

Approved: July 21, 2006
Date

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:40 A.M. on February 15, 2006, in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Jill Wolters, Revisor of Statutes Office
Michael Corrigan, Revisor of Statutes Office
Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Reagan Cussimanio, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Audrey Dunkel, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Judy Bromich, Chief of Staff
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Gary Daniels, Secretary, Kansas Department of Social and Rehabilitation Services
Kathy Greenlee, Acting Secretary, Kansas Department on Aging
Shannon Jones, Executive Director, Statewide Independent Living Council of Kansas
Dr. Bill Dirks, AARP Kansas Volunteer Federal Affairs Coordinator, Wichita
Michael Donnelly, Director of Policy and Research, Disability Rights Center of Kansas
Tessa Goupil, Topeka Independent Living Resource Center
Jennifer Schwartz, Executive Director, Kansas Association of Centers for Independent Living
Jane Rhys, Executive Director, Kansas Council on Developmental Disabilities
Anne-Marie Hughey, Legislative and Policy Advocate, Southeast Kansas Independent Living Resource Center
Audra Barnhart, AARP Kansas Volunteer Community District Coordinator, Parsons
Cindy Luxem, President, Kansas Health Care Association
Deanne Bacco, Executive Director, Kansas Advocates for Better Care
Jim Beckwith, Northeast Kansas-Area Agency on Aging
Debra Zehr, Executive Vice President, Kansas Association of Home & Services for the Aging
Craig Kaberline, Executive Director, Kansas Area Agencies on Aging

Others attending:

See attached list.

Bill Introductions

Senator Barone moved, with a second by Senator Wysong, to introduce a bill concerning insurance coverage and certain vehicles (5rs1841). Motion carried on a voice vote.

Chairman Umbarger opened the public hearing on:

SB 490--Kansas long-term care bill of rights

Staff briefed the Committee on the bill and distributed copies of a comparison between **SB 490** and **SB 502** (Attachment 1).

The Chairman welcomed the following conferees:

Gary Daniels, Secretary, Kansas Department of Social and Rehabilitation Services (SRS), testified as a proponent of **SB 490** (Attachment 2). Secretary Daniels explained that an agreement had been reached between AARP and the Big Tent Coalition that will allow some provisions of **SB 502** to go into **SB 490**, thus

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:40 A.M. on February 15, 2006, in Room 313-S of the Capitol.

establishing a solid set of guiding principles from which state agencies and advocates may work. He noted that SRS supports the coordinated effort of an initiative to assure that there are a variety of services available to Kansans who are elderly or have disabilities. Secretary Daniels detailed the directives listed in **SB 490** in his written testimony.

Kathy Greenlee, Acting Secretary, Kansas Department on Aging, testified in support of **SB 490** (Attachment 3). Secretary Greenlee provided some history of the Kansas Department on Aging and noted that the agency is in support of **SB 490** and also supports the amendments mentioned by Secretary Daniels of SRS that would be brought into the bill.

Shannon Jones, Executive Director, Statewide Independent Living Council of Kansas (SILCK), spoke in favor of **SB 490** (Attachment 4). Ms. Jones explained that SILCK has met with the American Association of Retired Persons (AARP) and in their discussion with them feel there are similarities with both bills. She noted that for that reason they suggest consolidation their efforts. Ms. Jones provided proposed amendments to **SB 490** at the end of her written testimony.

Dr. Bill Dirks, AARP Kansas Volunteer Federal Affairs Coordinator, testified as a proponent of **SB 490** (Attachment 5). Dr. Dirks noted that surveys of Kansas' older adult population overwhelmingly indicate its preference to receive long-term care in the community. In his closing remarks, Dr. Dirks mentioned that AARP Kansas believes that the time is right for passage of a Long-Term Care Bill of Rights.

Michael Donnelly, Directory of Policy and Outreach, Disability Rights Center of Kansas (DRC), spoke in support of **SB 490** (Attachment 6). Mr. Donnelly explained that the Disability Rights Center of Kansas believes that **SB 490** establishes two very important policies for older Kansans and Kansans with disabilities in need of long term care services:

1. "in keeping with the traditional concept of the inherent dignity of the individual in our democratic society, that older citizens and those with disabilities are entitled to enjoy health, honor and dignity; that funding for long-term care home and community based services is a priority;"
2. "strong consumer protections and adequate public oversight, advocacy and enforcement shall be available for all long-term care consumers."

In closing, Mr. Donnelly mentioned that DRC supports the amendments being offered by SILCK.

Tessa Goupil, Topeka Independent Living Resource Center (TILRC), testified in favor of **SB 490** (Attachment 7). Ms. Goupil mentioned that TILRC's mission is to advocate for equality, justice and essential services for a fully integrated and accessible society for all people with disabilities. She noted in her closing testimony that a person needing long term care should not be forced from home and loved ones in order to receive that care.

The Chairman acknowledged Ernie Kutzley, AARP, who updated the Committee that AARP has submitted newly drafted language in regard to Sections 11, 12 and new 13, and asked that this new language be considered.

Written testimony was submitted by:

- Jennifer Schwartz, Executive Director, Kansas Association of Centers for Independent Living (Attachment 8)
- Jane Rhys, Executive Director, Kansas Council on Developmental Disabilities (Attachment 9)
- Anne-Marie Hughey, Legislative and Policy Advocate, Southeast Kansas Independent Living Resource Center (Attachment 10)

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:40 A.M. on February 15, 2006, in Room 313-S of the Capitol.

There being no further conferees to come before the Committee, the Chairman closed the public hearing on **SB 490**. The Chairman explained that the Committee will consider all proposed amendments at a future date.

Copies of the Kansas Legislative Research Department Budget Analysis Report for FY 2006 and FY 2007 were made available to the Committee.

Subcommittee budget report on:

Governmental Ethics Commission (Attachment 11)

Subcommittee Chairwoman Carolyn McGinn reported that the budget subcommittee on the Governmental Ethics Commission concurs with the Governor's recommendations in FY 2006 and FY 2007.

Senator McGinn moved, with a second by Senator Wysong, to adopt the subcommittee budget report on the Governmental Ethics Commission in FY 2006 and FY 2007. Motion carried on a voice vote.

Chairman Umbarger opened the public hearing on:

SB 491--Increasing the personal needs allowance for certain nursing home residents

Staff briefed the Committee on the bill.

The Chairman welcomed the following conferees:

Audra Barnhardt, AARP Kansas Volunteer Community District Coordinator for the 2nd Congressional District, who spoke in support of **SB 491** (Attachment 12). Ms. Barnhardt explained that the Personal Needs Allowance (PNA) is important because it enables residents to maintain at least a minimum level of independence and decision-making. She noted that the Kansas PNA has been \$30 for 18 years and AARP respectfully requests support of **SB 491**. Ms. Barnhardt also distributed copies of the following information:

- Personal Needs Allowances by State (Attachment 13)
- Personal Needs Allowances for Long Term Care Residents, December 2004 (Attachment 14)

Written testimony was submitted by the following conferees on **SB 491**:

- Michael Donnelly, Directory of Policy and Outreach, Disability Rights Center of Kansas (See Attachment 6 for Mr. Donnelly's testimony on **SB 491**)
- Cindy Luxem, President, Kansas Health Care Association (Attachment 15)
- Deanne Bacco, Executive Director, Kansas Advocates for Better Care (Attachment 16)
- Jim Beckwith, Executive Director, Northeast Kansas Area Agency on Aging (Attachment 17)
- Debra Zehr, Executive Vice President, Kansas Association of Homes and Services for the Aging (Attachment 18)
- Craig Kaberline, Executive Director, The Kansas Area Agencies on Aging Association (Attachment 19)

There being no further conferees to come before the Committee, the Chairman closed the public hearing on **SB 491**. Committee questions and discussion followed.

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Senator Barone moved, with a second by Senator Wysong, to amend **SB 491** to increase the Personal Needs Allowance for persons residing in Medicaid-approved institutions to \$60 a month. Motion carried on a voice vote.

Senator Steineger moved, with a second by Senator McGinn, that the Personal Needs Allowance go through the appropriations review process every year. A vote was taken on a voice vote and division was requested. On a show of hands the motion carried 7 to 5.

Senator Emler moved, with a second by Senator Barone, to amend the bill with the wording throughout the bill to change “Secretary of Social and Rehabilitation Services” to read “Head of the Designated State Medicaid Agency” and allow staff flexibility for wording and technical cleanup of the bill. Motion carried on a voice vote.

Senator Teichman moved, with a second by Senator Emler, to recommend **SB 491** favorable for passage as amended. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

SB 502--Coordinated system for long-term care services

Staff briefed the Committee on the bill.

The Chairman welcomed the following conferees:

Shannon Jones, Executive Director, Statewide Independent Living Council of Kansas(See Attachment 4 for Ms. Jones’ testimony regarding **SB 502**). Ms. Jones also explained that a portion of her testimony would be withdrawn because of the amendments that will be considered by the Committee.

Written testimony was provided by the following conferees on **SB 502**:

- Gary Daniels, Secretary, Kansas Department of Social and Rehabilitation Services (Attachment 20)
- Jim Beckwith, Executive Director, Northeast Kansas Area Agency on Aging (Attachment 21)
- Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association (Attachment 22)
- Michael Donnelly, Directory of Policy and Outreach, Disability Rights Center of Kansas (See Attachment 6 for Mr. Donnelly’s testimony on **SB 491**)

There being no further conferees to come before the Committee, the Chairman closed the public hearing on **SB 502**.

Chairman Umbarger explained that work has to be done regarding **SB 490** and **SB 502**. The Chairman asked that the stakeholders get together and work on it and then contact him when completed.

The meeting adjourned at 11:55 a.m. The next meeting was scheduled for February 16, 2006.

**SENATE WAYS AND MEANS
GUEST LIST**

Date February 15, 2006

NAME	REPRESENTING
Goldie Kiester	AARP
Ray D Jones	AARP
Violet Kaspie	AARP
Robert Kaspie	AARP
Mayorie Lopez	AARP
Joesma E. Smith	AARP
Lloyd Smith	AARP
Fred Sufe	AARP Chapter 2814
LUTISHA TERRELL	AARP
Cecilia Nelson	AARP
June Dirks	AARP Wichita
Bill Dirks	AARP
Martha Tredway	AARP 2313 Parsons
Shirley Keal	AARP 2313 Parsons
Robert Harvey	AARP
Eugene Fulton	AARP
Virginia Fulton	AARP
Leon Sumler	AARP
Richard Firmity	AARP
Ethel Firmity	AARP
Bob E Brown	AARP
Wilma M. Brown	AARP
Betty A Heady	AARP

**SENATE WAYS AND MEANS
GUEST LIST**

Date 2-15-06

NAME	REPRESENTING
Ralph E Heady	AARP
Betty Bishop	AARP
Russell J Bishop	AARP
Jacquie Orr	AARP
Lou Melgren	AARP
Betty McKinney	AARP
Carol Quatney	AARP
Pat Ogle	AARP
Dale Dunno	AARP
Eugene Fulton	AARP
Virginia Fulton	AARP
Kay Rini	AARP
Bertha M. LaSalle	AARP
Theresa Sanford	AARP
Kay Shields	AARP
Albert W Lea	AARP
Marcy Lea	AARP
Andra Barnhardt	AARP
Ruth Miller	AARP
Edith G Johnson	AARP
Ana Sardonai	AARP
Betty Scott	AARP (646.)
Bill Helford	AARP (646.)

