Approved: March 8, 2010
Date

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Vice-Chairman Carolyn McGinn at 10:30 a.m. on February 26, 2010, in Room 548-S of the Capitol.

All members were present except:
Senator Jay Emler- excused

Committee staff present:
Michael Steiner, Kansas Legislative Research Department
Dylan Dear, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Estelle Montgomery, Kansas Legislative Research Department
Heather O'Hara, Kansas Legislative Research Department
Jill Wolters, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
Melinda Gaul, Chief of Staff
Shirley Jepson, Committee Assistant
James Fisher, Intern

02/26/2010

Conferees appearing before the Committee:
Bill McDaniel, Commissioner, Department on Aging (KDOA)
Jeanette Stauffer, family member, Holton
Monte Coffman, Executive Director of Health Management of Kansas, Inc.
Nick Wood, Disability Rights Center of Kansas
Fred Benjamin, Chief Operating Officer, Medicalodges, Inc.
Andy Allison, Executive Director, Kansas Health Policy Authority (KHPA)
Mike Bosley, Administrator, Providence Place
Debra Zehr, President, Kansas Association of Homes and Services for the Aging
Tom Akin, Brewster Place

Others attending:
See attached list.

Introduction of proposed legislation

Senator Kultala moved to introduce legislation concerning cities relating to rehabilitation of abandoned houses (9rs1887). The motion was seconded by Senator Taddiken. Motion carried on a voice vote.

Senator Teichman moved to introduce legislation concerning insurance and privilege fees (9rs1927). The motion was seconded by Senator Schodorf. Motion carried on a voice vote.

Information on Attorney General Budget Report

A proposed amendment by Senator Taddiken was distributed to the Committee (Attachment 1).

Subcommittee Report on Hospitals

Senator Schodorf presented the Subcommittee report on the Governor's budget recommendations for Larned State Hospital, Osawatomie State Hospital, Rainbow Mental Health Facility, Kansas Neurological Institute and Parsons State Hospital and Training Center for FY 2011 (Attachment 2).

The Committee voiced concern that the mental health hospitals did not take the 2.5 percent budget reduction in State General Fund (SGF) funding as directed. In addition, the Committee requested that some language in the Subcommittee report be clarified.

Action on the Subcommittee report on the hospitals was delayed until a later date.

Subcommittee Report on State Conservation Commission, Kansas Water Office, Department of

Minutes of the Senate Ways and Means Committee at 10:30 a.m. on February 26, 2010, in Room 548-S of the Capitol.

Wildlife and Parks

Senator McGinn, Chair of the Subcommittee, presented the Subcommittee report on the Governor's budget recommendation for the State Conservation Commission, Kansas Water Office and Department of Wildlife and Parks for FY 2011 (Attachment 3).

Senator Lee moved to adopt the Subcommittee report on the Governor's budget recommendation for the State Conservation Commission, Kansas Water Office and Department of Wildlife and Parks for FY 2011. The motion was seconded by Senator Teichman. Motion carried on a voice vote.

Continued Hearing on SB 546 - Assessments of quality assurance fee on skilled nursing care facilities to improve the quality of care

Information on a comparison of 2008 **SB 585** and 2010 **SB 546**, prepared by Legislative Research Department, was distributed to the Committee (Attachment 4).

Bill McDaniel, Commissioner, Department on Aging (KDOA), presented testimony in support of **SB 546** (Attachment 5). Mr. McDaniel stated that KDOA has shifted its position in support of the provider assessment because of the current fiscal crisis which has limited the State's ability to fund Medicaid services, including nursing facility rates. Mr. McDaniel noted that **SB 546** does not use the nursing home provider assessment to leverage federal funds for the Home and Community-Based Services (HCBS) Frail Elderly and Physically Disabled waivers.

Additional testimony in support of **SB 546** was received from:
- Jeanette Stauffer, family member, Holton (Attachment 6).
- Monte Coffman, Executive Director of Health Management of Kansas, Inc. (Attachment 7).
- Nick Wood, Disability Rights Center of Kansas (Attachment 8).
- Fred Benjamin, Chief Operating Officer, Medicalodges, Inc. (Attachment 9).
- (Written only) Mike Oxford, Executive Director, Topeka Independent Living Resource Center (Attachment 10).

Andy Allison, Executive Director, Kansas Health Policy Authority (KHPA), presented testimony in a neutral position on **SB 546** (Attachment 11). Mr. Allison noted that KHPA Board has discussed the implementation of a nursing facility provider assessment as a means to maximize Medicaid dollars for Kansas over the past 18 months. Mr. Allison stated that KHPA suggests removing Subsection (d)(5) on page 3, line 30 of the bill to avoid misinterpretation by the Center of Medicare/Medicaid Services (CMS).

Additional written testimony in a neutral position on **SB 546** was received from:
- Mitzi E. McFatrich, Executive Director, Kansas Advocates fro Better Care (Attachment 12).
- Tom Bell, President, and Chad Austin, Vice President, Kansas Hospital Association (Attachment 13).

Mike Bosley, Administrator, Providence Place, presented testimony in opposition to **SB 546** (Attachment 14). Mr. Bosley indicated that Providence Place does not serve Medicaid patients and felt that the state should restore payment rates and not penalize all nursing care facilities with the assessment.

Additional testimony in opposition to **SB 546** was received from:
- Debra Zehr, President, Kansas Association of Homes and Services for the Aging (Attachment 15).
- Tom Akin, Brewster Place (Attachment 16).

Written testimony in opposition to **SB 546** was received from:
- Derrick Sontag, Americans for Prosperity (Attachment 17).
- James Frazier, President/CEO, Lakeview Village (Attachment 18).

The Committee requested the following information:
- ♦ Department on Aging to provide updated information on parameters and impact analysis.
- ♦ KHPA to provide additional information on the timeframe for approval by CMS.

Minutes of the Senate Ways and Means Committee at 10:30 a.m. on February 26, 2010, in Room 548-S of the Capitol.

<u>The hearing on SB 546 was closed</u>.

Adjournment

The next meeting is scheduled for March 1, 2010.

The meeting was adjourned at 12:00 p.m.

SENATE WAYS AND MEANS COMMITTEE
GUEST LIST
DATE: __February 26, 2010___

NAME	REPRESENTING
Bill Brady	KAHSA
Debra Zehr	KAHSA
Joe Ewert	KAHSA
Mark Boranyak	Capitol Strategies
Rob Johnson	Federico Consulting
Fred Benjamin	Medicalodges, Inc
Cindy Luxem	KHCA
Erik Wisner	KDOA
Cynthia Smith	SCL Health System
Mike Beasley	Providence Place
Travis Lowe	Little Govt Relations
Nick Wood	Disability Rights Center
Bill McDaniel	KDOA
Barb Conant	KDOA
Monte Coffman	Health Management of Kansas
Tom Burgess	" " " "
Tom Akins	Brewster Place
Kathy Lank	Medicalodges Inc.
Mac Austin	Eventide Conv. Center
Cathy Harding	KAMU
Suzanne Wikle	KS Action for Children
Rob Mealy	Kearney & Assoc.
Leigh Keck	Hein Law Firm

SENATE WAYS AND MEANS COMMITTEE
GUEST LIST
DATE: __February 26, 2010___

NAME	REPRESENTING
Brian Reiter	DofA
Levi Henry	Sandstone Group LLC
Sheli Sweeney	Assoc. CMHCs of KS
Catie Bech	KNASW
Mary Jane Stankiewicz	KGFA
Leslie Kaufman	KS Co-op Council
Tom Bell	KHA
Ane Marchetti	SKIL
Jeanette Stauffer	constituent SB546
Mark Heim	KWO
Earl Lewis	KWO
Tracy Streeter	KWO
SCOTT CARLSON	SCC
MAX FOSTER	SCC
GREG FOLEY	STATE CONSERVATION COMMISSION

Proposed amendment
Senator Taddiken
February 25, 2010

Sec. 39. ATTORNEY GENERAL [insert new subsection as follows]

(i) (1) On July 1, 2011, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer $2,000,000 from the state water plan fund to the interstate water litigation fund of the attorney general.

(2) On July 1, 2012, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer $3,000,000 from the state water plan fund to the interstate water litigation fund of the attorney general.

(3) On July 1, 2013, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer $3,000,000 from the state water plan fund to the interstate water litigation fund of the attorney general.

(4) On July 1, 2014, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer $3,000,000 from the state water plan fund to the interstate water litigation fund of the attorney general.

(5) On July 1, 2015, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer $3,000,000 from the state water plan fund to the interstate water litigation fund of the attorney general.

(6) On July 1, 2016, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer $3,000,000 from the state water plan fund to the interstate water litigation fund of the attorney general.

Also amend the title and section 1 to include fiscal years 2016 and 2017

Senate Ways & Means Cmte
Date 2-26-2010
Attachment 1

FY 2011

SENATE WAYS AND MEANS SUBCOMMITTEE

Larned State Hospital
Osawatomie State Hospital
Rainbow Mental Health Facility
Kansas Neurological Institute
Parsons State Hospital and Training Center

Jean Schodorf
____
Senator Jean Schodorf, Chair

Pat Apple
____
Senator Pat Apple

____
Senator Janis Lee

Carolyn McGinn
____
Senator Carolyn McGinn

Sen. Dwayne Umbarger
____
Senator Dwayne Umbarger

Senate Ways & Means Cmte
Date 2-26-2010
Attachment 2

House Budget Committee Report

Agency: Larned State Hospital **Bill No.** HB 2706 **Bill Sec.** 19

Analyst: Montgomery **Analysis Pg. No.** - - **Budget Page No.** 208

Expenditure Summary		Agency Request FY 2011		Governor Recommendation FY 2011		House Budget Committee Adjustments
Operating Expenditures:						
State General Fund	$	45,208,952	$	43,745,072	$	0
Other Funds		15,161,520		15,141,475		0
Subtotal	$	60,370,472	$	58,886,547	$	0
Capital Improvements						
State General Fund	$	0	$	0	$	0
Other Funds		0		0		0
Subtotal	$	0	$	0	$	0
TOTAL	$	60,370,472	$	58,886,547	$	0
FTE positions		976.2		976.2		0.0
Non FTE Uncl. Perm. Pos.		34.4		22.9		0.0
TOTAL		1,010.6		999.1		0.0

Agency Estimate/Request

The **agency** requests FY 2011 operating expenditures of $60,370,472, including $45,208,952 from the State General Fund. The request is an all funds increase of $3,011,885, or 5.3 percent, above the FY 2010 revised estimate and a State General Fund increase of $1,804,014, or 4.2 percent, above the FY 2010 revised estimate. The request would fund 976.2 FTE positions and includes one enhancement request in the Sexual Predator Transition Program for $483,925, all from the State General Fund. Absent the enhancement, the FY 2011 operating expenditures for the agency would be $59,886,547, including $44,725,027 from the State General Fund.

Governor's Recommendation

The **Governor** recommends FY 2011 operating expenditures of $58,886,547, including $43,745,072 from the State General Fund. The recommendation is an all funds decrease of $1,483,925, or 2.5 percent, below the FY 2011 agency estimate, and a State General Fund decrease of $1,463,880, or 3.2 percent, below the FY 2011 agency estimate. The decrease is attributable to a State General Fund salaries and wages shrinkage reduction. In addition, the Governor does not recommend the agency's enhancement request.

House Budget Committee Recommendation

The **Budget Committee** concurs with the Governor's recommendation with the following notations:

1. The Budget Committee believes that the proper staffing of this agency is critical and impacts the quality of treatment. Holding positions vacant and position reductions, in combination with the hospital being over census, would aggravate the situation, increase workers compensation claims and put patients and staff at risk.

2. The Budget Committee notes the savings realized due to the closure of the Inpatient Psychiatric Treatment Unit for Youth located on the LSH campus and the contracting of these services to the KVC Behavioral HealthCare private facility located in Hays, Kansas. Annual savings are estimated to be approximately $900,000, all from the State General Fund. The first full year of the contract would be FY 2011.

   Once the program is eliminated, the state will no longer publicly conduct youth psychiatric treatment programs. When the space reserved for the Inpatient Psychiatric Treatment Unit for Youth is vacated, the Adult Civil Psychiatric Services will be relocated in the building complex.

House Committee Recommendation

The **House Committee** concurs with the House Budget Committee.

Senate Subcommittee Report

Agency: Larned State Hospital **Bill No.** SB 556 **Bill Sec.** 19

Analyst: Montgomery **Analysis Pg. No.** - - **Budget Page No.** 208

Expenditure Summary	Agency Request FY 2011	Governor Recommendation FY 2011	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 45,208,952	$ 43,745,072	$ 0
Other Funds	15,161,520	15,141,475	0
Subtotal	$ 60,370,472	$ 58,886,547	$ 0
Capital Improvements			
State General Fund	$ 0	$ 0	$ 0
Other Funds	0	0	0
Subtotal	$ 0	$ 0	$ 0
TOTAL	$ 60,370,472	$ 58,886,547	$ 0
FTE positions	976.2	976.2	0.0
Non FTE Uncl. Perm. Pos.	34.4	22.9	0.0
TOTAL	1,010.6	999.1	0.0

Agency Estimate/Request

The **agency** requests FY 2011 operating expenditures of $60,370,472, including $45,208,952 from the State General Fund. The request is an all funds increase of $3,011,885, or 5.3 percent, above the FY 2010 revised estimate and a State General Fund increase of $1,804,014, or 4.2 percent, above the FY 2010 revised estimate. The request would include 976.2 FTE positions and includes one enhancement request in the Sexual Predator Transition Program for $483,925, all from the State General Fund. Absent the enhancement, the FY 2011 operating expenditures for the agency would be $59,886,547, including $44,725,027 from the State General Fund.

