Approved: <u>May 10, 2005</u>
Date

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:30 A.M. on March 2, 2005 in Room 123-S of the Capitol.

All members were present.

Committee staff present:
Jill Wolters, Senior Assistant, Revisor of Statutes
Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Michelle Alishahi, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Audrey Dunkel, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Matt Spurgin, Kansas Legislative Research Department
Judy Bromich, Administrative Analyst
Mary Shaw, Committee Secretary

Conferees appearing before the committee:
Sherry Diel, Executive Director, Kansas Real Estate Commission
Tanya Dorf, Chair, Governmental Affairs, Kansas Association of Centers for Independent Living
Debra Zehr, Executive Vice President, Kansas Association of Homes and Services for the Aging
Shannon Jones, Executive Director, Statewide Independent Living Council of Kansas
Michael Donnelly, Director of Policy and Research, Disability Rights Center of Kansas
Cindy Luxem, Vice President, Kansas Health Care Association
Laura Howard, Deputy Secretary, Division of Health Care Policy, Kansas Department of Social and Rehabilitation Services (written)

Others attending:
See attached list.

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

<u>SB 128--Creating the oil and gas valuation depletion trust fund and providing for distribution of moneys therefrom</u>

Chris Courtwright, Kansas Legislative Research Department, presented an overview of the bill. He distributed copies of the estimated State General Fund impact of **SB 128** (<u>Attachment 1</u>) and a list of counties that would be affected by the bill (<u>Attachment 2</u>).

Senator Morris provided general comments on **<u>SB 128</u>**. He explained that this bill is similar to the bill that the Committee passed last year and the difference this year is that the threshold has been changed to $500,000 from $100,000 and oil was added which makes 46 counties that would be affected.

<u>Senator Barone moved, with a second by Senator Teichman, a technical amendment regarding **SB 128,** New Sec. 2., page 3, line 2, insert "(b)". Motion carried on a voice vote.</u>

<u>Senator Morris moved, with a second by Senator Barone, to report **SB 128** favorable for passage as amended. Motion carried on a roll call vote.</u>

Copies of the Kansas Legislative Research Department Budget Analysis Report for FY 2005 and FY 2006 were available to the committee.

Subcommittee budget report on:

MINUTES OF THE Senate Ways and Means Committee at 10:30 A.M. on March 2, 2005 in Room 123-S of the Capitol.

Kansas Department on Aging (Attachment 3)

Subcommittee Chairwoman Jean Schodorf reported that the subcommittee on the Kansas Department on Aging concurs with the Governor's recommendation in FY 2005 with adjustments and observations and concurs with the Governor's FY 2006 recommendations with adjustments and observations.

Senator Schodorf moved, with a second by Senator Betts, to adopt the subcommittee budget report on the Kansas Department on Aging in FY 2005 and FY 2006. Motion carried on a voice vote.

The Chairman opened the public hearing on:

SB 271--Real estate brokers and salespersons; fees

Staff briefed the committee on the bill.

Chairman Umbarger welcomed Sherry Diel, Executive Director, Kansas Real Estate Commission, who testified in support of **SB 271** (Attachment 4). Ms. Diel explained that **SB 271** would increase the statutory cap on real estate license fees for salespersons and brokers and would add five new fees for related services provided by the Kansas Real Estate Commission. She mentioned that with only a couple of exceptions, the Commission's fees have been at the statutory cap since 1998.

Committee discussion followed. Senator Emler suggested on page 4 of the bill, line 16, to remove one of the "an amount" phrases.

There being no further conferees to come before the committee, the Chairman closed the public hearing on **SB 271**.

The Chairman opened the public hearing on:

SB 218--Transfer of moneys to support the movement of individuals from nursing facilities to home and community-based services

Staff briefed the committee on the bill.

Tanya Dorf, Chair of the Governmental Affairs Committee for the Kansas Association of Centers for Independent Living (KACIL), testified in support of **SB 218** (Attachment 5). Ms. Dorf explained that at the beginning of FY 2004 the State of Kansas began affirming its belief that people have the right to live in the community and should not be discriminated against by having to live in a nursing home when that is not their choice. She noted that this was affirmed with the inclusion of a proviso in the FY 2004 Omnibus Budget bill that ensures money will follow the people when they transition from nursing homes to home and community based services. Ms. Dorf suggested a proposed amendment (Attachment 6) by KACIL to remove the cap of 75 people per year who are allowed to make the transition.

Debra Zehr, Executive Vice President, Kansas Association of Homes and Services for the Aging (KAHSA), spoke in support of **SB 218** (Attachment 7). Ms. Zehr explained that KAHSA supports the "Money Follows the Person" concept contained in SB 218, insofar as it would permit nursing home residents who are currently on a waiting list for the Medicaid Home and Community Based Services (HCBS) Waiver Program to return to a community-based living environment, funded by dollars that would have otherwise been spent for nursing home care. She noted that KAHSA strongly urges consumer and provider stakeholders to come together to develop joint guidelines on best practices for working together to identify and assist appropriate persons to transition under the Money Follows the Person Program.

Shannon Jones, Executive Director, Statewide Independent Living Council of Kansas (SILCK), testified in favor of **SB 218** (Attachment 8). Ms. Jones mentioned that SILCK has promoted and endorsed the demonstration or pilot program of Money Follows the Person because it was the disability community's attempt to correct the imbalance of funding for long term care services in the state and ensure persons eligible truly have a choice in the delivery of the long term care services. Detailed in her written testimony, Ms. Jones addressed four areas of opportunity for the State of Kansas if **SB 218** was amended to remove the cap of 75 persons.

Michael Donnelly, Director of Policy and Research, Disability Rights Center of Kansas, testified in support of **SB 218** (Attachment 9). Mr. Donnelly encouraged the Committee to forward **SB 218** without the 75 person cap, and to direct the Kansas Department of Social and Rehabilitation Services to begin identifying those persons (using the CMS and MDS data) who have expressed the desire to be out in the community and plan to fully implement Money Follows the Person.

Cindy Luxem, Vice-President, Kansas Health Care Association, testified in favor of **SB 218** (Attachment 10). Ms. Luxem mentioned that they are in support of **SB 218** as it is written. They support the continued movement of 75 individuals, who have been institutionalized for at least 90 days in a nursing home and wish to transition back into the community. She noted that **SB 218** takes "Money Follows the Person" and makes it the policy.

Written testimony was submitted by Laura Howard, Deputy Secretary, Division of Health Care Policy, Kansas Department of Social and Rehabilitation Services, in support of **SB 218** (Attachment 11).

The meeting adjourned at 11:25 a.m. The next meeting is scheduled for March 3, 2005.

