Approved: 5-7-10
Date

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Kevin Yoder at 9:10 a.m. on March 10, 2010, in Room 346-S of the Capitol.

All members were present.

Committee staff present:
Jim Wilson, Office of the Revisor of Statutes
Nobuko Folmsbee, Office of the Revisor of Statutes
J.G. Scott, Kansas Legislative Research Department
Heather O'Hara, Kansas Legislative Research Department
Jonathan Tang, Kansas Legislative Research Department
Stephen Huggins, Chief of Staff, Appropriations Committee
Kathy Holscher, Committee Assistant, Appropriations Committee

Conferees appearing before the Committee:
Frank Trimble, Senior Adult Management, Inc, proponent
Shannon Jones, Statewide Independent Living Council, proponent
Mike Oxford, Topeka Independent Living Resource Center, Proponent
Debra Zehr, Kansas Association of Home Services for the Aging, Opponent
David Beck, Brewster Place, Opponent
Marc Riley, Larksfield Place, Opponent
Cynthia Smith, Providence Place, Opponent
Tom Bell, Kansas Hospital Association, Neutral

Others attending:
See attached list.

- Attachment 1 — **HB 2673** -Testimony - Senior Adult Management, Inc.
- Attachment 2 — **HB 2673** -Testimony - Statewide Independent Living Council of Kansas
- Attachment 3 — **HB 2673** - Testimony - Maxwell Nuss
- Attachment 4 — **HB 2673** - Testimony - Kathy O'Brien
- Attachment 5 — **HB 2673** - Testimony - Meadowbrook Rehabilitation Hospital
- Attachment 6 — **HB 2673** - Testimony - Asbury Park
- Attachment 7 — **HB 2673** - Testimony - Kansas Advocates for Better Care
- Attachment 8 — **HB 2673** - Testimony - Kansas Hospital Association
- Attachment 9 — **HB 2673** - Testimony - Topeka Independent Living Resource Council
- Attachment 10 — **HB 2673** - Testimony - Kansas Association of Homes and Services for the Aging
- Attachment 11 — **HB 2673** - Testimony - Brewster Place
- Attachment 12 — **HB 2673** - Testimony - Providence Place
- Attachment 13 — FY 2011 Budget Committee Report on Department on Aging
- Attachment 14 — Amendment to FY 2011 Budget Committee Report on Department on Aging

Representative Faber made a motion to introduce legislation regarding the qualifications for the Secretary, of Kansas Wildlife and Parks. The motion was seconded by Representative Donohoe. Motion carried.

Representative McLeland made a motion to introduce legislation to merge school district funds. The motion was seconded by Representative Lane. Motion carried.

HB 2673 - Assessment of quality assurance fee on skilled nursing care facilities to improve the quality of care

Minutes of the House Appropriations Committee at 9:10 a.m. on March 10, 2010, in Room 346-S of the Capitol.

Frank Trimble, Chief Operating Officer, Senior Adult Management, Inc. provided testimony as a proponent of **HB 2673**, (Attachment 1).

Shannon Jones, Executive Director, Statewide Living Council of Kansas, provided testimony as a proponent of **HB 2673**, (Attachment 2).

Ms. Jones responded to questions from committee members. She stated that the request for 20% of the dollars collected through the provider tax is realistic and was proposed in previous legislation. This proposal would fit within Centers for Medicare and Medicaid Services (CMS) guidelines, she added.

Chairman Yoder stated that the following written testimony has been distributed to members: Maxwell Nuss, (Attachment 3); Kathy O'Brien, (Attachment 4); Angela Hullinger, Meadowbrook Rehabilitation Hospital, (Attachment 5), Tom Williams, Asbury Park, (Attachment 6), and Mitzi McFatrich, Kansas Advocates for Better Care, (Attachment 7).

Tom Bell, President and CEO, Kansas Hospital Association, provided testimony in a neutral position on **HB 2673**, (Attachment 8).

Mike Oxford, Executive Director, Topeka Independent Living Resource Center, provided testimony as a proponent of **HB 2673**, (Attachment 9).

Mr. Oxford responded to questions from a committee member. He stated that if CMS allows a provider to be taxed this money could be used as discretionary funds.

Debra Zehr, President and CEO, Kansas Association of Homes and Services for the Aging, provided testimony in opposition of **HB 2673**, (Attachment 10). She stated the two-thirds of the hospitals and two nursing homes are exempt from paying this tax.

Ms. Zehr responded to questions from committee members. She expressed concern that taxes have continued to increase over the years and the benefits back to the nursing home have decreased, and the money is diverted for other purposes. Ms. Zehr stated that she would provide data from other states regarding policies and not intended consequences. She noted that in Oklahoma and Missouri taxes have risen to the permissible federal level of 5.5% of the gross revenues, which have been used to maintain existing rates or in some cases the rates were cut. Ms. Zehr stated that the rates should be restored and this bill is not the mechanism, as it shifts the burden from the many to the few.

David Beck, Chief Executive Director, Brewster Place, provided testimony in opposition to **HB 2673**, (Attachment 11).

Mr. Beck responded to questions from committee members. He reiterated concern that the hospital provider tax money would be diverted for other uses, as has happened in other states. Mr. Beck discussed the life lease, and independent living apartments which subsidize the health care portion of the facility.

Cynthia Smith, Advocacy Council, Sisters of Charity of Leavenworth Health System, provided testimony in opposition to **HB 2673**, (Attachment 12).

Lee Eaton, staff, Midwest Health Management, spoke as a proponent of **HB 2673**. As requested by Chairman Yoder, written testimony will be forthcoming.

Chairman Yoder closed the hearing on **HB 2673**.

Representative Henry, Member, Social Services Budget Committee, presented the FY 2011 Department on Aging Budget Committee Report, (Attachment 13). The Budget Committee concurs with the Governor's recommendation.

Representative Henry made a motion to approve the FY 2011 Department on Aging Budget Committee

Minutes of the House Appropriations Committee at 9:10 a.m. on March 10, 2010, in Room 346-S of the Capitol.

Report. The motion was seconded by Representative Rhoades.

Representative Henry responded to questions from committee members. He stated that $675,000 replaces the stimulus dollars for the Nutrition Program, which enables the meal sites to maintain programs at the FY 2010 level. Discussion was held regarding Telehealth Services.

Representative Williams reviewed an amendment to the FY 2011 Department on Aging Budget Committee Report, (Attachment 14).

Representative Williams made a motion for an amendment to review Telehealth Services at Omnibus. The motion was seconded by Representative Carlin.

Discussion followed by committee members regarding the Kansas University Medical reports. Representative Williams responded that an initial verbal report would be scheduled with the subcommittee.

Representative Williams renewed the motion. Motion carried.

Representative Henry responded to questions from committee members. He discussed budget increases, which represent moratoriums on employee benefits, stimulus funding, increased caseloads, and nutrition enhancements. Representative Henry noted that there are no expansion requests for the PACE Program.

Representative Henry made a motion for an amendment that would include the following language: the Budget Committee notes its optimism that the federal government will extend the enhanced federal match for the second half of FY 2011. This extension could result in an additional $130 million in federal medicaid funding across all programs, and recommend that the Social Service Budget review at Omnibus the Nutrition Program, Home and Community Based Services, frail elderly funding waiver and senior care act. The motion was seconded by Representative Mast. Motion carried.

