

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 am. on February 8, 2011, 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
Heather O'Hara, Kansas Legislative Research Department
Beverly Beam, Committee Assistant

Conferees appearing before the Committee:

Judi Stork, Deputy Bank Commissioner
Pat Hubbell, American Express
Kris Kellim, Kansas Insurance Department

Others attending:

See attached list.

Chairman Teichman welcomed everyone to the meeting.

Hearing on

SB 64 – Banking, criminal record history information, requiring fingerprints

Melissa Calderwood, Legislative Research, gave an overview of **SB 64**. She stated that this bill would allow the Office of the State Bank Commissioner to require fingerprinting and completion of a criminal background check for key individuals related to an application for a money transmitter license, an application for a bank holding company, or a notice of a proposed bank acquisition. She said the bill would also allow the Kansas State Banking Board the option of requiring fingerprinting and completion of a criminal background check for key individuals related to an application for a new bank or trust company. She added that the bill requires that all costs associated with the fingerprinting and criminal background checks be paid by the applicant or parties to the application and would have no net fiscal effect on the office of the State Bank Commissioner.

Judi Stork, Deputy Bank Commissioner, testified in support of **SB 64**. She stated that this bill amends four statutes under the supervision of the bank commissioner's office and that all of these statutes relate to applications received by the Office of the State Bank Commissioner. She said currently, a criminal background check through the Kansas Bureau of Investigation is limited to looking for criminal convictions that have occurred in Kansas. She said as a result, it is entirely ineffective in revealing any federal crime a person may have committed, or any crime they have committed in any other state. Continuing, she stated the KBI has advised their agency that in order to do a complete check of all criminal records throughout the United States, they need to access the NCIC database and that requires individuals to be fingerprinted. She said the use of fingerprinting would be an additional tool to ensure the commissioner and the banking board are able to make the most educated decisions based on factual evidence. (Attachment 1)

Pat Hubbell, American Express Corporation, offered an amendment to **SB 64**. He stated that fingerprinting requirements in **SB 64** are not needed for publicly traded corporations under the federal securities laws enforced by the U.S. Securities and Exchange Commission. He suggested the following amendment to **SB 64**. In line 28 of page 1 after the words "...parties to the application." add a new sentence to read as follows: "If the applicant is a publicly traded corporation or a subsidiary of a publicly traded corporation, a fingerprint check of any such person of the applicant shall not be required." (Attachment 2)

Following Q & A, the Chair closed the hearing on **SB 64**.

Hearing on

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

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:30 a.m. on February 8, 2011 in Room 548-S of the Capitol.

Melissa Calderwood gave an overview of **SB 65**. She stated that under current law, a request for external review of an adverse decision by a health insurer must be made within 90 days and an external review must be completed within seven business days when an emergency medical condition exists. She said **SB 65** would extend the amount of time an insured person has to request an external review to 120 days. In addition, she said this bill would require an external review to be completed within 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 circumstances require.

Kris Kellim, Kansas Insurance Department, said **SB 65** seeks to amend four provisions of the Kansas external review statutes in order to comply with the Uniform Model Act.

He said the first amendment expands the definition of an "emergency medical condition" 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. He said 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 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. He said 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 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. The fourth and final amendment 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. Concluding, he said these amendments are necessary for Kansas to substantially retain its current external review processes, and control over those processes going forward.
(Attachment 3)

The Chair closed the hearing on **SB 65**.

The next meeting is scheduled for February 9, 2011.

The meeting was adjourned at 10:15 am.

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

DATE: 2-8-11

NAME	REPRESENTING
Sandy Braden	United Healthcare
Cindy Braden	
Steve O'Neil	KID
Cindy Hermes	KID
Kevin Kellin	KID
Michelle Butler	Cap. Strategies
Ravis Love	LITTLE GOUT RELATIONS
Helen Daver	RUNA
KOD MEALY	RENNETT ASSOC.
Diane Bellquist	OSBC
Dana Hampton	"
Kevin O'Connell	KS Bankers Assn
Kevin O'Connell	Bank Comm.
Pat Hulebell	American Express
Melisse Ward	Hein Law Firm
Jim Harkins	Vital/Health Group
Doug Mays	Country
Steve Siff	LARC
Bill Sneed	ANIP



SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
February 8, 2011

Madame Chair and Members of the Committee:

My name is Judi Stork, and I am the Deputy Bank Commissioner with the Office of the State Bank Commissioner. I am here today to speak in support of Senate Bill 64.