SENATE WAYS AND MEANS
GUEST LIST

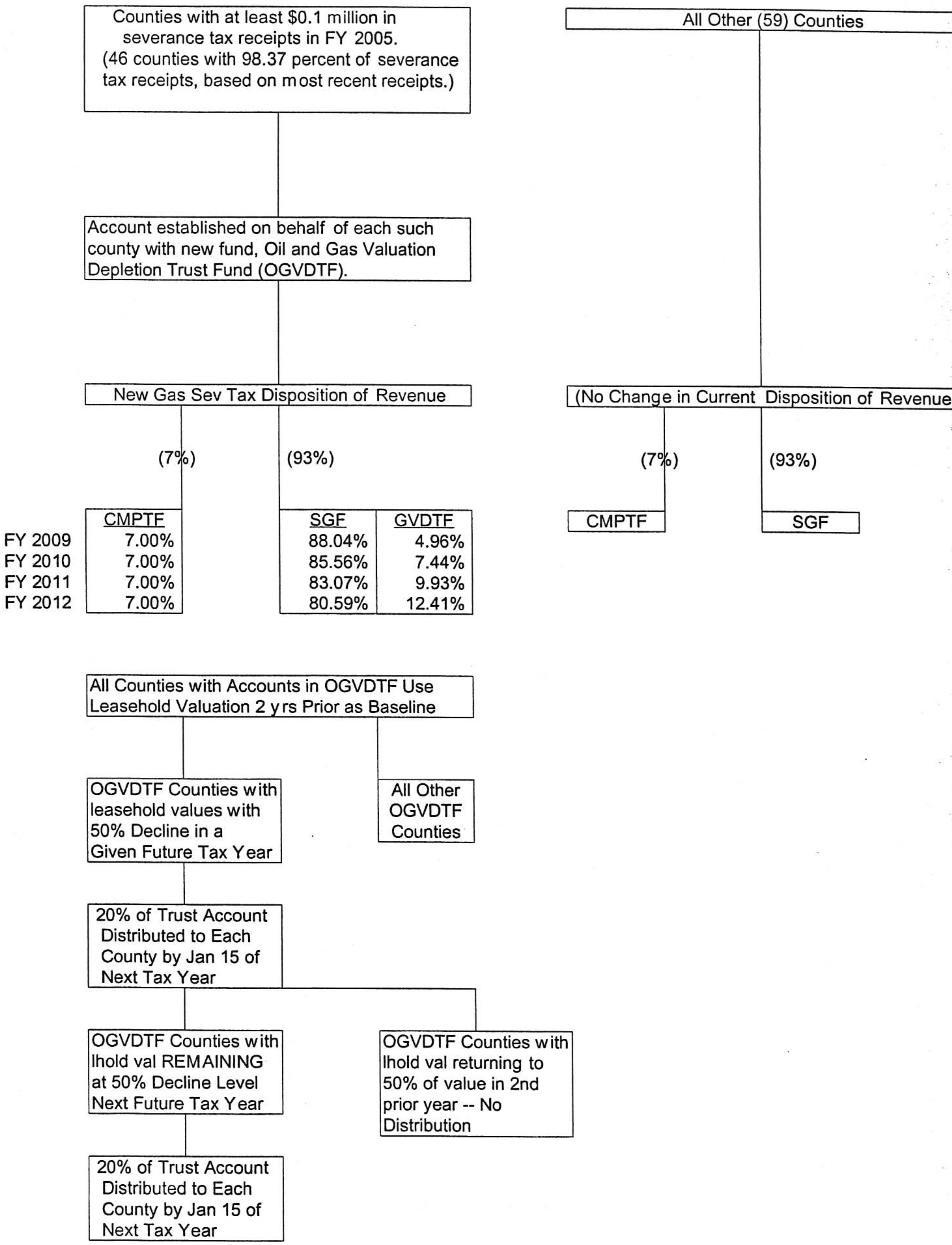
Date March 2, 2005

NAME	REPRESENTING
Julia Thomas	DOB
Amy Salisbury	DOB
Pamela Kafka	Intern (Wysong)
Cindy Luxem	KHCA
Jean Krahn	KGP
CRAIG KABERLINE	K4A
Kathy Damron	KAR
Josie Torrez	SILCK
[illegible] Jones	SILCK
Steve [illegible]	Lakin
Carolyn Middendorf	Ks St Ns Assn
LINDA LUBENSKY	KS Home Care Assn.
Debra Zehr	KAHSA
Mike Boehs	Lakin
George Wingert	Ruffin Companies
Judy Moler	KAC
[illegible]	Hein Law Firm
Sherry C Diel	KS Real Estate Comm
Mike Huttles	KGC
Ron Emm	Lakin
Lynda Thurow	Wichita
Carl Thurow	Wichita
Rolling Hills Christian School	Lakin

SENATE WAYS AND MEANS
GUEST LIST

Date 3-2-05

NAME	REPRESENTING
Jack G Laurs	DEFS - P Hennessy
Marty Kennedy	KDOA
Janis DeBoer	KDOA
Don Baker	SRS
Kyle Kessler	SRS
Tanya Dorf	KACIL
Michael Donnelly	DRC Kansas
Ashley McMillan	Senate President
Andrew Bowker	Senate Minority Leader
Sue Krische	Senate President



Senate Ways and Means
3-2-05
Attachment 1

Estimated SGF Fiscal Impact of SB 128:

($ in millions)

	FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12
gas	---	---	---	($2.718)	($3.944)	($4.907)	($5.687)
oil	---	---	---	($0.854)	($1.281)	($1.710)	($2.137)
total	---	---	---	($3.572)	($5.224)	($6.616)	($7.823)

Based on assumption that 98.37 percent of future oil and gas severance tax receipts would qualify for the diversion to the OGVDTF.

	oil>100k?	gas>100k?	both>100k?
ALLEN	no	no	no
ANDERSON	yes	yes	yes
BARBER	yes	no	yes
BARTON	no	no	no
BOURBON	no	no	no
BUTLER	no	no	no
CHASE	yes	yes	yes
CHAUTAUQUA	no	yes	yes
CHEROKEE	yes	yes	yes
CHEYENNE	yes	no	yes
CLARK	no	yes	yes
CLAY	no	no	no
COFFEE	yes	no	yes
COMANCHE	no	no	no
COWLEY	yes	yes	yes
CRAWFORD	no	no	yes
DECATUR	no	no	no
DICKINSON	yes	yes	yes
DOUGLAS	no	no	no
EDWARDS	no	yes	yes
ELK	no	no	no
ELLIS	no	yes	yes
ELLSWORTH	yes	yes	yes
FINNEY	no	no	no
FORD	yes	yes	yes
FRANKLIN	no	no	no
GEARY	yes	yes	yes
GOVE	yes	yes	yes
GRAHAM	yes	yes	yes
GRANT	no	no	no
GRAY	no	no	no
GREELEY	no	no	no
GREENWOOD	yes	no	yes
HAMILTON	no	no	no
HARPER	no	no	no
HARVEY	yes	yes	yes
HASKELL	no	no	no
HODGEMAN	no	yes	yes
JACKSON	yes	yes	yes
JEFFERSON	no	yes	yes
JOHNSON	no	yes	yes
KEARNY	yes	yes	yes
KINGMAN	yes	yes	yes
KIOWA	yes	no	yes
LABETTE	yes	no	yes
LANE	yes	no	yes
LEAVENWORTH	no	no	no
LINN	yes	yes	yes
LOGAN	no	no	no
LYON	yes	yes	yes
MARION	yes	yes	yes
MCPHERSON	yes	yes	yes
MEADE	yes	yes	yes
MIAMI	yes	no	yes
MONTGOMERY	no	no	no
MORRIS	no	yes	yes
MORTON	no	no	no

SB128

Senate Ways and Means
3-2-05
Attachment 2

NEMAHA	no	no	no
NEOSHO	yes	no	yes
NESS	no	no	no
NORTON	no	no	no
OSAGE	no	no	no
OSBORNE	no	no	no
PAWNEE	no	no	no
PHILLIPS	no	no	no
POTTAWATOMI	no	no	no
PRATT	no	no	no
RAWLINS	yes	no	yes
RENO	yes	no	yes
RICE	yes	no	yes
RILEY	no	no	no
ROOKS	no	no	no
RUSH	yes	no	yes
RUSSELL	no	no	no
SALINE	no	no	no
SCOTT	no	no	no
SEDGWICK	yes	no	yes
SEWARD	no	no	no
SHERIDAN	no	no	no
SHERMAN	no	no	no
STAFFORD	yes	no	yes
STANTON	no	no	no
STEVENS	no	no	no
SUMNER	no	no	no
THOMAS	yes	no	yes
TREGO	yes	no	yes
WABAUNSEE	no	no	no
WALLACE	no	no	no
WICHITA	no	no	no
WILSON	yes	no	yes
WOODSON	no	no	no

Senate Subcommittee

Department on Aging

for FY 2005 and FY 2006

Jean Kurtis Schodorf

Senator Jean Schodorf, Chair

Donald Betts Jr.

Senator Donald Betts, Jr.

Vicki Schmidt

Senator Vicki Schmidt

Senate Ways and Means
3-2-05
Attachment 3

House Budget Committee Report

Agency: Department on Aging **Bill No.** HB 2480 **Bill Sec.** 26

Analyst: Deckard **Analysis Pg. No.** Vol. 2, p. 785 **Budget Page No.** 37

Expenditure Summary	Agency Estimate FY 05	Governor's Recommendation FY 05	House Budget Committee Adjustments
All Funds:			
State Operations	$ 16,017,421	$ 14,506,165	$ 0
Aid to Local Units	7,097,185	6,702,951	0
Other Assistance	412,138,884	408,517,238	0
TOTAL	$ 435,253,490	$ 429,726,354	$ 0
State General Fund:			
State Operations	$ 6,431,166	$ 5,878,048	$ 0
Aid to Local Units	2,746,942	2,352,708	0
Other Assistance	160,917,746	159,505,304	0
TOTAL	$ 170,095,854	$ 167,736,060	$ 0
FTE Positions	208.0	208.0	0.0
Non FTE Uncl. Perm. Pos.	2.5	2.5	0.0
TOTAL	210.5	210.5	0.0

Agency Estimate/Governor's Recommendation

The **Department** estimates FY 2005 operating expenditures of $435,253,490 all funds, including $170,095,854 State General Fund, an increase of $5,492,277 all funds or 1.3 percent above the approved amount. The Department included in its estimate the lapse of $13,392,171 State General Fund reappropriation in FY 2005 and requests to carry forward the remaining $5,427,917 of the State General Fund reappropriation into FY 2006.

