Approved: March 14, 2006
Date

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 9:00 A.M. on March 3, 2006 in Room 514-S of the Capitol.

All members were present except:
Representative Joe McLeland- excused
Representative Jerry Henry- excused
Representative Tom Sawyer- excused

Committee staff present:
Alan Conroy, Legislative Research Department
J. G. Scott, Legislative Research Department
Becky Krahl, Legislative Research Department
Matt Spurgin, Legislative Research Department
Amy Deckard, Legislative Research Department
Audrey Dunkel, Legislative Research Department
Julian Efird, Legislative Research Department
Amy VanHouse, Legislative Research Department
Jim Wilson, Revisor of Statutes
Mike Corrigan, Revisor of Statutes
Nikki Feuerborn, Administrative Assistant
Shirley Jepson, Committee Secretary

Conferees appearing before the committee:
Joe Lubarsky, BDO Seidman, LLP
Jim Klausman, Midwest Health Management
Cliff Fischer, Medical Lodges, Inc.
Cindy Luxem, Kansas Healthcare Association
Debra Zehr, Kansas Association of Homes & Services for the Aging
Pam Bachman, Administrator, Eastridge Centralia
Tom Church, CEO, Catholic Care Center
Tom Williams, CEO, Asbury Park, Newton

Others attending:
See attached list.

- Attachment 1 — Retirement Subcommittee report on Kansas Public Employees Retirement System (KPERS)
- Attachment 2 — Budget Committee report on Governmental Ethics Commission
- Attachment 3 — Budget Committee report on Department of Agriculture
- Attachment 4 — Budget Committee report on Animal Health Department
- Attachment 5 — Budget Committee report on Kansas State Fair
- Attachment 6 — Testimony on **HB 2538** by Joseph Lubarsky, BDO Seidman, LLP
- Attachment 7 — Testimony on **HB 2538** by Jim Klausman, Midwest Health Management
- Attachment 8 — Testimony on **HB 2538** by Cliff Fischer, Medicalodges, Inc.
- Attachment 9 — Testimony on **HB 2538** by Cindy Luxum, Kansas Hospital Association
- Attachment 10 — Testimony on **HB 2538** by Debra Zehr, Kansas Association of Homes and Services for the Aging
- Attachment 11 — Testimony on **HB 2538** by Pam Bachman, Administrator, Eastridge Skilled Nursing Facility
- Attachment 12 — Testimony on **HB 2538** by Tom Williams, Chief Executive officer for Asbury Park
- Attachment 13 — Testimony on **HB 2538** by Tom Church, CEO, Catholic Care Center

Representative Weber moved to introduce legislation regarding a reorganization plan for K-12 administration. The motion was seconded by Representative Hutchins. Motion carried.

Julian Efird, Legislative Research Department, presented a report from the Retirement Subcommittee on Kansas Public Employees Retirement System (KPERS) (Attachment 1).

Representative Feuerborn moved to introduce legislation as proposed by the Retirement Subcommittee relating to the Kansas Public Employees Retirement System (KPERS). The motion was seconded by Representative Landwehr. Motion carried.

Representative Pottorff, Chair of the General Government and Commerce Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Governmental Ethics Commission for FY 2006 and moved for the adoption of the Budget Committee recommendation for FY 2006 (Attachment 2). The motion was seconded by Representative Yoder. Motion carried.

Representative Pottorff, Chair of the General Government and Commerce Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Governmental Ethics Commission for FY 2007 and moved for the adoption of the Budget Committee recommendation for FY 2007 (Attachment 2). The motion was seconded by Representative Lane.

Representative Landwehr moved to insert language into the Budget Committee report on the Governmental Ethics Commission for FY 2007 to indicate that the Committee highly recommends the agency develop a program to allow legislators to file reports electronically. The motion was seconded by Representative Lane. Motion carried.

Representative Pottorff renewed the motion to adopt the Budget Committee report on Governmental Ethics Commission for FY 2007 as amended. The motion was seconded by Representative Lane. Motion carried.

Representative Schwartz, Chair of the Agriculture and Natural Resources Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Department of Agriculture for FY 2006 and moved for the adoption of the Budget Committee recommendation for FY 2006 (Attachment 3). The motion was seconded by Representative Williams. Motion carried.

Representative Schwartz, Chair of the Agriculture and Natural Resources Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Department of Agriculture for FY 2007 and moved for the adoption of the Budget Committee recommendation for FY 2007 (Attachment 3). The motion was seconded by Representative Williams. Motion carried.

Representative Powell, member of the Agriculture and Natural Resources Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Animal Health Department for FY 2006 and moved for the adoption of the Budget Committee recommendation for FY 2006 (Attachment 4). The motion was seconded by Representative Williams. Motion carried.

Representative Landwehr moved to amend the Budget Committee report by deleting Item No. 1 concerning animal identification readers on vehicles owned by out of state business or individuals, requesting that the agency provide further information to the Budget Committee before Omnibus. The motion was seconded by Representative Bethell. Motion withdrawn with approval of the second.

Responding to a question from the Committee, George Teagarden, Animal Health Department, stated that approximately 50,000 cattle travel across Kansas each day, noting that the animal ID program is important in order to track cattle who might be carrying disease.

Representative Powell, member of the Agriculture and Natural Resources Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Animal Health Department for FY 2007 and moved for the adoption of the Budget Committee recommendation for FY 2007 (Attachment 4). The motion was seconded by Representative Williams.

Representative Ballard moved to add language to Item No. 5 of the Budget Committee report on Animal Health Department for FY 2007 to indicate that the federal funds are homeland security funds. The motion was seconded by Representative Sharp. Motion carried.

Representative Feuerborn moved to strike Item No. 5 from the Budget Committee report on Animal Health Department for FY 2007. The motion was seconded by Representative Ballard. Motion failed on a 6-10 vote.

Representative Powell renewed the motion to adopt the Budget Committee report on the Animal Health Department for FY 2007 as amended. The motion was seconded by Representative Schwartz. Motion carried.

Representative Williams, member of the Agriculture and Natural Resources Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Kansas State Fair for FY 2006 and moved for the adoption of the Budget Committee recommendation for FY 2006 (Attachment 5). The motion was seconded by Representative Powell. Motion carried.

Representative Williams, member of the Agriculture and Natural Resources Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Kansas State Fair for FY 2007 and moved for the adoption of the Budget Committee recommendation for FY 2007(Attachment 5). The motion was seconded by Representative Powell.

Representative Landwehr moved to amend the Budget Committee report on the Kansas State Fair for FY 2007 by revising Item No. 6 to request that the agency review and report to the Budget Committee by Omnibus on increasing the fee for using the RV park during the 2006 State Fair from $250 to $420 for 12 nights plus admission for two people for each day. The motion was seconded by Representative Bethell. Motion carried on a vote of 11-8.

Representative Williams moved to adopt the Budget Committee report on the Kansas State Fair for FY 2007 as amended. The motion was seconded by Representative Schwartz. Motion carried.

Hearing on HB 2538 - Adult care homes, assessments on nursing facilities, quality assurance assessment fund, initiatives for nursing care improvements.

Amy Deckard, Legislative Research Department, explained that **HB 2538** concerns adult care homes, providing for assessments on certain nursing facilities and creating the quality assurance assessment fund. This legislation would establish a monthly assessment on each skilled nursing facilities licensed in Kansas and will allow the state to draw-down additional federal Medicaid funds.

Chairman Neufeld recognized Joseph Lubarsky, partner and National Director of Long Term Care Services for the accounting and consulting firm of BDO Seidman, LLP, who presented testimony in support of **HB 2538** (Attachment 6).

Responding to questions from the Committee, Mr. Lubarsky stated:

- Because the legislation excludes continuing care and hospital-based care, approximately 12 facilities or 3.5 percent of facilities across the state would see no benefits from the legislation.
- 80 percent of federal funds received as a result of the legislation, would be used for rate changes; 20 percent is to be set aside to be used "as the state sees fit".
- The Medicaid shortfall absorbed by nursing homes in Kansas at the present time, on covering expenses for Medicaid clients, is approximately $12 per client per day - extra funding could provide better hourly rates for staff.
- The legislation would allow the state to draw-down additional federal dollars, alleviating some of the gap in funding - private-pay patients' rates are higher than Medicaid-paid patients.

The meeting was recessed at 10:30 a.m. and reconvened at 11:30 a.m.

Chairman Neufeld recognized Jim Klausman, Midwest Health Management, who presented testimony in support of **HB 2538** (Attachment 7). Mr. Klausman stated that Medicaid does not cover the entire cost for providers to care for Medicaid individuals, resulting in the nursing home passing on some of these costs to private-pay individuals causing an inequity in the system.

- With an assessment of $4 per patient, the state could possibly draw-down an additional $32 million in federal Medicaid funds, resulting in increased staffing and staff salaries for the facilities.
- Approximately 80 percent of the additional federal Medicaid dollars should be returned to the facilities with approximately 20 percent being used for home health care and other programs.
- There are 29 CCRC facilities in the state who would be excluded from this legislation; 48 long-term care facilities in the state would be excluded from the assessment.

The Chair recognized Cliff Fischer, Medicalodges, Inc., who presented testimony in conjunction with Garen Cox, President and CEO, Medicalodges, Inc., in support of **HB 2538** (Attachment 8). Mr. Fischer felt it is important to take advantage of additional federal Medicaid dollars.

Chairman Neufeld recognized Cindy Luxem, Kansas Hospital Association, who presented testimony in support of **HB 2538** including several suggested amendments to the legislation (Attachment 9). Ms. Luxem felt it is important for the state to take advantage of the additional federal funds to promote better care and avoid further taxing the private-pay individuals. Ms. Luxem indicated that she has had conservation with Scott Brunner, representing the Health Policy Authority, and Debra Zehr, an opponent of the legislation, on the legislation. Responding to Committee questions, Ms. Luxem stated:

- Proponents of the legislation will work to keep the assessment rate at the 3 percent level or lower.
- The assessment would be placed on the total resident Medicaid days and assessed on the facility. The expense would be treated as a reduction of revenue, as opposed to a cost.
- The Committee voiced concern that cost of the assessment will be passed on to private-pay individuals.
- The Committee requested information on Oklahoma's opt-out provisions in their legislation and pertinent information on other Midwest states who have similar legislation.

Chairman Neufeld recognized Debra Zehr, Executive Vice President, Kansas Association of Homes and Services for the Aging, who presented testimony in opposition to **HB 2538** (Attachment 10).Ms. Zehr felt that **HB 2538** will place an additional burden on the elderly private-pay individuals. Ms. Zehr indicated that she did not have an alternative plan to the legislation. Responding to a question from the Committee, Ms. Zehr noted that if the state were to provide the extra funding from the State General Fund (SGF) to draw-down the additional federal funds, the funds should be used to impact the resident's care - additional staffing, retainage of staff and should be quality focused.

- The Committee requested data on (1) other states who have a provider tax and the amount; and (2) information on why when the provider tax goes up, the reimbursement rate goes down.

The Chair recognized Pam Bachman, Administrator, Eastridge Skilled Nursing Facility, who presented testimony in opposition to **HB 2538** (Attachment 11). Ms. Bachman stated that **HB 2538** will cause private-pay individuals to deplete their private funds more rapidly.

Chairman Neufeld recognized Tom Williams, Chief Executive officer for Asbury Park, a not-for-profit Methodist retirement community in Newton, who presented testimony in opposition to **HB 2538** (Attachment 12).

The Chair recognized Tom Church, CEO, Catholic Care Center, who presented testimony in opposition to **HB 2538** (Attachment 13).

The Chair recognized Kathy Greenlee, Secretary, Department on Aging, who stated that it is important to change the current reimbursement system to focus more on quality care.

- The Committee requested that the Department on Aging work with the other parties involved in this legislation, to define the CCRC's and how to drive toward positive outcomes with a report back to the Committee in two weeks.

HB 2520 was referred to Social Services Budget Committee.
SB 553 was referred to Education Budget Committee.
SB 503 was referred to Agriculture and Natural Resources Budget Committee.

The next meeting of the Appropriations Committee will be held at 9:00 a.m. on March 6, 2006.

Melvin Neufeld, Chairman

HOUSE APPROPRIATIONS COMMITTEE
March 3, 2006
9:00 a.m.

NAME	REPRESENTING
Cindy Luxem	KHCA
Nancy Pierce	KHCA
Joe Lubarsky	KHCA / BDO Seidman
MAX FOSTER	KDA
[illegible] Cotsoradis	KDA
Kim Lynch	KFMC
George Teagarden	KAHD
Chad Austin	KS Hosp Assoc
Gilbert CRUZ	CRUZ ENTERPRISES GC,KS
Tom TUNNELL	KS STATE FAIR
Ron Seeber	Hein Law Firm

HOUSE APPROPRIATIONS RETIREMENT SUBCOMMITTEE

February 24, 2006

Melvin Neufeld, Chairperson

Bill Feuerborn

Doug Gatewood.

Brenda Landwehr

Bill McCreary

Sharon Schwartz

Shari Weber

HOUSE APPROPRIATIONS

DATE 3-03-2006

ATTACHMENT 1

House Appropriations Subcommittee Report

February 24, 2006

The Subcommittee recommends introduction of a bill that would include the following items related to the Kansas Public Employees Retirement System (KPERS):

1. Increase the minimum retirement benefit from $500 to $625 beginning July 1, 2006, and to $750 beginning July 1, 2007, for retired members of the Kansas School Retirement System with at least 20 years of service credit. The fiscal note for this benefit enhancement is $300,000 from the State General Fund.

2. Raise the working after retirement salary limitation from $15,000 to $20,000 for retired KPERS members who return to work after retirement for the same participating employer from whom they retired. There is no salary limitation if a retiree returns to work for a different KPERS participating employer. The fiscal note suggests that the actuarial impact on KPERS will likely result in some additional unfunded actuarial liability, but that the added cost is not expected to be significant.

3. Require any KPERS participating employer who hires a KPERS retired member to pay the KPERS actuarially-determined employer and employee contributions on behalf of the retired member. There would be no payment required if a retiree returns to work for the same KPERS participating employer that employed the individual before retirement. The fiscal note indicates that this provision would increase contributions to KPERS, with the following FY 2007 (CY 2007 for the local group) rates attributed the members of the three principal KPERS groups of participating employers: Participating employers from all groups would pay the statutory employee rate of 4.0 percent. Those in the state group would pay an additional employer rate of 9.84 percent, the school group 13.75 percent, and the local group 11.69 percent.

The Subcommittee recommends interim study of several topics which were brought to its attention. The Subcommittee suggests that the Joint Committee on Pensions, Investments and Benefits review the following topics:

1. Restructuring the KPERS benefits for new hires in response to long-term funding issues caused by the current 85-point plan which allows employees to retire with unreduced benefits when a combination of the employee's age and years of service credit total 85.

2. Monitoring the implementation of new rules by the Governmental Accounting Standards Board, namely new standards 43 and 45 which address other post-retirement benefits reporting for public entities, including school districts,

community colleges, technical colleges, and other municipalities. Other postemployment benefits (OPEB) are postemployment benefits other than pensions. OPEB generally takes the form of health insurance and dental, vision, prescription, or other healthcare benefits provided to eligible retirees, including in some cases their beneficiaries. It may also include some types of life insurance, legal services, and other benefits. Most governmental entities do not report information about the nature and size of their long-term financial obligations and commitments related to OPEB. Consequently, the readers of financial statements, including the public, have incomplete information with which to assess the cost of public services and to analyze the financial position and long-run financial health of a governmental entity. The purpose of the new standards, GASB Statement No. 43, *Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans,* and GASB Statement No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions*, is to address these shortcomings.

FY 2006 and FY 2007

Governmental Ethics Commission

Jo Ann Pottorff
Representative Jo Ann Pottorff, Chair

David Huff
Representative David Huff

Harold Lane
Representative Harold Lane

Kevin Yoder
Representative Kevin Yoder

Richard Carlson
Representative Richard Carlson

Annie Kuether
Representative Annie Kuether

CS
Representative Clark Shultz

HOUSE APPROPRIATIONS

DATE 3-03-2006
ATTACHMENT 2

Senate Subcommittee Report

Agency: Governmental Ethics Commission **Bill No.** SB 570 **Bill Sec.** 21

Analyst: Deckard **Analysis Pg. No.** Vol. I-361 **Budget Page No.** 477

Expenditure Summary	Agency Estimate FY 06	Governor's Recommendation FY 06	Senate Subcommittee Adjustments
State General Fund	$ 521,683	$ 521,683	$ 0
Special Revenue Funds	137,975	137,975	0
TOTAL	$ 649,658	$ 649,658	$ 0
FTE Positions	9.0	9.0	0.0
Non FTE Uncl. Perm. Pos.	0.5	0.5	0.0
TOTAL	9.5	9.5	0.0

Agency Estimate

The **agency** estimates $649,658, including $521,683 from the State General Fund for FY 2006 operating expenditures. This is an increase of $16,109 or 2.5 percent above the amount approved by the 2005 Legislature. This is an increase of $29,253 or 5.9 percent in State General Fund expenditures. These are State General Fund moneys which reappropriated from FY 2005. The agency's estimate includes a reduction of $13,144 or 9.3 percent in fee fund expenditures. The agency indicated that the contractual services increase would be utilized to cover higher than anticipated cental mail assessments, out-of-state travel expenditures, contract employee help during election season, and increases in natural gas utilities. Additionally, the agency is requesting $6,600 in capital outlay to replace two computers and one printer.

