

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 5, 2008 in Room 123-S of the Capitol.

All members were present except:

Senator Donald Betts, Jr. - excused
Senator Greta Goodwin - excused

Committee staff present:

Jill Wolters, Senior Assistant, Revisor of Statutes
Alan Conroy, Director, Kansas Legislative Research Department
Kristen Clarke Kellems, Assistant Revisor of Statutes
Amy Deckard, Kansas Legislative Research Department
Cody Gorges, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Jarod Waltner, Kansas Legislative Research Department
Melinda Gaul, Chief of Staff, Senate Ways & Means
Mary Shaw, Committee Assistant

Conferees appearing before the committee:

Linda Sheppard, Deputy Attorney General
Barb Hinton, Legislative Post Auditor, Legislative Division of Post Audit
Robin Kempf, Inspector General, Kansas Health Policy Authority
Connie Hubbell, Chair, Kansas Health Policy Authority and Marcia Nielsen, Executive Director,
Kansas Health Policy Authority (written)
George Webb, Executive Director, Kansas Commission on Veterans' Affairs
Chuck Yunker, American Legion
Ken Stodgell, Legislative Chairman, Veterans of Foreign Wars
Michele Henry, Executive Director, National Guard Association of Topeka (written)

Others attending:

See attached list.

Bill Introductions

The Chairman recognized Senator Laura Kelly who explained a bill request from Senator Anthony Hensley regarding a study of attendant care workers. Senator Kelly moved, with a second by Senator Teichman, to conceptually introduce the bill. Motion carried on a voice vote.

Senator McGinn moved, with a second by Senator Schodorf, conceptual introduction of a bill concerning food labeling and agricultural products. Motion carried on a voice vote.

Chairman Umbarger welcomed Linda Sheppard, Deputy Attorney General, Office of the Attorney General, who provided an overview of the tobacco master settlement agreement (MSA) (Attachment 1). Ms. Sheppard addressed the background of the MSA which resulted from a lawsuit filed in 1996 and was finalized in 1998. She also explained that through the MSA, each state was assigned an allocable share or percentage of national cigarette sales.

Ms. Sheppard mentioned that under the original terms of the MSA, the state's 2005 and 2006 total receipts should have been significantly higher than they were and two MSA companies have withheld a portion of their payment to all states in the MSA while they are disputing the basis of the payments. The two companies are arguing that the states have not proven that they are diligently enforcing their escrow statutes. Future receipts were also discussed.

The Chairman opened the public hearing on:

SB 456--Kansas health policy authority, inspector general

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 10:40 A.M. on February 5, 2008 in Room 123-S of the Capitol.

Staff briefed the committee on the bill.

Chairman Umbarger welcomed the following conferees:

Barb Hinton, Legislative Post Auditor, Legislative Division of Post Audit, provided information to the committee and noted that **SB 456** (Attachment 2). Ms. Hinton mentioned that the bill changes the reporting requirements from the Health Policy Authority's new inspector general from the Authority's executive director to the Authority's board. In closing, Ms. Hinton explained that having the inspector general report directly to the Authority's Board would be the most independent reporting structure.

Robin J. Kempf, Inspector General, Kansas Health Policy Authority, testified in support of **SB 456** (Attachment 3). Ms. Kempf provided details in her written testimony and indicated that the bill simply cleans up a small inconsistency in the Office of Inspector General's (OIG) enabling legislation and strengthens the protections to the OIG's independence. She noted that this change would ensure that the OIG would be free from any impairment to its independence that could hypothetically be imposed by an Executive Director and which could bias the OIG's judgement.

Written testimony was submitted from Connie Hubbell, Chair, Kansas Health Policy Authority Board and Dr. Marcia Nielsen, Executive Director, Kansas Health Policy Authority (Attachment 4).

The Chairman closed the public hearing on **SB 456**.

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

HB 2578--Establishing the utilization of unused medications act; exemptions

The Revisor explained a balloon amendment (Attachment 5).

Following committee discussion, Senator V. Schmidt moved, with a second by Senator Emler, to adopt the balloon amendment, allow technical corrections to the balloon, amend the language contained in SB 456 in its entirety into HB 2578 and recommend HB 2578 favorable for passage as amended. Motion carried on a roll call vote.

The Chairman opened the public hearing on:

SB 533--Veterans assistance; appropriations therefor; income tax credit; property tax abatement; leave for employees; tuition rates

Jill Wolters, Senior Assistant Revisor of Statutes briefed the Committee on the bill (Attachment 6).

The Chairman welcomed the following conferees:

George Webb, Executive Director, Kansas Commission on Veterans' Affairs, testified in support of the bill (Attachment 7). Mr. Webb explained that the bill would appropriate \$500,000 for aid and assistance for veterans and their family members, as well as the families of reserve component personnel called to active duty. He noted that a statutory change to the eligibility requirements would be necessary to expand the program.

Chuck Yunker, American Legion, spoke in support of the bill (Attachment 8). He noted a couple of areas in his written testimony where there was concern and explained that the American Legion fully supports all other provisions of **SB 533**, especially those sections addressing opportunities for veterans at educational institutions located in the state.

Ken Stodgell, Legislative Chairman, Veterans of Foreign Wars, testified in support of the bill (Attachment 9). Mr. Stodgell mentioned that he encouraged the testimony given by Mr. Yunker and he also addressed the issues the VFW supported and was concerned with regarding the bill. Mr. Stodgell noted that the bill brings

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meaningful support and relief to veterans and their families.

Written testimony was submitted by Michele Henry, Executive Director, National Guard Association of Kansas (Attachment 10).

The Chairman closed the public hearing on **SB 533**.

The meeting adjourned at 12:05 p.m. The next meeting was scheduled for February 6, 2008.

**SENATE WAYS AND MEANS
GUEST LIST**

Date February 5, 2008

NAME	REPRESENTING
Julia Thomas	DOB
Deane O'Boone	DOB
Amy Benoit	DOB
Konnie Leffler	DOB
George Webb	KCVA
Dick Kuerth	KDWP
Austin Hayden	Hein Law Firm
Rahil Woods	SRS
Paula Masmond	KPHI
Cindy DiCroce	KAC
Suzanne Winkle	KS Action for children
Reagan Cussimano	KHPA
Tracy Russell	KHPA
Mary Hoover	SRS
Felony Opim-Wilkins	KHPA
Rehan Kempf	KHPA
Peter Haxton	
Donnie Behrens	American Legion
Chad Austin	KHA
Craig Haberland	KAA
Shel Sweeney	Assoc. of CMNCs of Co, Inc.
MARK BORANYAK	Capitol Strategies
JAN SAMETER	JAN



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Ways & Means Committee
Status of Tobacco Litigation
Linda J. Sheppard, Deputy Attorney General
February 5, 2008

Mr. Chairman and members of the committee, my name is Linda Sheppard and I am Deputy Attorney General for the Consumer Protection Division, which includes tobacco enforcement. I am here today at the request of the Chair to provide an overview of the tobacco master settlement agreement.

Background

The tobacco Master Settlement Agreement (MSA) resulted from a lawsuit filed in 1996, and was finalized in 1998. The agreement was reached between 52 states and territories, including Kansas, and the four original participating manufacturers: Philip Morris, R.J. Reynolds, Brown & Williamson, and Lorillard.

The major requirements of the MSA are restrictions on marketing practices and annual payments to the states for damages incurred through their Medicaid programs caring for those suffering from smoking-related illnesses. All known tobacco manufacturers that were not parties to the original litigation were offered participation in the MSA. To date 58 manufacturers have subsequently chosen to join. The first group of "subsequent" manufacturers to join the settlement was not required to make payments if their market share did not grow from the time of entry into the MSA. However, all manufacturers that entered the agreement following that first group are required to make payments into the settlement based on annual cigarette sales. Any manufacturer that has not joined the MSA is subject to the escrow account statutes that were passed in all MSA states and could be subject to future lawsuits.