The **Governor** recommends FY 2005 operating expenditures of $429,726,354 all funds, including $167,736,060 State General Fund, a decrease of $34,859 all funds, or 0.0 percent below the approved amount. The recommendation is a decrease of $5,527,136 all funds or 1.3 percent below the Department's estimate. The Governor recommends lapsing $20,402,529 of the State General Fund reappropriation from FY 2004.

The Governor recommends increasing the Department's shrinkage rate from 7.5 percent to 9.45 percent, for a State General Fund savings of $79,506, and a reduction to all funds of $206,515. The Governor did not change the nursing facility caseload estimates which were left at the FY 2005 approved amounts during the October 2004 consensus estimating process. The Governor recommends reducing contractual services by $1,304,741 to a level consistent with the approved amount.

The Governor's recommendation reduces Senior Care Act expenditures by $394,234 to bring it in line with FY 2004 actual expenditures for the program. Additionally, the Governor recommends reducing funding for the HCBS/FE waiver by $3,621,646 to be consistent with revised estimates. This includes a reduction of $1,412,442 in State General Fund moneys.

House Budget Committee Recommendation

The House Budget Committee concurs with the recommendations of the Governor, with the following observations:

1. **Change from FY 2005 Approved.** The Budget Committee notes that the Governor's FY 2005 revised recommendation is a State General Fund increase of $139,830 or 0.01 percent above the FY 2005 State General Fund amount approved by the 2004 Legislature.

2. The Budget Committee notes that the Governor's recommendation includes an increase in the agency's shrinkage rate from 7.5 percent to 9.45 percent for an associated State General Fund savings of $79,506, and a reduction to all funds of $206,515.

3. The Budget Committee notes its concern regarding the Governor's recommendation for a $3,621,646 reduction in funding for the HCBS/FE waiver. The Budget Committee also notes that there is currently no waiting list for the HCBS/FE waiver. The Budget Committee requests that prior to Omnibus the agency provide additional information regarding the reduction. The Budget Committee cites the following information provided by the agency last year indicating a need for additional funds for this program that adds to the concern of the Budget Committee:

	FY 2002 Actual	FY 2003 Actual	FY 2004 Gov. Rec	FY 2005 Gov. Rec.
Number of unduplicated customers	8,137	6,678	7,400	8,000
Average cost per client per month	$ 800	$ 896	$ 920	$ 952
Total (All Funds)	$ 58.2 million	$ 53.5 million	$ 60.7 million	$ 61.7 million
Total (SGF)*	$ 5.0 million	$ 2.6 million	$ 22.1 million	$ 24.1 million

* In FY 2002 and FY 2003, the Department had access to IGT funds to offset State General Fund moneys for the HCBS/FE waiver. These funds are not available for either FY 2004 or FY 2005.

- Wait List for HCBS/ FE waiver, as of 12/31/2003: **625**

- Projected average wait list for HCBS/ FE waiver under FY 2005 Gov. Rec.: **899**

- Cost to sustain the ending FY 2004 wait list: addition of **$6,835,380 All Funds ($2,689,722 SGF)**

- Cost to eliminate the projected FY 2005 wait list, Department enhancement request: addition of $10,262,580 All Funds ($4,038,590 SGF)

The Budget Committee notes the following is the information provided this year in the Department's budget submission:

	FY 2004 Actual	FY 2005 Estimate	FY 2006 Estimate
Number of unduplicated customers	6,818	8,832	9,330
Average cost per client per month	$820	$893	$920
Total (All Funds)	$45.1 million	$63.1 million	$68.7 million
Total (SGF)*	$16.4 million	$24.1 million	$29.9 million

House Committee Recommendation

The House Committee concurs with the Budget Committee's recommendation.

Senate Subcommittee Report

Agency: Department on Aging **Bill No.** SB 272 **Bill Sec.** 26

Analyst: Deckard **Analysis Pg. No.** Vol. 2, p. 785 **Budget Page No.** 37

Expenditure Summary	Agency Estimate FY 05	Governor's Recommendation FY 05	Senate Subcommittee Adjustments
All Funds:			
State Operations	$ 16,017,421	$ 14,506,165	$ 0
Aid to Local Units	7,097,185	6,702,951	0
Other Assistance	412,138,884	408,517,238	0
TOTAL	$ 435,253,490	$ 429,726,354	$ 0
State General Fund:			
State Operations	$ 6,431,166	$ 5,878,048	$ 0
Aid to Local Units	2,746,942	2,352,708	0
Other Assistance	160,917,746	159,505,304	0
TOTAL	$ 170,095,854	$ 167,736,060	$ 0
FTE Positions	208.0	208.0	0.0
Non FTE Uncl. Perm. Pos.	2.5	2.5	0.0
TOTAL	210.5	210.5	0.0

Agency Estimate/Governor's Recommendation

The **Department** estimates FY 2005 operating expenditures of $435,253,490 all funds, including $170,095,854 State General Fund, an increase of $5,492,277 all funds or 1.3 percent above the approved amount. The Department included in its estimate the lapse of $13,392,171 State General Fund reappropriation in FY 2005 and requests to carry forward the remaining $5,427,917 of the State General Fund reappropriation into FY 2006.

The **Governor** recommends FY 2005 operating expenditures of $429,726,354 all funds, including $167,736,060 State General Fund, a decrease of $34,859 all funds, or 0.0 percent below the approved amount. The recommendation is a decrease of $5,527,136 all funds or 1.3 percent below the Department's estimate. The Governor recommends lapsing $20,402,529 of the State General Fund reappropriation from FY 2004.

The Governor recommends increasing the Department's shrinkage rate from 7.5 percent to 9.45 percent, for a State General Fund savings of $79,506, and a reduction to all funds of $206,515. The Governor did not change the nursing facility caseload estimates which were left at the FY 2005 approved amounts during the October 2004 consensus estimating process. The Governor recommends reducing contractual services by $1,304,741 to a level consistent with the approved amount.

The Governor's recommendation reduces Senior Care Act expenditures by $394,234 to bring it in line with FY 2004 actual expenditures for the program. Additionally, the Governor recommends reducing funding for the HCBS/FE waiver by $3,621,646 to be consistent with revised estimates. This includes a reduction of $1,412,442 in State General Fund moneys.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the recommendations of the Governor, with the following adjustments and observations:

1. **Change from FY 2005 Approved.** The Subcommittee notes that the Governor's FY 2005 revised recommendation is a State General Fund increase of $139,830 or 0.01 percent above the FY 2005 State General Fund amount approved by the 2004 Legislature.

2. The Subcommittee notes that the Governor's recommendation includes an increase in the Department's shrinkage rate from 7.5 percent to 9.45 percent for an associated State General Fund savings of $79,506, and a reduction to all funds of $206,515. The Subcommittee notes the Department indicated that there are currently twenty positions unfilled and that the Department conveyed to the Subcommittee that the increased level of shrinkage was manageable.

3. The Subcommittee notes that the Governor's recommendation includes a $3,621,646 reduction in funding for the HCBS/FE waiver. The Budget Committee also notes that the Department indicated that there is currently no waiting list for the HCBS/FE waiver and does not anticipate a waiting list with the reduction in funding.

4. The Subcommittee notes the successful transition of the Nursing Facilities Regulation Program from the Kansas Department of Health and Environment (KDHE) to the Department on Aging. The testimony presented to the Subcommit-

tee indicates that the physical transition is complete and that the Department is still integrating some internal systems.

5. The Subcommittee notes its understanding that problems with payments issued from the EDS payment system have decreased significantly over the past year. The Subcommittee requests that the Department report back prior to Omnibus regarding the number of times in the past year the Department has been required to issue a special check, the amounts of these checks and the number of providers that were affected.

House Budget Committee Report

Agency: Department on Aging **Bill No.** HB 2482 **Bill Sec.** 53

Analyst: Deckard **Analysis Pg. No.** Vol. 2, p.785 **Budget Page No.** 37

Expenditure Summary	Agency Request FY 06	Governor's Recommendation FY 06	House Budget Committee Adjustments
All Funds:			
State Operations	$ 15,269,570	$ 15,243,089	$ 0
Aid to Local Units	7,163,780	7,275,208	0
Other Assistance	442,488,104	418,364,470	0
TOTAL	$ 464,921,454	$ 440,882,767	$ 0
State General Fund:			
State Operations	$ 5,877,959	$ 5,772,675	$ 0
Aid to Local Units	2,883,121	2,885,499	0
Other Assistance	175,249,398	158,989,099	0
TOTAL	$ 184,010,478	$ 167,647,273	$ 0
FTE Positions	208.0	208.0	0.0
Non FTE Uncl. Perm. Pos.	2.5	2.5	0.0
TOTAL	210.5	210.5	0.0

Agency Request/Governor's Recommendation

The **Department** requests FY 2006 operating expenditures of $464,921,454 all funds, including $184,010,478 from the State General Fund. This is an increase of $29,667,964 all funds or 6.8 percent above the FY 2005 revised estimate. The request includes eleven enhancement packages totaling $29,367,328 all funds, $12,697,614 State General Fund. Without the enhancement packages, the Department's request is an increase of $30,636 or 0.1percent above the FY 2005 revised estimate.