Governor's Recommendation

The Governor concurs with the agency's estimate.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.

Senate Committee Recommendation

The Senate Committee concurs with the Subcommittee's recommendation.

House Budget Committee Report

Agency: Governmental Ethics Commission **Bill No.** HB 2958 **Bill Sec.** 21

Analyst: Deckard **Analysis Pg. No.** Vol. I-361 **Budget Page No.** 477

Expenditure Summary	Agency Estimate FY 06	Governor's Recommendation FY 06	House Budget Committee Adjustments
State General Fund	$ 521,683	$ 521,683	$ 0
Special Revenue Funds	137,975	137,975	0
TOTAL	$ 649,658	$ 649,658	$ 0
FTE Positions	9.0	9.0	0.0
Non FTE Uncl. Perm. Pos.	0.5	0.5	0.0
TOTAL	9.5	9.5	0.0

Agency Estimate

The agency estimates $649,658, including $521,683 from the State General Fund for FY 2006 operating expenditures. This is an increase of $16,109 or 2.5 percent above the amount approved by the 2005 Legislature. This is an increase of $29,253 or 5.9 percent in State General Fund expenditures. These are State General Fund moneys which reappropriated from FY 2005. The agency's estimate includes a reduction of $13,144 or 9.3 percent in fee fund expenditures. The agency indicated that the contractual services increase would be utilized to cover higher than anticipated cental mail assessments, out-of-state travel expenditures, contract employee help during election season, and increases in natural gas utilities. Additionally, the agency is requesting $6,600 in capital outlay to replace two computers and one printer.

Governor's Recommendation

The Governor concurs with the agency's estimate.

House Budget Committee Recommendation

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

Senate Subcommittee Report

Agency: Governmental Ethics Commission **Bill No.** SB 570 **Bill Sec.** 21

Analyst: Deckard **Analysis Pg. No.** Vol. I-361 **Budget Page No.** 477

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	Senate Subcommittee Adjustments
State General Fund	$ 494,180	$ 502,147	$ 0
Special Revenue Funds	142,257	145,276	0
TOTAL	$ 636,437	$ 647,423	$ 0
FTE Positions	9.0	9.0	0.0
Non FTE Uncl. Perm. Pos.	0.5	0.5	0.0
TOTAL	9.5	9.5	0.0

Agency Estimate

The agency estimates $636,437, including $494,180 from the State General Fund for FY 2007 operating expenditures. This is an increase of $2,046 or 0.3 percent above the approved amount. The increase is entirely from the Governmental Ethics Commission fee fund and is requested for unanticipated increases in fees.

Governor's Recommendation

The Governor recommends FY 2007 operating expenditures of $647,423, including $502,147 from the State General Fund. This is an increase of $13,032 or 2.1 percent above the approved amount, including an increase of $7,967 or 1.6 percent above the approved State General Fund amount. The recommendation is an increase of $10,986 or 1.7 percent above the agency's estimate. The recommendation includes the addition of $2,046 for increases in fees and $10,986, including $7,967 from the State General Fund, for the 2.5 percent cost of living increase for state employees.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.

Senate Committee Recommendation

The Senate Committee concurs with the Subcommittee's recommendation.

House Budget Committee Report

Agency: Governmental Ethics Commission **Bill No.** HB 2958 **Bill Sec.** 21

Analyst: Deckard **Analysis Pg. No.** Vol. I-361 **Budget Page No.** 477

Expenditure Summary	Agency Estimate FY 07	Governor's Recommendation FY 07	House Budget Committee Adjustments
State General Fund	$ 494,180	$ 502,147	$ 0
Special Revenue Funds	142,257	145,276	0
TOTAL	$ 636,437	$ 647,423	$ 0
FTE Positions	9.0	9.0	0.0
Non FTE Uncl. Perm. Pos.	0.5	0.5	0.0
TOTAL	9.5	9.5	0.0

Agency Request

The agency requests $636,437, including $494,180 from the State General Fund for FY 2007 operating expenditures. This is an increase of $2,046 or 0.3 percent above the approved amount. The increase is entirely from the Governmental Ethics Commission fee fund and is requested for unanticipated increases in fees.

Governor's Recommendation

The Governor recommends FY 2007 operating expenditures of $647,423, including $502,147 from the State General Fund. This is an increase of $13,032 or 2.1 percent above the approved amount, including an increase of $7,967 or 1.6 percent above the approved State General Fund amount. The recommendation is an increase of $10,986 or 1.7 percent above the agency's estimate. The recommendation includes the addition of $2,046 for increases in fees and $10,986, including $7,967 from the State General Fund, for the 2.5 percent cost of living increase for state employees.

House Budget Committee Recommendation

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

1. The Budget Committee notes that the agency is providing increased customer service through scanning submitted forms and reports from candidates and political action committees and making them available on its website at: http://www.accesskansas.org/ethics/FiledRptsFrmsHm.htm

FY 2006 and FY 2007

HOUSE AGRICULTURE AND NATURAL RESOURCES BUDGET COMMITTEE

Department of Agriculture

Representative Sharon Schwartz, Chair

Representative Vaughn Flora

Representative Joann Freeborn

Representative Carl Holmes

Representative Larry Powell

Representative Tom Sloan

Representative Jerry Williams

HOUSE APPROPRIATIONS

DATE 3-03-2006

ATTACHMENT 3

Senate Subcommittee Report

Agency: Department of Agriculture **Bill No.** -- **Bill Sec.** --

Analyst: Dunkel **Analysis Pg. No.** Vol. I - 1059 **Budget Page No.** 47

Expenditure	Agency Req. FY 06	Governor Rec. FY 06	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 10,399,625	$ 10,399,625	$ 0
Other Funds	13,867,436	13,867,436	0
TOTAL	$ 24,267,061	$ 24,267,061	$ 0
FTE Positions	302.5	302.5	0.0
Non FTE Uncl. Perm. Pos.	23.0	23.0	0.0
TOTAL	325.5	325.5	0.0

Agency Estimate

The **agency** estimates FY 2006 expenditures of $24.3 million, including $10.4 million from the State General Fund and $1.1 million from the State Water Plan Fund. The estimate is an increase of $3.3 million or 15.9 percent above the FY 2005 actual amount and reflects one-time expenditures for the 27th payroll period and increased contractual services expenditures for Federal Emergency Management flood plain map modernization efforts.

Governor's Recommendation

The **Governor** concurs with the agency estimate.

Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation.

House Budget Committee Report

Agency: Department of Agriculture **Bill No.** -- **Bill Sec.** --

Analyst: Dunkel **Analysis Pg. No.** 1059 **Budget Page No.** Vol. II, Pg 47

Expenditure	Agency Req. FY 06	Governor Rec. FY 06	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	$ 10,399,625	$ 10,399,625	$ 0
Other Funds	13,867,436	13,867,436	0
TOTAL	$ 24,267,061	$ 24,267,061	$ 0
FTE Positions	302.5	302.5	0.0
Non FTE Uncl. Perm. Pos.	23.0	23.0	0.0
TOTAL	325.5	325.5	0.0

Agency Estimate

The **agency** estimates FY 2006 expenditures of $24.3 million, including $10.4 million from the State General Fund and $1.1 million from the State Water Plan Fund. The estimate is an increase of $3.3 million or 15.9 percent above the FY 2005 actual amount and reflects one-time expenditures for the 27th payroll period and increased contractual services expenditures for Federal Emergency Management flood plain map modernization efforts.

Governor's Recommendation

The **Governor** concurs with the agency estimate.

House Budget Committee Recommendation

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

43378~(2/28/6{1:35PM})

Senate Subcommittee Report

Agency: Department of Agriculture **Bill No.** 573 **Bill Sec.** 59

Analyst: Dunkel **Analysis Pg. No.** Vol. II-1059 **Budget Page No.** 47

Expenditure	Agency Req. FY 07	Governor Rec. FY 07	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 12,666,612	$ 11,047,255	$ 0
Other Funds	13,063,708	14,154,237	0
TOTAL	$ 25,730,320	$ 25,201,492	$ 0
FTE Positions	302.5	302.5	0.0
Non FTE Uncl. Perm. Pos.	21.3	21.3	0.0
TOTAL	323.8	323.8	0.0

Agency Estimate

The **agency** requests FY 2007 expenditures of $25.7 million, including $12.7 million from the State General Fund and $738,595 from the State Water Plan Fund. The request is an increase of $1.5 million or 6.0 percent above the agency's FY 2006 estimate. The request includes enhancements totaling $2.9 million, with $2.6 million from the State General Fund.

Governor's Recommendation

The **Governor** recommends FY 2007 expenditures of $25.2 million, including $11.0 million from the State General Fund and $1.8 million from the State Water Plan Fund. The Governor funds enhancement requests totaling $2.1 million, including $837,365 State General Fund, and adds $369,349, including $245,026 State General Fund for a 2.5 percent base salary adjustment.

Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation with the following comment:

1. The Subcommittee notes that the Department of Agriculture has completed the vehicle analysis recommended during the 2005 Session regarding the cost of leasing versus purchasing of vehicles for agency use and the necessary internal rotation cycle for vehicles within the agency. In addition, the Subcommittee thanks the agency for making the analysis available to its members.

House Budget Committee Report

Agency: Department of Agriculture **Bill No.** 2968 **Bill Sec.** 59

Analyst: Dunkel **Analysis Pg. No.** 1059 **Budget Page No.** Vol. II-47

Expenditure	Agency Req. FY 07	Governor Rec. FY 07	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	$ 12,666,612	$ 11,047,255	$ 353,846
Other Funds	13,063,708	14,154,237	(240,203)
TOTAL	$ 25,730,320	$ 25,201,492	$ 113,643
FTE Positions	302.5	302.5	3.0
Non FTE Uncl. Perm. Pos.	21.3	21.3	0.0
TOTAL	325.5	325.5	3.0

Agency Estimate

The **agency** requests FY 2007 expenditures of $25.7 million, including $12.7 million from the State General Fund and $738,595 from the State Water Plan Fund. The request is an increase of $1.5 million or 6.0 percent above the agency's FY 2006 estimate. The request includes enhancements totaling $2.9 million, with $2.6 million from the State General Fund.

Governor's Recommendation

The **Governor** recommends FY 2007 expenditures of $25.2 million, including $11.0 million from the State General Fund and $1.8 million from the State Water Plan Fund. The Governor funds enhancement requests totaling $2.1 million, including $837,365 State General Fund, and adds $369,349, including $245,026 State General Fund for a 2.5 percent base salary adjustment.

House Budget Committee Recommendation

The House Budget Committee concurs with the Governor's recommendation with the following comment.

1. **FY 2007 Baseline Budget.** To establish a baseline FY 2007 budget, the FY 2006 budget, as approved by the 2005 Legislature, was adjusted to reflect salary adjustments (removal of the 27th payroll period funding included in FY 2006, annualization of the FY 2006 phased in 2.5 percent base salary adjustment and statutorily required adjustments for Kansas Public Employees Retirement System (KPERS) rates, KPERS death and disability insurance, and longevity). In addition, adjustments were made for required debt service payments, revenue transfers, and consensus items including school finance funding and caseload estimates for the Department of Social and Rehabilitation Services, the Department of Administration, the Department on Aging, and the Board of Indigents' Defense Services. Finally, adjustments were made for one-time items which impact specific agency budgets.

3-5

For this agency, the FY 2006 approved budget totaled $24,267,061, including $10,399,625 from the State General Fund. The approved budget was reduced by a net total of $899,315, including $361,971 from the State General Fund to establish a baseline budget for FY 2007. The reductions included $274,377 in salary adjustments and $624,938 in one-time adjustments.

2. **Comparison of FY 2007 Baseline Budget to Governor's Recommendation.** The table below reflects the difference between the Governor's recommendation and the baseline budget.

	SGF	All Funds
Governor's Recommendation	$ 11,047,255	$ 25,201,492
Baseline Budget	10,037,654	21,926,970
Dollar Difference	$ 1,009,601	$ 3,274,522
Percent Difference	*9.1%*	*13.0%*

The following table reflects items included in the Governor's recommendation which differ from the baseline budget.

	SGF	*All Funds*
Base Salary Adjustment	*$ 204,811*	*$ 274,377*
Vehicle Replacement Purchases	*121,791*	*349,679*
Shift from State Water Plan Fund to State General Fund	*715,574*	*0*
Modeling Engineer and Field Compliance Staff Enhancement	*0*	*1,023,817*
Misc. Other Adjustments	*(32,575)*	*1,626,649*
TOTAL	*$ 1,009,601*	*$ 3,274,522*

3. **Replacement Vehicle Purchases**. Delete $349,679, including $121,791 from the State General Fund for replacement vehicle purchases. The Budget Committee recommends review of this item during Omnibus.

4. **New Vehicle Purchases.** Delete $38,878 from the State Water Plan Fund for the purchase of new vehicles as part of the Modeling Engineer and Field Compliance Staff enhancement request funded by the Governor. The Budget Committee recommends review of this item during Omnibus.

5. The Budget Committee recommends a shift in the funding for the Modeling Engineer and Field Compliance Staff enhancement of $220,637 from the State Water Plan Fund to the State General Fund.

6. Add $255,000 from the State General Fund and 3.0 FTE positions (two engineers and one administrative staff person) for staff to complete hazardous dam inspections as required in 2006 HB 2867 (as amended by the House Committee on Environment).

7. Review the addition of $20,000 from the State General Fund for vehicle purchases for hazardous dam inspections.

8. Add $247,200 from the Water Conservation Projects Reserve account of the State Water Plan Fund for Impairment Investigations. The agency requested $247,200 from the State General Fund to purchase pressure transducers and data loggers to monitor water levels and pumping times for wells within the impairment investigation areas. According the agency, each well is managed separately and without continuous recording of data it would not be known when the wells were operating and what the pumping water levels were throughout the season. Dramatic changes in pumping rates occur causing rapid and extensive changes in water levels. The agency notes there are investigations ongoing in 5 areas and more are anticipated. The agency expects more than 200 wells will be monitored with these instruments. Instruments will be moved to other areas as investigations are completed.

9. The Budget Committee notes that the agency has indicated that it can complete the Bluestem Pasture Survey within existing resources. The agency had requested $6,630 from the State General Fund for completion of the Survey, which was discontinued in FY 2005 due to lack of funding.

10. The Budget Committee commends the agency and the Executive Branch for shifting operational expenditures from the State Water Plan Fund to the State General Fund. In addition, the Budget Committee commends the agency for shifting non-FTE other unclassified positions to FTE positions.

11. The Budget Committee recommends the agency explore methods of training staff within the Department of Transportation to administer the inspection of forage for the department.

    The Budget Committee notes that the agency requested $98,827 from the State General Fund for the addition of four temporary Environmental Scientist I positions to supplement current permanent staff and provide an increased level of inspection services to producers. The agency indicates the loss of 30% of this program's FTE positions in recent years has severely hampered the program's ability to provide requested inspections for a number of plants and plant products including weed-free forage and mulch materials and live plants such as nursery and greenhouse plants. The agency notes that inspections of these products are essential if Kansas-produced commodities are eligible for both in-state use and export to other states and foreign countries. The Kansas Legislature has mandated the use of weed-free forage by the Kansas Department of Transportation and other state agencies while no resources have been provided to perform these inspections. According to the agency, this has resulted in staff struggling to meet the inspection requests for producers of this material, as well as producers of live plants. The agency indicates that if these activities are not supported, Kansas producers will not have access to markets in other states and foreign countries.

12. The Budget Committee notes the high cost of flood inundation mapping for counties and recommends the agency explore alternative methods to complete this process through historical data already collected by the agency, or data collected through other projects by other federal or state agencies.

13. The Budget Committee recommends the agency explore leasing all-terrain vehicles when necessary. The Budget Committee notes that the agency requests $24,000 from the State General Fund to purchase three all terrain vehicles with trailers for inspection staff to utilize when conducting large acreage

3-7

inspections of commodities such as forage and mulch materials and nursery stock. According to the agency, staff are currently walking hay and nursery fields, some of which are as large as 160 acres, to perform these inspections. The agency notes this method is time-consuming and places staff in hazardous situations which has led to injuries or stress conditions requiring hospital emergency room treatment. The agency anticipates these units would allow staff to perform these inspections under safer conditions while maintaining a high level of accuracy and efficiency.

