

Approved: Jan 27/1998

Date

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Dave Kerr at 11:00 a.m. on January 20, 1998 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research Department
Russell Mills, Legislative Research Department
April Holman, Legislative Research Department
Norman Furse, Revisor of Statutes
Michael Corrigan, Revisor of Statutes
Judy Bromich, Administrative Assistant
Ann Deitcher, Committee Secretary

Conferees appearing before the committee:

Mike Hutfles, Director of Public Affairs, SRS
Michael Byington of Envision

Others attending: See attached list

SB 394: SRS transition oversight committee

Senator Kerr called the meeting to order and introduced Mike Hutfles, SRS Director of Public Affairs, appearing before the committee to explain the workings of the Interim Committee. *(Attachment 1)*

Mr. Hutfles said it was generally felt that it was a productive use of a couple of years and kept the SRS well informed so that they in turn were able to keep the Ways and Means and Appropriations Committees informed as to what was going on at the SRS. The only suggestion SRS was the possibility of lifting the restrictions on the Shawnee County and Cowley County legislators. He felt that was the only concern they had. In the former language when it started it was about hospital closures. At this point in time though, that need has been served so it is only fair to open it up to the entire Legislature.

When asked how long he thought there would be a continued need for an oversight committee, Mr. Hutfles said it depended on who was asked.

He said there continue to be changes at SRS. He does believe, in the foreseeable future, there will be another four-year oversight committee following this one. Just as long as it's felt to be time well spent. It has been separated out since two sessions ago, when there were four issues; the closure of two state hospitals, privatization of adoption - family preservation of foster care; the transfer to the Department of Aging of all long-term services and then the transfer of the Juvenile Justice Authority. Each of those involved four separate subcommittees in both Houses and each of those subcommittees recommended some sort of oversight by committee - more so than just an interim committee. The feeling was that there are still enough changes going on to continue an oversight committee.

Mr. Hutfles said that they would work with whichever direction the Legislature takes. He pointed out that one of the benefits of having a transition committee meeting throughout the summer is they may be better able to react to on-going changes. If you look at how an interim committee is set up, often times they need to ask for permission to study a specific topic. With an oversight committee, they might be better able to act spontaneously on a subject.

It was felt by some that the oversight committee had outlived it's purpose but Senator Salmons, a

member of the committee, felt that it was most insightful.

Senator Salisbury said she believed solutions were found by having the legislators involved.

Mr. Hutfles said he felt that anytime legislators can be brought to the process you'll create as much expertise as possible within the legislative branch. He said that came from Secretary Chronister and with the years served here how useful it is to have the base of knowledge to work from. How they arrive at that point, as far as the SRS is concerned, is at the discretion of the Legislature.

Next to appear before the Committee was Michael Byington of Envision, formerly called Wichita Industries and Services of the Blind, who spoke as a proponent for SB 394.

He said that from a perspective of accountability to the taxpayers and to the voting public, it was in the last two legislative sessions that there have been an incredible number of changes within SRS, authorized by this legislature - changes which he would expect it to take four to five years to implement. It has been a very productive process to have a committee of elected officials doing oversight over the administrators who were attempting to implement legislative intent. He said he was comfortable watching the process and he attended many of the meetings over the last year.

Mr. Byington said he didn't think the Committee's work was done yet in that there are many issues related to the transition of SRS, to aging, to whether the foster care system and the children's systems that have been privatized are working and an issue that is related to the Topeka State Hospital closing which he doesn't believe has been handled. (Attachment 2.)

At the close of Mr. Byington's comments, Senator Kerr asked the three senators who are on that committee, Senator Morris, Senator Feleciano and Senator Salmons, if they thought it needed to be a permanent committee or are they just lengthening the time on a temporary committee that is in place because of the many changes that are taking place in SRS.

It was suggested that the conclusions of the committees' findings be read before minds are made up and recommendations made.

Asked by Senator Kerr if they would be more comfortable with two years, the senators serving on the oversight committee said they felt making it two years would give them the latitude needed to get the job done.

Senator Kerr said that there should be a couple of changes made to the bill to make it a two-year bill and asked Norm Furse, Chief Revisor, if he would draw a amendment to that effect.