The **Governor** recommends FY 2006 operating expenditures of $440,882,767 all funds, including $167,647,273 from the State General Fund. This is an increase of $11,156,413 all funds or 2.6 percent above the FY 2005 recommendation. The recommendation is a decrease of $24,038,687 all funds or 5.2 percent below the Department's request.

The Governor's recommendation includes $588,930 in salary and wage adjustments including the addition of: $33,074 for KPERS death and disability payments; $331,811 in funding for the 27th payroll period; and $224,045 for the 2.5 percent base salary adjustment for state employees, partially offset by an reduction of $208,098 associated with increasing the Department's shrinkage rate from 7.5 percent to 9.45 percent.

The Governor does not fully recommend any of the Department's enhancement requests. The Governor's recommendation does include the addition of $8,238,054 all funds, including

$1,854,236 from the State General Fund, for nursing facilities caseload adjustments. The recommendation also includes the reduction of $3,505,245 all funds, including $1,656,856 State General Fund for the HCBS/FE waiver to remove a rate increase included in the base request by the Department. The Governor replaces State General Fund moneys of $4.5 million with Senior Services Block Grant moneys for Senior Care Act expenditures to enable the Department of Social and Rehabilitation Services to utilize the State General Fund moneys to draw down additional federal funds. The Governor's recommendation also includes the addition of $485,000 from the State General Fund to bring Senior Care Act expenditures to the FY 2004 actual level.

House Budget Committee Recommendation

The House Budget Committee concurs with the recommendations of the Governor, with the following observations:

1. **Change from FY 2005 Approved.** The Budget Committee notes that the Governor's FY 2006 State General Fund recommendation for the agency totals $167,647,273, an increase of $51,403 above the FY 2005 State General Fund amount approved by the 2004 Legislature. Absent amounts recommended for the 2.5 percent base salary adjustment ($89,410), the 27th payroll period ($132,553), and the Kansas Public Employees Retirement System (KPERS) death and disability increase ($13,196), the recommendation is an decrease of $183,756, or 0.1 percent below the approved amount.

2. The Budget Committee notes that the Governor's recommendation includes an increase in the agency's shrinkage rate from 7.5 percent to 9.45 percent for an associated State General Fund savings of $83,130, and a reduction to all funds of $208,098.

3. The Budget Committee expresses concern for the health of rural Nursing Facilities. Testimony before the budget committee indicated that approximately 40 nursing facilities that have less than 40 beds are located in rural areas and function as the major employers in the community. The Budget Committee recognizes that these long-term care facilities are crucial to small communities and their economies, particularly in western Kansas.

   The Budget Committee recommended during the 2004 Legislative Session that the Kansas Department on Aging (KDOA), along with representatives from the Kansas Health Care Association and the Kansas Association of Homes & Services for the Aging, work to create a formal appeal or hearing process to grant variance from the current 85 percent occupancy rate rule for fixed costs to help address the needs of these facilities.

   The Budget Committee was informed that the Kansas Department on Aging convened the Nursing Facility Reimbursement group, which discussed the process and decided against creating such a policy and decided to pursue other incentive methods. The Budget Committee requests that the Kansas Department on Aging report back prior to Omnibus regarding the details of the consensus agreement that was reached by the Nursing Facility Reimbursement group on this topic.

4. The Budget Committee notes the Department on Aging was directed by the 2004 Legislature to provide an update on the security and integrity of the Department's

computer systems to the 2005 Legislature. The Budget Committee notes this has not yet been provided and requests that the agency do so prior to Omnibus.

5. The Budget Committee notes that concern was expressed last session regarding the spend down procedure required before individuals qualify for financial eligibility for the waiver system. Additionally, the Budget Committee encouraged the Department to evaluate the spend down procedure for the Frail Elderly (FE) Waiver and encourage individuals to spend down on their care. The Budget Committee notes that the Kansas Department on Aging (KDOA) indicated that the Department of Social and Rehabilitation Services (SRS) has the responsibility to determine financial eligibility. Additionally, the KDOA indicated that there had been discussions during the Interim with SRS regarding this issue. The Budget Committee requests that both KDOA and SRS report back prior to Omnibus as to the current status of the procedure.

6. The Budget Committee notes the success of PACE (Program for All-inclusive Care for the Elderly) in Wichita. The Budget Committee recognizes the need for this model of care that targets the dual eligible population and serves to meet all the medical needs of the individual as well as the psychosocial and supportive care needs to keep them in their homes. The Budget Committee cites testimony that the program provides comprehensive one-stop care for program participants with an interdisciplinary team of providers, which allows the participants to avoid many expensive hospital and nursing home stays and instead remain in their own homes.

   The Budget Committee recommends an expansion of this program by 150 slots to be divided between the existing program in Wichita and a new Topeka location to be funded within existing resources. The Budget Committee recommends that the Department look at other possible funding mechanism for this expansion, including money follows the person, and requests a waiver be considered to move individuals who might eventually be served in a nursing facility to the PACE program. The Budget Committee requests the Department report back as to the status of other funding prior to Omnibus.

   Additionally, the Budget Committee requests that the Department review the potential for a rural site for a PACE program within the next two years and the potential for additional federal funds for a pilot program and report back prior to Omnibus.

7. The Budget Committee requests that the Department report back prior to Omnibus regarding any action that has been taken in the past year in regards to the Assistive Technology for Kansans Project (ATK). The project has five access sites across the state for people with disabilities, their families, and service providers to provide access to information and services that they may need. The project, funded through a federal grant awarded to the Kansas University Center on Developmental Disabilities, helps coordinate recycled and refurbished assistive technology equipment.

8. The Budget Committee notes its concern with the current level of reimbursements for services provided by nursing facilities and directs the Department to review and present to the Budget Committee prior to Omnibus the potential fiscal impact of rebasing every two years versus the current policy of not less than every seven

years. The Budget Committee cites concern about the extraordinary costs associated with liability insurance for the facilities.

9. The Budget Committee notes that the Department has not yet provided the reports specified in 2004 HB 2675 Section 100 (a) regarding actual expenditures for the Senior Care Act and the Nutrition programs. The Budget Committee is of the understanding that the Department will submit the reports prior to Omnibus.

10. The Budget Committee notes its concern that some seniors, for whom placement in the community is not appropriate, may be targeted for such placement by individuals who inadvertently may pressure the seniors or their families to make such a move. The Budget Committee notes that at times this causes a disruption in the life of that senior and others residing in that nursing facility. The Budget Committee requests that prior to Omnibus the Department provide a response concerning their policy on when and for whom access to seniors in nursing facilities is appropriate.

11. The Budget Committee notes that the Department has investigated what other states, specifically Washington and Colorado, are doing in regards to a program where statewide case managers go into nursing facilities and develop transitions plans for residents to return to the community. The Budget Committee directs the Department to continue to study these models and also focus on potential conflicts of interest that may exist if a hospital has a connected long-term care unit.

12. The Budget Committee encourages the continuation of support throughout the state for culture changes in how the services are provided in the area of long-term care.

13. The Budget Committee notes that during the Interim the nutrition providers and the Kansas Area Agencies in Aging met to discuss the funding formula for nutrition grants. The Committee notes that the Department indicated that the group had reached a consensus agreement that grant funding would remain the same as in FY 2004.

    The Budget Committee requests that prior to Omnibus the Department provide a detailed breakdown regarding the number of meals served across the state by provider, the average costs of the meals, and the funding provided by the Kansas Department on Aging.

    Additionally, prior to Omnibus the Kansas Department on Aging should prepare a plan for review that provide equal state funding for each meal served statewide. The Budget Committee directs that in the plan payments to the nutrition providers should be determined by actual meals served during the preceding year.

House Committee Recommendation

The House Committee concurs with the Budget Committee's recommendation with the following adjustment:

1. Direct the Department to provide the Committee with updates regarding factors at the federal level regarding reimbursements for targeted case management (TCM) expenditures that may affect the level of federal funding received by the Department.

