Approved: March 20, 2007
Date

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 10:37 A.M. on February 7, 2007, in Room 123-S of the Capitol.

All members were present.

Committee staff present:
Norman Furse, Revisor Emeritus
Jill Wolters, Senior Assistant, Revisor of Statutes
Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Reagan Cussimanio, Kansas Legislative Research Department
Julian Efird, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Michael Steiner, Kansas Legislative Research Department
Melinda Gaul, Chief of Staff, Senate Ways & Means
Mary Shaw, Committee Assistant

Conferees appearing before the committee:
Christopher Tymeson, Chief Legal Counsel, Kansas Department of Wildlife and Parks
Tim Madden, Senior Counsel, Kansas Department of Corrections
Christie Herrera, Director, Health and Human Services Task Force, ALEC

Others attending:
See attached list.

Bill Introductions

Senator Barone moved, with a second by Senator Kelly, to conceptually introduce a bill regarding law enforcement and benefits for Fraternal Order of Police similar to Fire Fighters. Motion carried on a voice vote.

Senator Wysong moved, with a second by Senator Schodorf, to introduce a bill concerning Kansas state schools for the blind and the deaf, rates of compensation for teachers (7rs1106). Motion carried on a voice vote.

Senator Schodorf moved, with a second by Senator Steineger, to introduce a bill concerning assessed valuation of certain property located in Cherokee county; gaming facilities (7rs1085). Motion carried on a voice vote.

Chairman Umbarger opened the public hearing on:

SB 157--Requiring the department of wildlife and parks to purchase vessel liability insurance

Staff briefed the Committee on the bill.

The Chairman welcomed Christopher Tymeson, Chief Legal Counsel, Kansas Department of Wildlife and Parks, who spoke in support of **SB 157** (Attachment 1). Mr. Tymeson explained that the bill was introduced on request of the Department. He explained that the Department feels it is prudent in light of the litigious nature of society today to purchase vessel liability insurance in order to provide better protection for the state and its employees as well as members of the public who could come into contact with state owned vessels.

There being no further conferees to come before the Committee, the Chairman closed the public hearing on **SB 157**.

MINUTES OF THE Senate Ways and Means Committee at 10:37 A.M. on February 7, 2007, in Room 123-S of the Capitol.

Senator Wysong moved, with a second by Senator Betts, to recommend **SB 157** favorable for passage. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

SB 165--Increasing the limit of settlement authority of the secretary of corrections from $500 to $2,500

Staff briefed the Committee on the bill.

Chairman Umbarger welcomed Tim Madden, Senior Counsel, Kansas Department of Corrections, who testified in support of **SB 165** (Attachment 2). Mr. Madden explained that **SB 165** would increase the claim settlement authority of the Secretary of Corrections to $2,500 which would be identical to the claim settlement authority currently provided to the University of Kansas Medical Center and the Kansas Highway Patrol. The $500 settlement limitation for the Secretary was established in 1988. Mr. Madden provided additional detail in his written testimony.

There being no further conferees to come before the Committee, the Chairman closed the public hearing on **SB 165**.

Senator Emler moved, with a second by Senator Kelly, to recommend **SB 165** favorable for passage. Motion carried on a roll call vote.

Chairman Umbarger welcomed Christie Herrera, Director, Health and Human Services Task Force, American Legislative Exchange Council, who provided an overview of Consumer-Directed Medicaid Reform (Attachment 3). Ms. Herrera addressed the following information:

- Reviewed Kansas Medicaid spending and enrollment.
- Compared Kansas Medicaid spending and enrollment with other states.
- Discussed Medicaid's perverse incentives that increase costs and decrease quality of care.
- Highlighted consumer-directed Medicaid reform components from Florida, Oklahoma, South Carolina, Kentucky, West Virginia and Idaho.
- Advocated that Kansas should incorporate consumer-directed components in its Medicaid program.

Committee questions and discussion followed.

The meeting adjourned at 11:40 a.m. The next meeting is scheduled for February 8, 2007.

