

MINUTES

SPECIAL COMMITTEE ON APPROPRIATIONS/WAYS AND MEANS

August 25-26, 2003
Room 123-S—Statehouse

Members Present

Senator Stephen Morris, Chairperson
Representative Melvin Neufeld, Vice-Chairperson
Senator Bill Buntin
Senator Christine Downey
Senator Dave Jackson
Senator Jean Schodorf
Representative Jerry Henry
Representative Andrew Howell
Representative Steve Huebert
Representative Thomas Klein
Representative Jo Ann Pottorff
Representative Sharon Schwartz
Representative Joe Shriver

Staff Present

Alan Conroy, Kansas Legislative Research Department
J. G. Scott, Kansas Legislative Research Department
Leah Robinson, Kansas Legislative Research Department
Audrey Nogle, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Amy VanHouse, Kansas Legislative Research Department
Michael Corrigan, Revisor of Statutes Office
Jim Wilson, Revisor of Statutes Office
Judy Bromich, Administrative Analyst, Senate Committee on Ways and Means
Nikki Feuerborn, Administrative Analyst, House Committee on Appropriations
Mary Shaw, Committee Secretary

Conferees

George Teagarden, Livestock Commissioner, Kansas Animal Health Department
Mike Beam, Senior Vice President, Kansas Livestock Association
Mike Jensen, President-CEO, Kansas Pork Association

Art Wagner, Vice President of Cattle Procurement, National Been Packing Co.
Debra Duncan, Director, Animal Facility Inspection Program, Kansas Animal Health
Department
Betty Westhoff, Westhoff Kennel, St. Paul, Kansas
Loren Pachta, General Manager, Lambriar, Inc., for Roger Lambert, Mahaska, Kansas
Becky Blaes, J & B Premier Puppies, Cherryvale, Kansas
Sharon Munk, BJ's & Guys, Menlo, Kansas
Opal Featherston, Whiting, Kansas
Martha Bartels, Marysville, Kansas
Sam Mosshart, Protection, Kansas
Representative Ginger Barr, Auburn, Kansas (written testimony)
Suzanne Harvey, D.V.M., H-Bar-H Veterinary Hospital, Buffalo, Oklahoma (written
testimony)
Helen Hartwig, Hartwig Hollow, Humboldt, Kansas (written testimony)
Margaret Kerr, Kerr Kennel, Silver Lake, Kansas (written testimony)
John L. Maddux, LouJean Kennel, El Dorado, Kansas (written testimony)
Rebecca Mosshart, Nashville, Kansas (written testimony)
Stephanie M. Alsup, Petland #174, Missoula, Montana (written testimony)
Steven Rabinovici, M.P.H., J.D., Owner, Pets of Bethpage, Bethpage, New York (written
testimony)
Gina Ringlien, Petland, Owner, Raleigh LLC, Cary, North Carolina (written testimony)
Richard Bartels, Marysville, Kansas (written testimony)
Tony Holmes, Owner, Puppy Shop, Pensacola, Florida (written testimony)
Kansans for Ethical Government, Florence, Kansas (written testimony)
Margaret Zillinger, Division of Health Care Policy, Kansas Department of Social and
Rehabilitation Services
Doug Farmer, Assistant Secretary, Kansas Department on Aging
Gina McDonald, Executive Director, Kansas Association of Centers for Independent
Living (KACIL)
Shannon Jones, Executive Director, Statewide Independent Living Council of Kansas
(SILCK)
Kim Miller, Associate Director, InterHab
Mike Oxford, Executive Director, Topeka Independent Living Resource Center
Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association
Sidney Hardgrave, Executive Director, Independence, Inc., Lawrence, Kansas
Gary March, President, Assisted Healthcare, Topeka, Kansas

**August 25, 2003
Morning Session**

Senator Stephen Morris, Chairman, opened the meeting at 10:10 a.m. on August 25, 2003, and welcomed everyone to the meeting.