Representative Henry made a motion to approve the FY 2011 Department on Aging Budget Committee as amended. The motion was seconded by Representative Ballard. Motion carried.

The next meeting is scheduled for March 11, 2010.

The meeting was adjourned at 11:00 a.m.

Kevin Yoder, Chairman

APPROPRIATIONS COMMITTEE GUEST LIST

DATE: 3-10-10

NAME	REPRESENTING
Amy Penrod	DOB
Stephanie Buchanan	CMS
Mitzi McTaggart	KABC
[illegible]	KAITSA
Joe Ford	KAHSA
Brian Wilk	Via Christi
Berend Koops	Hein Law Firm
Emily Mueller-Sellers	ICHE
Lynn Hand	SRS
Kelly Meyer	Kearney & Assoc.
Vicki Woods	NEC
Jennifer Ciott	Children's Alliance
Gary Fowler	KACE & Village Villa
Lois Weeks	SRS
Marty Kennedy	Sec. KDOA
Mary Ellen Conlee	Senior Services
Robin Cleveland	DCCCA Wichita

Senior Adult Management, Inc.

Chairman, committee members, colleagues - I'm Frank Trimboli, and I'm a Kansas Adult Care Home Administrator. I have been in long term care for over twenty years, and currently act as the Chief Operating Officer of Senior Adult Mgt, Inc. and also as the Administrator of Providence Living Center, Inc. which is a local nursing facility for individuals with severe and persistent mental illness. I thank you for the opportunity to speak on the behalf of our organization's skilled nursing facilities, and frankly, on the behalf of most of the homes operating within Kansas as well.

I completely understand the importance of maintaining fiscal responsibility during these trying economic times, however we as Kansans cannot afford to trim our budget at the expense of our elderly, our infirm and our mentally ill who reside in skilled nursing facilities, nursing *homes,* within our great state.

We caregivers do not do what we do for a simple paycheck, as most of us could be compensated *financially* doing any number of other things. For instance, the average hamburger cook – *not that I'm trying to disparage people who have chosen this* as *a living* – will make more money per year than a nursing assistant who has been given the mission of providing care and services to people who simply cannot provide for their own daily needs.

Our facilities provide for over 160 residents among three locations, and over 70% of our residents are Medicaid recipients. I have recently had to tell many of those very nursing assistants, among other associates of our buildings, that we need to cut their annually allowed paid sick time in half, that all raises for 2010 will be frozen, that hours and positions will be cut… *And they understood.* For the good of the residents that we serve, they *understood* the sacrifices that needed to be made.

Sadly, this made my task even more difficult. I looked into the eyes of single Moms and told them that they would have half of their normal sick hours with which to take their children to emergency room visits to counter asthma attacks. I looked into the eyes of people who have a hard enough time stretching their paychecks and told them that I was cutting back their schedules by several hours. *I had to look into the eyes of Kansans and tell them that were going to the unemployment lines.*

Over the past couple of years we have had to bear the rising cost of raw food, of energy, of medical supplies. This year we have seen our Kansas unemployment insurance payments increase by 400%. Our workmen's compensation premiums have increased by over 33%. And yet our Medicaid reimbursement rates have not only *not* kept up with the inflation of everything that we require in order to provide our services, we are now burdened with this additional slashing. You can't expect anyone, much less a critical sector of the service industry to make ends meet on a reduction of one-tenth of their income. Take also into account that we, *and I know that I am repeating myself on this point*, are tasked with caring for lifelong Kansas taxpayers who can no longer care for themselves.

3224 SW 29th Street ♦ Lower Level ♦ Topeka, KS 66614
Phone 785-215-6617 ♦ Fax 785-783-7355

I would like to now speak to the special needs of one of our homes in particular. Providence Living Center, Inc. is a local NFMH, or nursing facility for individuals with mental health needs. As one of about a dozen Kansas NFMH's, we receive some of the lowest Medicaid rates provided by Kansas. We serve over 90% Medicaid recipients, which makes our 10% cut stretch across most of our usual, expected income. Imagine taking 10% out of your paychecks and being told that you have to meet the very same standard of living that you had prior to your reduction. Could you? *Where* would *you* cut back?

Quite often, when other Topeka nursing facilities decide that they can no longer care for an individual who is exhibiting psychological issues that they can't handle, they call us or facilities like ours. Ironically, that very same resident who brought in $130 per day at some of these facilities will be expected to be provided *superior* services for $80 per day at one of our state's NFMH's.

I know that this bill will create "winners" and "losers" among our Kansas nursing facilities, and I apologize, but I don't pretend to know how to formulate a plan that will make *everyone* winners. I can only speak to my organization, which operates only Kansas facilities. We aren't spread out across the nation like some of the larger proprietary corporations. As the economies of the various states undergo their natural ebb and flow, these other companies are able to shift revenues and expenses back and forth depending upon which regions are providing the best reimbursement at a given time.

Our three Kansas skilled nursing facilities cannot depend on being propped up by facilities in New York or Florida, where Medicaid rates are far greater than ours. We only have our own efforts, as well as the decisions of our state's legislators, with which to get by.

Decreasing Income and reimbursement... Increasing expenses... Workforce reductions leading to increased number of unemployed Kansans.... These are issues that are obviously facing workers and places of business nationwide. Why should Kansas nursing homes be given special consideration when the nation's economics are requiring almost everyone to make sacrifices?

We owe *the people that we serve the best, safest and most comfortable setting with which to enjoy their Golden Years.*

We take care of people who have trusted that society would not forget about them as they age and become more and more dependent upon others to meet even the most basic of personal needs with which to survive. These are individuals who have worked hard and paid taxes and now require the assistance of skilled nursing facilities to help provide for them during this time. For whatever reason, be it a worsening of their mental health, a

debilitating illness or injury, or a decline in abilities due to aging, these individuals now require full time, around-the-clock cares and services.

What we are here for today goes even beyond this, as we are asking for your assistance in providing the help that we give to the Kansas Medicaid residents who reside within our homes. These men and women are among the most frail and vulnerable of our citizens. Not only are these people dependent upon skilled nursing facilities for all of their needs, they quite literally have nowhere to go but those homes that accept Medicaid. Some of those very facilities are now discussing whether or not to put limits on their Medicaid recipient populations. Where will these people live? Who will provide for them?

It is so easy to forget that these members of The Greatest Generation are even around, as they grew up in an era where personal complaints were few and self-sufficiency was the norm. Today many of these folks are simply left in the care of people that they see as perfect strangers. These men and women served as veterans in several foreign wars, or waited at home wondering if their loved ones would even return. They taught us and our parents how to be better people. They built bridges, buildings, churches and schools… *they made our state better for those of us in this very room.* These heroes and heroines deserve better. On behalf of them, *and those who will need our help in the future*, please pass this bill.

Thank you for time and attention. I'll now try to answer of your questions.

Should you have any other questions or comments I can be reached at (913) 244-4169.

