty-day period following the date of expiration and, if the application and both fees are not received within the thirty-day period, the license shall be considered to have lapsed for failure to renew and shall be reissued only after the applicant has been reinstated under subsection (c).

(c) Any licensee who allows the licensee's license to lapse by failing to renew as herein provided may be reinstated upon payment of the renewal fee and the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the secretary. The secretary shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of persons whose licenses have lapsed for failure to renew.

Sec. 2. K.S.A. 65-5911 is hereby amended to read as follows: 65-5911. (a) The secretary may deny, refuse to renew, suspend or revoke a license where the licensee or applicant:

(1) Has obtained, or attempted to obtain, a license by means of fraud, misrepresentation or concealment of material facts;

(2) has been guilty of unprofessional conduct as defined by rules

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and 65-5913

for reinstatement of persons whose licenses have lapsed for failure to renew

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and regulations adopted by the secretary;

(3) has been found guilty of a crime found by the secretary to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of a dietitian;

(4) is mentally ill or physically disabled to an extent that impairs the individual's ability to engage in the practice of dietetics;

(5) has used any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(6) has violated any lawful order or rule and regulation of the secretary; or

(7) has violated any provision of this act.

(b) Such denial, refusal to renew, suspension or revocation of a license may be ordered by the secretary after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act.

(c) A person whose license has been revoked ~~for a period of time, the length of which shall not exceed two years and shall be prescribed by the secretary at the time of revocation,~~ may apply to the secretary for reinstatement. The secretary shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An ~~application~~ *applicant* for reinstatement shall ~~be accompanied by the application~~ *submit a reinstatement application and a reinstatement* fee established by the secretary *and fulfill the requirements established under subsection (c) of K.S.A. 65-8909 and amendments thereto.*

65-5909

Sec. 3. K.S.A. 65-5912 is hereby amended to read as follows: 65-5912. (a) Nothing in this act shall be construed to require any insurer or other entity regulated under chapter 40 of the Kansas Statutes Annotated or any other law of this state to provide coverage for or indemnify for the services provided by a person licensed under this act.

(b) So long as the following persons do not hold themselves out to the public to be *dietitians or* licensed dietitians or *use these titles in combination with other titles or* use the abbreviation L.D., or any combination thereof, nothing in this act shall be construed to apply:

(1) To any person licensed to practice the healing arts, a licensed dentist, a licensed dental hygienist, a licensed professional nurse, a licensed practical nurse, a licensed psychologist, a registered masters level psychologist, a licensed pharmacist or an employee thereof, a physician's assistant, a registered professional counselor;

(2) to any unlicensed employee of a licensed adult care home or

a licensed medical care facility as long as such person is working under the general direction of a licensee in the healing arts, nursing or a dietetic services supervisor as defined in regulations adopted by the secretary of health and environment or a consultant licensed under this act;

(3) to any dietetic technician or dietetic assistant;

(4) to any student enrolled in an approved academic program in dietetics, home economics, nutrition, education or other like curriculum, while engaged in such academic program;

(5) to prevent any person, including persons employed in health food stores, from furnishing nutrition information as to the use of food, food materials or dietary supplements, nor to prevent in any way the free dissemination of information or of literature as long as no individual engaged in such practices holds oneself out as being licensed under this act;

(6) to prohibit any individual from marketing or distributing food products, including dietary supplements, or to prevent any such person from providing information to customers regarding the use of such products;

(7) to prevent any employee of the state or a political subdivision who is employed in nutrition-related programs from engaging in activities included within the definition of dietetics practice as a part of such person's employment;

(8) to any person who performs the activities and services of a licensed dietitian or nutrition educator as an employee of the state or a political subdivision, an elementary or secondary school, an educational institution, a licensed institution, or a not-for-profit organization;

(9) to any person serving in the armed forces, the public health service, the veterans administration or as an employee of the federal government;

(10) to any person who has a degree in home economics insofar as the activities of such person are within the scope of such person's education and training;

(11) to any person who counsels or provides weight-control services as a part of a franchised or recognized weight-control program or a weight-control program that operates under the general direction of a person licensed to practice the healing arts, nursing or a person licensed under this act;

(12) to any person who is acting as a representative of a trade association and who engages in one or more activities included within the practice of dietetics as a representative of such association;

(13) to a registered physical therapist who makes a dietetic or

nutritional assessment or gives dietetic or nutritional advice in the normal practice of such person's profession or as otherwise authorized by law;

(14) to a dietitian licensed, registered or otherwise authorized to practice dietetics in another state who is providing consultation in this state;

(15) to any person conducting a teaching clinical demonstration which is carried out in an educational institution or an affiliated clinical facility or health care agency;

(16) to any person conducting classes or disseminating information relating to nonmedical nutrition; or

(17) to any person permitted to practice under K.S.A. 65-2872a and amendments thereto.

(c) Nothing in this act shall be construed to interfere with the religious practices or observances of a bona fide religious organization, nor to prevent any person from caring for the sick in accordance with tenets and practices of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing.