Staff presented a briefing regarding Kansas Animal Health Department, including a review of expenditures by fund since FY 1999 (Attachment 1). Staff noted that the Department has a budget of approximately \$2.0 million and the percentage of State General Fund (SGF) dollars has been declining especially in the last two years. Staff explained that projections had been made regarding the status of the Animal Disease Control Fund and the Animal Dealer Fee Fund in FY 2005 and FY 2006. Information regarding fees charged by the Department were distributed (Attachment 2). Staff discussed **SB 257**, **HB 2443**, and **HB 2387** from the 2003 Legislative Session, which all provided various funding alternatives for the Department.

Chairman Morris welcomed George Teagarden, Livestock Commissioner, Kansas Animal Health Department (Attachment 3). Commissioner Teagarden explained that for many years the market regulatory fee has been the principal source of revenue for the disease control function. He noted that declining numbers of livestock going through the livestock markets have caused a decline in markets and a decline in revenue from this source. The mix of livestock has changed considerably over the years and expenditures continue to rise primarily due to inflation. Expenditures from the animal disease control fund are outdistancing receipts. Commissioner Teagarden noted that by the end of FY 2005, the balances in the disease control fund will be \$52,000. He also noted that FY 2000 actual expenses were 37.7 percent funded from the SGF, while the FY 2004 approved budget is funded at the 28 percent level from the SGF.

Commissioner Teagarden explained that the disease control fund is financed by market regulatory fees and license fees for livestock operations. He noted that an additional source of revenue is needed to keep this function viable and suggested a few options as indicated in his written testimony.

Representative Neufeld asked about the cost regarding the Homeland Security issue. Commissioner Teagarden responded that the Homeland Security money received last year in July was designated for specific purposes "above and beyond" what the Department is doing as part of its normal operations. That money can only be used for planning, exercises, equipment and education basically by order of the federal government.

Representative Schwartz asked if other federal funds will be coming in the future. Commissioner Teagarden responded that some additional funding should arrive in February of 2005. He thought that it will be about half of the amount that was received a year ago (which was 350,000).

In response to a question by Representative Shriver, Commissioner Teagarden mentioned that if Kansas got an animal disease, it would stop all export trade. It would have a dramatic effect on the market which is a \$10 million dollar-plus livestock production in Kansas. Commissioner Teagarden estimated that to get the markets up and running again you first would have to prove to the rest of the world that you no longer have the disease in the state. That could possibly take a minimum of six months or longer after eradicating the disease in the state.

Chairman Morris mentioned that Commissioner Teagarden had been warning the Legislature for several years regarding utilizing the fee funds in the State Department of Animal Health to supplement the State General Fund. He noted that it is getting to the point where there is no more money left to do that.

Chairman Morris welcomed Mike Beam, Senior Vice President, Kansas Livestock Association (KLA) ([Attachment 4](#)). Mr. Beam addressed disease control funding and mentioned that in 1994, KLA concluded that any new fee schedule should meet certain objectives as listed in his written testimony. Mr. Beam called attention to an alternative fee source to consider that was one of the proposals in their 1994 report which was noted as an attachment to his written testimony. It involves the imposition of a fee on the registration of animal health products that was suggested in 1995. In closing, Mr. Beam explained that one additional finding in the 1994 report was that most states rely very little on fees and provide most funding from the State General Fund.

Chairman Morris noted that it may be some time before the condition of the State General Fund improves and therefore, it may be necessary to explore fees for some time. In response to a question from Chairman Morris, Mr. Beam noted that the primary concern is that cattle are the only livestock slaughtered in Kansas on any large scale, while other livestock are generally shipped out of the state. As a result cattle producers are concerned that the cattle industry would, in effect be subsidizing the disease control program at a disproportionate level if fees are generated from some sort of fee imposed at the point of slaughter.

Chairman Morris welcomed Mike Jensen, President-CEO, Kansas Pork Association ([Attachment 5](#)). Mr. Jensen mentioned that the key issue is fairness and equity. He noted that the industry has had a long record of involvement and cooperation with the Animal Health Department. He explained that these programs not only serve to protect the safety of the food supply, and the integrity of the livestock industry but also protects the livelihoods of tens of thousands of Kansans whose income relies upon the integrity of the livestock industry. Mr. Jensen indicated that he believed the agency, therefore, should be funded from State General Fund appropriations

Chairman Morris requested information regarding what out of state companies are charging, and how programs are funded in other states. Mr. Jensen mentioned that his organization would look into it.