**SENATE WAYS AND MEANS
GUEST LIST**

Date AARP 8-2-15-04

NAME	REPRESENTING
Jack Shuerian (646)	AARP
Martha Roberts (646)	"
Bob Roberts (646)	"
Betty Hight (646)	"
Don Hight (646)	"
Rev. James Wall (646)	"
Inez Olson (431)	"
Howard Hamilton	"
Evelyn Hamilton	"
Gary McKinney	"
Marian McKinney	"
Chris Clarke	LPA
Evelyn R. Wilton	AARP
Carolyn A. Taylor	AARP -
Louise Jones	Advocacy Comm. AARP - K.C. K Chapter 1544
Shirley McCann	AARP
Kilma Brooks	AARP
Jacqueline Morrison	AARP
Ruth Cross	"
Charlotte Siegel	"
Karl V. Saifert	"
Patricia Busenbark	aaRP
Bob Hinder	UMC-KS

**SENATE WAYS AND MEANS
GUEST LIST**

Date 2/15/06

NAME	REPRESENTING
Deborah Merrill	KHTC Ombudsman
Rosena McPheter	AARP
Joyce Shepard-Jackson	TILRC
John Depote	AARP
Pat Fyfe	AARP
Lela V. Moore	AARP
Deanne Breck	KABC
Joseph Coker	AARP
Emilie Rabbat	AARP
Frank Neulmb	AARP
John Kulin	AARP
Trula Liley	AARP
Maureen Jones	AARP
Kayall Adams	AARP
Louise Adams	AARP
Will [unclear]	AARP
Kathleen Smith	AARP
Diana Kerle	AARP
Melvin Dean Owen	KARP
Stacyann Mann	AARP
Jackie Fealey	AARP Ch 646
Jeanne Martin	AARP Dodge City
Denar Everhart	AARP Dodge City

Comparison of SB 490 and SB 502

Provision	SB 490 - " Kansas Long-Term Care Bill of Rights"	SB 502
Agencies involved	No specific agencies or responsible parties are named.	Department of Social and Rehabilitation Services, Department on Aging, Department of Administration, and the Kansas Health Policy Authority.
Overview	Sec. 1 (b)(1) Provides that the state shall strive to provide comprehensive integrated long term care system throughout the state.	Sec. 1(a) Requires certain agencies to provide a comprehensive, integrated long-term care system responsive to the long-term care needs for people of all ages and economic status.
Components	Not specifically addressed in this bill.	Sec. 1(m) Agencies shall meet with stakeholders and consumers. (n) Agencies and stakeholders, be responsible for educating the public about the integrated system.
	Sec. 1(b)(2) Policy shall stress individual choice, autonomy, self-determination, and privacy.	Sec. 1(c) Services shall stress individual choice, autonomy, self-determination and privacy.
	Sec. 1(b)(3) Service delivery shall be integrated and use more efficient service delivery to maximize state resources.	Sec. 1(e) Programs and services shall be integrated to ensure coordinated policy making and efficient service delivery.
	Not specifically addressed in this bill.	Sec. 1(f) Expedited eligibility services shall be made available to all persons eligible for services.
	Sec. 1(b)(8) Individuals shall have access to services through a coordinated point of entry as well as to current descriptive, comparative and cost-related information regarding various care options.	Sec. 1(h) Individuals shall have access to services through a coordinated point of entry as well as to current descriptive, comparative and cost-related information regarding various care options.
	Sec. 1(b)(5) Individuals shall receive necessary care and services in the least costly and least confining setting of choice.	Sec. 1(g) Services shall be in the least costly and confining appropriate to the person's needs.
	Sec. 1(b)(7) HCBS services shall be expanded and improved in a way that supports and complements services provided by informal care givers.	Sec. 1(d) The range of services will be HCBS to institutional settings and will maximize informal care givers.

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Attachment 1

Provision	SB 490 - " Kansas Long-Term Care Bill of Rights"	SB 502
	Sec. 1(b)(10) Strong consumer protection and adequate oversight, as well as advocacy and enforcement shall be available for consumers.	Not specifically addressed in this bill.
	Sec. 1(b)(9) The foundation of the system shall be the strong reporting requirements to document quality and performance of all providers.	Sec. 1(j) Tracking and service delivery of persons in the system shall be an integral part of the system. Sec. 1(l) The system shall include accountability and service delivery flexibility. Sec. 1(i) Agencies shall document the quality and performance of all providers.
	Sec. 1(b)(6) Funding shall be provided to improve access and information about care options other than nursing facilities.	Sec. 1(b) Intent is to ensure that all people needing long-term care are made aware, at the earliest possible time, of all of their living arrangement options.
	Sec. 1(b)(7) Eligibility requirements and provider reimbursements shall create incentives to expand services to serve individuals in the most appropriate setting of their choice and to provide quality service.	Not specifically addressed in this bill.
	Not specifically addressed in this bill.	Sec. 1(k) State General Fund appropriations for home and community based services are interchangeable between the agencies.
	Not specifically addressed in this bill.	Sec. 1(o) An action plan, with production benchmarks and feedback mechanisms, shall be submitted to the Governor and Legislature prior to January 10 th of each year.

Kansas Department of

Social and Rehabilitation Services

Gary Daniels, Secretary

Senate Ways and Means Committee

February 15, 2006

SB 490 with Amendments from SB 502

Health Care Policy

Gary Daniels, Secretary

785-296-3271

For additional information contact:

Public and Governmental Services Division

Kyle Kessler, Deputy Secretary for Public and Governmental Services

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Senate Ways and Means
2-15-06
Attachment 2

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

Senate Ways and Means Committee
February 15, 2006

SB 490 with Amendments from SB 502

Chairperson Umbarger and members of the committee, thank you for this opportunity to present testimony regarding Senate Bill 490 with proposed amendments. I am Gary Daniels, Secretary for the Department of Social and Rehabilitation Services. Our understanding is that an agreement between AARP and the Big Tent Coalition has been reached to allow for some provisions of SB 502 to go into SB 490, thus establishing a solid set of guiding principles from which state agencies and advocates may work. SB 490 directs that a coordinated system for long-term care services be established. This is to be done through the Department of Social and Rehabilitation Services (SRS), the Department on Aging (KDOA), the Department of Administration, and the Health Policy Authority. The goal is the development of a comprehensive integrated long-term care system. SRS supports the coordinated effort of an initiative to assure that there are a variety of services available to Kansans who are elderly or have disabilities.

With the prospective amendments, SB 490 makes several points that are necessary in providing services to individuals who are aging or have disabilities. SRS supports the following directives in SB 490:

- Long-term care services shall stress individual choice, autonomy, self-determination and privacy;
- The maximum use of informal caregivers;
- Education of consumers and their families regarding the variety of services available and the settings in which those services may be provided;
- Services to elderly and disabled individuals will be provided in the least costly and confining setting and meet the needs of the individual; and
- The system should include accountability and service flexibility, and Stakeholder involvement.

As stated, SRS supports the concept of a comprehensive integrated long-term care system. If the amendments from SB 502 are included, SB 490 provides directives to agencies to continue to work together to provide a strong, coordinated system for Kansans.

Thank you for the opportunity to present this information to you today. I will be happy to stand for questions.

KANSAS

DEPARTMENT ON AGING
KATHY GREENLEE, ACTING SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

SENATE COMMITTEE ON WAYS & MEANS
SB 490 / Long-Term Care Bill of Rights
Acting Secretary Kathy Greenlee
Feb. 15, 2006

Chairman Umbarger and members of the committee:

Thank you for the opportunity to appear today in support of SB 490. As the Kansas Long-Term Care Bill of Rights, SB 490 codifies the guiding principles under which the Kansas long-term care system is built.

KDOA's mission is three-fold. The department activities all center on advocating for seniors, purchasing services and serving as the regulator of compliance with state and federal laws and regulations. We are ever mindful of our responsibility to be diligent and responsive to the social, health care, nutritional, house and transportation needs of Kansas seniors.

SB 490 sets the philosophical direction for all partners within the aging network. It also is aligned with KDOA's goals of promoting healthy aging with personal and financial independence, providing an array of service choices, the procurement and provision of high quality services and supports at all levels of individual need and the provision of effective, efficient and affordable services and supports for Kansas seniors.

Kansas is fortunate to have a strong network of senior advocates and committed providers. SB 490 gives us, collectively, a road map as we build on our tradition of respect and compassion for our elders.

KDOA is pleased to support the Kansas Long-Term Care Bill of Rights and encourages you to support SB 490.

NEW ENGLAND BUILDING, 503 S. KANSAS AVENUE, TOPEKA, KS 66603-3404

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*Senate ways and means
2-15-06
Attachment 3*

TESTIMONY

Senate Ways & Means Committee

SUPPORTING SB 490 with amendments

February 15, 2006

I am Shannon Jones, executive director of SILCK and spokesperson for the BTC. We have met with AARP and have talked with them about the bill they had introduced and the bill the BTC had introduced (SB 502). We think there are many features that are similar in the two bills. For that reason and in the interest of your time, we would suggest consolidating our efforts. In the spirit of cooperation with the fine work of AARP, we are speaking in support of SB 490 with suggestions for amendments that bring the two bills together in even more meaningful legislation.

We commend the members of the committee for presenting this legislation. It is in keeping with movements across the country. It is legislation that will put Kansas in the forefront of concern for its citizens who are in the need of some type of supported services.

We think this legislation carries out the intent of the Medicaid Reform Committee, 2005. The report from that committee reads as follows:

The Committee recommends the Department of Aging, the Department of Social and Rehabilitation Services, the Department of Health and Environment, the Division of Health Policy and Finance, and the Health Policy Authority coordinate efforts to ensure that persons who are being discharged from hospitals or evaluated for nursing facility placement are informed of the array of services available to them in both alternate levels of adult care homes and the community. The agencies should insure that community organizations and agencies they work with develop appropriate mechanisms to insure that information is available locally.

This recommendation coming out of the Medicaid Reform Committee Report is in line with what is being recommended at the federal level. It is in line with giving great numbers of Kansans choice and independence as they think about future living arrangements. A Supreme Court decision has held that unjustified isolation or segregation of qualified individuals through institutionalization is a form of discrimination. The federal office of Civil Rights has urged the states to increase access to community-based services.

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Attachment 4

From our own experiences or awareness of the wishes of elderly persons or persons with disabilities; we know that their wish is to be in their own homes and communities.

Over the last several months a number of persons from government and non-government agencies have been meeting to work through an operational philosophy as to how the state ought to respond to those Kansans needing some type of community support and services. My testimony will list out some of the recommendations from that work group. You will see that their recommendations match very closely to the provisions of SB 490 with the addition of some amendments from SB 502.

Kansas should adopt a philosophical commitment and legislative directive to provide as much long-term care as possible in community based settings...Consumers, family members need immediate access to information about long-term care options...Fast track eligibility and expedited service delivery.