SENATE WAYS AND MEANS COMMITTEE
GUEST LIST

Date February 7, 2007

Name	Representing
Julie Thomas	DOB
Ron Seeber	Steinhaus Firm
Tim Madden	KDOC
Richard Samaniego	Samaniego & Associates
Kevin Siek	TILRC
Cindy Lash	Post Audit
Katrina C Kosmala	JJA
Kellen Petty	JJA
Cathy Clayton	KDOC
Colene Fischer	KDOC
Jeannie Walker	KDOC
Jennifer Keating	KDOC
Reb Arnold	KDOC
Hugh Poplee	KDOC
David Jones	KDOC
Mike Hammond	ACLU/KS
Linda Viera	KDOC
James Graham	KDOC
Wendy Leiker	JJA
Ray Reno	KDOC
Colette Winkelbauer	KDOC
Liz Rice	KDOC
Sarah McIntosh	FHCPPP

SENATE WAYS AND MEANS COMMITTEE
GUEST LIST

Date February 7, 2007

Name	Representing
Jessica Bergman	Sen. D Schmidt's Office
Craig Kibbe	KDOC
Brian Pond	KDOC
Diane W Dooley	KDOC
Carrie Hueber	KFMC
Sue Hamon	Pharmacy Intern
	KDOC
Josie Totten	SILCK
Tina Davis	KDOC
Kathie Harris	KDOC
Tara Green	Children's Mercy Family Health Partners
MARK BOTRANYK	CAPITOL STRATEGIES
Brad Smoot	CMH / FHP

KANSAS

DEPARTMENT OF WILDLIFE & PARKS KATHLEEN SEBELIUS, GOVERNOR

Testimony on SB 157 regarding Vessel Insurance
To
The Senate Committee on Ways and Means

By Christopher J. Tymeson
Chief Legal Counsel
Kansas Department of Wildlife and Parks

7 February 2007

SB 157 seeks to require the Department of Wildlife and Parks to purchase vessel liability insurance. The provisions of the bill would be effective on publication in the Kansas Register. **The Department supports the provisions contained in SB 157 and requested introduction of the bill.**

SB 157, dealing with vessel insurance, was introduced on request of the Department. State law requires specific statutory authority to purchase insurance and the current motor vehicle liability insurance policy does not cover vessels owned and operated by the Department. As such, the Department feels it is prudent in light of the litigious nature of society today to purchase vessel liability insurance in order to provide better protection for the state and its employees as well as members of the public who could come into contact with state owned vessels.

The Department estimates that the cost of purchasing vessel liability insurance would be approximately $27,000 annually.

Office of the Secretary
1020 S Kansas Ave., Ste. 200, Topeka, KS 66612-1327
Phone 785-296-2281 Fax 785-296-6953 www.kdwp.state.ks.us

Senate Ways and Means
2-7-07
Attachment 1

KANSAS
DEPARTMENT OF CORRECTIONS

Kathleen Sebelius, Governor
Roger Werholtz, Secretary

www.dc.state.ks.us

Testimony on SB 165
to
The Senate Ways and Means Committee

By Roger Werholtz
Secretary
Kansas Department of Corrections
February 7, 2007

The Department of Corrections supports SB 165. SB 165 amends K.S.A. 46-920 to increase from $500 to $2,500 the authority of the Secretary of Corrections to pay claims for personal injury and property damage. Increasing the claim settlement authority of the Secretary to $2,500 would be identical to the claim settlement authority currently provided to the University of Kansas Medical Center pursuant to K.S.A. 46-922 and the Kansas Highway Patrol as provided by L.2006 ch. 129 enacted last session. The $500 settlement limitation for the Secretary was established in 1988.

The department has in place an administrative remedy procedure that must be exhausted prior to the initiation of litigation for claims for personal injury and property damage. Under current law, the authority of the Secretary to settle such claims is capped at $500. In instances where the claim cannot be settled administratively, litigation is typically pursued entailing the expenditure of the state's resources in litigation defense costs and judicial resources. Additionally, in actions brought under the Federal Civil Rights Act, the state is exposed to payment of the claimant's attorney's fees. Increasing the settlement authority of Secretary to $2,500 would save the cost of litigation expenses, negate the potential of a higher damage award through an adverse verdict if accepted, and prevent the award of attorneys fees in situations where a firm settlement offer is tendered but rejected and the verdict is for an amount less than offered.

While exhaustion of the department's administrative claim procedure is required before litigation can be commenced, claimants may also seek redress through the Joint Committee on Special Claims Against the State. However, submission of a claim to the Joint Committee is not a prerequisite to bringing litigation. The department, however, believes that the history of claims awarded by the Joint Committee provides an indication of the frequency and types of claims that would be settled by the Secretary if SB 165 was adopted.

An increase in the amount of the settlement authority could be efficiently used in claims brought by inmates injured while working on work crews. Injuries resulting in burns and finger amputations been approved by the Joint Committee in amounts over $500 but for less than $2,500. SB 165 would allow these claims to be settled by the department without the expenditure of resources in either processing the claim to the Joint Committee or in litigation.