The Kansas escrow law was passed in 1999. Our law requires that all non-MSA manufacturers keep in escrow an amount similar to that paid by the participating manufacturers. The idea of requiring escrow accounts is to address any future lawsuits that may be brought on behalf of consumers. The Escrow Accounts were also an attempt to level the playing field in the tobacco industry so that MSA companies did not suffer an "unfair disadvantage" relative to the rest of the market. The funds remain in the Escrow Accounts for 25 years, and will be returned to the non-MSA manufacturers at that time if no litigation is pending.

Monies Received

Through the MSA, each state was assigned an "allocable share" or percentage of national cigarette sales. These receipts are paid to an MSA account, and Kansas receives 0.834% of the total. The funds received by Kansas are distributed in accordance with K.S.A. 38-201, *et. seq.* The first \$1.0 million received is earmarked for tobacco control efforts. The remainder of the funds is deposited into the Kansas Endowment for Youth (KEY) Fund and the Children's Initiative Fund. For sales year 2005, Kansas received \$48,774,918. In December 2006, Kansas also received a payment of \$447,382 from a non-litigant participant of the MSA. House of Prince increased its market share of sales during sales year

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2005 and as a result was required to pay into the MSA. For sales year 2006, Kansas received \$47,068,118. In June 2007, Kansas also received a payment of \$394,424 for recalculation of disputed funds maximums, late payments, and bankruptcy payments.

Current Status

Under the original terms of the MSA, the state's 2005 and 2006 total receipts should have been significantly higher than they were. Two MSA companies have withheld a portion of their payment to all states in the MSA while they are disputing the basis of the payments. The two companies, R.J. Reynolds and Lorillard, are arguing that the states have not proven that they are diligently enforcing their escrow statutes.

All of the original participating manufacturers filed motions to compel arbitration of this matter in every state that is a party to the MSA. The original participating manufacturers filed their motion against Kansas in Shawnee County District Court on October 27, 2006, and the subsequent participating manufacturers filed to join on November 2, 2006. The Court ruled against Kansas on July 10, 2007, ordering the state to arbitrate the dispute. Of the states arguing against court-ordered arbitration, 43 states have lost their cases and have been ordered to arbitration; 30 states have final orders of arbitration (no potential for appeal); 15 are on appeal; one is considering appeal; two have no trial court orders; and one has won its case. The participating manufacturers have appealed the decision in the state that won its case.

The participating manufacturers submitted a proposal to the MSA states to settle the matter in 2006. After several exchanges of counteroffers between the parties, no agreement has been reached to settle the dispute nor is it anticipated that the dispute will be settled in the near future.

Future Receipts

The MSA created a Strategic Contribution Fund that requires the manufacturers to pay an increased amount from 2008 to 2017. Based upon a percentage of how much each state contributed to the original MSA effort in terms of human resources, time and money, states were allocated a share of this strategic fund. Kansas receives 1.85% of the total amount, which translates into an estimated \$15.4 million in April 2008. However, this amount is also subject to "disputed payment" withholding by the manufacturers in the same manner as applied to the state's base payment. This amount is expected to remain relatively flat until 2017, when the Strategic Contribution Fund will be depleted.

Thank you for the opportunity to present to the Committee. I would be happy to stand for questions.



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Information for the Senate Ways and Means Committee on SB 456

Barb Hinton, Legislative Post Auditor
February 5, 2008

Mr. Chairman and members of the Committee, thank you for allowing me to appear before you regarding SB 456. As you know, this bill changes the reporting requirements for the Health Policy Authority's new inspector general from the Authority's executive director, to the Authority's Board.

I've been involved in the auditing profession for more than 30 years. From 1999-2001, I also served a term on the federal Government Accountability Office's (GAO) Advisory Council on Government Auditing Standards. The specific areas I was assigned to were standards relating to performance auditing and to auditors' independence. The standard that addresses independence states the following:

In all matters relating to the audit work, the audit organization and the individual auditor, whether government or public, must be free from personal, external, and organizational impairments to independence, and must avoid the appearance of such impairments of independence.

The standards guidance also says that "the ability of audit organizations in government entities to perform work and report the results objectively can be affected by their placement within government, and the structure of the government entity being audited."

Although that organizational independence can be achieved in different ways, having the inspector general report directly to the Authority's Board would be the most independent reporting structure.

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Attachment 2



**Testimony to the Senate Committee on Ways and Means
In Support of SB 456
From
Robin J. Kempf, Inspector General
February 5, 2008**

Good morning, Chairman Umbarger and members of the Committee. My name is Robin Kempf. I am the Inspector General for the Kansas Health Policy Authority (KHPA). Thank you for giving me the opportunity to testify in support for Senate Bill (SB) 456.

This bill proposes a small, technical fix to the statute that created my office, the Office of Inspector General (OIG); however, the bill would have a large impact on the OIG's ability to produce an objective work product. In brief, the bill would clarify reporting lines for the OIG within the KHPA, and would ensure the OIG's organizational independence.

Under existing statutory language, the OIG is required to report directly to the Executive Director of the KHPA for both administrative and substantive purposes. In other words, the Executive Director could say what can or cannot be audited by the OIG. SB 456 would clarify that the OIG would continue to report to the Executive Director for administrative purposes, but would report to the full KHPA Board for substantive purposes. This change would ensure that the OIG would be free from any impairment to its independence that could hypothetically be imposed by an Executive Director and which could bias the OIG's judgment.

According to the generally accepted government auditing standards promulgated by the U.S. Government Accountability Office (GAO), audit organizations must be free from organizational impairments to its independence. One way to do so is to mandate that the organization reports to a statutorily created governing body, the majority of whose members are independently elected or appointed and who come from outside the organization being audited. If the existing statute was amended as proposed in SB 456, the OIG could be presumed to be organizationally independent from the KHPA under auditing standards.

SB 456 is consistent with the many statutory protections to independence already found in K.S.A. 75-7427. For example, my appointment is required to be confirmed by the Senate, thereby providing a check and balance on the Board's authority to hire me. Similarly, my position is a classified position, which provides some protections from retaliation. Finally, the OIG receives a line item appropriation directly from the Legislature, thereby ensuring that the KHPA does not have budgetary authority over its overseer, so to speak. Thus, SB 456 simply cleans up a small inconsistency in the OIG's enabling legislation and strengthens the protections to the OIG's independence.

Thank you for the opportunity to provide these comments in support of SB 456.

Coordinating health & health care
for a thriving Kansas



February 5, 2008

Honorable Members of the Senate Committee on Ways and Means
c/o The Honorable Dwayne Umbarger, Chair
Statehouse, Room 120-S
Topeka, KS 66612

Dear Mr. Chairman and Members of the Committee:

We are writing to you today to provide written support for Senate Bill (SB) 456. This bill proposes a technical clarifying amendment to the legislation that created the Office of Inspector General (OIG) at the Kansas Health Policy Authority (KHPA). Swiftly correcting the technical oversight in bill drafting – to ensure that the OIG is an independent office reporting to the KHPA Board -- will allow the Office of the OIG the clarity needed to design and implement a strategic plan to improve and strengthen the Kansas Medicaid and other KHPA programs.

At the last KHPA Board meeting on January 22, 2008, the Board was briefed by the Inspector General, Robin Kempf, about the technical correction contained in SB 456. It was the Board's consensus that the proposal, which clarifies that the OIG should report to the KHPA Board for the substance of its work, was consistent with the intent of the original legislation. That intent was to create an independent oversight body, which had a mission to provide increased accountability and integrity in the programs and operations at the KHPA, as well as identify and deter fraud, abuse and illegal acts in the Medicaid, MediKan and HealthWave programs.

