

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Stephen Morris at 12:10 a.m. on February 28, 2002 in Room 123-S of the Capitol.

All members were present except: Senator David Adkins - excused

Committee staff present:

Alan Conroy, Chief Fiscal Analyst, Kansas Legislative Research Department
Deb Hollon, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Audrey Nogle, Kansas Legislative Research Department
Norman Furse, Revisor of Statutes
Michael Corrigan, Assistant Revisor of Statutes
Judy Bromich, Assistant to the Chairman

Conferees appearing before the committee:

Dr. Robert Day, Director of Medical Policy/Medicaid, Health Care Policy, Department of Social and Rehabilitation Services
Senator James Barnett
Bob Williams, Executive Director, Kansas Pharmacists Association
Joyce Volmut, Executive Director, Kansas Association for the Medically Underserved
Sally Finney, Executive Director, Kansas Public Health Association, Inc.
Marjorie Powell, Assistant General Counsel, Pharmaceutical Research and Manufacturers of America, Washington, D.C.
Jo Ann Howley, Concerned Citizen
Elizabeth Adams, Executive Director, NAMI Kansas
Dr. Stephen Feinstein, Ph.D., Chairman, Kansas Mental Health Coalition
Bryce Miller, President, NAMI Topeka
Barbara Bohm, Director, Spirit Three
Sharon Copeland, Concerned Citizen
Paul Klotz, Executive Director, Association of Community Mental Health Centers of Kansas, Inc.
Jane Adams, Executive Director, Keys for Networking, Inc. (Written Testimony)
Senator Anthony Hensley
Jim Snyder, President, Kansas Council of Silver Haired Legislators
Dr. Earnest Pogge, Coordinator of the AARP Kansas Legislative Task Force

Others attending: See attached list

Bill Introductions

Senator Jordan moved, with a second by Senator Jackson, to introduce a bill concerning retirement; relating to certain school retirants (1rs2254). Motion carried on a voice vote.

Senator Jordan moved, with a second by Senator Jackson, to introduce a bill concerning children's health insurance benefits; relating to eligibility requirements (1rs2281). Motion carried on a voice vote.

Senator Schodorf moved, with a second by Senator Kerr, to introduce a bill concerning supplemental appropriations for the Judicial Branch (1rs2280). Motion carried on a voice vote.

Chairman Morris called the Committee's attention to discussion of:

SB 422--Reimbursement by the department of social and rehabilitation services for certain drugs

Dr. Robert Day, Director of Medical Policy/Medicaid, Department of Social and Rehabilitation Services, spoke to the Committee regarding **SB 422** and explained a proposed amendment. Committee questions and discussion followed.

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Senator Barone moved, with a second by Senator Kerr, to amend **SB 422** with the proposed Department of Social and Rehabilitation Services language (Attachment 1). Motion carried on a voice vote.

Senator Barone moved, with a second by Senator Kerr, to recommend **Substitute for SB 422** favorably for passage as amended. Motion carried on a roll call vote.

Chairman Morris opened the public hearing on:

SB 603--Drug coverage

Staff briefed the Committee on the bill.

Dr. Robert Day, Director of Medical Policy/Medicaid, Department of Social and Rehabilitation Services, presented information regarding **SB 603** (Attachment 2). Dr. Day explained that **SB 603** would enable the Secretary of the Department of Social and Rehabilitation Services to negotiate with drug manufacturers and labelers for discount prices or rebates for prescription drugs deeper than those achieved through Federally mandated rebate practices. In testimony, Dr. Day noted that without more management activity around the Medicaid program, it would be difficult to sustain projected growth. He also mentioned the need to establish management tools that will help to assure the most effective use of Medicaid dollars and **SB 603** could provide SRS with one such tool to enable them to ensure best pricing for prescription drugs and managing prescription drugs has now become the most costly component of the Department's prescription drug budget.

