

MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:30 p.m. on March 2, 2011, in Room 152-S of the Capitol.

All members were present except:

Representative Davis - Excused
Representative Fawcett - Excused
Representative Proehl - Excused

Committee staff present:

David Wiese, Office of the Revisor of Statutes
Ken Wilke, Office of the Revisor of Statutes
Melissa Calderwood, Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Sue Fowler, Committee Assistant

Conferees appearing before the Committee:

Kevin Davis, Kansas Department of Insurance
Kris Kellim, Kansas Department of Kansas
Bill Sneed, America's Health Insurance Plans

Others attending:

See attached list.

Representative Grant moved without objection to pass the February 21, 2011 committee minutes as written.

Hearings on:

SB 15 **Insurance: Risk-based capital requirements**

David Wiese, Office of Revisor of Statutes, gave a brief overview on **SB 15**.

Representative Shultz, opened the hearing on **SB 15**.

Proponents:

Kevin Davis, Kansas Department of Insurance, (Attachment 1), appeared before the committee in support of **SB 15**.

David Hanson, Kansas Association of Property and Casualty Insurance, (Attachment 2), presented written testimony in support of **SB 15**.

Representative Shultz closed the hearing on **SB 15**.

SB 65 **Health insurance; internal and external review of health care decisions**

Melissa Calderwood, Kansas Legislative Research Department, gave a brief overview on **SB 65**.

Representative Shultz, opened the hearing on **SB 65**.

Proponents:

Kris Kellim, Kansas Department of Insurance, (Attachment 3), gave testimony before the committee in support of **SB 65**.

Bill Sneed, representing America's Health Insurance Plans, (no written testimony), spoke in support of **SB 65**.

Representative Shultz closed the hearing on **SB 65**.

Next meeting is scheduled for Monday, March 7, 2011, 3:30 P.M. in Room 152-S in Capitol.

Meeting adjourned at 4:12 p.m.

House Insurance Committee
Guest Sign In Sheet
Wednesday, March 2, 2011

[illegible]



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON SB 15

HOUSE INSURANCE COMMITTEE March 2, 2011

Mr. Chairman and Members of the Committee:

I am Kevin Davis with the Kansas Insurance Department and with me today is Ken Abitz the Director of our Financial Surveillance Division who monitors the Risk-Based Capital or RBC requirements for the Department.

Thank you for the opportunity to testify in support of Senate Bill 15. As background, RBC is a method used by the Kansas Insurance Department to measure the minimum amount of capital that an insurance company needs to support its overall business operations. If a company falls below certain RBC requirements then the Insurance Department will go through a number of steps to determine the financial "health" of the company in question, with the ultimate goal of bringing that company back to a level where it is capable of meeting its contractual obligations to Kansas policyholders.

This bill pertains to the risk-based capital (RBC) instructions that have previously been updated yearly through legislation. In 2009 this statute was altered to allow subsequent RBC updates to be made with rules and regulations rather than yearly legislation, however if either of two "triggers" are met then the new RBC instructions must be instituted statutorily as they have been in the past. This bill is in response to our review of these triggers.

In an attempt to allow for a legislative review process in the event of major changes to the national RBC factors, two triggers were employed that require the Kansas Insurance Department to update these changes statutorily. If an insurer's total adjusted capital or RBC report varied by more than 2.5%, from the previous year, then the new standards must be adopted by statute. We have projected the 2010 RBC and have determined that most of domestic companies' RBC results have changed by more than 2.5% on the positive side. However, none of companies will see a change in their regulatory control level (trigger number two), which represents a RBC of 200% or less.

Since the first trigger has been met a change in the statute is necessary. However, while this change is appropriate, a review of the newest RBC formula led us to the conclusion that not a single domestic property and casualty insurer will be affected. We also understand that the domestic property and casualty industry agrees with this assessment and this amendment.

House Insurance
Date: 3-2-11
Attachment # 1

These safety triggers were put in place to ensure that Kansas insurers would not be drastically affected by regulatory formulas from one year to the next without a diligent review by the industry and Kansas Legislature. While we believe the trigger may be set slightly low at 2.5%, we do believe the mechanism worked and in this case we are not asking for the statute to be changed, other than the effective date for RBC instructions. The only change is updating the date on page 2, line 1, from 2009 to 2010.

Despite current economic conditions and record storm losses Kansas property and casualty insurance companies are in a sound financial state and behave as good stewards of the public trust. It is for these reasons that we would ask the committee to recommend SB 15 favorable for passage.

Thank you for the opportunity to appear in support of this bill. I will be happy to stand for questions at the appropriate time.

Kevin Davis
Director of Consumer Assistance and Government Affairs

KANSAS ASSOCIATION OF P&C INSURANCE COS.