3224 SW 29th Street ♦ Lower Level ♦ Topeka, KS 66614
Phone 785-215-6617 ♦ Fax 785-783-7355

Statewide Independent Living Council of Kansas **SILCK**

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

Testimony to House Appropriations
HB2673
March 9, 2010

Mr. Chairman and members of the committee, I am Shannon Jones, executive director of the Statewide Living Council of KS. We are in support of HB No. 2673. The bill provides a mechanism for a provider tax collected from nursing homes in KS. Through this collection process there is a process for this provider tax to be collected and then matched to the federal medical assistance percentage. This provides additional funds for the nursing home industry without an extra draw on the State General Fund.

We think this is one way of making maximum use of the dollars available to the medical assistance program. As this legislation moves along, we ask that there be one modification. ***We are asking that 20% of the dollars collected be made available to Home and Community Based Services***. This partnership relation with the nursing home industry builds on the reality of these two programs working together to provide maximum choice and low cost benefits to frail elderly persons and persons with disabilities.

Through the combined efforts of the nursing home industry and the centers for independent living, the over-all population in nursing homes has dropped from approximately 28,000 to approximately 22,000. This drop defies the elderly demographics in our state. It happens because people with physical disabilities and seniors who need some type of long term care support have a choice as to where those services are delivered; in a facility or in their own home. The decrease in nursing home beds has its own virtue as a positive to the state's general fund. During the mid-1970's SRS was paying for approximately 14,000 nursing home beds. It is now paying for approximately 11,500 beds. That represents a smaller draw on the state general fund to provide nursing home care. Home and Community Based Services can be provided for a population similar to the nursing home population at half the price.

We think many Kansans have grown accustomed to thinking of Home and Community Based Services as an alternative to a nursing home. We don't see the two programs in competition. With both programs being available

Appropriations Committee
Date 3-10-11
Attachment 2-1

Kansans who need additional supportive care have a wide range of options between the two programs.

The Home and Community Based Services program for the physically disabled (HCBS/PD) has seen the number of persons served drop from approximately 7500 to 6500. The rate of reimbursement to providers has decreased by 10%. The Centers for Independent Living have suffered a $1M. cut which represents 60% of their budgets. These cuts come at the same time the centers provide core services of peer counseling, advocacy, legal services, independent living skills, and information and referral at no cost to the consumer but the cost to the centers, on average of $90, per person served.

We think sharing a portion of the nursing home provider tax with the centers which provide Home and Community Based Services is a fair and equitable way for the continuation of these services for elderly persons and persons with disabilities.

House Appropriations Committee
Testimony of Maxwell E. Nuss
March 9, 2010
HB 2673

CHALLENGES IN TAKING CARE OF ELDER FAMILY MEMBERS:

My name is Maxwell E. Nuss, from Leavenworth, Kansas. I am a full-time care-giver. My father's name is Clarence Nuss. He is a member of the "Greatest Generation". Nearly 89-years-old he served his country during World War II, retired from the Army, and continued working for his country as a government employee until his retirement. When stricken with colon cancer in 1999, he accepted the changes in his life that a colostomy pouch would bring. When he suffered a stroke in 2005, he accepted the changes this made in his life. He gave up driving. He allowed himself to become more dependent on people for events and activities most of us take for granted, such as transportation and assistance in everyday chores around his home. He understands his life is winding down. He is a proud man.

Appropriations Committee
Date 3-10-10
Attachment 3-1

To honor his wishes, my wife and I have become his Primary Care givers. Since 1999, as his needs have changed, my role has changed. My father is now home-bound. He leaves his apartment only when medically necessary. Due to his diminished hearing capabilities, I am his ambassador and interpreter between him and his doctor. I am his chauffeur to appointments, which includes the manipulation of a wheel chair because he is unable to walk much of a distance. He uses a walker in his apartment. He can no longer go up and down stairs. His energy level is so diminished he can no longer get up during the night to use the toilet. Instead, he urinates in a jar, which I empty the next morning. My wife cooks all of his meals, cleans his apartment, and now assists with laundry. I cut his hair, trim his toe-nails, and wash his back. He now depends on us for all aspects of his life. I cannot neglect this responsibility. Consequently, my wife and I are "on call" 24 hours a day, 7 days a week. We have not had a vacation, not even an evening away from home as an over-night "vacation" in over two years. This is what life is like when caring for an elderly relative at home.

My step-mother was his companion and aide, assisting him in the apartment to the best of her ability until April, 2008. At that time, she fell and broke her hip. In November 2008, she fell and broke her other hip. In November 2009, she fell and literally broke her neck. Since April 2008 she has been a resident of an assisted living center, rehabilitation facility, or nursing home. She now struggles with dementia and Alzheimer's. She will never go back to her home.

In addition to taking care of my father's multiple daily needs, I also monitor and facilitate the care of my step-mother with what are now multiple weekly visits which become multiple daily visits when needed. although i can no longer provide her transportation (she requires professional transportation because in a wheelchair). I manage the billing of and payment for services she receives, which now include hospice care.

This fact has added an additional dimension to my father's life. His retirement income is limited, but he is able to pay his own bills. Again, is a proud man and he takes his role as provider for

his spouse seriously. He knows his wife cannot return to their apartment. He understands she must be in the nursing home. This fulfillment of his obligation to her to keep her safe and cared for has, to date, amounted to an out-of-pocket expense of $89,840. He is gradually exhausting his life savings to take care of her. That the State of Kansas does not pay it's fair share for Medicaid residents only exacerbates this situation, by causing Private Pay rates to be increased. The availability of Federal funds that will slow the rate of these increases is crucial.

HB 2673 proposes changes that will accomplish this goal. It is simply bad policy to place additional financial burdens on citizens when alternative sources of funding are available. I am concerned what will happen to my father's finances if he is asked to pay additional fees for my step-mother's care. I am also concerned about what will happen to families if care facilities are forced to close due to lack of funding. I do not know what the future holds for my father. I do not know how long his finances will support the situation he now manages. However, I also do not know how we would be able to care for both my father and my step-mother if her care facility would close due to your not passing this bill before you.

House Appropriations Committee

HB 2673/SB 546, Quality Care Assessment Act

Testimony of Kathy O'Brien, March 9, 2010

Good morning, my name is Kathy O'Brien. I have been a guardian in the state of Kansas for 8 years. Currently I have 3 wards that are in Skilled Nursing facilities. I am here today on their behalf and the behalf of all elderly & infirm who could not be here.

Today we face the greatest challenge of MY time as a guardian. I am referring to the deep reductions made in Medicaid funding available. This directly affects the elderly who must have this funding to survive. These people who started working and paying taxes at the average age of 15. Our mothers, fathers, sisters and brothers who worked hard to make this a state they were proud to call their home.

As a guardian I would like to give you an example of what I saw at this time last year.

I saw a full energetic staff planning resident activities and social gatherings. I saw a full clothing bank for residents, ensuring the availability of nice clothing, warm coats and good shoes. There was plenty of equipment available for residents when it was needed. I saw plates of nutritious food at the tables of happy people socializing and speaking of good times, feeling safe and loved. Our elderly and

infirmed were confident that we as a State would ensure their needs would be meet.

Today I walk into the same nursing homes and see budget cuts being made. I see staff taking on more work to ensure their residents are safe and well nourished, as support staff cuts are being made. Now the talk amongst the caregivers is quiet and concerned. Not the excited energetic staff of one year ago.

