

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:05 a.m. on January 22, 1998, in Room 254-E of the Capitol.

All members present were.

Committee staff present: Mary Galligan, Legislative Research Department  
Robin Kempf, Legislative Research Department  
Theresa Kiernan, Office of the Revisor of Statutes  
Midge Donohue, Committee Secretary

Conferees appearing before the committee:

Senator Sherman Jones  
Senator Rich Becker  
Kathleen Sebelius, Commissioner of Insurance  
Sally Finney, Kansas Public Health Association  
Don Abdallah, Volunteer chair, Patient Services, American Cancer Society  
Callie Jill Denton, Executive Director, Kansas Association of Health Plans  
Senator Janice Hardenburger  
Senator Stan Clark

Others attending: See attached list.

Senator Oleen opened the meeting and asked staff to brief the committee on **SB 409**, relating to coverage for prostate cancer screening. Staff reviewed the provisions of the bill, advising that it would extend insurance coverage for prostate cancer screening to men 40 years of age and older who are in a high-risk category, and to all men 50 years of age and older. Additionally, the committee was told that, under provisions of the bill, screening coverage would have the same deductibles, coinsurance, and other limitations applied to other covered services, and nonprofit medical and hospital service corporations would be required to comply.

**SB 409**      **An act relating to accident and health insurance; providing coverage for prostate cancer screening**

Senator Oleen opened the hearing on **SB 409**, recognizing the sponsors of the bill, Senators Jones and Becker. She asked if they would like to address the committee or defer their comments until other testimony had been heard. Senator Jones, noting that the Insurance Commissioner had another commitment, requested that she be allowed to offer her comments. Senator Becker consented and Senator Oleen welcomed Kathleen Sebelius, Insurance Commissioner.

Commissioner Sebelius, a proponent of **SB 409**, told the committee it is not normally her belief that mandates are the appropriate way to go in the insurance industry; however, she referenced a legislative fiscal note request dated 1/12/98, (Attachment #1), which she said indicated the majority of insurance companies contacted by her department currently provide the coverage addressed in this bill. She pointed out that preventive care is cost effective when compared to the cost of treatment for diseases not detected in an early stage, such as prostate cancer. Commissioner Sebelius said **SB 409** will help identify those individuals most at risk for prostate cancer, and she asked the committee to favorably consider its passage (Attachment #2).

Senator Jones, a co-sponsor of the bill, related his personal experience, having been diagnosed with prostate cancer during a routine physical exam, and told of the recent death of a friend who, he said, was diagnosed too late to save his life. He said he believed his friend would be alive today had he had the knowledge and promotional material before the committee today (Attachment #3). He, too, pointed out that most, if not all, insurance companies currently cover screening. Senator Jones called attention to 1988 legislation that allowed for screening for women for breast cancer by mammogram and pap smears, pointing out the decrease in breast cancer deaths since that bill was signed into law. He commented also that the bill would have a very minimal impact on the insurance industry.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E, Statehouse, at 11:05 a.m. on January 22, 1998.

Senator Becker, co-sponsor of the bill, related his personal experience six years ago when he was diagnosed with major prostate cancer problems after his doctor recommended screening for the disease at the time of a physical exam. Senator Becker emphasized the need for awareness, early detection and appropriate action and said that is why he would like to see positive enactment of **SB 409**.

Sally Finney, Executive Director of the Kansas Public Health Association, appeared as a proponent of **SB 409**, (Attachment #4). She told the committee that cancer is a major public health problem; that the American Cancer Society estimates that one of every five American men will develop the disease sometime during their lifetime. She pointed out that it is now the second leading cause of death in men, exceeded only by lung cancer. Ms. Finney stated that screening is only the first step in addressing the problem and is of little benefit without access to treatment. She advised that the Kansas Public Health Association would be interested in working with the committee to help address the availability of treatment. On behalf of the Kansas Public Health Association she asked for favorable consideration of **SB 409**, saying patients should be assured of coverage for prostate cancer screening as recommended by their physicians.