Sec. [4.] 5. K.S.A. 65-5909, 65-5911 [and] 65-5912 are hereby repealed.

Sec. [5.] 6. This act shall take effect and be in force from and after its publication in the statute book.

Sec. 4. K.S.A. 65-5913 is hereby amended to read as follows: 65-5913. The secretary shall fix by rules and regulations fees for applications for and renewal of licenses, temporary licenses, examination fees, late renewal fees and reinstatement fees under this act. Such fees shall be fixed in an amount to cover the costs of administering the provisions of this act. The secretary shall remit all moneys received from fees, charges or penalties under this act to the state treasurer at least monthly. Upon receipt of each such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and credit the same to the state general fund.

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and 65-5913

3-4

MEMORANDUM

Kansas Legislative Research Department

300 S.W. 10th Avenue
Room 545-N -- Statehouse
Topeka, Kansas 66612-1504
Telephone (913) 296-3181 FAX (913) 296-3824

February 7, 1994

To: Senate Committee on Public Health and Welfare

From: Emalene Correll, Research Associate

Re: Births Paid By Medicaid

The general presumption is that about one-third of births in Kansas are now to pregnant women who are eligible for Medicaid. Since Medicaid data are kept on a fiscal year basis and the vital statistics reporting of births is on a calendar year basis, it is difficult to reconcile the data. However, the total of 11,049 births paid through the Medicaid program in fiscal year 1993 compared with the estimated 38,000 births used by the Department of Health and Environment in estimating the revenue that would result from the passage of S.B. 519, or 29 percent, supports the rule of thumb that about 30 percent of all births occurring in Kansas are paid for through Medicaid.

Social and Rehabilitation Services has compiled a list of the top 20 DRGs (diagnostic related groups) paid through the Medicaid program by volume of discharge for fiscal year 1993. The top discharge on the list in terms of reason for hospitalization is vaginal delivery without complications, accounting for 7,074 hospital discharges or 15.53 percent of the top 20 DRGs. Other birth-related discharges rank as numbers five, six, 10, and 12 on the list of top 20 DRGs. The total of birth-related discharges was 11,049. The 11,049 total comprises 37 percent of the total 30,080 discharges on the top 20 list. At a cost of $22.00 per testing kit and assuming only one infant to be tested per hospital discharge, the cost to the Medicaid program of paying for genetic testing kits as proposed in S.B. 519 would have been $243,078 in state and federal funds in fiscal year 1993, including $101,000 from state funds. Twenty-nine percent of the $836,000 income estimated by Health and Environment from the fee that would be authorized by S.B. 519 for mandated genetic screening would have come from the Medicaid program.

Attached are two sections from the *Fiscal Year 1995 Budget Analysis* prepared by the Legislative Research Department that concern the "cost recovery for newborn screening" initiative proposed by the Department of Health and Environment that would be implemented through enactment of S.B. 519. Also attached is a copy of the budget appeal form submitted by the Department of Health and Environment relating to the cost recovery initiative which gives a more complete breakdown of the additional costs associated with S.B. 519.

94-0008551.01/EC

Senate PH&W
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Agency Request

recovery initiative and more contract agreements for the agency's Infant and Toddler program. These items are discussed further below. Included in the FY 1995 request is 44.5 FTE positions, providing for an increase of 2.0 new FTE positions. Also, there are five special projects positions financed by the FY 1995 request as compared to seven in the current year. The difference is because the agency did not budget for the two positions that were just approved through State Finance Council action in December, 1993. Financing for FY 1995 consists of $1,728,247 from the State General Fund, $5,500,525 from federal funds, and $181,173 from other funds. Actual FY 1993 Bureau expenditures were $4,983,516 ($1,386,875 from the State General Fund) for the then 43.5 FTE and five special projects positions.

1. New Initiative -- Cost Recovery for Newborn Screening. The agency requests $419,615 from the State General Fund to be used for salaries and operating costs of 3.0 new FTE positions. The request for additional staff is based upon a proposal to implement a cost recovery program for the now state mandated screening of newborn infants. K.S.A. 65-181 requires screening of newborn infants for phenylketonia, congenital hypothyroidism, and galactosemia. The agency proposes that current laws be amended to allow for recovery of costs of the screening program and that the revenues collected be credited to a new dedicated fund for such purposes. Currently the Department's laboratory conducts and provides specimen kits for the screenings. Test results are reported back to those who request the testing. Positive tests also are reported to the Bureau of Family Health. Staff of the Bureau then do follow-up inquiries and referrals to those who have contractual agreements with the state to provide for diagnostic services and for mandated education related to phenylketonia, congenital hypothyroidism, and galactosemia. K.S.A. 65-180 requires the Secretary of Health and Environment to provide an intensive educational program among physicians, hospitals, public health nurses, and the general public with regard to phenylketonia, congenital hypothyroidism, and galactosemia. The Bureau also maintains a registry of those with a confirmed diagnosis and provides treatment products. Included in the request is $33,707 for the salary ($28,622) and associated other operating costs ($5,085) of a 1.0 new Accountant II position, which is budgeted in another program (General Management). Budgeted in this program for the initiative is $57,708 for the salaries of 2.0 new FTE positions, a Public Health Nurse II and an Office Assistant IV, and $28,200 for operating costs for the new positions (including $7,753 for computer purchases). Also, the request includes $300,000 to provide for consultant service contracts and

