

## MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 9:00 A.M. on March 3, 2006 in Room 514-S of the Capitol.

All members were present except:

Representative Joe McLeland- excused  
 Representative Jerry Henry- excused  
 Representative Tom Sawyer- excused

Committee staff present:

Alan Conroy, Legislative Research Department  
 J. G. Scott, Legislative Research Department  
 Becky Krahl, Legislative Research Department  
 Matt Spurgin, Legislative Research Department  
 Amy Deckard, Legislative Research Department  
 Audrey Dunkel, Legislative Research Department  
 Julian Efird, Legislative Research Department  
 Amy VanHouse, Legislative Research Department  
 Jim Wilson, Revisor of Statutes  
 Mike Corrigan, Revisor of Statutes  
 Nikki Feuerborn, Administrative Assistant  
 Shirley Jepson, Committee Secretary

Conferees appearing before the committee:

Joe Lubarsky, BDO Seidman, LLP  
 Jim Klausman, Midwest Health Management  
 Cliff Fischer, Medical Lodges, Inc.  
 Cindy Luxem, Kansas Healthcare Association  
 Debra Zehr, Kansas Association of Homes & Services for the Aging  
 Pam Bachman, Administrator, Eastridge Centralia  
 Tom Church, CEO, Catholic Care Center  
 Tom Williams, CEO, Asbury Park, Newton

Others attending:

See attached list.

- Attachment 1 Retirement Subcommittee report on Kansas Public Employees Retirement System (KPERs)
- Attachment 2 Budget Committee report on Governmental Ethics Commission
- Attachment 3 Budget Committee report on Department of Agriculture
- Attachment 4 Budget Committee report on Animal Health Department
- Attachment 5 Budget Committee report on Kansas State Fair
- Attachment 6 Testimony on **HB 2538** by Joseph Lubarsky, BDO Seidman, LLP
- Attachment 7 Testimony on **HB 2538** by Jim Klausman, Midwest Health Management
- Attachment 8 Testimony on **HB 2538** by Cliff Fischer, Medicallodges, Inc.
- Attachment 9 Testimony on **HB 2538** by Cindy Luxum, Kansas Hospital Association
- Attachment 10 Testimony on **HB 2538** by Debra Zehr, Kansas Association of Homes and Services for the Aging
- Attachment 11 Testimony on **HB 2538** by Pam Bachman, Administrator, Eastridge Skilled Nursing Facility
- Attachment 12 Testimony on **HB 2538** by Tom Williams, Chief Executive officer for Asbury Park
- Attachment 13 Testimony on **HB 2538** by Tom Church, CEO, Catholic Care Center

Representative Weber moved to introduce legislation regarding a reorganization plan for K-12 administration. The motion was seconded by Representative Hutchins. Motion carried.

Julian Efird, Legislative Research Department, presented a report from the Retirement Subcommittee on Kansas Public Employees Retirement System (KPERs) (Attachment 1).

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Representative Feuerborn moved to introduce legislation as proposed by the Retirement Subcommittee relating to the Kansas Public Employees Retirement System (KPERs). The motion was seconded by Representative Landwehr. Motion carried.

Representative Pottorff, Chair of the General Government and Commerce Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Governmental Ethics Commission for FY 2006 and moved for the adoption of the Budget Committee recommendation for FY 2006 (Attachment 2). The motion was seconded by Representative Yoder. Motion carried.

Representative Pottorff, Chair of the General Government and Commerce Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Governmental Ethics Commission for FY 2007 and moved for the adoption of the Budget Committee recommendation for FY 2007 (Attachment 2). The motion was seconded by Representative Lane.

Representative Landwehr moved to insert language into the Budget Committee report on the Governmental Ethics Commission for FY 2007 to indicate that the Committee highly recommends the agency develop a program to allow legislators to file reports electronically. The motion was seconded by Representative Lane. Motion carried.

Representative Pottorff renewed the motion to adopt the Budget Committee report on Governmental Ethics Commission for FY 2007 as amended. The motion was seconded by Representative Lane. Motion carried.

Representative Schwartz, Chair of the Agriculture and Natural Resources Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Department of Agriculture for FY 2006 and moved for the adoption of the Budget Committee recommendation for FY 2006 (Attachment 3). The motion was seconded by Representative Williams. Motion carried.