Don Abdallah, chair of the American Cancer Society Patient Services and Director of the Cancer Program at St. Francis Hospital and Medical Center, Topeka, appeared before the committee in the capacity of a member of the Board of the American Cancer Society Northeast Kansas Division, and spoke in support of **SB 409**, (Attachment #5). Mr. Abdallah, whose clinical background is in the area of radiation therapy technology, explained that he is not a physician; that his primary work responsibilities entail advancing cancer care by helping to promote new technologies, procedures and systems that improve care, based on statistical data on patient survival. He stated that he was also involved in seeking ways to control medical costs to ensure affordability and availability of cancer care. Mr. Abdallah told the committee about a support group for men with prostate cancer. He said the most important lesson learned from the group is that prostate cancer patients need the expert advice of at least two of three medical specialties in making their decision on cancer treatment, and he urged the committee to consider including in the bill a provision for the patient to have the opportunity to see at least two cancer specialists prior to beginning treatment, with the cost of these consultations paid by the patient's health plan.

Mr. Abdallah provided statistics associated with prostate cancer as compiled by the American Cancer Society, (Attachment #6), and noted that the guidelines of the American Urological Association for prostate cancer screening are similar to those in **SB 409**. He told the committee that the American Cancer Society supports the bill and hopes it will serve as model legislation for other states and other cancer screening opportunities.

Callie Jill Denton, Executive Director of the Kansas Association of Health Plans, appeared as neither a proponent nor opponent, (Attachment #7). Ms. Denton explained that the Association was taking a neutral position on **SB 409**; that, although it supports the philosophy of screening for prostate cancer and covers this procedure, it opposes mandates and has grave concerns about regulation of insurance covering particular body parts. She commended Senators Jones and Becker for their courage in sharing their very personal and private experiences in an effort to raise the awareness of Kansans to the importance of early detection of prostate cancer.

Senator Oleen asked if anyone else would like to speak on the bill; there being none, she closed the hearing on **SB 409**.

Senator Becker moved that **SB 409** be reported favorably to the full Senate. Senator Jones seconded the motion. The motion carried by unanimous vote.

Senator Oleen turned attention to the briefing scheduled on **SB 393**, relating to computers and telecommunications and the oversight of state agencies gathering or maintaining personal information. She recognized Senator Janice Hardenburger and Senator Stan Clark, and commented on the hard work both had done on this issue.

Senator Hardenburger offered brief comments on **SB 393**, explaining that she and Senator Becker, who serve on the Committee on Public Health and Welfare which deals with confidentiality and possession of personal information, were concerned about protecting personal information and the security systems within state agencies. As a result of their concern, she said a resolution was prepared during the 1997 Session and re-referred to the Committee on Elections and Local Government where it was studied and remained. Consequently, she said, it was assigned to an interim committee. She told the committee that, because it was a subject needing in depth study, the interim committee did not feel it had the time and expertise to deal with it in the time frame given. As a result, Senator Hardenburger said, the interim committee decided there was already a "built-in" committee to study this issue and recommended that it be assigned to the Joint Committee on Computers and Telecommunications.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E, Statehouse, at 11:05 a.m. on January 22, 1998.

Staff briefed the committee on the provisions of **SB 393** and distributed copies of the resolution (Attachment #8) and interim committee report (Attachment #9) referenced by Senator Hardenburger.

Senator Becker pointed out that the task before the Joint Committee on Computers and Telecommunications was enormous and inquired if the committee had enough members to justify that job. Senator Stan Clark, who chairs that committee, was present and said the committee had proposed a small staff to assist with the project. He stated he planned to attend the hearing next week on **SB 393** and indicated he would provide additional information at that time.

Senator Vidricksen recalled that approximately ten years ago the Information Network of Kansas was established, and he asked if INK was selling personal information. Senator Clark responded that the information provided by INK was in accordance with the Open Records Act. Senator Oleen told the committee a representative of INK would be present next week when the bill is scheduled to be heard and would be available to respond to questions in this regard.

Senator Oleen asked if there were any requests for introduction of bills. There were none.

The meeting adjourned at 11:55 a.m. The next meeting is scheduled for January 27, 1998.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE  
GUEST LIST

DATE: 1/22/98

NAME	REPRESENTING
Dave Weller	Vin Christi
Callie Tell Denton	KS Assoc. of Health Plans
Nusheen Ameenuddin	KS Public Health Association
Kevin Davis	Am Family Drs
Steve Johnson	KS DEPT ON AGING
Patricia Pearce	Personnel Services
Sally Finney	Kansas Public Health Association
Don Abdallah	American Cancer Society
John Peppering	American Cancer Society
JOHN FEDERICO	Humana
Natalie Redfern	Federico Consulting
Carolyn M <sup>c</sup> Cormick	KDOA
Julie Hein	Hein & Weir
Tom Wilder	KANSAS Insurance Dept
Kathleen Sebelius	KANSAS Insurance Dept