Senate Subcommittee Report

Agency: Department on Aging **Bill No.** SB 270 **Bill Sec.** 53

Analyst: Deckard **Analysis Pg. No.** Vol. 2, p. 785 **Budget Page No.** 37

Expenditure Summary	Agency Request FY 06	Governor's Recommendation FY 06	Senate Subcommittee Adjustments*
All Funds:			
State Operations	$ 15,269,570	$ 15,243,089	$ (588,930)
Aid to Local Units	7,163,780	7,275,208	0
Other Assistance	442,488,104	418,364,470	0
TOTAL	$ 464,921,454	$ 440,882,767	$ (588,930)
State General Fund:			
State Operations	$ 5,877,959	$ 5,772,675	$ (235,159)
Aid to Local Units	2,883,121	2,885,499	0
Other Assistance	175,249,398	158,989,099	0
TOTAL	$ 184,010,478	$ 167,647,273	$ (235,159)
FTE Positions	208.0	208.0	0.0
Non FTE Uncl. Perm. Pos.	2.5	2.5	0.0
TOTAL	210.5	210.5	0.0

*The entire adjustment reflects deletion of the Governor's recommended salary plan adjustments.

Agency Request/Governor's Recommendation

The **Department** requests FY 2006 operating expenditures of $464,921,454 all funds, including $184,010,478 from the State General Fund. This is an increase of $29,667,964 all funds or 6.8 percent above the FY 2005 revised estimate. The request includes eleven enhancement packages totaling $29,367,328 all funds, $12,697,614 State General Fund. Without the enhancement packages, the Department's request is an increase of $30,636 or 0.1percent above the FY 2005 revised estimate.

The **Governor** recommends FY 2006 operating expenditures of $440,882,767 all funds, including $167,647,273 from the State General Fund. This is an increase of $11,156,413 all funds or 2.6 percent above the FY 2005 recommendation. The recommendation is a decrease of $24,038,687 all funds or 5.2 percent below the Department's request.

The Governor's recommendation includes $588,930 in salary and wage adjustments including the addition of: $33,074 for KPERS death and disability payments; $331,811 in funding for the 27th payroll period; and $224,045 for the 2.5 percent base salary adjustment for state employees, partially offset by an reduction of $208,098 associated with increasing the Department's shrinkage rate from 7.5 percent to 9.45 percent.

The Governor does not fully recommend any of the Department's enhancement requests. The Governor's recommendation does include the addition of $8,238,054 all funds, including $1,854,236 from the State General Fund, for nursing facilities caseload adjustments. The recommendation also includes the reduction of $3,505,245 all funds, including $1,656,856 State General Fund for the HCBS/FE waiver to remove a rate increase included in the base request by the Department. The Governor replaces State General Fund moneys of $4.5 million with Senior Services Block Grant moneys for Senior Care Act expenditures to enable the Department of Social and Rehabilitation Services to utilize the State General Fund moneys to draw down additional federal funds. The Governor's recommendation also includes the addition of $485,000 from the State General Fund to bring Senior Care Act expenditures to the FY 2004 actual level.

Statutory Budget Submission

K.S.A. 75-6701 requires that the budget submitted by the Governor and the budget ultimately approved by the Legislature provide for a State General Fund ending balance of at least 7.5 percent of expenditures for FY 2006. To comply with this provision, Volume 1 of the *Governor's Budget Report* includes a "statutory budget" designed to provide for a 7.5 ending balance. In general, this requires a 8.9 percent reduction to the FY 2006 State General Fund executive branch budget recommendations submitted by the Governor. That reduction has not been applied to school finance funding in the Department of Education, to the Board of Regents and its institutions, or to the judicial or legislative branches. **For this agency, the reduction to the Governor's recommended FY 2006 State General Fund budget would total $14,969,759.**

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the recommendations of the Governor, with the following adjustments and observations:

1. **Pay Plan Adjustment.** Delete $224,045, including $89,410 from the State General Fund, to remove pay plan funding recommended by the Governor (a 2.5 percent base salary adjustment for all state employees) for consideration in a separate bill.

2. **Other Salary and Wage Adjustments.** Delete $364,885, including $145,749 from the State General Fund, to remove funding recommended by the Governor for the 27th payroll period ($331,811), and for the Kansas Public Employees Retirement System (KPERS) death and disability increase ($33,074) for later Committee consideration.

3. **Change from FY 2005 Approved.** The Subcommittee notes that the Governor's FY 2006 recommendation is a State General Fund increase of $51,403 or 0.03 percent above the FY 2005 State General Fund amount approved by the 2004

Legislature. Absent the above pay plan and salary and wage adjustments, the recommendation is a decrease of $183,756, or 0.1 percent below the approved amount.

4. The Subcommittee notes that the Governor's recommendation includes an increase in the Department's shrinkage rate from 7.5 percent to 9.45 percent for an associated State General Fund savings of $79,506, and a reduction to all funds of $206,515. The Subcommittee notes that the Department indicated that there are currently twenty positions that are unfilled and the Department conveyed to the Subcommittee that the increased level of shrinkage was manageable.

5. The Subcommittee notes the success of PACE (Program for All-inclusive Care for the Elderly) in Wichita. The Subcommittee recognizes the need for this model of care that targets the dual eligible population and serves to meet all the medical needs of the individual as well as the psychosocial and supportive care needs to keep them in their homes. The Subcommittee cites testimony that the program provides comprehensive one-stop care for program participants with an interdisciplinary team of providers, which allows the participants to avoid many expensive hospital and nursing home stays and instead remain in their own homes.

   The Subcommittee recommends an expansion of this program by 150 slots to be divided between the existing program in Wichita and a new Topeka location to be funded within existing resources. The Subcommittee recommends that the Department look at other possible funding mechanisms for this expansion, including money follows the person, and requests a waiver be considered to move individuals who might eventually be served in a nursing facility to the PACE program. The Subcommittee requests the Department report back as to the status of other funding prior to Omnibus.

   Additionally, the Subcommittee requests that the Department review the potential for a rural site for a PACE program within the next two years and the potential for additional federal funds for a pilot program and report back prior to Omnibus.

6. The Subcommittee commends the Department for the elimination of the HCBS/FE waiver waiting list. The Subcommittee notes that as of 12/31/04 there was a waiting list of 141 individuals for Senior Care Act services. The Subcommittee heard testimony that this number had increased by February, and requests that the Department report back prior to Omnibus as to the status of the waiting list. The Subcommittee further notes that the longer individuals can remain in their homes, the fewer costs will be incurred by the state for nursing facilities expenditures. The trend in the past few years is a decreasing number of individuals going to nursing facilities, and a slower increase in the cost of care at the nursing facilities. The Subcommittee notes that the Department should strive to do everything possible to keep people in their homes and communities and keep the waiting lists for services as minimal as possible.

7. The Subcommittee notes that the Governor's recommendation for the Senior Care Act includes replacing $4.5 million, traditionally funded from the State General Fund, with the same amount from the Social Services Block Grant. The Subcommittee is of the understanding that the replacement was intended to allow

the Department of Social and Rehabilitation Services (SRS) to use the money from the State General Fund to draw down additional federal funds.

8. The Subcommittee encourages awareness and purchasing of appropriate Long-Term Care Insurance. The Subcommittee notes the state's need to promote this forward thinking as the number and percentage of seniors in Kansas is anticipated to increase rapidly in the near future. The Subcommittee is concerned about the potential drain of state resources if some planning does not occur soon.

9. The Subcommittee notes testimony regarding HB 2178, which would allow a wellness program for seniors funded from the Senior Care Act, when funds were available. HB 2178 was passed by the House Committee of the Whole and was referred to the Senate Health and Welfare Committee.

KANSAS

KANSAS REAL ESTATE COMMISSION
SHERRY C. DIEL, EXECUTIVE DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

Memo To: Chairperson Umbarger and Members of Senate Ways and Means Committee
From: Sherry C. Diel, Executive Director
RE: SB 271
Date: March 2, 2005

SB 271 would increase the statutory cap on real estate license fees for salespersons and brokers and would add five new fees for related services provided by the Kansas Real Estate Commission. Licenses are issued for a two-year period and are renewed based upon the first initial of the licensee's last name.

The proposed legislation would add a definition for "primary office". Although the actual increase in fees by regulation would be much lower, the proposed legislation would increase the statutory cap for the following fees:

- Application fees for filing an application for a salesperson's license would increase from $25 to $50.
- A prorated fee for a standard salesperson's license would increase from up to $100 to up to $150 based upon a two-year license period.
- A prorated fee for an original broker's license would increase from up to $150 to up to $200 based upon a two-year license period.
- Renewal of a salesperson's license would increase from $100 to $150 for a two-year license.
- Renewal of a broker's license would increase from $150 to $200 for a two-year license.
- Certification of licensure history would increase from $10 to $25.
- Approval of a course of instruction submitted by a course provider would increase from $75 to $150.
- A temporary salesperson's license fee would increase from $25 to $75.