FY 2006 and FY 2007

HOUSE AGRICULTURAL AND NATURAL RESOURCES BUDGET COMMITTEE

Animal Health Department

Sharon Schwartz

Representative Sharon Schwartz, Chair

Carl Dean Holmes

Representative Carl Holmes

Joann Lee Freeborn

Representative Joann Freeborn

Tom Sloan

Representative Tom Sloan

Representative Vaughn Flora

L Powell

Representative Larry Powell

Jerry Williams

Representative Jerry Williams

HOUSE APPROPRIATIONS

DATE 3-03-2006

ATTACHMENT 4

Senate Subcommittee Report

Agency: Animal Health Department **Bill No.** -- **Bill Sec.** --

Analyst: Spurgin **Analysis Pg. No.** Vol. II-1077 **Budget Page No.** 59

Expenditure Summary	Agency Estimate FY 06	Governor's Recommendation FY 06	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 774,801	$ 774,801	$ 0
Other Funds	2,946,157	2,946,157	0
TOTAL	$ 3,720,958	$ 3,720,958	$ 0
FTE Positions	33.0	33.0	0.0
Non FTE Uncl. Perm. Pos.	1.0	1.0	0.0
TOTAL	34.0	34.0	0.0

Agency Estimate

For FY 2006, the **Kansas Animal Health Department** estimates expenditures of $3,720,958 which is an increase of $1,214,800 (48.5 percent) above the amount approved by the 2005 Legislature.

- The agency estimates State General Fund expenditures of $774,801, which is consistent with the approved amount.

- The all other funds request totals $2,946,157, which is an increase of $1,214,800 (70.2 percent) above the approved amount. The increase can be partially attributed to salary and wage expenses (the reclassification of positions authorized by the 2005 Legislature and the financing of 2.0 positions granted by the 2004 Legislature). The bulk of the increase is related to additional federal funds expected to come into the agency in FY 2006, which will be used to fund several disease control related projects. Expenditures from the federal fund were approved at $139,027, but with the additional funds available, expenditures are now estimated at $1,297,798.

Governor's Recommendation

The **Governor** concurs with the agency's current year estimate.

Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation with the following observations.

1. The Subcommittee notes that additional federal funds are being utilized for several animal identification and disease control projects, some of which were identified by the agency as follows:

   a. The agency is working with Farm Service Agencies, livestock markets and the KSU extension office to implement a pilot program of premises registration. This project includes installing ID readers on trucks to scan the tags of livestock as they are loaded on the truck. The total estimate for this program is $685,000 funded through federal funds as part of the USDA National Animal Identification System to encourage the registration of premises and develop a system to provide the tools for epidemiological investigation of disease outbreak.

   b. The agency is also working as a pilot project with six county fairs to provide information to educate the public about the premises ID program.

Senate Committee Recommendation

The Senate Committee concurs with the Subcommittee's recommendation.

House Budget Committee Report

Agency: Animal Health Department **Bill No.** -- **Bill Sec.** --

Analyst: Spurgin **Analysis Pg. No.** Vol. II-1077 **Budget Page No.** 59

Expenditure Summary	Agency Estimate FY 06	Governor's Recommendation FY 06	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	$ 774,801	$ 774,801	$ 0
Other Funds	2,946,157	2,946,157	0
TOTAL	$ 3,720,958	$ 3,720,958	$ 0
FTE Positions	33.0	33.0	0.0
Non FTE Uncl. Perm. Pos.	1.0	1.0	0.0
TOTAL	34.0	34.0	0.0

Agency Estimate

For FY 2006, the **Kansas Animal Health Department** estimates expenditures of $3,720,958 which is an increase of $1,214,800 (48.5 percent) above the amount approved by the 2005 Legislature.

- The agency estimates State General Fund expenditures of $774,801, which is consistent with the approved amount.

- The all other funds request totals $2,946,157, which is an increase of $1,214,800 (70.2 percent) above the approved amount. The increase can be partially attributed to salary and wage expenses (the reclassification of positions authorized by the 2005 Legislature and the financing of 2.0 positions granted by the 2004 Legislature). The bulk of the increase is related to additional federal funds expected to come into the agency in FY 2006, which will be used to fund several disease control related projects. Expenditures from the federal fund were approved at $139,027, but with the additional funds available, expenditures are now estimated at $1,297,798.

Governor's Recommendation

The **Governor** concurs with the agency's current year estimate.

House Budget Committee Recommendation

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

1. The House Budget Committee is concerned that the agency is using funding for the animal ID program to install livestock animal I.D. readers in trucks when the agency does not know to whom the vehicle belongs. The Budget Committee is also concerned that the agency is expending funds for animal ID readers to be installed in trucks owned by out of state businesses or individuals. The Budget Committee encourages the agency to develop a relationship with Kansas businesses for this pilot program, rather than working with out-of-state truck operations.

2. The Budget Committee notes that the agency has scheduled an aerial eradication of feral swine in Douglas County for March 2006. The Budget Committee recommends that prior to conducting aerial eradication of feral swine, the agency shall ensure that the contracting pilot be required to comply with applicable FAA regulations.

Senate Subcommittee Report

Agency: Animal Health Department **Bill No.** SB 573 **Bill Sec.** 60

Analyst: Spurgin **Analysis Pg. No.** Vol. II-1077 **Budget Page No.** 59

Expenditure Summary	Agency Request FY 2007	Governor's Recommendation FY 2007	Senate Subcommittee Adjustments
Operating Expenditures:			
State General Fund	$ 904,207	$ 685,074	$ 0
Other Funds	1,910,505	2,002,314	0
TOTAL	$ 2,814,712	$ 2,687,388	$ 0
FTE Positions	35.0	33.0	0.0
Non FTE Uncl. Perm. Pos.	1.0	1.0	0.0
TOTAL	36.0	34.0	0.0

Agency Request

The **agency** requests expenditures of $2,814,712, including $904,207 from the State General Fund. The request is a decrease of $906,246 (24.4 percent) below the FY 2006 estimate. The request includes enhancement packages totaling $182,624. Operating expenditures of $904,207 are requested from the State General Fund, which represents an increase in State General Fund expenditures of $129,406 (16.7 percent) above the FY 2006 estimate. The agency has requested enhancements totaling $248,683 from the State General Fund and $182,624 from all funds. The enhancement request includes the shift of $66,059 from special revenue fund expenditures to the State General Fund. The agency also requested three vehicles and an additional 2.0 FTE positions.

Governor's Recommendation

For FY 2007, the **Governor** recommends operating expenditures of $2,687,388, including $685,074 from the State General Fund. The recommendation is a decrease of $1,033,570 (27.8 percent) below the current year recommendation. Of the enhancement requests of the agency, the Governor recommends only one enhancement of $19,000 from the State General Fund for a vehicle replacement.

Senate Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation with the following observations.

1. The Subcommittee notes that feral swine are becoming a problem in Kansas. The agency provided testimony that it is currently compiling data on possible actions to address the feral swine matter. The agency indicated that it is gathering such information, but that data was not yet available for the Subcommittee to review. The Subcommittee recommends a review at Omnibus

4-5

to consider whether additional funding is necessary to address the problem of feral swine in Kansas.

Senate Committee Recommendation

The Senate Committee concurs with the Subcommittee's recommendation.

House Budget Committee Report

Agency: Animal Health Department **Bill No.** HB 2968 **Bill Sec.** 60

Analyst: Spurgin **Analysis Pg. No.** Vol. II-1077 **Budget Page No.** 59

Expenditure Summary	Agency Request FY 2007	Governor's Recommendation FY 2007	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	$ 904,207	$ 685,074	$ 0
Other Funds	1,910,505	2,002,314	0
TOTAL	$ 2,814,712	$ 2,687,388	$ 0
FTE Positions	35.0	33.0	0.0
Non FTE Uncl. Perm. Pos.	1.0	1.0	0.0
TOTAL	36.0	34.0	0.0

Agency Request

The **agency** requests expenditures of $2,814,712, including $904,207 from the State General Fund. The request is a decrease of $906,246 (24.4 percent) below the FY 2006 estimate. The request includes enhancement packages totaling $182,624. Operating expenditures of $904,207 are requested from the State General Fund, which represents an increase in State General Fund expenditures of $129,406 (16.7 percent) above the FY 2006 estimate. The agency has requested enhancements totaling $248,683 from the State General Fund and $182,624 from all funds. The enhancement request includes the shift of $66,059 from special revenue fund expenditures to the State General Fund. The agency also requested three vehicles and an additional 2.0 FTE positions.

Governor's Recommendation

For FY 2007, the **Governor** recommends operating expenditures of $2,687,388, including $685,074 from the State General Fund. The recommendation is a decrease of $1,033,570 (27.8 percent) below the current year recommendation. Of the enhancement requests of the agency, the Governor recommends only one enhancement of $19,000 from the State General Fund for a vehicle replacement.

House Budget Committee Recommendation

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

1. **FY 2007 Baseline Budget.** To establish a baseline FY 2007 budget, the FY 2006 budget, as approved by the 2005 Legislature, was adjusted to reflect salary adjustments (removal of the 27th payroll period funding included in FY 2006, annualization of the FY 2006 phased in 2.5 percent base salary adjustment and statutorily required adjustments for Kansas Public Employees Retirement System (KPERS) rates, KPERS death and disability insurance, and longevity). In addition, adjustments were made for required debt service payments, revenue transfers, and consensus items including school finance funding and caseload estimates for the Department of Social and Rehabilitation Services, the Department of Administration, the Department on Aging, and the Board of Indigents' Defense Services. Finally, adjustments were made for one-time items which impact specific agency budgets.

   For this agency, the FY 2006 approved budget totaled \$2,506,158, including \$774,801 from the State General Fund. The approved budget was reduced by a net total of \$104,924, including \$117,792 from the State General Fund to establish a baseline budget for FY 2007. The reductions included \$23,924 in salary adjustments, and \$81,000 in one-time adjustments.

2. **Comparison of FY 2007 Baseline Budget to Governor's Recommendation.** The table below reflects the difference between the Governor's recommendation and the baseline budget.

	SGF	All Funds
Governor's Recommendation	\$ 685,074	\$ 2,687,388
Baseline Budget	657,009	2,401,234
Dollar Difference	\$ 28,065	\$ 286,154
Percent Difference	*4.3%*	*11.9%*

   The following table reflects items included in the Governor's recommendation which differ from the baseline budget.

	SGF	All Funds
Base Salary Adjustment	\$ 10,550	\$ 36,300
New Vehicle Purchase	19,000	19,000
Other Net Adjustments	(1,485)	230,854
TOTAL	\$ 28,065	\$ 286,154

3. Delete \$19,000 from the State General Fund recommended by the Governor for the purchase of a vehicle for review at Omnibus.

4. The Budget Committee recommends a proviso requiring the agency to create an educational program, either on-line or in booklet form, to satisfy the educational

course for animal care and treatment as set forth in the Pet Animal Act, as amended by the 2005 Legislature. The Budget Committee recommends that the costs for developing this educational program come from within existing resources of the Animal Dealer's Fee.

5. The Budget Committee recommends restricting the use of the truck that the agency had purchased with federal funds to no more than 5,000 miles per year unless an emergency is declared by the Governor. The Budget Committee notes that the Livestock Commissioner currently uses this vehicle to attend meetings statewide and that use of the truck should be saved for its intended purposes. The Budget Committee recommends that the Livestock Commissioner find alternative methods of transportation to attend statewide meetings and requests the agency provide a report prior to Omnibus of possible solutions to their transportation needs.

6. The Budget Committee notes that feral swine are becoming a problem in Kansas. The agency provided testimony that it is currently compiling data and developing additional solutions to address the feral swine matter. The Budget Committee recommends a review at Omnibus. The Budget Committee notes that the agency had requested $125,000 from the State General Fund for controlling feral swine. The Budget Committee feels that county extension agents, veterinarians and other entities would be able to assist with monitoring of feral swine and that no additional FTE position would be necessary. The Budget Committee recommends that prior to conducting aerial eradication of feral swine, the agency shall ensure that the contracting pilot be required to comply with applicable FAA regulations.

7. The Budget Committee notes that the agency's board appears to have a policy that persons wishing to appear before the board and speak at board meetings must give notice three days in advance. The Budget Committee recommends that the agency reconsider this three-day notice requirement and shorten this requirement to 24-hours. The Budget Committee also recommends that the agency be required to mail notice of such board meetings to interested parties at least seven days in advance of the meeting.

FY 2006 and FY 2007

HOUSE AGRICULTURE AND NATURAL RESOURCES BUDGET COMMITTEE

Kansas State Fair

Sharon Schwartz
Representative Sharon Schwartz, Chair

Representative Vaughn Flora

Joann Lee Freeborn
Representative Joann Freeborn

Carl Dean Holmes
Representative Carl Holmes

Representative Larry Powell

Tom Sloan
Representative Tom Sloan

Representative Jerry Williams

HOUSE APPROPRIATIONS

DATE 3-03-2006

ATTACHMENT 5

Senate Subcommittee Report

Agency: Kansas State Fair **Bill No.** SB 570 **Bill Sec.** 57

Analyst: Alishahi **Analysis Pg. No.** Vol. II-1096 **Budget Page No.** 165

Expenditure Summary	Agency Estimate FY 06	Governor's Recommendation FY 06	Senate Subcommittee Adjustments
All Funds:			
State Operations	$ 5,158,185	$ 5,161,185	$ 0
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Subtotal-Operating	$ 5,158,185	$ 5,161,185	$ 0
Capital Improvements	1,225,601	1,225,601	0
TOTAL	$ 6,383,786	$ 6,386,786	$ 0
State General Fund:			
State Operations	$ 499,737	$ 499,737	$ 0
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Subtotal-Operating	$ 499,737	$ 499,737	$ 0
Capital Improvements	1,120,635	1,120,635	0
TOTAL	$ 1,620,372	$ 1,620,372	$ 0
FTE Positions	24.0	24.0	0.0
Non-FTE Unclass. Perm. Pos.	0.0	0.0	0.0
TOTAL	24.0	24.0	0.0

Agency Estimate

The **agency** estimates FY 2006 operating expenditures of $5,158,185, a decrease of $34,247 or 0.7 percent below the approved amount. The agency estimates State General Fund expenditures of $499,737, a decrease of $307 below the approved amount. The difference between the approved amount and the agency's revised estimate is the result of:

- A $307 State General Fund reduction that reflects an adjustment to the state's portion of the debt service interest payment for the master plan capital improvement bonds; and

- A $33,940 all other funds reduction that reflect actual expenditures for the 2005 Kansas State Fair.

In addition, the agency's estimate includes a **supplemental request** for an additional $550 from the State Fair Fee Fund to convert a non-FTE receptionist position to a FTE position.

Governor's Recommendation

The **Governor** recommends FY 2006 operating expenditures of $5,161,185, a decrease of $31,247 or 0.6 percent below the approved amount. The recommendation is $3,000 more than the agency's revised current year estimate and includes an additional $3,000 for Kansas Savings Incentive Program (KSIP) expenditures.

In addition, the Governor recommends the agency's supplemental request.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.

Senate Committee Recommendation

The Senate Committee concurs with the Subcommittee's recommendation.

House Budget Committee Report

Agency: Kansas State Fair **Bill No.** HB 2958 **Bill Sec.** 57

Analyst: Alishahi **Analysis Pg. No.** Vol. II-1096 **Budget Page No.** 165

Expenditure Summary	Agency Estimate FY 06	Governor's Recommendation FY 06	House Budget Committee Adjustments
All Funds:			
State Operations	$ 5,158,185	$ 5,161,185	$ 0
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Subtotal-Operating	$ 5,158,185	$ 5,161,185	$ 0
Capital Improvements	1,225,601	1,225,601	0
TOTAL	$ 6,383,786	$ 6,386,786	$ 0
State General Fund:			
State Operations	$ 499,737	$ 499,737	$ 0
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Subtotal-Operating	$ 499,737	$ 499,737	$ 0
Capital Improvements	1,120,635	1,120,635	0
TOTAL	$ 1,620,372	$ 1,620,372	$ 0
FTE Positions	24.0	24.0	0.0
Non-FTE Unclass. Perm. Pos.	0.0	0.0	0.0
TOTAL	24.0	24.0	0.0

5-3

Agency Estimate

The **agency** estimates FY 2006 operating expenditures of $5,158,185, a decrease of $34,247 or 0.7 percent below the approved amount. The agency estimates State General Fund expenditures of $499,737, a decrease of $307 below the approved amount. The difference between the approved amount and the agency's revised estimate is the result of:

- A $307 State General Fund reduction that reflects an adjustment to the state's portion of the debt service interest payment for the master plan capital improvement bonds; and

- A $33,940 all other funds reduction that reflect actual expenditures for the 2005 Kansas State Fair.

  In addition, the agency requests a **supplemental request** for an additional $550 from the State Fair Fee Fund to convert a non-FTE receptionist position to a FTE position.

Governor's Recommendation

The **Governor** recommends FY 2006 operating expenditures of $5,161,185, a decrease of $31,247 or 0.6 percent below the approved amount. The recommendation is $3,000 more than the agency's revised current year estimate and includes an additional $3,000 for Kansas Savings Incentive Program (KSIP) expenditures.

