

February 22, 2011

The Honorable Tim Owens, Chairperson  
Senate Committee on Judiciary  
Statehouse, Room 559-S  
Topeka, Kansas 66612

Dear Senator Owens:

**SUBJECT:** Fiscal Note for SB 146 by Senator Taddiken, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning SB 146 is respectfully submitted to your committee.

SB 146 would make a variety of amendments to current law regarding late-term abortions.

1. The bill would create additional record-keeping and reporting requirements for physicians performing abortions and for facilities where they are performed. Physicians would be required to specify the medical diagnosis and condition that qualifies as a substantial and irreversible impairment of a major bodily function or the medical diagnosis and condition which necessitated performance of an abortion to preserve the life of the pregnant woman. The performing physician would also be required to specify the medical basis for the determination of the gestational age of the unborn child. A sworn statement would be required from the physician and the referring physician that the two physicians are not legally or financially affiliated.
2. The Department of Health and Environment (KDHE) would be required to make changes to printed materials and adopt rules and regulations to implement the bill. KDHE would be authorized to disclose information regarding the reporting of late-term abortions to any district or county attorney should there be reasonable cause to believe that a violation of the bill has occurred.
3. The Department of Social and Rehabilitation Services (SRS) would be required to prepare and publish an annual report on the number of reports of child sexual abuse received by the Department from abortion providers.
4. The definition of the term “viable” would be changed to a stage of fetal development where there is a reasonable probability that the life of the child could be continued indefinitely outside the mother’s womb with natural or artificial life-supportive measures.

5. The bill would change the term “fetus” to “unborn child” wherever it occurs in the bill and would change the definition of “partial birth abortion.” The bill would also change the criteria for performing an abortion on a minor, and require that district courts report to KDHE on the number of minors who sought and obtained judicial bypass of the new parental consent requirements. The retention period for medical records and written reports kept by physicians would increase from five to ten years.

The Board of Healing Arts indicates that passage of the bill could increase the number of investigations and disciplinary cases assigned to the Board. Should there be an increase in the numbers of cases, operating expenses would also increase. The Board could implement the bill within existing resources if the number of cases does not increase dramatically. The bill would not have a fiscal effect on SRS because the cost of the annual report would be negligible. The Department of Health and Environment indicates that passage of the bill would increase one-time expenditures of \$34,000 from agency fee funds in FY 2011 to make updates to the Vital Statistics System, consult with medical professionals in order to prepare rules and regulations, and to modify forms and instructions for staff members and providers.

SB 146 has the potential for increasing litigation in the courts because of the new violation created by the bill. If it does, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources. Any fiscal effect resulting from the passage of this bill is not reflected in *The FY 2012 Governor’s Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA  
Director of the Budget

cc: Pat Kuester, Health & Environment  
Dan Lewien, SRS  
Cathy Brown, Healing Arts  
Mary Rinehart, Judiciary