Chairman Morris welcomed Art Wagner, Vice President of Cattle Procurement, National Beef Packing Company LLC ([Attachment 6](#)). Mr. Wagner explained that National Beef Packing Company is a producer-owned beef processing company whose primary processing facilities are located in Liberal and Dodge City, Kansas. He noted that ranchers and farmers are the largest owners of National Beef, of which over 70 percent are located in Kansas. Mr. Wagner mentioned that after careful review of [HB 2387](#), members have voiced concerns with unbalanced financial support; and the potential for discouraging economic development.

In closing, Mr. Wagner mentioned that if the Kansas Animal Health Department requires additional funding to meet program needs, a more broad and equitable means should be researched and allocated representing brand inspection, all food producing animals and the pet animal industry.

The Chairman asked Mr. Wagner if the fee schedule included in **HB 2387** were reduced to a very modest level, whether he would continue to be opposed to the bill. Mr. Wagner explained that he would have to visit with the producer-owners to make that determination and be satisfied that the fees would be providing direct financial support in an appropriate manner.

Chairman Morris thanked the conferees for appearing before the Committee. Committee questions and the discussion followed regarding the Animal Health Department fees, including level and equity of the fees, and the appropriate level of State General Fund funding.

In response to a question by Representative Schwartz, Commissioner Teagarden responded that philosophically what is done by the Department in the long term protects the economy and the well-being of the people of the State and he feels that the people of the state should support the Department. He understands that it is not going to happen, but he feels that it ought to be funded from the State General Fund.

Chairman Morris explained that the livestock industry in Kansas gives the state more dollars than any industry in Kansas, which is a \$10 billion dollar per year industry. The Chairman mentioned that it is imperative to keep this industry healthy, protect it and protect the public. The Chairman explained that the Animal Health Commissioner has a big job and a big responsibility. He feels that Commissioner Teagarden does a very good job and is very austere regarding the agency's budget.

Chairman Morris requested, with the Committee's permission, that Commissioner Teagarden, the Kansas Livestock Association, the Kansas Pork Association, the meat packing industry of Kansas and the pharmaceutical industry work together and come back with a proposal to the 2004 Legislature regarding fees and other income-producing mechanism with the assumption of flat State General Fund support.

The meeting recessed at 11:50 a.m. for lunch.

Afternoon Session

The meeting reconvened at 1:40 p.m. Chairman Morris welcomed Debra Duncan, Director of the Animal Facility Inspection program for the Kansas Animal Health Department (Attachment 7). Ms. Duncan explained that there are a few statutory provisions that cause the Department to lose money as she detailed in her written testimony. She emphasized that at any given time there are approximately 1,500 unlicensed and 500 licensed people

advertising pets in newspapers and magazines. The department monitors classified ads, but is hindered in locating unlicensed facilities because the United States Department of Agriculture (USDA) licensed breeders and distributors are not required to show their records. Ms. Duncan presented some conceptual suggestions other than fees detailed in her written testimony.

The Committee discussed the validity of announced and unannounced inspections at animal facilities. In response to a question by Representative Neufeld, Ms. Duncan explained that the Animal Health Department is trying to improve the quality of animals in part through state inspections. It has been very successful and she feels that the public image of Kansas is now very high which has been mentioned to her by representatives of other states. Ms. Duncan noted that the real reason that they do not schedule announced inspections is because the agency was highly criticized for doing that in a 1990 Post Audit Report.

Chairman Morris welcomed Betty Westhoff, Westhoff Kennel, St. Paul, Kansas (Attachment 8). Ms. Westhoff mentioned that currently they pay \$150 for their Kansas license. She further explained that she believes in the Kansas Inspection Program enough that she personally would pay \$300 per year, and noted that while this might not be fair to the rest of the pet industry in Kansas at this time, she would support a 50 percent increase in fees across the board.