The Kaiser Commission on Medicaid and the Uninsured filed a report, September 2005, on strategies for keeping consumers out of nursing facilities. That report made the following recommendations and observations after reviewing practices in eight states.

“The state Medicaid programs that are the most successful at keeping people in the community do not operate separate ‘transition’ or ‘diversion’ programs. Rather they have made systemic changes to increase the capacity for community-based care, to inform consumers about options for care, and to assist consumers as they make choices about care.”

The Report goes on to say there is the need for a philosophical commitment and legislative direction...there is the need for fast eligibility determination...it spoke of the need for making community care available immediately...there needs to be a procedure to track and manage placements...there is the need to assure financing for community care...an important part of any community care program is to assure the availability of accessible and affordable housing...consumers and professionals need information about the options for care.

The history of community-care within our own state has been an interesting development. In the 1970's care in nursing facilities was provided by the state for approximately 13,500 persons. During FY 2005, the number got down to approximately 10,400. However, during the first six months of FY 2006 that number is creeping up and we had four months when the number was in excess of 11,000. This up swing suggests that there is the need for this legislature to move to implement the recommendations of the Medicaid Reform Committee and to be responsive to national developments. It is important for all of us to take

a moment and look inward and note the feelings each of us has to be at home and in our own communities.

Even as we look at all of those humane concepts, we have the added advantage of moving to the adoption of a concept which is cost effective in a medical system where it is difficult to develop cost effective measures. Through the utilization of community care type of services, there is the possibility that we can provide services for 2-3 Kansans for every person who would otherwise go into institutional care. In terms of community care as an advantage to all persons; I call special attention to one statistic in the 2000 census. In the reading of the census, we are pleased to point out that through the good efforts of many Kansans, over 50% of the persons with disabilities are employed. This figure is twice the national figure.

We recognize that as we talk about this philosophical, legislative directive; there may be some concern about the "woodwork" effect. On that point, let me indicate; Kansas has been involved with community care efforts over the last 25 years. It seems likely that the "woodwork" effect has played itself out. There still may be spikes from time-to-time but I think it is unlikely that there will be dramatic increases in the future. The re-balancing which is underway at the present time will continue but with the passage of this legislation it will be more focused.

Now I direct your attention to SB 490:

Sec. 1. (a) Sets forth this legislation as a long-term care bill of rights.

(b) Declares support for the dignity of individuals, that funding for community-based services is a priority and future policy will be developed along the following lines:

- (1) The state of Kansas shall strive to provide an integrated long-term care system throughout the state that is responsive to the varied needs of Kansans of any age or economic status;
- (2) Public policy shall stress individual choice, autonomy, self-determination and privacy;
- (3) The administration of public programs and services shall be integrated and maximize the appropriate use of state resources;
- (4) Long-term care eligibility requirements and provider reimbursements shall create incentives to expand the most needed services, in the most appropriate quality setting;
- (5) Elderly Kansans and persons with disabilities shall receive the necessary care and services in the least costly and confining setting of choice possible;
- (6) Public funding shall improve access to and information about care options other than nursing homes;

- (7) Home and community based care shall be developed in such a way that supports and complements the services provided by informal care givers;
- (8) All services shall be accessed through a single point of entry;
- (9) There shall be strong reporting requirements(**including a tracking and service delivery system that accounts for all persons in the system**) to document quality and performance of all providers;
- (10) There shall strong consumer protections and adequate public oversight.

The above is a re-statement and summary of the provisions of SB 490. I am in full support of that legislation. We would like to add several items for consideration, which we think, will strengthen the bill and make the philosophical declaration more definitive. If these concepts are agreed to, the language can be lifted out of SB 502. The amendments to be considered are attached to my testimony.

In conclusion, I commend the work of our colleagues at AARP and would urge the passage of SB 490 with amendments. With the committee's acceptance of adding the amendments and in the interest of time, we wholeheartedly support SB 490 and will withdraw SB 502.

Thank you for your consideration and would be happy to stand for questions.

Amendments to SB 490

(9), strong reporting requirements (**including a tracking and service delivery system that accounts for all persons in the system**) to document quality and performance of all providers shall be a foundation of the long-term care service system; delete the **and**

A new **(11) expedited eligibility determination and service delivery shall be made available to all persons eligible for services;**

A new **(12) the relevant state agencies shall meet with stakeholders and persons representing individuals receiving assistance under this act to ensure the appropriate implementation of care and services. The agencies and stakeholders shall be responsible for educating the public as to the availability of services; and**

A new **(13) an action plan with production benchmarks and feedback mechanisms shall be submitted to the governor and the legislature during the first week of the legislative session.**

Include Sec. 2. As is.



February 15, 2006
Senator Umbarger, Chair
Senate Ways and Means Committee
SB 490

Good morning Chairman Umbarger and Members of the Senate Ways and Means Committee. My name is Dr. Bill Dirks and I am from Wichita Kansas. I am the AARP Kansas Volunteer Federal Affairs Coordinator. AARP Kansas represents the views of more than 350,000 AARP members in the state of Kansas. ~~Thank you for this opportunity to express our strong support for SB 490 which would increase the Personal Needs Allowance for those who need it most.~~

Despite the progress made in the last ten years in creating a more balanced system, Kansas continues to institutionalize older adults at rates higher than the national average in all age categories.

Statewide surveys of Kansas' older adult population overwhelmingly indicate it's preference to receive long-term care services in the community.

For every older adult on the waiting list who chooses to enter a nursing facility, the state could have cared for several individuals in their own homes. Property and sales tax revenue is also lost with each nursing home admission.

System planning and development is critical in order to have a viable system when the Baby Boom generation becomes the Elder Boom generation.

A Long-Term Care Bill of Rights is often the first step toward shifting capacity and rebalancing our system from an institutional focus to a community focus.

A number of states have found that including a legislative directive in the state statute clearly emphasizes a philosophical commitment to a shift in resources from institutional providers, provision of care in the least restrictive settings, and emphasis on the provision and funding of HCBS services. In some cases, this initiative has been referred to as a Long-Term Care Bill of Rights.

In states that have progressive long-term care systems, usually the first step in the development of that system has been the enactment of a legislative policy or finding on long-term care. State approaches to implementing a Long-Term Care Bill of Rights varied significantly over the years. Oregon was the first state to enact such a provision (just a few sentences) in statute in 1981. Other states include Indiana (2002), New Mexico and Tennessee (1998), Washington (2000), and New Jersey (2004). Some provisions have been enacted through legislation; others have been implemented through executive order.

AARP Kansas believes that the time is right for passage of a Long-Term Care Bill of Rights. The Medicaid Reform Committee recommended that the state should be more proactive in promoting community based services and the Kansas Department of Aging is holding a series of care enhancement meetings with service providers to discuss deferment from nursing homes to home and community based services.

AARP believes that, in keeping with the traditional concept of the inherent dignity of the individual in our democratic society, older citizens and those with disabilities are entitled to enjoy health, honor and dignity; that funding for long-term care/home and community based services is a priority. Therefore, we respectfully request your support of SB 490.

Thank you for your consideration in this request.

Long-Term Care Bill of Rights

An act concerning older and disabled citizens; relating to appropriate long-term care for the elderly and disabled in Kansas; providing long-term care principles.

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

Section 1. The Kansas Legislature finds and declares that, in keeping with the traditional concept of the inherent dignity of the individual in our democratic society, the older and disabled citizens are entitled to enjoy their later years in health, honor and dignity; that funding for long-term care/home and community based services is a priority; and that future policy development shall be guided by the following principles:

- (1) The state of Kansas shall strive to provide a comprehensive, integrated long term care system throughout the state that is responsive to the varied long term care needs of Kansans of any age, or economic status;
- (2) Public Policy related to long term care shall stress individual choice, autonomy, self-determination, and privacy;
- (3) Administration of public programs and services to serve all LTC populations shall be integrated to ensure better, more coordinated policy making, and more efficient service delivery, thus maximizing the appropriate use of state resources;
- (4) Long term care system eligibility requirements and provider reimbursements shall create incentives to limit unneeded kinds of capacity and to expand most needed kinds of services; to serve people in the most appropriate care setting of their choice; and to provide quality care;
- (5) The elderly and disabled citizens of Kansas shall receive the necessary care and services in the least costly and the least confining setting of choice possible;
- (6) Public funding shall improve access to and stress institutional and residential options other than nursing homes, as well as care in the home and community;
- (7) The expanded and improved home and community based care services shall be developed in a way that supports and complements the services provided by informal caregivers;
- (8) All long term care consumers shall have access to services through a single point of entry, as well as to current descriptive, comparative and relative performance, and cost-related information about their various care options;
- (9) **The foundations of the LTC delivery system shall be strong reporting requirements to document quality and performance of all providers and the ability to electronically track people and their care across the entire health and LTC service systems, shall be the a foundations of the LTC service system;**
- (10) Strong consumer protections and adequate public oversight, advocacy, and enforcement shall be available **to ensure for all LTC consumers receive appropriate, timely quality care.**
- (11) **Expedited eligibility determination and service delivery shall be made available to all persons available for service.**
- (12) **The relevant state agencies shall meet with stakeholders and persons representing individuals receiving LTC services assistance under this act on a regular and as needed basis to ensure the ongoing adequacy and quality of care and services.**

(13) A single annual report on the quality, adequacy, and costs of services for the aging and disabled populations, as well as specific recommendations and benchmarks for needed reforms, shall be provided to the legislature and the governor during the first week of the legislative session by the relevant state agencies.

Section 2) The act shall take effect and be in force from and after its publication in the statute book and shall be known and may be cited as the Kansas Long-Term Care Bill of Rights.

:



Disability Rights Center of Kansas
Michael Donnelly, Director of Policy & Outreach
635 SW Harrison, Ste 100 ♦ Topeka, KS 66603
785.273.9661 ♦ 877.776.1541 (Voice)
877.335.3725 (TDD) ♦ 785.273.9414 FAX
mike@drckansas.org ♦ Telephone Ext. #107

Testimony to the
Senate Committee on Ways and Means
Testimony in Support of SB 490, SB 491 and SB 502

February 15, 2006

Chairman Umbarger and the honorable members of the committee, my name is Michael Donnelly. I am the Director of Policy and Outreach for the Disability Rights Center of Kansas. The Disability Rights Center of Kansas (DRC) is a public interest legal advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities. As the state designated protection and advocacy system for Kansans with disabilities our task is to advocate for the legal and civil rights of persons with disabilities as promised by federal, state and local laws.

SENATE BILL 490: KANSAS LONG-TERM CARE BILL OF RIGHTS.

The principles of informed choice, least restrictive setting, self direction and independence are long standing tenants of the movement to ensure equal rights for people with disabilities. The Americans with Disabilities Act of 1990 promises that all federal, state and local government programs would be provided in the most integrated setting. K.S.A. 39-7,100 (b)(2) gives the assurance that persons who need long term care and use “attendant care” services “shall have the right to choose the option to make decisions about, direct the provisions of and control the attendant care services received by such individuals including, but not limited to, selecting, training, managing, paying and dismissing of an attendant.”