I am not an administrator or on the business side of this issue. But basic math and common sense show me the nursing home receives about $4,000. per month per Medicaid recipient. This gives the resident Shelter, 24 hour medical care, nutritiously prepared meals, needed medical equipment, Social services, mandated staffing levels, socialization, security in a loving environment and much more.

Without the nursing home one of my wards would need around $11,700 per month for basic care needs. This includes attendant care for 24 hours @ $15.00 per hour equaling $360.00 per day or $10,800.00 per month. $600.00 for rent and utilities and $300.00 for food. Equaling $11,700 per month.

The elderly would be forced to live in bottom end housing with inadequate care. They would be become isolated, malnourished, and depressed. Their health would quickly fail. Or if they are very lucky they might be taken in by a loved one, who in turn would have to quit work to care for their loved one or pay out of pocket for nursing care creating a domino effect on an already stressed economy.

The people I represent here today are a proud generation. These are the people who fought in our wars to protect our freedom, marched for our civil rights and

fought for better education for their children and grandchildren. These are people who went without so that my generation and generations to follow would have more.

I ask you today to give them the care and dignity they have worked hard for and deserve. Pease do not force them into the streets where they will be lost and forgotten to die alone.

Our nursing homes cannot continue to give quality care to our loved ones with continued cuts in funding. Nursing homes will be forced to close and put the ones they care for back out on their own, where they will not survive.

I ask you as a guardian and resident of the state of Kansas to support HB 2673The Quality Care Act. We must not lose our nursing homes, as they are the lifelines for our elderly and infirm.

MEADOWBROOK
Rehabilitation Hospital
427 W. Main Street
Gardner, KS 66030
913.856.8747

Testimony Regarding 10% Medicaid Cuts

As CEO of Meadowbrook Rehabilitation Hospital, I am greatly concerned about the recent 10% Medicaid cuts and how these cuts are already affecting our residents, employees, facility, and the community. Meadowbrook has two programs that are greatly affected by these 10% cuts. We currently have a Medicaid funded Traumatic Brain Injury Program and Long Term Care Program.

To put this into perspective, Meadowbrook Rehabilitation Hospital has already suffered an **$80,000 per month** decrease in revenues that began January 1st, 2010.
$80,000 would have covered the cost of:
a) An entire month's salary for approximately 27 employees
b) Medication for all of our consumers for 4 months
c) Physical and occupational therapy for all of our Traumatic Brain Injury consumers for an entire month
d) Food for every consumer in our facility for 8 months

I. Individuals who have suffered a traumatic brain injury are very medically complex and require intensive medical care. In order to meet the needs of these consumers, the facility must employee specialists in the rehabilitation field. The following are just a few examples of specialists that are required in order to meet the needs of consumers who have suffered a traumatic brain injury:
1. Rehabilitation Physicians and Internal Medicine Physicians
2. Nurses specializing in rehabilitation
3. Speech, Occupation, and Physical Therapists
4. Psychologists
5. Psychiatrists
6. Behavioral Specialists
7. Respiratory Therapists
8. 24 hour pharmacy availability and a Pharmacist

TBI consumers have very complex medical issues and are extremely expensive to care for. Providing adequate care and services for some TBI consumers at Meadowbrook already costs more than we are reimbursed. Here are a few examples of why costs are so high:
1. Higher patient to staff ratios due to behavioral/aggression issues or complex medical management
2. Requirements for intensive physician intervention
3. Requirements for four hours of therapy or life skills services per day
4. Extensive wound care (requiring specialists, expensive treatments, and specialized mattresses and equipment)
5. Intensive respiratory management and tracheotomy care
6. Frequent trips to doctor's appointments/ER for specialized services. The facility is required to pay for these services and for the medical transportation to these appointments.

II. Individuals who are elderly or disabled must depend on others for their care. These individuals deserve quality care and to live in a home like environment. Consumers in a Long Term Care facility are expensive to care for and at a minimum require
1. Quality medical care from Nurses and Physicians
2. Rehabilitation from qualified Therapists
3. A clean and comfortable environment in which they have rights, choices, and activities

Kansas facilities already struggle to manage expenses while continuing to provide quality care to the consumers. Cutting reimbursement by 10% is forcing facilities to cut back expenses by whatever means possible. Here are consequences of these 10% cuts to Medicaid and how the cuts are affecting our consumers, employees, Kansas facilities, and Kansas communities.

1) The quality of consumer care has suffered since staffing hours have been cut. The decrease in staffing not only affects Medicaid recipients, but also affects Medicare, Private Insurance, and consumers who pay privately. Some facilities are even raising the private pay fees to help compensate for the Medicaid cuts, which is unfair to private pay consumers.
2) Consumers have been denied admission to the facility because adequate resources could not be provided to care for the consumer due to the Medicaid cuts.
3) Medicaid cuts have already affected our ability to recruit and keep physicians and other specialties. For example, Meadowbrook is having a hard time recruiting a Physiatrist (Rehab Physician), which is a requirement for our Medicare Acute Rehab program, due to the poor reimbursement rate for the Medicaid patients who they will also be required to serve. Thus, the Medicaid cuts are also affecting the quality of services for the Medicare, Private Insurance, and Private Pay individuals as well.
4) The facility has had to decrease the therapy expenses, which is resulting in issues between the facility and contract therapy company and could result in a loss of qualified therapy staff. This not only affects the quality of therapy care available to the Medicaid recipients, but also the Medicare, Private Insurance, and Private Pay recipients as well.
5) The quality of food and medical supplies in the facility has suffered. Facilities are being forced to use cheaper products, offer few choices, and use less supplies. The facility has put a freeze on purchasing new equipment due to the cuts, which affects all consumers.
6) Kansas will continue to see a rise in unemployment due to facilities being forced to lay off employees and cut employee hours due to budget cuts.
7) Kansas will lose quality employees, many with specialized education and training, to other states that are not cutting revenues. Other states will be able to offer more competitive pay, full time hours, and better benefits. There is already an extreme shortage of nurses and therapists. Kansas facilities will not be able to hire qualified nurses and therapist if we drive more nurses and therapist out of the state.
8) Many LTC facilities will not be able to stay in business due to the 10% cuts. Of the facilities still in business, many will see an increase in survey deficiencies due to decreased resources and a decrease in the quality of care.
9) Facilities will be forced to limit the number of consumers who utilize Medicaid as their payment source for services. Medicaid constituents already face discrimination in health care due to the low reimbursement rates to providers. Many providers already refuse or limit services provided to Medicaid participants because the cost of providing care is higher than the reimbursement received.
10) Kansas facilities will not have money for much needed improvements to their properties, for purchasing new equipment, or for technological advances to improve the quality of care and to keep up with national standards.
11) There WILL BE many consumers who will not be accepted into Traumatic Brain Injury and Long Term Care facilities and who will have no care options available to them. This will place a greater burden on families and communities.

These are just a few issues arising from the 10% cuts to Medicaid reimbursement. I know it has already greatly impacted Meadowbrook Rehabilitation Hospital and the consumers that we serve. I do not believe anyone has fully considered the impact these cuts will have on our sick, elderly and disabled or the devastating effect it will have on our communities and the state of Kansas. These cuts not only affect Medicaid recipients, but also affect individuals with Medicare, Private Insurance, and who pay privately for their care.