SB 409  
Sen. Fed. & State

## MEMORANDUM

1998

### LEGISLATIVE FISCAL NOTE REQUEST

TO: Bruce Kinzie  
Revisor of Statues Department

FROM: Richard Huncker, CIE *RH*  
Accident and Health Supervisor  
Kansas Insurance Department

Douglas Jones *DJ*  
Accident and Health Policy Examiner  
Kansas Insurance Department

RE: Proposed Legislation Mandating Benefits for Prostate Screening

CC: Tom Wilder  
Director of Government and Public Affairs Division  
Kansas Insurance Department

DATE: 1/12/98

This memorandum is to provide you with the information you requested in regards to the proposed legislation.

When asking insurance companies about the proposed financial impact of this bill, we asked that they compute the premium impact, if any, for policies with first dollar coverage and with no deductible, \$500 deductible, and \$1,000 deductible with 80/20 co-payment for: individual coverage, individual and spouse coverage, individual and child(ren) coverage, and individual, spouse, and child(ren) coverage.

**Preferred Plus of Kansas, Inc.** reported that it currently provided first dollar coverage for this benefit for all benefit structures and they expected the proposed legislation to have a neutral effect on their premium rates.

**Principal Health Care of Kansas City, Inc.** reported that while the proposed legislation would have no significant financial impact on their company they stated, "there is no clinical evidence to suggest that there is any advantage to population based screening for prostate cancer by serum tumor marker (prostatic specific antigen or PSA), in the asymptomatic population."

**Blue Cross and Blue Shield of Kansas City** provided us with information on how the proposed legislation would affect premium rates. Blue Cross and Blue Shield took the following items into account in developing their estimates:

1. their current physician fees for the appropriate services are about \$116;
2. demographic counts of the affected population versus all enrolled persons;
3. benefit factors for the plans for which information is sought;

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Attachment: #1

4. an estimate that 20% of men aged 40-49 might be designated as "high-risk", and therefore eligible for the benefit.

For policies with first dollar coverage, they felt that covering prostate cancer screenings would impact premiums in this manner:

- \$1.19 per month for individual and individual with children contracts;
- \$1.32 per month for individual and spouse contracts; and
- \$2.07 per month for individual and family contracts.

For a \$500 deductible option, 80/20% co-payment plan, they project that 50% of prostate cancer screenings would fall under the deductible. The remaining 50% would be paid at 80%, so only 40% of the original cost would remain. These would be:

- \$0.48 per month for individual and individual with children contract;
- \$0.53 per month for individual and spouse contracts; and
- \$0.83 per month for individual and family contracts.

For a \$1,000 deductible option, 80/20% co-payment plan, we project that 80% of these screenings would fall under the deductible. The remaining 20% would be paid at 80%, so only 16% of the original cost would remain. These would be:

- \$0.19 per month for individual and individual with children contract;
- \$0.21 per month for individual and spouse contracts; and
- \$0.33 per month for individual and family contracts.

**Blue Cross and Blue Shield of Kansas** has indicated that the proposed legislation would have no impact on premium rates for the bulk of the products they provide.

It should be noted that in the process of collecting information, companies were not asked to calculate the premium impact on policies with first dollar coverage with a 80/20 co-payment and no deductible. The Kansas Department of Health and Environment has provided us with the attached information that was based on figures from Blue Cross and Blue Shield of Kansas. The proposed mandated benefit would create an additional cost for policies with first dollar coverage with a 80/20 co-payment and no deductible. The information presents the premium cost of the mandated benefit on policies already providing the coverage. They have estimated that policies providing first dollar coverage with an 80/20 co-payment and no deductible would financially impact premium rates by no more than \$9.10 per year.

If you should have any questions, please do not hesitate to contact us.



**Kathleen Sebelius**  
Commissioner of Insurance  
**Kansas Insurance Department**

**MEMORANDUM**

To: Senate Federal and State  
Affairs Committee

From: Kathleen Sebelius, Commissioner  
of Insurance

Re: Senate Bill 409 (Coverage for Prostate Cancer Screening)

Date: January 22, 1998

I am appearing today to ask for your favorable consideration of Senate Bill 409 which provides for health insurance coverage to pay for screening examinations for prostate cancer. I support health insurance coverage for preventative medical services which will in the long run save money by the early classification and treatment of serious medical conditions. Senate Bill 409 will help identify those individuals most at risk for prostate cancer. I would appreciate this committee approving S.B. 409 favorably for passage.