Although the regulation would set fees in the $10-$25 range, the statutory cap for the following five new fees would be established as follows:

- Adding a new branch office--$100
- Adding a primary office--$100
- Certification of a licensee's education history--$25
- Certification of licensure for a professional corporation--$25
- Affiliation by a licensee with more than one primary office or branch office--$50

Senate Ways and Means
3-2-05
Attachment 4

With only a couple of exceptions, the Commission's fees have been at the statutory cap since 1998. Although the fee fund balance has some volatility because receipts in odd-numbered years are lower than even-numbered years, a fee increase has not been necessary due to the significant increase in the number of license applications that have been filed since September 11, 2001. However, the Commission anticipates that the number of applicants will level off and possibly decrease over the next 2-3 years as new and existing home sales return to more normal levels as interest rates gradually rise. In addition, the 2004 Legislature approved a $508,000 transfer from the Commission's fee fund to the State General Fund that is scheduled to occur on or before June 30, 2005.

The Commission's expenditures are also growing at a rapid pace. Due to the increase in licensees, the Commission has had to add a temporary legal consultant position to respond to an increasing backlog of agency orders. The agency has funded the temporary position by keeping the fourth auditor position vacant after a resignation occurred. The legal consultant is an attorney licensed in Oklahoma. The Commission would like to fill the fourth auditor position and make the temporary legal consultant a permanent unclassified position. The Commission would then reallocate an existing position to provide administrative support to enforcement staff. The estimated $60,000 to fund the legal consultant position and reallocation of the enforcement position was not included in the agency's budget estimates.

The Commission will also face an increase in capital outlay expenditures due to the closure of the Central Motor Pool in December of 2003. In FY 2006, the Commission requested replacement of two vehicles and the addition of one vehicle for the fourth auditor position. In FY 2007, the Commission requested funding to replace one vehicle.

For purposes of the FY 2006 and FY 2007 budget submission, the Commission factored in a $10 increase in salesperson and broker license fees and a $10 increase in the application fee. For FY 06, the Commission estimated that the $10 increase in the fees for the two-year salesperson and broker license would generate approximately $110,000 in additional revenue and $28,000 in additional funds would be transferred to the State General Fund. Because of the volatility in the Commission's receipts and the anticipated leveling off of the number of licensees entering the real estate industry, the Commission estimated that the $10 increase in fees would generate $96,000 in FY 07 and an additional $24,000 would be transferred to the State General Fund.

The Governor did not recommend a fee increase. After the $508,000 fee fund sweep is completed, the Governor estimates that the Commission's fee fund balance will be $391,813 at the end of FY 2005. The Governor's recommendation for FY 2006 expenditures is $927,444, which includes the vehicle purchases, the 2.5% employee salary increase, and the 27th paycheck. That figure does not include the estimated $60,000 to increase enforcement staff on a permanent basis to address the agency's backlog. Assuming the increase in enforcement staff is approved and the requested fee increase is not approved, the fee fund balance would be reduced to $369,544 at the end of FY 2006 and to $257,095 in FY 2007 according to the Governor's estimates.

Thank you for your consideration.

Member Agencies:

Center for Independent Living for Southwest Kansas
Garden City, KS
620/276-1900 Voice

Coalition for Independence
Kansas City, KS
913/321-5140 Voice/TT

ILC of Northeast Kansas
Atchison, KS
913/367-1830 Voice

Independent Living Resource Center
Wichita, KS
316/942-6300 Voice/TT

Independence, Inc.
Lawrence, KS
785/841-0333 Voice
785/841-1046 TT

Independent Connection/ OCCK
Salina, KS
785/827-9383 Voice/TT

LINK, Inc.
Hays, KS
785/625-6942 Voice/TT

Prairie Independent Living Resource Center
Hutchinson, KS
620/663-3989 Voice

Resource Center for Independent Living, Inc.
Osage City, KS
785/528-3105 Voice

Southeast Kansas Independent Living, Inc.
Parsons, KS
620/421-5502 Voice
620/421-6551 TT

The Whole Person, Inc.
Kansas City, MO
816/561-0304 Voice
816/531-7749 TT

Three Rivers ILC
Wamego, KS
785/456-9915 Voice

Testimony to the Senate Ways and Means Committee
SB 218: Money Following the Person
March 2, 2005

Chairman Umbarger and members of the Committee, I am very pleased to be here today to provide testimony regarding SB 218. My name is Tanya Dorf, and I serve as the Chair of the Governmental Affairs Committee for the Kansas Association of Centers for Independent Living (KACIL). I am also the Executive Director of Independence, Inc., one of the twelve Centers for Independent Living (CILs) KACIL represents.

Centers for Independent Living provide services to people with disabilities of all ages. CILs also provide information and assistance to businesses and other entities in the community to increase opportunities for people with disabilities to live, work and participate in all aspects of community life. We advocate at a state and national level for the rights of all people with disabilities to live in the communities of their choice.

CILs are also the points of entry for the Home and Community Based Services (HCBS) Physical Disabilities waiver. We provide most of the case management services for persons on the waiver, which means we are involved in putting together the plans of care for each person.

Background of SB 218

At the beginning of FY 2004, the state of Kansas began affirming its belief that people have the right to live in the community and should not be discriminated against by having to live in a nursing home when that is not their choice. This was affirmed with the inclusion of a very simple proviso in the FY 2004 Omnibus Budget bill – a proviso which ensures money will follow people when they transition from nursing homes to HCBS services. Lawmakers and state officials knew it was the right thing to do to make this small change. This small change has had a significant impact in the lives of the people who have made the transition out of nursing homes. It has not affected the ability of other people to choose nursing home services at all.

This same concept has existed in law for Kansans with developmental disabilities since passage of the 1995 Developmental Disabilities Reform Act. This Act provides that anyone who lives in a state developmental disabilities hospital and chooses to live in the community will have funds follow them from the state

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Senate Ways and Means
3-2-05
Attachment 5

institution to HCBS services. It is now time for money to follow people from any facility-based setting to community-based services.

Purpose of SB 218

To ensure Kansans will continue being able to choose to move from nursing homes into the community, KACIL has proposed this legislation to put the Money Following the Person concept into law. Transitioning this concept from proviso to law will affirm that it is the policy of the state to allow people who live in nursing homes to choose community-based services. It is also a way in which Kansas can demonstrate its commitment to the spirit of the U.S. Supreme Court's 1999 *Olmstead* decision.

This bill is about good public policy. It simply makes sense to allow people who need long-term care services to receive them in the setting of their choice. Medicaid regulations allow anyone who is Medicaid-eligible to receive long-term care services in a nursing home. A nursing home is a valid and good choice for services for many people. But, not everyone who needs long-term care services funded by Medicaid would choose to live in a nursing home. SB 218 allows people to make a choice between either service setting.

The mechanics of SB 218 would only apply when there is a waiting list for Frail Elderly and/or Physical Disability waiver services, because it allows people in nursing homes to choose to live in the community without having to wait for services. Currently there is no waiting list for the Frail Elderly waiver. The number of people on the Physical Disabilities waiver has been steadily declining over the past year as more people have begun receiving services. So, it is conceivable to see a day in the not so distant future when there is no waiting list for either waiver. If that day arrives, SB 218 would not be needed. But, if enacted, SB 218 would always be there as both the public policy for the state of Kansas and as a tool to use when and if a waiting list exists.

Collaboration

When the proviso was introduced in FY 2004, it was a collaborative effort between Centers for Independent Living, SRS, and the Department on Aging. Since it was a new concept, it was developed as a sort of pilot project. A cap of 75 people per year who would be allowed to use the money following the person mechanism was included in the proviso. In the first year, the number of money following the person slots was divided between the Frail Elderly and Physical Disabilities waivers. This meant roughly 37 elderly people and 38 people with physical disabilities were able to access this mechanism in the first year. We are mid-way through the second year of the proviso. Since there is no waiting list for Frail Elderly waiver services, all 75 of the slots were allocated to the Physical Disabilities waiver. As of February 14, 2005, 60 people living in nursing homes were offered Physical Disability waiver services.