In addition, the Governor recommends the agency's supplemental request.

House Budget Committee Recommendation

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

1. **Insurance Coverage.** The Budget Committee recommends that the agency look into the cost-effectiveness of obtaining insurance to cover damages that may occur to State Fair facilities, such as in the case of the storm that damaged the Grandstand roof in July 2005. The Budget Committee notes that the Governor's FY 2006 capital improvements recommendation includes $70,635 from the State General Fund for the agency's supplemental request to repair the roof.

Senate Subcommittee Report

Agency: Kansas State Fair **Bill No.** SB 573 **Bill Sec.** 61

Analyst: Alishahi **Analysis Pg. No.** Vol. II-1096 **Budget Page No.** 165

Expenditure Summary	Agency Request FY 07	Governor's Recommendation FY 07	Senate Subcommittee Adjustments
All Funds:			
State Operations	$ 5,223,263	$ 5,203,922	$ 0
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Subtotal-Operating	$ 5,223,263	$ 5,203,922	$ 0
Capital Improvements	1,187,713	1,187,713	0
TOTAL	$ 6,410,976	$ 6,391,635	$ 0
State General Fund:			
State Operations	$ 467,251	$ 467,251	$ 0
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Subtotal-Operating	$ 467,251	$ 467,251	$ 0
Capital Improvements	1,080,000	1,080,000	0
TOTAL	$ 1,547,251	$ 1,547,251	$ 0
FTE Positions	24.0	24.0	0.0
Non-FTE Unclass. Perm. Pos.	0.0	0.0	0.0
TOTAL	24.0	24.0	0.0

Agency Request

The **agency** requests FY 2007 operating expenditures of $5,223,263, an increase of $65,078 or 1.3 percent above the current year revised estimate. The agency requests State General Fund expenditures of $467,251, a decrease of $32,486 or 6.5 percent below the FY 2006 revised estimate. The request includes four enhancements totaling $126,290 from the Economic Development Initiative Fund (EDIF). **Without the enhancements**, the agency's request is a decrease of $61,212 or 1.2 percent below the current year revised estimate.

Governor's Recommendation

The **Governor** recommends FY 2007 operating expenditures of $5,203,922, an increase of $42,737 or 0.8 percent above the current year recommendation. The Governor concurs with the agency's FY 2007 State General Fund request. The recommendation is $19,341 or 0.4 percent less than the agency's budget year request and includes:

- An additional $24,456 from the State Fair Fee Fund for a 2.5 percent salary increase for all state employees;

- An additional $6,203 from the State Fair Fee Fund for incentive bonuses for trade employees;
- An additional $19,960 from EDIF for the agency's request to enhance marketing of the Largest Classroom Program at the Kansas State Fair;
- An additional $50,000 from EDIF for the agency's request to enhance marketing of the Kansas State Fair; and
- An additional $6,330 from the State Fair Fee Fund for the agency's request to continue in FY 2007 the conversion of a non-FTE receptionist position to a permanent FTE position that is requested for FY 2006.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation with the following recommendations and observations:

1. **Largest Classroom Program.** The Subcommittee concurs with the Governor's recommendation to fund the agency's enhancement request of $19,960 from EDIF for the Largest Classroom program. This program helps teachers plan and organize educational field trips to the State Fair. Students who participate range from preschool to college, however, the majority are at the elementary school level. The agency reported that, during the 2005 State Fair, 7,200 students from 50 school districts in 31 counties attended the State Fair through this program.

2. **ADA Compliance.** The Subcommittee notes that the agency's compliance with the Americans with Disabilities Act (ADA) for wheel-chair seating in the grandstand will be complete by June 2006.

3. **Non-Fair Events.** The Subcommittee notes there are 230 to 250 non-fair events held at the fairgrounds every year, including flea markets, livestock shows and sales, horse shows, team ropings, wedding receptions, company picnics, tool sales, meetings, banquets, and funerals. The Subcommittee believes that these non-fair events demonstrate strong community support for the facilities.

4. **Marketing State Fair.** The Subcommittee notes that the agency currently spends $175,000 a year to market the State Fair. The Governor's recommendation to add $50,000 from EDIF to enhance marketing of the State Fair is an increase of 28.6 percent above the current amount.

5. **Premium Parking.** The Subcommittee recommends the agency to continue exploring the possibility of charging for premium parking as it completes the Gate 9 renovation project. This project will replace the current portable ticket booths with a more functional and appealing structure. During the 2005 Session, the Subcommittee also made a recommendation to the agency to consider charging for premium parking spots close to the fairgrounds. The agency indicated that it is in the process of identifying an area on the fairgrounds where parking spots could be sold to the general public.

6. **Expand to Urban Areas.** The Subcommittee recommends the agency to expand State Fair activities to urban areas such as Topeka, Lawrence, Kansas City, and

Leavenworth. The Subcommittee notes that one possible way to expand State Fair activities is through distance learning.

Senate Committee Recommendation

The Senate Committee concurs with the Subcommittee's recommendation.

House Budget Committee Report

Agency: Kansas State Fair **Bill No.** HB 2968 **Bill Sec.** 61

Analyst: Alishahi **Analysis Pg. No.** Vol. II-1096 **Budget Page No.** 165

Expenditure Summary	Agency Request FY 07	Governor's Recommendation FY 07	House Budget Committee Adjustments
All Funds:			
State Operations	$ 5,223,263	$ 5,203,922	$ 40
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Subtotal-Operating	$ 5,223,263	$ 5,203,922	$ 40
Capital Improvements	1,187,713	1,187,713	0
TOTAL	$ 6,410,976	$ 6,391,635	$ 40
State General Fund:			
State Operations	$ 467,251	$ 467,251	$ 0
Aid to Local Units	0	0	0
Other Assistance	0	0	0
Subtotal-Operating	$ 467,251	$ 467,251	$ 0
Capital Improvements	1,080,000	1,080,000	0
TOTAL	$ 1,547,251	$ 1,547,251	$ 0
FTE Positions	24.0	24.0	0.0
Non-FTE Unclass. Perm. Pos.	0.0	0.0	0.0
TOTAL	24.0	24.0	0.0

Agency Request

The **agency** requests FY 2007 operating expenditures of $5,223,263, an increase of $65,078 or 1.3 percent above the current year revised estimate. The agency requests State General Fund expenditures of $467,251, a decrease of $32,486 or 6.5 percent below the FY 2006 revised estimate. The request includes four enhancements totaling $126,290 from the Economic Development

5-7

Initiative Fund (EDIF) . **Without the enhancements**, the agency's request is a decrease of $61,212 or 1.2 percent below the current year revised estimate.

Governor's Recommendation

The **Governor** recommends FY 2007 operating expenditures of $5,203,922, an increase of $42,737 or 0.8 percent above the current year recommendation. The Governor concurs with the agency's FY 2007 State General Fund request. The recommendation is $19,341 or 0.4 percent less than the agency's budget year request and includes:

- An additional $24,456 from the State Fair Fee Fund for a 2.5 percent salary increase for all state employees;
- An additional $6,203 from the State Fair Fee Fund for incentive bonuses for trade employees;
- An additional $19,960 from EDIF for the agency's request to enhance marketing of the Largest Classroom Program at the Kansas State Fair;
- An additional $50,000 from EDIF for the agency's request to enhance marketing of the Kansas State Fair; and
- An additional $6,330 from the State Fair Fee Fund for the agency's request to continue in FY 2007 the conversion of a non-FTE receptionist position to a permanent FTE position that is requested for FY 2006.

House Budget Committee Recommendation

The House Budget Committee concurs with the Governor's recommendation with the following adjustments and observations:

1. **FY 2007 Baseline Budget.** To establish a baseline FY 2007 budget, the FY 2006 budget, as approved by the 2005 Legislature, was adjusted to reflect salary adjustments (removal of the 27^{th} payroll period funding included in FY 2006, annualization of the FY 2006 phased in 2.5 percent base salary adjustment and statutorily required adjustments for Kansas Public Employees Retirement System (KPERS) rates, KPERS death and disability insurance, and longevity). In addition, adjustments were made for required debt service payments, revenue transfers, and consensus items, including school finance funding and caseload estimates for the Department of Social and Rehabilitation Services, the Department of Administration, the Department on Aging, and the Board of Indigents' Defense Services. Finally, adjustments were made for one-time items which impact specific agency budgets.

   For this agency, the FY 2006 approved budget totaled $6,648,033, including 1,550,044 from the State General Fund. The approved budget was reduced by a net total of $33,438, including $2,793 from the State General Fund, to establish a baseline budget for FY 2007. The reductions included $30,645 in salary adjustments, and $2,793 for debt service payments.

2. **Comparison of FY 2007 Baseline Budget to Governor's Recommendation.** The table below reflects the difference between the Governor's recommendation and the baseline budget.

	SGF	All Funds
Governor's Recommendation	$ 1,547,251	$ 6,391,635
Baseline Budget	1,547,251	6,614,595
Dollar Difference	$ 0	$ (222,960)
Percent Difference	*0.0%*	*(3.5)%*

The following table reflects items included in the Governor's recommendation which differ from the baseline budget.

	SGF	All Funds
Base Salary Adjustment	$ 0	$ 24,456
Retention Bonuses for Trade Employees	0	6,203
Additional 1.0 FTE Position from FY 2006	0	6,330
Largest Classroom Program Enhancement	0	19,960
Ticket Marketing Enhancement	0	50,000
Rehabilitation and Repair Adjustment	0	(297,888)
Other Net Adjustments	0	(32,021)
TOTAL	$ 0	$ (222,960)

3. **Largest Classroom Program.** Delete $19,960 from EDIF that the Governor recommended for the agency's enhancement request to increase marketing of the Largest Classroom program in FY 2007.

4. **Premium for Competitive Exhibitors.** Add $20,000 from EDIF for the agency's enhancement request for additional premiums for competitive exhibitors which the Governor did not recommend for FY 2007. The Budget Committee recommends that the additional funding for premiums be divided two ways: $10,000 for the competitive youth exhibitors and $10,000 for the competitive adult exhibitors.

5. **Impact of Additional Funding.** The Budget Committee recommends the agency report back, during the 2007 Session, on the exhibitors' response to the additional premiums as well as the impact of the additional $50,000 from EDIF that the Governor recommended for the agency's enhancement to increase marketing of the Kansas State Fair in FY 2007.

6. **RV Park Fees.** The Budget Committee notes that the agency plans to increase fees for using the RV park during the 2006 State Fair from $250 to $300 for 12 nights. This amount includes gate admission for two people for each day.

7. **Encampment Building.** The Budget Committee recommends the agency to provide an entrance near the Encampment Building where for 4-H and FFA members and their families can load and unload their vehicles within close proximity of the building.

8. **Premium Parking.** The Budget Committee recommends that the agency report back at Omnibus with additional information regarding its plans for charging for premium parking. The Budget Committee notes that, during the 2005 Session, the Senate Ways and Means Subcommittee for the State Fair recommended the agency consider charging for premium spots in areas close to the fairgrounds. The agency indicated that it is in the process of identifying an area on the fairgrounds where parking spots could be sold to the general public. The Budget Committee is interested in further reviewing this item at Omnibus.

9. **Partnership Opportunities.** The Budget Committee recommends the agency to continue exploring partnership opportunities with corporate sponsors as a means of promoting and showcasing the State Fair. The agency indicated that Dillons and Pepsi are two examples of corporate sponsors who help promote the State Fair.

10. **Hispanic Community.** The Budget Committee commends the agency for its efforts to increase advertising of the State Fair to the Hispanic community. The Budget Committee recommends the agency continue to increase marketing and advertising to the Hispanic population in Kansas.

11. **Sheep Barn Project.** The Budget Committee recommends the agency report back, during the 2007 Session, to provide an update on the status of the Sheep Barn project. The agency reported that the estimated cost of one of the State Fair's master plan projects, the renovation and addition to the Sheep Barn, has increased from $329,730 to almost $1.0 million. The Division of Facilities Management and the Fire Marshall's Office requested some life safety modifications which significantly increased the estimated cost. The agency indicated that it is in the process of working out a possible solution with the Division of Facilities Management.

BDO

BDO Seidman, LLP
Accountants and Consultants

330 E. Kilbourn Ave., Suite 950
Two Plaza East
Milwaukee, Wisconsin 53202-3143
Telephone: 414-272-5900
Fax: 414-272-1090

My name is Joseph Lubarsky. I am partner and National Director of Long Term Care Services for the accounting and consulting firm of BDO Seidman, LLP. I have been involved in the design and implementation of provider assessment programs in 13 of the 14 states that have implemented these assessments in the last two years. This includes all 11 states that utilized waivers to exclude providers from the assessment or charge them varying assessment rates. I also author an annual study on the shortfall in Medicaid funding in nursing homes which identifies the difference by state, on average, between Medicaid reimbursement per day and providers' per diem costs.

Today, 33 states plus the District of Columbia have implemented provider assessments in nursing homes to enhance federal funding for Medicaid-covered services. These states generate federal funding of approximately $3.8 billion dollars annually from this process. In addition, another $350 million is generated annually from assessments that are used by states for other purposes such as balancing budget deficits.

As stated previously, 14 of these states implemented provider assessments in the last two years. These 14 states draw down annual federal matching funds of approximately $1.5 billion from this process. Eleven of these programs involve waivers that exclude certain providers from the assessment, assess lower rates for others, or provide for a combination of both. These waivers allow states to exclude many of the providers with low Medicaid volume from the assessment. Providers with low Medicaid volume typically do not benefit from the assessment in that the assessment will often exceed their rate enhancement.

While CMS' criteria for waiver approval will not allow every provider with low Medicaid volume to be excluded from the assessment, the waiver can be structured in such a fashion so that at least 90-95% of providers receive a rate enhancement that exceeds their total assessment. Through the waiver process, CMS will allow exclusion of facilities that typically have lower Medicaid volumes including Continuing Care Retirement Facilities, commonly called CCRCs, smaller facilities and hospital-based providers.

This Bill would exclude CCRCs and hospital-based facilities from the assessment. These exact two classes were also exempted from assessments in waiver plans that were approved in California and Indiana. In waiver plans approved in Connecticut, Georgia, Kentucky, Nevada, New Jersey, North Carolina, Oregon and Pennsylvania, either CCRCs or hospital-based facilities were included as a waiver category and all these plans were approved. In total, 11 states submitted waivers excluding or lowering assessment rates for CCRCs, smaller facilities, hospital-based units or some combination of the above, and all were approved by CMS.

The CMS waiver approval process, which is now very well defined and structured, is a fairly expeditious process, with waivers that are similar to those previously approved, being reviewed and approved within 90 days. CMS even allows states to submit a proposed

HOUSE APPROPRIATIONS

DATE 3-03-2006

ATTACHMENT 6

waiver model prior to the date of implementation and CMS reviewers will provide preliminary findings within a period of a few weeks.

The benefits to states and providers have been extremely positive. In many states, such as California, Georgia, New Hampshire, Kentucky, Oregon, North Carolina, Indiana and Nevada, the assessment has allowed states to either rebase their Medicaid payment system after a year or more of not doing so; increase reimbursement ceilings or prices to levels that had been reduced in the past few years; provide additional payments for specialty populations and high quality scores; and provide adequate resources for property replacement and renovation. The shortfall between Medicaid reimbursement and the cost of services in these states diminished considerably as a result of the assessments, easing the burden on other payers who subsidize the Medicaid funding gap.

Finally, besides providing additional resources to nursing home providers to enhance care and services, a few states retained a portion of the assessment to help fund other programs and services such as HCBS. The retained portion, which typically ranged from 10% to 30%, was negotiated between the state and provider community, and to a great degree was driven by the federal matching rate. A higher federal matching rate allowed for a higher percentage that could be shared and used for other programs.

BDO

BDO Seidman, LLP
Accountants and Consultants

330 E. Kilbourn Ave., Suite 950
Two Plaza East
Milwaukee, Wisconsin 53202-3143
Telephone: 414-272-5900
Fax: 414-272-1090

February 17, 2006

DRAFT

Ms. Nancy Pierce
Reimbursement Director
Kansas Health Care Association
117 SW 6th Avenue, Suite 200
Topeka, KS 66603

Dear Nancy:

You have requested a briefing paper on provider taxes and provider tax waiver programs, including the federal rules governing this mechanism and current CMS approval criteria and policies. This letter addresses these issues in detail.

Historically, state Medicaid programs have relied upon a variety of mechanisms, including health care provider taxes, provider donations, and intergovernmental transfers, as a means of increasing state Medicaid revenues and thereby enhancing and enlarging their federal financial participation ("FFP") payments. The Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, P.L. No. 102-234, were designed to limit the use of provider donations and taxes as sources for funding of state Medicaid programs.