SHERMAN J. JONES  
SENATOR, 4TH DISTRICT

3736 WEAVER DRIVE  
KANSAS CITY, KANSAS 66104  
(913) 342-5728



TOPEKA

SENATE CHAMBER  
STATE CAPITOL BUILDING  
TOPEKA, KANSAS 66612-1504  
(913) 296-7376

COMMITTEE ASSIGNMENTS  
MEMBER: FEDERAL AND STATE AFFAIRS  
RANKING MINORITY  
TRANSPORTATION & UTILITIES  
PUBLIC HEALTH & WELFARE  
EDUCATION  
JOINT COMMITTEES  
CHILDREN AND FAMILIES  
CLAIMS AGAINST THE STATE  
CHAIRMAN LEGIS. BLACK CAUCUS

TESTIMONY OF SENATOR SHERMAN JONES  
FEDERAL & STATE AFFAIRS COMMITTEE  
January 22, 1998

Re: Senate Bill 409 (SB 409)

Madam Chairman, Committee members

Thank you for the opportunity to address SB 409. If I leave anything out, I'm sure my colleague, Senator Becker will speak to that.

A few months ago, during a routine physical examination, I was given a prostate examination, an exam that I despise! However, due to the examination, the urologist felt that I should return for further tests, including a scan and biopsy. As a result of this and a second opinion, it was revealed that I had prostate cancer. Since then; my life style, both mentally and physically, has changed considerably but I'm alive and very functional.

Yesterday, I attended a funeral of one of my friends who was diagnosed about three years ago with prostate cancer but the diagnosis was too late to save his life. I believe that knowledge and promotional material (as you have in front of you) had been given him, he would probably be alive today.

SB 409 requires any insurance company that does contract business in Kansas, to include in their coverage prostate screening for men over 40 years old. You see, Madam Chairman and Committee Members, most; if not all, companies cover screening now. I might add also that I have no beef with any insurance carrier in the state.

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Attachment: # 3



In 1988, I believe, the legislature enacted a law that allows for the required screening for women for breast cancer by mammogram and pap smears. I believe it's safe to say that the cause of death by breast cancer has decreased in this state since that bill was signed into law.

You also have in your packet a report from the Kansas Insurance Commission of the impact this bill would have on the industry. This report is required by law. The impact as you can see, is very minimal.

You also have an article from the Lawrence Journal World, indicating the at risk conditions.

Thank You. Are there questions?



# *Kansas Public Health Association, Inc.*

*Affiliated with the American Public Health Association*

*701 SW Jackson Avenue  
Suite 300*

*Topeka, Kansas 66603-3729*

*785-233-3103*

*Fax 785-233-3439*

Testimony on Senate Bill 409  
Presented on January 22, 1998

Senator Oleen and members of the Senate Federal and State Affairs Committee, my name is Sally Finney. I am Executive Director of the Kansas Public Health Association. Thank you for the opportunity to appear before you this morning on behalf of Senate Bill 409.

Cancer is a major public health problem. The American Cancer Society estimates that one of every five American men will develop cancer of the prostate gland during their lifetime. This form of cancer is now the second leading cause of cancer death in men, exceeded only by lung cancer. Because this cancer is particularly slow to progress, early detection for men at-risk for the disease is important. The Kansas Public Health Association supports the concept that prostate cancer screening should be included as part of basic health insurance coverage so that when a physician, based on his or her assessment of a patient's risk, determines that screening is necessary.

I would be remiss if I failed to point out that access to screening offers little benefit without access to treatment. Providers who know a patient is unable to pay for treatment may be reluctant to screen that individual for a particular disease, such as cervical cancer or HIV infection. Access to screening does not translate to access to treatment, and this experience may also apply to prostate cancer. The Kansas Public Health Association would be interested in working with you all to help address the question of treatment availability.

In summary, the Kansas Public Health Association asks you to support S.B. 409. Patients should be assured of coverage for prostate cancer screening as recommended by their physicians.