The Chairman welcomed Loren Pacht, General Manager, Lambriar Kennels, Inc., Mahaska, Kansas, who appeared before the Committee for Roger Lambert (Attachment 9). Mr. Pacht explained that Lambriar, licensed as a distributor by both the USDA and the State of Kansas, purchases puppies from only licensed professional breeders and hobby breeders and markets them to pet stores throughout the country. He mentioned that Lambriar is a strong supporter of federal and state licensing and regulation of professional kennels, including the Kansas Animal Facilities Inspection Program. In concluding his testimony, Mr. Pacht noted that he cannot overly emphasize how essential it is to their industry that the budget for the Animal Facilities Inspection Program, 50 percent of which is fee generated, be continued. He explained that of the range of funding options that have been proposed, Lambriar feels the most fair would be a flat fee increase.

Chairman Morris welcomed Becky Blaes, J & B Premier Puppies, Cherryvale, Kansas (Attachment 10). Ms. Blaes supported the continuance of funding for the Kansas Animal Health Department from the State General Fund and a 50 percent fee increase across the board in all licensing areas in the Kansas Pet Animal Act. She noted that she feels that financial support of the Kansas Animal Health Department is vital to the growth, welfare and protection of animals, pet producers and consumers.

The Chairman welcomed Sharon Munk, BJ's & Guys, Menlo, Kansas (Attachment 11). Ms. Munk suggested a general 50 percent increase across the board to keep things simple. She explained that if the small city-funded shelters cannot afford an increase across the board of 50 percent, the Commissioner already has the authority under 47-1721b to establish different fees for each category based upon size and activity.

Chairman Morris welcomed Martha Bartels, USDA Licensed Breeder, Marysville, Kansas ([Attachment 12](#)). Ms. Bartels expressed concern that **SB 257** will triple her license fees which is more cost than the USDA license. In regard to the kennels, she noted that if the bill passes, she would like to see a cap put on the fees and for the bill to include a requirement that the inspectors are adequately trained.

The Chairman welcomed Sam Mosshart USDA Licensed Breeder and later a Kansas State Licensed Breeder from Protection, Kansas ([Attachment 13](#)). Mr. Mosshart mentioned that he is opposed to fee increases. He expressed concern regarding the State Animal Health Department because in 2000 the Department noted that it had a problem with 1 percent of the USDA licensed kennels in the state. With approximately 340 USDA kennels in the state, Mr. Mosshart explained that amounts to around 3.5 kennels. Mr. Mosshart mentioned that with approximately 340 or so licensed kennels in the state already inspected by the USDA, he does not believe that the Kansas Animal Health Department spend its already tight resources to inspect them again.

Written testimony was submitted from the following conferees in regard the review of the Animal Health Department fees:

Former Representative Ginger Barr, Auburn, Kansas ([Attachment 14](#))
Suzanne Harvey, D.V.M., H-Bar-H Veterinary Hospital, Buffalo, Oklahoma
([Attachment 15](#))
Helen Hartwig, Hartwig Hollow, Humboldt, Kansas ([Attachment 16](#))
Margaret Kerr, Kerr Kennel, Silver Lake, Kansas ([Attachment 17](#))
John L. Maddux, LouJean Kennel, El Dorado, Kansas ([Attachment 18](#))
Rebecca Mosshart, Nashville, Kansas ([Attachment 19](#))
Stephanie M. Alsup, Petland #174, Missoula, Montana ([Attachment 20](#))
Steven Rabinovici, M.P.H., J.D., Owner, Pets of Bethpage,
Bethpage, New York ([Attachment 21](#))
Gina Ringlien, Petland, Owner, Raleigh LLC, Cary, North Carolina
([Attachment 22](#))
Richard Bartels, Marysville, Kansas ([Attachment 23](#))
Tony Holmes, Owner, Puppy Shop, Pensacola, Florida ([Attachment 24](#))
Kansans for Ethical Government, Florence, Kansas ([Attachment 25](#))

Copies of a case before the Court of Appeals, *State of Kansas, Plaintiff/Appellee vs. Janie Marcotte, Respondent/Appellant*, were distributed to the Committee by a group called Kansans for Ethical Government. Copies are on file with the Kansas Legislative Research Department.

