

MINUTES OF THE HOUSE COMMITTEE ON APPROPRIATIONS.

The meeting was called to order by Chairman Kenny Wilk at 11:30 a.m. on March 30, 2001, in Room 514-S of the Capitol.

All members were present except: Representative Phil Kline
Representative Bob Bethell

Committee staff present: Alan Conroy, Legislative Research
Rae Anne Davis, Legislative Research
Amy Kramer, Legislative Research
Carolyn Rampey, Legislative Research
Kathie Sparks, Legislative Research
Jim Wilson, Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee:

Others attending: See Attached

Chairman Wilk moved for the introduction of legislation regarding the senior care giving initiative. Motion was seconded by Representative Neufeld. Motion carried.

Representative Shultz moved for the introduction of legislation which would provide for commemoration of the Kansas territorial sesquicentennial in 2004. Motion was seconded by Representative Hermes. Motion carried.

Discussion and Action on SB 170—Kansas children’s cabinet to enter into agreements with not-for-profit entities for the investment of certain money

Representative Klein moved to conceptually amend the bill by inserting language into Section 2 which would state that the Attorney General shall advise and act as legal counsel for the Kansas Children’s Cabinet with respect to all agreements entered into by the Kansas Children’s Cabinet under this section. Motion was seconded by Representative Hermes. Motion carried

Representative Neufeld presented copies of a proposed balloon amendment to Committee members (Attachment 1) The intent of the amendment would be to coordinate funding for children’s initiatives between the Sunflower Foundation and the Children’s Cabinet by requiring that all expenditures for purposes for which expenditures may be made from the Children Initiatives, be subject to approval by the Children’s Cabinet. All replacements for those serving on the Sunflower Foundation Board would be appointed by the Governor and confirmed by the Senate. The Committee discussed the option of sweeping the money from the Sunflower Foundation.

Representative Nichols made a substitute conceptual motion to amend as in the balloon amendment but to insert language that the Sunflower Foundation Board be replaced by members of the Children’s Cabinet Board upon the completion of each appointees term of office. Motion was seconded by Representative Minor. Motion carried.

The Committee discussed options of establishing one board to serve both the Sunflower Foundation and the Children’s Cabinet and setting an exact date for this to begin. Transferring the management of the Sunflower Trust to the Children’s Cabinet was also discussed. The Kansas Children’s Cabinet is a state agency and is subject to the open records, open meetings law.

Representative Klein moved to adopt the section regarding appointment of the board of trustees as proposed by Representative Neufeld. Motion was seconded by Representative Neufeld.

The Committee discussed if the intent of this amendment would be to take the control of the Sunflower Foundation Trust away from the Attorney General.

Representative Nichols moved to amend to provide for appointments so that there would be five

gubernatorial appointees and four legislative appointees in the membership of the Sunflower Foundation board. The rotation would start with the Speaker of the House, the President of the Senate, the House Minority Leader, and the Senate Minority Leader. The motion was seconded by Representative Ballard. Motion failed.

Representative Spangler distributed copies of a memo from John Campbell regarding the formation of the Sunflower Foundation (Attachment 2).

Representative Spangler made a substitute conceptual motion to add language to the bill which would designate the Chairman of the House Appropriations Committee and the Ranking Minority Member, and the Chairman of the Senate Ways and Means Committee and the Ranking Minority Member (or their designees) be designated as permanent members of the Sunflower Foundation board. Motion was seconded by Representative Feuerborn. Motion failed.

Representative Hermes moved to return to the original bill with only the Klein amendment regarding the Attorney General acting as general counsel to the Children's Cabinet in matters of negotiation and contracts. Motion was seconded by Representative Spangler. A division was requested and after a show of hands, the motion failed.

Representative Spangler moved to table **SB 170**. Motion was seconded by Representative Ballard. Motion failed.

The motion made by Representative Klein to adopt the balloon amendment (Attachment 1) and seconded by Representative Neufeld carried.

Representative Nichols moved to conceptually amend the bill to prohibit any member of the legislature to serve as a member of the Board of Trustees of the Sunflower Foundation. Motion was seconded by Representative Neufeld. Motion carried.

Representative Landwehr moved to report the bill favorably as amended. Motion was seconded by Representative McCreary. Motion failed.

The Chair was questioned on parliamentary procedures regarding the passage of a bill on a substitute motion. Chairman Wilk declared that in this committee a substitute motion could pass a bill out favorably.

Representative Nichols moved that the bill be reported favorably as amended. Motion was seconded by Representative Henry. Motion carried.

The meeting was adjourned at 1:15 a.m. The next meeting is scheduled for April 5, 2001.

PROPOSED AMENDMENT TO SB 170

On page 1, preceding line 36, by inserting new material to read as follows:

"Sec. 2. All expenditures by the "Sunflower Foundation: Health Care for Kansans," a not-for-profit corporation which was created pursuant to the settlement agreement entered into by the parties and approved by the court in the case of Blue Cross and Blue Shield of Kansas, Inc., vs. Carla Stovall, Kansas Attorney General, Case No. 97CV000608, Shawnee County District Court, and which is referred to in this act as the sunflower foundation, for purposes for which the moneys credited to the children's initiatives fund may be expended shall be subject to approval by the Kansas children's cabinet established by K.S.A. 38-1901 and amendments thereto. All such expenditures by the sunflower foundation shall be subject to and shall be made in accordance with the same guidelines, conditions and restrictions prescribed by law for expenditures from the children's initiatives fund by subsection (b) of K.S.A. 38-2102 and amendments thereto.