SB 490 seeks to ensure that all persons, regardless of their age or disability are provided the long term care option that meets their needs and preferences. No Kansan should be forced to live in an institution against their will, no matter how large or small the institution. SB 490 ensures that the state of Kansas will fully inform persons in need of long term care of all of the available options, from the least restrictive setting (home) to the most restrictive setting (nursing facility).

DRC believes that SB 490 firmly establishes two very important policies for older Kansans and Kansans with disabilities in need of long term care services: 1) “in keeping with the traditional concept of the inherent dignity of the individual in our democratic society, that older citizens and

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those with disabilities are entitled to enjoy health, honor and dignity; that funding for long-term care home and community based services is a priority;” 2) “strong consumer protections and adequate public oversight, advocacy and enforcement shall be available for all long-term care consumers.” Although many Kansas policymakers have worked to ensure that these principles guide the state’s long term care planning and programming, they have not always been a determining factor in service development.

Finally, DRC supports the amendments being offered by the Statewide Independent Living Council of Kansas (SILCK). DRC believes that expedited eligibility determination and services, consistent stakeholder input and effective planning can only improve the delivery of long term care services in Kansas.

SB 491: RELATING TO THE PERSONAL NEEDS ALLOWANCE

DRC is very supportive of the proposal to increase the personal needs allowance to a minimum of \$50 per month. DRC receives numerous complaints from residents of adult care homes and other facilities, and resident’s family members of the lack of resources to address resident’s basic personal needs. An allowance of \$30 is simply insufficient to manage hair appointments, personal hygiene items or even the ability to travel across town regularly to visit with family and friends.

One suggestion that DRC would make is that the allowance be extended to all persons whose income is surrendered because they reside in a Medicaid approved facility or Medicaid funded program that might apply the same personal needs allowance standard. Increasing the minimum personal needs allowance has been a long time coming. Persons who are aging and persons with disabilities who reside in Medicaid funded or licensed facilities ought to have reasonable access to the little things that make living more enjoyable.

SB 502: RELATING TO ESTABLISHING A COORDINATED SYSTEM FOR LONG-TERM CARE SERVICES

DRC is also supportive of the principles laid out in SB 502. Informed choice, self determination and a coordinated system of long term care services are critical to older Kansans and persons with disabilities remaining active and vibrant in their chosen communities. Like SB 490, SB 502 seeks to ensure that all persons in need of long term care are fully aware of the long term care options available to them. It also ensures that the consumer can choose which option best meets their needs and preferences.

Most importantly, SB 502 would require a seamless long term care system that has a coordinated system of entry and funding that follows the individual from one long term care service situation to another as their life changes over time. The result is not only a better system of care, but better managed financial resources necessary to support that system.



Topeka Independent Living Resource Center

785-233-4572 V/TTY • FAX 785-233-1561 • TOLL FREE 1-800-443-2207
501 SW Jackson Street • Suite 100 • Topeka, KS 66603-3300

Testimony presented to the Senate Ways and Means Committee
February 15th, 2006
by Tessa Goupil, Topeka Independent Living Resource Center
RE: SB 490

Dear Chairperson Umbarger and Committee Members;

My name is Tessa Goupil. I am representing Topeka Independent Living Resource Center (TILRC). TILRC is a 501(c)(3) civil and human rights organization. Our mission is to advocate for equality, justice and essential services for a fully integrated and accessible society for all people with disabilities.

Thank you for the opportunity to address the committee and show our support for SB 490. TILRC agrees that all people, including older people and people with disabilities are entitled to health, choice and freedom. Prioritizing funding for home and community based settings in long-term care will ensure that people have real choices.

When SB 490 says that Kansas shall provide a long-term care system that is responsive to various needs, that means an individual knows best what his or her needs are. When Section 1 (b)(3) calls for more "coordinated policy making" that means those receiving services must be encouraged to speak up and be heard. Home and Community Based Services are the most, and perhaps the only, effective way for recipients to do that. People who are warehoused, cataloged, and forgotten in nursing facilities are just that – forgotten.

Home and Community Based Services help policy makers beginning at the point a recipient enters the system. A recipient's needs should be assessed by a qualified advocate who specializes in freedom, dignity, and respect for the recipient. That advocate can either take those concerns to the policy makers or can assist the recipients themselves to address the policy makers in person.

Overall, HCBS provide more than long-term care. They provide policy makers with better information; they provide a community with more active participants in an economy; and they provide enriched lives for the people receiving them.

Developing policies that efficiently inform people of the options available to them provide more opportunity for Kansans to determine their own care. Oftentimes people will avoid the more costly institutional services to opt for home services, which maximizes the state's resources.

A person needing long term care should not be forced from home and loved ones in order to receive that care. TILRC asks that you pass SB 490 to address the long-term care needs and choices of Kansans.

Thank you.

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Long-Term Care Bill of Rights

An act concerning older and disabled citizens; relating to appropriate long-term care for the elderly and disabled in Kansas; providing long-term care principles.

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- (3) Administration of public programs and services to serve all LTC populations shall be integrated to ensure better, more coordinated policy making, and more efficient service delivery, thus maximizing the appropriate use of state resources;
- (4) Long term care system eligibility requirements and provider reimbursements shall create incentives to limit unneeded kinds of capacity and to expand most needed kinds of services; to serve people in the most appropriate care setting of their choice; and to provide quality care;
- (5) The elderly and disabled citizens of Kansas shall receive the necessary care and services in the least costly and the least confining setting of choice possible;
- (6) Public funding shall improve access to and stress institutional and residential options other than nursing homes, as well as care in the home and community;
- (7) The expanded and improved home and community based care services shall be developed in a way that supports and complements the services provided by informal caregivers;
- (8) All long term care consumers shall have access to services through a single point of entry, as well as to current descriptive, **comparative and relative performance**, and cost-related information about their various care options;
- (9) **The foundations of the LTC delivery system shall be strong reporting requirements to document quality and performance of all providers and the ability to electronically track people and their care across the entire health and LTC service systems, shall be the a foundations of the LTC service system;**
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- (12) **The relevant state agencies shall meet with stakeholders and persons representing individuals receiving LTC services assistance under this act on a regular and as needed basis to ensure the ongoing adequacy and quality of care and services.**

(13) A single annual report on the quality, adequacy, and costs of services for the aging and disabled populations, as well as specific recommendations and benchmarks for needed reforms, shall be provided to the legislature and the governor during the first week of the legislative session by the relevant state agencies.

Section 2) The act shall take effect and be in force from and after its publication in the statute book and shall be known and may be cited as the Kansas Long-Term Care Bill of Rights.

:



Jennifer Schwartz
Executive Director

Member Agencies:

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

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

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

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

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

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

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

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

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

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

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

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

SENATE WAYS AND MEANS COMMITTEE
Senator Umbarger, Chair
SB 490, as amended
February 15, 2006

Thank you for the opportunity to provide information for you today regarding the SB 490. I am Jennifer Schwartz, the Executive Director of the Kansas Association of Centers for Independent Living (KACIL). KACIL represents 12 Centers for Independent Living (CILs) across Kansas. KACIL is driven by the following mission statement: *To coordinate efforts within Kansas and the United States to the extent that these efforts will further independent living for all. KACIL will advocate for the civil rights of Kansans with disabilities.*

Centers for Independent Living provide services to people with any disability, of all ages. CILs provide information and assistance to businesses and other entities in the community to increase opportunities for people with disabilities to live, work, and play in all aspects of community life.

KACIL stands in strong support of SB 490 **with the suggested addition of amendments offered by the Statewide Independent Living Council of Kansas (SILCK)**. These amendments would include stakeholder input in implementation of the bill, provide an annual report to the Legislature and Governor, ensure that tracking service delivery is an integral part of the Long-Term Care system, and implement expedited eligibility for Long-Term Care services.

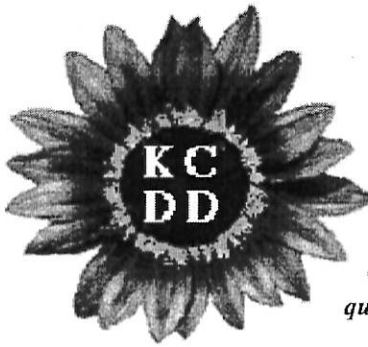
KACIL has a long history of promoting and empowering self-direction and consumer choice within our state for people with disabilities and the elderly. We believe this Long-Term Care Bill of Rights strives to promote and empower individuals, and give them the tools they need to make decisions and direct their own lives.

Most recently through the Interim Committee on Medicaid Reform this legislature committed to informing individuals of the array of options available within Long-Term Care services. Passage of this legislation would codify that commitment already voiced by members of this body.

KACIL believes that SB 490, as amended, is a huge step to establish a solid process of Long-Term Care Services in Kansas.

We thank you for your thoughtful consideration of this important legislation.

Jennifer Schwartz
Executive Director
KACIL



Kansas Council on Developmental Disabilities

KATHLEEN SEBELIUS, Governor
DONNA BEAUCHAMP, Chairperson
JANE RHYS, Ph. D., Executive Director

Docking State Off. Bldg., Room 141, 915 Harrison
Topeka, KS 66612-1570
Phone (785) 296-2608, FAX (785) 296-2861

"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"

SENATE WAYS AND MEANS COMMITTEE

February 15, 2006

Room 123-S

Mr. Chairperson, Members of the Committee, my name is Jane Rhys and I represent the Kansas Council on Developmental Disabilities. The Kansas Council on Developmental Disabilities supports Senate Bills 490, an act concerning funding for long-term care home and community based services and 502, an Act concerning individuals needing long-term care; establishing a coordinated system for long-term care services.

The Kansas Council is federally mandated and federally funded under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and receives no state funds. The Council is composed of individuals appointed by the Governor, including representatives of the major agencies who provide services for individuals with developmental disabilities. At least 60% of the membership consists of individuals who are persons with developmental disabilities or their immediate relatives. Our mission is to advocate for individuals with developmental disabilities to receive adequate supports to make choices about where they live, work, and learn.

We support the philosophy of both bills because they would set forth in statute the policy of Kansas regarding long-term care and would assist in the coordinated of various systems.

As always, we appreciate the opportunity to provide information to you would be happy to answer any questions. We can be reached at the following addresses.

Jane Rhys, Executive Director
Kansas Council on Developmental Disabilities
Docking State Office Building, Room 141
915 SW Harrison
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785 296-2608
jrhyes@alltel.net

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Southeast Kansas Independent Living Resource Center

**WRITTEN TESTIMONY TO
SENATE WAYS AND MEANS COMMITTEE
Regarding SB 490 with Amendments
February 15, 2006**

Mr. Chairman, members of the committee, thank you for the opportunity to provide you with written testimony on SB 490 - Kansas Long-Term Care Bill of Rights with amendments.

The Southeast Kansas Independent Living Resource Center (SKIL) strongly supports this legislation because it will assist SKIL in furthering its mission to **Empower, Integrate, and Maximize Independence for all persons with disabilities.**

Passage of SB 490 with amendments, also further exhibits the state of Kansas commitment to provide cost effective long-term care options, and uphold its philosophy that older Kansans and those with disabilities have the right to obtain long-term care services and supports in the most integrated, least restrictive environment possible. SB 490, with Amendments also allows systematic reform of the Kansas long-term care system that will be maintained, even if there are changes in funding levels.