SB 165 would also provide the State with a valuable tool when litigation is brought in either state or federal court pursuant to the federal Civil Rights Act. State defendants are at a distinct disadvantage in federal civil rights litigation in that plaintiffs that prevail in some aspect of the

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2-7-07
Attachment 2

litigation are entitled to have the defendants paying the plaintiffs' attorney fees. The ability to have the defendants pay the fees of the plaintiff's attorney of course is taken into consideration by the plaintiffs bar in evaluating the settlement potential of a lawsuit. The only way to stop attorney fees from accruing is for the defendants to make a firm settlement offer and if the subsequent verdict is for a lesser amount, the plaintiff may not recover his or her attorney fees that accrued after the settlement offer was made. Under current law, the Secretary may not make a firm settlement offer for over $500. Additionally, while litigation has been settled by the State through the State Finance Council or through the legislative appropriations process, state attorneys in negotiating proposed settlements must make it clear to the plaintiff that final approval of any settlement is contingent upon approval of the Finance Council or enactment in an appropriations bill. Thus, attorney's fees would not be tolled while the settlement proposal is pending before the Finance Council or the full legislature.

The advantage of the Secretary having the authority to make a firm settlement offer up to $2,500 may have been beneficial in a civil rights action that was eventually settled by the Finance Council for $6,250. A firm settlement offer by the Secretary earlier in the litigation may have been accepted since the plaintiff's attorney would know that the defendant's liability for attorney fees after that point could be extinguished if a verdict was returned in an amount less than was offered.

The Department urges favorable consideration of SB 165.

Testimony by Tim Madden

American Legislative Exchange Council

Consumer-Directed Medicaid Reform:

Good for Beneficiaries and Taxpayers

Christie Raniszewski Herrera
Director, Health and Human Services Task Force
American Legislative Exchange Council

Testimony before the Kansas House Appropriations Committee and the Kansas Senate Ways & Means Committee
Wednesday, February 7, 2007

About ALEC

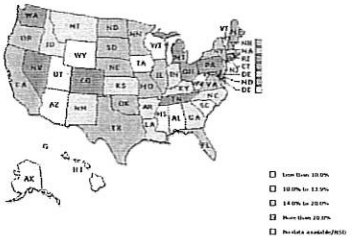
- ALEC is the nation's largest, nonpartisan membership association of state legislators.
- ALEC's membership boasts 2,400 legislators across the country, which is about 1/3 of all legislators nationwide. ALEC also has over 80 "alumni" members in Congress.
- ALEC's mission is to promote Jeffersonian principles in the states: free markets, individual liberty, limited government, and federalism.
- ALEC has been "on the ground" in many state Medicaid reform efforts, including: Florida, South Carolina, Oklahoma, Kentucky, Michigan, and Wisconsin.

An Overview

- **Review** Kansas Medicaid spending and enrollment.
- **Compare** Kansas Medicaid spending and enrollment with other states.
- **Discuss** Medicaid's perverse incentives that increase costs and decrease quality of care.
- **Highlight** consumer-directed Medicaid reform components from Florida, Oklahoma, South Carolina, Kentucky, West Virginia, and Idaho.
- **Advocate** that Kansas should incorporate consumer-directed components in its Medicaid program.

Medicaid Reaches the Breaking Point

Percentage of State Budget Spending on Medicaid, FY 2004



Source: Henry J. Kaiser Family Foundation, "Distribution of State General Fund Expenditures (in millions), SFY 2004"; www.statehealthfacts.org

Medicaid Reaches the Breaking Point

Kansas Medicaid Spending: State Comparisons

Category	Figure	State Rank
Total Medicaid Spending	$1.9 billion	36th
Medicaid Spending As % of State Budget	12.7%	32nd
Medicaid Spending Per Enrollee	$4,856 (on average)	16th
Average Annual Growthin Medicaid Spending	10% per year	10th

Source: Henry J. Kaiser Family Foundation, "Kansas Medicaid Spending: Total Medicaid Spending, FY 2005," "Distribution of State General Fund Expenditures (in millions), SFY 2005," "Kansas Medicaid Spending: Medicaid Payments Per Enrollee, FY 2003," "Kansas Medicaid Spending: Average Annual Growth in Medicaid Spending"; www.statehealthfacts.org

Medicaid Reaches the Breaking Point

Kansas Medicaid Enrollment: State Comparisons

Category	Figure	State Rank
Total Medicaid Enrollment	325,100	36th
Medicaid Enrollment As % of Population	12%	43rd
Average Annual Growthin Medicaid Enrollment	4.7% per year	9th