We appreciate your prompt consideration of this technical amendment. If you have any further questions about the Board's position on SB 456, please feel free to contact Marcia Nielsen, Executive Director at the Kansas Health Policy Authority, at 296-3521.

Sincerely,

Connie Hubbell
Chair
Kansas Health Policy Authority Board

Marcia Nielsen, PhD, MPH
Executive Director
Kansas Health Policy Authority

cc: Robin Kempf, Office of the Inspector General

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Medicaid and HealthWave:
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Fax: 785-296-4813

State Employee Health
Benefits and Plan Purchasing:
Phone: 785-368-6361
Fax: 785-368-7180

State Self Insurance Fund:
Phone: 785-296-2364
Fax: 785-296-6995

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Attachment 4

HOUSE BILL No. 2578

By Committee on Appropriations

3-14

Proposed Amendment
February 4, 2008

Senate Ways & Means
2-5-08
Attachment 5

10 AN ACT enacting the utilization of unused medications act; duties of the
11 state department of health and environment and the state department
12 on aging

concerning health care; relating to the inspector general of the
Kansas health policy authority;

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

; amending KSA 2007 Supp. 75-7427 and repealing the existing section

15 Section 1. ~~This act~~ (a) **Sections 1 through 8, and amendments**
16 **thereto**, shall be known and may be cited as the "utilization of unused
17 medications act".

18 (b) **The provisions of the utilization of unused medications act**
19 **shall not apply to any drug, prescription drug or medication pur-**
20 **chased or provided with moneys provided under title XIX of the**
21 **federal social security act, 42 U.S.C. 1396 et seq., and amendments**
22 **thereto, or title XXI of the federal social security act, section 4901**
23 **of public law 105-33, 42 U.S.C. 1397aa et seq., and amendments**
24 **thereto.**

25 Sec. 2. As used in the utilization of unused medications act:

26 (a) "Adult care home" has the same meaning as such term is defined
27 in K.S.A. 39-923, and amendments thereto.

(b) "Community mental health center" has the same meaning as such
term is defined in KSA 75-3307c, and amendments thereto.

28 (b) "Drug" has the same meaning as such term is defined in K.S.A.
29 65-1626, and amendments thereto.

(c) "Donating entities" means adult care homes, mail service
pharmacies and medical care facilities who elect to participate in the
program.

30 (c) "Federally qualified health center" means a center which meets
31 the requirements for federal funding under 42 U.S.C. section 1396d(1)
32 of the public health service act, and which has been designated as a "fed-
33 erally qualified health center" by the federal government.

34 (d) "Indigent health care clinic" has the same meaning as such term
35 is defined in K.S.A. 75-6102, and amendments thereto.

(g) "Mail service pharmacy" means a licensed Kansas pharmacy located
within this state that ships, mails or delivers by any lawful means a
lawfully dispensed medication in tamper-resistant packaging to residents
of this state or another state.

36 (e) "Medically indigent" has the same meaning as such term is de-
37 fined in K.S.A. 75-6102, and amendments thereto.

(h) "Medical care facility" has the same meaning as such term is defined
in KSA 65-425, and amendments thereto.

38 (f) "Medication" means a prescription drug or drug as defined by this
39 section.

40 (g) "Mid-level practitioner" has the same meaning as such term is
41 defined in K.S.A. 65-1626, and amendments thereto.

Reletter remaining subsections accordingly.

42 (h) "Practitioner" has the same meaning as such term is defined in
43 K.S.A. 65-1626, and amendments thereto.

1 (i) "Prescription drug" means a drug which may be dispensed only
2 upon prescription of a practitioner or mid-level practitioner authorized
3 by law and which is approved for safety and effectiveness as a prescription
4 drug under section 505 or 507 of the federal food, drug and cosmetic act
5 (52 Stat. 1040 (1938), 21 U.S.C.A., section 301).

(n) "Qualifying center or clinic" means an indigent health care clinic, federally
qualified health center or community mental health center.

6 Sec. 3. (a) The department on aging shall adopt rules and regulations
7 consistent with public health and safety through which unused drugs,
8 other than drugs defined as controlled substances, may be transferred
9 from ~~adult care homes~~ that elect to participate in the program for the
10 purpose of distributing the unused medications to Kansas residents who
11 are medically indigent.

donating entities

12 (b) ~~Indigent health care clinics or federally qualified health centers~~
13 in consultation with a pharmacist shall establish procedures necessary to
14 implement the program established by the utilization of unused medi-
15 cations act.

A qualifying center or clinic

16 (c) The state board of pharmacy shall provide technical assistance to
17 entities who may wish to participate in the program.

18 Sec. 4. The following criteria shall be used in accepting unused med-
19 ications for use under the utilization of unused medications act:

20 (a) The medications shall have come from a controlled storage unit
21 of ~~an adult care home~~;

a donating entity

22 (b) only medications in their original **or pharmacist** sealed unit dose
23 packaging **or unused injectables** shall be accepted and dispensed pursuant
24 to the utilization of unused medications act;

or hermetically sealed by the pharmacy in tamper evident packaging, unit of use

25 (c) expired medications shall not be accepted;

26 (d) a medication shall not be accepted or dispensed if the person
27 accepting or dispensing the medication has reason to believe that the
28 medication is adulterated;

sealed,

29 (e) no controlled substances shall be accepted; and

30 (f) subject to the limitation specified in this section, unused medi-
31 cations dispensed for purposes of a medical assistance program or drug
32 product donation program may be accepted and dispensed under the
33 utilization of unused medications act.

34 Sec. 5. (a) Participation in the utilization of unused medications act
35 by residents of adult care homes and ~~adult care homes~~ shall be voluntary.
36 Nothing in the utilization of unused medications act shall require any
37 resident of an adult care home or any ~~adult care home~~ to participate in
38 the program.

donating entities

39 (b) ~~An indigent health care clinic or federally qualified health center~~
40 which meets the eligibility requirements established in the utilization of
41 unused medications act may:

donating entity

A qualifying center or clinic

42 (1) Dispense medications donated under the utilization of unused
43 medications act to persons who are medically indigent residents of Kan-

1 sas; and

2 (2) charge persons receiving donated medications a handling fee not
3 to exceed 200% of the medicaid dispensing fee.

4 (c) ~~An indigent health care clinic or federally qualified health center~~
5 which meets the eligibility requirements established and authorized by
6 the utilization of unused medications act which accepts donated medi-
7 cations shall:

A qualifying center or clinic

8 (1) Comply with all applicable federal and state laws related to the
9 storage and distribution of medications;

10 (2) inspect all medications prior to dispensing the medications to de-
11 termine that such medications are not adulterated; and

12 (3) dispense prescription drugs only pursuant to a prescription issued
13 by a practitioner or mid-level practitioner.

14 (d) Medications donated under the utilization of unused medications
15 act shall not be resold but are available for transfer to another ~~federally~~
16 ~~qualified health center or indigent health care clinic.~~

qualifying center or clinic.

17 (e) For purposes of the utilization of unused medications act, medi-
18 cations dispensed by ~~indigent health care clinics or a federally qualified~~
19 ~~health center~~ shall not be considered resale of such medications.

qualifying centers or clinics

20 Sec. 6. (a) For matters related only to the lawful donation, accep-
21 tance or dispensing of medications under the utilization of unused medi-
22 cations act, the following persons and entities, in compliance with the
23 utilization of unused medications act, in the absence of bad faith or gross
24 negligence, shall not be subject to criminal or civil liability for injury other
25 than death, or loss to person or property, or professional disciplinary
26 action:

27 (1) The state board of pharmacy;

28 (2) the department of health and environment;

29 (3) the department on aging;

donating entity

30 (4) any governmental entity or ~~adult care home~~ donating medications
31 under the utilization of unused medications act;

32 (5) any ~~indigent health care clinic or federally qualified health center~~
33 that accepts or dispenses medications under the utilization of unused
34 medications act; and

qualifying center or clinic

35 (6) any ~~indigent health care clinic or federally qualified health center~~
36 that employs a practitioner or mid-level practitioner who accepts or can
37 legally dispense prescription drugs under the utilization of unused medi-
38 cations act and the pharmacy act of the state of Kansas.