Through this testimony, SKIL would like to point out the concepts in SB 490 with amendments that are necessary for the successful implementation of a long-term care system, which promotes choice, independence, and dignity for those who use it. The concepts include:

- Home & Community Based Services (HCBS) as a priority for long-term care service;
- Choice, autonomy, self-determination, and privacy are stressed in long-term care public policy;
- The administration of public programs and services is integrated;
- Improve access to, and information about, all long-term care options, including HCBS, as well as requiring the state agencies responsible for the implementation of long-term care services to educate the public on the array of services and options;
- Encourage the least costly and least confining setting of choice;
- Includes services that supports, compliments, and maximizes the use of informal caregivers;

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- Convene regular meetings with customers of service and those persons representing individuals eligible to receive services to insure appropriate implementation of long-term care programs and services; and
- Require strong reporting requirements and the tracking of the number of people receiving services and the costs, as well as a yearly report to the Governor and Legislature on the overall impact of the program, and customer satisfaction.

Older Kansans and Kansans with disabilities who choose home and community based long-term care services deserve, like those living in nursing homes, and other institutional or residential settings, a Bill of Rights, which insures that they will truly have Choice and Independence in their long-term care services.

Thank you for your leadership in introducing SB 490 and we look forward to working with you to achieve passage of SB 490 with amendments.

Respectfully Submitted by:



Anne-Marie Hughey
Legislative and Policy Advocate
SKIL
913-787-1862

Senate Subcommittee Reports

FY 2006

FY 2007

on

Governmental Ethics Commission



Senator Carolyn McGinn, Chairperson



Senator Jay Emler



Senator Chris Steiner

Senate Subcommittee Report

Agency: Governmental Ethics Commission **Bill No.**

Bill Sec.

Analyst: Deckard

Analysis Pg. No. Vol. 1, p. 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 central 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 Subcommittee Report

Agency: Governmental Ethics Commission

Bill No.

Bill Sec.

Analyst: Deckard

Analysis Pg. No. Vol. 1, p. 361

Budget Page No. 477

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

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.

Senate Subcommittee Recommendation

The Senate Subcommittee concurs with the Governor's recommendation.



February 15, 2006
Senator Umbarger, Chair
Senate Ways and Means Committee
SB 491

Good morning Chairman Umbarger and Members of the Senate Ways and Means Committee. My name is Audra Barnhart and I am from Parsons Kansas. I am the AARP Kansas Volunteer Community District Coordinator for the 2nd Congressional District. AARP Kansas represents the views of more than 350,000 AARP members in the state of Kansas. Thank you for this opportunity to express our strong support for SB 491 which would increase the Personal Needs Allowance for those who need it most.

We call them the Greatest Generation— our parents, our grandparents, our friends and neighbors. Most are now in their eighties and nineties, and many find themselves alone, in nursing homes and on Medicaid.

When nursing home residents become eligible for Kansas Medicaid, they give their Social Security check and all of their retirement income to pay as a contribution to the cost of their own care. Medicaid then pays the balance of the nursing home expense.

Federal law currently allows the resident to retain \$30 each month of his or her income as a "personal needs allowance" (PNA).

Any income above the PNA allowance is applied toward the cost of their care. This allowance is intended for the resident to spend at his/her discretion on items such as telephone expenses, a meal out with friends, cards to send to family, reading materials, or hobbies.

The PNA is important because it enables residents to maintain at least a minimum level of independence and decision-making. It is particularly important to those residents who do not have the support of family or friends to assist with their personal needs. These residents must purchase personal clothing and care items, slippers, shoes, and other essential items with a budget of only a dollar a day. Having money also enables residents to enjoy specific foods, activities, and products that enhance their day-to-day lives.

The PNA amount was set at \$25 dollars by federal law in 1974 and increased in 1988 and has not been increased since. States have the option of raising the rate, and a majority of states have done so, recognizing that the federal minimum is no longer adequate to afford nursing home residents a minimum level of comfort and dignity.

Kansas is one of only 11 states that has not increased PNA allowances for nursing home residents on Medicaid since 1988.

AARP believes SB 491 will bring Kansas into line with the majority of states and will adjust the PNA by an amount that approximates the rate of inflation since 1988. If adjusted for inflation since the federal PNA minimum was established in 1974, it would be over \$100 today.

The Kansas PNA has been \$30 for 18 years, and for all that this generation has given to Kansas, it is time to give them something in return— a little more of the dignity they deserve.

Therefore, we respectfully request your support of SB 491 and an increase in the Personal Needs Allowance for those persons receiving long-term care in a Medicaid approved institution or receive Supplemental Security Income Medicaid nursing home residents.

Thank you for your consideration in this request.

Personal Needs Allowances by State

NOTE: The BC PNA and SSI data was NOT updated in 2004.

STATE	NH PNA 9/1/01	NH PNA 12/1/04	Effective Date	% Change '00 - '01	% Change '01 - '04	BC* PNA	SSI	Comments
PUERTO RICO	N/A	N/A	N/A	N/A	N/A			Puerto Rico does not include Long Term Care in Medicaid
ARIZONA #	\$79.50	\$82.00	1/1/2001	6.0	3.1		\$30.00	Annual increase calculated at 15% Federal Benefits Rate (FBR)
ALASKA #	\$75.00	\$75.00	1988	0.0	0.0	\$75.00	\$75.00	
MINNESOTA	\$69.00	\$74.00	1/1/2001	6.2	7.2			Automatic annual increase equal to SSI COLA
DC	\$70.00	\$70.00	1998	0.0	0.0	\$70	\$70	VA in B&C varies based on habits and rank--min \$70.
MICHIGAN	\$60.00	\$60.00	10/1/1999	0.0	0.0	Disallow	\$60/\$40	1999 increase came partially in response to advocacy by the MI Campaign for Qual. Care
MARYLAND ^	\$40.00	\$60.00	2004	0.0	50.0	N/A~	\$30.00	Vet benefit varies if not 100% funded
SOUTH DAKOTA	\$30.00	\$60.00	2004	0.0	100.0			
MASSACHUSETTS ^	\$60.00	\$60.00	1990	0.0	0.0			
CONNECTICUT ^	\$54.00	\$57.00	7/1/2001	5.9	5.6			Automatic annual increase equal to COLA
NEW MEXICO + ^	\$47.00	\$52.00	7/1/2001	56.7	10.6	\$0.00		Increased to \$45 in 2000; annual increase based on Consumer Price Index (CPI)
INDIANA ^	\$50.00	\$52.00	2002	0.0	4.0	\$50.00	\$50.00	Legislature overrode a veto to increase PNA to \$52 for Medicaid and SSI
WASHINGTON + #	\$41.65	\$51.62	7/1/2005	-0.8	23.9	\$58.84		RCW and the WA LTCO worked on this in the 2005 legislative session
WYOMING #	\$50.00	\$50.00	7/1/2001	66.7	0.0	N/A~	\$50.00	
NEW HAMPSHIRE ^	\$50.00	\$50.00	1/1/2000	0.0	0.0			
NEBRASKA	\$50.00	\$50.00	9/1/1999	0.0	0.0	\$50.00	\$50.00	
COLORADO ^	\$50.00	\$50.00	7/1/1999	0.0	0.0	\$0.00		
WEST VIRGINIA #	\$50.00	\$50.00	7/1/1999	66.7	0.0		\$30.00	
NORTH DAKOTA + #	\$40.00	\$50.00	2002	0.0	25.0	\$45.00		1/1/02 PNA increased to \$50 for nursing, 7/1/02 increase to \$60 for BC
OKLAHOMA +	\$50.00	\$50.00	2001	66.7	0.0	\$25.00	\$30.00	Increase funded by NF provider fee
RHODE ISLAND	\$50.00	\$50.00	1999	0.0	0.0	\$55.00	\$55.00	BC/AL: DEA Waiver allows \$100 for 20 people
NEW YORK ^	\$50.00	\$50.00	1988	0.0	0.0	\$109.00		
CALIFORNIA ^	\$35.00	\$49.00	2003	0.0	40.0		\$30.00	
VERMONT ^	\$47.66	\$47.66	1/1/2001	0.3	0.0	\$47.66	\$47.66	Part of effort to make all supplements equitable
WISCONSIN	\$45.00	\$45.00	7/1/2001	12.5	0.0	N/A~		Legislature reviews PNA biennially
TEXAS ^	\$60.00	\$45.00	2003	33.3	-25.0	N/A~	\$45.00	Went from \$60 to \$45 in the 78th TX Legislature; Regular Session 2003
UTAH ^	\$45.00	\$45.00	1997	0.0	0.0			
DELAWARE ^	\$42.00	\$44.00	1998	0.0	4.8			
MISSISSIPPI + #	\$44.00	\$44.00	1988	0.0	0.0			
PENNSYLVANIA +	\$30.00	\$40.00	2004	0.0	33.3	\$60.00		Law (HB 1211) calls for an increase to at least \$45 in 7/2007.
TENNESSEE	\$30.00	\$40.00	2004	0.0	33.3		\$30.00	
IDAHO #	\$40.00	\$40.00	2000	33.3	0.0			Campaign for \$65 headed by LTCO
OHIO #	\$40.00	\$40.00	1998	0.0	0.0		\$30.00	
ARKANSAS + ^	\$40.00	\$40.00	1997	0.0	0.0	\$40.00	\$30.00	
KENTUCKY	\$40.00	\$40.00	1988	0.0	0.0			Legislation pending in 2005 to raise the PNA to \$80.
MAINE	\$40.00	\$40.00	1985	0.0	0.0	\$70.00	\$40/\$70	Effort to increase failed due to budget constraints
MONTANA #	\$40.00	\$40.00	1983	0.0	0.0	\$100.00	\$30.00	
LOUISIANA	\$38.00	\$38.00	1991	0.0	0.0		\$38.00	SSI- \$30 fed, \$8 state supplement
NEW JERSEY #	\$35.00	\$35.00	1990	0.0	0.0	\$87.50	\$87.50	BC and SSI PNAs are adjusted annually based on the federal COLA. Regulatory reference: N.J.A.C. 10:123-3.4.
FLORIDA + ^	\$35.00	\$35.00	1988	0.0	0.0			Attempts by agency and citizens to raise PNA have been unsuccessful
NEVADA #	\$35.00	\$35.00	1988	0.0	0.0	\$0.00	\$35.00	Legislature supported increase to \$75, but not included in state budget
SOUTH CAROLINA	\$30.00	\$30.00	1993	0.0	0.0	\$41.00		
NORTH CAROLINA	\$30.00	\$30.00	1991	0.0	0.0	\$56.00		

*Board and Care includes assisted living residential care facilities
+ 2001 data from state Medicaid office, all other 2001 data is from SLTCO
~ BC not covered by Medicaid
2004 data from SLTCO
^ 2004 data from ELDERBAR listserv participants

*Senate Ways and Means
2-15-06
Attachment 13*

Personal Needs Allowances by State

NOTE: The BC PNA and SSI data was NOT updated in 2004.