Representative Schwartz, Chair of the Agriculture and Natural Resources Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Department of Agriculture for FY 2007 and moved for the adoption of the Budget Committee recommendation for FY 2007 (Attachment 3). The motion was seconded by Representative Williams. Motion carried.

Representative Powell, member of the Agriculture and Natural Resources Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Animal Health Department for FY 2006 and moved for the adoption of the Budget Committee recommendation for FY 2006 (Attachment 4). The motion was seconded by Representative Williams. Motion carried.

Representative Landwehr moved to amend the Budget Committee report by deleting Item No. 1 concerning animal identification readers on vehicles owned by out of state business or individuals, requesting that the agency provide further information to the Budget Committee before Omnibus. The motion was seconded by Representative Bethell. Motion withdrawn with approval of the second.

Responding to a question from the Committee, George Teagarden, Animal Health Department, stated that approximately 50,000 cattle travel across Kansas each day, noting that the animal ID program is important in order to track cattle who might be carrying disease.

Representative Powell, member of the Agriculture and Natural Resources Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Animal Health Department for FY 2007 and moved for the adoption of the Budget Committee recommendation for FY 2007 (Attachment 4). The motion was seconded by Representative Williams.

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Representative Ballard moved to add language to Item No. 5 of the Budget Committee report on Animal Health Department for FY 2007 to indicate that the federal funds are homeland security funds. The motion was seconded by Representative Sharp. Motion carried.

Representative Feuerborn moved to strike Item No. 5 from the Budget Committee report on Animal Health Department for FY 2007. The motion was seconded by Representative Ballard. Motion failed on a 6-10 vote.

Representative Powell renewed the motion to adopt the Budget Committee report on the Animal Health Department for FY 2007 as amended. The motion was seconded by Representative Schwartz. Motion carried.

Representative Williams, member of the Agriculture and Natural Resources Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Kansas State Fair for FY 2006 and moved for the adoption of the Budget Committee recommendation for FY 2006 (Attachment 5). The motion was seconded by Representative Powell. Motion carried.

Representative Williams, member of the Agriculture and Natural Resources Budget Committee, presented the Budget Committee report on the Governor's budget recommendation for the Kansas State Fair for FY 2007 and moved for the adoption of the Budget Committee recommendation for FY 2007(Attachment 5). The motion was seconded by Representative Powell.

Representative Landwehr moved to amend the Budget Committee report on the Kansas State Fair for FY 2007 by revising Item No. 6 to request that the agency review and report to the Budget Committee by Omnibus on increasing the fee for using the RV park during the 2006 State Fair from \$250 to \$420 for 12 nights plus admission for two people for each day. The motion was seconded by Representative Bethell. Motion carried on a vote of 11-8.

Representative Williams moved to adopt the Budget Committee report on the Kansas State Fair for FY 2007 as amended. The motion was seconded by Representative Schwartz. Motion carried.

**Hearing on HB 2538 - Adult care homes, assessments on nursing facilities, quality assurance assessment fund, initiatives for nursing care improvements.**

Amy Deckard, Legislative Research Department, explained that **HB 2538** concerns adult care homes, providing for assessments on certain nursing facilities and creating the quality assurance assessment fund. This legislation would establish a monthly assessment on each skilled nursing facilities licensed in Kansas and will allow the state to draw-down additional federal Medicaid funds.

Chairman Neufeld recognized Joseph Lubarsky, partner and National Director of Long Term Care Services for the accounting and consulting firm of BDO Seidman, LLP, who presented testimony in support of **HB 2538** (Attachment 6).

Responding to questions from the Committee, Mr. Lubarsky stated:

- Because the legislation excludes continuing care and hospital-based care, approximately 12 facilities or 3.5 percent of facilities across the state would see no benefits from the legislation.
- 80 percent of federal funds received as a result of the legislation, would be used for rate changes; 20 percent is to be set aside to be used "as the state sees fit".
- The Medicaid shortfall absorbed by nursing homes in Kansas at the present time, on covering expenses for Medicaid clients, is approximately \$12 per client per day - extra funding could provide better hourly rates for staff.
- The legislation would allow the state to draw-down additional federal dollars, alleviating some of the gap in funding - private-pay patients' rates are higher than Medicaid-paid patients.