Governor's Recommendation

The **Governor** recommends FY 2011 operating expenditures of $58,886,547, including $43,745,072 from the State General Fund. The recommendation is an all funds decrease of $1,483,925, or 2.5 percent, below the FY 2011 agency estimate, and a State General Fund decrease of $1,463,880, or 3.2 percent, below the FY 2011 agency estimate. The decrease is attributable to a State General Fund salaries and wages shrinkage reduction. In addition, the Governor does not recommend the agency's enhancement request.

Senate Subcommittee Recommendation

The **Subcommittee** concurs with the Governor's recommendation with the following recommendations and notations:

1. The Senate Subcommittee recommends the Department of Social and Rehabilitation Services (SRS) review vacant FTE positions and shrinkage requirements for this agency to identify positions for elimination and provide a report of the findings for the Committee's consideration at Omnibus.

2. The Senate Subcommittee notes that budget reductions applied to this agency and other state hospitals creates stress and pressure on the the state mental health system which at times is at capacity or above and jeopardizes the in-patient safety net for individuals with severe mental illness in Kansas. Future reductions could result in serving future Kansans, eliminating voluntary admissions and closing n-patient units.

3. The Senate Subcommittee commends the staff of this agency for their hard work and dedication during difficult budget times with high staff vacancies and patient census.

4. The Senate Subcommittee commends the fiscal savings realized due to the closure of the Inpatient Psychiatric Treatment Unit for Youth located on the LSH campus and the contracting of these services to the KVC Behavioral HealthCare private facility located in Hays, Kansas. Annual savings are estimated to be approximately $900,000, all from the State General Fund. The first full year of the contract would be FY 2011. Once the program is eliminated, the state will no longer publicly conduct youth psychiatric treatment programs. When the space reserved for the Inpatient Psychiatric Treatment Unit for Youth is vacated, the Adult Civil Psychiatric Services will be relocated in the building complex.

5. The Senate Subcommittee notes outpatient forensic evaluations for individuals referred to the agency by District Courts that have historically been completed during inpatient stays at the Larned State Security program or Osawatomie State Hospital. The facilities are at capacity with long waiting-lists. As a result, those individuals waiting for admission create undo financial and over-census burdens on local county jails holding individuals for misdemeanor and felony charges and/or going through the Sexually Violent Predator determination process

House Budget Committee Report

Agency: Osawatomie State Hospital **Bill No.** HB 2706 **Bill Sec.** 19

Analyst: Montgomery **Analysis Pg. No.** - - **Budget Page No.** 210

Expenditure Summary	Agency Request FY 2011	Governor Recommendation FY 2011	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	$ 18,242,009	$ 14,342,009	$ 0
Other Funds	11,252,171	14,252,171	0
Subtotal	$ 29,494,180	$ 28,594,180	$ 0
Capital Improvements			
State General Fund	$ 8,722	$ 0	$ 0
Other Funds	0	8,722	0
Subtotal	$ 8,722	$ 8,722	$ 0
TOTAL	$ 29,502,902	$ 28,602,902	$ 0
FTE positions	441.3	441.3	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	441.3	441.3	0.0

Agency Request

The **agency** requests FY 2011 operating expenditures of $29,494,180 including $18,242,009 from the State General Fund. The estimate is an all funds increase of $170,725, or 0.6 percent, above the FY 2010 revised estimate and a State General Fund increase of $1,100,038, or 6.4 percent, above the FY 2010 revised estimate. The request would fund 441.3 FTE positions and does not include any enhancement requests.

Governor's Recommendation

The **Governor** recommends FY 2011 operating expenditures of $28,594,180, including $14,342,009 from the State General Fund. The recommendation is an all funds decrease of $900,000, or 3.0 percent, below the FY 2011 agency request, and a State General Fund decrease of $3,900,000, or 21.4 percent, below the FY 2011 agency request. The decrease in the State General Fund is attributable to fee fund replacements of State General Fund expenditures and all fund decreases are due to salaries and wages shrinkage reduction.

House Budget Committee Recommendation

The **Budget Committee** concurs with the Governor's recommendation with the following recommendation:

1. The Budget Committee believes that the proper staffing of this agency is critical and impacts the quality of treatment. Holding positions vacant and position reductions, in combination with the hospital being over census, would aggravate the situation, increase workers compensation claims, and put patients and staff at risk.

House Committee Recommendation

The **House Committee** concurs with the House Budget Committee.

Senate Subcommittee Report

Agency: Osawatomie State Hospital **Bill No.** SB 556 **Bill Sec.** 19

Analyst: Montgomery **Analysis Pg. No.** - - **Budget Page No.** 210

Expenditure Summary	Agency Request FY 2011	Governor Recommendation FY 2011	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 18,242,009	$ 14,342,009	$ 0
Other Funds	11,252,171	14,252,171	0
Subtotal	$ 29,494,180	$ 28,594,180	$ 0
Capital Improvements			
State General Fund	$ 8,722	$ 0	$ 0
Other Funds	0	8,722	0
Subtotal	$ 8,722	$ 8,722	$ 0
TOTAL	$ 29,502,902	$ 28,602,902	$ 0
FTE positions	441.3	441.3	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	441.3	441.3	0.0

Agency Request

The **agency** requests FY 2011 operating expenditures of $29,494,180 including $18,242,009 from the State General Fund. The estimate is an all funds increase of $170,725, or 0.6 percent, above the FY 2010 revised estimate and a State General Fund increase of $1,100,038, or 6.4 percent, above the FY 2010 revised estimate. The request would include 441.3 FTE positions and does not have any enhancement requests.

Governor's Recommendation

The **Governor** recommends FY 2011 operating expenditures of $28,594,180, including $14,342,009 from the State General Fund. The recommendation is an all funds decrease of $900,000, or 3.0 percent, below the FY 2011 agency request, and a State General Fund decrease of $3,900,000, or 21.4 percent, below the FY 2011 agency request. The decrease in the State General Fund is attributable to fee fund replacements of State General Fund expenditures and all fund decreases are due to salaries and wages shrinkage reduction.

Senate Subcommittee Recommendation

The **Subcommittee** concurs with the Governor's recommendation with the following recommendations and notations:

1. The Senate Subcommittee recommends the Department of Social and Rehabilitation Services (SRS) review vacant FTE positions and shrinkage requirements for this agency to identify positions for elimination and provide a report of the findings for the Committee's consideration at Omnibus.

2. The Senate Subcommittee notes that budget reductions applied to this agency and other state hospitals creates stress and pressure on the the state mental health system which at times is at capacity or above and jeopardizes the in-patient safety net for individuals with severe mental illness in Kansas. Future reductions could result in serving future Kansans, eliminating voluntary admissions and closing n-patient units.

3. The Senate Subcommittee commends the staff of this agency for their hard work and dedication during difficult budget times with high staff vacancies and patient census.

House Budget Committee Report

Agency: Rainbow Mental Health Facility **Bill No.** HB 2706 **Bill Sec.** 19

Analyst: Montgomery **Analysis Pg. No.** - - **Budget Page No.** 214

Expenditure Summary	Agency Request FY 2011	Governor Recommendation FY 2011	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	$ 5,774,298	$ 4,524,298	$ 0
Other Funds	3,072,224	4,072,224	0
Subtotal	$ 8,846,522	$ 8,596,522	$ 0
Capital Improvements			
State General Fund	$ 0	$ 0	$ 0
Other Funds	0	0	0
Subtotal	$ 0	$ 0	$ 0
TOTAL	$ 8,846,522	$ 8,596,522	$ 0
FTE positions	122.2	122.2	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	122.2	122.2	0.0

Agency Request

The **agency** requests FY 2011 operating expenditures of $8,846,522 including $5,774,298 from the State General Fund. The request is an all funds increase of $79,347, or 0.9 percent, above the FY 2010 revised estimate and a State General Fund decrease of $51,158, or 0.9 percent, below the FY 2010 revised estimate. The request would fund 122.2 FTE positions and does not include any enhancement requests.

Governor's Recommendation

The **Governor** recommends operating expenditures of $8,596,522, including $4,524,298 from the State General Fund. The recommendation is an all funds decrease of $250,000, or 2.8 percent, below the FY 2011 agency estimate, and a State General Fund decrease of $1,250,000, or 21.6 percent, below the FY 2011 agency estimate. The decrease is attributable to a State General Fund salaries and wages shrinkage reduction.

House Budget Committee Recommendation

The **Budget Committee** concurs with the Governor's recommendation with the following recommendations:

1. The Budget Committee believes that the proper staffing of this agency is critical and impacts the quality of treatment, holding positions vacant and position reductions, in combination with the hospital being over census, would aggravate the situation, increase workers compensation claims, and put patients and staff at risk.

House Committee Recommendation

The **House Committee** concurs with the House Budget Committee.

Senate Subcommittee Report

Agency: Rainbow Mental Health Facility **Bill No.** SB 556 **Bill Sec.** 19

Analyst: Montgomery **Analysis Pg. No.** - - **Budget Page No.** 214

Expenditure Summary	Agency Request FY 2011	Governor Recommendation FY 2011	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 5,774,298	$ 4,524,298	$ 0
Other Funds	3,072,224	4,072,224	0
Subtotal	$ 8,846,522	$ 8,596,522	$ 0
Capital Improvements			
State General Fund	$ 0	$ 0	$ 0
Other Funds	0	0	0
Subtotal	$ 0	$ 0	$ 0
TOTAL	$ 8,846,522	$ 8,596,522	$ 0
FTE positions	122.2	122.2	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	122.2	122.2	0.0

Agency Request

The **agency** requests FY 2011 operating expenditures of $8,846,522 including $5,774,298 from the State General Fund. The request is an all funds increase of $79,347, or 0.9 percent, above the FY 2010 revised estimate and a State General Fund decrease of $51,158, or 0.9 percent, below the FY 2010 revised estimate. The request would include 122.2 FTE positions and does not have any enhancement requests.

Governor's Recommendation

The **Governor** recommends operating expenditures of $8,596,522, including $4,524,298 from the State General Fund. The recommendation is an all funds decrease of $250,000, or 2.8 percent, below the FY 2011 agency estimate, and a State General Fund decrease of $1,250,000, or 21.6 percent, below the FY 2011 agency estimate. The decrease is attributable to a State General Fund salaries and wages shrinkage reduction.

Senate Subcommittee Recommendation

The **Subcommittee** concurs with the Governor's recommendation with the following recommendations and notations:

1. The Senate Subcommittee recommends the Department of Social and Rehabilitation Services (SRS) review vacant FTE positions and shrinkage requirements for this agency to identify positions for elimination and provide a report of the findings for the Committee's consideration at Omnibus.

2. The Senate Subcommittee notes that budget reductions applied to this agency and other state hospitals creates stress and pressure on the the state mental health system which at times is at capacity or above and jeopardizes the in-patient safety net for individuals with severe mental illness in Kansas. Future reductions could result in serving future Kansans, eliminating voluntary admissions and closing n-patient units.

3. The Senate Subcommittee commends the staff of this agency for their hard work and dedication during difficult budget times with high staff vacancies and patient census.

House Subcommittee Report

Agency: Kansas Neurological Institute **Bill No.** HB 2706 **Bill Sec.** 19

Analyst: Montgomery **Analysis Pg. No.** - - **Budget Page No.** 206

Expenditure Summary	Agency Request FY 2011	Governor Recommendation FY 2011	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	$ 11,927,917	$ 11,327,917	$ 0
Other Funds	18,057,796	18,157,796	0
Subtotal	$ 29,985,713	$ 29,485,713	$ 0
Capital Improvements			
State General Fund	$ 0	$ 0	$ 0
Other Funds	125,320	125,320	0
Subtotal	$ 125,320	$ 125,320	$ 0
TOTAL	$ 30,111,033	$ 29,611,033	$ 0
FTE positions	570.2	570.2	(30.2)
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	570.2	570.2	(30.2)

The Kansas Neurological Institute (KNI) provides treatment for developmentally disabled adults. The agency's mission is "to support each person who lives at KNI to have a meaningful life," which is accomplished by ensuring well-being, providing opportunities for choice, promoting personal relationships, encouraging participation in the community, and recognizing individuality. The agency has developed a person-centered approach to patient treatment, which focuses on the desires of the resident and not just on the assessments of the various professional disciplines. Many KNI residents require intensive physical and medical supports. Most are unable to speak, about two-thirds have seizure disorders, and about one-third are unable to eat by mouth and receive their nutrition through feeding tubes. Patients at KNI live in 24 homes in five residential lodges. In addition, KNI provides dental services to persons with developmental disabilities living in the community who are unable to access needed care. The agency has sought to consolidate resources and reduce redundancies while maintaining a high investment in direct service staff. This reorganization has led to the consolidation of six basic program areas into three integrated units: administrative services, health care services, and program services.

Agency Request

The **agency** requests FY 2011 operating expenditures of $29,985,713, including $11,927,917 from the State General Fund. The request is an all funds increase of $185,569, or 0.6 percent, above the FY 2010 revised estimate and a State General Fund increase of $2,750,155, or 30.0 percent, above the FY 2010 revised estimate. The request includes 570.2 FTE positions and does not include any enhancement requests. In addition, the request includes a capital improvements request for $125,320, from the Title XIX fund, for Department of Administration's state energy conservation improvement project expenditures.