Sec. 3. (a) On and after the effective date of this act, all members of the board of trustees of the sunflower foundation shall be appointed by the governor as prescribed by this section.

(b) In the case of a vacancy in the office of any member of the board of trustees of the sunflower foundation existing on or after the effective date of this act, the vacancy shall be filled for the unexpired term by appointment by the governor in accordance with and subject to the provisions of the constitution and bylaws of the sunflower foundation and the settlement agreement entered into by the parties and approved by the court in the case of Blue Cross and Blue Shield of Kansas, Inc., vs. Carla Stovall, Attorney General, Case 97CV000608, Shawnee County District Court, which are applicable to the appointment of a member to the vacant office, except that such vacancy shall be filled by appointment by the governor.

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(c) Upon the expiration of the term of office of any member of the board of trustees of the sunflower foundation on or after the effective date of this act, a successor shall be appointed by the governor in accordance with and subject to the provisions of the constitution and bylaws of the sunflower foundation and the settlement agreement entered into by the parties and approved by the court in the case of Blue Cross and Blue Shield of Kansas, Inc., vs. Carla Stovall, Attorney General, Case 97CV000608, Shawnee County District Court, which prescribe the qualifications and composition of the board of trustees, except that such office shall be filled by appointment by the governor.

(d) The provisions of this section shall not affect the office of any member of the board of trustees of the sunflower foundation who is appointed to such board of trustees prior to the effective date of this act, except as specifically provided in any case of a vacancy in such office existing on or after the effective date of this act.";

By renumbering sections accordingly;

Also on page 1, in line 37, by striking "statute book" and inserting "Kansas register";

On page 1, in the title, in line 9, following "ACT", by inserting "relating to certain moneys in certain trust funds;"; also in line 9, by striking "; relating to" and inserting "and the sunflower foundation; authorizing certain"; in line 10, by striking "entity" and inserting "entities"; in line 11, by striking all following the semicolon; in line 12, by striking "general" and inserting "prescribing certain procedures, certain guidelines and conditions precedent for expenditures by, and providing for the composition of the board of trustees of the sunflower foundation"

BCBSKS-Filed Lawsuit Results in Formation of Sunflower Foundation

- Blue Cross and Blue Shield of Kansas (BCBSKS) filed suit against Attorney General Stovall in May 1997 to determine if BCBSKS had charitable obligations resulting out of its charitable origins. In 1997, the Attorney General had requested legislation (see 1997 SB 283 and SB 372) to establish procedures for conversion of charitable assets of organizations like BCBSKS and charitable hospitals, but it was not adopted. Similar issues were being determined in 30 other states as BCBS organizations considered corporate changes, mergers and purchases by for-profit corporations. 1991 Legislation had permitted BCBSKS to convert from a non-profit corporation to a mutual insurance company, and it was considering merger with another BCBS corporation at the time suit was filed. Insurance Commissioner Sebelius moved to join the lawsuit.
- January 7, 2000, Shawnee County District Court Judge Nancy Parrish ruled BCBSKS had charitable obligations stemming from its origin in 1941 through 1969. Parties then began to determine value of charitable assets and the appropriate remedy to maintain the charitable character of those assets.
- August 21, 2000, Attorney General Stovall, Commissioner Sebelius and BCBSKS President John Knack announced settlement of the litigation, with BCBSKS paying \$75 million to fund a new public health foundation, an amount the parties agreed would represent the current value of BCBSKS charitable assets. The foundation will make grants and engage in other activities consistent with being a public non-profit corporation which further its charitable purpose to serve the health needs of Kansans. The foundation is similar to the Kansas Health Foundation formed from the charitable assets of Wesley Medical Center, Wichita, and Wyandotte Health Foundation formed from the charitable assets of Bethany Medical Center, Kansas City, on their conversion to for-profit institutions. Similarly, around the country BCBS charitable assets have been preserved through charitable foundations in the majority of states where the issues have been resolved to date. BCBSKS also agreed to pay the Attorney General and Insurance Commissioner's expenses in the litigation in the amount of \$375,000 to each office.
- Settlement called for the Attorney General to immediately begin paperwork to incorporate the Sunflower Foundation and apply for tax exempt status. The agreement called for the Attorney General to name eight trustees with diverse qualifications to the foundation's initial board and BCBSKS to name one. Additionally, the Attorney General is to name nine persons to a Community Advisory Committee, whose duties shall include nominating trustees in the future. BCBSKS paid \$75 million in agreed charitable assets to the Wichita Community Foundation to invest for the Sunflower foundation until its tax exempt status is granted.
- The Attorney General, by letter to public officials including legislative leaders, and through news release requested nominations for initial Sunflower trustees. From nominations, the Attorney General named as trustees Harry Craig Jr., Topeka; Brenda Gray, Wichita; David Lindstrom, Overland Park; Dr. Vernon Mills, Leavenworth; Dr. Mary Carol Pomatto, Pittsburg; Penney Schwab, Garden City; Cindy Rainey, Lawrence; Greg Unruh, Scott City; and Tom Miller, Topeka. The first Board meeting was conducted January 17, 2001. Trustees organized, elected officers, heard testimony from Sen. Sandy Praeger and others on Kansas health care needs, discussed mission and goals and began the search for a director.
- Legislative advisors to the trustees to be appointed by legislative leaders include Sen. Sandy Praeger, Sen. Jim Barone, Rep. Bob Bethell and a House minority representative to be appointed.

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