39 (b) For matters related to the donation, acceptance or dispensing of
40 a medication manufactured by the prescription drug manufacturer that
41 is donated by any entity under the utilization of unused medications act,
42 a prescription drug manufacturer shall not, in the absence of bad faith or
43 gross negligence, be subject to criminal or civil liability for injury other

1 than for death, or loss to person or property including, but not limited
2 to, liability for failure to transfer or communicate product or consumer
3 information or the expiration date of the donated prescription drug.

4 (c) Any person who in good faith donates medications without charge
5 under the utilization of unused medications act, which medications are
6 in compliance with such act at the time donated, shall not be subject to
7 criminal or civil liability arising from any injury or death due to the con-
8 dition of such medications unless such injury or death is a direct result
9 of the willful, wanton, malicious or intentional misconduct of such person.

10 Sec. 7. (a) The state board of pharmacy shall adopt rules and regu-
11 lations by December 1, ~~2007~~, to implement the utilization of unused
12 medications act. Such rules shall include:

2008

Include

13 (1) standards and procedures for transfer, acceptance and safe stor-
14 age of donated medications;

include

15 (2) standards and procedures for inspecting donated medications to
16 ensure that the medications are in compliance with the utilization of un-
17 used medications act and to ensure that, in the professional judgment of
18 a pharmacist, the medications meet all federal and state standards for
19 product integrity;

20 (3) establish standards for acceptance of unused medications from
21 ~~adult care homes~~, and

donating entities

22 (4) establish, in consultation with the department of health and en-
23 vironment and the department on aging, any additional rules and regu-
24 lations, and standards and procedures it deems appropriate or necessary
25 to implement the provisions of the utilization of unused medications act.

26 (b) In accordance with the rules and regulations and procedures of
27 the program established pursuant to this section, a resident of an adult
28 care home, or the representative or guardian of a resident may donate
29 unused medications, other than prescription drugs defined as controlled
30 substances, for dispensation to medically indigent persons.

31 Sec. 8. The secretary of health and environment shall maintain re-
32 cords of program participation including the number of ~~facilities~~ donating
33 medications, recipient locations, the amount of medications received and
34 the number of clients served.

donating entities

Sec. 9 and 10. K.S.A. 2007 Supp. 75-7427. [see attached]

35 Sec. 9. This act shall take effect and be in force from and after its
36 publication in the ~~statute book~~.

Kansas register

Sec. 9. K.S.A. 2007 Supp. 75-7427 is hereby amended to read as follows: 75-7427.

(a) As used in this section:

- (1) "Attorney general" means the attorney general, employees of the attorney general or authorized representatives of the attorney general.
- (2) "Benefit" means the receipt of money, goods, items, facilities, accommodations or anything of pecuniary value.
- (3) "Claim" means an electronic, electronic impulse, facsimile, magnetic, oral, telephonic or written communication that is utilized to identify any goods, service, item, facility or accommodation as reimbursable to the state medicaid program, or its fiscal agents, the state mediKan program or the state children's health insurance program or which states income or expense.
- (4) "Client" means past or present beneficiaries or recipients of the state medicaid program, the state mediKan program or the state children's health insurance program.
- (5) "Contractor" means any contractor, supplier, vendor or other person who, through a contract or other arrangement, has received, is to receive or is receiving public funds or in-kind contributions from the contracting agency as part of the state medicaid program, the state mediKan program or the state children's health insurance program, and shall include any sub-contractor.
- (6) "Contractor files" means those records of contractors which relate to the state medicaid program, the state mediKan program or the state children's health insurance program.
- (7) "Fiscal agent" means any corporation, firm, individual, organization, partnership, professional association or other legal entity which, through a contractual relationship with the state of Kansas receives, processes and pays claims under the state medicaid program, the state mediKan program or the state children's health insurance program.
- (8) "Health care provider" means a health care provider as defined under K.S.A. 65-4921, and amendments thereto, who has applied to participate in, who currently participates in, or who has previously participated in the state medicaid program, the state mediKan program or the state children's health insurance program.
- (9) "Kansas health policy authority" or "authority" means the Kansas health policy authority established under K.S.A. 2007 Supp. 75-7401, and amendments thereto, or its successor agency.
- (10) "Managed care program" means a program which provides coordination, direction and provision of health services to an identified group of individuals by providers, agencies or organizations.
- (11) "Medicaid program" means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended, or any successor federal or state, or both, health insurance program or waiver granted thereunder.
- (12) "Person" means any agency, association, corporation, firm, limited liability company, limited liability partnership, natural person, organization, partnership or other legal entity, the agents, employees, independent contractors, and subcontractors, thereof, and the legal successors thereto.
- (13) "Provider" means a person who has applied to participate in, who currently participates in, who has previously participated in, who attempts or has attempted to participate in the state medicaid program, the state mediKan program or the state children's health insurance program, by providing or claiming to have provided goods, services, items, facilities or accommodations.
- (14) "Recipient" means an individual, either real or fictitious, in whose behalf any person

claimed or received any payment or payments from the state medicaid program, or its fiscal agent, the state mediKan program or the state children's health insurance program, whether or not any such individual was eligible for benefits under the state medicaid program, the state mediKan program or the state children's health insurance program.

(15) "Records" means all written documents and electronic or magnetic data, including, but not limited to, medical records, X-rays, professional, financial or business records relating to the treatment or care of any recipient; goods, services, items, facilities or accommodations provided to any such recipient; rates paid for such goods, services, items, facilities or accommodations; and goods, services, items, facilities or accommodations provided to nonmedicaid recipients to verify rates or amounts of goods, services, items, facilities or accommodations provided to medicaid recipients, as well as any records that the state medicaid program, or its fiscal agents, the state mediKan program or the state children's health insurance program require providers to maintain. "Records" shall not include any report or record in any format which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(16) "State children's health insurance program" means the state children's health insurance program as provided in K.S.A. 38-2001 et seq., and amendments thereto.

(b) (1) There is hereby established within the Kansas health policy authority the office of inspector general. All budgeting, purchasing and related management functions of the office of inspector general shall be administered under the direction and supervision of the executive director of the Kansas health policy authority. The purpose of the office of inspector general is to establish a full-time program of audit, investigation and performance review to provide increased accountability, integrity and oversight of the state medicaid program, the state mediKan program and the state children's health insurance program within the jurisdiction of the Kansas health policy authority and to assist in improving agency and program operations and in deterring and identifying fraud, waste, abuse and illegal acts. The office of inspector general shall be independent and free from political influence and in performing the duties of the office under this section shall conduct investigations, audits, evaluations, inspections and other reviews in accordance with professional standards that relate to the fields of investigation and auditing in government.

(2) (A) The inspector general shall be appointed by the Kansas health policy authority with the advice and consent of the senate and subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided in K.S.A. 46-2601, and amendments thereto, no person appointed to the position of inspector general shall exercise any power, duty or function of the inspector general until confirmed by the senate. The inspector general shall be selected without regard to political affiliation and on the basis of integrity and capacity for effectively carrying out the duties of the office of inspector general. The inspector general shall possess demonstrated knowledge, skills, abilities and experience in conducting audits or investigations and shall be familiar with the programs subject to oversight by the office of inspector general.