Governor's Recommendation

The **Governor** recommends FY 2011 operating expenditures of $29,485,713, including $11,327,917 from the State General Fund. The estimate is an all funds decrease of $500,000, or 1.7 percent, and a State General Fund decrease of $600,000, or 5.0 percent, below the agency's FY 2011 request. The reduction is attributable to salaries and wages shrinkage adjustments. The recommendation includes 570.2 positions. In addition, the recommendation includes a capital improvements request for $125,320 from the Title XIX fund for Department of Administration's state energy conservation improvement project expenditures.

House Budget Committee Recommendation

The **Budget Committee** concurs with the Governor's recommendation with the following adjustments and recommendations:

1. Delete 30.2 FTE that are not filled at KNI and an adjustment to the agency's shrinkage rate to reflect the new approved amount of FTE.

2. The Budget Committee recommends the Department of Social and Rehabilitation Services (SRS) implement the provisions of Executive Order 10-01, regarding the consolidation of Kansas Neurological Institute (KNI) and Parsons State Hospital and Training Center (PSH & TC) with a two component strategy. The first component would be to receive input from an advisory group – to include SRS program leadership staff and the superintendents of both KNI and PSH & TC, as well as representatives from Community Developmental Disability Organizations/ Community Service Providers, and focused input from the parent/guardian groups at both hospitals. The advisory group will be charged to explore and develop recommendations on these key elements of the executive order: state developmental disability hospital admission and service continuation criteria; strategies to increase community provider capacity, parent/guardian knowledge and confidence in community services, and successful transition to community services; and finally, input on goals toward accomplishing the consolidation. The second component is for SRS to finalize and implement the consolidation plan, and to work with the Division of Budget to ensure that State General Fund savings are identified and redirected to serving people who are on the waiting list for community developmental disability services.

3. The Committee commends the Department of Social and Rehabilitation Services (SRS) for the consolidation of buildings on the KNI campus that will save an expected $458,107 in State General Fund in FY 2010 and $763,000 in State General Fund for FY 2011. In addition, because of the high staffing turn over at KNI the consolidations have taken place without layoffs, but just by holding position vacant as staff leaves.

4. The Budget Committee expresses concern about shrinkage budgeting practices and the complications this technique creates when attempting to determine the realities of employment and the budgeting process.

5. The Budget Committee recognizes the critical role KNI provides with specialized medical and therapeutic services for the developmental disability community. KNI

operates one of four seating clinics in Kansas providing additional assistance technology support to people with developmental disabilities living in the community. The seating clinic served 207 individuals in FY 2009 and expects to serve at least 230 individuals this fiscal year. The increase in the number of people served through the seating clinic is expected to continue in FY 2011.

In addition, KNI provides dental services to people who are often unable to access needed care. Since the service was initiated, 129 individuals have utilized these services, and it is anticipated that 70 people will participate in these services during FY 2010. Because the dental services have recently been eliminated for adults in the Home Community Based Services waiver for people with developmental disabilities, it is anticipated that demand for dental services will increase in FY 2011.

House Committee Recommendation

The **House Committee** concurs with the House Budget Committee.

Senate Subcommittee Report

Agency: Kansas Neurological Institute **Bill No.** SB 555 **Bill Sec.** 19

Analyst: Montgomery **Analysis Pg. No.** - - **Budget Page No.** 206

Expenditure Summary	Agency Request FY 2011	Governor Recommendation FY 2011	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 11,927,917	$ 11,327,917	$ 0
Other Funds	18,057,796	18,157,796	0
Subtotal	$ 29,985,713	$ 29,485,713	$ 0
Capital Improvements			
State General Fund	$ 0	$ 0	$ 0
Other Funds	125,320	125,320	0
Subtotal	$ 125,320	$ 125,320	$ 0
TOTAL	$ 30,111,033	$ 29,611,033	$ 0
FTE positions	570.2	570.2	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	570.2	570.2	0.0

Agency Request

The **agency** requests FY 2011 operating expenditures of $29,985,713, including $11,927,917 from the State General Fund. The request is an all funds increase of $185,569, or 0.6 percent, above the FY 2010 revised estimate and a State General Fund increase of $2,750,155, or 30.0 percent, above the FY 2010 revised estimate. The request includes 570.2 FTE positions and does not include any enhancement requests. In addition, the request includes a capital improvements request for $125,320, from the Title XIX fund, for Department of Administration's state energy conservation improvement project expenditures.

Governor's Recommendation

The **Governor** recommends FY 2011 operating expenditures of $29,485,713, including $11,327,917 from the State General Fund. The estimate is an all funds decrease of $500,000, or 1.7 percent, and a State General Fund decrease of $600,000, or 5.0 percent, below the agency's FY 2011 request. The reduction is attributable to salaries and wages shrinkage adjustments. The recommendation includes 570.2 positions. In addition, the recommendation includes a capital improvements request for $125,320 from the Title XIX fund for Department of Administration's state energy conservation improvement project expenditures.

Senate Subcommittee Recommendation

The **Subcommittee** concurs with the Governor's recommendation with the following recommendations and notations:

1. The Senate Subcommittee recommends the Department of Social and Rehabilitation Services review vacant FTE positions and shrinkage requirements for this agency to identify positions for elimination and provide a report of the findings for the Committee's consideration at Omnibus.

2. The Senate Subcommittee recommends the Department of Social and Rehabilitation Services (SRS) implement the provisions of Executive Order 10-01, regarding the consolidation of Kansas Neurological Institute (KNI) and Parsons State Hospital and Training Center (PSH & TC) with a two core component strategy. The first component would be to receive input from an advisory group – to include SRS program leadership staff and the superintendents of both KNI and PSH & TC, as well as representatives from CDDOs/Community Service Providers, and focused input from the parent/guardian groups at both hospitals. The advisory group will be charged to explore and develop recommendations on these key elements of the executive order: state developmental disability hospital admission and service continuation criteria; strategies to increase community provider capacity, parent/guardian knowledge and confidence in community services, and successful transition to community services; and finally, input on goals toward accomplishing the consolidation. The second component is for SRS to finalize and implement the consolidation plan, and to work with the Division of the Budget to ensure that State General Fund savings are identified and redirected to serving people who are on the waiting list for community developmental disability services.

3. The Senate Subcommittee commends the staff of this agency for their hard work and dedication during difficult budget times with high staff vacancies and patient census.

House Budget Committee Report

Agency: Parsons State Hospital and Training Center **Bill No.** HB 2706 **Bill Sec.** 19

Analyst: Montgomery **Analysis Pg. No.** - - **Budget Page No.** 212

Expenditure Summary		Agency Request FY 2011		Governor Recommendation FY 2011		House Budget Committee Adjustments
Operating Expenditures:						
State General Fund	$	10,831,700	$	10,415,600	$	0
Other Funds		14,917,521		14,983,621		0
Subtotal	$	25,749,221	$	25,399,221	$	0
Capital Improvements						
State General Fund	$	66,121	$	66,121	$	0
Other Funds		59,825		59,825		0
Subtotal	$	125,946	$	125,946	$	0
TOTAL	$	25,875,167	$	25,525,167	$	0
FTE positions		497.2		497.2		(17.2)
Non FTE Uncl. Perm. Pos.		0.0		0.0		0.0
TOTAL		497.2		497.2		(17.2)

Parsons State Hospital and Training Center is one of two residential treatment, training and care facilities operated by the State of Kansas to serve developmentally disabled persons whose circumstances require specialized residential service provisions. The Center's mission is to serve the habilitation, rehabilitation and residential care needs of each person referred or admitted in ways that fulfill standards of quality and effectiveness and thus enable each person to acquire greater control and additional options for meeting their needs. An individualized treatment plan focusing on clients' needs, wants, and interests is developed for each client in the institution in order to enhance their quality of life. In addition, Parsons State Hospital serves as the statewide resource center for persons with a dual diagnosis of developmental disability and psychiatric impairment in order to provide more appropriate treatment service for these individuals. The facility has a licensed bed capacity of 336 patients.

Agency Request

The **agency** requests FY 2011 operating expenditures of $25,749,221 including $10,831,700 from the State General Fund. The request is an all funds increase of $79,334, or 0.3 percent, above the FY 2010 revised estimate and a State General Fund increase of $3,050,740, or 39.2 percent, above the FY 2010 revised estimate. The request includes 497.2 FTE positions and does not include any enhancement requests.

Governor's Recommendation

The **Governor** recommends FY 2011 operating expenditures of $25,399,221 including $10,415,600 from the State General Fund. The estimate is an all funds decrease of $350,000, or 1.4 percent, and a State General Fund decrease of $416,100 or 3.8 percent, below the agency's FY 2011 request. The reduction is attributable to salaries and wages shrinkage adjustments. The recommendation includes 497.2 positions. In addition, the recommendation includes a capital improvements funding of $125,946, including $66,121 from the State General fund, for Department of Administration's state energy conservation improvement project expenditures.

House Budget Committee Recommendation

The **Budget Committee** concurs with the Governor's recommendation with the following adjustments and recommendations:

1. Delete 17.2 FTE that are not filled at PSH & TC and an adjustment to the agency's shrinkage rate to reflect the new approved FTE legislation committee position.

2. The Budget Committee recommends the Department of Social and Rehabilitation Services (SRS) implement the provisions of Executive Order 10-01, regarding the consolidation of Kansas Neurological Institute (KNI) and Parsons State Hospital and Training Center (PSH & TC) with a two core component strategy. The first component would be to receive input from an advisory group – to include SRS program leadership staff and the superintendents of both KNI and PSH & TC, as well as representatives from CDDOs/Community Service Providers, and focused input from the parent/guardian groups at both hospitals. The advisory group will be charged to explore and develop recommendations on these key elements of the executive order: state developmental disability hospital admission and service continuation criteria; strategies to increase community provider capacity, parent/guardian knowledge and confidence in community services, and successful transition to community services; and finally, input on goals toward accomplishing the consolidation. The second component is for SRS to finalize and implement the consolidation plan, and to work with the Division of Budget to ensure that State General Fund savings are identified and redirected to serving people who are on the waiting list for community developmental disability services.

3. The Budget Committee commends the Department of Social and Rehabilitation Services (SRS) for the consolidation of buildings on the PSH & TC campus that will save an anticipated $196,080 in State General Fund expenditures in FY 2010 and $424,840 in State General Fund expenditures for FY 2011 and created a reduction in redundancies in staffing with the release of 19.0 temporary employees.

4. The Budget Committee expresses concern about shrinkage budgeting practices and the complications this technique creates when attempting to determine the realities of state employment and the budgeting process.

House Committee Recommendation

The **House Committee** concurs with the House Budget Committee.

Senate Subcommittee Report

Agency: Parsons State Hospital and Training Center | **Bill No.** SB 556 | **Bill Sec.** 19

Analyst: Montgomery | **Analysis Pg. No.** - - | **Budget Page No.** 212

Expenditure Summary	Agency Request FY 2011	Governor Recommendation FY 2011	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 10,831,700	$ 10,415,600	$ 0
Other Funds	14,917,521	14,983,621	0
Subtotal	$ 25,749,221	$ 25,399,221	$ 0
Capital Improvements			
State General Fund	$ 66,121	$ 66,121	$ 0
Other Funds	59,825	59,825	0
Subtotal	$ 125,946	$ 125,946	$ 0
TOTAL	$ 25,875,167	$ 25,525,167	$ 0
FTE positions	497.2	497.2	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	497.2	497.2	0.0

Agency Request

The **agency** requests FY 2011 operating expenditures of $25,749,221 including $10,831,700 from the State General Fund. The request is an all funds increase of $79,334, or 0.3 percent, above the FY 2010 revised estimate and a State General Fund increase of $3,050,740, or 39.2 percent, above the FY 2010 revised estimate. The request includes 497.2 FTE positions and does not include any enhancement requests.

Governor's Recommendation

The **Governor** recommends FY 2011 operating expenditures of $25,399,221 including $10,415,600 from the State General Fund. The estimate is an all funds decrease of $350,000, or 1.4 percent, and a State General Fund decrease of $416,100 or 3.8 percent, below the agency's FY 2011 request. The reduction is attributable to salaries and wages shrinkage adjustments. The recommendation includes 497.2 positions. In addition, the recommendation includes a capital improvements funding of $125,946, including $66,121 from the State General fund, for Department of Administration's state energy conservation improvement project expenditures.

Senate Subcommittee Recommendation

The **Subcommittee** concurs with the Governor's recommendation with the following recommendations and notations:

1. The Senate Subcommittee recommends the Department of Social and Rehabilitation Services (SRS) review vacant FTE positions and shrinkage requirements for this agency to identify positions for elimination and provide a report of the findings for the Committee's consideration at Omnibus.

2. The Senate Subcommittee recommends the Department of Social and Rehabilitation Services implement the provisions of Executive Order 10-01, regarding the consolidation of Kansas Neurological Institute (KNI) and Parsons State Hospital and Training Center (PSH & TC) with a two core component strategy. The first component would be to receive input from an advisory group – to include SRS program leadership staff and the superintendents of both KNI and PSH & TC, as well as representatives from CDDOs/Community Service Providers, and focused input from the parent/guardian groups at both hospitals. The advisory group will be charged to explore and develop recommendations on these key elements of the executive order: state developmental disability hospital admission and service continuation criteria; strategies to increase community provider capacity, parent/guardian knowledge and confidence in community services, and successful transition to community services; and finally, input on goals toward accomplishing the consolidation. The second component is for SRS to finalize and implement the consolidation plan, and to work with the Division of the Budget to ensure that State General Fund savings are identified and redirected to serving people who are on the waiting list for community developmental disability services.

3. The Senate Subcommittee commends the staff of this agency for their hard work and dedication during difficult budget times with high staff vacancies and patient census.