DAVID A. HANSON, LEGISLATIVE COUNSEL
800 S.W. JACKSON, SUITE 900
TOPEKA, KS 66612-1259

TELEPHONE NO. (785) 232-0545
FAX NO. (785) 232-0005

Member Companies:

Armed Forces Insurance
Exchange
Ft. Leavenworth

Bremen Farmers Mutual
Insurance Co.
Bremen

Columbia Insurance Group
Salina

Farm Bureau Mutual
Insurance Company
Manhattan

Farmers Alliance Mutual
Insurance Company
McPherson

Farmers Mutual Insurance Co.
Ellinwood

Federated Rural Electric
Insurance Exchange
Lenexa

Kansas Mutual Insurance Co.
Topeka

Marysville Mutual Insurance Co.
Marysville

Mutual Aid eXchange
Overland Park

Upland Mutual Insurance Co.
Chapman

House Insurance Committee Testimony on Senate Bill 15

March 2, 2011

Chairman Shultz and Members of the Committee:

Thank you for this opportunity to present information on behalf of the Kansas Association of Property and Casualty Insurance Companies, our state trade association for domestic property and casualty insurance companies in Kansas.

The risk-based capital provisions referenced in the Bill were developed by the NAIC for adoption and use by the states as a standardized method of monitoring the solvency of insurers and assessing the need for regulatory control levels. For a number of years, legislation was introduced to annually update changes that the NAIC adopted in the instructions and formula used to determine risk-based capital scores. This allowed our companies to bring any concerns to you and avoided constitutional problems by not allowing the NAIC to exercise legislative powers in adopting changes without any guidelines or restrictions. Two years ago, we supported legislation which approved the previous year's update of the NAIC's model rules and regulations and also established criteria that would permit the Insurance Commissioner to adopt NAIC suggested updates for the RBC calculations, without the annual Legislative review, subject to two exceptions. If the NAIC changes are projected to cause more than a 2.5% change in the adjusted capital of our domestic companies or to cause a change in the applicable control level, then the new instructions and formula should not be adopted in rules and regulations until approved by the Legislature. We had hoped that with those changes this Bill would not be necessary this year, but we did not anticipate the severity of either the continued storm losses nor of the economic downturn. Nevertheless, we believe the restrictions adopted two years ago have worked and are appropriate. Although we had hoped the economy would have improved by now and/or that NAIC would quit changing the formula, we are not there yet.

Senate Bill 15 simply allows the adoption of the NAIC updates through the end of last year, as has been done in previous years. We hope you will approve the update again this year, as we do not believe the NAIC model changes last year will adversely affect our members. We thank the Insurance Commissioner and her staff for working with us on these changes and we certainly appreciate your consideration in light of the developments over the past year. Thank you again.

Respectfully,



DAVID A. HANSON

House Insurance
Date: 3-2-11
Attachment # 2



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON

SB 65

HOUSE INSURANCE COMMITTEE MARCH 2, 2011

Chairman and Members of the Committee:

I am Kris Kellim with the Kansas Insurance Department. With me today is Steve O'Neil of our Consumer Assistance Division, who works directly with External Review processes.

On July 23, 2010, the federal government issued interim final rules for group health plans and health insurance issuers relating to internal claims and appeals and external review processes under the federal health reform law. Under the rules, states must either adopt the federal internal appeals and external review rules, or comply with the Uniform Health Carrier External Review Model Act. To comply with the Uniform Model Act, the state external review process must include, at a minimum, the consumer protections of the Uniform Model Act. Kansas external review laws currently provide the consumer protections afforded by the Uniform Model Act in all but four provisions. Given the similarity between current Kansas external review processes and the requirements of the Uniform Model Act, conforming to the Uniform Model Act will allow Kansas to overwhelmingly maintain its existing external review processes. Moreover, these amendments will ensure Kansas avoids becoming subject to federal regulation of its external review processes. As such, SB 65 seeks to amend four provisions of the Kansas external review statutes in order to comply with the Uniform Model Act.

The first amendment expands the definition of an "emergency medical condition," under K.S.A. 40-22a13(b), to include urgent situations, where the timeframe for completion of external review would seriously jeopardize the life or health of the insured or would jeopardize the insured's ability to regain maximum function. The expanded definition also includes situations involving experimental or investigational treatments, where the timeframe for completion of external review would render the treatment significantly less effective.

The second amendment includes new language in K.S.A. 40-22a14(d), which provides a claimant is deemed to have exhausted the internal appeals process whenever an insurer or health insurance plan fails to strictly adhere to all appeal requirements under state or federal law. This rule applies regardless of whether the insurer's error was minimal or whether the insurer substantially complied with state or federal law.

The third amendment, under K.S.A. 40-22a14(e), changes the existing time limit for requesting external review from within 90 days to within 120 days of receipt of an adverse decision by a health insurance plan or an insurer.

House Insurance
Date: 3-2-11
Attachment # 3

The fourth and final amendment, under K.S.A. 40-22a15(d), changes the existing time limit for an external review organization to resolve all issues in the case of an expedited review where an emergency medical condition exists from seven business days to not more than 72 hours after the date of receipt of the request for an expedited external review, or as expeditiously as the insured's medical condition or circumstance require.

Making these four changes to the existing Kansas external review statutes will bring the Kansas external review process into compliance with the consumer protections of the Uniform Model Act. The amendments are necessary for Kansas to substantially retain its current external review processes, and control over those processes going forward. The undesirable alternative would be to cede regulation and control of Kansas' external review processes to the federal government.

Thank you for the opportunity to appear in support of this bill. Mr. O'Neil and I are happy to stand for questions at the appropriate time.

Kris M. Kellim
Government Affairs Liaison
Kansas Insurance Department