STATE	NH PNA 9/1/01	NH PNA 12/1/04	Effective Date	% Change '00 - '01	% Change '01 - '04	BC* PNA	SSI	Comments
ALABAMA #	\$30.00	\$30.00	1988	0.0	0.0			
GEORGIA #	\$30.00	\$30.00	1988	0.0	0.0			
HAWAII #	\$30.00	\$30.00	1988	0.0	0.0			
ILLINOIS ^	\$30.00	\$30.00	1988	0.0	0.0	\$30.00	\$30.00	In Illinois residents of "supportive living facilities" have a PNA of \$90/month.
IOWA ^	\$30.00	\$30.00	1988	0.0	0.0	\$50.00		Grass roots attempt to raise PNA to \$50 failed
KANSAS	\$30.00	\$30.00	1988	0.0	0.0			
MISSOURI	\$30.00	\$30.00	1988	0.0	0.0	\$25.00		Veteran benefit depends on income
OREGON + ^	\$30.00	\$30.00	1988	0.0	0.0	\$90.00	\$90.00	SSDI: additional \$25 transportation for the blind.
VIRGINIA +	\$30.00	\$30.00	1988	0.0	0.0	\$62.00		

*Board and Care includes assisted living residential care facilities
 + 2001 data from state Medicaid office, all other 2001 data is from SLTCO
 ~ BC not covered by Medicaid
 # 2004 data from SLTCO
 ^ 2004 data from ELDERBAR listserv participants

Personal Needs Allowances For Long Term Care Residents

December 2004

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ACKNOWLEDGEMENTS

The Ombudsman Resource Center thanks the staff of the state Medicaid offices; members of the ElderBar listserve, and the State Long Term Care Ombudsmen for helping us to obtain current information on this topic. Please notify Rose White, Information Specialist (rwhite@nccnhr.org) of any PNA changes in your state.

ABOUT THE AUTHORS

After practicing for over twenty years as a union-side labor lawyer and litigator, Sandra Hughes changed careers and has worked for the past three years as a policy analyst and advocate for the elderly. She has been a consultant for the American Bar Association's Commission on Law and Aging and for the National Citizens' Coalition for Nursing Home Reform. She is currently a volunteer long-term care ombudsman for Montgomery County, Maryland.

Gail MacInnes was the Family Liaison at the National Citizens' Coalition for Nursing Home Reform from March 1999 through January 2003. In that capacity, she responded to family member requests for assistance as they address quality of life and quality of care issues and provided training in Maryland on establishing and/or strengthening family councils in nursing homes. She is currently working for NCCNHR as a Program Associate.

The NORC appreciates the assistance of the American Bar Association Commission on Law and Aging, particularly intern Tina Geraghty, in collecting this information.

ABOUT THE REPORT

This report was supported, in part, by a grant, No. 90AM2690 from the Administration on Aging, Department of Health and Human Services. Grantees undertaking projects under government sponsorship are encouraged to express freely their findings and conclusions. Points of view or opinions do not, therefore, necessarily represent official Administration on Aging policy.

**PERSONAL NEEDS ALLOWANCE
FOR LONG TERM CARE RESIDENTS
December 2004**

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PERSONAL NEEDS ALLOWANCE FOR LONG TERM CARE RESIDENTS

Introduction/Background

The purpose of this paper is to provide an overview of the Personal Needs Allowance (PNA) in Nursing Homes and an initial look into the PNA in Board and Care Facilities. The topic of PNA is important to residents, ombudsmen, and other advocates in their efforts to maintain a higher standard for quality of life in long term care facilities. This paper does not provide an in-depth analysis of the Personal Needs Allowance but seeks to provide readers with a frame of reference and update regarding this topic including data about the amount of the PNA and advocacy examples.

The Personal Needs Allowance is the monthly sum that nursing home residents who receive Medicaid may retain from their personal income. Any income above the allowance is applied toward the cost of their care. This allowance is intended for the resident to spend at his/her discretion on items such as telephone expenses, cigarettes, a meal out with friends, cards to send to family, reading materials, or hobbies. The allowance is not intended to be used for personal items or services that a facility should be providing such as toothpaste, tissues, shampoo, incontinence products, etc.

The PNA is important because it enables residents to maintain at least a minimum level of independence and decision-making. It is particularly important to those residents who do not have the support of family or friends to assist with their personal needs. These residents must purchase clothes, slippers, shoes, and other essential items with a budget of only dollars a day. Having money also enables residents to enjoy specific foods, activities, and products that enhance their day-to-day lives. Some residents are also using the PNA to cover internet and cell phone expenses.

In 1974, federal regulation mandated that nursing home residents receiving Medicaid retain a minimum of \$25 a month from their personal income for their personal needs. Effective July 1, 1988 the minimum was raised to \$30. States are free to subsidize this amount.

Survey Design

This report is an update to the January 2000 and December 2001 reports: *Personal Needs Allowance for Long Term Care Residents*. The data in the previous reports was used for a baseline comparison to determine which states have recently increased the PNA.

The survey was conducted by the National Ombudsman Resource Center and the American Bar Association. Data was gathered primarily via the ELDERBAR listserv, hosted by the American Bar Association and from the offices of the State Long Term Care Ombudsman. Respondents were asked to report the PNA for Medicaid recipients and the date that those rates went into effect.

The main focus of the study in 2001 was on nursing homes; however, data was also gathered in 2001 about Personal Needs Allowances for residents of Board and Care facilities including assisted living (BC), SSI recipients, and Veteran Beneficiaries. The response rate from

the state ombudsmen that year for BC facilities was 53%, 47% for SSI recipients and 29% for veteran beneficiaries. None of this data was specifically requested for the 2004 update. The initial look at additional groups in 2001, though not complete, will serve as a baseline for future studies.

PNA for Nursing Home Residents

As of November 30, 2004, the average state monthly Personal Needs Allowance for nursing home residents was \$44.75, with a range from \$30.00 (AL, GA, HI, IL, IA, KS, MO, NC, OR, PA, SC, VA) to \$82.00 (AZ). This rate is a 3.4% increase from the \$43.29 average reported in 2001. Thirty dollars was the most frequent PNA rate reported and comprised 22% of the states (Table 1). It should be noted that \$30.00 is also the minimum monthly allowance permitted by federal Medicaid regulations. Table 2 indicates the states with the highest allowances.

Table 1. Distribution of Nursing Home PNA Levels
(50 states and DC)

Jan. 2000		July 2001		December 2004		
PNA Range	# of States	% of States	# of States	% of States	# of States	% of States
\$30-\$39	24	47.1%	19*	37.2%	17*	33.3%
\$40-\$49	14	27.5%	15	29.4%	14	27.4%
\$50-\$59	7	13.7%	10	19.6%	12	23.5%
\$60-\$69	3	5.9%	4	7.8%	4	7.8%
\$70-\$79	3	5.9%	3	5.9%	3	5.9%
\$80 - \$89	0	0%	0	0%	1	1.96%

*11 are at the \$30 rate per month

Table 2. Highest Nursing Home PNAs

State	PNA
Arizona	\$82
Alaska	\$75
Minnesota	\$74
District of Columbia	\$70
Massachusetts	\$60
Maryland	\$60
Michigan	\$60
South Dakota	\$60

* Note: In the December 2001 report, Texas had among the highest Nursing Home PNAs at \$60; however, the TX legislature decreased the amount from \$60 to \$45 in 2003.

Nine states reported an increase in PNA since 2001. Out of the nine, five (AZ, CT, DE, MN, NM) were a result of existing legislation providing for automatic annual increases in PNA. Four (IN, MD, ND, SD) were a result of newly passed legislation. Increases ranged from \$2.00 (IN) to \$30 (SD) with an average increase of \$9.72.

Protocols for automatic annual increases are in place in four states. Arizona allows for an annual increase equal to 15% of the Federal Benefit Rate (FBR). In Minnesota and Connecticut, increases in PNA are equal to the COLA used by the Social Security Administration. New Mexico bases its increases on the percent increase in the Consumer Price Index (CPI). While Wisconsin does not have a process to guarantee automatic increases, the Assembly has the opportunity by state statute to review PNA rates every two years if they choose as part of the budget process.

Although allowances in all other states increased or stayed the same, in Texas the personal needs allowance was *decreased* from \$60 to \$45 in 2003. (See "State Advocacy" section below.) Based on the information we have gathered since 2000, it appears that this is a unique occurrence. In 2004, the Wisconsin LTC Ombudsman Program successfully defeated a similar attempt to decrease the PNA for Wisconsin nursing home residents from \$45 to \$30.

PNA for Board and Care Facility Residents

* NOTE: This section was not updated in 2004; however, it will serve as the basis for future updates.

In 2001, an attempt was made to gather information about Personal Needs Allowances for residents of Board and Care (BC) facilities, including assisted living and residential care facilities. Medicaid does not pay for resident care in these types of facilities unless the state has a waiver to provide nursing home services in a lower level of care. However, a few states provide a Personal Needs Allowance to residents of Board and Care facilities as a part of state supplemental funds that are supplied to BC facilities. Sometimes this allowance is referred to as a living allowance, disallow, or disregard. Of the 28 states reporting data in 2001, 21 had PNAs for Board and Care residents. The average for states providing PNAs for BC residents in 2001 was \$56.55, with a range from \$25 (MO, OK) to \$109 (NY). Table 3 shows the distribution of PNA for BC facilities in the reporting states.

Table 3. Distribution of Board and Care PNA in 2001
(21 states reporting)

Range	# of States	% of States
\$20-\$29	2	9.5%
\$30-\$39	1	4.8%
\$40-\$49	5	23.8%
\$50-\$59	6	28.5%
\$60-\$69	1	4.8%
\$70-\$79	3	14.3%
\$80+	3	14.3%

Because residents in Board and Care homes are typically more independent and better able to participate in activities such as shopping, dining, and visiting, it follows that these residents would need more money for activities, clothing, and expenses. This is reflected in a

higher monthly average state allowance for board and care homes (\$56.35) compared to nursing homes (\$43.29). In more than half of the states providing PNAs to residents of Board and Care facilities in 2001, the allowance is higher than that given to nursing home residents.

Table 4. Comparison of BC and NH PNA in 2001

BC PNA vs. NH PNA	# of States	% of States
Less	3	14.3%
Equal	7	33.3%
Greater	11	52.3%

SSI and Veterans Benefits Recipients

* NOTE: This section was not updated in 2004; however, it will serve as the basis for future updates.

It should be noted that the Personal Needs Allowance for Medicaid recipients is not always the same as for SSI and Veterans Benefits recipients. There is separate federal legislation regarding the allowance for each of these groups.

The federal minimum allowance for SSI recipients is the same as for Medicaid, \$30. Because it is a separate piece of legislation, often increases in Personal Needs Allowance apply only to Medicaid recipients. Of the 23 states reporting PNA information for SSI recipients in 2001, 9 (39%) had rates below Medicaid, 12 (52%) had rates equal to Medicaid, and 3 (13%) had rates above Medicaid. In 2001, there were movements in several states, including Indiana, Oklahoma, and Vermont, to bring the PNA for SSI recipients up to par with Medicaid.