Governor's Recommendation

be shifted. Under the recommendation, staff for the Bureau would consist of 51.5 FTE positions in FY 1995. A turnover savings rate of 3.6 percent ($67,432) instead of the 2.8 percent ($51,405) rate proposed by the agency is recommended. Other adjustments to the agency's budget request are described below, including using moneys for financing that would be generated through proposed legislation. The recommendation is financed by $1,336,003 from the State General Fund (a reduction of $392,244 from the agency's request), $5,603,436 from federal funds, and $249,266 from other funds. For the current year, the Governor concurs with the agency's estimate of $6,941,872.

1. The Governor recommends a total of $139,582 for the requested newborn screening cost recovery initiative. Of the amount recommended, the Governor finances $139,348 from possible new revenues that would be generated through the passage of legislation described in this initiative and $234 from the State General Fund. The recommendation includes $59,216 in this program for the salaries of 2.0 new FTE positions and $9,540 for associated other costs of the positions. Also, the recommendation includes $27,763 in another program to cover the salary cost of a third requested new position, an Accountant II. The remaining moneys of $43,063 (including $234 from the State General Fund) are recommended as expenditures for the agency's Laboratory. Further discussion on the recommended Laboratory moneys can be found in the Laboratory section of this analysis, which is toward the back of this document. **(Staff Note:** The Legislature may want to review this item since it requires passage of legislation before revenues will be available to finance the Governor's recommendation. K.S.A. 1993 Supp. 75-3721 prohibits the Governor's budget plan from including any proposed expenditures when the expenditures are financed from anticipated income attributable to proposed legislation.)

treatment products. (The agency says that treatment products for just those diagnosed with phenylketonia were over $110,000 in 1992.) In addition to the above, the agency's Laboratory budget includes $6,406 from the State General Fund for this new initiative, bringing the total costs of this new initiative in FY 1995 to $426,021. (See the Laboratory section of this analysis for further details on possible reductions in State General Fund expenditures with regard to this initiative.) Once the cost recovery program is implemented, the agency anticipates that further State General Fund financing would no longer be necessary.

2. ***New Federal Grant -- Maternal and Child Health Systems Development Unit.*** The agency's current year estimate is adjusted to reflect $100,000 that was approved by the State Finance in December, 1993. The moneys are from a new grant award for a State Systems Development Initiative. The Department anticipates that the new grant will continue for a three-year period. The moneys are for establishing a Maternal and Child Health Systems Development Unit and a Maternal and Child Health Coalition of both the public and private sectors. The new Unit will be responsible for organizing and coordinating efforts of the Coalition as well as for helping to coordinate a developing health care system responsive to the needs of women and children. Included in the approved current year expenditures were $52,154 for the salary of two special projects positions (1.0 Health Planning Consultant and 1.0 Office Assistant III); $20,740 for contractual fees for a needs assessment (consultants to gather data, develop new data as needed, and assist the Coalition with reviewing data and developing recommendations); $2,980 for in- and out-of-state travel for the Health Planning Consultant; $1,740 for travel and per diem for the Coalition; and $22,386 for other operating costs (including $15,036 for which no specified use for the moneys was identified). **(Staff Note:** The agency anticipates receipt of $100,000 in FY 1995 for this three year grant, none of which was included in the agency's FY 1995 budget request. The FY 1995 budget request will need to be adjusted in order to allow the agency authority to continue to expended the new federal grant moneys.)

2. The Governor's current year recommendation reflects the $100,000 approved by State Finance Council action to provide for the new State Systems Development Initiative (SSDI). For FY 1995, the Governor recommends continued financing for the SSDI initiative by adding the grant moneys of $100,000 to the agency's request. Reflected in the Governor's recommendation is the addition of 2.0 new FTE positions above the agency's request. The Governor assumes that any staff hired as special projects positions in the current year for this initiative would be shifted to the new FTE positions in FY 1995.

3. ***Infant and Toddler Program.*** For professional service contractual fees related to the Infant and Toddler program, the agency requests $2,787,405 in FY 1995, an increase of $119,352 from the current year estimate of $2,668,053. The additional moneys are all from federal funds. Kansas has been participating in the phased-in implementation of the Infant and Toddler federal grant pilot program (Part H of P.L. 99-457) since 1986. This is the second year that the program has been fully implemented statewide. The program

3. The Governor concurs with the agency's request of $2,787,405 in FY 1995 and $2,668,053 in the current year for the Infant and Toddler program.