This bill amends four statutes under the supervision of the bank commissioner's office. All of these statutes relate to applications received by the Office of the State Bank Commissioner. They are as follows:

K.S.A. 9-509	Application for a license as a money transmitter	Page one, line 20
K.S.A. 9-532	Application for the acquisition of a Kansas bank or Kansas bank holding company by a holding company	Page three, line five
K.S.A. 9-1722	Application to acquire a Kansas bank or trust company by an individual	Page four, line 18
K.S.A. 9-1801	Application to charter a new bank or trust company	Page five, line three

In general, prior to acting on the application, the commissioner or the banking board is required by statute to conduct a thorough review of an applicant's character and qualifications, their general business experience, activities and affiliations, their financial standing, any legal proceedings of which they are a party to, and any criminal indictments or convictions. Allowing our agency the ability to perform fingerprint checks, on an as needed basis, would enhance our ability to meet statutory requirements.

Currently, a criminal background check through the Kansas Bureau of Investigation is limited to looking for criminal convictions that have occurred in Kansas. As a result, it is entirely ineffective in revealing any federal crime a person may have committed, or any crime they have committed in any other state. The KBI has advised our agency that in order to do a complete check of all criminal records throughout the United States, they would need to access the NCIC database, and that requires individuals to be fingerprinted. The NCIC database cannot be searched with just a name, social security number and date of birth, as the state database can.

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Attachment 1

In the current environment, we see the use of fingerprinting as an additional tool to ensure the commissioner and the banking board are able to make the most educated decisions, based on factual evidence. In all cases, whether it be issuing a bank or trust company charter, allowing an acquisition of an existing bank by another entity, or allowing companies to transmit monies on behalf of Kansas consumers, our agency wants to make certain individuals involved in these entities are of the highest ethical standards, fiscally responsible, with the where-with-all to support the business entity at all times. Allowing for fingerprinting of these individuals will assist the commissioner and banking board make informed decisions.

Thank you for your time and consideration. I would ask the committee for your favorable support of this bill. I would be happy to answer any questions for the committee.



Pat Hubbell Associates, Inc.
800 Jackson, Suite 914
Topeka, KS 66612-2214

TESTIMONY REGARDING SB 64

AMERICAN EXPRESS CORPORATION

February 8, 2011

Fingerprinting requirements in SB 64 are not needed for publicly traded corporations under the federal securities laws enforced by the US Securities and Exchange Commission. Publicly traded corporations have an affirmative duty to vet officers and directors and then report the results to the SEC. The existing requirement was toughened with the issuance of new regulations (S-K, 17 CFR part 229), February 28, 2010 so that directors and officers must be examined with regards to bankruptcies, federal or state criminal convictions, violations of financial institution laws, etc. The failure to examine a director or officer's background for the requisite 10 year period can subject a publicly traded corporation to severe sanctions.

Other states with fingerprinting requirements in money transmitter licensing laws, such as Maryland, Idaho, etc. have exempted publicly traded corporations for many years and there have been no issues. The SEC is a vigilant watchdog and publicly traded companies will not risk the ire of the US Government over this issue. Hence, the absence of problems in this regard over the last 20 years.

Suggested Amendment

In line 28 of page 1 after the words "... parties to the application." add a new sentence to read as follows: "If the applicant is a publicly traded corporation or a subsidiary of a publicly traded corporation, a fingerprint check of any such person of the applicant shall not be required."

Thank you for allowing me the opportunity to request these changes.

Patrick R. Hubbell

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TESTIMONY ON

SB 65

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE FEBRUARY 8, 2011

Madam Chair 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.

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

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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 this time.

Kris M. Kellim
Government Affairs Liaison
Kansas Insurance Department