The Veterans Benefit is a complex issue. According to federal regulations, institutionalized veterans are entitled to a \$90 Aid and Attendance Allowance. This allowance is federally funded and, for those who qualify for Medicaid, is intended to be in addition to the Medicaid PNA. However, in 2001, states reported veterans' allowances from \$0 to \$109. A Bulletin from the Wisconsin Department of Veterans Affairs (Appendix B) states clearly that "Veterans in nursing homes are entitled to \$90 per month of their USDVA disability pension and may also receive \$40 a month from their personal income" with the remaining amounts going towards the cost of their care.

State Advocacy

Ombudsmen, residents, citizen advocates, and legislators have all worked to pass increases in the Personal Needs Allowances. The increases have come about through both budgetary and legislative means. The approaches taken in various states are described below including advocacy successes and barriers resulting in little or no change in the PNA.

Tennessee: In response to concern expressed by residents and volunteers visiting residents in Tennessee nursing homes, the Tennessee office of AARP led a campaign to raise the state's PNA from \$30 to \$50 in 2004. The effort ran into some opposition from the nursing home industry,

because, as drafted, the proposal called for the increase to be deducted from the facility per diem. The governor secured other resources to fund the increase; however, the final compromise raised the rate by \$10 to \$40, and started the increase in the middle of the fiscal year in January 2005. The Tennessee AARP was able to accomplish this raise because of the involvement of their volunteers (thousands of phone calls to the legislature), and their ongoing focus on long-term care issues in Tennessee. In January 2005 an omission in the legislation became apparent which resulted in the exclusion of residents on SSI from the increase. As of January 2005, the TN AARP was continuing to work on the issue and felt confident that the omission would be corrected and the increase would go into effect for SSI residents by July of 2005. For more information, contact Brian McGuire, TN AARP, tel. 615-726-5104.

Texas: In 2003, as part of House Bill 2292, the TX State Legislature reduced the nursing home resident Personal Needs Allowance from \$60 to \$45. This provision was part of an omnibus Medicaid reduction bill. The purpose of the bill was the consolidation of human services in the state. The bill also eliminated Medicaid coverage for eyeglasses, hearing aids, and podiatry and mental health services for nursing home residents. Advocates in Texas believe that many legislators were not aware of many of the provisions when the measure was voted on because of the size of the bill. Advocates have rallied to try to get these services and the \$60 PNA reinstated. Legislation with this aim has already been drafted for the upcoming 2005 legislative session. For more information, contact John Willis, Texas State Ombudsman at tel. (512)438-4356, email: john.willis@dads.state.tx.us.

Wisconsin: In 2004, the Wisconsin State Long-Term Care Ombudsman Program successfully fought back in the legislature against a proposal by the Wisconsin Department of Health and Family Services (DHFS) to decrease the Personal Needs Allowance for Wisconsin nursing home residents from \$45 to the federal minimum of \$30. The rationale for the decrease put forth by the DHFS was that federal law only requires a minimum of \$30, that the proposal would not affect residents on SSI since they are already at the \$30 level, and that \$30 should be sufficient to cover monthly personal needs. For more information, contact George Potaracke, Wisconsin State Ombudsman, tel. (608)246-7014, email: george.potaracke@ltc.state.wi.us.

Idaho: A friend of a nursing facility resident brought the need for an increase in the Personal Needs Allowance to the Idaho Ombudsman Program. The ombudsmen then made a proposal to the State Unit on Aging, the Idaho Commission on Aging, and the Commission decided to request an increase from \$30 to \$65. The ombudsmen began meeting with the Department of Health and Welfare. It surfaced that no one, not even the legislature, was certain what steps were necessary to increase the PNA. The ombudsmen did the necessary research, and with their persistence, the Department of Health and Welfare passed the final increase to \$40 through a budgetary request. The \$10 increase is considered by the ombudsmen to be an accomplishment since Idaho is a conservative state and Medicaid is frequently criticized for spending levels. The ombudsmen will continue to work for future increases each year. For more information contact Cathy Hart, Idaho State Ombudsman, at (208) 334-2220, email: chart@jcoa.state.id.us.

Washington, DC: Residents led the push for an increase in PNA in Washington, DC in 1991. Unique to the Washington area is the DC Coalition for Nursing Home Reform, which enables representatives from each of the area resident councils to meet bimonthly. The Coalition discussed the Personal Needs Allowance and organized to advocate for an increase. The residents attended City Council meetings and cited the increasing costs of food, cigarettes, and haircuts as reasons for an increase in their monthly allowance to \$90. The PNA was raised to

\$70 in 1991. Due to the political environment, there have not been further efforts for an increase. For more information contact Curmet Forte, President, DC Coalition for Nursing Home Reform, at tel. (202) 399-7504; or DC State LTC Ombudsman, Jerry Kasunic, (202) 434-2140.

Oklahoma: In Oklahoma, the increase in PNA from \$30 to \$50 was part of a larger more comprehensive piece of legislation. In the 2000 session, state legislation was passed that created a provider fee called the “Nursing Facility Quality Assurance Fee” for long term care facilities. The fee was based on a percentage of the gross patient revenues from all facilities of the state multiplied by the facility’s daily patient census. This fee was actually supported by the industry as a way to raise funds for increased reimbursement rates. Oklahomans for the Improvement of Nursing Home Care (OKINCH) took the lead in the campaign to ensure that with any increase, the funds would be put towards improving the quality of resident care. The Ombudsman Program played a key role in drafting the legislation that would eventually be passed.

While lobbying for increased funding, the industry claimed that resident acuity had increased. Resident advocates then pointed out to the industry that if patients with higher acuity were more costly to care for, they must also require more staff to care for them. The bill, HB 2019, included requirements for increased direct care staffing levels, an increased minimum wage for nurse aides, funding for 10 new ombudsmen and 10 health department inspectors, and coverage of eye-glasses, dentures, and non-emergency transportation for nursing home residents. On a technicality, SSI recipients were not included in those receiving the increased Personal Needs Allowance; they do, however, receive the other benefits. Efforts are underway to amend the bill to include SSI recipients in the PNA increase. For more information contact Esther Houser, Oklahoma State Ombudsman, at (405)521-6734, email: Esther.Houser@okdhs.org.

New York: The New York State Ombudsman Association, led by their Government Relations Committee, has started a campaign to pass legislation requiring nursing homes to file applications on behalf of residents on Medicaid who may be eligible for a Reduced Veterans Pension from the Veterans Administration (VA). The association cites that the allowance is an entitlement to the veteran and, because the pension is federally funded, it would result in no additional cost to the state. The ombudsmen requested that Assemblyman Ron Tocci draft the bill, which he did. The House approved the bill and now the ombudsmen are encouraging veterans and friends of veterans to contact their senators and the governor in support of bill S4023B. For more information contact George Pettengil, New York State Ombudsman Association, Government Relations Committee, (631) 427-3700 Extension 265.

Indiana: The Indiana Ombudsman Program took several steps to advocate for an increase in the PNA. Local ombudsmen promoted having facilities invite legislators to the nursing homes where residents advocated for an increase. In homes that did not hold meetings, ombudsmen assisted residents in phoning and writing their representatives and circulated petitions. United Senior Action, a citizens advocacy group, and the Ombudsman Program held a “PNA Rally Day” at the Statehouse to promote legislation to raise the PNA. Over sixty residents attended the rally. A bill to raise the PNA from \$50 to \$65 for both Medicaid and SSI recipients was introduced in April 2001. The bill was amended to allow an increase to \$52 and passed both chambers. The governor vetoed the bill due to budgetary constraints; however, in 2002 the legislature overrode the governor’s veto, and the increase to \$52 went into effect. For more information contact Arlene Franklin, Indiana State Ombudsman, at (317) 232-7134, email: afranklin@fssa.state.in.us.

Proposed National Legislation

In 2000, Representative Janice D. Schakowsky (D-IL) introduced legislation that would amend Title XIX of the Social Security Act to increase the Personal Needs Allowance from \$30 to \$50 for an individual, and from \$60 to \$100 for a couple. She first introduced the legislation in response to receiving a petition from more than 240 residents from a residential home for people with mental disabilities. The residents told her “how they struggled every day just to buy a new pair of shoes or to buy bus fare” (Appendix D). The bill (HR 5087) was referred to the House Energy and Commerce Committee, where it died. As of December 2004, there are no proposals to raise the Personal Needs Allowance pending before Congress.

Conclusion

Nursing Home residents in nine states now have more money in their PNA on a monthly basis than they received in 2001, with an average increase of \$9.72 a month. However, residents in 12 states (23.5%) receive the minimum Personal Needs Allowance mandated under federal law - \$30 a month. The Personal Needs Allowance has an important role in assisting residents to meet incidental needs that contribute to quality of life. It is obvious that in today’s economy, \$30 a month is not a sufficient amount for many residents to meet their personal needs. In fact, if the Personal Needs Allowance first set in 1974 had been increased at a rate equal to the Consumer Price Index (CPI), it would be \$115.19 in 2004. It is important that states, particularly those that are still at or near the federal minimum, increase the allowance to compensate for years without an increase. In addition, automatic increases in the PNA are important to keep pace with the economy.

The role of residents and resident advocates in advocating for adequate personal needs allowances must not be underestimated. In states that successfully increased the PNA from the \$30 minimum in 2001, advocates reported that there was no real resistance to increasing the PNA; legislators recognized that after so many years an increase in the allowance was past due. Many states, however, are now facing budget constraints that will challenge advocates who are addressing this issue. Advocates should not only work for allowance increases to meet the personal needs of residents, but also be vigilant in guarding against efforts to decrease the PNA as in Texas and Wisconsin.



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Testimony
Senate Ways and Means
Cindy Luxem, President
Kansas Health Care Association
February 15, 2006

Chairman Umbarger and Members of the Committee:

The Kansas Health Care Association would like to thank you for this opportunity to provide testimony in support of SB 491, increasing the personal needs allowance for nursing home residents.

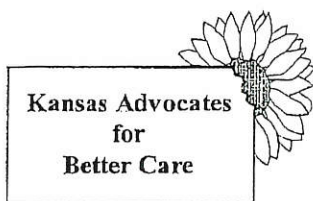
This proposed legislation would raise the personal needs allowance for nursing home residents. Kansas Health Care Association agrees residents should be allowed to keep more of their own money.

Residents currently retain \$30 each month of his or her income as a "personal needs allowance" (PNA). The PNA is used to cover the costs of clothing, personal care items, telephone service, postage and similar expenses. The adequacy of the PNA can determine whether an elderly resident is able to make their own choices for such as recreational activities away from their home.

We support an increase.

Thank you.

Senate Ways and Means
2-15-06
Attachment 15



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SB 491

Personal Needs Allowance (PNA) for Nursing Home Residents on Medicaid

February 15, 2006

Honorable Chairman Umbarger
and Committee Members:

Kansas Advocates for Better Care is enthusiastically supportive of SB 491.

Kansas Advocates for Better Care (KABC) is a statewide non-profit organization of consumers that advocates for quality long-term care. It has been assisting/guiding consumers for more than 30 years as they try to understand and make use of the complex long-term care system of services.