Agency Request	Governor's Recommendation
federally funded new special projects positions that were added in FY 1993 and the current year because of the mandated Licensure Clinical Laboratory Improvement Amendments (CLIA) grant program. The federal grant program requires complaint inspections as well as biennial inspections of all clinical laboratories to ensure validity of lab test results. The agency reports that the positions were not requested because the federal government continues to delay implementation of its newly expanded regulations of the CLIA. These new regulations supposedly became effective on September 1, 1992. When the additional federal moneys are received for this grant program, the agency plans to expend them from an existing fund which has an expenditure limitation of "no limit".)	
1. Expansion -- Analytical Blood Lead Program. The agency requests $219,308 from the State General Fund to hire staff and purchase equipment in order to conduct routine annual blood lead screening analyses on approximately 17,000 children. According to the agency, evidence indicates that about 17.0 percent of children from 0 to 6 years of age may be affected by lead poisoning due to environmental exposure. Of the requested amount, $52,797 would be for salaries of 2.0 new FTE positions (a Chemist II and an Office Assistant III), $75,250 would be for associated operating costs of the new positions (including $60,350 for professional supplies), and $91,261 would be for capital outlay purchases of both analytical and office equipment (including $70,000 for one atomic absorption spectrophotometer and $4,761 for one microcomputer with a laser printer).	1. The Governor does not recommend funding in FY 1995 for routine annual blood lead screening analyses of children. The recommendation deletes the financing for the salary and other operating costs of the requested 2.0 FTE positions.
2. New Position -- Microbiologist. The agency requests $32,870 mostly from federal funds for a new 1.0 FTE classified Microbiologist I position. Included in the request is $30,370 from federal funds for salary and wage expenses and $2,500 from the State General Fund for office space costs. According to the agency, the new position would conduct analyses of immunization serums, including 7,000 to 8,000 analyses for rubella.	2. The Governor does not recommend this new 1.0 FTE position in FY 1995. The recommendation deletes the requested financing from the federal funds as well as from the State General Fund.
3. New Initiative -- Cost Recovery for Newborn Screening. As part of the new cost recovery initiative discussed under the agency's Bureau of Family Health, the agency requests $6,406 from the State General Fund for the reclassification of a Chemist II to a Chemist III position ($3,406, including fringe benefit costs) and for new capital outlay equipment that will enhance markings to identify positive specimens ($3,000). The agency asks that the Chemist position be upgraded because of expanded responsibilities due to the new initiative. The agency reports that implementation of the proposed cost recovery initiative will allow it to shift an estimated	3. Based on an agency appeal, the Governor recommends in FY 1995 $43,063 to provide for this new cost recovery initiative. Included in the Governor's recommendation is $3,336 (including fringe benefit costs) for upgrading a Chemist II to a Chemist III and $39,727 for replacing out-dated equipment. The agency's appeal says that equipment replacement has been under funded for the last three years. Recommended financing for this new initiative includes $42,829 from the new dedicated fee fund that would be established with passage of legislation allowing for recovery of costs of the screening program. Also, $234 is recommended

$298,737 in operating costs from the State General Fund to the new revenues that will be generated by the cost recovery proposal.

4. *Other Lab Equipment.* Excluding expenditures for the items above ($91,261 for lab equipment for the lead initiative and $3,000 for the cost recovery initiative), the agency requests $734,082 in FY 1995 for new and replacement laboratory equipment. This is an increase of $428,110 over the current year estimate of $305,972. Financing for the FY 1995 request includes $667,032 (an increase of $414,042 over the current year) from the State General Fund and $67,050 from emergency preparedness fee funds. Major purchases in the request from the State General Fund include $227,000 for payment on a certificate of participation for purchasing equipment in FY 1993 to expand monitoring of drinking water supplies because of new federal mandates; $125,000 for one gas chromatograph/mass spectrometer to replace one that is about ten years old; $45,000 for one gas chromatograph to replace one that is 13 years old; $75,000 for one graphite furnace to replace one that is outdated; $50,000 for one autoanalyzer to replace old nonfunctioning equipment; and $28,000 for one liquid handling station to replace one that is technically obsolete. Of the $67,050 being requested from the emergency preparedness fee funds, $50,000 is for the renovation of existing facilities to allow for a unit that can be isolated to handle highly radioactive materials in the event of a nuclear accident. **(Staff Note:** The agency notes that an estimated $600,000 will be collected in laboratory fees because of water utility requests for comprehensive analyses of Kansas public drinking waters. These funds are credited to the State General Fund.)

from the State General Fund to cover the cost of upgrading the Chemist position.

4. Excluding the $39,727 recommended in relation to the cost recovery initiative previously discussed, the Governor recommends $450,550 in FY 1995 for all other laboratory equipment. Included in the recommendation is the $67,050 from emergency preparedness fee funds to provide for renovating existing facilities for a unit that can be isolated to handle highly radioactive materials in the event of a nuclear accident. Remaining recommended financing is from the State General Fund, except for $5,500 from federal tuberculosis funds. Of the amount recommended from the State General Fund, the Governor intends that $25,806 be expended for computer equipment. The agency budgeted purchase of the equipment in another program. The Governor's recommendation shifts it back to an expenditure in this program.