Source: Henry J. Kaiser Family Foundation, "Kansas Medicaid Enrollment: Total Medicaid Enrollment, FY 2003," "Kansas Medicaid Enrollment: Medicaid Enrollment as a Percentage of Total Population, 2003," "Kansas Medicaid Enrollment: Percent Change in Medicaid Enrollment, June 2004-2005"; www.statehealthfacts.org

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Attachment 3

Perverse Incentives: Eligibility

- Coverage for optional populations and services is the rule, not the exception.
- Only 39% of Medicaid spending is spent on mandatory coverage.
- 21% of adults and 27% of children who qualified for Medicaid were eligible for private insurance.
- Expanding the Medicaid safety net "up the income ladder" puts the program at risk for future generations of the truly needy.

Sources: Graham, John R. "How Many Governors Does It Take to Reform Medicaid?" Pacific Research Institute Health Policy Prescriptions Vol. 3, No.1, August 2003. Davidoff, Amy J., Garrett, Bowen, and Abdulay Yemane, "Medicaid-Eligible Adults Who Are Not Enrolled: Who Are They and Do They Get the Care They Need?" Urban Institute Policy Brief, Series A, No. A-40, October 1, 2001; and Davidoff, Amy J., Garrett, Bowen, and Matthew Schirmer, "Children Eligible for Medicaid but Not Enrolled: How Great a Policy Concern?" Urban Institute Policy Brief, Series A, No. A-41, September 1, 2001.

Perverse Incentives: Patients

- Medicaid's beneficiaries have little or no cost-sharing requirements, making Medicaid virtually "free." There's no reason for them to be prudent health care consumers.
- Removing price sensitivity induces patients to consume more medical care by as much as 43%.
- **Overconsumption affects the private market as well as Medicaid. Increased demand for medical services means higher prices for everyone.**

Source: Keeler, Emmett B., "Effects of Cost Sharing on Use of Medical Services and Health," *The Journal of Medical Practice Management*, Summer 1992.

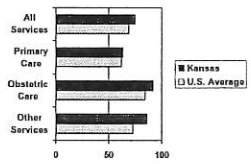
Perverse Incentives: Providers

- Medicaid's "command-and-control" reimbursement system tells providers what they're paid for services, regardless of market value.
- Overall, the percentage of doctors not accepting new Medicaid patients has risen from 19.5% in the mid-1990s to 21% this year.
- Doctor treating Medicaid patient = about 69% of what Medicare pays. Medicare reimbursement = 80% of what private markets pay.

Sources: Cunningham, Peter J. and Jessica H. May, "Medicaid Patients Increasingly Concentrated Among Physicians," Center for Studying Health System Change Tracking Report No. 16, August 2006. Henry J. Kaiser Family Foundation, "Kansas Medicaid Physician Fees Medicaid-to-Medicare Fee Index, 2003," www.statehealthfacts.org.

Perverse Incentives: Providers

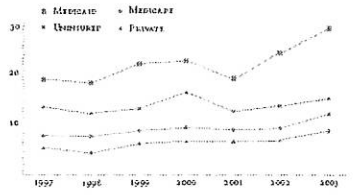
Kansas Medicaid Reimbursements
As a Percentage of Medicare Rates, FY 2003



Source: Henry J. Kaiser Family Foundation, "Kansas Medicaid Physician Fees Medicaid-to-Medicare Fee Index, 2003," www.statehealthfacts.org.

Perverse Incentives: ER Use

Percentage of ER Visits for Non-Urgent/Semi-Urgent Reasons
(Per 100 Visits, By Insurance Type, U.S. Average)



Source: O'Malley, A.S., Gerland, A.M., Pham, H.H., and B. Berenson, Center for Studying Health System Change Issue Brief No. 101, November 2006.

Consumer-Directed Medicaid

- "Consumer-directed" approach to Medicaid reform eliminates perverse incentives, limits Medicaid's unsustainable growth, and leads beneficiaries to self-sufficiency and better health.

