

SESSION OF 2010

SUPPLEMENTAL NOTE ON SENATE BILL NO. 388

As Amended by House Committee of the Whole

Brief*

SB 388, as amended, would amend the effective date in current law for risk-based capital instructions, would require the Kansas Health Policy Authority to conduct two studies, and would provide for an exclusion of insurance coverage for and require an optional rider of coverage for certain abortions.

Risk-Based Capital Instructions

The bill would amend the effective date specified in current law for the risk-based capital (RBC) instructions promulgated by the National Association of Insurance Commissioners (NAIC). The instructions currently specified are effective on December 31, 2008. The bill would update the effective date of the RBC instructions to December 31, 2009. (Section 1)

**Study Requirements, Kansas
Health Policy Authority**

The bill also would require the Kansas Health Policy Authority (KHPA) to conduct a study on the topic of requiring insurance companies to reimburse clinical marriage and family therapists, clinical professional counselors, and clinical psychotherapists. The study will be designed to:

- Determine the impact that coverage for such therapists, counselors, and psychotherapists has had on the state health care benefits program [the State Employees Health Care Commission administers the State Employee Health

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Plan (SEHP) for state employees and other qualified entities];

- Provide data on utilization of such therapists, counselors, and psychotherapists by individuals covered for direct reimbursements for services provided by such therapists, counselors, and psychotherapists;
- Determine the cost of providing coverage for such therapists, counselors, and psychotherapists;
- Compare the costs of coverage between individuals under the SEHP covered by insurance companies which provide direct reimbursement for services provided by such therapists, counselors, and psychotherapists to individuals under the SEHP covered by insurance companies which do not provide such direct reimbursement;
- Compare the amount of premiums charged by insurance companies which provide reimbursement for services provided by such therapists, counselors, and psychotherapists to the amount of premiums charged by insurance companies which do not provide such direct reimbursement; and
- Determine whether mandated direct reimbursement for such therapists, counselors, and psychotherapists should be continued under the SEHP.

The Kansas Health Policy Authority also would be required to conduct an analysis to determine if proactive mental health treatment results in reduced expenditures for future mental and physical health care services. Under such analysis, the KHPA is required to compare expenditures of patients who receive such mental health care treatments with those patients who do not.

The studies assigned to the KHPA are required to be completed no later than December 31, 2010 and are required

to be made available to all members of the House Insurance Committee, the Senate Financial Institutions and Insurance Committee, and all parties seeking passage of such legislation no later than the first day of the 2011 Kansas Legislative Session. The Insurance Department and all other departments, boards, agencies, officers and institutions and their subdivisions would be required to cooperate with the KHPA in carrying out the prescribed duties. (New Section 2)

The Kansas Health Policy Authority also would be required to conduct a study on its contract with CVS CareMark, including:

- Competitiveness of rates for prescription drug coverage;
- Policy of permissible substitution of generic drugs; and
- Comparison of coverage and costs with other providers.

The KHPA would be required to conduct an analysis of the study (of the contract) and also would be required to submit the results of the study and such analysis to the House Health and Human Services Committee, the House Government Efficiency and Fiscal Oversight Committee, and the Senate Public Health and Welfare Committee no later than the first day of the 2011 Legislative Session. (New Section 6)

Exclusion of Coverage; Optional Rider

The bill would require [that] if individual or group health insurance policies or contracts (including the municipal group-funded pool and the State Employee Health Plan) which are issued, amended or renewed on and after July 1, 2010, [those policies or contracts] are required to exclude coverage for abortions unless the procedure is necessary to preserve the life of the mother or in the case of rape reported to a law enforcement agency or in the case of incest involving a minor and reported to a law enforcement agency [and that,] such

policies, plans, and contracts are required to offer a rider covering abortions for which an additional premium is paid. (NS 3, Sections 4-5)

Background

The bill was introduced at the request of the Kansas Insurance Department whose representative indicated that one of two triggers put into place by legislation last year [2009 HB 2052] for the update of risk-based capital instructions had been met and therefore, the new RBC instructions must be instituted statutorily, as had been done prior to the 2009 law. The trigger [KSA 2009 Supp. 40-2c29] states that if an insurer's total adjusted capital or RBC report varied by more than 2.5 percent [from the previous year] based upon changes made in the RBC factors then the new standards must be adopted by statute. The representative provided statistical data indicating that most domestic property and casualty companies' scores changed by more than the 2.5 percent variable. The Kansas Association of Property and Casualty Insurance Companies (KAPCIC) appeared in support of the bill and indicated that the severity of either the continued storm losses or of the economic downturn could not be anticipated last year and while it is regrettable to have to bring this legislation [updating the date of RBC instructions] so soon, the criteria established last year did work in bringing the formula to review when conditions warranted legislative oversight. There were no opponents to the bill at the time of the Committee hearing.

The House Committee on Insurance recommended an amendment to the bill to require a study by the Kansas Health Policy Authority on the reimbursement of certain clinical level practitioners (these professionals, under Kansas law, are permitted to diagnose and treat mental disorders in independent practice and are licensed by the Behavioral Sciences Regulatory Board). [Note: the House Committee on Appropriations has added proviso language similar to the language requiring the study by the KHPA in its appropriations bill, H. Sub. for SB 73.]

The House Committee of the Whole recommended amendments to the bill to require the Kansas Health Policy Authority conduct a study on its pharmacy benefit contract and to establish an exclusion of insurance coverage and require an optional rider of coverage for certain abortions.

The fiscal note prepared by the Division of the Budget on the original bill states that the Kansas Insurance Department indicates the passage of the bill would have no fiscal effect.