Mike Hutfles returned to give an update on hospital closures and transition update. (Attachment 3.)

In answer to the question as to the quality of care, Mr. Hutfles said that most people have been very pleasantly surprised by the quality of care. He quoted parents who said they'd had great anxiety about moving their client or their ward out of the state hospital and after moving them into one of the four-person group homes or some other setting, and after two weeks are now asking themselves what took them so long to do it. There has been a marked improvement in the ability of the clients to care for themselves and taking more responsibility about their day to day life. Generally it's been a very positive transfer for the vast majority of those moved.

Asked what his mechanism was for gaining feedback, especially from family members, Mr. Hutfles said they have in their area offices around the state, twelve quality enhancement people whose responsibility is to review all the placements and any concerns there may be.

Mr. Hutfles said he wanted to let the Committee know that part of the agreement made with last year's Legislature was to maintain a transition team of what is now five staff members who are currently on the Winfield State Hospital payroll. They've been working with Don Myer, of the Veterans' Commission, taking care of those matters that are necessary to begin the start up of the Kansas Veterans' Home. There are issues dealing with personnel, inventory and purchasing - everything it takes to start up.

SB 399

Services provided Kansas Soldiers' & Veterans' Homes

Senator Kerr said that SB 399 would be worked but he wanted to know if there were any concerns, regarding the bill, that he wasn't aware of that he should be made aware of.

Mr. Hutfles said that he met with Secretary Simmons the previous Friday and they worked on the wording to everyone's satisfaction. He then met with Don Myer and they came to an agreement on what they're trying to do. That is basically to provide the Secretary of Corrections, the

Veterans' Commission and SRS the most flexibility to run these campuses in the most cost effective manner. He pointed out the suggested amendments to the bill. (Attachment 4)(pg. 4)

Since it appeared that this removed the prohibition of working in areas where patients were, Senator Kerr said that the prohibition should be kept but at the same time, allow for the flexibility through an agreement with the superintendent.

Mike Hutfles pointed out that even though the kitchen is a separate facility from the hospital, Health & Environment's interpretation was very questionable about whether that would be allowed. He said part of what they intended doing was to take the undefined language out because that seemed to be causing the problem in the first place.

Senator Kerr said that wasn't what the committee expected.

It was suggested that the words "food service and grounds" not be included in the bill.

Mr. Hutfles said that what they had run into in the past was when an emergency, such as a broken water pipe occurred in an area off limits to an inmate, or some remodeling was needed, that they started getting into some licensure problems with Health and Environment.

Senator Kerr said that he was sure Mr. Hutfles could come up with a solution to this problem. They would wait to hear back from him.

Senator Kerr asked for a blanket motion to approve introduction of the Governor's budget bills. He informed the Committee that following a meeting with their House counterparts, he, Senator Petty and Senator Salisbury, have agreed with a single-budget bill.

Senator Morris moved and Senator Salmons seconded the motion to introduce the Governor's budget bills. The motion carried on a voice vote.

The Chairman adjourned the meeting at 12:15 p.m.

The next meeting is scheduled for January 21, 1998.

SENATE WAYS AND MEANS COMMITTEE GUEST LIST

DATE: 1/20/98

NAME	REPRESENTING
Sharon Huffman	KS Commission on Disability Concerns
Michael Byington	Envision.
Theranna Jones	SILCR
Dave Wilson	KAPE
LINDA McGill	PMA
Erik Sartorius	PMA
Ken Baker	KHA
Doug Smith	City of Topeka
Walt Bemb	K.S. VFW
Don A. Egan	KS COMMISSION ON VETERANS AFFAIRS
MELISSA BOISEN	The Farm, Inc.
Cornie Huerter	SRS
John Gortmeyer	SRS
Mark Gleeson	OTA
David Dyllan	DOB
Dawn Reid	KSNA
Jean Kraka	KS G-shop Mag
Mary Hucim	SRS - C & FS
Tom Bell	KHA

**Topics Discussed by SRS Transition Oversight Committee
June - December 1997**

June 2

Department on Aging Activities

- Implementation of the Nursing Facility Reimbursement program, the Home and Community Based Service/Frail-Elderly Waiver and the Income Eligible program (transferred from SRS)
- Senior Care Act Pilot Project

