

Approved: 2-16-10
Date

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 a.m. on February 9, 2010, in Room 152-S of the Capitol.

All members were present.

Committee staff present:

Ken Wilke, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Beverly Beam, Committee Assistant

Conferees appearing before the Committee:

Chad Austin, Kansas Hospital Association
Linda Shepherd, Kansas Insurance Department

Others attending:

See attached list.

Chad Austin, Kansas Hospital Association (Attachment 1)
Linda Shepherd, Kansas Insurance Department (Attachment 2)

The Chair called the meeting to order.

Continued Hearing on

SB 414 - Health care stabilization fund; certain fund transfers; period of coverage.

Chad Austin, Kansas Hospital Association, testified in support of **SB 414**. Mr. Austin stated that this bill would exclude the Stabilization Fund from the Secretary of Administration's allotment orders and restore the Legislature's intent of reimbursing the Stabilization Fund for claims and related expense paid on behalf of the residents and faculty at KU Medical Center. Mr. Austin said the primary function of the Stabilization Fund is to provide excess professional liability coverage, which is triggered when the basic professional liability insurer's projected loss exposure exceeds \$200,000. He added that this fund is operated with funds that come from health care providers, not state government, and those funds are used responsibly to maintain an environment that helps protect our state from the vagaries of the insurance market. (Attachment 1)

The Chair closed the hearing on **SB 414**.

Hearing on

SB 390 - Regulating the use of genetic testing by insurance and health care entities.

Melissa Calderwood gave an overview of **SB 390**. Ms. Calderwood stated this bill would amend current law regarding genetic testing. She said the bill would add restrictions on insurance companies that require larger premiums for coverage based on obtaining a genetic test and adjustments to premiums based on obtaining the results of a genetic test. She noted that the bill would also allow insurance companies to request that a covered person undergo genetic testing, if several conditions are met. She said compliance with such request would be voluntary. Finally, she said the Kansas Insurance Department stated that policy forms would have to be reviewed and approved to ensure that no discriminatory provisions related to genetic testing were included; however, the agency would do this within current resources.

Linda Sheppard, Director, Accident & Health Division, Kansas Insurance Department, testified in support of **SB 390**. She stated this bill amends K.S.A. 40-2259, the statute that sets out rules for insurance companies related to genetic testing and test results for their insureds. Ms. Sheppard stated that the existing version of K.S.A. 40-2259 became law in 1997 and in May 2008, Congress enacted H.R. 493, the Genetic Information Nondiscrimination Act of 2008, which became effective for plan years beginning after May 21, 2009. She said after reviewing the provisions of the federal Act and the related regulations, the Department introduced

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CONTINUATION SHEET

Minutes of the Senate Financial Institutions and Insurance Committee at 9:30 a.m. on February 9, 2010, in Room 152-S of the Capitol.

this bill in order to update our Kansas law to include some of the new consumer protections that are a part of the federal act. She stated that the proposed changes include the addition of new subsections (b) (5) and (6), which clarify that insurance companies may not condition an individual's enrollment or premiums or subsequently adjust an individual's premiums based on whether the individual or a member of the individual's family had obtained a genetic test or the results of such a test. She noted that new subsections c (1) through (5) would permit an insurance company to request, but not require, an individual or family member to undergo genetic testing, subject to a number of conditions designed to protect the individual or family member, including clarification that undergoing the testing would be voluntary and that the results of any such test would not be used for underwriting purposes. She continued that Subsection C would also require the insurer to provide written information to the commissioner of insurance about the nature of the genetic testing activities that are being conducted under this subsection. She said with the scientific progress being made in the area of genetic testing and how the results of such testing may actually allow individuals to receive treatment that would prevent or delay the onset of certain types of disease, voluntary testing may be beneficial for both insureds and the insurance companies. She said these amendments to our Kansas law would permit such voluntary testing to occur while protecting the interests of insureds. (Attachment 2)

Following lengthy Q & A, the Chair asked that the Kansas Insurance Department bring back answers to questions committee members have regarding this bill. Linda Shepperd agreed to do so. The Chair closed the hearing on **SB 390**.

Action on

SB 414 - Health care stabilization fund; certain fund transfers; period of coverage.

Ken Wilke said Chip Wheelen requested that the effective date be changed to registered publication instead of statute book.

Senator Colyer moved to change the effective date to registered publication. Senator Brownlee seconded the motion. Motion carried.

Senator Masterson moved SB 414 be passed out favorably. Senator Kelsey seconded. Motion passed.

Action on

SB 382 - Housing loan deposit program, eligibility of certain dwellings, outstanding loan amount limit.

Melissa Calderwood briefly reviewed the bill. She said amendments in **SB 382** would open the loan program for construction of multi-family dwellings; alter the limit on the value of eligible housing to the average purchase price for the state as established by the State Treasurer through regulations based on the requirements in Section 143(e) of the Internal Revenue Code of 1986, for homes eligible for mortgage revenue bonds. She said the bill also removes the existing limit of one outstanding loan to any single participating lender, instead capping participating lenders at \$2.0 million in total outstanding loans and finally, it advances by six months the date when the full \$60.0 million is available statewide to January 1, 2011. She noted this bill would become effective upon publication in the register.

Senator Steineger said he discussed with the Treasurer's staff an amendment to this bill that would make it allowable for remodeling as well as new construction. He said he would like to make both **SB 239 and SB 382** so they can be used for both remodeling and new construction. He said in his opinion it needs to be as flexible as possible instead of so restrictive.

The Chair asked the committee if this is something they would like to see added or if they are comfortable with the bill as it is.

