

Approved 4-23-90  
Date

MINUTES OF THE House COMMITTEE ON Appropriations

The meeting was called to order by Bill Bunten  
Chairperson

2:00 ~~am~~/p.m. on March 27, 1990 in room 514-S of the Capitol.

All members were present except: Representatives Brady and Vancrum (both excused)

Committee staff present: Ellen Piekalkiewicz, Debra Duncan,  
Legislative Research Department  
Jim Wilson, Revisor of Statutes  
Sharon Schwartz, Administrative Aide  
Sue Krische, Committee Secretary

Conferees appearing before the committee:

Representative Vern Williams  
Jack McCord, Department of Administration  
Winston Barton, Secretary, SRS

Others attending: See attached list.

SB 443 - Capital Improvements for various state agencies.

Representative Kline moved that SB 443, as amended, be recommended favorably for passage. Representative Chronister seconded. Motion carried.

SB 558 - Supplemental appropriations for various state agencies.

Representative Teagarden moved that SB 558, as amended, be recommended favorably for passage. Representative Mead seconded. Motion carried.

HB 2719 - State affinity credit card program for members of retirement systems under KPERs.

Representative Vern Williams testified in support of HB 2719 and provided written testimony (Attachment 1). As amended by the House Committee on Pensions, Investments and Benefits, HB 2719 authorizes and directs the Secretary of Administration on behalf of the State of Kansas to participate in an affinity credit card program for all Kansas Governmental Employees. This will include both KPERs members and employees of other local units of government. Benefits of the cards include being able to charge items and services and using the card for identification for lodging at establishments offering government rates.

Jack McCord, Department of Administration, requested an amendment to HB 2719 to delete on Page 2, Line 28 of the bill the wording: "and which is doing business in Kansas." Mr. McCord feels this phrase limits the participation of credit unions to those started in the State of Kansas. Mr. McCord stated he would concur with any amendment to that section clarifying the intent of the Legislature. He advised that the Department of Administration supports HB 2719.

HB 3076 - Fiscal notes on legislative bills, preparation and distribution.

Representative Teagarden explained that HB 3076 was requested by Representative Brady and would require the Director of the Budget to provide a copy of the fiscal note on a bill to the first-named sponsor of the bill, in addition to the Committee

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Appropriations

room 514-S, Statehouse, at 2:00 a.m./p.m. on March 27, 1990

to which the bill is referred as under current law. Representative Helgerson moved that HB 3076 be recommended favorably for passage. Representative Teagarden seconded. Motion carried.

HB 3085 - Social welfare, payment schedules for health care providers.

Representative Shriver explained that HB 3085 is in response to concerns about growth in the adult care home budget. This bill updates and amends state statutes regarding the Secretary's duties to establish payment schedules for health care providers, and clarifies that, for hospital and adult care home providers under the State Medicaid plan, the payment schedules shall be "reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities."

Secretary Winston Barton, SRS, appeared in support of HB 3085 stating the bill would enable SRS to defend proposed changes in the adult care home reimbursement system which may be challenged by litigation and to better manage continued growth in this program (Attachment 2).

The Kansas Health Care Association provided a position statement on HB 3085 for distribution to the Committee (Attachment 3).

Representative Shriver moved that HB 3085 be recommended favorably for passage. Representative Goossen seconded. Motion carried.

HB 3087 - SRS, office hours of county intake offices.

Representative Goossen explained that HB 3087 was introduced at the request of the SRS Subcommittee and stated the bill deletes the requirement that each SRS field office be open a minimum of twelve hours per week. This is a proposed way to manage rising administrative costs.

Secretary Winston Barton, SRS, testified that enactment of this bill would allow SRS to schedule office hours to match the social service needs of a particular county rather than having a fixed requirement (Attachment 4). Representative Hamm questioned that the savings would justify the reduction of service in rural areas.

Representative Goossen moved that HB 3087 be recommended favorably for passage. Representative Pottorff seconded. Motion carried.

Chairman Buntten turned to final action on HB 2719.