Thank you for your time and consideration.

Angela Hullinger, CEO
Meadowbrook Rehabilitation Hospital
427 W. Main Street
Gardner, KS 66030
913-856-8747

Asbury PARK

To: Chairman Kevin Yoder and
Members of the House Appropriations Committee
From: Tom Williams, CEO
Date: March 9, 2010

Mr. Chairman, I appreciate this opportunity to provide written testimony in opposition to House Bill 2673.

My name is Tom Williams; Chief Executive Officer for Asbury Park, a not-for-profit Methodist retirement community in Newton, Kansas. We have 80 elders residing in our Green Houses and nursing care center, 50 assisted living residents and 100 elders living in our cottages.

I saw how the bed tax worked when I was an administrator in Oklahoma from 2001 to 2005, and I continue to keep in touch with my colleagues there since returning to Kansas.

When the tax was implemented in 2001, my facility had to pass the tax on to our residents who were paying for their own care. They were very upset that they had to pay this extra cost. It also accelerated the speed of spend down among private pay nursing residents, creating a larger population of Medicaid recipients.

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

1. The tax has gone up.
2. Their Medicaid rates aren't keeping pace with the tax.
3. It requires more paperwork that isn't justified by the return

This type of tax burdens long term care providers and residents, and adds another layer of bureaucracy to the second most regulated business in the world.

I ask you to question the wisdom of starting a bed tax in Kansas. I ask you to oppose House Bill 2673.

Thank you.

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

200 Southwest 14th Street
Newton, KS 67114

Appropriations Committee
Date 3-10-10
Attachment 6

Kansas Advocates
for
Better Care

"Advocating for Quality Long-Term Care" since 19[illegible]

March 8, 2010

Chairman Yoder, Vice Chairperson Merrick and Members of the Committee
House Appropriations Committee

Thank you for the opportunity to present testimony on **HB 2673** , which provides for assessments on nursing facilities. As the consumer representative for persons living in nursing homes, I have worked over the past 18 months with KHPA, KDOA, KHCA, KAHSA, SILCK, and other interested parties to craft possible models and implementation strategies for a provider tax. None of the suggestions generated by that group found their way into this legislation.

Should the Committee find value in the provider assessment bill, Kansas Advocates for Better Care would **strongly urge** and encourage the **members** to **include language that would actually establish quality improvements for residents** in Kansas nursing homes and/or which would improve the quality and cost of long-term care provided through home and community based services in the person's home or other place of residence.

Kansas Advocates for Better Care is neither endorsing nor opposing SB 546 and its companion bill HB 2673. We are however, raising concerns of importance to consumers. Kansas Advocates for Better Care (KABC) is a non-profit organization, founded in 1975, to speak-out on behalf of elders living in Kansas nursing homes.

This assessment legislation, if passed and implemented, would likely result in an increase, either wholly or in part, in the amount private pay residents will be charged for care by nursing homes. Private pay residents will see their resources dwindle more quickly. If they reside in a facility that will not receive federal matching dollars due to non-Medicaid participation, or will receive a proportionally smaller amount than the facility pays in due to small Medicaid participation, those persons may actually see their care decline. On the other side, the portion of KABC's population who reside in Medicaid certified facilities might see improvements to their care.

Kansas Advocates would respectfully request your consideration of several important issues related to the proposed legislation.

1.) Over the past year, 132 nursing homes were cited for Abuse, Neglect or Exploitation. This represents 40% of nursing homes, out of the just over 300 nursing homes in Kansas. Although the legislation refers to this as a "quality care assessment," **nothing in this legislation provides assurance that residents will receive quality or improved or better care.** The assumption is that if more funding is provided it will be used to maintain or improve the care that residents receive, but there is NO assurance of that in the provisions of this legislation.

Appropriations Committee
Date 3-10-10
Attachment 7-1

913 Tennessee Suite 2 Lawrence, Kansas 66044-6904
phone: 785.842.3088 fax: 785.749.0029 toll-free: 800.525.1782 e-mail: info@kabc.org website: www.kabc.org

2.) Nursing homes receive reimbursement on a cost basis; they didn't receive an inflationary adjustment fo. .is fiscal year and were reduced by 10% in their Medicaid reimbursement beginning Jan. 1, 2010 (Medicaid nursing home admissions increased by 936 in January). Depending upon the amount of the assessment, most nursing homes stand to recoup from this tax more than they lose. Referencing the bill, Section 1 (d) (4) (F) "The **remaining amount, if any**, shall be **expended for quality enhancement of skilled nursing care facilities,...**" This language provides no mandate for improving the quality or quantity of care for residents and only with left overs. ✯Prior history informs this concern. A few years back, the legislature provided for funding to enhance direct care staff wages, the funding went to providers but in many instances was not actually utilized in the manner intended by the legislature to enhance wages but only to supplement anticipated annual increases.

3.) **Nothing** in this legislation **promotes long-term care delivery in less expensive settings**, like Home and Community Based Services. In-home care costs less and is preferred by elders when asked. Monies from this assessment, could go to nursing homes willing to diversify the long-term care services they offer.
Including diversification provisions in this bill would:

- address consumer desire to remain at home as long as possible;
- expand access to health care options & services that nursing homes could provide to communities;
- reduce the consistently increasing dollars required to fund nursing home care; and
- stabilize or expand employment opportunities in communities across Kansas. A significant issue for the health of Kansas communities and the state's revenue stream.

There are a few forward-looking nursing homes in Kansas who have already chosen to diversify this way.

4.) If private pay residents are required to pay a higher price for their care to off-set the cost of the assessment, **how will that accelerate the spend down** of their resources, and **push them onto Medicaid rolls** for payment of their care? KABC has raised this question, but to date has not seen any projections addressing this.
The assessment rate is not yet set, but could be as much as $2,500 annually. Kansas has a demographic of 85+ year old citizens that is growing and are most likely to need nursing home level of care. Therefore, it seems prudent to anticipate the impact. Many residents of nursing homes have family who are contributing financially to their care costs. Given the current difficult economy will they continue to try to privately fund care or choose to apply for Medicaid if faced with a significant increase?

Possible options for improving quality for residents in nursing homes:

A. Provide **reimbursement for an increased ratio of direct nursing care for residents**. National research reveals that increased direct nursing care is one of the top indicators for resident wellness & well-being. Many nursing homes provide more than the minimum 2 hours of nursing care per resident per day, but few if any provide the 4.13 hours of direct nursing care per resident, per day, recommended by independently funded long-term care reports. Nursing staff who provide care include RNs, LPNs, Certified Nursing Assistants (CNAs) and Certified Medical Assistants (CMAs).

B. **Funding for Restorative Care provided to residents** by direct care workers under the supervision of a qualified restorative care provider and that would keep residents at the highest level of practicable functioning.

C. Reimbursement to facilities for **1) consistent staffing on all shifts; 2) reduced usage of temporary/agency staff, and 3) increased direct care staffing for all residents**.

D. **Provide reimbursement** for long-term care delivered through **home and community based services** either through nursing home diversification or reimbursement to other entities providing HCBS in the community.

E. **Reimburse facilities for the 10% Medicaid provider reduction** that were implemented January 1, 2010.

F. **Resident Interviews to assess care quality** provided by an independent research firm with a validated model, such as the type offered in Minnesota, not the "My-Inner View" type.