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Attachment: # 4

Name: Don Abdallah

ACS Position: Chair of Patient Services

Employer: St. Francis Hospital and Medical

Position: Director of the Cancer Program

My clinical background is in the area of radiation therapy technology, which as you may know is one of the primary methods of treating prostate cancer. **Please understand that I am not a physician** and can only respond in a limited capacity, to clinical questions you might have. My primary work responsibilities entails advancing cancer care at the Medical Center by helping to promote new technologies, procedures and systems that improve care, based on statistical data on patient survival. In addition to improving quality I am involved in seeking new ways to control medical costs to ensure the affordability and availability of cancer care.

I am here today speaking to you in the capacity of a member of the Board of the American Cancer Society Northeast Kansas Division. During the last nine years it has been my pleasure to serve on the board of American Cancer Society in several different capacities. Presently I am chairing the Patient Services Committee, which is involved in promoting a new program entitled Man to Man, which is a support program for men with prostate cancer. As you might imagine a support group for men has to be "uniquely structured" as most men do not enjoy the traditional emotional exchange associated with most support groups. Subsequently the focus to date for this group has been on the educational component related to their disease. This group of prostate cancer survivors has had an opportunity to hear several one-hour lectures on the benefits of treatments from a urologist, radiation oncologist, and medical oncologist. These lectures have included the latest forms of treatment including radioactive prostate implants and the new radioactive diagnostic isotopes such as Proscint, which is a new radiopharmaceutical that St. Francis Hospital help get approve by participated in the FDA clinical trials.

One of the most important lessons that I've learned from this wonderful group of men is that a prostate cancer patient typically has to decide what the best form of treatment is for himself. Because many of the forms of treatment have the same medical outcomes, patient many times will have to make a choice on what's best for them as it relates to side effects, risks, time involved in treatments and cost. To assist in making a informed decision many men may need the expert advice of at least two of the three medical specialties associated with cancer treatment.

In your consideration of legislation regarding prostate cancer, it would be my hope that sufficient terminology could be placed in the bill, to provide for the patient, an opportunity to see at least two cancer specialists prior to beginning treatment with the cost of these consultations paid by the patient's health plan.

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Attachment: # 5

Statistics associated with prostate cancer as compiled by the American Cancer Society

Prostate cancer is the most common cancer in American men, excluding skin cancer.

The American Cancer Society estimates that in 1997 about 209,900 new cases of prostate cancer will be diagnosed and 41,800 men will die of this disease in the United States.

Approximately 1 out of every 5 American men will develop prostate cancer in their lifetime and about 3% will die from it.

African-American men are about one-third more likely to develop prostate cancer than are white men.

African-American men have the highest rate of developing prostate cancer in the world.

Prostate cancer is most common in North America and northwestern Europe. It is rare in Asia, Africa, Central America and South America.

Prostate cancer is now the second leading cause of cancer death in men, exceeded only by lung cancer.

Prostate cancer accounts for 14% of male cancer-related deaths.

Eighty-seven percent (87%) of men diagnosed with prostate cancer survive at least 5 years and 63% survive at least 10 years. Fifty-eight percent (58%) of all prostate cancers are discovered while still localized, and the 5-year relative survival rate for men with localized prostate cancer is 99%.

Because of this data it is the position of the ACS that men do seek out prostate cancer screening to optimize their chances for early detection. It is also the position of the ACS that insurance companies should be required to pay for this type of coverage as a part of the patients medical health care plan. Although there has been much written recently regarding how much of a difference early detection really makes we need to remember the following:

1. The "early" data would seem to suggest that there is some benefit to prostate cancer patient.
2. In the present absence of hard data would it not be most appropriate to favor the position on screening, which most likely would protect lives.
3. Early detection gives the patient time to consider his treatment options as well as allowing for a broader range of options to be available to the patient.
4. Early detection costs may ultimately pay for themselves in reducing the total dollars associated with treatment.

WHAT ARE THE OFFICIAL RECOMMENDATIONS OF THE EXPERTS ON PROSTATE CANCER SCREENING?

American Urological Association

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Attachment: #6

The official recommendation of the American Urological Association (AUA) is:

"Annual digital rectal examination (DRE) and serum prostate specific antigen (PSA) measurement substantially increase the early detection of prostate cancer. These tests are most appropriate for male patients 50 years of age or older and for those 40 or older who are at high risk, including those of African- American descent and those with a family history of prostate cancer. Patients in these age/risk groups should be given information about these tests and should be given the option to participate in screening or early detection programs. PSA testing should continue in a healthy male who has a life expectancy of ten years or more."