FY 2011

SENATE WAYS AND MEANS SUBCOMMITTEE

State Conservation Commission
Kansas Water Office
Department of Wildlife and Parks

Senator Carolyn McGinn, Chair

Senator Janis Lee

Senator Mark Taddiken

Senate Ways & Means Cmte
Date 2-26-2010
Attachment 3

Senate Subcommittee Report

Agency: State Conservation Commission **Bill No.** SB 556 **Bill Sec.** 98

Analyst: O'Hara **Analysis Pg. No.** -- **Budget Page No.** 437

Expenditure Summary	Agency Request FY 2011	Governor Recommendation FY 2011	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 783,299	$ 744,134	$ 0
Other Funds	13,645,466	9,545,662	(18,288)
Subtotal	$ 14,428,765	$ 10,289,796	$ (18,288)
Capital Improvements			
State General Fund	$ 0	$ 0	$ 0
Other Funds	0	0	0
Subtotal	$ 0	$ 0	$ 0
TOTAL	$ 14,428,765	$ 10,289,796	$ (18,288)
FTE positions	13.0	13.0	0.0
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
TOTAL	13.0	13.0	0.0

Agency Request

The **agency** requests a FY 2011 budget of $14.4 million, including $783,299 from the State General Fund. The request is an increase of $2.4 million, or 19.7 percent, above the revised FY 2010 estimate. The State General Fund request is a decrease of $17,234, or 2.2 percent, below the revised FY 2010 estimate. The request includes enhancement funding of $1.2 million, all from special revenue funds. Absent the enhancement funding, the FY 2011 request totals $13.2 million, which is an increase of $1.1 million, or 9.6 percent, above the revised FY 2010 estimate. The increase is attributed to the agency's State Water Plan Fund request.

Governor's Recommendation

The **Governor** recommends a FY 2011 budget totaling $10.3 million, including $744,134 from the State General Fund. The recommendation is a decrease of $4.1 million, or 28.7 percent, above the agency's FY 2011 request, and a decrease of $902,225, or 8.1 percent, below the Governor's FY 2010 recommendation. The Governor does not recommend any of the agency's enhancement requests, which total $1.2 million, all from special revenue funds.

Senate Subcommittee Recommendation

The **Senate Subcommittee** concurs with the Governor's FY 2011 recommendation, with the following adjustments:

1. Delete $18,288, including $9,144 from the Land Reclamation Fund and $9,144 from the Motor Pool Fund, and transfer that amount to the State General Fund in FY 2011, as part of the agency's 2.5 percent State General Fund reduction.

2. Add language that would allow the agency to spend State Water Plan Funds in the Water Resources Cost-Share Program for contractual technical expertise, and/or on non-salary agency administration expenditures in FY 2011 and place a cap on these expenditures at 6.0 percent of the program's total FY 2011 approved budget. The language is as follows:

   And provided further, That expenditures from this account for contractual technical expertise and/or non-salary state conservation commission administration expenditures shall not exceed the amount equal to 6.0 percent of the approved budget amount for fiscal year 2011 for the water resources cost share account.

3. Add language that allows the agency to reappropriate funding from FY 2010 to FY 2011 in the Conservation Reserve Enhancement Program (CREP) account of the State Water Plan Fund. Adding this language would allow the agency to continue the CREP in FY 2011, while not adding this language would lapse any remaining funding at the end of FY 2010 in this account. The CREP is a targeted, voluntary program that provides incentives and cost-sharing to participants that enroll their land into eligible conservation practices, such as native vegetation establishment or wildlife conservation for a period of 14 to 15 years, and permanently retire the water rights tied to the land. The CREP area lies within 10 counties along the Arkansas River corridor, covering 1,571,440 acres. The language is as follows:

   On or after the effective date of this act, during fiscal year 2009, fiscal year 2010 and fiscal year 2011, all expenditures made by the state conservation commission from the monies appropriated in the conservation reserve enhancement program account from the state water plan fund for fiscal year 2009, fiscal year 2010 or fiscal year 2011 as authorized by chapter 187 of the 2008 session laws of Kansas, or by this or other appropriation act of the 2010 regular session of the legislature, shall be made by the state conservation commission in accordance with the following:

   Provided, That any unencumbered balance in the conservation reserve enhancement program account in excess of $100 as of June 30, 2010, is hereby reappropriated for fiscal year 2011. And provided further, That all expenditures under the conservation reserve enhancement program, referred to as CREP in this subsection, are subject to the following criteria:

   (1) The total number of acres enrolled in Kansas in CREP for the four fiscal years 2008, 2009, 2010, and 2011 shall not exceed 40,000 acres;

(2) the number of acres eligible for enrollment in CREP in Kansas shall be limited to one-half of the number of acres represented by contracts in the federal conservation reserve program that have expired in the prior year in counties within the CREP area, except that if federal law permits the land enrolled in the CREP program to be used for agricultural purposes such as planting of agricultural commodities, including, but not limited to, grains, cellulosic or biomass materials, alfalfa, grasses, legumes or other cover crops then the number of acres eligible for enrollment shall be limited to the number of acres represented by contracts in the federal conservation reserve program that have expired in the prior year in counties within the CREP area;

(3) lands enrolled in the conservation reserve program as of January 1, 2008, shall not be eligible for enrollment in CREP;

(4) no more than 25% of the acreage in CREP may be in any one county;

(5) no water right that is owned by a governmental entity, except a groundwater management district, shall be purchased or retired by the state or federal government pursuant to CREP and

(6) only water rights in good standing are eligible for inclusion under CREP:

And provided further, That to be a water right in good standing the following criteria must be met: (A) At least 50% of the maximum annual quantity authorized to be diverted under the water right has been used in any three years from 2001 through 2005; (B) in the years 2001 through 2005 the water rights used for the acreage in CREP shall not have exceeded the maximum annual quantity authorized to be diverted and shall not have been the subject of enforcement sanctions by the division of water resources in the last four years; and (C) the water right holder has submitted the required annual water use report required by K.S.A. 82a-732, and amendments thereto, for each of the most recent 10 years:

And provided further, That the state conservation commission shall submit a CREP report to the senate committee on natural resources and the house committee on agriculture and natural resources at the beginning of the 2011 regular session of the legislature which shall contain a description of program activities and shall include: (i) The total water rights, measured in acre feet, retired in CREP during fiscal year 2009, fiscal year 2010, and fiscal year 2011 to date, (ii) the acreage enrolled in CREP during fiscal year 2009 and in fiscal year 2010 and in fiscal year 2011 to date, (iii) the dollar amounts received and expended for CREP during fiscal year 2009 and in fiscal year 2010 and in fiscal year 2011 to date, (iv) the economic impact of the CREP, (v) the change in groundwater levels in the CREP area during fiscal year 2009, fiscal year 2010, and fiscal year 2011 to date, (vi) the annual amount of water usage in the CREP area during fiscal year 2007, and fiscal year 2008, and fiscal year 2009, and fiscal year 2010 to date, (vii) an assessment of meeting each of the program objectives identified in the agreement with the farm service agency, and (viii) such other information as the state conservation commission shall specify.

Senate Subcommittee Report

Agency: Kansas Water Office **Bill No.** SB 556 **Bill Sec.** 99

Analyst: O'Hara **Analysis Pg. No.** -- **Budget Page No.** 441

Expenditure Summary		Agency Request FY 2011		Governor Recommendation FY 2011		Senate Subcommittee Adjustments
Operating Expenditures:						
State General Fund	$	2,759,981	$	1,889,952	$	0
Other Funds		9,176,131		5,265,195		(46,447)
Subtotal	$	11,936,112	$	7,155,147	$	(46,447)
Capital Improvements						
State General Fund	$	0	$	0	$	0
Other Funds		0		0		0
Subtotal	$	0	$	0	$	0
TOTAL	$	11,936,112	$	7,155,147	$	(46,447)
FTE positions		27.5		23.5		0.0
Non FTE Uncl. Perm. Pos.		1.0		2.0		0.0
TOTAL		28.5		25.5		0.0

Agency Request

The **agency** requests a FY 2011 operating budget of $11.9 million, including $2.8 million from the State General Fund. The request is an increase of $3.1 million, or 34.6 percent, above the agency's revised FY 2010 estimate. The agency's request includes enhancement funding of $3.8 million, including $770,558 from the State General Fund. Absent the enhancement request, the agency's FY 2011 request totals $8.2 million, which is a decrease of $1.4 million, or 14.7 percent, below the agency's revised FY 2010 estimate.

Governor's Recommendation

The **Governor** recommends a FY 2011 operating budget of $7.2 million, including $1.9 million from the State General Fund. The recommendation is a decrease of $4.8 million, or 40.1 percent, below the agency's FY 2011 request, and a decrease of $1.7 million, or 18.8 percent, below the Governor's FY 2010 recommendation. The Governor does not recommend any of the agency's enhancement requests, which total $3.8 million. The State General Fund recommendation totals $1.9 million, which is a decrease of $870,029, or 31.5 percent, below the agency's FY 2011 request, and a decrease of $76,079, or 3.9 percent, below the Governor's FY 2010 recommendation. The decrease from the agency's request is attributed to the Governor not recommending the agency's State General Fund enhancement requests, which total $770,558. In addition, the Governor recommends the agency's reduced resources budget of $99,471, all from the State General Fund.

Senate Subcommittee Recommendation

The **Senate Subcommittee** concurs with the Governor's FY 2011 recommendation, with the following adjustment:

1. Delete $46,447, all from the Water Supply Storage Assurance Fund, and transfer that amount to the State General Fund in FY 2011, as part of the agency's 2.5 percent State General Fund reduction.

Senate Subcommittee Report

Agency: Department of Wildlife and Parks **Bill No.** SB 556 **Bill Sec.** 100

Analyst: O'Hara **Analysis Pg. No.** -- **Budget Page No.** 443

Expenditure Summary	Agency Request FY 2011	Governor Recommendation FY 2011	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 5,813,422	$ 5,522,436	$ (527,244)
Other Funds	47,678,617	47,506,817	200,000
Subtotal	$ 53,492,039	$ 53,029,253	$ (327,244)
Capital Improvements			
State General Fund	$ 1,506,300	$ 6,300	$ 0
Other Funds	7,362,200	6,443,672	0
Subtotal	$ 8,868,500	$ 6,449,972	$ 0
TOTAL	$ 62,360,539	$ 59,479,225	$ (327,244)
FTE positions	423.5	416.5	0.0
Non FTE Uncl. Perm. Pos.	31.0	31.0	0.0
TOTAL	454.5	447.5	0.0

Agency Request

The **agency** requests a FY 2011 operating budget of $53.5 million, including $5.8 million from the State General Fund. The request is an increase of $3.5 million, or 7.0 percent, above the agency's revised FY 2010 request. Included in the agency's FY 2011 request is enhancement funding of $1.3 million, all from special revenue funds. Requested State General Fund expenditures total $5.8 million, which is an increase of $533,008, or 10.1 percent, above the agency's revised FY 2010 estimate.

Governor's Recommendation

The **Governor** recommends a FY 2011 operating budget of $53.0 million, including $5,522,436 from the State General Fund. The recommendation is a decrease of $462,786, or 0.9 percent, below the agency's FY 2011 request, and an increase of $3.2 million, or 6.4 percent, above the Governor's FY 2010 recommendation. The State General Fund recommendation totals $5.5 million, which is a decrease of $290,986, or 5.0 percent, below the agency's FY 2011 request, and an increase of $414,013, or 8.1 percent, above the Governor's FY 2010 recommendation. The Governor recommends reductions for State Parks capital outlay expenditures ($40,986) and to replace State General Fund expenditures for State Parks with special revenue funds ($250,000). The Governor recommends $848,030, all from special revenue funds, in enhancement funding for vehicle replacements. The Governor does not recommend any other enhancement requests.

Senate Subcommittee Recommendation

The **Senate Subcommittee** concurs with the Governor's FY 2011 recommendation, with the following adjustments:

1. Delete $527,244, all from the State General Fund, as part of the agency's 2.5 percent State General Fund reduction. The agency submitted its plan for reducing FY 2011 State General Fund expenditures, which includes salary savings from vacant positions; reduced seasonal and temporary salaries; and increased expenditures from the agency's Park Fee Fund to maintain state park operations.

2. Add $200,000, all from the Park Fee Fund, to increase the agency's expenditure limitation for state park operations in order to partially offset the agency's decreasing State General Fund revenues in FY 2011.

Skilled Nursing Facility Provider Assessment Program: 2008 SB 585 and 2010 SB 546 Comparison

2008 Senate Bill 585	2010 Senate Bill 546
Establishes a monthly assessment on skilled nursing facilities which is payable on a monthly basis.	Establishes an annual assessment on skilled nursing facilities which is payable on a quarterly basis.
Grants Kansas Department on Aging administrating authority.	Grants Kansas Health Policy Authority administrating authority.
Assessed rate shall be $4.75 per non-Medicare Part A patient per day.	Assessed rate is per licenced bed per licenced facility.
N/A	Establishes a downward assessment collection trend by allowing only 60.0 percent of the amount collected in the first year to be collect after the third year.
N/A	No facility is allowed to pass the assessment collection on to residents.
Assessed funds shall be used for: • Implementations of the fair rental value payment to enhance the property component of Medicaid reimbursement; • Rate increases for cognitively impaired residents using the cognitive performance scale; • Removal of the 85.0 percent occupancy penalty; • And, additional inflation allowance in the direct health care cost center and as a pass through for the Medicaid portion of property taxes.	**Assessed funds shall be used for:** • Payment for administrative expenses incurred by the authority; • Increased nursing facility payments to fund covered services to Medicaid beneficiaries; • Reimbursement of initial portions of the Medicaid share of the assessment; • Restoration the 10.0 percent provider reduction implemented from January 1-June 30, 2010; • And, restoration of funding for FY 2010 re-basing and inflation.
Remaining funds shall be used directly or indirectly to replace state expenditures for payments to skilled nursing care facilities.	Remaining funds shall only be used for quality enhancements of skilled nursing facilities and is not allowed to replace state expenditures for payments to skilled nursing care facilities.
N/A	Establishes a Quality Care Improvement Panel to over see the program and annually report to the Legislature.
No expiration date.	Expires four years after the effective date.
Takes effect upon publication in the statute book.	Takes effect upon publication in the *Kansas Register*.