G. One other thought, Ohio uses all the money from their "provider assessment" to **fund** their **long-term care ombudsman program**, ensuring that all persons receiving long-term care, whether in a nursing home, assisted living, or personal residence, has access to an authorized and independent advocate/mediator. Our current ombudsman program is understaffed by two regional ombudsman based upon the National Institutes of Health report which sets the standard of 1 ombudsman for each 2,000 residents.

Patti E. McDaniel
7-2

Tom Bell
President and CEO

TO: House Appropriations Committee

FROM: Tom Bell
President and CEO

DATE: March 9, 2010

RE: House Bill 2673

The Kansas Hospital Association appreciates the opportunity to comment regarding the provisions of House Bill 2673, which establishes the nursing home provider assessment program.

As many of you know, the Kansas Legislature passed a hospital provider assessment program during the 2004 session. That bill was the result of much discussion and attempted to address the chronic underpayment of Medicaid providers. As we considered the situation, we realized there were really only two choices. First, we could do nothing and continue to watch Medicaid rates erode as a percentage of what it costs to deliver the care. Or, we could be more proactive and attempt to develop a program that holds some promise of helping the state to solve the Medicaid reimbursement dilemma. We had numerous discussions with our board and membership and ultimately determined to follow the latter course. In its simplest terms, our hospital assessment program established a system whereby hospitals in Kansas would be assessed a certain amount of money for the purpose of generating additional federal matching funds to be used to increase Medicaid reimbursement rates for hospitals and physicians. In our opinion, this program has been successful thus far.

We also had the benefit of working closely with legislative and executive leadership to craft our proposal. The program that we put together was truly a partnership between hospitals and the state. It was essential that any program we developed would need to ensure that the resources of Kansas hospitals and the communities they serve would be used to improve the health care system in a fair and equitable manner. In order for us to accomplish this, we identified several key provisions that would need to be included.

- The assessment rate and base need to be specified in the statute.
- The program must have a formal agreement between the State and any providers assessed.
- To the extent permitted by federal regulation, assessment funds need to be returned to the providers in the most expeditious manner possible.
- The assessment and increased hospital payments must terminate if either is not eligible for federal matching funds.
- The increased provider payments financed by the hospital assessment must be required by the statute and an efficient and equitable mechanism to determine the specifics must be included.

- There must be a requirement for independent auditing of the program.
- There must be "maintenance of effort" by the state to prevent the diversion of new funds for other purposes or to supplant existing state funds.

While many of these provisions are addressed in House Bill 2673, there are still many "unknowns". It is difficult for any provider to "support" or "oppose" a provider tax program in absence of the assessment rate being known. In addition, these programs simply do not work as well without virtual unanimity of those being assessed. Providers should have the opportunity to determine how this program would impact not only their industry, but also their individual facility. Thus far, the provisions of House Bill 2673 do not allow this. We would encourage that all details be resolved prior to further advancement of House Bill 2673.

Thank you for your consideration of our comments.

Topeka Independent Living Resource Center

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

Testimony Presented to the House Committee on Appropriations
Representative Kevin Yoder, Chair

In Support of
and
Requesting Consideration of Amendments to
HB 2673

By
Mike Oxford, Executive Director
March 9, 2010

The Topeka Independent Living Resource Center (TILRC) is a civil and human rights organization. Our mission is to advocate for justice, equality and essential services for a fully integrated and accessible society for all people with disabilities. TILRC has been providing cross-age, cross-disability advocacy and services for over 30 years to people with disabilities across the state of Kansas. Our agency has been particularly interested in and committed to assuring that people who require long term care services have access to information, services and supports that offer choices; choices that promote freedom, independent lifestyles and dignity, including the dignity of risk.

We believe that over the years, the State of Kansas has increasingly come to support these interests, as well, as evinced by increasing the number of home and community program options and by increasing the funding for these programs. At the same time, there has been a significant struggle to continue to find the budgetary resources necessary to fund both the facilities and the home and community alternatives to facility-based long term care services.

HB 2673 proposes a method for increasing revenue dedicated to long term care services that would be new to Kansas. This funding mechanism is based on the nursing facility census and has been used by many states over the years to increase funding for the nursing facility industry. Some of the states that have utilized this method have also been very creative in demonstrating leadership in the development and delivery of home and community services and supports. This method not only raises the targeted revenue, but by having and using this kind of direct revenue, these states have also been able to avoid additional costs to the general revenue and have been able to use this "cost savings" to further fund creative home and community service options. Other states have raised billions of dollars through a similar fee. In tight budget times, shouldn't we be looking for ways, especially tried and tested ways, to raise revenue for the growing demand for long term care services?

Appropriations
Date 3-10-10
Attachment 9

KAHSA

creating the future of aging services

To: Representative Kevin Yoder, Chair, and Members,
House Appropriations Committee
From: Debra Harmon Zehr, president/CEO
Date: March 9, 2010

Testimony in Opposition to House Bill 2673

Thank you, Chairman Yoder and Members of the Committee.

The Kansas Association of Homes and Services for the Aging (KAHSA) represents 160 not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living facilities, our State's two PACE programs, as well as senior housing and community service providers who serve over 20,000 older Kansans every day. About 80% of our members provide nursing home care as a core service. On average, half of the nursing home care they provide is reimbursed by Medicaid. Also, half of our members are HCBS/FE providers.

The State is facing a serious budget challenge. HB 2673 is portrayed by some as the "only way" to restore Medicaid funding for nursing home care. We do not agree. We have not given up on the Legislature's ability to find a better way to restore Medicaid funding, not only for nursing homes, but for other Medicaid providers.

Some have asked, "What is your solution?" Here are some thoughts: Priorities can be re-examined. It has been my observation over the past 15 years, that nothing is truly dead until the last gavel comes down in the Kansas Legislature. Last week the Governor confirmed that the state will be receiving additional Medicaid dollars from the federal government ($22-24 million, with another $115 million probable.) That would go a very long way to restoring basic Medicaid funding while we work to get the economy turned around.

Here are some other ideas: Boost Medicaid estate recovery efforts and direct the money recovered back into the program. Address Medicaid estate planning techniques that allow persons to become Medicaid eligible artificially. Enhance efforts to go after persons who commit fiduciary abuse against frail elders, and many times defraud Medicaid in the process. Enact HB 2109, which would allow collateral assignment of life insurance proceeds of Medicaid beneficiaries to the State.

KAHSA believes House Bill 2673 is bad public policy because:

1. Caring for the poorest of our citizens is a societal obligation that has historically been funded by society at large. House Bill 2673 is a profound and fundamental departure from that social contract. It shifts the burden from the many to the few, in this case to vulnerable people who require nursing home care.

2. There have to be losers. The federal authorities consciously designed their regulations to discourage the use of these taxes, through built-in features that penalize some residents and/or homes. There will be nursing homes that pay more in the tax than they get back.

   Some proponents have tried to dismiss the "losers" because they have relatively few residents whose care is paid for by Medicaid. Some of these providers are this way because they deliberately help their residents avoid Medicaid dependency through pre-planning and supportive housing and services. This new tax penalizes those providers and residents for working to reduce the Medicaid burden to the state. Some providers do not serve Medicaid beneficiaries because they concentrate on meeting the need for high acuity rehabilitation care

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

in their community. You might have heard from some of your constituents back home that they would like certain kinds of nursing homes to be exempt from the tax...and they can make compelling cases.