These restrictions are embodied in 42 U.S.C. §1396b(w) and 42 C.F.R. Part 433 Subpart B. Relative to provider taxes, the tax must:

1. Be broad-based;

2. Be imposed at a uniform rate; and

3. Not include any direct or indirect "hold harmless" provision.

Broad-based means that all non-public providers in the same class (in this case, nursing facilities ["NFs"]) in the state are taxed regardless of Medicaid participation. Uniformity requires that the tax be imposed at the same rate on all providers in the class.

Waivers of either the broad-based or uniformity requirements are found at 42 C.F.R. §433.68(e). A waiver of the uniformity or broad-based requirements or both is automatically approved if the mathematical and/or statistical tests in this section are met and the tax program does not fall within the hold harmless provisions specified in 42 C.F.R. §433.68(f).

A hold harmless will be considered to exist under 42 C.F.R. §433.68(f) if any of the following conditions apply:

1. The state (or other unit of local government) imposing the tax provides directly or indirectly for a non-Medicaid payment to the providers or others paying the tax and the amount of the payment is positively correlated to either the amount of the tax or the difference between the Medicaid payment and the total tax cost;

2. All or any portion of the Medicaid payment to the taxpayer varies based only on the amount of the total tax payment; or

3. The state (or other unit of local government) imposing the tax provides, directly or indirectly, for any payment, offset, or waiver that guarantees to hold taxpayers harmless for all or a portion of the tax.

An indirect hold-harmless is presumed to exist if the tax exceeds more that 6% of revenues and 75% or more of the providers receive 75% or more of the tax payments back in Medicaid rate enhancements or other state payments. If the tax is less than 6% of revenues, the tax is permissible and does not violate the indirect hold-harmless provision even though 75% or more of the providers may receive 75% or more of the tax payment back in Medicaid rate enhancements.

To date, eleven states have passed provider tax legislation implementing either a non-uniform or non-broad-based tax. All have submitted waiver requests to CMS and all have been approved. Further detail on the waiver approach is furnished below.

Broad-based Waiver Mathematical Requirements: 42 C.F.R. §433.68(e)(1)

Under this approach, certain providers are exempt from the provider tax. In order for the waiver to be approved, the tax must be redistributive. Redistributive is defined as a fractional test, which requires that the percentage of the overall tax assessed on Medicaid days under a non-broad based tax be no higher than what the percentage would be if the tax were broad-based. For example, assume that Medicaid census represents 70% of total days in a state. Under a broad-based tax, Medicaid's portion of the total tax would therefore be 70%. If, however, a class of facilities with lower Medicaid census were excluded from the tax, the tax burden on the remaining Medicaid census days increases, resulting in Medicaid's portion of the overall tax exceeding 70%. Achieving redistribution requires that another class of facilities with a high percentage of Medicaid days also be excluded from the tax. Excluding classes of facilities, some with high private census and others with a high percentage of Medicaid days, achieves the redistribution required to meet the broad-based waiver criteria.

Since a typical facility has three or four Medicaid patients for every private patient, this method requires the exclusion of approximately three or four facilities with a high percentage of Medicaid days for every low Medicaid census facility that is excluded. Therefore, this waiver approach is not very efficient if the intent is to exclude a class with a considerable number of low Medicaid census facilities. It requires far too many facilities with a high percentage of Medicaid days to be excluded as well. The uniformity waiver works much better in these situations.

Uniformity Waiver Statistical Requirements: 42 C.F.R. §433.68(e)(2)

Under this approach, tax rates differ among providers. Typically, a lower rate of tax is charged to a class(es) of providers that, on average, have low Medicaid census and to another class with high Medicaid census facilities. The mathematical methodology to prove that the tax is redistributive differs from the broad-based calculation in that the required test is a statistical one, examining the relationship between each facility's annual Medicaid census and the percentage of the overall tax paid by each provider. Using linear regression (least squares), the slope of the line is computed for both a uniform tax and a non-uniform approach. As long as the slope of the line based upon the non-uniform tax is no steeper than the slope based upon the uniform tax, the waiver is automatically approved, subject to the hold harmless test.

Because the correlation examined is Medicaid census days and percentage of overall tax paid rather than Medicaid census percentage and percentage of overall tax, this methodology achieves the desired intent far more efficiently than the broad-based waiver methodology. When charging lower rates to a class of facilities with low Medicaid census or excluding them from the tax, the desired redistributive effect under this statistical approach can be achieved by charging a lower rate to a much smaller class of higher Medicaid census facilities than the number you would have to exclude to achieve a comparable result under a broad-based waiver. This is the approach utilized in the Kansas proposed waiver model.

CMS's Waiver Approval Criteria

Waiver Classes

To date, CMS has approved provider tax waiver plans in eleven states. In reviewing these waivers, CMS examines whether the waiver classes are appropriate; determines if the statistical test has been met; and identifies if the combination of the waiver structure and the rate enhancements violate the hold harmless provisions at 42 C.F.R. §433.68(f). In CMS's view, the tax waiver cannot be based solely on Medicaid volume but certain classes of facilities that generally have lower Medicaid volume can be exempted or pay a lower tax. Classes of facilities that have been approved for exemption or lower tax rates include smaller and larger facilities, continuing care retirement centers ("CCRCs"), and hospital-based facilities. Kansas' proposed waiver excludes CCRCs and hospital-based facilities.

These exact two classes were also exempted from taxes in waiver plans that were approved in California and Indiana. In waiver plans approved in Connecticut, Georgia, Kentucky, Nevada, New Jersey, North Carolina, Oregon and Pennsylvania, either CCRCs or hospital-based facilities were included as a waiver category and all these plans were approved. Hospital-based units are frequently waived to avoid political conflicts with the hospitals and their representative associations since many hospital-based units are short term stay facilities with little Medicaid volume. Finally, nursing home provider taxes have no impact on the nature, type, duration, scope or amount of taxes generated from other provider groups such as hospitals. By rule, tax assessments, if imposed, are by provider type, and taxing one group has no bearing on existing or proposed assessments on other provider types.

Hold Harmless

The tax structure and resulting Medicaid rate increases cannot result in every provider being held harmless from all or a portion of the tax through increased Medicaid payments or through a tax exemption or a reduction in the tax rate. In other words, the waiver structure must still result in some providers paying a full tax and getting nothing back in Medicaid rate enhancement. Under the proposed waiver in Kansas, seven non-Medicaid certified providers in Kansas pay a full tax and, of course, receive no Medicaid reimbursement. CMS has approved waiver plans with as few as two providers meeting this requirement.

If after reviewing this letter, you have further questions, please call me.

Sincerely,

Joseph M. Lubarsky, CPA
Partner
BDO Seidman, LLP

6-1

"Sustainable Funding and the Provider Assessment"

Kansas Health Care Association
January 18, 2006

Joseph M. Lubarsky, CPA
BDO Seidman, LLP
330 E. Kilbourn Avenue
Milwaukee, WI 53202
(414) 272-5900

BDO

8-9

Provider Assessments are Legitimate

- Provider assessments are a bona fide legal funding source eligible for federal matching funds when used to reimburse Medicaid covered services
- Specific rules and regulations in place since 1992
- 33 states have implemented provider assessments
- 11 of the 33 states have approved federal waivers to exempt certain providers from the assessment

6-9

Provider Assessment Rules and Regulations

- 42 U.S.C. § 1396b (w); 42 C.F.R. Part 433 Subpart B
- Provider Assessments (85% Or More Revenues From Healthcare Providers) Must:
  - Be Broad-Based (Apply To At Least All Non-Public Providers, Or Their Items Or Services, In The Same Class Of Providers)

  Note : State May Exclude Some Or All Providers Owned Or Operated By Federal, State, Or Local Governments

Provider Assessment Rules and Regulations

- Provider Assessments Must:
  - Be Imposed At Uniform Rate

Notes:

(1) State May Exclude All Or Part of Medicare And/Or Medicaid Payments From The assessment

(2) Assessment May Not Include Credits, Exclusions, Or Deductions Aimed At Returning All Or Part Of Assessment To Providers Or Assessees As A "Hold Harmless"

6-11

Provider Assessment Rules and Regulations

- Provider Assessments Must Not:
  - Include Direct Or Indirect Hold Harmless Guaranteeing Repayment Of Assessment To Providers In Medicaid Rates Or Other Payments

Provider Assessment Rules and Regulations

- Hold Harmless Exists If
  - Direct Or Indirect Non-Medicaid Payment To Providers Or Assessees Correlated To Assessment Or Its Total Cost (Granny Grants); Or
  - All Or Any Part Of Medicaid Payment Varies Based Only On Amount Of Total Assessment Payment; Or
  - Any Payment, Offset, Or Waiver Guarantees To Hold Assessees Harmless For All Or Part Of Assessment

6-13

Provider Assessment Rules and Regulations

- Indirect Hold Harmless Presumed If
  - Assessment Exceeds More Than 6% Of Revenues; <u>And</u>
  - 75% Or More Of Assessees Receive 75% Or More Of Assessment Payments Back In Enhanced Medicaid Or Other State Payments

6-14

Provider Assessment Rules and Regulations

- Waivers
  - "Broad-based" And "Uniformity" May Be Waived If Non-Broad-based Or Non-Uniform Assessment Is "Generally Redistributive"
  - Mathematical Formulae For Waivers
  - Hold Harmless Provisions Still Apply

6-15

Provider Assessment Waivers

- Broad-based waiver (exclude certain providers)
- Uniformity Waiver (charge variable assessment rates)
- Combination of both

Broad-based Waiver

6-16

- Waiver is granted if assessment is redistributive
- Percentage of assessment paid through Medicaid days under waiver program must be no higher than under a broad-based assessment
- If Medicaid represents 75% of total patient days, Medicaid's portion of assessment cannot exceed 75%

6-17

Uniformity Waiver

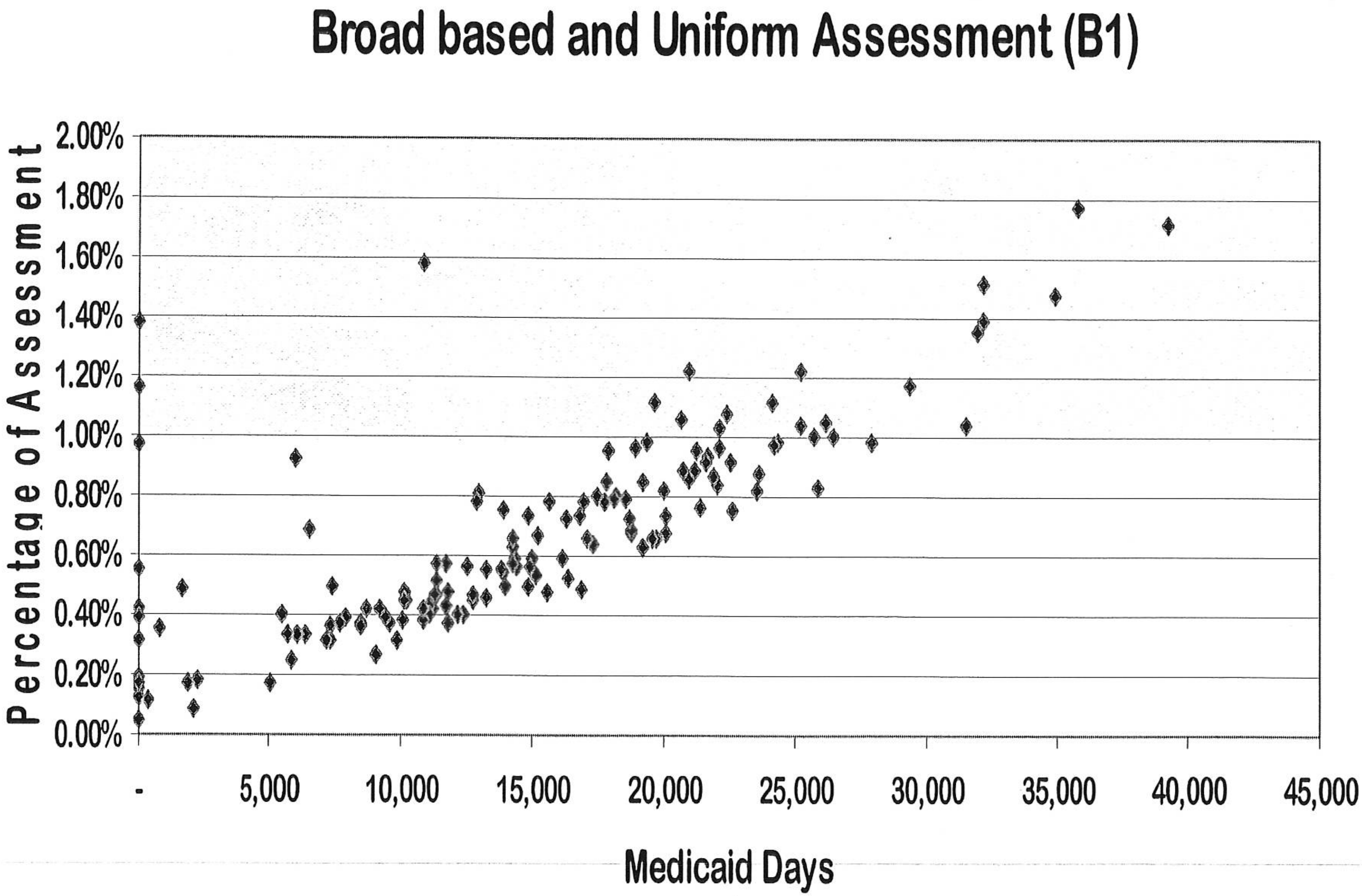
- Waiver is granted if assessment is redistributive
- Test is not based upon overall percent of assessment paid through Medicaid days as is the case with broad-based waiver
- Test is statistical

8-19

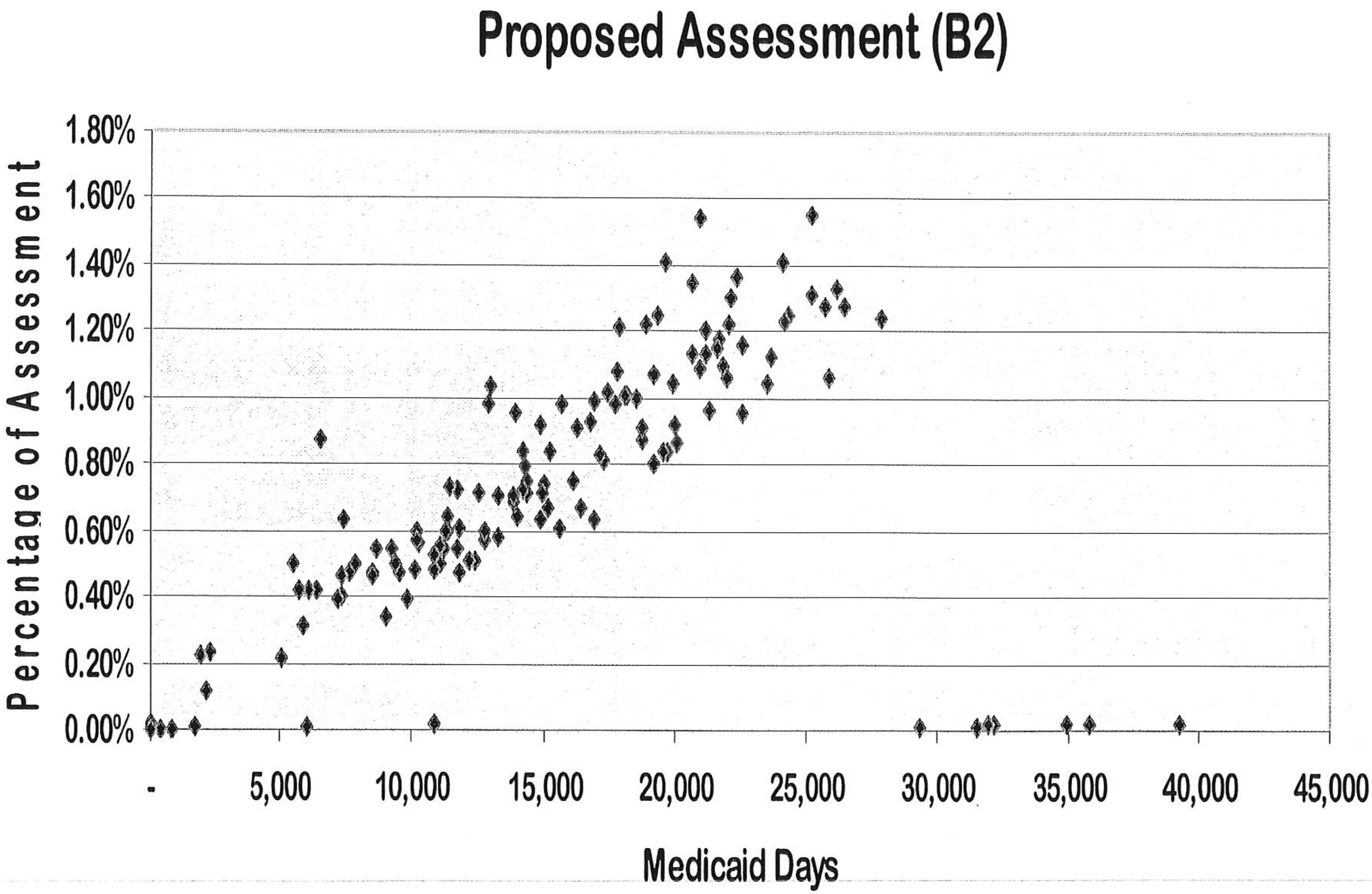
Uniformity Statistical Test

- Based upon slope of a line
  - Independent variable- Medicaid days
  - Dependent variable- percentage of assessment paid by each provider
- Calculate slope for:
  - Uniform assessment
  - Non-uniform assessment
- If slope of the line for non-uniform assessment is less than slope for uniform assessment, the waiver is approved
- The greater the correlation between Medicaid census and the amount of assessment paid; the steeper the slope