Senate Ways & Means Cmte
Date 2-26-2010
Attachment 4

KANSAS
DEPARTMENT ON AGING

Mark Parkinson, Governor
Martin Kennedy, Secretary

www.agingkansas.org

Senate Ways & Means
February 25, 2010

SB 546/Provider Assessment

Bill McDaniel, Commissioner
KDOA Program and Policy

Chairman Emler and members of the committee, thank you for the opportunity to appear today in support of SB 546. I am Bill McDaniel, Commissioner of Program and Policy at the Kansas Department on Aging (KDOA).

A provider assessment for Kansas nursing homes is not a new idea. It has been proposed several times as a means of financing increases in nursing facility rates and quality improvement initiatives. While recognizing the value of such programs adopted in other states, KDOA remained neutral with regard to adopting such an assessment in Kansas. The neutral position was based on the fact that the provider community has been split on the issue

KDOA has shifted its position to support of the provider assessment because of the current fiscal crisis which has limited the State's ability to fund Medicaid services, including nursing facility rates. The provider assessment is a legitimate method of leveraging additional federal funds for the nursing home program and is approved by the Centers for Medicare and Medicaid Services (CMS). Currently, 36 states and the District of Columbia utilize a nursing home provider assessment.

The Department on Aging administers long term care services under KSA 75-5945 and would administer the assessment as described in SB 546. KDOA has tracked this issue closely, maintained on-going discussions with the nursing home provider associations and considered the experience of our consultants in evaluating provider assessment proposals.

KDOA staff members participated in the Kansas Health Policy Authority (KHPA) Nursing Facility Provider Assessment Advisory Committee meetings and were actively involved in the related technical workgroup meetings, which occurred periodically in 2008 and 2009. The technical workgroup prepared a report, "Nursing Facility Provider Assessment Parameters and Impact Analysis," which was presented and accepted by the KHPA board in January. Many of the parameters and mechanisms recommended in the report are included in SB 546.

It should be noted that SB 546 does not use the nursing home provider assessment to leverage federal funds for the Home and Community-Based Services (HCBS) Frail Elderly and Physically Disabled waivers. The HCBS advocates were members of the advisory committee and such provisions have been part of provider assessment bills put forth in recent years. Their inclusion offers an opportunity to support community-based services that have also been affected by recent budget constraints.

I have included with my testimony a copy of the KHPA report and the related Provider Assessment Summary/Model. The modeling demonstrated the ability to meet the federal requirements for a permissible health care related assessment. We will perform similar modeling for the parameters in SB 546 to help ensure a Medicaid State Plan will be approved by the federal Centers for Medicare and Medicaid Services.

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Nursing Facility Provider Assessment Parameters and Impact Analysis
To the KHPA Board: January 26, 2010

General Parameters
- Assess all Licensed Beds except for nursing facilities for mental health and the state operated Soldiers Home and Veterans Home
- Generate $15.97 million using a uniform rate of approximately $725
- A fund should be established to hold the assessment revenues, and the funds should only be used for the Medicaid NF and other Medicaid (HCBS) programs
- Split revenue 85/15 between NF program and other programs
- An advisory board would provide recommendations to the Secretary of Aging on how the funds should be used
- Add $33.38 million NF reimbursement system with adjustments for
    - Removing the 85% occupancy rule
    - Passing through the Medicaid share of the assessment
    - Applying additional inflation to all costs
    - Increasing incentive payments 250%
    - Spending up to $1,000,000 on a satisfaction survey program

Impact Analysis
- Fiscal Impact to Nursing Facilities
    - 314 homes (91%) gain and average of $57,408
    - 28 homes (8%) lose and average of $22,669
    - 2 homes (1%) neutral
- Provides $5.98 million for other programs such as HCBS
- Private pay impact
    - 36 new nursing homes would be subject to a private pay limit unless they raised their private pay rates (the average increase would be $4.56)
    - If any provider were to pass the assessment directly through to private pay residents, the expense would amount to about $2.30 per resident day

Pros and Cons

Pros	Cons
$40 M ($24 M net) Medicaid increase	Potential private pay increases
Reward quality performance	Some providers have net loss
Encourage Medicaid participation	Not all funding tied to quality
Encourage bed closure or recycling	

Cash Flow Analysis
- If enhancements were effective July 1st and assessment was collected quarterly by the end of the first month of each quarter, the nursing homes would have a net loss (of $1.2 M) for the first month but would be ahead from the second month on
- If enhancements were effective July 1st and assessment was collected quarterly due by the end of the quarter, the state would have a net loss (of $2.2 M total) for the first two months, but would be ahead from the third month on

Time Line

- CMS Regional staff have stated that the expectation would be to review both the assessment proposal and any related state plan amendment concurrently
  - The assessment proposal would be reviewed at the CMS central office
  - The state plan amendment would be reviewed at the regional office
- At least four months should be allowed to gain CMS approvals
  - For a July 1, 2010 effective date both the assessment proposal and related state plan amendment should be submitted no later than March 1, 2010, unless it would be implemented retroactively

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Provider Assessment Summary

Assessment Input Parameters

Assessable Provider Options

Option	Provider	# of Homes Excluded
Include	State Operated Providers	0
Include	Hospital Based LTCU	0
Include	NF-MH	0
Include	Government Owned Facilities	0
Include	Continuing Care Ret. Comm. (CMS defined)	0

Total (Unduplicated) # of Homes Excluded: 0

Assessment Basis Options

Assessment Basis: Licensed Beds

Revenue Test: 1.50%

Beds

Assessment Rates	
$725.00	< 500
$725.00	500 < Mdcd Days < 30000
$600.00	> 30000
$0.00	State Operated
$0.00	NF-MH

23,093 Total Assessable Beds

$691.69 Average Assessment Rate

15,973,175 Revenue Generated

Statistical Tests

P1/P2

P1	0.54
P2	0.53
P1/P2	1.011888

B1/B2

B1	0.0000001659
B2	0.0000001536
B1/B2	1.079582

Provider Assessment Summary

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Assessment Revenue Use

Assessment Revenue Distribution Options

%	Program	Assessment Contribution	FMAP Rate	Total New Program Funds	Net New Funds
0%	Non-Medicaid Programs	0	N/A	0	0
0%	Non-LTC Medicaid Programs	0	40.08%	0	0
15%	Medicaid Home and Community Based Services	2,395,976	40.08%	5,977,985	3,582,008
40%	Medicaid Nursing Facility Program Base Maintenance	6,389,270	40.08%	15,941,292	9,552,022
45%	Medicaid Nursing Facility Program - Quality Enhancements	7,187,929	40.08%	17,933,954	10,746,025
	Totals	15,973,175		39,853,231	23,880,056

NF Program Use and Impact

NF Reimbursement Program Adjustments

Adjustment	Value	Total Benefit	Homes Impacted	Subject to PPL
Remove 85% Occupancy Rule for homes with < 200 beds	Yes	2,448,479	61	Yes
Cost Center Limit Adjustments				
Operating Cost Center Limit Increase	0.00%	0	0	Yes
IDHC Cost Center Limit Increase	0.00%	0	0	Yes
DHC Cost Center Limit Increase	0.00%	0	0	Yes
Inflate the Real and Personal Property Fee				
Additional Inflation		-	0	Yes
New Limit	8.62			
Pass-Through Medicaid Share of Assessment	Yes	8,454,383	316	No
Apply Inflationary Increase				
Inflation Factor	3.16%	16,273,206	324	Yes
Increased Funding for Current Incentive or Other Outcomes-Based Measure				
Increase to Current Incentive	250.00%	5,207,138	255	No
Funding for Statewide Satisfaction Survey Program				
PPD/RFP Limit	0.26	1,000,000	324	No

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Provider Assessment Summary

NF Program/Provider Fiscal Impact Analysis

Total Increase to NF Program Expenditures	33,383,205.42				
Net Increase to NF Program Expenditures	17,410,030.42				
Number of Providers with Net Gain	314	Avg Gain	57,408	Max Gain	279,291
Number of Providers with Net Loss	28	Avg Loss	-22,669	Max Loss	-76,850
Number of Providers with 0 Impact	2				

The Losers

#	Loss		Avg % Medicaid	Avg # of Beds
28	-$22,669	(avg)	13%	52
4	over $40k		0%	82
9	$20-$40k		10%	66
15	under $20k		19%	36

The Winners

#	Gain		Avg % Medicaid	Avg # of Beds
314	$57,408	(avg)	57%	68
186	up to $50k		51%	56
78	$50-$100k		62%	76
50	over $100k		70%	103

The Average

#	Avg Gain		Avg % Medicaid	Avg # of Beds
344	$50,556	(avg)	53%	67

February 26, 2010

Testimony: SB 546, nursing home provider assessment program

Thank you Mr. Chairman and members of the Senate Ways and Means Committee for allowing me to testify before you this morning.

I am here to share with you my concerns about some of the economic problems that exist because of budget cuts. And, why it is very important for the Kansas Legislature to enact the nursing home provider assessment program.

My knowledge comes from two areas: I was a director of Main Street program, which is an economic development and historical preservation program for small communities. And, I have spent many hours in the past three years visiting my mother-in-law, Vinita Stauffer, in a nursing home.

I want to begin by addressing some of the testimony from yesterday: I heard testimony that the bill is a "perverse incentive against personal responsibility" and also that it will "penalize the people for exercising personal responsibility." These are shameful condemnation against the most vulnerable in our society.

Vinita had long-term health care insurance and is a private-paying resident. Yet, she would never deny a frail elderly person a medical health care facility. She was never selfish or greedy. People in the community knew that if they needed help, they could turn to Vinita and her husband.

This is the generation that some of the organizations around the state would like to deny services to in this worst economic climate since the great depression. These people worked very hard, and most of them did not have retirement packages, health insurance benefits, and many of these people were never told about long-term care.

Vinita Stauffer is 92, wheel-chair bound, and has dementia. For 60 years Vinita lived on the family farm and had endured the great depression. One example: They sold pigeons in Kansas City to have money to put food on the table. Besides Vinita's regular household chores, she milked the cows, worked in the fields, gathered the garden produce, canned, built fences, raised chickens, and hand cared for the runts and orphaned animals. Her dedication did not stop with her family and the farm. She was a 4-H leader, precinct chair, Sunday-School teacher, church leader, and was also involved in school activities. Auswell cowboyed all through Kansas and helped many farmers. He was a salvage dealer and his business was known nationwide.

There are many nursing home residents whose lives parallel the lives of Vinita and Auswell. They did everything they could to survive and rear their family in those days. The majority of these residents did not ask for or take assistance. A Social Security agent talked to Auswell about his social security. He told the agent that he did not need the money and to give it to someone who was in need. Social Security refused and he received it anyway, but felt guilty about it.

The state has an opportunity to obtain the funding that nursing homes desperately need. The Kansas Legislature has enacted the provider assessment program for hospitals and pharmacies. Now, it is time for Kansas lawmakers to enact legislation to protect the elderly.

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All nursing home residents need competent and compassionate health care. With the 10% cuts this year, will these senior citizens continue to receive the ***quality of care and services*** they deserve?

During the past three years, I have observed how our society cares for the elderly. Most of the families of nursing home residents are working and/or rearing their families. In addition, there are not near as many volunteers to help in the nursing homes. The generation of volunteers is now the ones living in the nursing homes. The residents are mainly, if not solely, dependent on the staff for most of their physical, mental, and emotional needs. Some of our nursing home residents are lonely, frightened, and/or confused. Many of the residents have a number of physical limitations that require almost constant care.

From what I heard from the testimony yesterday, the medical health care facilities that do not accept Medicaid residents, are mainly from the metropolitan areas. What is the difference? When their elderly residents were working, they had more job opportunities with retirement plans.

I feel these organizations are discriminating against the farmers and labors and the mom and pop stores, these people work long hours and do not have company insurance and retirement benefits. These are the people who feed our state and our nation. Here, I am not referring to the corporate farmer.

I would like to address the issues involving increased costs for private-paying residents. If a medical health care facility, does not take Medicaid residents, these facilities could choose to help the frail elderly who have no choice but to have Medicaid pay for their care. It would also be beneficial to their private-paying residents.

With Medicaid cuts two years in a row and certification standards to meet, the nursing homes have no choice but to raise the rates for the private-paying residents, if this bill is not passed. The money has to come from somewhere. When the rates increase for the private-paying, many times these residents turn to medical health care facilities that do not take Medicaid patients. Why? The smaller facilities can provided them with more individual care because they do not have to make up for the lack of payment for the portion of Medicaid patients. This creates an even greater burden on the facilities that are willing to take the Medicaid residents. If no one in Kansas accepted the frail elderly on Medicaid, Kansas would no longer be a state where I would be proud to live.

The reduction of Medicaid funds puts strain on the entire staff when employees have to work short-handed. The employees do the best they can with the required workload. Their work is demanding and labor intensive. Some of the residents already have to wait for help because there are not enough employees on duty. Nursing homes need more employees, not fewer. If there are more cuts, some of the nursing homes may not pass the state inspection. If nursing homes do not cut their operating costs, then, they may be forced out of business. Either way everyone of us loses.