3. About 37% of Kansas nursing home residents pay their own bills. Even if HB 2673 tries to hide it by prohibiting a separate line-item in resident's bills, there will be nursing homes that increase rates because they cannot simply "absorb" the tax. Kansans who struggle to pay for their own nursing home care in old age will bear this additional cost. HB 2673 will not only penalize these people for exercising personal responsibility... it will put them at risk for premature Medicaid dependence.

4. While there have been efforts to craft the bill so that damage to providers and nursing home residents is minimized, those of us who watch the Legislature know all too well that there will be strong pressure in coming years to change its provisions, to increase the tax, divert the money for other things, and to change the program to the detriment of those who pay the tax. Already today you have received testimony from proponents who want to take 20% of the money for other programs.

Proponents have compared the existing hospital provider tax with HB 2673. There are significant differences:

- The Hospital Association spent hundreds of hours, and hundreds of thousands of dollars designing their own plan. There was unanimous support among providers. Very few hospital patients pay out of pocket for their entire bill, so they do not feel the direct impact of the tax. Two thirds of hospitals are exempt from the tax, but benefit from the program.
- The nursing home community is deeply divided on HB 2673. Thirty seven percent of their residents pay their total bill out of pocket, and it is inevitable that some will feel the impact of this new tax. HB 2673 exempts only two of the 320+ nursing homes from paying the tax.

The KDOA modeling of HB 2673 became available to us at 7:00 p.m. yesterday. We have not had time to examine it closely, but here are some cautions I would offer the Committee. There are limitations to the accuracy of facility-specific numbers, if certain elements of the return to facilities is calculated based on average numbers, when, in fact there is significant variation by facility (as is likely the case with rebasing.) We are uncertain if the fiscal impact statement is reflective of restoration of the last half of SFY 2010 and/or SFY 2011. As we had a brief opportunity to have our analyst review the numbers and methodology last evening, he has questions about whether the tax rate noted is sufficient to accomplish the goals of the bill.

In closing I would like to tell you about Mr. Scott, a friend of my family, who, not unlike many residents of Kansas nursing homes, manages to pay his own bill. He and his wife were educators. They lived below their means, paid their taxes, and saved all their lives for retirement so they would be able to pay for their own care in old age. Mr. Scott lost his wife to cancer before they were able to enjoy retirement together. He will turn 86 this summer. Today, despite suffering from diabetes, severe arthritis, cancer, incontinence and early dementia, Mr. Scott maintains a positive outlook on life. He has fallen three times in the last year. He needs assistance with most of his activities of daily living. The Kansas retirement community he calls home has been a godsend for Mr. Scott and his family.

I cannot fathom trying to explain to Mr. Scott that his nursing home bill is going up as much as $3000 or more a year because the Legislature couldn't find another way to fulfill their responsibility to properly fund Medicaid. He would be confused and upset, as would his family.

Mr. Scott, and many others like him, cannot speak up for themselves. I hope the Legislature will not single out Mr. Scott and others like him for the extra burden HB 2673 will impose.

Thank you. I would be happy to respond to questions.

The need for assuring the availability and quality of long term services and supports exists in all settings, from the facility to home and community. HB 2673 offers a resource for skilled nursing facilities to promote quality assurance activities and to replace lost funding. TILRC proposes amending the bill so that 20% of the amounts collected from the proposed fee would go to home and community-based services and supports for individuals who otherwise qualify for nursing facility level of care. This proposed amendment is in keeping with our support for SB 585 of the Session of 2008. We believe that the resources derived from a quality assurance fee based on nursing facility census counts should be committed to home and community services that are an institutional equivalent. Currently, this means the FE and PD Waivers.

We think our amendment underscores the state's commitment to assuring that people have choices in long term care services. Our amendment is part of a long tradition in our state of supporting independence and dignity of long term care service recipients. Finally, we hope that our amendment is part, along with the MFP grant project, of a new beginning addressing the potential of nursing facilities working together with home and community agencies to create the seamless, quality long term service and support system that out state's consumers deserve.

Proposed amendment is in *italics, below:*

Sec. 1.(d)(4)*(G) 20% of the moneys in the fund shall be used exclusively for the following purposes:*

(1) equitably fund PD and FE Waiver covered services;
(2) restore service cuts and remove service caps implemented January 1, 2010
(3) restore the Medicaid rate reductions implemented January 1, 2010, including enhancing wages of attendant workers under self directed programs;
(4) restore funding up to 2008 levels for fiscal year 2010;
(5) equitably fund PD and FE Waiver quality assurance activities
(6) The remaining amount, if any, shall be expended for quality enhancement and improvement activities of the PD and FE Waivers

TILRC also would support a direct tax on in-home services providers to be used for the same purposes as above. This would seem to make the most sense. The problem is that such a tax for Kansas has recently been disallowed by CMS, similar to the case of Missouri. Missouri's attempt to assess an in-home services provider tax was not approved by CMS either. Perhaps in the future, an approved method will be promulgated. In the meantime, the PD and FE Waivers and the nursing facilities are serving a population that is, to a certain extent, shared. Why not also share efforts to enhance quality assurance and protect good services by replacing lost funding; whether an individual chooses facility-based or home and community-based services?

BREWSTER PLACE

To: **Representative Kevin Yoder, Chair, and Members House Appropriations Committee**
From: **David Beck, CEO, Brewster Place**
Date: **Tuesday, March 9, 2010**

My name is David Beck and I am the CEO of Brewster Place, a not-for-profit, United Church of Christ sponsored retirement community in Topeka. Thank you for this opportunity to speak to you regarding House Bill 2673.

Brewster Place has served elderly citizens of northeast Kansas for more than 43 years. As a continuing care retirement community with a mission of providing all of its residents opportunities for an optimal quality of life, we provide a continuum of care services including 160 independent living homes, 75 congregate apartments, 26 assisted living apartments, and homes for 79 residents in our skilled nursing facility. We also provide home health services on our campus as well as a variety of rehabilitation therapy modalities, two wellness centers, an emergency call system and an in-house 24 hour security department. At the heart of every service provided by Brewster Place is a commitment to a person-centered philosophy at all levels of the continuum. Brewster Place's wellness initiatives center on the four key areas of wellness – physical, social, intellectual, and spiritual. The embodiment of our mission is in providing opportunities for our residents in each of these four areas to stay healthy and independent as long as possible, preserving their dignity as well as their resources, and lessening the burden on government to pay for health services through Medicare and Medicaid.

1205 SW 29th Street
Topeka, Kansas 66611

Appropriations Committee
Date 3-10-10
Attachment 11-1

I am strongly opposed to House Bill 2673 as a way to leverage federal Medicaid dollars for the state. This tax will be passed on to frail nursing home residents who pay for their own care. It is an especially egregious tax in the case of Brewster Place and other continuing care retirement communities that work diligently with our residents to preserve health and lessen the likelihood of Medicaid dependency.