Senator James Barnett testified in support of **SB 603** (Attachment 3). Senator Barnett explained that he has practiced medicine for nearly 20 years and his treatment approach has changed and improved dramatically in part because of new drug therapies. He mentioned that he has concerns about the amount of money spent on marketing and advertising, including direct to consumer marketing that complicates his ability to provide affordable care to his patients. Senator Barnett referred to the spending of the top ten pharmaceutical companies on marketing vs. research and development and asked that it be noted that marketing is representative of 32.5 percent of sales vs. research and development that receives 12.4 percent. In concluding his testimony, Senator Barnett noted that the people of the State of Kansas are paying for these types of promotionals with hard-earned tax dollars and it is time to say no.

Bob Williams, Executive Director, Kansas Pharmacists Association, spoke in support of **SB 603** (Attachment 4). Mr. Williams mentioned that **SB 603** would allow SRS to negotiate additional drug rebates with drug manufacturers. In his testimony, Mr. Williams explained that the State of Kansas needs to follow the lead of other states in their efforts to control the cost of Medicaid prescription drugs.

Joyce Volmut, Executive Director, Kansas Association for the Medically Underserved, spoke in support of **SB 603** (Attachment 5). Ms. Volmut mentioned that their association supports the bill because it is a step in the right direction for alleviating one of the barriers clients face in completing their treatment of care. She also noted that they would also ask that the medically indigent clinics in Kansas be included in the bill.

Sally Finney, Executive Director, Kansas Public Health Association, Inc., spoke in support of **SB 603** (Attachment 6). Ms. Finney explained that the Kansas Public Health Association believes that any measure that will increase the buying power of the Kansas Medicaid program without compromising the ability of clients to receive basic care is good public health policy and this is why they support the bill. She noted that from her perspective as a public health advocate, this is a short-term solution. In closing, Ms. Finney mentioned that the only workable long-term strategy for reducing both public sector and private sector health care costs is to redirect significant resources to primary prevention efforts.

Marjorie Powell, Assistant General Counsel, Pharmaceutical Research and Manufacturers of America (PHARMA), Washington, D.C., spoke in opposition to **SB 603** (Attachment 7). Ms. Powell mentioned that PHARMA represents the innovative drug manufacturers, those companies that are researching and developing new medications and they are very concerned with issues of access. She noted that they have supported a Medicare drug benefit at the federal level, and explained that if there were to be a Medicare drug benefit, some portion of the states' Medicaid drug line item would be picked up entirely by the

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federal government because Medicare is the first payer. Ms. Powell also mentioned that they have concerns when a prior authorization program is tied to rebates as a mandatory program that is grounded in cost considerations as opposed to medical or scientific bases or management of the Medicaid program. She urged the Committee to look at what is happening in other states. Ms. Powell addressed the costs in sales and marketing being higher than in research and development costs and explained that those sales and marketing numbers include all of the samples that manufacturers provide to physician and the information that is provided to physicians about a new medication. Committee questions and discussion followed.

Jo Ann Howley, concerned citizen, spoke in opposition to **SB 603** ([Attachment 8](#)). Ms. Howley mentioned that her son was diagnosed with paranoid schizophrenia and that he was hospitalized almost continuously for fifteen years. She noted in her testimony that due to the proposed legislation, her son may be prescribed a cheaper medication and not the current medication which allows him to live successfully outside the confines of the hospital. She questioned the cost of long term hospitalization to the \$600.00 a month for his medication.

Elizabeth Adams, Executive Director, NAMI Kansas, spoke in opposition to **SB 603** ([Attachment 9](#)). Ms. Adams mentioned that NAMI's premise is that people in need should have access to the right treatment, including the right medication, at the right time for that individual's successful recovery of life. She noted that for many people with schizophrenia, their first exposure to antipsychotic medication may have life-long implications for compliance with treatment. If they must fail first on older drugs or face bureaucratic hurdles that seem insurmountable to get treatment, they may lose their best opportunity for intervention and recovery.

Dr. Stephen Feinstein, Chairman, Kansas Mental Health Coalition, spoke in opposition to **SB 603** ([Attachment 10](#)). Dr. Feinstein explained that the Kansas Mental Health Coalition believes that **SB 603** is both fiscally unwise and unethical in its treatment of Kansans who are poor and mentally ill. He mentioned that the bill is fiscally unwise because it does not take into account the well-documented reductions in the cost of treatment that result when sick people have timely access to the most effective medications. Dr. Feinstein noted that selectively denying treatment just does not reflect the democratic system or the value, as a nation, placed on human life.