The cuts in Medicaid reimbursement also impact other areas: When a nursing home closes, the frail elderly will end up 'maxing out' other community services. Some of the residents will have to find a medical health care facility in a different community—away from family and friends. Or, an adult child may need to stop working to take care of the parent, creating a financial burden on the whole family. What does this do to our economy? I think it is obvious.

Some nursing homes have already had no choice but to terminate employees. We already have a high unemployment rate in Kansas. With the loss of jobs, there will continue to be less spending, even on necessities. Our communities across the state already have overstretched budgets and inadequate services. We will continue to see a snowball effect: local and county governments will receive fewer tax dollars to operate their cities and counties. This will impact the whole state when the Department of Revenue takes in less tax revenue. We already have a runaway shortage of tax revenue in Kansas.

Our state is facing a nursing home crisis. The Kansas Legislature can prevent the crisis by enacting a nursing home provider assessment program and raising the quality of care standard for nursing homes in the state of Kansas. Do we want Kansas to be the last state to protect some of its most vulnerable citizens—the elderly in need of quality nursing home care?

Today's elderly citizens make up the generation that made our country great. Many of these men and women are War Veterans. These are people who worked diligently to provide for their families, saved to buy homes, worked hard to send their children to college, gave us the opportunities we now have. How can we deny them care in the final years of their lives?

I believe the Kansas Legislature will make the right decision by enacting the Nursing Home Provider Assessment program into law.

Thank you for working on behalf of the elderly citizens of Kansas. And, thank you for allowing me to testify before you this morning.

Respectfully submitted,

Jeanette Stauffer
Jeanette C. Stauffer

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Testimony on Senate Bill 546

Chairman Emler and members of the Ways & Means Committee, thank you for the opportunity to deliver comments on SB 456.

I am Monte Coffman, Executive Director of Health Management of Kansas, Inc., which is a long-term care organization based in Coffeyville. We provide services through three nursing facilities, two assisted living facilities and a home and community based home care agency.

Today, you give consideration to a provider assessment program as a vehicle to help resolve the Medicaid funding crisis.

Historically, our organization has opposed the provider assessment approach. We did not believe it would be sustainable over time. We also believed it caused a fundamental shift of the burden to pay for services from the state's constitutional responsibility to providers.

However, today's reality changes that. The economy has contracted so significantly. Tax collections are down by amounts once thought impossible. This has led to repeated cuts in Medicaid reimbursements, the most recent being a 10% rate reduction. The total reductions in Medicaid revenues has been significant and the impact far reaching.

The significance of these reductions coupled with there being additional available State resources for Medicaid increases has led our organization to change our position on the provider assessment.

Today, we still hold to the belief that the obligation to provide adequate Medicaid funding is the State's constitutional responsibility. But as there are no State resources available because of the economic downturn, we wish to contribute to a solution which will provide for Medicaid rate restoration.

Therefore, we will support this bill with the following conditions:

1. The language and bill provisions be written in a manner which would create a lock box and prevent future sweeping of these account funds by state officials.

2. The Legislature would monitor and plan for the appropriate funding transitions at the end of this four-year program.

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3. The bill presently lacks sufficient details, adequate dollars have to be planned to restore the Medicaid cuts.

4. Restoration of Medicaid reimbursements would be implemented before the payment of the provider assessment for cash flow considerations.

Thank you, Chairman Emler and committee members for your consideration.

Respectfully submitted,

Monte Coffman
Executive Director
Health Management of Kansas
d/b/a Windsor Place
Coffeyville, KS 67337

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TESTIMONY TO THE SENATE WAYS AND MEANS COMMITTEE
SENATE BILL NO. 546
February 25, 2010

Thank you for the opportunity to speak before you, my name is Nick Wood, I am a disability rights advocate at the Disability Rights Center of Kansas. The DRC is a public interest legal advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities. As such, DRC is the officially designated protection and advocacy organization for Kansans with disabilities. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of state government and whose sole interest is the protection of the legal rights of Kansans with disabilities.

We understand the bill would help maximize financial resources available to Kansas. The DRC supports the bill, and we also want to advocate further that revenue generated also be allocated to our state's Home and Community Based Waiver programs. We advocate that at least 20% of the dollars gained through this procedure to be allocated to all of Kansas' Home and Community Based service programs.

It only makes sense to include the HCBS Waiver programs as a target for any extra revenue. Kansans with disabilities who need these programs are forced to wait for services and supports. The current "freeze" on services for the HCBS physical disabilities Waiver and the more than 3,000 children and adults with developmental disabilities who must wait to receive services are critical concerns. Additionally, we are concerned about the level of funding for all HCBS Waiver services (frail elderly, children with autism, those with traumatic brain injuries, children with mental health needs, etc.). Waiting lists are bad for people with disabilities, bad for taxpayers and bad for Kansas. If services are not provided in the community, then people will be forced to be served in more expensive, and often times "entitled," institutional care settings. Community-based services are upwards of four times LESS expensive than their institutional counterparts. Cutting community based services and creating waiting lists only harms people with disabilities and seniors and costs taxpayers more in the end.

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TESTIMONY
SENATE WAYS AND MEANS COMMITTEE
FRED BENJAMIN
CHIEF OPERATING OFFICER
MEDICALODGES, INC.

February 26, 2010

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE.

THANK YOU FOR EXTENDING THIS HEARING AND ALLOWING ME TO COME BACK AGAIN TODAY. MY NAME IS FRED BENJAMIN AND I AM THE CHIEF OPERATING OFFICER OF MEDICALODGES. WE ALSO OPERATE IN MO. AND OK, BUT THE VAST MAJORITY OF OUR OPERATIONS ARE IN KANSAS. HEADQUARTERD IN COFFEYVILLE, WE ARE THE LARGEST GROUP OF SKILLED CARE FACILITIES IN KANSAS, OPERATING 2700 BEDS AND EMPLOYING 1900 PEOPLE, THE VAST MAJORITY OF WHICH ARE IN RURAL KANSAS. IN MANY INSTANCES, WE ARE THE ONE OF THE TWO OR 3 LARGEST EMPLOYERS. WE ARE ALSO PROVIDERS OF ASSISTED LIVING, RESIDENTIAL CARE AND HCBS SERVICES. MEDICALODGES IS EMPLOYEE OWNED AND HAS BEEN SERVING KANSAS FOR ALMOST 50 YEARS. I THINK THAT THIS IS IMPORTANT FOR YOU TO KNOW THIS, BECAUSE YESTERDAY ONE OF MY NOT-FOR-PROFIT COLLEAGUES SPOKE OF ALL THE PROFITS GENERATED BY FOR-PROFIT PROVIDERS GOING TO INVESTORS. IN OUR CASE, AND WE ARE THE LARGEST IN KANSAS, ANY REVENUES IN EXCESS

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OF EXPENSE GO FIRST TO UPDATING OUR FACILITIES AND IF ANYTHING REMAINS, THOSE FUNDS GO TO OUR EMPLOYEES PENSION PLAN.

I AM HERE THIS MORNING TO SPEAK IN SUPPORT OF SB 546/HB 2673, THE QUALITY CARE ASSESSMENT ACT. I WILL NOT REPEAT WHAT YOU HAVE ALREADY HEARD, BUT WOULD LIKE TO CLARIFY, A FEW KEY POINTS. FIRST, YOU SHOULD KNOW THAT FOR-PROFIT COMPANIES LIKE MEDICALODGES CARE NOT ONLY FOR MEDICAID BENEFICIARIES, BUT ALSO FOR MANY PRIVATE -PAY RESIDENTS. THE IMPLICATION OF THIS IS THAT IF THE ASSESSMENT ACT IS NOT PUT INTO LAW, WE WILL BE FORCED TO RAISE RATES TO A SIGNIFICANT NUMBER OF PRIVATE PAY RESIDENTS ANYWAYS AND RATHER SIGNIFICANTLY. THERE IS NO EASY WAY OUT. I WOULD RESPECTFULLY SUGGEST THAT YOUR GUIDING PRINCIPLE SHOULD BE TO SEEK THE GREATER GOOD. ANOTHER KEY POINT IS THAT WHEN PRIVATE PAY RESIDENTS RUN OUT OF MONEY AT SOME NOT-FOR-PROFIT FACILITIES, THEY ARE ASKED TO MOVE. WE KNOW THIS BECAUSE WE TAKE THEM IN WHEN THIS HAPPENS. JUST AS IT IS OUR BUSINESS DECISION TO ACCEPT MEDICAID, IT IS THE BUSINESS DECISION OF OTHERS NOT TO ACCEPT MEDICAID.

IN MY ROLE AS COO, IT WAS MY RESPONSIBILITY TO DEVELOP OUR CORPORATE RESPONSE TO THE 10% REVENUE REDUCTION. IT WAS WITH A HEAVY HEART THAT WE IMPLEMENTED AN EMPLOYEE WAGE FREEZE, AN

IMMEDIATE HALT TO ALL RENOVATION PROJECTS, AND THE REDUCTION OF A LIMITED NUMBER OF NON-PATIENT CARE POSITIONS. AS YOU KNOW, LABOR IS THE LARGEST COMPONENT OF OUR BUDGET AND THE PEOPLE THAT WE EMPLOY ARE GENERALLY AT THE LOWER END OF THE WAGE SCALE, MANY IN RURAL COMMUNITIES. PUTTING THESE PEOPLE IN THE UNEMPLOYMENT LINE CANNOT BE GOOD PUBLIC POLICY WHEN OTHER ALTERNATIVES ARE AVAILABLE. WE HAVE BEEN WATCHING THE PROGRESS OF THIS LEGISLATION CAREFULLY TO SEE IF A LARGER SCALE REDUCTION OF POSITIONS WILL BE NECESSARY. YOU SHOULD ALSO KNOW THAT WE WORK VERY HARD AT BEING EFFICIENT. WE HAVE BEEN MEETING WITH OUR VENDORS FOR MONTHS TO FIND BETTER AND LESS EXPENSIVE WAYS TO OPERATE. MANY NON-CRITICAL PROGRAMS AND EXPENDITURES THAT MAKE NURSING HOME EXISTENCE MORE PLEASANT LIE IN THE BALANCE. WE WILL CONTINUE TO PROVIDE QUALITY CARE TO OUR SENIORS BECAUSE IT'S ONE OF OUR CORE VALUES BUT, WE HAVE TO MAKE PAYROLL. THE BANK, THE FOOD SUPPLIERS AND THE PHARMACY HAVE TO BE PAID. THIS IS TRULY A CRISIS AND I'M REALLY GLAD THAT I DON'T HAVE YOUR JOBS. BUT I AM GLAD THAT THERE IS A REASONABLE SOLUTION THAT MAXIMIZES THE GREATER GOOD AND THAT SOLUTION IS SB 546. THANK YOU FOR YOUR TIME AND FOR LISTENING.

Topeka Independent Living Resource Center

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Testimony Presented to the Senate Ways and Means Committee
Senator Jay Emler, Chair

Requesting Consideration of Amendments to SB 546

By
Mike Oxford, Executive Director
February 25, 2010

The Topeka Independent Living Resource Center (TILRC) is a civil and human rights organization. Our mission is to advocate for justice, equality and essential services for a fully integrated and accessible society for all people with disabilities. TILRC has been providing cross-age, cross-disability advocacy and services for over 30 years to people with disabilities across the state of Kansas. Our agency has been particularly interested in and committed to assuring that people who require long term care services have access to information, services and supports that offer choices; choices that promote freedom, independent lifestyles and dignity, including the dignity of risk.

We believe that over the years, the State of Kansas has increasingly come to support these interests, as well, as evinced by increasing the number of home and community program options and by increasing the funding for these programs. At the same time, there has been a significant struggle to continue to find the budgetary resources necessary to fund both the facilities and the home and community alternatives to facility-based long term care services.

SB 546 proposes a method for increasing revenue dedicated to long term care services that would be new to Kansas. This funding mechanism is based on the nursing facility census and has been used by many states over the years to increase funding for the nursing facility industry. Some of the states that have utilized this method have also been very creative in demonstrating leadership in the development and delivery of home and community services and supports. This method not only raises the targeted revenue, but by having and using this kind of direct revenue, these states have also been able to avoid additional costs to the general revenue and have been able to use this "cost savings" to further fund creative home and community service options. Other states have raised billions of dollars through a similar fee. In tight budget times, shouldn't we be looking for ways, especially tried and tested ways, to raise revenue for the growing demand for long term care services?

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The need for assuring the availability and quality of long term services and supports exists in all settings, from the facility to home and community. SB 546 offers a resource for skilled nursing facilities to promote quality assurance activities and to replace lost funding. TILRC proposes amending the bill so that 20% of the amounts collected from the proposed fee would go to home and community-based services and supports for individuals who otherwise qualify for nursing facility level of care. This proposed amendment is in keeping with our support for SB 585 of the Session of 2008. We believe that the resources derived from a quality assurance fee based on nursing facility census counts should be committed to home and community services that are an institutional equivalent. Currently, this means the FE and PD Waivers.

We think our amendment underscores the state's commitment to assuring that people have choices in long term care services. Our amendment is part of a long tradition in our state of supporting independence and dignity of long term care service recipients. Finally, we hope that our amendment is part, along with the MFP grant project, of a new beginning addressing the potential of nursing facilities working together with home and community agencies to create the seamless, quality long term service and support system that out state's consumers deserve.