Welfare Reform

- Update on Implementation of Welfare Reform in Kansas

Children's Services

- Update on privatization of Children's Services including the Commission Outcomes Report, Social Services Outcome Report, Family Preservation Outcomes Report, and Adoption Services Outcomes Report
- Additional information on Children's Health Initiatives

State Hospital Closures

- Preliminary reports on the closure of Topeka State Hospital and Winfield State Hospital and Training Center from contractors
- Report on closures from SRS
- Report from Community Mental Health Centers regarding the closure of Topeka State Hospital and the availability of services in the community and remaining beds at the state hospitals

July 23

Department on Aging

- Long-Term Care Ombudsman Program status report
- Transfer of programs from SRS to Kansas Department on Aging
- Kansas Department on Aging Pilot Projects
- Testimony from Kansas Advocates for Better Care regarding Long-Term Care Ombudsman program
- Comments from Secretary of Administration on the Long-Term Care Ombudsman program
- Testimony from Kansas Association of Home and Services for the Aging regarding Long-Term Care Ombudsman program
- Comments from the Kansas Long-Term Care Ombudsman.
- Testimony and discussion on the Home and Community Based Services program

SRS Issues

- Testimony regarding workforce development and vocational rehabilitation
- Discussion regarding the \$40 pass through provision in 1997 House Sub. for S.B. 140
- Testimony regarding the sexual predator program

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Attachment 1-1*

September 2, 3 and 4

Long-Term Care Ombudsman Program

- Report from current ombudsman
- Report from Kansas Department of Health and Environment
- Testimony from Preston Barton
- Status of RFI/RFP Process
- Testimony from respondents to Kansas Department on Aging's request for information
- Conference call with Maine Long-Term Care Ombudsman
- Report from staff on other states' long-term care ombudsman programs

Report on Home and Community Based Services/Frail Elderly

- Testimony from the Kansas Department on Aging
- Report from Jefferson County Health Department
- Report from Douglas County Health Department
- Remarks from a consumer of services in Lawrence
- Remarks from Douglas County/Lawrence Advocacy Council on Aging and Older Women's League
- Remarks from a home health agency
- Remarks from an SRS case manager

Welfare Reform

- Testimony from Kansans Respond
- SRS Update on Welfare Reform and response to questions

Hospital Closure

- Briefing from Kansas Council on Developmental Disabilities regarding the closure evaluation process
- Testimony from contractors studying Topeka State Hospital and Winfield State Hospital and Training Center closure

October 3

Kansas Department on Aging Issues

- Briefing on Kansas Long-Term Care Ombudsman program and Committee recommendations by staff
- Committee discussion regarding Long-Term Care Ombudsman program

Winfield State Hospital and Training Center

- Update on closure by SRS

Guardianship Issues

- Testimony from Kansas Guardianship Program regarding guardianship issue and the closure of Winfield State Hospital and Training Center
- Kansas Council on Developmental Disabilities testimony on Guardianship Laws
- Comments from Shawnee County judge regarding guardianship issues

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Kansas Industries for the Blind Issues

- Testimony from Michael Byington from Envision regarding the privatization process involving Kansas Industries for the Blind

Children's Services Privatization

- SRS update on the privatization of Foster Care Services
- Testimony and comments from the Foster Care contractors

Kansas Department on Aging Issues

- Testimony from Kansas Department on Aging regarding provider choice in community-based services for the elderly

November 3, 4 and 5

Hospital Closure

- Winfield State Hospital and Training Center Closure Issues
 - Conference call with contractor
 - Update and remarks from SRS
 - Update from Creative Community Living on community services

Kansas Industries for the Blind

- Testimony from SRS

SRS Alcohol and Drug Abuse Services Commission—Funding and Managed Care

- Testimony from Commissioner

Foster Care Issues

- SRS Testimony
- National Association of Social Workers, Kansas Chapter
- Kansas Action for Children
- United Foster Families for Children
- District Court Judge
- School Social Worker
- County Attorney
- Professor of Social Work

Welfare Reform Issues

- Kansans Respond
- Assistance Center, Elwood United Community Church
- Kansas Campaign to End Childhood Hunger/Inter-Faith Ministries
- Community Action, Inc.
- SRS Report and Responses
- Public Assistance Coalition of Kansas