Chairman Morris thanked the conferees for appearing before the Committee.

Ms. Duncan, Kansas Animal Health Department, showed videos the Department had taken during the execution of a search warrant.

Committee questions and discussion followed regarding the Kansas Animal Health Department fees, including the level and equity of fees and the appropriate State General Fund funding.

Chairman Morris requested all of the interested parties to discuss the 50 percent increase in fees across the board as was in the testimony that was presented and requested they work with the Kansas Animal Health Department to make a firm recommendation to the Committee.

Senator Downey mentioned that some “givens” should be considered during this process: the state will continue to have a program; some funding from the State General Fund is expected; and the industry will also be expected to pay a portion of the costs of the program as well. Chairman Morris requested that the group give some consideration to the issue of announced and unannounced routine inspections. Representative Huebert requested that the Committee view a positive video showing a good kennel facility. Representative Neufeld suggested the Committee members take time and visit a breeder in their area before any decisions are made by the Committee. Senator Downey expressed concern regarding the opinion of the majority of the breeders in the State, and noted that she is hoping that the parties come forward with a solution and not just a “no” vote. Chairman Morris mentioned he felt that some of the conferees did present partial solutions. The Chairman noted that the Kansas Animal Health Department has done a good job since the early 1990's reacting to the situation in Kansas prior to that. He explained that several of the conferees confirmed that Kansas does have a good program and would like to see it maintained. The Chairman emphasized that this has to be one of the goals to keep the high quality program going in Kansas and find ways to do that.

The meeting recessed at 3:30 p.m.

Morning Session August 26, 2003

The meeting reconvened at 9:05 a.m. Chairman Morris welcomed Scott Frank, Kansas Legislative Post Audit, who reviewed a 100-hour Performance Audit Report on the compensation of payroll agents for Home and Community-Based Waiver Programs. Copies of the audit report are on file in the Kansas Legislative Research Department. Mr. Frank mentioned that the report includes recommendations for the Kansas Department of Social and Rehabilitation Services and the Kansas Department on Aging.

Mr. Frank explained that the 100-hour performance audit was done to address the question of whether there are less costly options for processing payments to those who provide services under the Home and Community-Based Waiver Programs?

Chairman Morris welcomed Margaret Zillinger, Director of Community Supports and Services, Division of Health Care Policy, Kansas Department of Social and Rehabilitation

Services (SRS) (Attachment 26). Ms. Zillinger provided testimony regarding the Legislative Post Audit Report. She explained that Kansas provides community-based services to Medicaid consumers through six waivers. The audit focused on the Home and Community Based Physical Disability Waiver (HCBS/PD) and the waiver for the Frail Elderly (HCBS/FE). Ms. Zillinger noted that approximately 80 percent of consumers who receive services from the HCBS/PD waiver choose to self-direct their attendants. She also explained that the Centers for Medicare and Medicaid Services (CMS) give states the authority to provide services through HCBS waivers and also does not allow states to reimburse a consumer directly for services they receive. To allow individuals to maintain control of the recruiting, training and managing of their attendants in Kansas, payroll agents are used and enrolled as Medicaid providers.

Ms. Zillinger explained the wide range of services Payroll Agents provide for individuals. Ms. Zillinger explained the SRS responses to the two Legislative Post Audit Recommendations, as presented in her written testimony. In conclusion, Ms. Zillinger mentioned that SRS, in completing its review of the audit, is following up on the recommendations made and continues to research what other states are doing regarding payroll agent services. She noted that SRS continually evaluates the system and looks for ways to improve the current process. One alternative noted was for the State, rather than the payroll agents, to be considered the employer of record of attendants.

In discussion regarding the State becoming the employer of record, Senator Downey suggested that SRS look at what that initial cost would be and expressed concern about the State becoming an employer of record because the State would be liable for items for which payroll agents now have responsibility such as workers' compensation, unemployment and other liability. Representative Howell requested more detailed information regarding the reimbursement differences in the 35 providers enrolled in Kansas to provide payroll agent services for individuals on the HCBS/PD waiver.