Representative Helgerson moved to amend HB 2719 to include Kansas governmental retirees. Representative Solbach seconded. Motion carried. Representative Francisco made a conceptual motion to amend HB 2719 to clarify that cards may be issued upon approved application and that issuance is not mandatory. Representative Solbach seconded. Motion carried. Representative Chronister made a conceptual motion to clarify that all of the financial institutions participating in the program must be located and doing business in Kansas. Representative Francisco seconded. Motion carried. Representative Chronister moved that HB 2719, as amended, be recommended favorably for passage. Representative Francisco seconded. Motion carried.

The meeting was adjourned at 3:10 p.m.

GUEST LIST

COMMITTEE: HOUSE APPROPRIATIONS

DATE: 3-27-90

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
WAYNE F WIANECKI	TOPOLKA	ATSCME
M Kennedy	Topolka	Budget
Wanda Burt	Topolka	SRS
Jan Allen	Topolka	SRS
Marilyn Bradt	Lawrence	KINH
Marie Brown	Lawrence	:
John Wines	Topolka	Soc. of St.
Janet Robinson	Topolka	Corporate World & Other
Karen DeVinity	Topolka	SRS
Bill McDaniel	Topolka	SRS
Aprilis Hanson	Topolka	Sheltered Living Inc.
Al Demee	"	SRS/MHRS
Bruce Roby	"	SRS
Betty Ross	"	SRS/MHRS

REMARKS OF REP. VERN WILLIAMS (R) WICHITA

March 27, 1990

BEFORE HOUSE APPROPRIATIONS COMMITTEE

As Proponent of HB2719 -

Affinity Credit Cards for Governmental Employees

Mr. Chairman, members of the Committee. I appreciate the opportunity to appear before you in favor of HB2719.

This is a simple bill with a positive fiscal note. It provides a benefit to all Kansas Governmental employees with little or no administrative costs.

Originally limited to KPERS members, the bill was amended by the House Pensions and Benefits Committee to apply to all governmental employees in Kansas. It now will benefit also employees of the City of Wichita (who are not KPERS members) and employees of other local units of government who likewise are not KPERS participants.

Affinity Cards are those issued by financial institutions to persons with a common interest such as being a government employee. Benefits include being able to charge items or services purchased and for identification when lodging at hotels or motels who offer government rates. This can be a significant saving.

Last summer my wife and I stayed at the Days Inn in Oakland. The rate was \$87 for the night. When I asked if they had a "government rate" the room charge was quoted -- \$43 for the night!

HA

3-27-90

Attachment 1

The program would be administered through the Department of Administration. Secretary Smith favors the concept.

He would solicit bids of financial institutions and negotiate terms of participation. Mailings would be through normal channels (payroll checks, bulk to L.U. etc.) at no cost to state. Neither would any lists of employees be released. Successful bidder would pay all distribution costs.

The Budget Department estimates a fee to the state general fund (there are more than 145,000 eligible employees) at \$350,000. While this may be on the high side, whatever is realized would be a painless method of adding funds to state coffers while, at the same time, providing a benefit to thousands of Kansas government employees and their families.

I will be happy to answer any questions.

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Testimony presented to

The House Committee on Appropriations

Regarding

House Bill 3085

On

March 27, 1990

1:30 p.m.

Room 514 South

Capitol Building

Presented by:

Winston Barton, Secretary  
Department of Social and Rehabilitation Services  
Telephone: 296-3271

HA  
3-27-90  
Attachment 2

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES  
Winston Barton, Secretary

March 27, 1990

**Statement Regarding: H.B. 3085**

**TITLE:**

AN ACT concerning social welfare; relating to payment schedules for health care providers; amending K.S.A. 39-708c and repealing the existing section.

**PURPOSE:**

This bill updates and amends state statutes regarding the Secretary's duties to establish payment schedules for health care providers, and clarifies that, for hospital and adult care home providers under the State Medicaid plan, the payment schedules shall be "reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities."