#### AMERICAN CANCER SOCIETY

##### *Guideline Statement:*

Both Prostate-Specific Antigen (PSA) and Digital Rectal Examination (DRE) should be offered annually, beginning at age 50 years, to men who have at least a 10-year life expectancy, and to younger men who are at high risk. Information should be provided to patients regarding potential risks and benefits of intervention.

- Men who choose to undergo screening should begin at age 50 years. However, men in high-risk groups, such as those with a strong familial predisposition (e.g., two or more affected first-degree relatives) or African Americans may begin at a younger age (e.g. 45 years). More data on the precise age to start prostate cancer screening are needed for men at high risk.
- Screening for prostate cancer in asymptomatic men can detect tumors at a more favorable stage (anatomic extent of disease). There has been a reduction in mortality from prostate cancer, but it has not been established that this is a direct result of screening.
- An abnormal Prostate-Specific Antigen (PSA) test result has been defined as a value of above 4.0 ng/ml. Some elevations in PSA may be due to benign conditions of the prostate.
- The Digital Rectal Examination (DRE) of the prostate should be performed by health care workers skilled in recognizing subtle prostate abnormalities, including those of symmetry and consistency, as well as the more classic findings of marked induration or nodules. DRE is less effective in detecting prostate carcinoma compared with PSA.

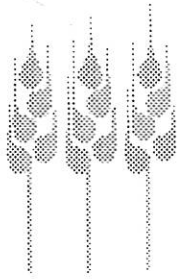
Does early detection or screening for prostate cancer really make a difference?

The answer to this question is still argued among experts. The complete and final answer will require several years of careful studies. However, the preliminary evidence supports prostate checks for early detection of prostate cancer in most American men over 50 years of age.

While the incidence of prostate cancer continues to rise in the United States, we are successfully finding these cancers earlier; while the total number of deaths from prostate cancer in the United States continues to rise, it is rising at a slower rate than just a few years ago, and men diagnosed with prostate cancer today are less likely to die from prostate cancer. "Screening" examinations including PSA blood tests for early detection of prostate cancer really started to become widely disseminated only in the later years of the 1980's, and their utilization is continuing to increase in practice through 1997. The available hard numerical data do not yet encompass the complete impact of the more widespread employment of this kind of screening for early prostate cancer.

In conclusion the American Cancer Society supports Senate Bill 409 and hope that it will serve as model legislation for other states and other cancer screening opportunities.

Cost of PSA \$55-\$80



# Kansas Association of Health Plans

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Testimony of Callie Jill Denton  
Senate Federal and State Affairs Committee  
January 22, 1998  
SB 409

The Kansas Association of Health Plans is a nonprofit corporation dedicated to providing the public information on managed care health plans. Members of the KAHP are Kansas licensed managed care organizations who serve over 200,000 Kansans. The members of the KAHP take pride in promoting preventative health care and providing high quality services at an affordable cost.

The Kansas Association of Health Plans recognizes that prostate cancer is an important health problem and that early treatment may save lives. Currently, KAHP member plans provide coverage for prostate cancer screening.

Preventative health care that includes regular checkups continues to be a major weapon in the war against rising health care costs, as well as leading to better health and longer lives. The Kansas Association of Health Plans would like to commend the sponsors of SB 409 and the Kansas Senate for their commitment to raising the awareness of Kansans to the importance of early detection of prostate cancer.

## Senate Concurrent Resolution No. 1611

By Committee on Public Health and Welfare

3-18

9 A CONCURRENT RESOLUTION establishing a task force to study the  
10 accessibility of personal records and information which are held in the  
11 public domain and to determine the adequacy of current state law in  
12 protecting the privacy of individual citizens.

13  
14 WHEREAS, The state has a vital interest in having access to certain  
15 personal information about individual citizens in order to carry out the  
16 necessary functions of government; and

17 WHEREAS, The state has an obligation to assure individuals that in-  
18 formation gathered and held by the state through one of its agencies will  
19 only be used for intended and lawful purposes; and

20 WHEREAS, The growing use of computers to access information held  
21 in the public domain through the Internet has raised questions of confi-  
22 dentiality and privacy: Now, therefore,

23 *Be it resolved by the Senate of the State of Kansas, the House of Rep-*  
24 *resentatives concurring therein:* That a task force be established to study  
25 the extent to which personal information is gathered and maintained in  
26 the public domain, the accessibility and availability of such information  
27 to the public, the extent to which such information should be confidential  
28 and not subject to disclosure except for expressly intended purposes, the  
29 adequacy of current laws and regulations in protecting the privacy of  
30 individual citizens by limiting access to such information; and recom-  
31 mendations for legislative and regulatory changes to address the problem;  
32 and