(B) No former or current executive or manager of any program or agency subject to oversight by the office of inspector general may be appointed inspector general within two years of that individual's period of service with such program or agency. The inspector general shall hold at time of appointment, or shall obtain within one year after appointment, certification as a certified inspector general from a national organization that provides training to inspectors general.

(C) The term of the person first appointed to the position of inspector general shall expire on January 15, 2009. Thereafter, a person appointed to the position of inspector general shall serve for a term which shall expire on January 15 of each year in which the whole senate is sworn in for a new term.

(D) The inspector general shall be in the classified service and shall receive such compensation as is determined by law, except that such compensation may be increased but not diminished during the term of office of the inspector general. The inspector general may be removed from office prior to the expiration of the inspector general's term of office in accordance with the Kansas civil service act. The inspector general shall exercise independent judgment in carrying out the duties of the office of inspector general under subsection (b). Appropriations for the office of inspector general shall be made to the Kansas health policy authority by separate line item appropriations for the office of inspector general. The inspector general shall report to the ~~executive director of the~~ Kansas health policy authority.

(E) The inspector general shall have general managerial control over the office of the inspector general and shall establish the organization structure of the office as the inspector general deems appropriate to carry out the responsibilities and functions of the office.

(3) Within the limits of appropriations therefor, the inspector general may hire such employees in the unclassified service as are necessary to administer the office of the inspector general. Such employees shall serve at the pleasure of the inspector general. Subject to appropriations, the inspector general may obtain the services of certified public accountants, qualified management consultants, professional auditors, or other professionals necessary to independently perform the functions of the office.

(c) (1) In accordance with the provisions of this section, the duties of the office of inspector general shall be to oversee, audit, investigate and make performance reviews of the state medicaid program, the state mediKan program and the state children's health insurance program, which programs are within the jurisdiction of the Kansas health policy authority.

(2) In order to carry out the duties of the office, the inspector general shall conduct independent and ongoing evaluation of the Kansas health policy authority and of such programs administered by the Kansas health policy authority, which oversight includes, but is not limited to, the following:

(A) Investigation of fraud, waste, abuse and illegal acts by the Kansas health policy authority and its agents, employees, vendors, contractors, consumers, clients and health care providers or other providers.

(B) Audits of the Kansas health policy authority, its employees, contractors, vendors and health care providers related to ensuring that appropriate payments are made for services rendered and to the recovery of overpayments.

(C) Investigations of fraud, waste, abuse or illegal acts committed by clients of the Kansas health policy authority or by consumers of services administered by the Kansas health policy authority.

(D) Monitoring adherence to the terms of the contract between the Kansas health policy authority and an organization with which the authority has entered into a contract to make claims payments.

(3) Upon finding credible evidence of fraud, waste, abuse or illegal acts, the inspector general shall report its findings to the Kansas health policy authority and refer the findings to the attorney general.

(d) The inspector general shall have access to all pertinent information, confidential or otherwise, and to all personnel and facilities of the Kansas health policy authority, their employees, vendors, contractors and health care providers and any federal, state or local governmental agency that are necessary to perform the duties of the office as directly related to such programs administered by the authority. Access to contractor or health care provider files shall be limited to those files necessary to verify the accuracy of the contractor's or health care provider's invoices or their compliance with the contract provisions or program requirements. No health care provider shall be compelled under the provisions of this section to provide individual medical records of patients who are not clients of the state medicaid program, the state mediKan program or the state children's health insurance program. State and local governmental agencies are authorized and directed to provide to the inspector general requested information, assistance or cooperation.

(e) Except as otherwise provided in this section, the inspector general and all employees and former employees of the office of inspector general shall be subject to the same duty of confidentiality imposed by law on any such person or agency with regard to any such information, and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality. The duty of confidentiality imposed on the inspector general and all employees and former employees of the office of inspector general shall be subject to the provisions of subsection (f), and the inspector general may furnish all such information to the attorney general, Kansas bureau of investigation or office of the United States attorney in Kansas pursuant to subsection (f). Upon receipt thereof, the attorney general, Kansas bureau of investigation or office of the United States attorney in Kansas and all assistants and all other employees and former employees of such offices shall be subject to the same duty of confidentiality with the exceptions that any such information may be disclosed in criminal or other proceedings which may be instituted and prosecuted by the attorney general or the United States attorney in Kansas, and any such information furnished to the attorney general, the Kansas bureau of investigation or the United States attorney in Kansas under subsection (f) may be entered into evidence in any such proceedings.

(f) All investigations conducted by the inspector general shall be conducted in a manner that ensures the preservation of evidence for use in criminal prosecutions or agency administrative actions. If the inspector general determines that a possible criminal act relating to fraud in the provision or administration of such programs administered by the Kansas health policy authority has been committed, the inspector general shall immediately notify the office of the Kansas attorney general. If the inspector general determines that a possible criminal act has been committed within the jurisdiction of the office, the inspector general may request the special expertise of the Kansas bureau of investigation. The inspector general may present for prosecution the findings of any criminal investigation to the office of the attorney general or the office of the United States attorney in Kansas.

(g) To carry out the duties as described in this section, the inspector general and the inspector general's designees shall have the power to compel by subpoena the attendance and testimony of witnesses and the production of books, electronic records and papers as directly related to such programs administered by the Kansas health policy authority. Access to contractor files shall be limited to those files necessary to verify the accuracy of the contractor's invoices or its compliance with the contract provisions. No health care provider shall be compelled to provide individual medical records of patients who are not clients of the authority.

(h) The inspector general shall report all convictions, terminations and suspensions taken against vendors, contractors and health care providers to the Kansas health policy authority and to any agency responsible for licensing or regulating those persons or entities. If the inspector general determines reasonable suspicion exists that an act relating to the violation of an agency licensure or regulatory standard has been committed by a vendor, contractor or health care provider who is licensed or regulated by an agency, the inspector general shall immediately notify such agency of the possible violation.

(i) The inspector general shall make annual reports, findings and recommendations regarding the office's investigations into reports of fraud, waste, abuse and illegal acts relating to any such programs administered by the Kansas health policy authority to the executive director of the Kansas health policy authority, the legislative post auditor, the committee on ways and means of the senate, the committee on appropriations of the house of representatives, the joint committee on health policy oversight and the governor. These reports shall include, but not be limited to, the following information:

(1) Aggregate provider billing and payment information;

(2) the number of audits of such programs administered by the Kansas health policy authority and the dollar savings, if any, resulting from those audits;

(3) health care provider sanctions, in the aggregate, including terminations and suspensions; and

(4) a detailed summary of the investigations undertaken in the previous fiscal year, which summaries shall comply with all laws and rules and regulations regarding maintaining confidentiality in such programs administered by the Kansas health policy authority.

(j) Based upon the inspector general's findings under subsection (c), the inspector general may make such recommendations to the Kansas health policy authority or the legislature for changes in law, rules and regulations, policy or procedures as the inspector general deems appropriate to carry out the provisions of law or to improve the efficiency of such programs administered by the Kansas health policy authority. The inspector general shall not be required to obtain permission or approval from any other official or authority prior to making any such recommendation.

(k) (1) The inspector general shall make provision to solicit and receive reports of fraud, waste, abuse and illegal acts in such programs administered by the Kansas health policy authority from any person or persons who shall possess such information. The inspector general shall not disclose or make public the identity of any person or persons who provide such reports pursuant to this subsection unless such person or persons consent in writing to the disclosure of such person's identity. Disclosure of the identity of any person who makes a report pursuant to this subsection shall not be ordered as part of any administrative or judicial proceeding. Any information received by the inspector general from any person concerning fraud, waste, abuse or illegal acts in such programs administered by the Kansas health policy authority shall be confidential and shall not be disclosed or made public, upon subpoena or otherwise, except such information may be disclosed if (A) release of the information would not result in the identification of the person who provided the information, (B) the person or persons who provided the information to be disclosed consent in writing prior to its disclosure, (C) the disclosure is necessary to protect the public health, or (D) the information to be disclosed is required in an administrative proceeding or court proceeding and appropriate provision has been made to allow disclosure of the information without disclosing to the public the identity of the

person or persons who reported such information to the inspector general.