MAJOR COMPONENTS

- **Defined contributions** (rather than defined benefits)
- **Full funding for doctors and hospitals** for the cost of care
- **No expansion of Medicaid eligibility**
- **Specialized benefit packages**
- **Medicaid opt-out** for employer-sponsored insurance
- **"Get Healthy" incentives** to wellness
- **Bridge from public coverage to private insurance**

Consumer-Directed Medicaid: Florida

- "Empowered Care" Section 1115 waiver approved in 2005.
- Pilot Program Roll-Out: Broward/Duval Counties (urban) starting in July 2006; Baker/Clay/Nassau Counties (rural) in July 2007.
- Creates "Medicaid marketplace" in which insurers offer varying benefit packages that specialize in certain health needs.
- Beneficiaries can opt-out of Medicaid for private coverage; "Enhanced Benefit Accounts" provide incentives for healthy lifestyles.
- **Projected Savings: Unspecified, but Florida expects to better-predict future spending with risk-adjusted premium amount.**

Consumer-Directed Medicaid: Oklahoma

- HB 2842 (2006): Authorizes a Section 1115 waiver that allows beneficiaries to own a risk-adjusted "personal health account" to purchase a competing benefits package or opt-out of Medicaid.
- Waiver would include an e-prescribing system and a provider database to track utilization.
- Appropriates $93 million to fully reimburse doctors and hospitals; removes costly mandated benefits from Medicaid.
- **Projected Savings: Unknown, as plan is not yet implemented. However, Oklahoma expects to better-predict future spending through managed care and consumer-directed enhanced benefits.**

Consumer-Directed Medicaid: South Carolina

- "Healthy Connections" Section 1115 waiver allows Medicaid beneficiaries to own a risk-adjusted "personal health account" to directly pay for medical expenses, join a managed care plan, or buy employer-sponsored insurance.
- "Healthy Connections" Section 1115 waiver was submitted last fall. In the meantime, South Carolina will apply for the HOA demonstration in early 2007.
- **Projected Savings: Unknown, as plan has not yet been approved by the South Carolina legislature. However, South Carolina expects cost savings by controlling future growth of Medicaid spending, and through increased use of managed care and consumer-directed, HSA-like options.**

Consumer-Directed Medicaid: Kentucky

- First state to implement DRA reforms through "KyHealthChoices": May 2006.
- Most of 700,000 Medicaid beneficiaries will be transitioned into one of four specialized benefit packages.
- Enrollees can "opt-out" and purchase employer-sponsored insurance.
- "Get Healthy" incentives include smoking cessation programs; nutritional counseling.
- Beneficiaries will have copayments for certain Rx/medical services.
- **Projected Savings: $1 billion over seven years.**

Consumer-Directed Medicaid: West Virginia

- Second state to implement DRA reforms: May 2006.
- Affects 160,000 non-disabled, non-elderly beneficiaries. Two packages: basic Medicaid package and enhanced package with "Healthy Rewards Account."
- To qualify for the enhanced package, beneficiaries must sign a "personal responsibility contract" that they will comply with all recommended medical treatment and wellness behaviors. Those who do not sign the contract, or do not comply, will receive the basic package.
- **Projected Savings: Unspecified, but West Virginia expects long-term savings through preventive care.**

Consumer-Directed Medicaid: Idaho

- Third state to implement DRA reforms: May 2006.
- Package #1: "Benchmark Basic" will cover children's EPSDT and most traditional Medicaid benefits.
- Package #2: "Enhanced Benchmark" will cover elderly/disabled, and include all traditional LTC services.
- Package #3: "Coordinated Benchmark" will cover dual-eligibles.
- All three packages will have "preventive health assistance" to encourage wellness.
- **Projected Savings: Unspecified, as Idaho is focused on "long-term savings."**

The Power of Consumer-Directed Medicaid

Current Medicaid Model	Consumer-Directed Medicaid
One-size-fits-all plan for patients.	Patients have a choice of several plans tailored to meet their needs.
Medicaid is the only choice forMedicaid-eligible workers.	Medicaid-eligible workers can optout and purchase ESI.
Reactive, uncoordinated care result in Medicaid patients using the ER 46% more than other patients.	Proactive, coordinated care keeps Medicaid ptients healthy and out of the ER.
State health agencies are understaffed and iput-focused.	State health agencies are results-oriented, patient-centered managers of health plans.
Providers are rewarded forfiling more claims and providing increased, more expensive service.	Providers are rewarded for quality care and share in the savings.
Patients are often seen as part of the problem, as utilization and health costs escalate.	Patients become part of the solution, as their consumer choices improve quality and stabilize growth in cost.
Medicaid is unsustainable, raising thepossibility of tax increases, service cuts, or eligibility reductions.	Medicaid is placed ona more sustainable financial footing, makingfuture benefits more secure for the truly needy.

Contact Us!

Christie Raniszewski Herrera
Director, Health and Human Services Task Force
American Legislative Exchange Council
1129 20th Street, N.W. #500
Washington, D.C. 20036
(202) 466-3800
christie@alec.org
http://www.alec.org