AID TO LOCAL UNITS

1. Child Care Licensing. A total of $696,845 is requested for FY 1995 and $731,439 for the current year to provide contractual funds to county health departments for carrying out the state child care licensing and regulation program. (In recent years, the agency also has contracted with some private groups for inspections because local health departments have opted not to receive the grants. The agency says that local health departments have chosen not to participate in the grants because grant amounts have not covered the full costs of providing the service.) Licensing is required in those facilities such as foster homes where children who are under 16 years of age live outside the home. Moneys are distributed based on the number of children under 16

1. The Governor recommends $710,148 in FY 1995 for aid to local health departments in order to carry out the state child care licensing and regulation program. The recommendation is an increase of $13,303 from the agency's request of $696,845. The additional moneys are provided from the State General Fund. Recommended financing includes $240,148 from the State General Fund and $470,000 from federal funds. For the current year, the Governor concurs with the agency's estimate of $731,439, of which $231,439 is from the State General Fund.

BUDGET APPEAL FORM - FY 1995

ISSUE NO 32: Expansion of Newborn Screening Program -- Services for Children with Special Health Needs -- FY 1995

Name and Number of Bureau/Program: Laboratory (8420), Office of General Services (0121), Services for Children with Special Health Needs (6510)

Priority No.: 4

Amount Appealed:

SGF	**FY 95**
Laboratory (8420)	$ 42,829
Office of General Services (0121)	$ 27,763
Services for Children with Special Health Needs (6510)	$ 68,756
TOTAL	$139,348

Justification: The neonatal screening program can identify children who are at high risk of adverse health effects due to genetic deficiency disease. However, these children require intensive follow-up to be certain that each receives definitive diagnosis and entry into supportive care. The program must decrease the number of children lost to follow-up. Establishment of a fee for service which covers the cost of screening and follow-up will provide sufficient resources to accomplish this goal.

The educational follow-up, and counselling under K.S.A 65-180 and K.S.A 65-1,105 can not be properly address without additional funding. Two staff members (subprogram #6510) delegated to this function is required to fulfill the intent of the statue. This will allow aggressive and expanded follow-up activities, laboratory cost, and any medical management that is not covered by other revenue sources or a third part.

Subprogram #8420 Object Code 100 Salaries $ 3,102.00
An existing Chemist II position upgraded to a Chemist III due to increased responsibilities associated with fee collection, expanding follow-up activities, and educational workshops.

Subprogram #8420 Object Code 400 Capital Outlay $39,727.00
Equipment replacement has been under-funded for the past three years. It is essential that the laboratory replace outdated and difficult to repair equipment, in order to produce correct laboratory results.

Subprogram #0121 Object Code 100 Salaries $27,763.00
No current SGF funding exist, the Accountant II primary responsibility will be collecting fees. This position must be filled prior to initiation of fee collection.

Subprogram #6510 Object Code 100 Salaries $59,216.00
The Public Health Nurse III and an Office Assistant IV position are new and unfunded positions. There is an immediate need for comprehensive follow-up activities. The activities include locating all infants requiring additional testing by the laboratory or referral to consultants for definitive diagnosis and medical management. The agency risk bearing major medical and legal consequences if a disease infant is lost to follow-up.

Subprogram #6510 Object Code 400 Capital Outlay $ 9,540.00
Equipment to support the Public Health Nurse III and an Office Assistant IV position.

The following fiscal note indicates the total cost of the program: Laboratory cost will switch from SGF to fee, the position in the Office of General Services will be new, Services for Children with Special Health Needs will switch from SGF to fee, only the Public Health Nurse III and the Office Assistant IV are presently unfunded.

Fiscal Impact:

Salaries and Wages Classification	Total FTE	Amount
KHEL		
Senior Public Health Scientist	1.00	$53,309.00
Chemist III	1.00	41,136.00
Chemist I	1.00	31,939.00
Microbiologist II	1.00	38,664.00
Microbiologist I	1.00	31,939.00
Laboratory Technician II	1.00	32,470.00
Key Board Operator II	1.00	51,000.00

Salaries and Wages Classification	Total FTE	Amount
BFH		
Public Health Nurse III*	1.00	$ 37,315.00
Office Assistant IV*	1.00	21,901.00
GS		
Accountant II*	1.00	27,763.00
Subtotal Salaries & Wages	3.00	$ 367,407.00