**BACKGROUND:**

This bill is in response to concerns about growth in the adult care home budget which is projected to continue in FY 1990 and FY 1991. While average annual growth in the cost of long-term care was 8.4 percent from FY 1979 to FY 1989, the rate of growth has been increasing. Long-term care costs grew 13.2 percent from 1987 to 1988, and 15.4 percent from 1988 to 1989. In discussions with the House Appropriations Subcommittee, we reviewed previous efforts to contain adult care home costs and noted that litigation often resulted. To clarify legislative intent that adult care home reimbursement be as efficient and economical as possible, we have proposed these provisions.

These amendments to K.S.A. 39-708c(x) would have three main purposes:

1. To update the provider payment provisions to include specific terms from the federal Medicaid "Boren Amendment" which replaced the "reasonable cost-related" standard with a lower, reasonable and adequate, standard for Medicaid payments for adult care home and hospital services.
2. To reduce the confusion from pre-Boren Amendment lawsuits in Kansas and to specify that federal law now allows consideration of budget restraints (as long as the rates otherwise meet federal requirements), that rates are only to meet efficient costs, and that the state program is not to be required to use all state funds for any services or rates that do not meet federal requirements for federal match payments.
3. To clarify or specifically grant the authority to place exclusion or moratorium limits, within the provisions of federal law, on unnecessary services.

In addition to seeking passage of H.B. 3085, we are also requesting that the Senate add a proviso to the SRS appropriations bill to specifically permit limits on additional beds in Intermediate Care Facilities for the Mentally Retarded (ICF-MR's). These limits would be conditional upon federal approval of an expanded home and community-based services waiver program for the mentally

retarded (HCBS-MR). Under federal Medicaid regulations, approval of additional HCBS slots is contingent upon proof that an equal number of existing or planned institutional (ICF-MR) beds have been removed from use. The advantage of expanding the HCBS program rather than the ICF-MR program is that we would continue to get federal match for an equivalent level of care, but at roughly 70 percent of the cost of an institutional bed. I would also note that this language is recommended by two experts from the National Association of State Mental Retardation Program Directors who have worked with other states in successfully pursuing such waivers.

**EFFECT OF PASSAGE:**

Passage of H.B. 3085 would better enable SRS to defend proposed changes in the adult care home reimbursement system which may be challenged by litigation and to better manage continued growth in this program.





**KHCA**

Member of  
**ahca**

**Kansas Health Care Association**

221 SOUTHWEST 33rd STREET  
TOPEKA, KANSAS 66611 • 913-267-6003

MEMO

To: House Appropriations Committee  
From: Kansas Health Care Association  
Date: March 27, 1990  
Subject: Position on HB 3085

HB 3085 amends K.S.A. 39-708c(x) (page 5, line 10) as follows:

"Any payment schedules which are a part of the state medicaid plan shall conform to federal law." This is currently the law (federal and state) with respect to Medicaid Plan payments that qualify for federal financial participation. At the present time, there may be parts of the state Medicaid Plan which do not meet requirements for federal participation. In the future, SRS may adopt, under the state Medicaid Plan, programs which will not meet requirements for federal financial participation.

The second sentence of the proposed amendment would seem to limit any payments for state Medicaid Plan programs which do not meet the requirements for federal financial participation.

"(1) The secretary shall consider budgetary constraints as a factor in establishing payment schedules so long as the result complies with federal law."

Federal court decisions clearly recognize that a state Medicaid agency may consider budgetary constraints. Those same federal cases require any state Medicaid Plan for reimbursement to comply with federal law. The proposed amendment is nothing more than a repeat of current federal law.

"(2) The secretary shall establish payment schedules for providers of hospital and adult care home services under the medicaid plan that are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards. The secretary shall not be required to establish rates for any such facility that are in excess of the minimum necessary to efficiently and economically meet those standards regardless of any excess costs incurred by any such facility."

The first sentence is taken verbatim from 42 U.S.C. § 1396(a)(13)(A), and is, therefore, a repeat of current federal law. It has long been recognized that the Medicaid program is a voluntary program but once a state has decided to participate in the program, the standards for reimbursement become obligatory upon the state. (Country Club Home, Inc. v. Harder, 228 Kan. 756, modified at 228 Kan. 802 (1981).