(2) No person shall:

(A) Prohibit any agent, employee, contractor or subcontractor from reporting any information under subsection (k)(1); or

(B) require any such agent, employee, contractor or subcontractor to give notice to the person prior to making any such report.

(3) Subsection (k)(2) shall not be construed as:

(A) Prohibiting an employer from requiring that an employee inform the employer as to legislative or auditing agency requests for information or the substance of testimony made, or to be made, by the employee to legislators or the auditing agency, as the case may be, on behalf of the employer;

(B) permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legislative committee or by an auditing agency to appear at a meeting with officials of the auditing agency;

(C) authorizing an employee to represent the employee's personal opinions as the opinions of the employer; or

(D) prohibiting disciplinary action of an employee who discloses information which (A) the employee knows to be false or which the employee discloses with reckless disregard for its truth or falsity, (B) the employee knows to be exempt from required disclosure under the open records act, or (C) is confidential or privileged under statute or court rule.

(4) Any agent, employee, contractor or subcontractor who alleges that disciplinary action has been taken against such agent, employee, contractor or subcontractor in violation of this section may bring an action for any damages caused by such violation in district court within 90 days after the occurrence of the alleged violation.

(5) Any disciplinary action taken against an employee of a state agency or firm as such terms are defined under subsection (b) of K.S.A. 75-2973, and amendments thereto, for making a report under subsection (k)(1) shall be governed by the provisions of K.S.A. 75-2973, and amendments thereto.

(l) The scope, timing and completion of any audit or investigation conducted by the inspector general shall be within the discretion of the inspector general. Any audit conducted by the inspector general's office shall adhere and comply with all provisions of generally accepted governmental auditing standards promulgated by the United States government accountability office.

(m) Nothing in this section shall limit investigations by any state department or agency that may otherwise be required by law or that may be necessary in carrying out the duties and functions of such agency.

(n) The Kansas health policy authority, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed, executive meeting under the open meetings act, K.S.A. 75-4317 through 75-4320a, and amendments thereto, to discuss with the inspector general any ~~information, records or other matters that are involved in~~ any investigation or audit under this section. All information and records of the inspector general that are obtained or received under any investigation or audit under this section shall be confidential, except as required or authorized pursuant to this section.

Sec. 10. K.S.A. 2007 Supp. 75-7427 is hereby repealed.

[Renumber remaining section accordingly.]

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MEMORANDUM

To: Senator Umbarger, Chairman, and Members of the Senate Ways and Means Committee

From: Jill Ann Wolters, Senior Assistant Revisor

Date: February 5, 2008

Subject: SB 533, Veteran's Assistance

Senate Bill No. 533, is similar to 2007 SB 330, which was referred to this Committee and hearings were held on February 19, 2007.

New Section 1. An appropriation to the Kansas commission on veterans affairs for fiscal year 2009 for:

A. Operating expenditures— administration \$50,000 (This money is to be used to hire a veteran's support and outreach administrative officer. This is a new provision not previously in 2007 SB 330.)

B. Veterans claim assistance program — service grants \$500,000 (This would be in addition to the funding provided for this program in the Governor's budget. This program was created in 2006 by the legislature, K.S.A. 2007 Supp. 73-1234 through 73-1235, to improve the coordination of veterans benefits counseling in Kansas, to maximize the effective and efficient use of taxpayer dollars and to ensure that every veteran is served and receives claims counseling and assistance. The program is implemented and administered through annual service grants to eligible veterans service organizations.)

C. State soldiers' assistance program \$500,000 (This would fund the new program created in Section 2.)

New Section 2. Creates a new program called the state soldiers' assistance program. The program is designed to aid and assist any veteran resident of Kansas in securing emergency relief, hospitalization, treatment and maintenance of all such veterans who were bona fide residents of the state at the time such veterans need arose and such veteran's dependents. The program shall:

A. Assist dependent family members of military personnel who are called from reserve status to extended federal active duty during a time of war or national emergency.

B. Assist veterans who are indigent or suffering from any disability.

C. Assist veterans and the veteran's dependents in establishing and proving any just claim the veteran may have against the United States government, or any other government or state for compensation, insurance, relief, or other benefits.

D. Provide maintenance and relief for any resident veteran and the veteran's dependents suffering from disability.

E. Cooperate with other state, city and county officials and civic or civilian agencies or organizations in carrying out the provisions of this section.

For the program, "resident" means a person living in Kansas for at least 30 days with the intention of residing in the state and not for any temporary purpose. An applicant may verify a residence address by presenting identification approved by the executive director.

New Section 3. State employees who serve in the military reserves and are called to full time military duty, mobilized and deployed on and after July 1, 2008, receive a one-time activation gross payment of \$1,500. Currently, pursuant to Executive Directive 05-365, the Governor has authorized such a payment in the amount of \$1,000 to employees deployed on and after September 11, 2001. As of January 30, 2008, 219 employees received such payment amounting to a total expenditure of \$219,000.

State employees who serve in the military reserves and are called to or currently on full time military duty, mobilized and deployed on or after July 1, 2008, receive a military pay differential of not more than \$1,000 gross payment per pay period. Currently, pursuant to Executive Directive 05-365, the Governor has authorized such a pay differential limited to \$500. As of January 30, 2008, \$17,448 has been paid to eligible state employees.

New Section 4. State employees shall be granted leave with pay for six working days if an immediate family member (defined as the employee's parent, child, grandparents, siblings or spouse) who, as a member of the United States armed forces, has been injured or killed while engaged in active service. Such employee shall be granted an additional four working days of leave without pay. If a state employee's spouse or child, as a member of the United States armed forces, has been injured while engaged in active service and is hospitalized in a military hospital, such employee shall be granted an additional 10 working days of leave with pay. (This is a new provision not previously in 2007 SB 330.) Current State of Kansas funeral leave policy is established in K.A.R. 1-9-12 and grants up to six days of paid funeral leave.

State employees shall be granted leave without pay for up to one day if an immediate family member, as a member of the United States armed forces, has been ordered into active service in support of a war or other national emergency.

New Section 5. All other public employers and private employers shall grant up to 10 working days of a leave of absence without pay to an employee whose immediate family member (defined as the employee's parent, child, grandparents, siblings or spouse), as a member of the United States armed forces, has been injured or killed while engaged in active service. For the purposes of this section: employer includes a person or entity located or doing business in this state and having one or more employees, and includes all political or other governmental subdivisions of the state; and employee includes independent contractors and persons working for independent contractors.

New Section 6. Unless the leave would unduly disrupt the operations of the employer, all other public employers and private employers shall grant a leave of absence without pay for up to one day to an employee whose immediate family member (defined as the employee's parent, child, grandparents, siblings, spouse, legal guardian, grandchild,

fiancé or fiancée), as a member of the United States armed forces, has been ordered into active service in support of a war or other national emergency. For the purposes of this section: employer includes a person or entity located or doing business in this state and having one or more employees, and includes all political or other governmental subdivisions of the state; and employee does not include independent contractors.

New Section 7. State educational institutions, community colleges, municipal universities and technical colleges shall recognize courses and award educational credits for courses that were part of a veteran's military training or service if the courses meet the standards of the American council on education (ACE) or equivalent standards for awarding academic credits. Accredited independent institutions are encouraged to do the same. In 2007, the Regent's reported that for the most part, the state universities recognize course work and educational credits for a veteran's military training and service, if the course or training meets the standards of the American council on education or the equivalent. Specifically, in 2008, FHSU does accept military credit if the credit meets the standards of the ACE. KSU recognizes course work and educational credits for a veteran's military training and service if the course or training meets the standards of the ACE or the equivalent.