Contractual Services Object Code		Amount
200	Communication	
KHEL $10,000	**BFH** $5,312	$ 15,312.00
220	Printing & Advertising	
KHEL $7,800	**BFH** $1,150.00	8,950.00
240	Repairs & Services	
KHEL $4,000	**BFH** $500	4,500.00
250	Travel & Subsistence	
KHEL $1,500	**BFH** $4,198	5,698.00
260	Fees & Other Services	
KHEL $1,500	**BFH** $500	2,000.00
270	Fees & Professional Services	
KHEL	**BFH** $300,000	300,000.00
290	Dues, Membership, Subscriptions	
KHEL	**BFH** $500	500.00
340	Maintenance Parts	
KHEL $5,000	**BFH**	5,000.00
360	Scientific Supplies	
KHEL $67,600	**BFH**	67,600.00
370	Stationary & Office Supplies	
KHEL $3,000	**BFH** $2,000	5,000.00

390		Safety Supplies	
KHEL $2,500		**BFH**	2,500.00
Subtotal Contractual			$417,060.00

Capital Outlay

Object Code		**Unit Cost**	Amount
400			
KHEL	Laboratory Equipment (annualized)		$39,727.00
BFH			
	2 Desk	$ 444	888.00
	1 Chair	291	291.00
	1 Chair	240	240.00
	1 4 drawer file cabinet	148	148.00
	2 Computer Table	110	220.00
	2 Computer/Monitor	1,826	3,652.00
	1 Laser Printer	1,763	1,763.00
	2 Netwk Interface Card	691	1,382.00
	2 WordPerfect Program	229	458.00
	2 Quatro Pro Program	249	956.00
Subtotal Capital Outlay			$49,267.00
TOTAL COST OF PROGRAM			$833,734.00

Estimate of income: There are 38,000 births, a charge of $22.00 per birth will generate $836,000.00. There would be no charge for addition testing required by the newborn screening laboratory.

Method of collecting fee: The program will sell the collection kits to the hospital. The kits are presently provided to the hospital at no charge. See figure 1 for collection format.

SGF funds spent on the newborn screening program: The current program is supported by SGF. Under a fee structure three new positions would be added to the program, there are currently nine FTE positions.

Why not just charge for existing services: The issue propose charging for existing services.

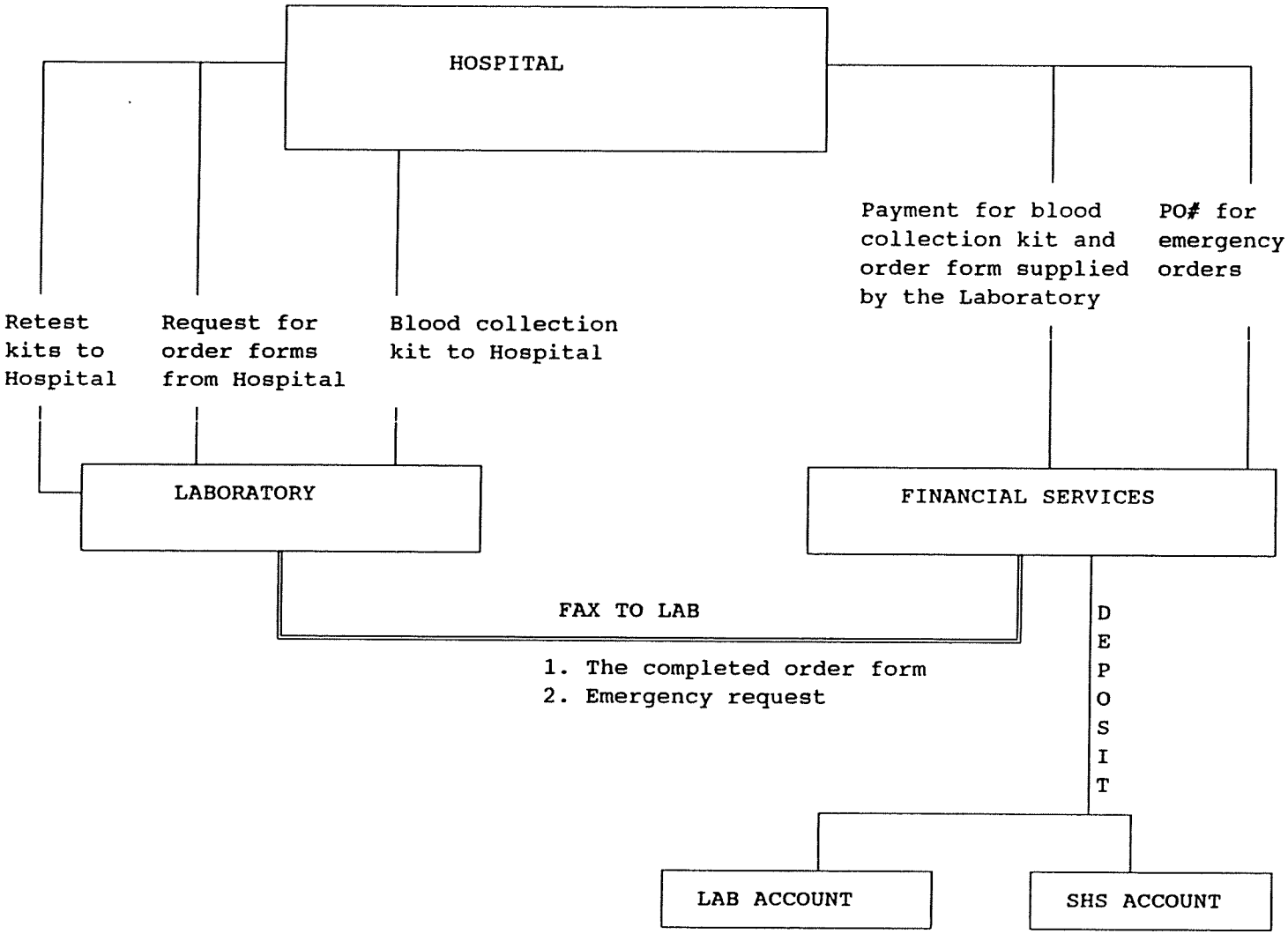
Estimate cost to payee: Cost for the first test would be approximately $22.00. Any additional tests required because of inconclusive lab results would be free. Referral to consultants long-term medical management, and genetic counseling would be no charge.