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Welfare-to-Work

- SRS testimony
- Department of Human Resources testimony

Discussion of Bill to Continue the Committee

Long-Term Care Ombudsman Bill Draft Discussion

November 24-25

Mental Health Issues and Topeka State Hospital Closure

- Testimony from Consumer
- Association of Community Mental Health Centers of Kansas
- Wyandotte Mental Health Center (adult services)
- Family Service and Guidance Center (children's services)
- Report from contractor on Topeka State Hospital closure
- Kansas Mental Illness Awareness Council

Foster Care Issues

- SRS response to privatization concerns
- Report on National Conference on Privatization of Child Welfare
- Testimony from KU on client satisfaction surveys
- Foster parent testimony
- Adoptive parent testimony
- Children's Alliance of Kansas
- Behavioral Sciences Regulatory Board testimony on supply of social workers

Committee Discussion of Bill Draft Regarding Long-Term Care Ombudsman Program

Developmental Disabilities Issues

- SRS response to contractor's report
- Kansas Council on Developmental Disabilities testimony regarding contractor report

SRS Alcohol and Drug Abuse Services

- Attorney General's office testimony regarding Safe and Drug Free Schools funding

Welfare Reform Issues

- SRS testimony responding to issues and concerns
- SRS explanation of KansasWorks funding profile
- Public Assistance Coalition of Kansas testimony

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December 19

Kansas Department on Aging

- Kansas Department on Aging testimony on start-up cost funding given to Area Agencies on Aging
- Comments from Kansas Association of Area Agencies on Aging

Guardianship Issues

- Kansas Council on Developmental Disabilities report on recommended changes to Kansas guardianship laws
- Comments on recommended changes from Kansas Legal Services

Mental Health Issues

- Keys for Networking (children's wraparound services)

Sexual Predator Treatment Program

- Update on program from SRS

SRS Briefing on Adoption and Safe Families Act of 1997

Committee Discussion and Recommendations for Committee Report

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1/20/98
Attachment 1-5

Choices & resources for people who are blind or low vision



EnvisionSM

**PLEASE REPLY TO: Michael Byington, Director
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P. O. Box 1063
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(785) 233-2539 (FAX)
mbyington@delphi.com or mbyingto@ink.org**

January 20, 1998

TO THE SENATE COMMITTEE ON WAYS AND MEANS:

RE: S. B. 394

I am expressing support for S. B. 394. The influence of the SRS Transition Oversight Committee has been positive, and there is still more work for the Committee to do. It should be continued for at least the additional year proposed in the bill.

I will not attempt to address all areas where the Committee still may need to exercise oversight functions. I will discuss one portion of SRS, however, where privatization is certainly not completed, but continues to be contemplated.

The Kansas Legislature, as a part of the closure process of Topeka State Hospital, designated all State properties in a certain geographic area of Topeka as being a part of the State Hospital grounds. This was done in Section 62 of the 1996 Omnibus bill. The geographic area designated includes a number of State offices and functions having nothing to do with Topeka State Hospital. The example of this which I will highlight is the fact

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Attachment 2-1

that all of the functions of the Kansas Division of Services for the Blind and Kansas Industries for the Blind which are located at or near the corner of 6th and Mac Vicar in Topeka are designated as a part of the Topeka State grounds. The future of the use of these buildings and grounds, where the Division of Services for the Blind has had certain functions operating for over 50 years, remains quite uncertain. Also, the Rehabilitation Division of SRS has announced that Kansas Industries for the Blind is to eventually be privatized. It was originally announced that this privatization would be complete by July 1997, and then by May 1998. It was recently announced that the May 1998 date has been abandoned with no future dates being certain because of the uncertainty of the future of the buildings and grounds at 6th and Mac Vicar.

The SRS Transition Oversight Committee has examined briefly the issues surrounding the privatization of Kansas Industries for the Blind and the impact of Topeka State closure on the Kansas Division of Services for the Blind in general at my request. The Committee was willing to listen quite attentively to Rehabilitation Services Commissioner Joyce Cussimano and me discuss the concerns of the State and of the blindness community with regard to these issues. It has been too early in the privatization process, however, for the Committee to provide much oversight.