6-19


Broad based and Uniform Assessment (B1)
Percentage of Assessment
2.00%
1.80%
1.60%
1.40%
1.20%
1.00%
0.80%
0.60%
0.40%
0.20%
0.00%
-
5,000
10,000
15,000
20,000
25,000
30,000
35,000
40,000
45,000
Medicaid Days

6-20



Proposed Assessment (B2)
Percentage of Assessment
1.80%
1.60%
1.40%
1.20%
1.00%
0.80%
0.60%
0.40%
0.20%
0.00%
-
5,000
10,000
15,000
20,000
25,000
30,000
35,000
40,000
45,000
Medicaid Days

6-21

CMS Role Relative to Waiver Requests

- Examines whether waiver classes are appropriate
  - Approved classes include CCRCs, hospital-based facilities and smaller and larger facilities
- Determines if statistical test has been met
- Determines if combination of waiver structure and rate increase violates hold harmless

6-22

Key Criteria for Waiver Approval

- Waiver class has variation in Medicaid volume among providers – not all low or no Medicaid volume
- No hold harmless
  - Increased Medicaid payments can be used to enhance rates but cannot result in providers being repaid dollar for dollar (or part of a dollar) for their assessment cost
  - If every provider in the state is guaranteed through Medicaid payment (or waiver) to be reimbursed all or part of their assessment cost, waiver will not likely be approved
  - Common denominator is states with waivers have some providers still paying a full assessment and getting nothing back

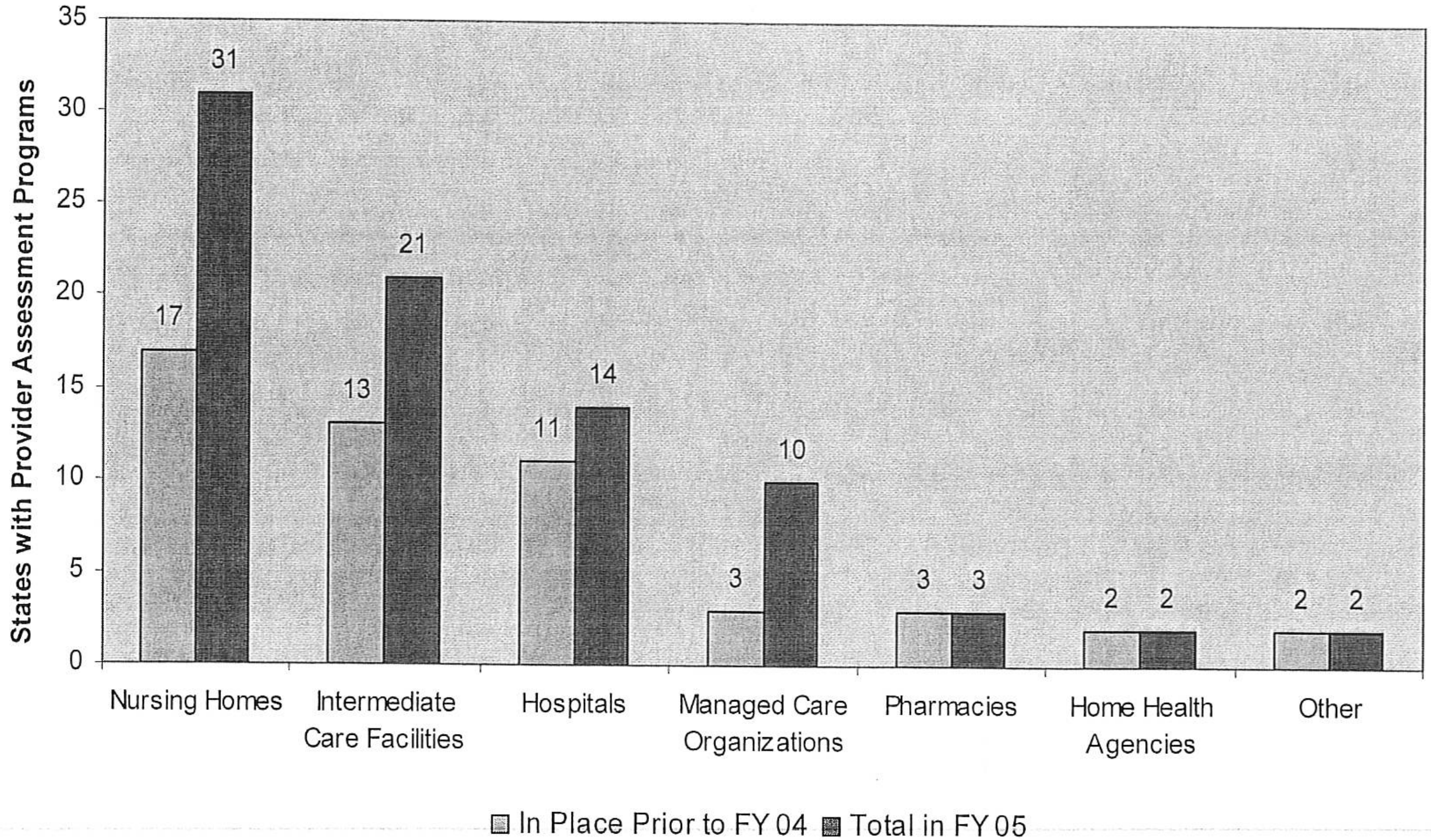
6-23

Acceptable Reimbursement Approaches

- Medicaid portion of assessment is a pass-through
- Additional rate increase either as
  - A flat amount per Medicaid patient day; or
  - Enhancements to Medicaid methodology such as higher inflation factor, higher ceilings; greater incentive payments; new fair rental system; more frequent rebasing (CMS preferred)

Provider Assessments Have Increased Federal Medicaid Matching Funds

6-24



Source: Kaiser Commission on Medicaid and the Uninsured

6-25

Current States with Provider Assessments

State	Annual Assessment Per Licensed Bed	Assessment Per Occupied Bed	Revenue Assessment	Waiver	At 6% Maximum
Alabama	$1,896	-	-	-	-
Arkansas	-	$8.34	-	-	Yes
California	-	$7.31	-	Yes	Yes
Connecticut	-	$15.90[1]	-	Yes	Yes
District of Columbia	-	-	6.00%	-	Yes
Georgia	-	$9.15[1]	-	Yes	-
Illinois	$548	-	-	-	-
Indiana	-	$10.00[1]	-	Yes	Yes
Kentucky	-	$10.75[1]	-	Yes	Yes
Louisiana	-	$7.27	-	-	-
Maine	-	-	6.00%	-	Yes
Massachusetts	-	$10.99[1]	-	-	Yes
Michigan	-	$16.30	-	-	Yes
Minnesota	$2,815	-	-	-	Yes

[1] Per Non-Medicare Day

6-26

Current States with Provider Assessments (continued)

State	Annual Assessment Per Licensed Bed	Assessment Per Occupied Bed	Revenue Assessment	Waiver	At 6% Maximum
Mississippi	-	$9.27	-	-	Yes
Missouri	-	$8.42[1]	-	-	Yes
Montana	-	$7.05	-	-	-
Nevada	-	$14.12[1]	-	Yes	Yes
New Hampshire	-	-	6.00%	-	Yes
New Jersey	-	$11.89[1]	-	Yes	Yes
New Mexico	-	$8.82	-	-	Yes
New York	-	-	5.00%	-	-
North Carolina	-	$9.50[1]	-	Yes	-
Ohio	$2281	-	-	-	-
Oklahoma	-	$6.70	-	-	Yes
Oregon	-	$12.23	-	Yes	Yes
Pennsylvania	-	$15.95[1]	-	Yes	Yes

[1] Per Non-Medicare Day

6-27

Current States with Provider Assessments (continued)

State	Annual Assessment Per Licensed Bed	Assessment Per Occupied Bed	Revenue Assessment	Waiver	At 6% Maximum
Rhode Island	-	-	6.00%	-	Yes
Tennessee	$2,225	-	-	-	-
Utah	-	$6.18[1]	-	-	-
Vermont	$3,788	-	-	-	Yes
Washington	-	$5.25[1]	-	Yes	-
West Virginia	-	-	5.50%	-	Yes
Wisconsin	$900	-	-	-	-

[1] Per Non-Medicare Day

6-28-08

Approved Provider Assessment Waivers

State	Waiver Class	Assessment Rate
California	**CCRCs**	**-0-**
($7.31 non-T-18-ppd)	**Hospital-based Facilities**	**-0-**
	Multi-level Care Facilities	**-0-**
	Governmental Facilities	**-0-**
	Facilities ≥ 100,000 Days	**$7.16**
Connecticut	**CCRCs**	**-0-**
($15.90 non-T-18 ppd)	**Facilities ≥ 100,000 Days**	**$11.75**
Georgia	**CCRCs**	**-0-**
($9.15 non-T-18 ppd)	**Charity Care Facilities**	**-0-**
	10 Largest Facilities	**-0-**

6-29

Approved Provider Assessment Waivers

(continued)

State	Waiver Class	Assessment Rate
Indiana	**CCRCs**	**-0-**
($10.00 non-T-18 ppd)	**Hospital-based Facilities**	**-0-**
	Facilities ≥ 70,000 Days	**$2.50**
Kentucky	**Hospital-based Facilities**	**$3.00**
($10.75 non-T-18 ppd)	**Facilities > 60,000 days**	**$6.80**
Nevada	**Hospital-based Facilities**	**-0-**
($14.12 non-T-18 ppd)	**Facilities > 70,000 days**	**$1.75**
New Jersey	**CCRCs,**	**-0-**
($11.89 non-T-18 ppd)	**County Facilities, Fireman's and Veterans Homes**	**-0-**

6-30

Approved Provider Assessment Waivers

(continued)

State	Waiver Class	Assessment Rate
North Carolina	CCRCs	-0-
($9.50 non-T-18 ppd)	Facilities > 48,000 days	$3.00
Oregon	CCRCs	-0-
($12.23 ppd)	MA Utilization > 88%	-0-
Pennsylvania	CCRCs	$1.50
($15.95 non-T-18 ppd)	Less than 50 Beds	$1.50
Washington	≥ 210 Beds	-0-
($5.25 non-T-18 ppd)	≤ 47 Beds	-0-

6-31

Kansas Proposed Waiver and Rate Enhancement

- Classes (same as Indiana and California)
  - CCRCs
  - Hospital-based Facilities
  - Large Facilities
- Assessment imposed per "non" Medicare patient day
- Legislation specifies percent of assessment dollars and corresponding federal match that are earmarked for rate <u>increases</u>
- Separate quality assessment fund
- State "maintenance of effort" provision in legislation
- Rate Increase
  - Pass-through of Medicaid portion of assessment
  - Inflationary percentage increase in rates
- No assessment collected until rates are increased
- If waiver is not approved by CMS, assessment is not imposed

Checklist Of Relevant Considerations For Provider Assessment Legislation

6-32

- ☑ How much and how?
- ☑ Is industry consensus possible?
- ☑ Will the assessment be broad-based and uniform or will a CMS waiver be required?
- ☑ Is the state willing to specify in the legislation exactly how the proceeds will be used?
- ☑ Does the state have constitutional or other limitations with respect to enacting a assessment?
- ☑ Is the assessment of limited (sunsetted) or unlimited duration?
- ☑ What circumstances will cause the assessment to end?
- ☑ Is the state willing to maintain its historic levels of general revenues contribution?

KHCA
KANSAS HEALTH CARE ASSOCIATION

117 SW 6th Avenue, Suite 200
Topeka, Kansas 66603
(785) 267-6003 Phone
(785) 267-0833 Fax
www.khca.org Website
khca@khca.org E-mail

kcal ahca

Testimony
House Appropriations Committee
Jim Klausman, Midwest Health Management
Government Affairs VP
Kansas Health Care Association
March 3, 2006

The Kansas Health Care Association appreciates the opportunity to comment in support of HB 2538. The Kansas Health Care Association (KHCA) believes that by partnering with the state Medicaid agency we can bring in additional Federal dollars to Kansas to help homes that are struggling to stay in business.

At Midwest Health Management, I am proud to say we employ 1200 dedicated employees in 26 homes across the state of Kansas. The total number of residents in our skilled nursing facilities is over 600 residents.

Medicaid does not cover the entire cost for providers to care for their residents. Currently, our businesses lose an average of $14 to $16 per patient day. In order to deliver quality of care, nursing home providers have had to implement cost-saving measures, operate with reduced margins and also pass on some of these costs to the private pay residents. Kansas nursing homes need sustainable and consistent funding to assure quality of care for Kansas' most vulnerable citizens. It is time for the federal government to be a partner with the state to relieve some of the burden.

This quality assessment is a way to access federal dollars that Kansas would not otherwise receive. Often nursing homes are the largest employer in a community. Our businesses become vital to the future of our towns and neighborhoods. So the federal dollars coming back to Kansas also would be putting federal dollars into local communities. The economic impact would have a ripple effect throughout Kansas communities.

I understand this is a complex process which requires a great deal of trust between nursing facilities and the state who will be handling the funds, but I am willing to suggest that this would be a workable partnership like the one that currently exists with the Kansas hospitals.

We ask this committee for your support of house bill 2538.

HOUSE APPROPRIATIONS

DATE 3-03-2006
ATTACHMENT 7

MEDICALODGES, INC.

MEMORANDUM TO: Chairman Melvin Neufeld, House Appropriations Comm.

FROM: Garen Cox, President and CEO, Medicalodges, Inc.

DATE: February 20, 2006

RE: Provider Tax Proposal

Medicalodges, Inc. operates 19 long-term care facilities in the State of Kansas. Medicalodges is the only 100 percent employee owned nursing home chain in America and the 35th largest multi-facility provider. Medicalodges employs approximately 2500 individuals.

I understand that your committee will be considering a recommendation to endorse a provider tax that would be implemented for long-term care facilities throughout the State of Kansas. This provider tax would be similar in nature to the one approved and passed last year which applies and benefits the hospitals in the State.

I wish to "weigh in" on this extremely important issue for our profession. With the increasing demands placed upon our profession, and with the budgetary concerns we face, it is now more important than ever that we, in the State, look to methods to promote and enhance the revenues available to us in order that we can afford the type of care this "greatest generation" requires and needs.

After speaking with my hospital friends, I understand what their endorsement of similar legislation meant to them. Leaving federal dollars "on the table" is not good stewardship of the resources available.

We urge your favorable handling of this matter and fully endorse any measure that would enhance our services to our residents.

Thank you for your consideration.

Garen Cox
President and CEO

HOUSE APPROPRIATIONS

DATE 3-03-2006

ATTACHMENT 8

HOUSE BILL No. 2538

By Committee on Appropriations
4-28

AN ACT concerning adult care homes; providing for assessments on certain nursing facilities; prescribing powers, duties and functions for the secretary of aging; creating the quality assurance assessment fund; providing for implementation and administration.

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

Section 1. (a) As used in sections 1 through 6, and amendments thereto, unless the context requires otherwise:

(1) Words and phrases have the meanings respectively ascribed thereto by K.S.A. 39-923 and amendments thereto;

(2) ''skilled nursing care facility'' means a nursing facility providing skilled nursing care;

(3) ''exempt facility'' means a skilled nursing care facility that is part of a continuing care retirement community, a skilled nursing care facility operated by the state, a political subdivision or any agency or instrumentality thereof, or a skilled nursing care facility that is a distinct part of a place or facility that is licensed as a general hospital, as defined by K.S.A. 65-425, and amendments thereto;

(4) ''continuing care retirement community'' means a provider of a continuum of services, including independent living services, assisted living services and skilled nursing care~~. for which at least 80% of the admissions for such provider for skilled nursing care shall be individuals that were residing in such provider's independent or assisted living units.~~ ***ADD the Definition of CCRC's from KID***

Sec. 2. (a) Except as otherwise provided in this section and in section 6, and amendments thereto, there is hereby imposed and the secretary of aging shall assess a monthly assessment on each skilled nursing facility licensed in Kansas an appropriate sum imposed at a rate per non-medicare Part A patient day established pursuant to this section to finance initiatives designed to maintain or increase the quantity and quality of nursing care in licensed skilled nursing facilities in Kansas. The monthly assessments shall be payable on a ~~quarterly~~ ***monthly*** basis in accordance with this section.