Payee: The program would charge the hospital for the collection kit.

Would the additional benefits be worth its administration? The recovery program would switch the present services from SGF to a fee support. There would be a significant upgrade in the program ability to locate infants with positive lab results, provide genetic counseling, conduct educational workshops, and upgrade and replace outdated laboratory equipment. Enhancing the program will reduce the agency exposure to medical and legal consequences due to infants not being detected and treated in a timely manner.

figure 1

COST RECOVERY NETWORK



STATE OF KANSAS

DIVISION OF THE BUDGET
Room 152-E
State Capitol Building
Topeka, Kansas 66612-1504
(913) 296-2436
FAX (913) 296-0231

Joan Finney
Governor

Gloria M. Timmer
Director

January 27, 1994

The Honorable Sandy Praeger, Chairperson
Senate Committee on Public Health and Welfare
Statehouse, Room 128-S
Topeka, Kansas 66612

Dear Senator Praeger:

SUBJECT: Fiscal Note for SB 519 by Senate Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning SB 519 is respectfully submitted to your committee.

The passage of SB 519 would modify the existing Neonatal Screening Program, which operates under the Department of Health and Environment. The bill would allow the Secretary of Health and Environment to expand the number of genetic diseases screened for under the program, identify certain activities to be carried out in a follow-up program, and add morbidity to the education activities of the program. SB 519 would direct the Secretary to establish a system of cost-recovery for the Neonatal Screening Program. Fees collected through a cost-recovery program would be deposited in a Neonatal Screening Program Fee Fund and used to support the activities of the Neonatal Screening Program. The bill would establish an advisory committee to advise the Secretary in selecting diseases for screening and in the general operation of the Neonatal Screening Program. The bill also would authorize the Secretary to adopt rules and regulations to implement the program.

The Department of Health and Environment indicates that it would require $139,348 and 3.0 FTE positions for FY 1995 to implement the expanded follow-up program contained in the bill. These costs would be made from the Neonatal Screening Program Fee Fund. Revenue to the fund would be generated by the sale of the specimen test collection kits to hospitals and other health care agencies. The Department currently provides these kits free of

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charge to the hospitals. It is estimated that in future years the revenue to the fee fund from the sale of these kits would be greater than $139,348. The expenditures and revenues which would result from the passage of this act are included in the *FY 1995 Governor's Budget Report*.

Sincerely,

Gloria M. Timmer

Gloria M. Timmer
Director of the Budget

cc: Laura Epler - Health and Environment

Session of 1994

SENATE BILL No. 519

By Committee on Public Health and Welfare

1-18

AN ACT relating to neonatal screening program; concerning certain genetic diseases; amending K.S.A. 65-180, 65-181 and 65-183 and repealing the existing sections.

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

Section 1. K.S.A. 65-180 is hereby amended to read as follows: 65-180. The secretary of health and environment shall:

(a) Institute and carry on an intensive educational program among physicians, hospitals, public health nurses and the public concerning congenital hypothyroidism, galactosemia ~~and the disease~~, phenylketonuria *and other genetic diseases detectable through an established neonatal screening program*. This educational program shall include information about the nature of such conditions and examinations for the detection thereof in early infancy in order that measures may be taken to prevent the mental retardation *or morbidity* resulting from such conditions.