The Committee has done an excellent job of providing useful oversight and guidance in the privatization of foster care programs, and the transition of programs from the Department of SRS to the Department of Aging just to mention a couple of its many issues. Such massive degrees of change seem to work best when elected officials remain actively involved with the State administrators who are directed to implement Legislative intent.

My organization, which is the only Statewide not for profit agency serving persons who are blind and low vision, and I believe the blindness community in general as well, would be much more comfortable if the Committee's oversight functions are continued so that the moving, transitioning, or privatization of the functions of the Division of Services for the Blind, located at 6th and Mac Vicar, can be done with the Committee's assistance.

In my view, (B) on Line 10 of page three of the bill probably adequately covers the Services for the Blind relocation and privatization functions. I

note, however, that the relocation and privatization of certain other functions of SRS are listed by name. The Senate Ways and Means Committee may thus wish specifically mention the relocation and/or privatization of blind services related functions in its final version of S. B. 394. I shall leave this to the discretion of Ways and Means.

Thank you very much for receiving my testimony. Please let me know if I may provide further information.

S. W + M
1/20/98
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**State of Kansas
Department of Social
& Rehabilitation Services**

Rochelle Chronister, Secretary
Janet Schalansky, Deputy Secretary

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**Senate Ways and Means
Tuesday, January 20, 1998**

**Testimony: Update on the Closure of
Winfield State Hospital and Training Center**

**Office of the Secretary
Rochelle Chronister, Secretary
785-296-3274**

*S W + M
1/20/98*

Attachment 3-1

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

ROCHELLE CHRONISTER, SECRETARY

Senate Ways and Means Committee

January 20, 1998

Update on the closure of Winfield State Hospital and Training Center

Chairman Kerr, members of the Senate Ways and Means Committee, thank you for the opportunity to appear before you today. I am Mike Hutfles, Director of Public Affairs at SRS. Today, I plan on giving you a brief update on the closure of Winfield State Hospital and Training Center.

Winfield State Hospital was selected for closure in November of 1995. The Hospital Closure Commission selected a closure date of December 31, 1997. There were 241 clients at Winfield State when closure was announced. We are moving the last 18 clients into community placements in the next week; two in Emporia tomorrow and 16 into the final Creative Community Living (CCL) homes next Monday, Tuesday and Wednesday.

The hospital began voluntary incremental layoffs in May 1997. The voluntary layoffs continued until November, when the statutory layoff procedure based on seniority began. The final layoff involving direct care staff will be next Friday, January 30. We will continue to have 28 employees at Winfield State through March 6 to close out records, inventory supplies and equipment, disperse the inventory throughout the remaining institutions and the Kansas Veterans' Home, and any other tasks necessary to close the Winfield State Hospital.

Overall, we have been pleased with the closure process at Winfield. We attribute our success to the following factors:

- The dedicated and hardworking staff at Winfield State Hospital;
- The commitment of Community Developmental Disabilities Organizations (CDDO's) and affiliate organizations throughout the State;
- The parents and guardians of the clients formerly served by Winfield State Hospital;
- The support provided by the local units of government in Cowley County, especially the Cowley County Commission, the City of Winfield and the City of Arkansas City.

Once the closure activities are completed, the Commission on Mental Health and Developmental Disabilities will begin their assessment of the closure process for both Topeka State Hospital and Winfield State Hospital. Currently, the Kansas Council and Developmental Disabilities is working with the Center for Outcome Analysis and the University of Kansas, School of Social Welfare, on an evaluation of the two closures. The SRS Transition Oversight Committee asked us to include a response to these evaluations as a part of our assessment. The evaluations are due to the Legislature in the summer of 1998. The agency's analysis will follow in a timely manner.

At this time I stand for questions on the closure of Winfield State Hospital(WSH) or any other topics related to SRS closure activities.

BRIEF UPDATE ON THE CLOSURE OF WINFIELD STATE HOSPITAL January 15, 1998

On February 20, 1996, the SRS Commission of Mental Health and Developmental Disabilities (MH&DD) issued its *Operations Plan for the Placement from State Mental Retardation Hospitals and Closure of Winfield State Hospital and Training Center*. At that time, 241 individuals were receiving services at Winfield State Hospital and Training Center (WSH&TC), with a closure date of December 31, 1997. As of January 15, 1998, the census of WSH&TC was 18 persons. These last individuals will be placed by January 28, 1998, and WSH&TC will close by January 30, 1998.