(b) The secretary of aging shall establish a uniform assessment rate per non-medicare Part A patient day ~~that is equivalent to a percentage of the total annual accrual basis gross revenue~~ for services provided to res

HOUSE APPROPRIATIONS

DATE 3-03-2006
ATTACHMENT 9

idents of all licensed skilled nursing facilities in Kansas, except that the assessment rate per non-medicare Part A patient day established by the secretary of aging shall not exceed the rate of $2 ($4) per non-medicare Part A patient day. A lower assessment rate per non-medicare Part A patient day shall be assessed to some skilled nursing facilities by the secretary of aging in order to achieve the statistical requirements of the federal centers for medicare and medicaid services for a uniformity waiver under the provisions of 42 C.F.R. 433.68(e)(2). This lower assessment rate shall be determined by the secretary of aging in accordance with and subject to all appropriate and applicable federal laws. For the purposes of this section, total annual accrual basis gross revenue does not include charitable contributions received by a skilled nursing facility.

(c) Each skilled nursing facility that is an exempt facility is exempt from all assessments imposed pursuant to this section.

(d) The secretary of aging shall calculate the monthly amount of the assessment owed by each skilled nursing facility by multiplying the total number of days of care provided to non-medicare residents by the skilled nursing facility for such month, as provided to the secretary of aging pursuant to section 3, and amendments thereto, by the applicable assessment rate established by the secretary of aging pursuant to this section for the twelve-month period in which such month occurs.

(e) The ~~aggregate~~ amount assessed ~~of the three monthly assessments imposed~~ pursuant to this section is due and payable 30 days after the end of the ~~three-~~month for which it has been assessed.
~~reporting period for which the assessments are imposed pursuant to this section~~. The secretary of aging is authorized to establish delayed payment schedules for skilled nursing facilities that are unable to make assessment payments when due and payable under this section due to financial difficulties, as determined by the secretary of aging.

(f) The payment of the assessment to the secretary of aging pursuant to sections 1 through 6, and amendments thereto, is an allowable cost for medicaid reimbursement purposes. ***A rate adjustment pursuant to Section 3(e) shall be made, effective on the date of imposition of the assessment, to reimburse the portion of this cost imposed on Medicaid days.***

Sec. 3. (a) Each skilled nursing facility shall file a report with the department on aging each calendar quarter that sets forth the total number of days of care such skilled nursing facility provided to non-medicare residents each month during the preceding three-month period.

(b) Each skilled nursing facility shall prepare and submit to the secretary of aging any additional information required and requested by the secretary of aging to implement or administer the provisions of sections 1 through 6, and amendments thereto.

Sec. 4. (a) There is hereby created in the state treasury the quality assurance assessment fund, which shall be administered by the secretary of aging. All moneys received for the assessments imposed pursuant to section 2, and amendments thereto, including any penalty assessments

imposed thereon pursuant to section 5, and amendments thereto, shall be remitted to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the quality assurance assessment fund. All expenditures from the quality assurance assessment fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of aging or the secretary's designee.
(b) All moneys in the quality assurance assessment fund shall be used to finance initiatives designed to maintain or increase the quantity and quality of nursing care in licensed skilled nursing facilities in Kansas. No moneys credited to the quality assurance assessment fund shall be transferred to or otherwise revert to the state general fund at any time.
(c) Any moneys received by the state of Kansas from the federal government as a result of federal financial participation in the state medicaid program that are derived from the assessments paid pursuant to sections 1 through 6, and amendments thereto, shall be used to finance initiatives designed to maintain or increase the quantity and quality of nursing care in licensed skilled nursing facilities in Kansas.
(d) An amount equal to not more than 20% of the aggregate assessments imposed pursuant to section 2, and amendments thereto, including any penalty assessments imposed thereon pursuant to section 5, and amendments thereto, plus the corresponding amount of federal matching moneys shall be used for adult care other than maintaining and increasing the quality of nursing care in licensed skilled nursing facilities in Kansas.
(e) The remaining amount in the quality assurance assessment fund which shall not be less than 80% of the aggregate assessments imposed pursuant to section 2, and amendments thereto, including any penalty assessments imposed thereon pursuant to section 5, and amendments thereto, plus the corresponding amount of federal matching moneys shall be used only to increase or supplement the rates paid to skilled nursing facilities for providing services pursuant to the state medicaid program and shall not be used directly or indirectly to replace existing state expenditures for payments to skilled nursing facilities for providing services pursuant to the state medicaid program. Of the amount allocated pursuant to this subsection to increase or supplement the rates paid to skilled nursing facilities for providing services pursuant to the state medicaid program, ***a rate adjustment shall first be made to reimburse the portion of the assessment imposed on Medicaid patient days. The remainder shall be used to provide an equal inflationary percentage increase to the rates in effect on July 1, 2006 paid to skilled nursing facilities for providing services pursuant to the state Medicaid program***~~. such amount shall first be used to fully reimburse the Medicaid portion of the tax imposed on non-medicare Part A patient days and thereafter any remainder of such amount shall be used to provide an equal inflationary percentage increase to the rates in effect on July 1, 2006, paid to skilled nursing facilities for providing services pursuant to the state medicaid program.~~

9-3

(f) Of the amount designated pursuant to subsection (d), an amount equal to not more than 25% of the moneys allocated for purposes other than skilled nursing facility rate increases or supplements shall be used to finance health care professional education provided by community colleges in Kansas.
(g) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the quality assurance assessment fund interest earnings based on:
(1) The average daily balance of moneys in the quality assurance assessment fund for the preceding month; and
(2) the net earnings rate of the pooled money investment portfolio for the preceding month.
Sec. 5. If a skilled nursing facility fails to pay the full amount of an assessment imposed pursuant to section 2, and amendments thereto, when due and payable, including any extensions of time granted under that section, the secretary of aging shall assess a penalty determined pursuant to this section. Each late payment penalty shall be set under a schedule of penalties which shall be established by the secretary of aging.
Sec. 6. (a) The secretary of aging shall determine the applicable rate of assessments pursuant to section 2, and amendments thereto, for skilled nursing facilities not later than July 1 of each year for the 12 months commencing on that July 1. The secretary of aging shall assess and collect assessments imposed pursuant to section 2, and amendments thereto, including any penalty assessments imposed thereon pursuant to section 5, and amendments thereto, from skilled nursing facilities on and after July 1, 2006, except that no assessments or late payment penalties shall be assessed under sections 1 through 6, and amendments thereto, until:
(1) An amendment to the state plan for medicaid, which increases the rates of payments made to skilled nursing facilities for providing services pursuant to the federal medicaid program and which is proposed for approval for purposes of sections 1 through 6, and amendments thereto, is approved by the federal government; and
(2) the skilled nursing facilities have been compensated retroactively at the increased rate for services provided pursuant to the federal medicaid program for the period commencing on and after July 1, 2006.
(b) The secretary of aging shall implement and administer the provisions of sections 1 through 6, and amendments thereto, in a manner consistent with applicable federal medicaid laws and regulations. The secretary of aging shall seek any necessary approvals by the federal government that are required for the implementation of sections 1 through 6, and amendments thereto.
(c) The provisions of sections 1 through 6, and amendments thereto, shall be null and void and shall have no force and effect if either of the

following occur:
(1) The uniformity waiver or the medicaid plan amendment, which increases the rates of payments made to skilled nursing facilities for providing services pursuant to the federal medicaid program and which is proposed for approval for purposes of sections 1 through 6, and amendments thereto, is not approved by the federal centers for medicare and medicaid services; or
(2) the rates of payments made to skilled nursing facilities for providing services pursuant to the federal medicaid program are reduced below the rates calculated on June 30, 2006, increased by revenues in the quality assurance assessment fund and matched by federal financial participation.
Sec. 7. If the provisions of sections 1 through 6, and amendments thereto, are repealed or become null and void and have no further force and effect pursuant to section 6, and amendments thereto, all moneys in the quality assurance assessment fund which were paid under the provisions of sections 1 through 6, and amendments thereto, shall be returned to the skilled nursing facilities which paid such moneys on the basis on which such payments were assessed and paid pursuant to sections 1 through 6, and amendments thereto.
Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

February 22, 2006

Mr. Chairman, and Committee Members,

Subject: Support for Kansas Provider Assessment Bill (HB 2538)

My name is Randall J. Sipe. I am the corporate Director of Medicaid Research for Trans Healthcare, Inc. Trans Health, is a premiere provider of Nursing Facility Services, Assisted Living Services, and Long Term Acute Care Hospital Services in the state of Kansas. We also provide these long term care services plus we provide hospice, inpatient rehabilitation and clinic services in 15 other states.

I am proud to say that we employ over 470 hard working dedicated and caring employees in our 6 Kansas skilled nursing centers.

We are very proud of the quality skilled nursing facility services that our dedicated staff provide to the residents in the Kansas communities of Wichita, Topeka, Overland Park, and Hutchinson.

The total number of residents in our 6 skilled nursing facilities varies, but is approximately 455 on any given day. Of those residents, approximately 328 or 72% have their care paid for by the Medicaid program.

I am submitting this testimony in support of the Kansas Provider Assessment bill (HB 2538).

I highly recommend that you support House Bill 2538 and hope that you would get behind this very beneficial program to see that it is ultimately adopted by the Legislature of Kansas. I truly believe that an opportunity exists here and now to provide a substantial infusion of new monies into the Kansas Medicaid program for nursing facility services. A provider assessment program can provide that infusion of monies without drawing upon Kansas' tax payers' General Funds.

I am very familiar with the benefits that provider assessment programs, similar to the one being proposed in HB 2538, have offered in several of the other states in which we provide skilled nursing facility services.

For example, in the State of Nevada, we (the provider community in partnership with the State Medicaid agency) were able to design a tremendously improved Medicaid payment system for nursing facility services. In 2003, we were able to design and implement an acuity-based payment system (a "case-mix" system), a vast improvement from the previous "flat rate system", but it would never have been possible without the additional funding generated by the provider assessment program that we (providers and the State) were able to design and get the Center for Medicare and Medicaid Services' (CMS') approval. The Provider Assessment program provided the level of funding necessary to support the implementation of a rational payment program that encouraged the provision of quality nursing facility care.

We had a similar, very positive, experience in the state of North Carolina in 2003, where, again, the providers and the State wanted to implement a new acuity-based Medicaid payment system but the State budget could not support the additional costs that such a payment system would entail. With the passage of authorizing legislation by the State legislature and with CMS' approval of the Provider Assessment plan, North Carolina was able to implement the needed payment system upgrades.

In Pennsylvania, in state fiscal year 2003-2004, the State budget situation was dire. Provider Medicaid payment rates were being threatened to be cut in order to find the funding necessary to balance the budget. Again, as a result of a joint effort to design a federally acceptable Provider Assessment program, providers' payment rates were spared the budget-savings knife in a year of extreme budget deficit pressures, thus retaining the level of funding necessary to support quality care.

There are several other states that I could describe where we have had very positive experiences with a Provider Assessment program. Where because of the enhanced funding produced by a Provider Assessment program, we were able to either improve the level of funding to support our staff and the quality care that they provide, or where we were able to avoid devastating budget/rate cuts; New Hampshire, Michigan, Georgia, Missouri, and Ohio are a few.

In conclusion, I ask for your support of HB 2538. Trans Health believes that the Provider Assessment program, described in this bill is federally approvable, and will generate needed funding for the support of quality nursing facility services in Kansas.

Thank you for your consideration of my remarks.

With Sincere Regards,

Randall J. Sipe, Director of Medicaid Research
Trans Health Care, Inc.
910 Ridgebrook Road
Sparks, MD 21152

Phone: 410-773-5319

beverly
healthcare™

Testimony
House Appropriations Committee
Steve Albrecht, Regional Director of Government Relations, Beverly Enterprises, Inc.
February 22, 2006

Mr. Chairman and members of the Appropriations Committee, I am submitting this written testimony in support of House Bill 2538, on behalf of Beverly Healthcare and the nineteen long-term care facilities we operate in the state of Kansas. Beverly employs 1,050 people and proudly cares for 950 frail and elderly Kansas each and every day.

Beverly operates some 350 nursing homes and assisted living facilities in 24 states and we are well aware of the many challenges facing legislatures across the country as they strive to address the needs and costs of Medicaid. In particular, nursing homes are seen as a major cause of increased Medicaid costs. But in reality, nursing home costs in many states have been growing significantly less than overall Medicaid costs due in part to rate reductions, rate freezes, or utilization of outdated cost reports that fail to accurately reflect the true and total cost of care.

Yet in Kansas, as in many other states, nursing home rates continue to see a widening gap between the cost of caring for residents in their nursing facilities and the rate they are paid by Medicaid. According to a recent study prepared by BDO Seidman, the shortfall in funding between the cost of care and rates paid in Kansas is $45 million (almost $12 per Medicaid patient day). This widening gap has been worsened by Medicare cuts, which took effect January 1, while the federal government asks states to help pay for the Medicare Part D program as well.

In Kansas you have an opportunity to address your Medicaid funding gap by passing HB 2538. The nursing home provider assessment is a means by which new revenue can be generated to the state of Kansas through additional federal financial participation without requiring the commitment of additional general revenue funds that could impact the state budget. Beverly has seen assessments such as this work in other states, most recently in Indiana. Indiana's provider assessment has afforded Beverly the opportunity to increase wages of employees and pursue capital improvements that are having a direct impact on the overall quality of life for our residents.

It is not uncommon for legislators to be concerned that a nursing home provider will absorb the cost of paying the assessment by increasing private pay rates. Beverly's experience in states with nursing home assessments is that we have not added the per day assessment amount to our private pay rates. In fact, we have found that the competitive market of long-term care keeps in check any sudden escalation of private pay rates, especially once providers see a decrease in the shortfall of Medicaid funding through enhanced rates from the assessment.

At Beverly we believe the provider assessment in HB 2538 will address funding needs not only specific to nursing homes but it can also assist Kansas Medicaid in supporting other necessary programs across the entire long-term care continuum.

On behalf of our residents and our employees I strongly urge you to vote in favor of HB 2538.

Thank you for your time and consideration.

Creating the Future of Aging Services

KAHSA

Kansas Association of Homes & Services for the Aging

Debra H Zehr, Executive Vice President
Kansas Association of Homes and Services for the Aging
To the House Appropriations Committee
March 3, 2006

Testimony in Opposition to House Bill 2538

Thank you, Chairman Neufeld and Members of the Committee.

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

We oppose House Bill 2538.

New Tax on Frailest Elderly

Historically, broad-based taxes have provided the public safety net for the poorest among us who need health care, including long term care. In sharp contrast, House Bill 2538 would create a new system that targets Kansas frail, vulnerable nursing home residents who manage to pay for their own care.

Over the course of their lifetimes, these older citizens have already paid untold dollars in taxes to support the Medicaid program. Why would we single them out to pay yet another tax to support Medicaid? You might hear proponents of House Bill 2538 attempt to justify this tax by saying, "Self-pay residents already subsidize the shortfall in Medicaid nursing home rate, and so why not just be "up front" about it?" KAHSA disagrees that this justifies piling on to their financial burden.

As currently written, House Bill 2538 would result in an extra cost of $765 a year for self-pay nursing home residents. Those who have watched nursing home provider taxes in other states know that it is all but inevitable that the tax will increase to the maximum allowable level in the coming years. This will increase the burden on these vulnerable citizens.

HOUSE APPROPRIATIONS

DATE 3-03-2006
ATTACHMENT 10

Short-Sighted

House Bill 2538 is short-sighted and profit-motivated. Proponents of this bill have declared their desire to get a quick injection of money to increase nursing home rates, with little concern about the long term consequences. In contrast, KAHSA members are driven by a commitment to their communities and in service over the long haul. They are skeptical about a "get rich quick" deal that most likely will not be sustained in the long run. And they are concerned about how the money would go back to nursing homes. Would it be used for direct resident care and things that promote good quality of care, and who would decide? This is a critical issue that is unaddressed in the bill.

Even if the tax was set up and administered so that most providers received rate increases initially, the experience of other states like Missouri, Oklahoma, Ohio, Illinois, Pennsylvania and others tells us that very quickly, not only does the tax go up, but the payback to nursing homes goes down.

Our own state's experience with the Intergovernmental Transfer (IGT) Program demonstrates that "windfall" monies from the feds are soon used to help fund other state budget gaps. When it began in 2000, 60% of the IGT money was designated by law to establish a Senior Services Trust Fund, 10% for a long term care grant and loan program, 5% for a Home and Community-Based Services Fund and 25% to a Special Education Services Aid Fund. The next year, major changes were made to the allocations. In 2002 CMS ended the IGT programs nationwide. Very little of the $300+ million received by Kansas ever went to the original intent.