Proposed amendment is in *italics, below:*

Sec. 1.(d)(4)*(G) 20% of the moneys in the fund shall be used exclusively for the following purposes:*

(1) equitably fund PD and FE Waiver covered services;
(2) restore service cuts and remove service caps implemented January 1, 2010
(3) restore the Medicaid rate reductions implemented January 1, 2010, including enhancing wages of attendant workers under self directed programs;
(4) restore funding up to 2008 levels for fiscal year 2010;
(5) equitably fund PD and FE Waiver quality assurance activities
(6) The remaining amount, if any, shall be expended for quality enhancement and improvement activities of the PD and FE Waivers

TILRC also would support a direct tax on in-home services providers to be used for the same purposes as above. This would seem to make the most sense. The problem is that such a tax is likely to be disallowed, as in the case of Missouri. Missouri's attempt to assess an in-home services provider tax was not approved by CMS. Perhaps in the future, an approved method will be promulgated. In the meantime, the PD and FE Waivers and the nursing facilities are serving a population that is, to a certain extent, shared. Why not also share efforts to enhance quality assurance and protect good services by replacing lost funding; whether an individual chooses facility-based or home and community-based services?

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KANSAS HEALTH POLICY AUTHORITY

February 25, 2010

Senate Ways and Means
Testimony on SB 546

Andy Allison
Executive Director
Kansas Health Policy Authority

Mr. Chairman and members of the committee, thank you for allowing me to testify about the proposed nursing facility assessment.

The bill as proposed would authorize KHPA to seek federal approval to assess a per bed fee on nursing facilities. This fee or assessment would be paid by the nursing facilities to KHPA on a quarterly basis. KHPA would match the assessment revenue with federal Medicaid dollars to increase payments back to the facilities. The bill requires additions to rates that would restore the 10% payment reduction in the Governor's allotment, to rebase the nursing facility rates based on the existing state plan, to pay the administrative cost of the assessment, and to make other improvements in the quality of care provided. The rate changes would require approval from the Centers of Medicare and Medicaid Services and would have to meet several requirements for provider assessments and rate setting described in regulations. In our experience, the approval process will take between 9 and 12 months.

Over the past 18 months, the KHPA Board of Directors has discussed the implementation of a nursing facility provider assessment as a means to maximize Medicaid dollars for Kansas. The Board also considered the opposing views on the merits of such a tax as presented by the two nursing facility trade associations: the Kansas Association of Homes and Services for the Aging; and the Kansas HealthCare Association. In November 2008, the Board determined that a workgroup be convened to develop an impact analysis and implementation options for a nursing facility provider assessment. The Board also agreed that the following objectives should be met for such a proposal: a) compliance with the Center of Medicare/Medicaid Services policies; b) the proposal would be data driven; c) sister state Medicaid agencies would be supportive; and d) the proposal would align with KHPA goals to improve access and quality of care. The Nursing Facility Technical Assistance Workgroup, led by the Department on Aging, convened in early 2009. A final report and analysis was presented to the KHPA Board in November 2009. After further discussion at the January 2010 Board meeting, it was clarified that the Board was being asked to accept the technical composition of the analysis but would not be taking action to advance this assessment forward. The Board then voted to Receive the Final Report as prepared by the NF Technical Assistance Workgroup in January 2010, We have provided copies of testimony that our Board Chair, Joe Tilghman, provided to the House Appropriations Committee describing the process the Board carried out to review nursing facility assessment options.

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KHPA, as the single state Medicaid agency, would be responsible for overseeing the approval process for the nursing facility assessment. The bill gives KHPA the responsibility to get the assessment through the federal approval process, assess the nursing facilities, collect the money, and work with the panel created by the bill to oversee the distribution of the money. It is within our scope of responsibility to determine if the assessment is consistent with federal rules and provide support to the approval process. However, we have delegated responsibility for the nursing facility program to the Kansas Department on Aging (KDOA). Staff at the KDOA have regular contact with nursing facilities and perform the entire process to set rates under the current Medicaid state plan. KDOA is in a much better position to oversee the direct processes of charging and collecting the assessment and following the process for calculating new nursing facility rates. This is consistent with the current relationship between KHPA and KDOA. The fiscal note prepared for the bill was done in concert with KDOA and reflects the additional staff and resources needed by either agency to implement the provisions of SB 546. If the staff and funds are approved for KHPA, we intend to transfer the positions and funding to KDOA to have the assessment administered by the agency with the most direct responsibility over that part of the Medicaid program.

One final comment about the bill as proposed is a potential issue with the drafted bill language. In subsection (d)(5) on page 3, line 30 of the bill would require that the increased rates should "first be made to reimburse the portion of the assessment imposed." One of the federal requirements for a provider assessment is that a provider can not be held harmless from the imposition of a tax or the effect of a tax. CMS may interpret that line of the bill to mean that the state intends to ensure that each provider gets all of their tax payment back before any other payments are made. This is by definition a hold harmless and would not be approvable. KHPA would suggest that this section be removed from the bill.

Thank you for accepting my testimony and I would be happy to answer questions.

"Advocating for Quality Long-Term Care" since 1975

Kansas Advocates for Better Care

February 22, 2010

Senate Ways and Means Committee
Chairman Emler, Vice Chairwoman McGinn, Vice Chairman Vratil, and Members

Thank you for the opportunity to present testimony on SB 546, which would provide for assessments/fees/taxes on nursing facilities. I regret that I am not able to present this testimony in person, after having worked over the past 18 months with KHPA, KDOA, KHCA, KAHSA, SILCK, and other interested parties to craft possible models and implementation strategies for a provider tax.

Kansas Advocates for Better Care (KABC) is a non-profit organization, founded in 1975, to speak-out on behalf of elders and adults living in Kansas nursing homes. KABC is made up of members and volunteers across Kansas whose goal is to improve the quality of long-term care in Kansas. It is to that end that we provide testimony today.

Kansas Advocates for Better Care is neither endorsing nor opposing SB 546 and its companion bill HB 2673. Our testimony today is for the purpose of raising a few crucial issues on the impact of the proposed legislation and a few suggestions for improving impact for residents.

This assessment legislation, if passed and implemented, would likely result in an increase, either wholly or in part, in the amount private pay residents will be charged for care by nursing homes. Private pay residents will see their resources dwindle more quickly. If they reside in a facility that will not receive federal matching dollars due to non-Medicaid participation, or will receive a proportionally smaller amount than the facility pays in due to small Medicaid participation, those persons may actually see their care decline. On the other side, the portion of KABC's population who reside in Medicaid certified facilities might see improvements to their care.

Kansas Advocates would respectfully request your consideration of several important issues related to the proposed legislation.

- Over the past year, 132 nursing homes were cited for Abuse, Neglect or Exploitation. This represents 40% of nursing homes, out of the just over 300 nursing homes in Kansas. Although the legislation refers to this as a "quality care assessment," **nothing in this legislation provides assurance that residents will receive quality or improved or better care.** The assumption is that if more funding is provided it will be used to maintain or improve the care that residents receive, but there is NO assurance of that in the provisions of this legislation.

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2) Nursing homes receive reimbursement on a cost basis. This presumes that they are reimbursed for the cost of care. Nursing homes did not receive an inflationary cost adjustment for this fiscal year and they received a 10% reduction in their Medicaid reimbursements beginning January 1, 2010. Depending upon the amount of the assessment, most nursing homes stand to recoup from this tax more than what they have lost. Referencing the bill, Section 1 (d) (4) (F) "The **remaining amount, if any**, shall be **expended for quality enhancement of skilled nursing care facilities,** but shall not be used directly or indirectly to replace existing state expenditures for payments to skilled nursing care facilities for providing services pursuant to the state Medicaid program." This language provides no direction that mandates improved quality of care to residents and implies that quality is an afterthought…should there be funds left over.
   ✯Prior history informs this concern. A few years back, the legislature provided for funding to enhance direct care staff wages, the funding went to providers but in many instances was not actually utilized in the manner intended by the legislature to enhance wages but only to supplement anticipated annual increases.

3) Nothing in this legislation promotes long-term care delivery in less expensive settings, such as providing care to persons in their homes through Home and Community Based Services. Care at home costs less and is what elders and persons with disabilities overwhelmingly choose when asked where they wish to reside and to receive services. Monies from this assessment could in fact go to nursing homes for the intent and purpose of diversifying the long-term care services that they could offer in the nursing home and in the community.

   Including diversification provisions in this bill would:
   - address consumer desire to remain at home as long as possible;
   - expand access to health care services that diversified nursing homes could provide to communities, especially in rural areas;
   - reduce the consistently increasing dollars required to fund nursing home care; and
   - stabilize or expand employment opportunities in communities across Kansas. A significant issue for the health of Kansas communities and the state's revenue stream.

   There are a few forward-looking nursing homes in Kansas who have already chosen to diversify their long-term care offerings to include home and community based services.

4) If private pay residents are required to pay a higher price for their care to off-set the cost of the assessment, how will that accelerate the spend down of their resources, and push them onto Medicaid rolls for payment of their care? KABC has raised this question numerous times previously when this assessment was discussed or legislation proposed, but to date we have not seen any projections that would address it.
   The assessment rate is not yet set, but could be as much as $2,500 annually. Kansas has a demographic of 85+ year old citizens that is large and growing. This is the demographic most likely to need nursing home level of care. Therefore, the question raised above seems a prudent one to anticipate the impact. Many residents of nursing homes have siblings and children who are already contributing financially to the cost of loved ones nursing home care. Given the current difficult economy will they continue to try to privately fund care or choose to apply for Medicaid if faced with a significant increase?

5) One other thought, Ohio uses <u>all</u> the money from their "provider assessment" to fund their long-term care ombudsman program, ensuring that all persons receiving long-term

care, whether in a nursing home, assisted living, or personal residence, has access to an authorized and independent advocate/mediator. Our current ombudsman program is understaffed by two regional ombudsman based upon the National Institutes of Health report which sets the standard of 1 ombudsman for each 2,000 residents. In addition, the long-term care ombudsman does not serve persons living in nursing homes for mental health, developmental disabilities treatment settings or those who receive long-term care in the community.

Should the Committee find value in the provider assessment bill, Kansas Advocates for Better Care would strongly urge and encourage the members to include language that would actually establish quality improvements for residents in Kansas nursing homes and/or which would improve the quality and cost of long-term care provided through home and community based services in the person's home or other place of residence.

Possible options for improving quality for residents in nursing homes:

A. Provide reimbursement for an increased ratio of direct nursing care for residents. National research reveals that increased direct nursing care is one of two top indicators for resident wellness & well-being. The current required standard in Kansas for direct care nursing is an average of 2 hours of nursing care per resident per day. Many nursing homes provide more than the minimum, but few if any provide the 4.13 hours of direct nursing care per resident, per day, recommended by federally funded long-term care reports. Nursing staff who provide care include RNs, LPNs, Certified Nursing Assistants (CNAs) and Certified Medical Assistants (CMAs).

B. Funding for Restorative Care provided to residents by direct care workers under the supervision of a qualified restorative care provider and that would keep residents at the highest level of practicable functioning.

C. Reimbursement to facilities that improve care through implementing a combination of 1) consistent staffing on all shifts; 2) reduced usage of temporary/agency staff, and 3) increased direct care staffing for all residents. Staff who are knowledgeable about the residents for whom they are responsible, are able to better serve the resident's wants and needs.

D. Provide reimbursement for long-term care delivered through home and community based services either through nursing home diversification or reimbursement to other entities providing HCBS in the community.

E. Reimburse facilities for the 10% Medicaid provider reduction that were implemented January 1, 2010.

Thank you for your consideration of our testimony. I regret not being able to be present to present this testimony and stand for questions. I would be pleased to respond to any questions you might have.

Sincerely,

Mitzi E. McFatrich, Executive Director
Kansas Advocates for Better Care, 913 Tennessee, Ste. 2, Lawrence, KS 66044
785-842-3088 or mitzim@kabc.org

KANSAS HOSPITAL

KHA

ASSOCIATION

100 YEARS 1910-2010

Tom Bell
President and CEO

TO: Senate Ways and Means Committee

FROM: Tom Bell
President

Chad Austin
Vice President, Government Relations

DATE: February 25, 2010

RE: Senate Bill 546

The Kansas Hospital Association appreciates the opportunity to comment regarding the provisions of Senate Bill 546, which establishes the nursing home provider assessment program.

As many of you know, the Kansas Legislature passed a hospital provider assessment program during the 2004 session. That bill was the result of much discussion and attempted to address the chronic underpayment of Medicaid providers. As we considered the situation, we realized there were really only two choices. First, we could do nothing and continue to watch Medicaid rates erode as a percentage of what it costs to deliver the care. Or, we could be more proactive and attempt to develop a program that holds some promise of helping the state to solve the Medicaid reimbursement dilemma. We had numerous discussions with our board and membership and ultimately determined to follow the latter course. In its simplest terms, our hospital assessment program established a system whereby hospitals in Kansas would be assessed a certain amount of money for the purpose of generating additional federal matching funds to be used to increase Medicaid reimbursement rates for hospitals and physicians. In our opinion, this program has been successful thus far.

We also had the benefit of working closely with legislative and executive leadership to craft our proposal. The program that we put together was truly a partnership between hospitals and the state. It was essential that any program we developed would need to ensure that the resources of Kansas hospitals and the communities they serve would be used to improve the health care system in a fair and equitable manner. In order for us to accomplish this, we identified several key provisions that would need to be included.

- The assessment rate and base need to be specified in the statute.
- The program must have a formal agreement between the State ar

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- To the extent permitted by federal regulation, assessment funds need to be returned to the providers in the most expeditious manner possible.
- The assessment and increased hospital payments must terminate if either is not eligible for federal matching funds.
- The increased provider payments financed by the hospital assessment must be required by the statute and an efficient and equitable mechanism to determine the specifics must be included.
- There must be a requirement for independent auditing of the program.
- There must be "maintenance of effort" by the state to prevent the diversion of new funds for other purposes or to supplant existing state funds.