As stated above, the second sentence is not necessary in that the state Medicaid reimbursement system must comply with federal law (42 U.S.C. § 1396(a)(13)(A) and numerous federal and state court decisions). Additionally, such an amendment is absolutely meaningless unless a definition can be provided for the term "efficiently and economically" and the term "minimum necessary." The current reimbursement system provides that a long term care home can be reimbursed its cost or the SRS established cost center limit, whichever is less. The only portion of the current reimbursement system which is not supported by actual expenditures involves the "efficiency factor." The efficiency factor can range from zero to fifty cents per patient day.

Long term care providers are currently regulated (i.e., standards are enforced) by the Kansas Department of Health and Environment and the Health Care Financing Administration. The Congress, HCFA and KDHE often times require additional standards (additional money must be spent), and long term care facilities are unable to be compensated for up to one year for the cost they must incur to meet new standards. (For example, OBRA '87 requirements were first calculated by SRS to be in excess of 6.2 million dollars. That figure has now been reduced by the Subcommittee to 1.7 million dollars. The federal minimum wage was first calculated by SRS to cost an excess of 6.6 million dollars, and that figure has been reduced to nothing by the Subcommittee.)

"(3) The secretary shall have the authority to refuse to enter into contracts with any health care provider providing medicaid services if such exclusions or moratoriums comply with federal law."

It is hard to determine from the language quoted just exactly what paragraph (3) intends to do. There is no definition of "exclusions or moratoriums." At present SRS enters into contracts with providers on a one year basis; there is nothing in the present law which requires SRS to enter into contacts with providers - SRS can presently refuse to enter into contracts.

In summary, it would seem that K.S.A. 39-708c(x) as amended, the only thing necessary to bring the statute within the framework of current federal law is the sentence which states, "Any payment schedules which are part of the state medicaid plan shall conform to federal law." All additional language of the proposed amendment is surplus and can only add additional confusion to the present reimbursement system.

CONTACT: Dick Hummel, Executive Vice President

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Testimony presented to

The House Committee on Appropriations

Regarding

House Bill 3087

On

March 27, 1990

1:30 p.m.

Room 514 South

Capitol Building

Presented by:

Winston Barton, Secretary  
Department of Social and Rehabilitation Services  
Telephone: 296-3271

HA  
3-27-90  
Attachment 4

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES  
Winston Barton, Secretary

March 27, 1990

Statement Regarding HB 3087

TITLE: AN ACT relating to office hours of intake offices.

PURPOSE: House Bill 3087 would amend KSA 39-708c, the statute which describes the powers and duties of the Secretary of the Department of Social and Rehabilitation Services (SRS). Specifically, it would delete the current requirement that each SRS office be open a minimum of twelve hours per week while preserving the requirement that SRS have an office in each and every county and that those offices be open "each working week on a regularly scheduled basis".

BACKGROUND: When legislation was enacted to combine all welfare functions into a cabinet level agency, a requirement was placed into law that SRS would maintain an office in each county and that the office had to be open at least 12 hours per week. SRS currently has 29 offices which are open less than 32 hours per week, with 4 of those being open 16 or less hours per week. The legislation was recommended for introduction by our subcommittee in an effort to assist SRS in matching office hours to caseloads in the various counties.

EFFECT OF PASSAGE: Enactment of this bill would allow SRS to schedule office hours to match the social service needs of a particular county rather than require the office to be open a fixed number of hours. Savings are difficult to predict but would include the possibility of reducing or eliminating some PTI staff who are used to keep some offices open. Additional savings would be realized in OOE from savings in utilities when offices were not open. Savings in both areas would create a positive fiscal impact for the agency and the state and would increase the flexibility of the agency in dealing with its responsibilities. SRS will continue to have its offices open on a regularly scheduled basis each week and will make certain that clients in a particular county are aware of those hours.

RECOMMENDATION: The department recommends passage of this legislation.

Winston Barton, Secretary  
296-3271