One part of the system is nursing home residents whose care is reimbursed by Medicaid. There are about 12,000 in Kansas. Residents whose care is reimbursed by Medicaid are allowed to retain the small sum of \$30 (in Kansas) from their personal income, such as Social Security, for their own personal use.

According to a December 2004 report from the National Citizens Coalition for Nursing Home Reform (NCCNHR), "The Personal Needs Allowance is the monthly sum that nursing home residents who receive Medicaid may retain from their personal income. Any income above the allowance is applied toward the cost of their care. This allowance is intended for the resident to spend at his/her discretion on items such as telephone expenses, hair cuts and styling, cigarettes, a meal out with friends, greeting cards, reading materials, or hobbies. The allowance is not intended to be used for personal items or services that a facility should be providing such as tooth paste, tissues, shampoo, incontinence products, etc. The PNA is important because it enables residents to maintain at least a minimum level of independence and decision-making.... \$30.00 is the minimum monthly allowance permitted by federal Medicaid regulations.... If the Personal Needs Allowance first set in 1974 had been increased at a rate equal to the Consumer Price Index, it would be \$115.19 in 2004... As of November 30, 2004, the average state monthly Personal Needs Allowance for nursing home residents was \$44.75, with a range from \$30.00 to \$82.00."

KABC recognizes the fiscal burden to the state in implementing the proposed increase in the personal needs allowance yet we are all shamed by the miserly allowance that shows disrespect for our frail elders. We encourage you to show that Kansans care about their frail, needy elders in the long-term care system. Show you care by increasing the PNA.

Thank you for this opportunity to testify in support of SB 491.
Deanne Bacco, Executive Director

Senate Ways and Means
2-15-06
Attachment 16

Testimony of Jim Beckwith, NEK-AAA, on SB491

Chairman Umbarger and Committee Members:

Thank you for allowing me to submit written testimony on SB491. I regret that I am unable to be in Topeka at this hearing, and I apologize for my absence.

I strongly support SB491, and encourage its' passage.

Kansas is one of a very few states that has not increased the personal needs allowance for nursing home residents for years and years. \$30.00 simply will not buy what it used to.

There are nursing homes in rural Kansas where cable TV is an individual responsibility, and often just basic cable is more than \$30.00 per month.

Long distance telephone service often costs more than \$30.00 per month, and for many in rural areas, where family members have moved away, nursing home residents cannot afford to keep in touch with loved ones.

The costs of hair care, shampoo and other personal hygiene items may often exceed \$30.00 per month for a nursing home resident.

Nursing homes do not provide residents with shoes, slippers, or new clothing, lift chairs, wheel chairs, or tobacco products.

If we want people in nursing homes to continue to enjoy some semblance of a "normal life" and when possible, return to their community, why should we have an antiquated fiscal policy which promotes isolation, self neglect, and destitution?

Thank you.

Jim Beckwith
NEK-AAA Executive Director

Senate Ways and Means
2-15-06
Attachment 17



To: Senator Dwayne Umbarger, Chair, and Members
Senate Ways and Means Committee
From: Debra Zehr, Executive Vice President
Date: February 15, 2006

Testimony in Support of Senate Bill 491

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

We ask for your support of Senate Bill 491, which would increase the personal needs allowance (PNA) for nursing home residents whose care is paid for by Medicaid from \$30 to \$50.

The \$30 allowance was established by federal law in 1988. With only \$30 available to use at their own discretion, poor nursing home residents have to make choices between getting a perm or haircut, having a private phone, purchasing even the most basic clothing, and taking a little extra spending money for special outings up town. The modest \$20 increase proposed in Senate Bill 491 will help improve the quality of life for our most frail and poor elders.

Thank you for your favorable consideration of Senate Bill 491. I would be happy to answer questions, as would John Peterson or Bill Brady, KAHSA's "on the ground" people at the Statehouse.

KANSAS
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Meeting the Needs of Older Kansans

1720 SW TOPEKA BOULEVARD • TOPEKA, KS 66612 • 785-235-8734 • FAX - 785-235-8747

To: Senate Ways and Means Committee
From: Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association
Date: February 15, 2006

Testimony in Support of Senate Bill 491

Chairman Umbarger and members of the committee, I appreciate the opportunity to provide written testimony regarding SB 502. Kansas Area Agencies on Aging Association's (K4A) mission is to work to improve services and supports for all older Kansans and their caregivers. K4A represents all eleven Area Agencies on Aging (AAA) who provide information and coordinate services for seniors in all 105 counties of Kansas.

The Kansas Area Agencies on Aging Association stands in strong support of SB 491.

The \$30.00 monthly personal needs allowance for a resident of nursing homes has been in place for many years. It is time for a major increase in personal needs allowance amount.

Residents of nursing homes are expected to use this allowance of \$30.00 to pay for their personal needs. Can you imagine trying to pay to long distance phone service, hair cuts/styling, hygiene items, shoes, clothing, and other items for \$30.00 per month? Well that is what we are currently expecting of nursing home residents in Kansas.

If we want Kansas nursing home residents to be able to have some semblance of a normal life and be able to meet their personal needs it is time to increase the personal needs allowance.

I ask for your support of SB 491.

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Senate Ways and Means
2-15-06
Attachment 19

Kansas Department of

Social and Rehabilitation Services

Gary Daniels, Secretary

Senate Ways and Means Committee
February 15, 2006

SB 502

Health Care Policy
Gary Daniels, Secretary
785-296-3271

For additional information contact:

Public and Governmental Services Division

Kyle Kessler, Deputy Secretary for Public and Governmental Services

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Senate Ways and Means
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Attachment 20

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

Senate Ways and Means Committee
February 15, 2006

SB 502

Chairperson Umbarger and members of the committee, thank you for this opportunity to present written testimony regarding Senate Bill 502 with proposed amendments. SB 502 establishes a solid set of guiding principles from which state agencies and advocates may work. SB 502 directs that a coordinated system for long-term care services be established. This is to be done through the Department of Social and Rehabilitation Services (SRS), the Department on Aging (KDOA), the Department of Administration, and the Health Policy Authority. The goal is the development of a comprehensive integrated long-term care system. SRS supports the coordinated effort of an initiative to assure that there are a variety of services available to Kansans who are elderly or have disabilities.

SB 502 makes several points that are necessary in providing services to individuals who are aging or have disabilities. SRS supports the following directives in SB 502:

- Long-term care services shall stress individual choice, autonomy, self-determination and privacy;
- The maximum use of informal caregivers;
- Education of consumers and their families regarding the variety of services available and the settings in which those services may be provided;
- Services to elderly and disabled individuals will be provided in the least costly and confining setting and meet the needs of the individual; and
- The system should include accountability and service flexibility, and Stakeholder involvement.

As stated, SRS supports the concept of a comprehensive integrated long-term care system.

Thank you for the opportunity to present this information to you today.

Testimony of Jim Beckwith, NEK-AAA, on SB502

Chairman Umbarger and Committee Members:

Thank you for allowing me to submit written testimony on SB502. I regret that I am unable to be in Topeka at this hearing, and I apologize for my absence.

I stand in strong opposition to many of the points of SB 502.

First, **there already exists** a “coordinated system for long-term care services” (line 10) in Kansas for seniors, and it is working very well under the Kansas Department on Aging (KDOA). In addition, there are significant reasons why KDOA is its own cabinet level agency.

Second, (line 21-22), while I wholeheartedly support “choice”, some in the physically disabled community define “autonomy” as a complete lack of regulation or outside oversight. They further define “self-determination” as the customer being provided anything and everything they want, not just what they truly need. **Does the state really want to give “carte blanche” to so many people?**

Third, “all programs and services” (line 26) **for seniors are already highly integrated**, combining federal and state funds with customer contributions, local funds, unpaid family provided services, personal insurance, grants, and community supports. Federal law dictates that Older American’s Act services be administered by the state unit on aging (KDOA), through Area Agencies on Aging.

“All” seniors (line 32) **already have access through the “single point of entry” for senior services in Kansas – the Area Agencies on Aging.** It is unfortunate that physically disabled Kansans are not being fully informed by Independent Living Centers of those services upon their turning age 65.

KDOA already has an extensive, and very reputable, quality assurance program in place, which already attests to how superior the current integrated single point of entry system is working (lines 35-36)).

“Interchangeable” funding (line 40) is the **true, insidious goal** of some within the disability community. They seek to continue feeding the unlimited wants of some of their consumers with money they would take from senior services funding. Based upon the SRS Real Choice Systems Change grant project, it is clear that **they want the legislature to fund everything they desire**, whether it is really a need or not, and to be able to sue the legislature and providers if their every whim is not met. I don’t think you want that to happen, do you?

Kansas already has a superb continuum of care system of integrated services for all seniors, which works incredibly well. Area Agencies on Aging, Providers and families work with KDOA to meet the needs, not “greeds”, of elderly Kansans by using a wide variety of supports, paid and unpaid, federal, state, local and family funded. This bill would destroy that system.

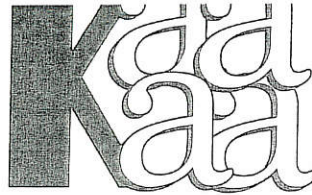
Thank you.

Jim Beckwith

NEK-AAA Executive Director

Senate Ways and Means
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THE
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Meeting the Needs of Older Kansans

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To: Senate Ways and Means Committee
From: Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association
Date: February 15, 2006

Testimony in Opposition of Senate Bill 502

Chairman Umbarger and members of the committee, I appreciate the opportunity to provide written testimony regarding SB 502. Kansas Area Agencies on Aging Association's (K4A) mission is to work to improve services and supports for all older Kansans and their caregivers. K4A represents all eleven Area Agencies on Aging (AAA) who provide information and coordinate services for seniors in all 105 counties of Kansas.

The Kansas Area Agencies on Aging Association stands in opposition to SB 502.

There are portions of this bill that we agree with though they are more of a philosophical statement than legislation. We wholeheartedly support an individuals choice of settings in which they choose to receive services.

The aging service system already has access to information and services through a "single point of entry" which has been in place since 1997. This system has worked very well in assisting the seniors

One major concern is in section (k). K4A has concerns as to what impact the shifting of funds between agencies will have on aging services now and into the future. If the funds get shifted from aging to other agencies during the year or after the year; what future budget impact does this change have on aging services? Do the funds stay in the other agency in future years?

However, we also have concerns about what this bill would do to an already well developed and highly integrated service system for Kansas seniors that is currently in place. Is this legislation really a precursor to trying to create the "single waiver, put everything under one organization system" that independent living centers have been pushing for? A system which takes from the Kansas Department on Aging the highly efficient HCBS-Frail Elderly waiver and other senior services and places them back together like when they were with SRS years ago. The prior system did a poor job of serving Kansas seniors and I ask that we don't take this step toward putting that system back into place.

We have concern as to what the true goal of this legislation is.

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We thank you for your commitment to serving older Kansans. We ask for you to oppose of Senate Bill 502.

Craig Kaberline, Executive Director
Kansas Area Agencies on Aging Association