While many of these provisions are addressed in Senate Bill 546, there are still many "unknowns". It is difficult for any provider to "support" or "oppose" a provider tax program in absence of the assessment rate being known. In addition, these programs simply do not work as well without virtual unanimity of those being assessed. Providers should have the opportunity to determine how this program would impact not only their industry, but also their individual facility. Thus far, the provisions of Senate Bill 546 do not allow this. We would encourage that all details be resolved prior to further advancement of Senate Bill 546.

Thank you for your consideration of our comments.

Testimony of Mike Bosley
Administrator, Providence Place
Kansas City, Kansas

In opposition to
SB 546 in Senate Committee on Ways and Means
HB 2673 in House Committee on Aging and Long Term Care
Assessment of quality assurance fee on skilled nursing care facility facilities
February 25, 2010

Mr. Chairman and members of the Committee,

I am Mike Bosley, Administrator of Providence Place, a skilled nursing and rehabilitative care center in Kansas City, Kansas. We are opposed to a nursing care provider tax.

Providence Place – and federal taxpayers – would be "losers" under a nursing care provider tax program. I cannot know how, or how severely, this legislation will affect our rehabilitative care facility. But we have seen the Health Policy Authority's models on a nursing care provider tax. We come out as "losers" of anywhere between $60,000 and $200,000 per year. I don't know how we could make up that lost revenue.

During study by the Health Policy Authority, no compelling need was presented. This tax program was studied in 2009 by the Health Policy Authority, yet we never heard a compelling case by any nursing care facility that a program was needed. The only motivation expressed was that federal taxpayer dollars could be directed to certain Kansas nursing facilities.

Proponents were seeking this tax before the Medicaid payment cut. Advocates cite the new Medicaid payment cut as reason for this tax program. Yet this nursing care facility group was advocating for this tax even before a payment cut was proposed, so we find those arguments disingenuous. We also understand lawmakers want to restore full Medicaid payments for FY 2011, and so a tax program would be premature. You should continue to work on that effort.

For-profit nursing facilities exist to direct dollars to investors. A not-for-profit nursing care center directs its revenue back into its operations and reserves, never to an investor. There is nothing to prevent provider tax dollars raised from not-for-profit Kansas nursing facilities and federal taxpayers from being directed to investors of for-profit facilities.

Kansas has not had a nursing care facility crisis. Providence Place does not serve Medicaid patients, yet we are full. Therefore it would not make sense to change our practices and no longer serve the rehabilitation patient population which needs and wants our services. The state does not need a nursing care tax program, and cannot be certain the tax won't make the nursing care situation in Kansas worse instead of better. **If the Medicaid payment rate cut is expected to cause a crisis, the state should restore payment rates and not penalize nursing care facilities like Providence Place or pass the burden on to federal taxpayers.**

I urge you to vote against this legislation.
I stand for questions.

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KAHSA

creating the future of aging services

To: Chairman Jay Emler and Members,
Senate Ways and Means Committee

From: Debra Harmon Zehr, President
Kansas Association of Homes and Services for the Aging

Date: February 25, 2010

TESTIMONY IN OPPOSITION TO SENATE BILL 546

Thank you, Chairman Emler and Members of the Committee.

The Kansas Association of Homes and Services for the Aging (KAHSA) represents 160 not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living facilities, senior housing and community service providers who serve over 20,000 older Kansans every day.

The State is facing serious budget trouble. One of the major problems facing the Legislature and Administration is how to adequately fund Medicaid. Senate Bill 546 is being portrayed by some as the "only way" to restore Medicaid funding for nursing home care.

We do not agree.

We have not given up on the Legislature's ability to find a better way to restore Medicaid funding, not only for nursing homes, but for mental health centers, community-based service providers, hospitals and other Medicaid providers. Priorities can be re-examined. Revenue enhancements, as set out by the Administration or by other means, can be considered. It will take long hours and difficult work, but it can be accomplished. It is not time to take the "easy way out.

Senate Bill 546 is bad public policy because:

1. Caring for the poorest of our citizens is a societal obligation that has historically been funded through broad-based taxes. Senate Bill 546 is a profound and fundamental departure from that social contract.

2. There have to be losers. The federal authorities consciously designed their regulations to discourage the use of these taxes, through built-in features that penalize some residents and/or homes. There will be nursing homes that pay more in the tax than they get back.

   Some proponents have tried to shrug off the "losers" because they have relatively few residents whose care is paid for by Medicaid. Some of these providers are this way because they deliberately help their residents avoid Medicaid dependency through pre-planning and supportive housing and services. Some, because they concentrate on meeting the need for high acuity rehabilitation care in their community. Some, because there just aren't very many Medicaid-dependent people in their service area.

3. In Kansas about 37% of nursing home residents pay their own bill. Even if Senate Bill 546 tries to obscure it by prohibiting a separate line-item in resident's bills, there will be nursing homes that increase rates because they cannc

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Individuals and families who have scrimped and saved and are struggling to pay for their own nursing home care in old age will bear this additional cost. Senate Bill 546 will not only penalize these people for exercising personal responsibility... it will put them at risk for premature reliance on Medicaid.

4. While there have been efforts to craft the bill so that damage to providers and nursing home residents is minimized, there will be strong pressure in coming years to change its provisions, to increase the tax and/or to use the money for other things. This has been a common occurrence in other states. Even here in Kansas, where there is a hospital provider tax, hospitals were not spared the recent 10% Medicaid cut.

I would like to offer an additional caution: There has been no accurate modeling on this bill so far. No one knows its facility-specific impact or how much the tax will be, not even the Department on Aging. I urge this Committee to insist on getting definitive, accurate numbers, so you can understand the impact and so you can make an informed decision.

In closing I would like to tell you about Mr. Scott, a friend of my family, who is not unlike many residents of Kansas nursing homes who manage to pay their own bill. He and his wife were educators. They lived below their means, paid their taxes, and saved all their lives for retirement so they would be able to pay for their own care in old age. Mr. Scott lost his wife to cancer before they were able to enjoy retirement together. He will turn 86 this summer. Today, despite suffering from diabetes, severe arthritis, cancer, incontinence and early dementia, Mr. Scott maintains a positive outlook on life. He has fallen three times in the last year. He needs assistance with most of his activities of daily living. The Kansas retirement community he calls home has been a godsend for Mr. Scott and his family.

I cannot fathom trying to explain to Mr. Scott that his nursing home bill is going up as much as $3000 or more a year because the Legislature couldn't find another way to fulfill their responsibility to properly fund Medicaid. He would be confused and upset, as would his family.

Mr. Scott, and many others like him, cannot speak up for themselves. I hope the Legislature will do what it takes to fund Medicaid without passing Senate Bill 546, and without burdening Mr. Scott and others like him.

Thank you. I would be happy to answer questions.

BREWSTER PLACE

To: Senator Jay Emler, Chair, and Members
Senate Ways and Means Committee
From: David Beck, CEO, Brewster Place
Date: Thursday, February 25, 2010

My name is David Beck and I am the CEO of Brewster Place, a not-for-profit, United Church of Christ sponsored retirement community in Topeka. Thank you for this opportunity to speak to you regarding Senate Bill 546.

Brewster Place has served elderly citizens of northeast Kansas for more than 43 years. As a continuing care retirement community with a mission of providing all of its residents opportunities for an optimal quality of life, we provide a continuum of care services including 160 independent living homes, 75 congregate apartments, 26 assisted living apartments, and homes for 79 residents in our skilled nursing facility. We also provide home health services on our campus as well as a variety of rehabilitation therapy modalities, two wellness centers, an emergency call system and an in-house 24 hour security department. At the heart of every service provided by Brewster Place is a commitment to a person-centered philosophy at all levels of the continuum. Brewster Place's wellness initiatives center on the four key areas of wellness – physical, social, intellectual, and spiritual. The embodiment of our mission is in providing opportunities for our residents in each of these four areas to stay healthy and independent as long as possible, preserving their dignity as well as their resources, and lessening the burden on government to pay for health services through Medicare and Medicaid.

I am strongly opposed to Senate Bill 546 as a way to leverage federal Medicaid dollars for the state. This is poor public policy and not the way to address our state budget shortfall. The Legislature needs to find a better solution that targeting a small group of vulnerable people to bear a disproportionate share of a societal obligation.

This tax will be passed on to frail nursing home residents who pay for their own care. This tax is an especially egregious prospect in the case of Brewster Place and other continuing care retirement communities that work diligently with our residents to preserve health and lessen the likelihood of Medicaid dependency.

These older Kansans who require nursing home care have paid plenty of taxes over their lifetimes to support the Medicaid program. At

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scrimped and saved to pay for their own long term care needs. The so-called quality assessment would create a perverse incentive against personal responsibility, plus it would accelerate the depletion of older Kansans' assets, causing them to rely on Medicaid faster.

I have serious concerns about the future should Senate Bill 546 be passed. Those who have watched nursing home taxes in other states know that the tax almost always increases to the maximum allowable level, and the "pay back" to nursing homes quickly goes down. Based on what has happened with the hospital provider tax in Kansas, I have no faith that this Senate Bill 546 would prevent future cuts in nursing home reimbursement.

It is not time to pass off the state's responsibility for their share of the Medicaid program onto nursing homes and the frail elders in their care. Please vote no on Senate Bill 546.

Thank you. I would be happy to answer questions.

1205 SW 29th Street
Topeka, Kansas 66611

AFP **AMERICANS FOR PROSPERITY**
KANSAS

February 25, 2010

Mr. Chairman and Members of the Committee:

On behalf of the nearly 40,000 Kansas members of Americans for Prosperity, I want to thank you for the opportunity to provide testimony in opposition to SB 546.

This bill is the latest version of a provider tax on adult care homes, a rather large tax that could end up being up to 5.5 percent of revenues, which would be more than $4,000 per bed per year.

Regardless of the reason for introducing it this bill represents a tax increase, plain and simple. Residents of these adult care home facilities will incur an additional tax burden; it's evidently their reward for responsibly putting money aside for their later years in life.

To top it off the tax would not apply to homes owned by the State of Kansas, but rather, non-government owned homes would be subjected to the tax. What makes it even more convenient for the proponents and legislators that favor this tax increase is the language declaring "No skilled nursing care facility shall create a separate line-item charge for the purpose of passing through the quality care assessment to residents." How convenient for all involved, with the exception of course of the residents who are being taxed, let's pass a tax increase then do our best to cover it up. This is an insult to previous attempts this Legislature has made in the name of transparency of taxpayer dollars.

Medicaid spending now makes up 16 percent of our state general fund budget, a number that is expected to increase even more. We appear to be spending plenty on Medicaid, thus we should focus our efforts on evaluating current Medicaid programs to see what is and is not working before embarking upon yet another scheme to increase funding to programs whose effectiveness is still undetermined.

Sincerely,

Derrick Sontag
State Director
Americans For Prosperity-Kansas

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LAKEVIEW VILLAGE
The Assurance of LifeCare

February 23, 2010

RE: **Senate Bill 546**

To: Chairman Jay Emler and Members of the Senate Ways and Means Committee

Dear Legislator:

I am the President/CEO of Lakeview Village, the largest non-profit Continuing Care Retirement Community (CCRC) in Kansas. Founded by a group of ministers over 45 years ago, we currently serve about 800 residents on our 96 acre campus in Lenexa, KS. **We are unique in being the <u>only</u> "Type A" life care community in the state with a large licensed nursing home of 120 beds (expanding to 172 beds by June).** The only other two Type A communities are Santa Marta (Olathe) with 48 nursing beds and Claridge Court (Prairie Village) with 35 beds.

In exchange for a one-time Entry Fee, Type A communities provide food, housing, medical services and licensed nursing care for the remainder of the retiree's life, even if the resident has exhausted their financial resources. In essence, a portion of the Entry Fee serves as long term care insurance to provide future nursing care. Residents chose our facility after years of saving and planning to assure them of care as their future needs may require, without having to rely on families, friends or state Medicaid funding. **Our retirement community, for 45 years, has relieved the state from any obligation to provide Medicaid funding for our life care residents.**

In recent years our nursing care center has accepted 8 or 9 Medicaid-reimbursed residents from outside our life care community. **Although the legislation would restore the 10% Medicaid cuts on these few beds, we would pay the provider tax on <u>all</u> 172 of our nursing beds.** Current provider tax estimates are $1,133/bed/year. The bill allows a maximum of approximately $3,000/bed/year. This would have the following financial impact on us:

Current Est.		Max. Allowed	
172 beds X $1,133/yr	($195,000)	172 beds X $3,000/yr	($516,000)
10% Medicaid Reimbursement	<u>$35,000</u>	10% Medicaid Reimbursement	<u>$35,000</u>
Annual Provider Tax Loss	**($160,000)**	**Annual Provider Tax Loss**	**($481,000)**

Because we contractually provide licensed nursing services to our life care residents based on a one-time entry fee, there is no mechanism to charge them extra to make up for this tax. Given our unique life care classification and the fact that we have and will continue to relieve the State of Kansas from Medicaid support of our life care residents, **<u>we request that Type A life care communities be specifically waived from paying the assessment</u>. We are adding 52 nursing beds in the coming months. Payment of this tax jeopardizes our expansion and the addition of 50+ jobs and nearly $1.5 million in additional payroll infused into the Kansas economy.**

We appreciate your serious and timely consideration of this important matter.

Sincerely,

James K. Frazier

James K. Frazier
President /CEO

9100 Park St., Lenexa, KS 66215
(913)744-2414

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Date 2-26-2010
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