GUIDING PRINCIPLES

The Community Integration Project's (CIP's) guiding principles for the placement of persons out of State Mental Retardation Hospitals (SMRHs), established since 1991, were embodied in the operations plan for closure of WSH&TC. These guiding principles are as follows:

- Persons with Developmental Disabilities (DD) and their family/guardians will have sufficient information from which to make an informed placement decision;
- The final choice about where a person with DD will live belongs to that person and his/her family/guardian;
- A person-centered support plan describing how the individual's lifestyle preferences and needs will be met in the community is developed with participation by the person being placed and the family/guardian choosing community placement;
- An administrative appeals process will be available for persons being placed if they disagree with decisions made on their behalf;
- Transfer to one of the remaining State Mental Retardation Hospitals (SMRHs) will be one of the placement options for persons from WSH&TC;
- Quality Assurance systems will be implemented at both State and local levels to ensure services provided to individuals meet their needs and lifestyle preferences;
- Individual negotiated service rates will be made available to each person placed; and,
- Start-up funds will be made available for each person placed to cover the costs of pre-placement planning, hiring and training staff, housing and utility deposits, furnishings, and equipment.

CURRENT STATUS

It is expected the remaining 18 individuals at WSH&TC will be placed by January 30, 1998. Of the 18, 16 have chosen placement with Creative Community Living (CCL), a new community provider in the Winfield area. CCL is in the final stages of building two new homes for these persons. Hartford, Inc. a community provider in the Hartford/Emporia area has been chosen by the other two (2) remaining individuals. Hartford, Inc. is also in the final stages of completing construction on a new home, and plans to place the individuals on January 21, 1998.

Persons, KSM

Of the 241 persons residing at WSH&TC when the closure plan was implemented, 196 individuals and their families/guardians have chosen community services throughout Kansas, and 36 have chosen a transfer to another SMRH. The remaining nine (9) passed away, moved to another state or chose to arrange their own services. The table below indicates, after all persons have been placed, the number of persons placed at each Community Developmental Disability Organization (CDDO), or their Community Service Provider (CSP) affiliates.

CDDO/CSP	# OF PERSONS	CDDO/CSP	# OF PERSONS
Arrowhead West, Inc. (Dodge City)	1	Hetlinger	
Big Lakes (Manhattan)	3	Hartford	2
CCDS (Winfield/Ark City)	2	JCDS (Johnson County)	1
Martin Luther	15	CLO	5
CCL	70	Faith Village	2
Res-Care (Southwinds)	18	Northview (Newton)	5
Res-Care (Focus)	4	OCCK (Salina)	2
CLASS (Columbus/Parsons)	1	SDSI (Garden City)	2
ComCare (Sedgwick Co.)		SDSI (Great Bend)	1
KETCH	6	TARC (Shawnee Co.)	
Starkey	8	Sheltered Living	1
Rise	6	Tri-Valley (Chanute)	1
Rainbows	1	Twin Valley (Greenleaf)	3
Cottonwood, Inc. (Lawrence)		WDDS (Wyandotte Co.)	
CLO	2	Bethphage	2
DSNWK (Hays)	2		
Flinthills (El Dorado)			
CCL	30		

As reported to the SRS Legislative Oversight Committee in November, the additional all funds cost for the projected extension of WSH&TC operation into January, 1998 was estimated at \$363,749. No additional State General Funds will be needed to finance this extension, however, in the future additional federal funds may be requested.

**State of Kansas
Department of Social
& Rehabilitation Services**

Rochelle Chronister, Secretary
Janet Schalansky, Deputy Secretary

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**Senate Ways and Means
Tuesday, January 20, 1998**

**Testimony: SB 399
Follow-up**

**Office of the Secretary
Rochelle Chronister, Secretary
785-296-3274**

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1/20/98*

Attachment 4-1

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Rochelle Chronister, Secretary

Senate Ways and Means
January 20, 1998

Follow-up on SB 399

Chairman Kerr, members of the Senate Ways and Means committee, thank you for this opportunity to appear before you today. My name is Mike Hutfles, Director of Public Affairs at SRS.