The meeting was recessed at 10:30 a.m. and reconvened at 11:30 a.m.

Chairman Neufeld recognized Jim Klausman, Midwest Health Management, who presented

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testimony in support of **HB 2538** (Attachment 7). Mr. Klausman stated that Medicaid does not cover the entire cost for providers to care for Medicaid individuals, resulting in the nursing home passing on some of these costs to private-pay individuals causing an inequity in the system.

- With an assessment of \$4 per patient, the state could possibly draw-down an additional \$32 million in federal Medicaid funds, resulting in increased staffing and staff salaries for the facilities.
- Approximately 80 percent of the additional federal Medicaid dollars should be returned to the facilities with approximately 20 percent being used for home health care and other programs.
- There are 29 CCRC facilities in the state who would be excluded from this legislation; 48 long-term care facilities in the state would be excluded from the assessment.

The Chair recognized Cliff Fischer, Medicalodges, Inc., who presented testimony in conjunction with Garen Cox, President and CEO, Medicalodges, Inc., in support of **HB 2538** (Attachment 8). Mr. Fischer felt it is important to take advantage of additional federal Medicaid dollars.

Chairman Neufeld recognized Cindy Luxem, Kansas Hospital Association, who presented testimony in support of **HB 2538** including several suggested amendments to the legislation (Attachment 9). Ms. Luxem felt it is important for the state to take advantage of the additional federal funds to promote better care and avoid further taxing the private-pay individuals. Ms. Luxem indicated that she has had conversation with Scott Brunner, representing the Health Policy Authority, and Debra Zehr, an opponent of the legislation, on the legislation. Responding to Committee questions, Ms. Luxem stated:

- Proponents of the legislation will work to keep the assessment rate at the 3 percent level or lower.
- The assessment would be placed on the total resident Medicaid days and assessed on the facility. The expense would be treated as a reduction of revenue, as opposed to a cost.
- The Committee voiced concern that cost of the assessment will be passed on to private-pay individuals.
- The Committee requested information on Oklahoma's opt-out provisions in their legislation and pertinent information on other Midwest states who have similar legislation.

Chairman Neufeld recognized Debra Zehr, Executive Vice President, Kansas Association of Homes and Services for the Aging, who presented testimony in opposition to **HB 2538** (Attachment 10). Ms. Zehr felt that **HB 2538** will place an additional burden on the elderly private-pay individuals. Ms. Zehr indicated that she did not have an alternative plan to the legislation. Responding to a question from the Committee, Ms. Zehr noted that if the state were to provide the extra funding from the State General Fund (SGF) to draw-down the additional federal funds, the funds should be used to impact the resident's care - additional staffing, retainage of staff and should be quality focused.

- The Committee requested data on (1) other states who have a provider tax and the amount; and (2) information on why when the provider tax goes up, the reimbursement rate goes down.

The Chair recognized Pam Bachman, Administrator, Eastridge Skilled Nursing Facility, who presented testimony in opposition to **HB 2538** (Attachment 11). Ms. Bachman stated that **HB 2538** will cause private-pay individuals to deplete their private funds more rapidly.

Chairman Neufeld recognized Tom Williams, Chief Executive officer for Asbury Park, a not-for-profit Methodist retirement community in Newton, who presented testimony in opposition to **HB 2538** (Attachment 12).

The Chair recognized Tom Church, CEO, Catholic Care Center, who presented testimony in opposition to **HB 2538** (Attachment 13).

The Chair recognized Kathy Greenlee, Secretary, Department on Aging, who stated that it is important to change the current reimbursement system to focus more on quality care.

- The Committee requested that the Department on Aging work with the other parties involved in this legislation, to define the CCRC's and how to drive toward positive outcomes with a

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report back to the Committee in two weeks.

**HB 2520** was referred to Social Services Budget Committee.

**SB 553** was referred to Education Budget Committee.

**SB 503** was referred to Agriculture and Natural Resources Budget Committee.

The next meeting of the Appropriations Committee will be held at 9:00 a.m. on March 6, 2006.

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Melvin Neufeld, Chairman