Senator Taddiken said he is more comfortable with the way the bill is currently drafted. He said his concern is how far do you widen it out. He said he would prefer that it stay with the new construction.

CONTINUATION SHEET

Minutes of the Senate Financial Institutions and Insurance Committee at 9:30 a.m. on February 9, 2010, in Room 152-S of the Capitol.

Senator Steineger said if this bill is specific to Kansas as a whole, then the intent of this bill should be incentive for construction of housing for Kansans any where in the state by creating housing by any means, and should not be restrictive, but more receptive or open to what the free market needs.

Senator Steineger moved to amend this bill in a very simple way, by allowing the Treasury Department, through their own rules and regulations, to build new housing or rehabilitate existing housing structures in this program.

Senator Kelsey seconded.

The Chair called for a vote by show of hands. There were five in favor and four against. Motion passed.

Senator Steineger moved to pass the bill out favorably as amended. Senator Colyer seconded. Motion passed.

The next meeting is scheduled for February 10, 2010.

The meeting was adjourned at 10:30 a.m.

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST**

DATE: 2-9-10

NAME	REPRESENTING
Linda Sheppard	KID
Cindy Holmes	
John Metzger	
Tracy Hill	Washburn Univ. School of Nursing
Patricia News	Washburn Univ. School of Nursing
Rita Nott	Health Care Stabilization Fund
Chip Wheelen	" " " "
Chad Austin	KHA
Lori Church	KAPCIC
Mailee Carpenter	KAHP
Jennifer Cross	Jardstone Grp.
Pat Stevenson	STO
Scott Gates	STO
Paul Warner	KW
Bob Williams	Ks. Assoc. Osteopathic Medicine
Julie Hean	Hean Law Firm
Suzanne Cleveland	KHI
Haley Daville	KWA
John Kiephaber	Ks. Chiropractic Assn.

Nancy Zogleman

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Tom Bell
President and CEO

TO: Senate Financial Institutions and Insurance Committee

FROM: Chad Austin
Vice President, Government Relations

DATE: February 9, 2010

RE: SB 414 - Health Care Stabilization Fund

The Kansas Hospital Association appreciates the opportunity to provide testimony in support of Senate Bill 414. The Health Care Stabilization Fund has played a significant role in our state in maintaining affordable medical professional liability coverage. Senate Bill 414 would exclude the Stabilization Fund from the Secretary of Administration's allotment orders and restore the Legislature's intent of reimbursing the Stabilization Fund for claims and related expense paid on behalf of the residents and faculty at KU Medical Center.

The Kansas Health Care Stabilization Fund was created in 1976 by the enactment of the Health Care Providers Insurance Availability Act. Over the past three decades, the fund has provided stability in the availability and cost of medical professional liability coverage for Kansas health care providers. The primary function of the fund is to provide excess professional liability coverage, which is "triggered" when the basic professional liability insurer's projected loss exposure exceeds \$200,000.

In many ways, the Health Care Stabilization Fund has set Kansas apart from other states where the medical malpractice insurance crisis has made it extremely difficult to recruit and retain physicians. It is operated with funds that come from health care providers, not state government, and those funds are used responsibly to maintain an environment that helps protect our state from the vagaries of the insurance market. As mentioned in the testimony from the Health Care Stabilization Fund, KHA is concerned with the recent decisions by the Governor to discontinue reimbursement for claims paid on behalf of the University of Kansas Medical Center. We are concerned that this policy change may very well cripple a program that has proved essential to creating better access to healthcare across our state.

The Kansas Hospital Association appreciates your consideration of our comments and urge your support for Senate Bill 414.

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Attachment 1*



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON SENATE BILL 390

COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE February 9, 2010

Madam Chair Teichman and Members of the Committee:

Thank you for the opportunity to testify today in support of Senate Bill No. 390, which amends K.S.A. 40-2259, the statute that sets out rules for insurance companies related to genetic testing and test results for their insureds. My name is Linda Sheppard and I am the Director of the Department's Accident & Health Division.

The existing version of K.S.A. 40-2259 became law in 1997. In May 2008, Congress enacted H.R. 493, the Genetic Information Nondiscrimination Act of 2008, which became effective for plan years beginning after May 21, 2009. Regulations implementing the provisions of the Act were made public on October 1, 2009. After reviewing the provisions of the federal Act and the related regulations, the Department introduced this bill in order to update our Kansas law to include some of the new consumer protections that were a part of the federal Act.

The proposed changes to K.S.A. 40-2259 include the addition of new subsections (b) (5) and (6), which clarify that insurance companies may not condition an individual's enrollment or premiums or subsequently adjust an individual's premiums based on whether the individual or a member of the individual's family had obtained a genetic test or the results of such a test.

New subsections (c) (1) through (5) would permit an insurance company to request, but not require, an individual or family member to undergo genetic testing, subject to a number of

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Attachment 2*

conditions designed to protect the individual or family member, including clarification that undergoing the testing would be voluntary and that the results of any such test would not be used for underwriting purposes. Subsection (c) would also require the insurer to provide written information to the commissioner of insurance about the nature of the genetic testing activities that are being conducted under this subsection. With the scientific progress being made in the area of genetic testing and how the results of such testing may actually allow individuals to receive treatment that would prevent or delay the onset of certain types of disease, voluntary testing may be beneficial for both insureds and the insurance companies. These amendments to our Kansas law would permit such voluntary testing to occur while protecting the interests of insureds.

The Department has also added some additional wording in subsection (b) to clarify that the provisions of the statute apply to group policies and certificates of coverage, and individual policies.

I would be happy to stand for any questions you may have regarding this testimony.

Linda J. Sheppard, Director
Accident & Health Division, Kansas Insurance Department