Last week, I testified before this committee in support of SB 399. There was some confusion over two proposed balloons; one offered by the Department of Corrections and one offered by SRS. I met with Secretary Simmons last week and we agreed on the attached language. Don Myers, Executive Director of the Veterans' Commission has reviewed the proposed balloons and has no objections to the changes.

Thank you for your support of SB 399 with the proposed changes. I stand for questions.

SENATE BILL No. 399

By Legislative Budget Committee

12-17

4-3

9 AN ACT concerning persons in the custody of the secretary of corrections
 10 providing certain services to Kansas soldiers' home and Kansas veter-
 11 ans' home; exemption from certain requirements; amending K.S.A.
 12 1997 Supp. 39-970 and repealing the existing section.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 1997 Supp. 39-970 is hereby amended to read as
 16 follows: 39-970. (a) On and after July 1, 1998, no person shall knowingly
 17 operate an adult care home if, in the adult care home, there works any
 18 person who:

19 (1) (A) Has a felony conviction for a crime which is described in
 20 articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated and
 21 acts amendatory thereof or supplemental thereto, except K.S.A. 21-3605
 22 and amendments thereto, or a conviction of an attempt under K.S.A.
 23 21-3301 and amendments thereto to commit any such act, or (B) has
 24 been convicted of any act which is described in K.S.A. 21-4301 or 21-
 25 4301a and amendments thereto or similar statutes of other states or the
 26 federal government;

27 (2) has been adjudicated a juvenile offender because of having com-
 28 mitted an act which if done by an adult would constitute the commission
 29 of a felony and which is a crime against persons, is any act described in
 30 articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated and
 31 acts amendatory thereof or supplemental thereto except K.S.A. 21-3605
 32 and amendments thereto, or is any act described in K.S.A. 21-4301 or
 33 21-4301a and amendments thereto or similar statutes of other states or
 34 the federal government;

35 (3) has committed an act of physical, mental or emotional abuse or
 36 neglect or sexual abuse as validated by the department of social and re-
 37 habilitation services pursuant to K.S.A. 38-1523 and amendments thereto
 38 and (A) the person has failed to successfully complete a corrective action
 39 plan which had been deemed appropriate and approved by the depart-
 40 ment of social and rehabilitation services, or (B) the record has not been
 41 expunged pursuant to rules and regulations adopted by the secretary of
 42 social and rehabilitation services;

43 (4) has had a child declared in a court order in this or any other state

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1 to be deprived or a child in need of care based on an allegation of physical,
2 mental or emotional abuse or neglect or sexual abuse;

3 (5) has had parental rights terminated pursuant to the Kansas juvenile
4 code or K.S.A. 38-1581 through 38-1584, and amendments thereto, or a
5 similar statute of other states;

6 (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 *et*
7 *seq.*, and amendments thereto, or pursuant to K.S.A. 38-1635 and amend-
8 ments thereto involving a charge of child abuse or a sexual offense;

9 (7) has been found by the department of health and environment or
10 the department of social and rehabilitation services under K.S.A. 39-1401
11 *et seq.* and amendments thereto to have committed an act of abuse, ne-
12 glect or exploitation of a resident; or

13 (8) has been found by the department of social and rehabilitation
14 services under K.S.A. 39-1430 *et seq.* and amendments thereto to have
15 committed an act of abuse, neglect or exploitation of an adult.

16 (b) No person shall operate an adult care home if such person has
17 been found to be a disabled person in need of a guardian or conservator,
18 or both.

19 (c) In accordance with the provisions of this subsection (c), the sec-
20 retary of health and environment shall have access to any criminal history
21 record information in the possession of the Kansas bureau of investigation
22 and any report of investigations as authorized by subsection (e) of K.S.A.
23 38-1523 and amendments thereto in the possession of the department of
24 social and rehabilitation services, or any reports of investigations, findings
25 or assessments as provided in K.S.A. 39-1402 and amendments thereto,
26 39-1404 and amendments thereto, 39-1411 and amendments thereto, 39-
27 1433 and amendments thereto and 39-1434 and amendments thereto, in
28 the possession of the department of health and environment or the de-
29 partment of social and rehabilitation services concerning persons working
30 in an adult care home. The secretary shall have access to these records
31 for the purpose of determining whether or not the adult care home meets
32 the requirements of this section. The Kansas bureau of investigation may
33 charge to the department of health and environment a reasonable fee for
34 providing criminal history record information under this subsection.