These older Kansans who require nursing home care have paid plenty of taxes over their lifetimes to support the Medicaid program. At the same time they scrimped and saved to pay for their own long term care needs. The so-called quality assessment would create a perverse incentive against personal responsibility, plus it would accelerate the depletion of older Kansans' assets, causing them to rely on Medicaid faster.

I have serious concerns about the future should House Bill 2673 be passed. Those who have watched nursing home taxes in other states know that the tax almost always increases to the maximum allowable level, and the "pay back" to nursing homes quickly goes down. Based on what has happened with the hospital provider tax in Kansas, I have no faith that House Bill 2673 would prevent future cuts in nursing home reimbursement.

Finally, I would submit that this is not the ONLY way to alleviate the impact of the 10% Medicaid cuts. On the federal level H.R. 2847 contains provisions for a six-month extension of increased federal Medicaid funding, through June 30, 2011. We strongly support this provision, as it is essential to enable Kansas to avoid even more draconian cuts than have already been made in Medicaid programs. The federal House and Senate chambers now are determining the bill's final provisions. Passage of this legislation would make for a

1205 SW 29th Street
Topeka, Kansas 66611

completely different sense of urgency and there is no reason for Kansas to preempt action on the Federal level.

I believe that the Kansas Legislature can and should find more suitable ways to fund our state health insurance program for the poor. Please vote no on House Bill 2673.

Thank you. I would be happy to answer questions.

1205 SW 29th Street
Topeka, Kansas 66611

Testimony of Mike Bosley
Administrator, Providence Place
Kansas City, Kansas

In Opposition to SB 546 and HB 2673
Assessment of quality assurance fee on skilled nursing care facility facilities

House Appropriations Committee
March 9, 2010

Mr. Chairman and members of the Committee,

Providence Place is a skilled nursing and rehabilitative care center in Kansas City, Kansas. We are opposed to a nursing care provider tax.

Providence Place – and federal taxpayers – would be "losers" under a nursing care provider tax program. I cannot know how, or how severely, this legislation will affect our rehabilitative care facility. But we have seen the Health Policy Authority's models on a nursing care provider tax. We come out as "losers" of somewhere between $60,000 and $200,000 per year. The bill would attempt to prevent nursing care providers from revealing that they pay the tax bill by raising costs for other residents, but I don't know how we would be expected to make up that lost revenue.

During study by the Health Policy Authority, no compelling need was presented. This tax program was studied in 2009 by the Health Policy Authority, yet we never heard a compelling case by any single nursing care facility that a program was needed. **The only motivation expressed was that federal taxpayer dollars could be directed to certain Kansas nursing facilities.**

Proponents were seeking this tax before the Medicaid payment cut. Advocates cite the new Medicaid payment cut as the reason this tax program is needed. Yet the proponents were advocating for this tax even before a payment cut was proposed, so we find those arguments disingenuous. We also understand lawmakers want to restore full Medicaid payments for FY 2011, and so a tax program would be premature. You should continue to work on that effort.

Kansas has not had a nursing care facility crisis. The state does not need a nursing care tax program, and cannot be certain the tax won't make the nursing care situation in Kansas worse instead of better. Providence Place does not serve Medicaid patients, yet we are full. It would not make sense to change our business model and no longer serve the rehabilitation patient population which needs and wants our services. **If the Medicaid payment rate cut is expected to cause a crisis, the state should restore payment rates and not penalize nursing care facilities like Providence Place or pass the burden on to self-pay patients and federal taxpayers.**

I urge you to vote against this legislation.

Respectfully submitted,
Cynthia Smith
Advocacy Counsel, Sisters of Charity of Leavenworth Health System
(785) 580-8508

Appropriations Committee
Date 3-10-10
Attachment 12

FY 2011

SOCIAL SERVICES BUDGET COMMITTEE

Department on Aging

Representative Peggy Mast, Chair

Representative David Crum

Representative Marc Rhoades, Vice-Chair

Representative Tom Hawk

Representative Jerry Henry,
Ranking Minority Member

Representative Mike Kiegerl

Representative Barbara Ballard

Representative Forrest Knox

Appropriations Committee
Date 3-10-10
Attachment 13-1

House Budget Committee Report

Agency: Department on Aging **Bill No.** HB 2706 **Bill Sec.** 65

Analyst: Montgomery **Analysis Pg. No.** Vol. 1, p. 465 **Budget Page No.** 217

Expenditure Summary	Agency Request FY 2011	Gov. Rec. FY 2011	House Budget Committee Adjustments
Operating Expenditures:			
State General Fund	$ 179,123,940	$ 172,925,292	$ 0
Other Funds	332,998,302	321,906,962	0
Subtotal	$ 512,122,242	$ 494,832,254	$ 0
Capital Improvements			
State General Fund	$ 0	$ 0	$ 0
Other Funds	0	0	0
Subtotal	$ 0	$ 0	$ 0
TOTAL	$ 512,122,242	$ 494,832,254	$ 0
FTE positions	214.0	214.0	0.0
Non FTE Uncl. Perm. Pos.	16.0	16.0	0.0
TOTAL	230.0	230.0	0.0

Agency Request

The **agency** requests an FY 2011 budget of $512.1 million, an increase of $22.6 million, or 4.6 percent, above the revised current year estimate. The request includes State General Fund expenditures of $179.1 million, an increase of $32.1 million, or 21.8 percent, above the revised current year estimate. The request would include 214.0 FTE positions and 16.0 non-FTE positions, the same as the revised current year estimate. The request includes eleven enhancement requests totaling $22.9 million, including $11.4 million from the State General Fund. Absent the enhancements, the request would be a decrease of $300,000, or less than 0.1 percent, from all funding sources from the revised estimate.

Governor's Recommendation

The **Governor** recommends $494.8 million, including $172.9 million from the State General Fund for FY 2011. The recommendation is a decrease of $17.2 million, or 3.4 percent, below the agency's request. This includes a decrease of $6.1 million, or 3.5 percent, below the agency's State General Fund request. The Governor does not recommend any of the enhancement requests except for the addition of $675,000, all from the State General Fund, for the Nutrition Program to help maintain the number of meals served at the FY 2010 level.

House Budget Committee Recommendation

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

STATE OF KANSAS

JERRY D. WILLIAMS
REPRESENTATIVE, 8TH DISTRICT
NEOSHO COUNTY, WESTERN
CRAWFORD COUNTY AND
NORTHWEST LABETTE COUNTY
21225 KIOWA ROAD
CHANUTE, KANSAS 66720

STATE CAPITOL
451-S
TOPEKA, KANSAS 66612
(785) 296-7650
1-800-432-3924

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING MINORITY: AGING AND LONG TERM CARE
MEMBER: APPROPRIATIONS
AGRICULTUE AND NATURAL RESOURCES
BUDGET

Amendment to the Kansas Department on Aging 2011 Budget

The Committee acknowledges the potential future cost avoidance benefits of the telehealth services and recommend review of the agency's enhancement request of $1,095,000, including $382,900 from the State General Fund, to add a telehealth service to the HCBS/FE waiver program at Omnibus. The agency has funded a telehealth pilot study, and the Kansas University medical Center is evaluating the study results. The agency has indicated that telehealth technology could have a significant effect on the health and well-being of residents with chronic diseases and the cost of care when used at home. The request would fund 500 telehealth units a year at approximately $6 per day.