Fuzzy Math

Bill proponents have asserted that they can make the numbers work, and that they have minimized the negative impact on as many providers and residents as possible. The reality is that anyone who possesses good math skills and a computer can develop a linear regression analysis model for a provider tax that will meet the federal testing requirements, once some basic concepts are understood. And any single entity can model formulas and project outcomes till the cows come home. But those models and projections will be based upon limited data and their own biased perspective.

Just Because Hospitals Are Doing It, Doesn't Mean It Will Work for Nursing Homes

There are **essential differences** to consider when comparing a hospital provider tax versus a nursing home provider tax.

1. In the nursing home setting, a provider tax would be an overt tax on over 40% who use the services. On the other hand, third party payers pay for the vast majority of hospital care. Less than 5% of hospital patients are self-pay. (See Attachment A.) This is likely an overestimate because many hospitals write off a significant portion of these bills.
2. A majority of hospitals (i.e. all 80+ Critical Access Hospitals) are exempted from the hospital tax. (See Attachment B.)
3. Consensus was achieved by all stakeholders, after much discussion and analysis, before they moved forward with a bill. Conversely, there is sharp division among the primary stakeholders on the nursing home tax issue. House Bill 2538 is the brainchild of a single stakeholder group. Only in late February did they begin to communicate with us in earnest, or share detailed information on their formula and assumptions. House Bill 2538 proponents are now trying to dress the bill up, making concessions that think will appease opponents, in hopes of getting something pushed through.

We commend the Hospital Association, the Medical Society and those who worked with them to build a consensus to put together a program with broad-based support for approval by the feds. However, it is premature to call the hospital tax a rousing success and to move hastily to tax other provider groups, considering hospitals just received their first payment barely 2 months ago. There has not been time to see how it works and learn from the inevitable glitches and unintended consequences that will arise in the early months and years of this fundamental system change. And incidentally, the bill that authorized the hospital provider tax also authorized a tax on managed care organizations that has yet to move. We ask that the Legislature let these programs work, and work successfully, before forcing a similar program on other providers.

Gaming Medicaid is Not the Answer

Our continued reliance on Medicaid as the primary payer for long-term care is a serious and growing concern. We need to move proactively to increase personal responsibility among those who are able, encourage cost efficiencies while preserving quality, and rebalance our system of long term care. On the national front the American Association of Homes and Services for the Aging is committed to work toward a sustainable long term care system and financing model. Congress has recently passed legislation that will help toward this goal. House Bill 2538 will only confound our problems and create another roadblock to begin to really address the issues.

Here in Kansas, two legislative committees have devoted considerable time over the past three years to study and craft proactive, productive recommendations related to Medicaid (i.e. the 2003 Senate President's Select Committee on Medicaid Reform and the 2005 interim Special Committee on Medicaid Reform).

10-3

Some of these would encourage citizens to plan ahead to fund their own long term care (HB 2568), and permit new approaches to help control costs that are not related to direct care (HB 2567), and improve efforts to identify and reduce Medicaid fraud. The 2005 Legislative Budget Committee also briefly looked at the nursing home provider tax.

Neither the Senate President's Committee or the Legislative Budget Committee saw fit to include a nursing home provider tax in their recommendations. The Special Committee on Medicaid Reform considered the nursing home provider tax, but they did not recommend its enactment. Instead, they advised the Kansas Health Policy Authority and Department on Aging to consult with CMS to try to see what might be doable and to report back prior to any legislative action on the bill. We are not aware that this has occurred. Instead, this bill is before you today.

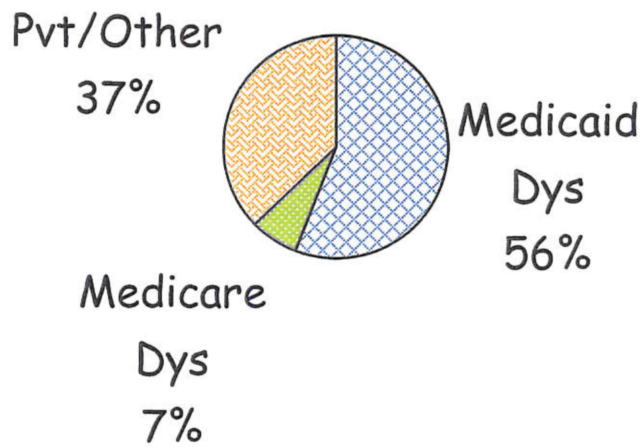
Even more recently, the House Social Services Budget Committee reviewed the Department on Aging budget and programs. They issued some productive, forward-thinking recommendations that will be coming before the full committee for consideration in the coming days on rural long term care, nursing facility rebasing, and funding for the PACE program. They did not recommend enactment of a nursing home provider tax.

Conclusion

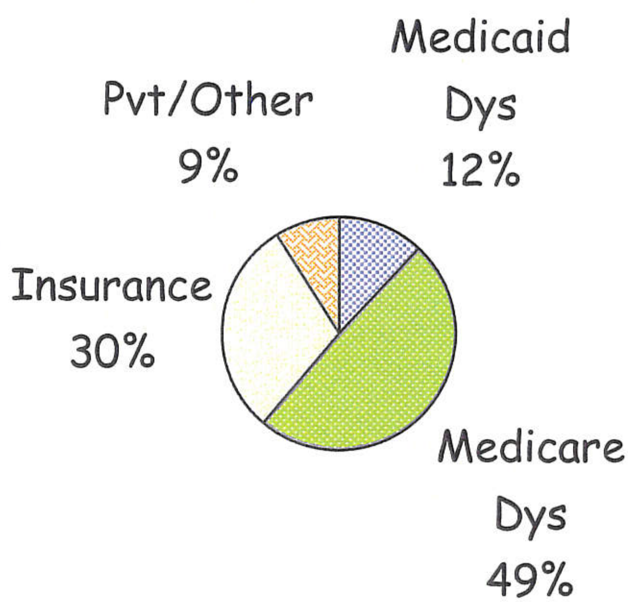
In conclusion, KAHSA asks this Committee to consider this multitude of red flags and fundamental questions, and to oppose House Bill 2538.

Thank you.

Nursing Home Sources of Funding



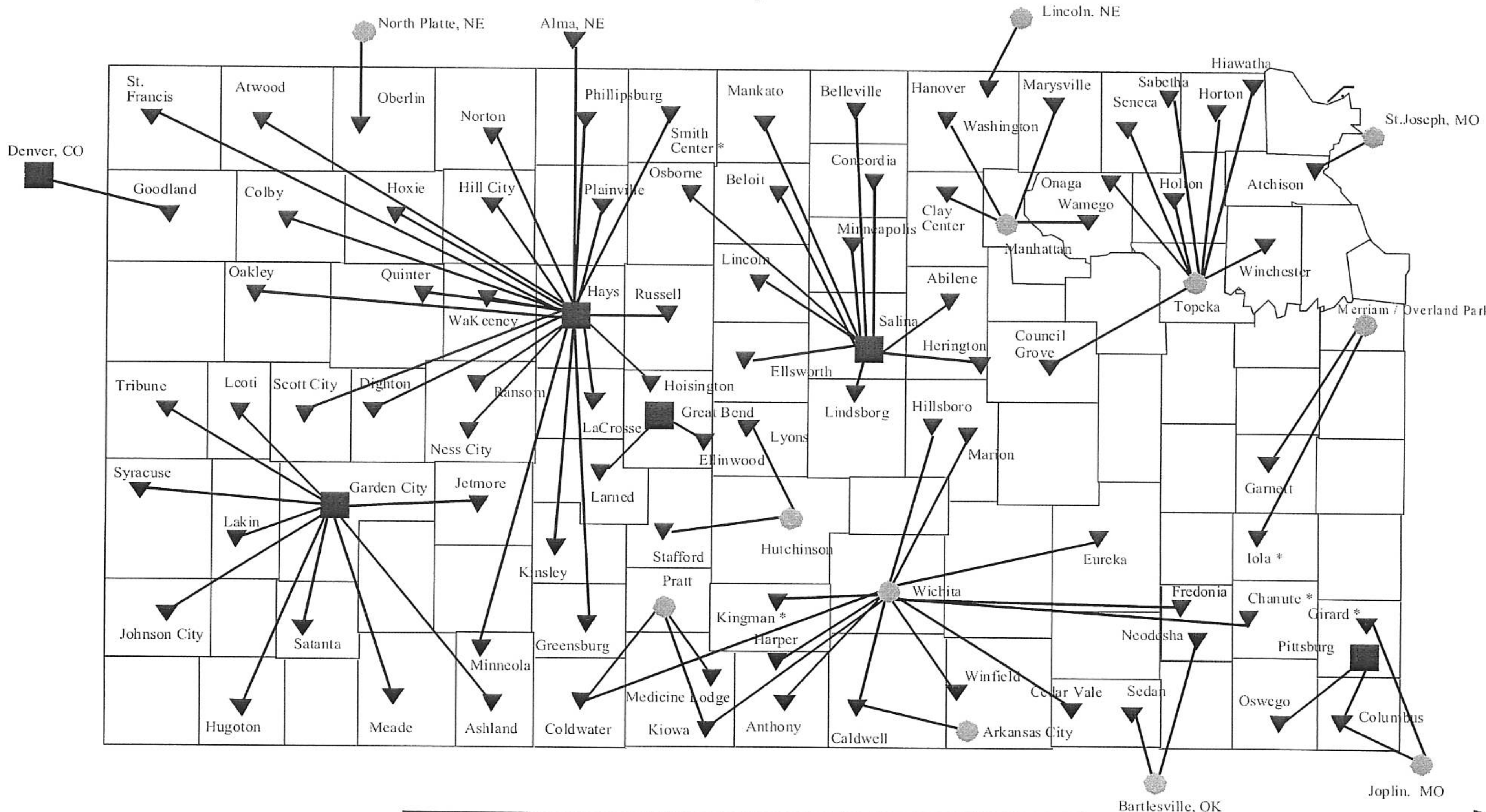
Hospital Sources of Funding



KANSAS DEPARTMENT OF HEALTH & ENVIRONMENT
Office of Local & Rural Health

State Designated Rural Health Networks

January 2006



● = Supporting Hospital
■ = Essential Access Community Hospital
▼ = Critical Access Hospital
* = Certification Pending

initially prepared 02/18/02 SAM

ATTACHMENT B

Eastridge Skilled Nursing Facility

604 1st ~ Centralia, Kansas ~ 66415
785-857-3388 ~ Fax: 785-857-3349

To: Representative Melvin Neufeld, Chair and Members
House Appropriations Committee
From: Pam Bachman, Administrator
Date: February 22, 2006

Please Oppose House Bill 2538

Thank you Chairman Neufeld, and Members of the Committee for the opportunity to testify regarding House Bill 2538.

I have been the Administrator of Eastridge Skilled Nursing Facility, a small 41-bed facility in Centralia, for the past 12 years. Eastridge was opened by the community in 1990, and in 1996 we became a division of Community Hospital Onaga, Inc. At Eastridge we take care of the frailest, oldest and most vulnerable people in our community.

I ask you to oppose House Bill 2538.

In my 12 years at Eastridge, I have seen many elders spend down their resources and eventually become dependent on Medicaid. It is a very humiliating experience for most of these residents to have to turn to Medicaid to pay for their care needs. I understand this personally. My 97 year old grandmother had to turn to Medicaid in the last year of her life, after she paid for five years of nursing home care out of her own pocket.

House Bill 2538 will speed up the process of depletion of private funds to pay for nursing home care. When I add it up, according to House Bill 2538, my facility will have to pay over $25,000 in the first year for this tax, nearly $14,000 of which will have to be passed directly on to residents who are paying for their own care. I know of several small rural nursing homes that will find it hard to survive if they do not get the amount they pay in tax returned, since they barely break even now.

I do not want to have to go to my residents and tell them that they are going to have to pay a tax on their care. I don't want to tell Mrs. D, a 93 year old widow and retired school teacher who has lived with us for a year. Until last year Mrs. D. was still living in her family home where she and her husband raised their 4 children. Several years ago her daughter moved back from Colorado to care for her so she could stay at home. Only when the daughter's health failed did Mrs. D. turn to us for care.

I've heard some people say that the state should implement a nursing home tax like they did on the hospitals. I'd like to speak briefly to this because I also serve as the Facility Director for Community Hospital Onaga. There is one basic difference between a hospital tax and a nursing home tax. Very few hospital patients pay their bills directly. But at Eastridge over half of our residents pay their bills directly from their own pockets.

I am hopeful that the hospital assessment will be a good thing, but it is premature to know if it will be. Our hospital just got the first payment. We don't know yet, what bumps will show up in the coming year, and we don't know if it will continue to be beneficial to our hospital. It's just too early to say.

I appreciate your attention to all aspects and potential consequences of this bill and thank you for the ability to speak to you today. I would be pleased to answer questions.

HOUSE APPROPRIATIONS

DATE 3-03-2006
ATTACHMENT 11

Asbury PARK formerly Friendly Acres

To Chairman Melvin Neufeld and the Members of the House Appropriations Committee
March 3, 2006

My name is Tom Williams; Chief Executive Officer for Asbury Park, a not-for-profit Methodist retirement community in Newton, Kansas. We have 70 nursing residents, 55 assisted living residents and 89 elders living in our cottages.

I saw how the bed tax worked when I was an administrator in Oklahoma from 2001 to 2005. It started in 2000.

Our private pay residents were very upset that they had to pay this extra cost. It also accelerated the speed of spend down among private pay nursing residents, creating a larger population of Medicaid recipients.

Many of my colleagues in health administration in Oklahoma who supported the bed tax in the beginning now want it to go away because:

1. The tax has gone up.
2. Their Medicaid rates aren't keeping pace with the tax. In fact, they haven't gotten any rate increase in at least the last two years.
3. Residents and their families are more irate about it every year.
4. It requires more paperwork that isn't justified by the return.

What they thought would help their financial position has interfered with their ability to operate competitively and retain staff.

It is evident just south of our border that this type of tax burdens long term care providers and residents, and adds another layer of bureaucracy to the second most regulated business in the world.

One of the reasons I returned to Kansas was because of the higher standards for care and respect for the frail elderly here. I ask you to question the wisdom of starting a bed tax in Kansas. I ask you to oppose House Bill 2538.

Thank you.

Tom Williams

HOUSE APPROPRIATIONS

DATE 3-03-2006

ATTACHMENT 12

Voice: 316-283-4770
Fax: 316-283-4799

To: The Honorable Melvin Neufeld and
Members of the House Appropriations Committee
From: Tom Church, CEO, Catholic Care Center
Date: Friday, March 3, 2006

Testimony in Opposition to House Bill 2538

Good Morning, Mr. Chairman and Members of the Committee. Thank you for this opportunity to come before you today to share my deep concerns about House Bill 2538.

My name is Tom Church and I am the CEO of the Catholic Care Center, the largest nursing facility in Sedgwick County. Sponsored by the Catholic Diocese of Wichita and the Via Christi Health System, we are licensed for 178 beds of skilled nursing and 120 beds of assisted living, with 40 of these beds being a specialty Alzheimer center. As I read it, we would not be exempt from the provider tax as proposed in House Bill 2538.

As a not-for-profit faith-based community we oppose HB 2538 for the following reasons:

- As an advocate for a most frail and vulnerable population that is already shouldering the variance between the nursing facility Medicaid reimbursement rate and private pay rate, a provider tax assessment is adding insult to injury.
- This bill would accelerate the depletion of our private pay resident's assets. At $2 per bed per day, Catholic Care Center would pay over $120,000 in taxes annually. Over $50,000 of that amount would have to come from our private pay residents.
- As a long term care administrator I am obligated to be on the lookout for abuse, neglect and exploitation of the frail elders who reside at Catholic Care Center. In my mind, House Bill 2538 raises the question of exploitation, because there is no guarantee of benefit to these residents.
- As a mission driven organization I have asked myself, "Who are the potential beneficiaries of this proposal?" The fact that the "not-for-profits" are pretty much aligned against the bill, and the "for-profits" pretty much aligned for it raises questions. The creation of a system that creates winners and losers is not fair and bears significant further review.
- While the bill purports "to increase the quality and quantity of nursing care," there is nothing in the bill that speaks to assurance of quality or increase of quantity. Therefore the prudent person could quickly deduce that the bill on its face is about nothing other than the money that would flow strongly to some at the expense of others.
- We must also ask what the likely and unintended consequences would be if this bill passed. This subject does not appear to have been addressed and bears significant study. Let me suggest that if this bill is passed it will go a long way towards solidifying a second class citizenship for Medicaid recipients. Those of us who seek to serve a significant percentage of the poor will be forced to give stronger consideration to entering the ranks of the exempt.

We are committed to doing the right thing for the right reasons and this bill just does not ring true on either count. We are committed to providing the services people need when they need them, in a place they call home. This bill does not move us in that direction. I respectfully ask this Committee to take no action or, better yet, defeat House Bill 2538. Thank you for your consideration to that end.

HOUSE APPROPRIATIONS

DATE 3-03-2006

ATTACHMENT 13