This year, SB 218 was developed by Centers for Independent Living, with the help of Sen. Derek Schmidt. As we have begun working on the details of the bill, we have begun developing a collaborative relationship with representatives of nursing homes across the state. It is no small feat for nursing homes and Centers for Independent Living to work toward agreement on such an issue. I believe it is safe to say that the Centers for Independent Living and the nursing homes generally believe it is the right public policy to offer people a choice between nursing home and community-based services. I believe it is also safe to say that advocates on both sides of the fence believe the processes of identifying people who may want to move to the community and successfully facilitating that move could operate more smoothly. To that end, KACIL is initiating meetings between the Statewide Independent Living Council of Kansas, the Kansas Association of Area Agencies on Aging, the Kansas Health Care Association, and the Kansas Association of Homes and Services for the Aging. We want to work more closely together now and in the future to ensure all the parties can work together amicably to help people who wish to transition to the community. When the proviso was first put into place, SRS and the Department on Aging brought together advocates from the independent living and the nursing home arenas to develop the policy described in line 31 of SB 218. This marked the beginning of these groups working together on a unified public policy. We want this collaboration to continue, and we plan to work with our colleagues to develop processes which can ensure transitions take place smoothly now and in the future.

Amendment
Because the aim of SB 218 is to enact public policy which preserves the right of people to choose to receive long-term care services in the setting of their choice, KACIL now proposes an amendment to the bill which removes the cap of 75 people per year who are allowed to make the transition. Public policy should be based on what is right for the people of the state of Kansas and should not limit the number of people who can benefit from it. We ask for your support of not only SB 218, but the proposed amendment to the bill.

Plans for the future
Kansas is not alone in its efforts to make the processes smoother for people to transition to the community. A handful of other states, including Texas, Missouri and Utah have enacted similar money following the person provisos or statutes. Additionally, the federal government has provided a limited number of grants in the past couple of years to incentivize states to ensure money follows people to community-based settings. You will hear more about the direction the federal government is now taking and how this bill fits with the federal proposal from the Statewide Independent Living Council of Kansas. So, while Kansas is not alone in its efforts regarding money following the person, Kansas does continue to be on the frontier. We were one of the first states to begin offering Home and Community-Based Services waivers, and with the steps we've already taken regarding money following the person, we continue to pave the way for other states.

In a speech on February 1, new U.S. Health and Human Services Secretary Mike Leavitt said,

> "We can ensure that seniors and people with disabilities get long-term care where they want it. The President's New Freedom Initiative points us in the right direction. Home care and community care can allow many Americans with disabilities to continue to live at home, where they can enjoy family, neighbors, and the comfort of familiar surroundings. Medicaid should not force these people to live in institutions. Just as importantly, we can serve more people."

As we all know, it's hard to tell where the federal government is heading on Medicaid policy, but it is very good to see the new Secretary acknowledging that choice in where people receive long-term care services is the right policy direction.

On behalf of the members of KACIL, I ask for your support of SB 218 and our amendment. This legislature has already shown its commitment to providing a cost-effective choice in long-term care services for Kansans. I ask you to continue showing that commitment by supporting this bill.

Thank you for the opportunity to provide this testimony. I am happy to stand for any questions.

Senator Schodorf
Proposed Amendment

Senate Ways and Means
3-2-05
Attachment 6

Session of 2005

SENATE BILL No. 218

By Senator D. Schmidt

2-8

AN ACT providing for transfer of moneys to support the movement of individuals from nursing facilities to home and community-based services.

Be it enacted by the Legislature of the State of Kansas:

Section 1. During the fiscal year ending June 30, 2006, and during each fiscal year thereafter, the director of accounts and reports shall transfer amounts specified by the director of the budget in accordance with this section from the long term care medicaid assistance nursing facility account of the state general fund of the department on aging to the long term care medicaid assistance HCBS/FE account of the state general fund of the department on aging or to the community based services account of the state general fund of the department of social and rehabilitation services. Such transfers shall be certified by the director of the budget on December 1, 2005, and each December 1 thereafter, and on June 1, 2006, and each June 1 thereafter, to reflect the nursing facility rate paid for persons moving from a nursing facility to the home and community-based services waiver for the physically disabled or the frail elderly for the six months preceding the date of certification. ~~The aggregate of all transfers certified during each fiscal year shall not exceed the amount required to support the movement of 75 individuals from nursing facilities to home and community-based services.~~ Each of the ~~75~~ individuals must meet the requirements described in a policy jointly developed by the secretary of aging and the secretary of social and rehabilitation services governing the operations of this transfer. The director of budget shall transmit a copy of each such certification to the director of the legislative research department.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Creating the Future of Aging Services

KAHSA

Kansas Association of Homes & Services for the Aging

To: Senator Duane Umbarger, Chair, and Members
Senate Ways and Means Committee
From: Debra Zehr, Executive Vice President
Date: March 2, 2005
Re: Senate Bill 218

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 serving nearly 20,000 older Kansans every day. Our members are sponsored by religious, civic and fraternal organizations and local governments, and employ nearly 29,000 workers.

We support the "Money Follows the Person" concept contained in Senate Bill 218, insofar as it would permit nursing home residents who are currently on a waiting list for the Medicaid Home and Community Based Services (HCBS) Waiver Program to return to a community-based living environment, funded by dollars that would have otherwise been spent for nursing home care.

Kansas public policy promotes, and consumers are demanding, an improved balance between community and facility-based services for frail elder citizens. And Kansas is making significant strides in this direction. Consider:

1. The HCBS/FE budget has grown 99% compared to a 28% increase in the Medicaid Nursing Facility Program budget in the past 6 years.
2. The number of persons served under the HCBS/FE waiver has increased by 54% while the Medicaid nursing facility caseload has declined by 9%.
3. According to a study conducted by the University of Kansas School of Social Welfare, 35% of nursing home residents are discharged to the community.
4. Kansas' mandatory nursing home preadmission screening program diverts 15% of persons "knocking at the nursing home door" into the community with services.

In the past year, a few community living advocates have employed overly aggressive tactics to remove people from Kansas nursing homes. Based on these reports, we strongly urge consumer and provider stakeholders to come together to develop joint guidelines on best practices for working together to identify and assist appropriate persons to transition under the Money Follows the Person Program. KAHSA stands ready to participate in this effort.

Thank you. Please feel free to contact me, John Peterson or Bill Brady if you have questions about Senate Bill 218 or other issues related to aging services.

Senate Ways and Means
3-2-05
Attachment 7

785.233.7443 fax 785.233.9471 217 SE 8th Avenue Topeka, KS 66603-3906 kahsa.org kahsainfo@kahsa.org

Statewide Independent Living Council of Kansas SILCK

700 S.W. Jackson, Suite 212, Topeka, KS 66603 ☎ (785) 234-6990 voice / TDD ☎ (785) 234-6651 fax

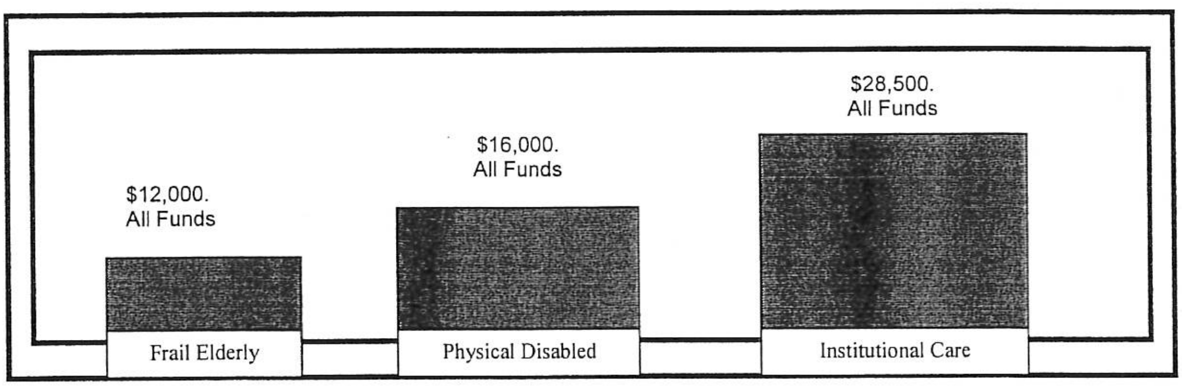
TESTIMONY TO
SENATE WAYS & MEANS COMMITTEE
ON SB 218
SENATOR DWAYNE UMBARGER, CHAIRMAN

MARCH 2, 2005

Mr. Chairman, members of the committee, thank you for this opportunity to express strong support for SB 218 with amendments. My name is Shannon Jones, I am the executive director of the Statewide Independent Living Council of Kansas (SILCK). As mandated by the 1992 amendments to the Rehabilitation Act, the SILCK was created to assess community needs and perform system change activities that increase the ability of people with disabilities of any age to live more independently.

For the last several years, the SILCK has promoted and endorsed the demonstration or pilot program of Money Follows the Person. WHY? It was the disability community's attempt to correct the imbalance of funding for long term care services in our state and ensure persons eligible truly have a choice in the delivery of the long term care services. This imbalance is shown below.