Chairman Morris requested that SRS go back to FY 2003 and look at the total amount of money being paid for the HCBS/PD waiver services and identify the amounts that were paid to payroll agents, which could give a true average cost per hourly basis.

Chairman Morris welcomed Doug Farmer, Assistant Secretary, Kansas Department on Aging (Attachment 27). Mr. Farmer provided testimony related to the Legislative Post Audit report. He explained that the Kansas Department on Aging is responsible for management of the Home and Community Based Services Frail Elderly (HCBS/FE) waiver program. Mr. Farmer noted that approximately 30 percent of HCBS/FE clients choose to self-direct their care.

Mr. Farmer explained the Level 1 and Level 2 Care services in his written testimony. He explained that reimbursement policies regarding HCBS/FE services are set by the Department on Aging. Mr. Farmer noted that the Department believes that the payroll agent system is the most appropriate method to process claims, pay attendants and taxes, and remain responsible for worker's compensation, unemployment and liability insurance payments. He mentioned that the Department will continue to research the feasibility of competitively bidding the payroll agent process.

Chairman Morris requested the same information from the Kansas Department on Aging regarding amounts paid to payroll agents under the HCBS/FE waiver dating back to FY 2003.

The Chairman welcomed Gina McDonald, Executive Director, Kansas Association of Centers for Independent Living (KACIL) ([Attachment 28](#)). Ms. McDonald presented some background of the program and explained the self-directed care model and the development of a self-directed program in the state. She gave comments and facts specific to the Post Audit report in her written testimony.

In conclusion, Ms. McDonald mentioned that KACIL does not support the concept of competitive bids for the self-directed program. She suggested if changes must be made, to look at setting a limit on administrative charges. If this is done, KACIL asked the Legislature to look at all agencies' administrative fees and ensure that the same limits are established across the board. Ms. McDonald noted that if changes are to be made or recommended, KACIL asks that a more extensive audit be done which looks at all waiver programs and researches more specifically what other states actually provide under both self-directed services and under the exemption to the nurse practice act.

Chairman Morris welcomed Shannon Jones, Executive Director, Statewide Independent Living Council of Kansas (SILCK) ([Attachment 29](#)). Ms. Jones expressed concerns that SILCK has about the conclusions drawn from a brief 100-hour audit on a system as complex as Medicaid. She explained that in Kansas each Center for Independent Living (CIL) must provide five core services:

1. Information & referral;
2. Peer counseling;
3. Independent living skills training;
4. Advocacy; and
5. Deinstitutionalization

Ms. Jones mentioned that the SILCK believes it most important to understand the overlooked value of CILs, their mandated core services and the overall cost savings that are returned to the State of Kansas.

The Chairman welcomed Kim Miller, Associate Director, InterHab ([Attachment 30](#)). Ms. Miller's written testimony addressed Provider Reimbursement Rates for Developmental Disabilities Services. She updated the Committee on rate litigation and the developmentally disabled community. Ms. Miller explained that it has been ten years since the developmental disabled waiver went was established and in that time, direct care staff wages, which are components of that rate, have gone up only 49 cents. While there has been slight increases from the Legislature in rates, the Governor has never recommended an increase. Last October they decided to turn to the judicial system for relief.

Ms. Miller explained that InterHab filed a suit in October for rates and the process is very slow. She indicated that Shawnee County District Court would soon rule on the motion

to dismiss the case, and soon after that, there would be a case management conference with the judge. At that time, the judge will sit down with attorneys for SRS, State of Kansas and InterHab's attorneys to talk about how to proceed with certified class, deposition and other aspects of the litigation.

Ms. Miller explained that the State is starting to conduct its rate study which is required by the Developmental Disabilities Reform Act. She mentioned that InterHab believes it will show the increase in provider rates is needed. She also noted that InterHab prefers to not be in court and continues to encourage the Legislature and the Governor to consider the issue of woeful under funding in the developmentally disabled system.