35 (d) For the purpose of complying with this section, the operator of
36 an adult care home shall request from the department of health and
37 environment information obtained by the secretary of health and envi-
38 ronment under subsection (c) and information available under subsection
39 (c)(4) of K.S.A. 39-936 and amendments thereto, if any, which relates to
40 a person who works in the adult care home, or is being considered for
41 employment by the adult care home, for the purpose of determining
42 whether such person is subject to the provision of this section. For the
43 purpose of complying with this section, the operator of an adult care home

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1 shall receive from any employment agency which provides employees to
 2 work in the adult care home written certification that such employees are
 3 not prohibited from working in the adult care home under this section.
 4 For the purpose of complying with this section, information relating to
 5 convictions and adjudications by the federal government or to convictions
 6 and adjudications in states other than Kansas shall not be required until
 7 such time as the secretary of health and environment determines the
 8 search for such information could reasonably be performed and the in-
 9 formation obtained within a two-week period. For the purpose of com-
 10 plying with this section, a person who operates an adult care home may
 11 hire an applicant for employment on a conditional basis pending the re-
 12 sults from the department of health and environment of a request for
 13 information under this subsection. No adult care home, the operator or
 14 employees of an adult care home or an employment agency, or the op-
 15 erator or employees of an employment agency, shall be liable for civil
 16 damages resulting from any decision to employ, to refuse to employ or
 17 to discharge from employment any person based on such adult care
 18 home's compliance with the provisions of this section if such adult care
 19 home or employment agency acts in good faith to comply with this sec-
 20 tion.

21 (e) For the purpose of subsection (a)(3), an act of abuse or neglect
 22 shall not be considered to have been validated by the department of social
 23 and rehabilitation services unless the alleged perpetrator has: (1) Had an
 24 opportunity to be interviewed and present information during the inves-
 25 tigation of the alleged act of abuse or neglect; and (2) been given notice
 26 of the agency decision and an opportunity to appeal such decision to the
 27 secretary and to the courts pursuant to the act for judicial review and civil
 28 enforcement of agency actions.

29 (f) The secretary of health and environment shall charge each person
 30 requesting information under this section a fee equal to cost, not to ex-
 31 ceed \$10, for each name about which an information request has been
 32 submitted to the department under this section.

33 (g) No person who works for an adult care home and who is currently
 34 licensed or registered by an agency of this state to provide professional
 35 services in the state and who provides such services as part of the work
 36 which such person performs for the adult care home shall be subject to
 37 the provisions of this section.

38 (h) A person who volunteers in an adult care home shall not be sub-
 39 ject to the provisions of this section because of such volunteer activity.

40 (i) No person who has been employed by the same adult care home
 41 for five consecutive years immediately prior to the effective date of this
 42 act shall be subject to the provisions of this section while employed by
 43 such adult care home

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1 (j) No person who is in the custody of the secretary of corrections and
2 who provides services in nonpatient areas or on the grounds of the Kansas
3 soldiers' home or the Kansas veterans' home shall be subject to the pro-
4 visions of this section while providing such services.

5 ~~(j)(k)~~ The operator of an adult care home shall not be required under
6 this section to conduct a background check on an applicant for employ-
7 ment with the adult care home if the applicant has been the subject of a
8 background check under this act within one year prior to the application
9 for employment with the adult care home.

10 ~~(k)(l)~~ This section shall be part of and supplemental to the adult care
11 home licensure act.

12 Sec. 2. K.S.A. 1997 Supp. 39-970 is hereby repealed.

13 Sec. 3. This act shall take effect and be in force from and after its
14 publication in the statute book.

(j) to

(k) No person who is in the custody of the secretary of corrections and who provides services to any institution operated by the secretary of social and rehabilitation services shall be subject to the provisions of this section while providing services.

(l)

(m)

Attachment 4.6

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