Long Term Care Cost /per person/ per year



For FY'04 the Medicaid Long Term Care Budget

	All Funds	State General Funds	# Served
Nursing Facility	**$316.5 M**	**$115.1 M**	**10,756**
HCBS/FE & PD	**$124.8 M**	**$ 45.3 M**	**9,845**

Senate Ways and Means
3-2-05
Attachment 8

While the Money Follows the Person program has been available statewide, it has been capped at 75 individuals per year. At this point according to SRS, approximately 119 people have successfully transitioned from a nursing facility to a community based program. We anticipate a total of 150 persons will have been moved by the end of this fiscal year. To compute those savings over a two year period for 150 persons X $12,500 = $1,875,000 (AF), or $750,000 SGF.

Equally important, the SILCK believes SB 218, if amended to remove the cap of 75 persons creates a great window of opportunity for the state of Kansas in the following areas:

1) Positions the state of Kansas to better respond to President Bush's proposed Medicaid Reforms which include initiatives for Money Follows the Person programs.
2) A step towards creating an LTC system with flexible financing that enables available funds to move with the individual to the most appropriate and preferred setting.
3) Demonstrates a strong commitment to rebalance the long term care system, whereby Kansas can not only decrease it's reliance on institutional services, but also forecast short and long term financial savings.
4) Ensure that seniors and people with disabilities get long term care services where they want it, at home, without being put on a waiting list sometimes for months while their conditions deteriorate and where they can enjoy family, neighbors and contribute to their communities.

The SILCK urges this committee to favorably pass SB 218 with amendments in order to stop harmful habits that are needlessly driving up Medicaid costs. We must stop rewarding higher spending and start rewarding better performance. And we must start ensuring that Medicaid is saved for those truly in need. If we begin to make these changes such as, passage of SB 218 as amended, we can make Medicaid an economically sustainable program that will provide essential services and better long term care choices for Kansas seniors and the disabled.

Thank you for your attention. I am happy to stand for questions

DRC DISABILITY RIGHTS CENTER of KANSAS
EQUALITY ♦ LAW ♦ JUSTICE

Disability Rights Center of Kansas
3745 SW Wanamaker Road ♦ Topeka, KS 66610
785.273.9661 ♦ 877.776.1541 (V/TDD)
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info@drckansas.org

Testimony to the Senate Ways and Means Committee

SB 218 – March 1, 2005

Chairman Umbarger and members of the committee, my name is Michael Donnelly. I'm the Director of Policy and Outreach for the Disability Rights Center of Kansas (DRC), formerly known as Kansas Advocacy and Protective Services (KAPS). 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. We are not a provider of any Home and Community Based Services (HCBS) or other disability services and we do not benefit from any program enhancements for which we are advocating increases in funding. DRC is a private, 501(c)(3) nonprofit corporation, independent of both state government and disability providers.

One of DRC's core priorities is to "promote positive systems and policy changes that will increase the independence of Kansans with disabilities and enable them to live with dignity, independence and respect in the most integrated setting possible." The legal and civil rights advocacy that DRC engages in is all based in that belief. My comments today are also based in that core principle.

Since the late 1980s Kansas has developed and implemented numerous policies and programs that are designed to keep Kansans with disabilities out of institutions and in their own home, or the home of their choosing. DRC applauds those many efforts. As this committee knows however there is work that still needs to be done to ensure that all Kansans have the resources, services and options available to continue living in their home and community, and for many, the opportunity to live in the community for the first time.

Senate Ways and Means
3-2-05
Attachment 9

In announcing his New Freedom Initiative in 2001 President Bush emphasized the need to implement strategies that empower people to be served in community based settings, rather than unnecessary institutional situations. Title VI, Section A, A Commitment to Community Based Care the Initiative proposal said the following.

> "On June 22, 1999, the Supreme Court decided *Olmstead v. L.C.*, ruling that, in appropriate circumstances, the ADA requires the placement of persons with disabilities in a community-integrated setting whenever possible. The Court concluded that "unjustified isolation," e.g., institutionalization when a doctor deems community treatment equally beneficial, "is properly regarded as discrimination based on disability."
>
> *Olmstead* has yet to be fully implemented. President Bush believes that community-based care is critically important to promoting maximum independence and to integrating individuals with disabilities into community life."

In their 2004 Report to president bush on the progress of his initiative the New Freedom Commission reported progress in several arenas.

One such arena was the recommendation for federal funding for "Money Follows the Person." The report states that one of the next steps was the following proposal:

> "$1.75 billion through FY 2009 for the "Money Follows the Individual Rebalancing Demonstration," with $350 million targeted for FY 2005. This demonstration would assist states in re-balancing long-term care systems to support cost-effective choices between institutional and community options, including financing Medicaid services for individuals who move from institutions to the community."

According to the 2004 CMS reports more than 3,000 persons residing in adult care facilities in Kansas stated that they would prefer to reside in the community. (2004 CMS MDS data)

President Bush has proposed 100% funding for one year to fully implement Money follows the Person in every state. The Kansas Legislature has the opportunity today to set the statewide policy that every individual who is able, and who desire to live in the community will be supported with community based services. The state will then be in a great position to begin planning to implement Money Follows the Person in Kansas that takes advantage of the President's Initiative.

I encourage this Committee to forward SB 218 without the 75 person cap, and to direct SRS to begin identifying those persons (using the CMS MDS data) who have expressed the desire to be out in the community and plan to fully implement Money Follows the Person. It's good for Kansans with disabilities, its good for Kansas' communities and its good for Kansas' budget.

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Chairman Umbarger and Members of the Ways and Means Committee

March 2, 2005

Cindy Luxem, Vice-President, Kansas Health Care Association

SB 218

I represent the Kansas Health Care Association our members provide long term care services for frail, elderly Kansans and the disabled who are unable to live on their own for many reasons. Kansas Health Care Association has promoted home and community based services for more than ten years and many of our members provide these services. Our members understand how important it is for people to have the choice of where they receive their care services.

I am here this morning in support of SB 218 as it is written. We support the continued movement of 75 individuals, who have been institutionalized for at least 90 days in a nursing home and wish to transition back into the community.

SB 218 takes "Money Follows the Person" and makes it the policy. We appreciate the continued collaboration with the community service advocates to successfully implement identifying and transitioning individuals back into the community. As I said earlier, choice is important and this legislation gives all Kansans the opportunity to receive the care they desire, where they desire.

Thank you for the opportunity to support SB 218.

Senate Ways and Means
3-2-05
Attachment 10

Kansas Department of

Social and Rehabilitation Services

Gary Daniels, Acting Secretary

Senate Ways and Means Committee
March 3, 2005

Senate Bill 218

Division of Health Care Policy
Laura Howard, Deputy Secretary

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Senate Ways and Means
3-2-05
Attachment 11

Kansas Department of Social and Rehabilitation Services
Gary Daniels, Acting Secretary

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March 3, 2005

Senate Bill 218

Chairperson Umbarger and members of the committee, thank you for the opportunity to provide written testimony regarding S.B. 218, which provides for the transfer of moneys to support the movement of individuals from nursing facilities to home and community-based services.

By proviso, the 2003 Legislature authorized SRS and the Kansas Department on Aging (KDOA) to develop and implement a system allowing for the transfer of funds for 75 individuals residing in nursing facilities to community-based services during SFY 2004. The 2004 Legislature renewed the authorization giving an additional 75 individuals the opportunity to choose to move out of a nursing facility with the money being used to provide community-based services.

The 2004 Legislature continued this authorization by a proviso in the appropriations bill. Beginning July 1, 2004, SRS and KDOA continued the process of identifying individuals on the waiting list for the Physical Disability (PD) and Frail Elderly (FE) waivers who were residing in nursing facilities. For FY 2005, because the FE waiver does not have a waiting list, the entire allotment of 75 has been made available to persons with physical disabilities seeking to move from nursing facilities to the PD waiver. When an individual makes the decision to move from the nursing facility, and the necessary arrangements are made, the amount of funding that had supported the person at the nursing facility is then identified. Twice a year, based on amounts certified by the director of the budget, funding is then transferred from the nursing facility budget to the appropriate waiver budget. Thus far this fiscal year, about 50 individuals have received transfers from nursing facilities to waiver services. The Centers for Independent Living (CIL) and Area Agencies on Aging (AAA) continue to assist individuals who choose to move from the nursing facility setting as housing and transportation issues are resolved.

SRS supports efforts for individuals to become self-sufficient while remaining in their home communities. Research shows that individuals lead more productive lives when allowed to interact with community members and receive services in their own homes or in community settings. This bill would allow SRS and DOA to continue providing opportunities for other Kansans living in nursing facilities to reestablish connections in their own communities, thus affirming as a matter of state policy the opportunity for individuals to choose community-based services.