(b) Provide recognized screening tests for phenylketonuria, galactosemia, hypothyroidism and such other diseases as may be appropriately detected with the same ~~procedures for which laboratory services are required~~ *specimen*. The initial laboratory screening tests for these diseases shall be performed by the department of health and environment for all infants born in the state. ~~Such services shall be performed without charge.~~

(c) Provide a follow-up program of providing test results and other information to identified physicians; [locating the] infants with abnormal newborn screening test results; [monitoring] infants to assure appropriate testing to either confirm or not confirm the disease suggested by the screening test results; [monitoring] therapy and treatment for infants with confirmed diagnosis of congenital hypothyroidism, galactosemia, phenylketonuria or other genetic diseases; and [establishing] on-going education and support activities for individuals with confirmed diagnosis of congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases being screened under this statute

~~(c)~~ *(d)* Maintain a registry of cases including information of importance for the purpose of follow-up services to prevent mental

[material within brackets would be deleted]

locate

with parental consent, monitor

being screened under this statute

establish

and for the families of such individuals

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retardation *or morbidity*.

~~(d)~~ *(e)* Provide the necessary treatment product for diagnosed cases for as long as medically indicated, when the product is not available through other state agencies.

Sec. 2. K.S.A. 65-181 is hereby amended to read as follows: 65-181. ~~It shall be the duty of~~ The administrative officer or other person in charge of each institution or the attending physician, caring for infants 28 days [or less] of age ~~to cause to~~ *shall* have administered to every such infant or child in its or such physician's care, tests for congenital hypothyroidism, galactosemia ~~and~~, phenylketonuria and ~~such other diseases as may be appropriately detected with the same procedures used in such tests~~ *other genetic diseases* [in] accordance with rules ~~or~~ *and* regulations ~~prescribed~~ *adopted* by the secretary of health and environment. ~~Testing and the recording of the results of such tests shall be performed at such times and in such manner as may be prescribed by such secretary.~~

Sec. 3. K.S.A. 65-183 is hereby amended to read as follows: 65-183. Every physician having knowledge of a case of congenital hypothyroidism, galactosemia or phenylketonuria and ~~such other~~ *other genetic* diseases as may be detected with tests given pursuant to this act in one of such physician's own patients shall report the case to the secretary of health and environment on forms provided by the secretary.

New Sec. 4. The secretary of health and environment shall establish a system of cost recovery for the neonatal screening program described in K.S.A. 65-180 through 65-183 and amendments thereto. The secretary shall remit to the state treasurer all moneys collected for such fees. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the neonatal screening program fee fund created by section 5.

New Sec. 5. (a) There is hereby established in the state treasury the neonatal screening program fee fund. Revenue from the following sources shall be deposited in the state treasury and credited to such fund: (1) Fees collected from agencies and individuals submitting specimens for neonatal screening under section 4 and amendments thereto; and (2) interest attributable to investments of moneys in the fund.

(b) Moneys deposited in the neonatal screening program fee fund shall be expended only to support the comprehensive neonatal screening program.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the neonatal screening program fee fund the amount of money cer-

or younger

which may be detected with the same specimen

and amendments thereto

Query: Interest attributable to investments of money in the fund would be credited to the fund. Interest would be deposited in the state general fund unless special provision is made, as here, for other disposition. Should the interest money be deposited in the state general fund or credited to this fund?

tified by the pooled money investment board in accordance with this subsection. Prior to the 10th day of each month, the pooled money investment board shall certify to the director of accounts and reports the amount of money equal to the proportionate amount of all the interest credited to the state general fund for the preceding month, pursuant to K.S.A. 75-4210a and amendments thereto, that is attributable to moneys in the neonatal screening program fund. Such amount of money shall be determined by the pooled money investment board based on: (1) The average daily balance of moneys in the neonatal screening program fee fund during the preceding month as certified to the board by the director of accounts and reports; and (2) the average interest rate on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board for that period. On or before the fifth day of each month, the director of accounts and reports shall certify to the pooled money investment board the average daily balance of moneys in the neonatal screening program fee fund during the preceding month.

(d) All expenditures from the neonatal screening program fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment for the purposes set forth in this section.

New Sec. 6. There is hereby created an advisory committee to advise the secretary of health and environment regarding the expansion or contraction of the diseases screened in the neonatal screening program; cost recovery program; education needs; tests used for screening; and other matters related to a comprehensive neonatal screening program. The advisory committee shall consist of members appointed by the secretary and shall include neonatal screening consultants representing endocrinologists and geneticists, one neonatalogist, one pediatrician, one family practice physician, one representative of the state Medicaid program, five individuals or parents of a child with a diagnosis of one of the diseases for which screening is done under this act, two representatives of support groups for one of the diseases for which screening is done under this act, one representative of the local health departments participating in the submission or follow-up activities related to neonatal screening, one member of the laboratory staff of a hospital involved in collection of the specimens for submission for neonatal screening, one member of the nursery staff of a hospital involved in collection of the specimens for submission for neonatal screening and one hospital administrator. Members of the advisory committee attending meetings of the committee, or attending a subcommittee meeting

thereof authorized by the committee, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto.

New Sec. 7. The secretary of health and environment shall adopt rules and regulations necessary for the implementation of the program provided for in K.S.A. 65-180 through 65-183 and amendments thereto and sections 4, 5, 6 and 7.

and amendments to such sections

Sec. 8. K.S.A. 65-180, 65-181 and 65-183 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.