The Chairman welcomed Mike Oxford, Executive Director, Topeka Independent Living Resource Center ([Attachment 31](#)). Mr. Oxford explained that the Center is a non profit independent living center governed by a board of directors and that the majority of their staff, board and management structure are people with disabilities. They serve around 150 to 300 on the Frail Elderly Waiver, around 530 people on the Physically Disabled Waiver and about 80 people on the Developmentally Disabled Waiver. Mr. Oxford explained that they act as a payroll agent.

In the written testimony, responses to the Legislative Post Audit findings were detailed and the disparity of reimbursement rate for consumers who self-direct their care was addressed. Mr. Oxford mentioned that all initial eligibility screening and assessments are performed for Independent Living, free of charge to the State. He also mentioned that originally when the Physically Disabled Waiver was set up, there was an upper amount of reimbursement that could have been charged, but his center, like many others, never charged the top rate. Mr. Oxford noted that they did that all along because they knew that it would help them avoid waiting lists, caps and cutbacks. He said this enabled them, for a while, to avoid the problems that they are having now.

Chairman Morris mentioned to Margaret Zillinger, Kansas Department of Social and Rehabilitation Services, that it would be useful to take look at the wide range of services provided by the payroll agents in the State since it seems to vary significantly. The Chairman suggested reviewing the Independent Living Centers and the for-profit organizations in regard to services they provide and how it relates to administrative costs.

Chairman Morris also requested the Kansas Department of Social and Rehabilitation Services look at other states and consult with the Centers for Medicaid and Medicare Services (CMS) to see what they are doing in regard to the cash and counseling model and how that might apply to Kansas. The Chairman asked that SRS come back with a report to the 2004 Legislature in regard to a run-down on the program.

Chairman Morris recognized Alan Conroy, Director, Kansas Legislative Research Department, who presented an update on the State General Fund. Mr. Conroy distributed copies of information on FY 2003 State General Fund receipts ([Attachment 32](#)). He explained that State General Fund receipts were approximately \$10 million and about 0.2 percent above the final estimate as adjusted for legislation. In that amount was a receipt of approximately \$46 million of federal fiscal relief that had not been anticipated by the

Consensus Revenue Estimating Group. He explained that absent the receipt of the federal grant, the State General Fund Receipts would have been \$35.8 million or 0.8 percent below the estimate. Mr. Conroy noted that the Kansas Department of Revenue's "accelerated settlement" program, or Phase I of the tax amnesty program in FY 2003 garnered \$21.5 million in receipts, or \$9 million more than had been estimated.

Mr. Conroy distributed copies of information on July State General Fund receipts, July, FY 2004 (Attachment 33). He explained that for the first four months of FY 2004, estimates of the State General Fund receipts are based upon the consensus estimates of April 22, 2003, as adjusted July 31, 2003, for legislation enacted by the 2003 Legislature. Mr. Conroy mentioned that total receipts for July, the first month of FY 2004, were \$3.1 million or 9.9 percent above the estimate.

Mr. Conroy distributed and explained copies of:

1. State General Fund Profile, FY 2002 - FY 2006, Profile No. 1 - Full Statutory Amounts, Ending Balance in FY 2005 and FY 2006 of 7.5 percent (Attachment 34). Staff described this profile as the "worst case scenario" to satisfy all statutory or on-going obligations budgetarily.
2. State General Fund Profile, FY 2002 - FY 2006, Profile No. 2 - FY 2004 Budget Decisions Continued, No Ending Balance in FY 2005 and FY 2006, Refunds of \$50 million are Not Delayed in FY 2004 (Attachment 35). Staff described this profile as reflecting FY 2004 policy decisions carried over to FY 2005.

Chairman Morris expressed a concern that he has regarding legislation that was passed during the 2003 legislative session regarding KPERS contributions. He noted that it will need to be looked at closely and perhaps will require further adjustment.

Chairman Morris thanked the conferees for appearing before the Committee. The meeting adjourned at 12:00 p.m. for lunch.

Afternoon Session August 26, 2003

The meeting reconvened at 1:40 p.m.