State educational institutions, community colleges, municipal universities and technical colleges shall not assess late fees or other late charges for veterans who are eligible to receive federal educational assistance and who have applied for that assistance but not yet received it, nor shall such institutions prevent these students from registering for a subsequent term because of outstanding tuition charges that arise from delayed federal payments. The Regent's reported that each campus handles late fees in the following manner: KSU - 2008, late fees are not automatically waived but if the university becomes aware of the charges, such charges will be waived for veterans. In addition, veterans who are waiting on federal assistance to pay their tuition and fees, are eligible to have their tuition and fee payment deferred until their assistance arrives. WSU - Through 2007, WSU does not charge any late fees.

ESU - In 2007, veterans are treated the same as other students.

PSU- In 2007, students who do not pay their fees on time would pay the same late fee charge of \$30.00 that all other students pay. Veterans are encouraged to complete their tuition assistance forms in a timely manner so that fees are available to them at the start of the semester.

KU - Veteran's are eligible for a deferment under certain situations but they must request it. If the veteran does not and receives a late charge, they may appeal and the fee would generally be waived. If the student is habitually late and has received similar waivers in the past with notification to request a deferment, an appeal may not be granted.

KUMC- All students are charged a late enrollment and payment fee.

FHSU- Late fees for veterans who are eligible are not charged if the veteran has applied for and is waiting to receive federal assistance.

New Section 8. The state board of regents shall establish a program to provide central liaison staff and campus veterans assistance staff to serve the needs of students who are veterans at state educational institutions. Methods of assistance may include, but not be limited to, work-study positions for veterans, and providing information and assistance regarding the availability of state, federal, local, and private

resources. In 2007, the Regent's reported that currently at the six state universities, there are a total of 6.5 FTE's at a cost of \$275,000 dedicated to assisting veterans. In 2008, FHSU: Approximately 1.0 FTE at a cost of \$35,000/year. KSU employees two full time staff and 5 students to serve the needs of veterans at an estimated annual cost of \$102,000.

New Section 9. If a service member is enrolled in a postsecondary educational institution and is called to active duty, the tuition, fees and charges would remain at the rate established for the academic year when they were called to duty. The member would have to enroll within one year of returning from deployment or returning to Kansas, whichever ever occurs first. (This is a new provision not previously in 2007 SB 330.) In 2008, the Regents reported that at FHSU, the service member would have the opportunity to ask for and receive a 100% refund for the course(s) the service member would be unable to complete due to being called to active service. In the alternative, the service member could ask the instructor for an incomplete in the course with the ability to complete it later. KSU does not have such a policy.

New Section 10. An appropriation to the department of wildlife and parks for fiscal year 2009 in the amount of \$75,392, for issuing free hunting and fishing licenses for calendar year 2009 for Kansas disabled veterans who have been honorably discharged and have a service connected disability that is equal to or greater than 30%. The agency is estimating 12,916 Kansas veterans would qualify. This program would be similar to the reimbursement for annual licenses issued to national guard members.

New Section 11. The board of healing arts shall grant an extension to the time period required to pass the United States medical licensing examination if an applicant is mobilized into active military service, during the process of taking such examination, but before passage of all steps. Currently, pursuant to subsection (b)(1) of K.A.R. 100-7-1, the applicant has 10 years to pass the exam.

New Section 12. A person who is in full-time military service and deployed outside the United States for at least six months can defer the real property taxes on such person's principal place of residence for up to 2 years. Interest and penalties would be waived.

New Section 13. The provisions of this section provide for a veterans income tax credit, in the amount equal to the product of such veteran's real property tax on the primary residence and the amount of the service connected disability expressed as a percentage, if such veteran has been separated from the armed services under honorable conditions and has service connected disability which is equal to or greater than 30%.

Section 14. Amending K.S.A. 2007 Supp. 8-1,146 to allow active duty military to purchase military motor vehicle tags. Currently, only veterans who have been honorably discharged may purchase the tag. (This is a new provision not previously in 2007 SB 330.)

Section 15. Amending K.S.A. 2007 Supp. 8-243 to require drivers license's to show that a person is a military veteran, upon request. (This is a new provision not previously in 2007 SB 330.)

Section 16. Amending K.S.A. 39-7,106, Kanwork statute. Providing a veterans preference for child care assistance for Kanwork participants. At the current time, the

department of social and rehabilitation services has no veteran's preference for the Kanwork program.

Section 17. Amending K.S.A. 2007 Supp. 76-729. This section would require the Regents to charge in-state tuition fees for all honorably discharged veterans and persons in the military service. **[NOTE:** There is an error in the bill. The intent was to require in-state tuition fees be available to the spouse and dependents of the veterans and person in the military. A balloon is prepared to correct this issue.] It would also require in-state tuition fees for KS National Guard members who are residents of another state. (This is a new provision not previously in 2007 SB 330.) Currently, the Regent's may allow persons in the military service and certain retired or discharged veterans to pay in-state tuition fees.

TESTIMONY ON SENATE BILL 533

February 5, 2008

George Webb

Executive Director, Kansas Commission on Veterans' Affairs

Thank you for the opportunity to comment on behalf of our commissioners on SB 553. I am grateful for the opportunity to work with Senators Umbarger and McGinn on this wide-reaching bill that goes a long way toward helping veterans and their families most in need. Their support for those who wear and have worn the uniform – and their families – is greatly appreciated.

This bill would appropriate \$500,000 for aid and assistance for veterans and their family members, as well as the families of reserve component personnel called to active duty. This is a needed and welcomed helping hand, since all too often we have nothing we can offer when we learn of a troop or family member in great need. Because we have no experience in administering such a program, I can only say that we will do it right and carefully. Some staffing may be required, as the appropriations for administration suggest, and certainly the KCVA will need to develop and implement rules and regulations so that assistance can be timely but managed. I look forward to working with our friends in the Kansas National Guard on this, as they have a solid family support system up and running.

This bill seeks to add an additional \$500,000 to the veteran's assistance grant program which already has over \$500,050 in the Governor's budget for SFY 2009. Since the two current grant recipient veteran service organizations are splitting the current \$500,000, the intent of this bill may be to double the grant funding in order to make more funds available to other service organizations, which is a sign of strong support for veterans. A statutory change to the eligibility requirements would be necessary to expand the program.

The Agency believes the monetary support to state employee reserve component troops called to active duty is warranted; we understand that these costs would come from within the employee's agency budget and not from a separate account.

Leaves of absence for family members of those killed or injured on active duty are entirely appropriate in the interest of care and compassion. We have seen over and over how important loved ones are to the recovery of our wounded soldiers, yet these family members must often leave homes and jobs for extended periods to be at the bedsides and care facilities of these Americans who have sacrificed so much. The emotional and financial tolls on the family caregivers are extremely high. From Ramstein, Germany to Walter Reed to San Antonio and other polytrauma centers to facilities back home in Kansas, we know without question that loved ones are vital elements of recovery for our troops.

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The educational changes are also appreciated. The KCVA welcomes the opportunity to work with campus veterans assistance staffs in this endeavor. I personally welcome the change in wording for in-state tuition rates for military personnel and military retirees. From my own experience, I know that the awkward language in the earlier statute gave license to some administrators to deny in-state rates even when warranted. This language is clear and (fortunately) avoids the complex interpretations on residency. However, I would ask that we take a closer look at the paragraphs and numbering at the end of the bill. It appears that in the rewrite, eligibility of in-state fee rates was omitted for family members of military personnel, retirees, and those leaving active duty. This should be an easy fix in the bill.