33 *Be it further resolved:* That a task force be formed consisting of nine  
34 members, three appointed by the governor, two appointed by the presi-  
35 dent of the senate, one appointed by the minority leader of the senate,  
36 two appointed by the speaker of the house of representatives and one  
37 appointed by the minority leader of the house of representatives. The  
38 governor shall select one member to serve as chairperson; and

39 *Be it further resolved:* That the task force shall submit its report and  
40 recommendations to the governor and the legislature on or before January  
41 12, 1998.

Sen. Federal & State Affairs Comm.

Date: 1-22-98

Attachment: # 8



# SPECIAL COMMITTEE ON GOVERNMENTAL ORGANIZATION

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## ***Confidentiality of personal information gathered and maintained by agencies of state government.\****

**SUMMARY:** The Committee recommends enactment of legislation that will require the Joint Committee on Computers and Telecommunications (JCCT) to:

- study laws, policies, and practices of state agencies that gather and maintain personal information;
- monitor state agencies' handling of personal information, especially efforts to preserve the confidentiality and integrity of personal information they maintain; and
- make periodic reports of the results of its study and monitoring activities.

## **BACKGROUND**

Policy regarding information contained in public records is embodied in the Kansas Open Records Act (KORA) (K.S.A. 45-216, *et seq.*), and in numerous other statutes and administrative regulations. The Legislature routinely addresses the question of confidentiality of information on a case-by-case basis as it enacts laws that require agencies to collect and maintain personal information for a variety of purposes.

KORA was amended during the 1997 Session to include:

- a specific prohibition against release of identifying information about victims of crimes for which the offender is required to register under the Sex Offender Registration Act;
- authority for the release of specific information about correctional system inmates; and
- a clarification of a provision prohibiting the release of certain taxpayer information.

The 1997 Legislature also addressed confidentiality of personal information by enactment of H.B. 2011 which amended the Workers Compensation Act. The amended Act prohibits release of medical records, accident reports, and certain other information under most circumstances.

Also during the 1997 Session, the Legislature considered, but did not adopt, a resolution that would have mandated a task force study of personal information gathered and maintained by state agencies. S.C.R. 1611 would have created a nine-member task force to study the accessibility of personal records and information maintained by state agencies and the adequacy of state law protecting privacy of citizens. That bill remained in the Senate Committee on Elections and Local Government at the end of the session.

## **COMMITTEE ACTIVITY**

The Committee received testimony from Senator Stan Clark, the state's Chief Information Architect, a representative of the Kansas Medical Society, and the General Manager of the Information Network of Kansas. In addition, the departments of Health and Environment, Human Resources, Social and Rehabilitation Services, Revenue, and the Board of Healing Arts reviewed for the Committee the types of personal information they routinely collect and the authority under which that information is collected and released to the public.

Several conferees made the point that computerization of public records of all types and availability of many of those records via the Internet makes undesirable manipulation of personal information easier than ever before. Some questions and concerns raised by conferees related directly to the scope and reliability of computer security systems of state agencies that keep records containing personal information.

## **CONCLUSIONS AND RECOMMENDATIONS**

The Committee concluded that a study of this issue requires considerably more time than the

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\* S. B. 393 accompanies this report.

Committee has available during this interim. The Committee also concluded that some degree of additional legislative oversight of agencies that gather and maintain personal information may be necessary.

Based on those conclusions, the Committee recommends enactment of legislation that would expand the responsibilities of the Joint Committee on Computers and Telecommunications to include the following duties:

- examine existing laws regarding public records to determine whether adequate safeguards exist to preserve the integrity of and control access to personal information gathered or maintained by state government;
- examine policies, procedures, and rules and regulations of state agencies to determine whether record custodians are adequately implementing safeguards for private information;
- determine and review the justification for the scope and extent of personal information gathered by state government entities;
- examine public records systems of other states to identify best practices that might be used as models in Kansas;
- monitor state agency activities related to gathering and maintaining personal information and request audits of those activities as necessary; and
- recommend legislation and standards for gathering and preserving the integrity of personal information held by state agencies and annually report findings and recommendations to the Legislature, Governor, and Chief Justice