Bryce Miller, President, NAMI Topeka, spoke in opposition to **SB 603** ([Attachment 11](#)). Mr. Miller explained that **SB 603** contains no consumer input and no consumer safeguards in the selection and use of the formulary and he finds the bill flawed. He noted that things must not return to the "prior authorization" days of a decade ago.

Barbara Bohm, Spirit Three, spoke in opposition to **SB 603** ([Attachment 12](#)). Ms. Bohm presented her own concerns and experiences to the Committee as stated in her written testimony.

Sharon Copeland, concerned citizen, spoke in opposition to **SB 603** ([Attachment 13](#)). Ms. Copeland expressed concern that as a member of the National Alliance for Mental Illness Kansas, a Registered Nurse and mother of a son with mental illness, that it would be very detrimental to the treatment of this disease and a set back in treatment if the bill is passed. She noted that the newer medications are more expensive, but if they keep those with mental illness out of institutions, jails, off of drugs and alcohol, and alive, it can actually be a cost saver for the State of Kansas.

Paul Klotz, Executive Director, Association of Community Mental Health Centers of Kansas, Inc., spoke in opposition to **SB 603** ([Attachment 14](#)). Mr. Klotz explained that people with mental illness need some kind of protection under this type of attempt to save money for the state. They are interested in keeping cost down. Community mental health centers of which there are 29 across the state have become the major provider of mental health services and they do rely heavily on Medicaid. Mr. Klotz mentioned that his written testimony gives reasons why the mentally ill need protection.

Written testimony was received from Jane Adams, Ph.D, Executive Director, Keys for Networking, Inc., in opposition to **SB 603** ([Attachment 15](#)).

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Committee questions and discussion followed after the various conferee testimony and the Chairman thanked the conferees for their appearance before the Committee. There being no further conferees to come before the Committee, the Chairman closed the public hearing on **SB 603**.

Chairman Morris opened the public hearing on:

SCR 1621--Urging Congress to enact prescription drug coverage under medicare

Staff briefed the Committee on the bill.

Senator Anthony Hensley spoke in support of **SCR 1621** and distributed background information for consideration as follows relating to **SB 589**:

- State of Kansas Department on Aging Report on the 2000 Survey of Kansas Seniors (Attachment 16)
- Rescuing the Kansas Senior Pharmacy Assistance Program (Attachment 17)
- Kansas Intergovernmental Transfer Program, Budget Division Estimates (Attachment 18)

Senator Hensley mentioned that **SB 589** is a proposal to expand Kansas pharmacy assistance program to cover approximately 35,000 Kansans as opposed to the current program which covers approximately 1,000 Kansans. He also explained that **SCR 1621** is a very critical issue for a number of senior Kansans across the state which would establish a prescription drug relief program through Medicare and hopefully in the near future that would become a reality.

Chairman Morris mentioned that he will schedule **SB 589** for a hearing the week of March 11, 2002.

Jim Snyder, President, Kansas Council of Silverhaired Legislators, spoke in support of **SCR 1621** (Attachment 19). Mr. Snyder mentioned that **SCR 1621** provides for a request of the Congress of the United States to provide monies in the Medicare Portion of Social Security funds to help in the purchase of prescription drugs by senior citizens.

Dr. Ernest Pogge, Coordinator of the AARP Kansas Legislative Task Force, spoke in support of **SCR 1621** (Attachment 20). Dr. Pogge mentioned that enacting a meaningful Medicare drug benefit this year is a top priority for AARP and their members; therefore, AARP supports **SCR 1621**.

Written testimony was received from Bob Williams, Executive Director, Kansas Pharmacists Association, in support of **SCR 1621** (Attachment 21).

Chairman Morris thanked the conferees for appearing before the Committee. There being no further conferees to come before the Committee, the Chairman closed the public hearing on **SCR 1621**.

Senator Feleciano moved, with a second by Senator Jordan, to recommend SCR 1621 favorably for passage. Motion carried on a roll call vote.

The meeting was adjourned at 1:50 p.m. The next meeting is scheduled for March 5, 2002.