Chairman Morris welcomed Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association (Attachment 36). Mr. Kaberline explained that to meet the needs of the senior population in Kansas, the Area Agencies on Aging works in partnership with federal, state, and local governments along with service providers to serve seniors across a wide spectrum of abilities and needs. Mr. Kaberline addressed the Legislative Post

Audit report and noted that he has more questions than answers, which he listed in his written testimony. In regard to having a bidding process, he explained that the Area Agencies on Aging would only be in favor of a bidding process if it can be guaranteed that those who receive the services will not be adversely affected.

The Chairman welcomed Sidney Hardgrave, Executive Director, Independence, Inc. (Attachment 37). Ms. Hardgrave mentioned that her organization's mission is to empower people with disabilities to control their own lives and advocate for integrated and accessible communities. She listed a brief description of each of their programs in her written testimony.

Ms. Hardgrave also presented a summary of the HCBS Waiver Program and an Explanation of Payroll Program Expenses as also listed in her written testimony. In conclusion, Ms. Hardgrave presented some recommendations in her written testimony. She noted that the primary challenges that she has observed in the "self directed" care model are tied to recruitment and retention of personal care attendants. Ms. Hardgrave also expressed concern regarding the inadequate fiscal support for the Independent Living Counselor services and requested that a systematic review of HCBS services consider how these contracts are structured.

Chairman Morris welcomed Gary March, President and owner, Assisted Healthcare (Attachment 38). Mr. March addressed the Legislative Post Audit report and comments are found in his written testimony. He mentioned that the audit consisted of three Independent Living Centers and two Home Health Agencies and did not address the difference between the two entities. Mr. March indicated two distinctions:

- Most Independent Living Centers are founded and chartered as Non-Profit Organizations. That alone suggests that they can receive beneficial tax treatment.
- For-Profit home health agencies are not rewarded with that benefit and they pay both State and Federal income taxes.

Mr. March presented some suggestions for improving the program as found in his written testimony.

Chairman Morris requested additional information from Mr. March regarding his organization to assist the Committee in comparing facilities.

The Chairman recognized Tamara Wilson, Assistant Vice President for the Finance Department, Assisted Healthcare. Ms. Wilson responded with additional information to a question regarding why the amount of reimbursement that Assisted Healthcare would receive might be higher. She indicated that it had to do with staff retention. She explained that they have taken a lot of time and effort with their personnel to train them to make sure they can operate in the most efficient manner possible. Ms. Wilson noted that labor is one of the highest costs related to operating a home health agency.

In regard to a discussion regarding undelivered W-2 Forms from Mr. March's facility, Representative Neufeld suggested visiting with the Kansas Department of Revenue to help identify some of the people who cannot be located.

Representative Neufeld mentioned that the larger concern appears to be case management and quality control issues where there needs to be consistency across the state and delivery the services to the people that need them. He feels that is the Legislature's responsibility.

Chairman Morris thanked the conferees for appearing before the Committee and mentioned the possibility of discussing this subject next session and possibly in the next two days the Committee meets, if the Kansas Department of Social and Rehabilitation Services has any additional information available.

Chairman Morris welcomed Margaret Zillinger, Director of Community Supports and Services, Division of Health Care Policy, Kansas Department of Social and Rehabilitation Services (Attachment 39). Ms. Zillinger presented a review of the United States Tenth Circuit Court of Appeals decision in *Fisher v. Oklahoma*. She addressed the Kansas HCBS Waivers, the Oklahoma case and the impact of the case in Kansas. Ms. Zillinger noted that at this time, SRS does not feel that the decision will have an immediate impact on their service delivery system and listed several reasons which are found in her written testimony. She mentioned that it is their understanding that the District Court judge has set the *Fisher* case for a scheduling conference in late November 2003. SRS offered to update the Legislature as needed on the situation. The Chairman thanked Ms. Zillinger for the update.

Chairman Morris mentioned that the Committee was assigned a new topic from the Legislative Coordinating Council (LCC) and noted that there is the possibility of a additional meeting day in order to address the new topic that was assigned by the LCC. The next meeting is scheduled for September 22-23, 2003. The meeting adjourned at 3:20 p.m.

Prepared by Mary Shaw
Edited by Leah Robinson

Approved by the Committee

September 23, 2003