I would like to explain the logic behind freezing tuition rates for personnel deployed overseas and/or called to active duty. Two years ago I learned of a veterinary school student whose reserve unit was called to active duty and deployed to Iraq. Upon his return, he discovered that the school had completely changed the tuition system, and while those still enrolled (his former classmates) were grandfathered, he was not. The difference was over \$10,000 per year. I was happy to engage with the university to set things right. In the end, the school elected to sustain the higher tuition rates but gave him a scholarship to cover the difference. This bill would preclude such a situation from happening in the first place.

We are also happy to support the concept of hunting and fishing license fees for certain disabled veterans. We hear about this routinely from veterans – perhaps more than any other missing benefit. We also hear about the real property tax benefit to disabled veterans, and this bill will help those who have sacrificed while in the service.

Again, I appreciate the opportunity to have worked on the different aspects of this bill – some of which were already developed and some of which were suggested by the KCVA. Our care for America's sons and daughters, mothers and fathers, and brothers and sisters who have served and still do serve the Nation should have no boundary.

Respectfully submitted,



George S. Webb
Executive Director
Kansas Commission on Veterans' Affairs

SENATE BILL NO. 533
Senate Ways and Means Committee
Tuesday, February 5, 2008
State Capitol, Room 123 South

The American Legion wishes to take this opportunity to express its support of Senate Bill 533 and to thank Senators Umbarger and McGinn for their sponsorship. The American Legion does however have a few concerns and / or questions pertaining to various sections of Senate Bill 533.

That is; on page one, lines 21 thru 36 which provides for \$500,000.00 to the Veterans claim assistance program-----service grants. The question of the American Legion has is the \$500,000.00 in addition to the current proposed budget for the grants to veteran service organizations, or in place of the current proposed budget for that program? There has been some speculation on both sides of that question and The American Legion would appreciate clarification of the intent of SB 533 in this area.

Also, under new Section 2, on page 2 lines 7 thru 10; item 3 seems to duplicate the efforts and legislative intent of the current grant program to veteran service organizations. Thus The American Legion's question is, is it the intent of SB 533 for the Kansas Commission on Veterans Affairs to duplicate the efforts of veteran service organizations participating in the grant program? And in effect enter into competition with Kansas' veterans' service organizations thereby diminishing the effectiveness of the grant program, and the efforts of those organizations not currently in the grant program, but may become part of the grant program in the future?

Our reason for posing these questions is the current grant program is working; the number of claims filed with the US Department of Veterans Affairs on behalf of veterans and their families has dramatically increased since the grant program began in earnest. Likewise the amount of federal tax dollars returning to Kansas in the form of

Chuck Yunker

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compensation and pension paid directly to disabled and indigent veterans has also increased dramatically.

The American Legion fully supports all other provisions of SB 533 especially those sections addressing opportunities for veterans at educational institutions located in the state. I would like to take this opportunity to alert you to a pending announcement to be made by Army Secretary Pete Geren, Lt. General William Caldwell IV the Commanding General of Ft. Leavenworth, and the University of Kansas tomorrow. I will not receive a final draft of the announcement until it is released early tomorrow afternoon therefore I am not prepared to provide you any specifics, however I can tell you the purpose to the announcement and press conference is directly related to the Army's Wounded Warrior Education Initiative. The reason I mention it today is some of the provisions of SB 533 may be directly or indirectly affected by Secretary Geren's announcement tomorrow. That is; you may wish to review that announcement which I believe will compliment the educational provisions of SB533.

Again The American Legion applauds the efforts the efforts of Senators Umbarger and McGinn on behalf of Kansas veterans and I hope you understand the reasoning behind the two questions posed at the beginning of my testimony this morning. For the sake of the Legion's peace of mind we would appreciate clarification of SB 533's intent in those two areas.

**Testimony by
Ken Stodgell, (VFW), in Support of SB-533
Before the
Ways and Means Committee**

Chairman Umbarger, Senator McGinn and members of the Committee thank you for giving me the opportunity to appear before your committee to-day. My name is Ken Stodgell and I serve as the state legislative chairman for the VFW. The VFW stands in support of SB-533 again this year. We support this bill for the following reasons, it provides support to veterans returning home through the soldier's assistance program, and it provides assistance to older and disabled veterans.

Some parts of this bill have been sought by veterans and veteran service organizations for a number of years such as provisions for hunting and fishing licenses, credits to assist disabled veterans with their property taxes through income tax credits.

In Section 1 of this proposed bill is an addition to the existing service grant program of \$500,000. While we appreciate this vote of support, when this program was adopted we agreed with the legislative intent that there be a three year implementation period during which we would operate under the current level and then if necessary seek an expansion of the program. We are currently in our second year of the three year cycle. Given that FY-2009 is the third year of the program we feel it important to keep our commitment to you the legislators who have supported us. Rather than expanding the grant program ahead of schedule we would ask that you follow through on the Governors recommendation setting funding at the \$550,000 level. The service organizations have a number of other projects that require funding, one being a bill introduced in the House Veterans, Military and Homeland Security Committee. Working through the Veterans Claims Assistance Advisory Board this bill would expand and reorganize the Veteran Services Program under the KCVA. The proposal would provide for mobile offices to bring services to veterans in rural Kansas communities who are unable to visit the VA centers. We ask that expanded funding be utilized as part of the initial funding for this model program. Currently we have support in the Senate and House for this legislation.

Again the VFW would like to extend our support and gratitude to the members of this committee for their hard work in crafting this bill that brings meaningful support and relief to veterans and their families.

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Attachment 9



Testimony

to the

Senate Ways and Means Committee

On Senate Bill 533

February 5, 2008



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(785) 862-1066 www.ngaks.org

*Senate Ways and means
2-5-08
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Mr. Chairman and members of the committee, thank you for the opportunity to present written testimony to you today from the National Guard Association of Kansas, Inc. (NGAKS). The NGAKS is made up of officers of the Kansas Army and Air National Guard, past and present numbering over 1,300. The National Guard Association of Kansas's mission is to support and improve the Army and Air National Guard of Kansas, and to promote or undertake activities and programs of benefit to members and their families' well-being. This enhances the ability of all National Guard members to fully perform their federal and state missions.

The Kansas National Guard is made up of young men and women from every area of the State. They are all volunteers, serving both our state and our nation. There are nearly 900 of our 7,500 Kansas National Guardsmen serving in Iraq, Afghanistan, the Balkans and many other places around the world. In fact, since September 11, 2001, more than 5,800 Kansas National Guardsmen have deployed to these and other locations around the world. Each month, as our Kansas Guardsmen deploy, others will return home to Kansas—to their communities, to their families, to their employers and to civilian life. Kansas Guardsmen have also served our state in emergencies when they were called. In 2007, Kansas National Guardsmen provided services to nearly every county in Kansas—from snow storms in Western counties, to tornadoes such as Greensburg, flooding throughout the Southeast counties, and ice storms across the state.

The National Guard Association of Kansas supports SB 533, with its' benefits to Kansas National Guardsmen and their families. The National Guard Association is particularly pleased with the provision that would allow Kansas National Guard members who may reside outside the state to attend Kansas universities at the in-state tuition rates. These young soldiers and airmen, as Kansas National Guard members, serve the citizens of the state of Kansas in disasters and serve the nation in wartime and locations across the globe. For a very few members of the Kansas National Guard who are working to better themselves by attending our state colleges and universities even though they may live across the state line, in-state tuition charges would greatly benefit them and allow them to attend the superb colleges and universities here. Please consider the favorable passage of SB 533.

Mr. Chairman and members of the committee, thank you again for the opportunity to present written testimony on this bill. Please feel free to contact the NGAKS for questions or further information at 785-862-1066 or ngaks@aol.com . Thank you.