Approved: 2-3-11
Date

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 am. on January 26, 2011, in Room 152-S of the Capitol.

All members were present.

Committee staff present:
Ken Wilke, Office of the Revisor of Statutes
Heather O'Hara, Kansas Legislative Research Department
Beverly Beam, Committee Assistant

Conferees appearing before the Committee:
Kevin Davis, Kansas Insurance Department
Dave Hanson, Kansas Association of P & C Insurance Cos.
Others attending:
See attached list.

Chairman Teichman welcomed everyone to the meeting.

Hearing on:

SB 14 – Concerning the Kansas uninsurable health insurance plan act; pertaining to lifetime limits; pertaining to participation in plan by certain children

Ken Wilke, Revisor's Office, gave an overview of the bill. Mr. Wilke said **SB 14** would amend the Kansas Uninsurable Health Insurance Plan Act to allow children under the age of 19 to be eligible for plan coverage without having to experience a denial of coverage from two alternative insurance carriers. In addition, he said the bill increases the maximum lifetime benefit for all individuals on the plan from $2.0 million to $3.0 million. He said in succeeding years of the insurance plan's operation, the maximum lifetime benefit could then be adjusted with the approval of the Commissioner of Insurance.

Kevin Davis, Kansas Insurance Department, spoke in support of **SB 14**. Mr. Davis said the Kansas Health Insurance Association (KHIA) is the high risk health insurance pool established by the Kansas Legislature in 1992. He noted the pool was established to provide coverage for individuals who have pre-existing conditions and are generally uninsurable in the voluntary market. He said funding for the pool comes from two sources, the premiums paid by the enrollees and assessments on the health insurance companies doing business in Kansas. He continued that **SB 14** makes three changes to the KHIA pool. He said the KHIA Board requested that Kansas Insurance Department introduce a bill during the 2011 Legislative session to increase the maximum lifetime benefit for enrollees from $2,000,000 to $3,000,000 and to permit the Board to recommend changes in the lifetime benefit in succeeding years subject to the approval of the Commissioner of Insurance. (Attachment 1)

The Chair closed the hearing on **SB 14**.

Hearing on:

SB 15 – Concerning insurance; relating to risk-based capital requirements for certain insurers

Ken Wilke, Revisor's Office, gave an overview of the bill. Mr. Wilke said **SB 15** would update the effective date of the risk-based capital instructions, promulgated by the National Association of Insurance Commissioners. The instructions currently in use are effective on December 31, 2009. **SB 15** would update the effective date of the instructions to December 31, 2010.

Kevin Davis, Kansas Insurance Department, testified in support of **SB 15**. He stated that this bill pertains to risk-based capital instructions that have previously been updated yearly through legislation.
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. 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. He added that 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. (Attachment 2)

Dave Hanson testified in support of **SB 15**. Mr. Hanson stated that 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.
He continued that this bill seeks legislative approval to adopt the NAIC updates through the end of last year as has been done in previous years. (Attachment 3)

The Chair closed the hearing on **SB 15**.

Action on

Senator Steineger moved that both **SB 14** and **SB 15** be passed out favorably. Senator Masterson seconded. Motion passed.

Bill introduction

Kevin Davis, Kansas Insurance Department, introduced a bill regarding Life & Health Guaranty Association Fund Limits – this bill would raise the Guaranty Association limits for certain benefits including health insurance benefits and includes modernization of the statute.

Senator Steineger moved introduction. Senator Longbine seconded. Motion carried.

The meeting was adjourned at 10:10 am.

SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST

DATE: 1-26-11

NAME	REPRESENTING
Mike Reecht	Sachs Braden
Jordan Williams	KHCC
Julie Holmes	KID
Ken Abitz	KID
[illegible]	United Health Group
Natalie Haag	Security Benefit
Kevin Davis	KID
Haley DaVee	KMA
Kris Kellim	KID
Brad Smoot	BCBS / AIA / Am Fam
Connie Ann Brown	Aetna
Mike Huttles	Celtic Insurance
SHAWN MITCHELL	COMMUNITY BANKERS
Travis Lowe	Little Govt Relation's
Scott Paradise	Hoe
Michelle Butler	Cap. Strategies
Julie Hein	Hein Law Firm
Chad Austin	KHA

TESTIMONY ON

SB14

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

JANUARY 26, 2011

Madam Chair and Members of the Committee:

I am Kevin Davis with the Kansas Insurance Department and with me today is Julie Holmes of our Accident and Health Division who works directly with the high risk pool.

The Kansas Health Insurance Association (KHIA) is the high risk health insurance pool established by the Kansas Legislature in 1992, pursuant to the Kansas Uninsurable Health Insurance Plan Act, K.S.A. 40-2117, *et seq*. The pool was established in order to provide coverage for individuals who have pre-existing conditions and are generally uninsurable in the voluntary market. It is managed by a Board of Directors established under the Act and has a part-time Executive Director. The Act also directs the Commissioner of Insurance to oversee the operations of the pool. The day to day operations of the pool are administered by Benefit Management Inc, a third party administrator located in Great Bend. As of 12/31/2010, the KHIA pool had 1,732 enrollees. During the 2008 through 2010 plan years enrollment was as high as 1,914 and as low as 1,676. Under the provisions of the federal Affordable Care Act, as it currently exists, in 2014 the KHIA pool will no longer be needed to provide coverage to uninsurable individuals since all individuals will be able to obtain coverage through a health benefit exchange, regardless of health condition.

The funding for the pool comes from two sources - the premiums paid by the enrollees and assessments on the health insurance companies doing business in Kansas. Under K.S.A. 40-2119 the KHIA Board is authorized to establish premiums for the pool at up to 150% of the standard rates in the Kansas market for individual coverage. For the 2011 plan year, premiums are set at 128% of the standard in the market. For the 2010 plan year the pool paid benefits in the amount of $27.2 million, the total amount of premium collected was $12.5 million, and the insurance company assessment was $14 million.

SB 14 makes three changes to the KHIA pool. In October 2010 the KHIA Board requested that KID introduce a bill during the 2011 Legislative session to increase the maximum lifetime benefit for enrollees from $2,000,000 to $3,000,000 and to permit the Board to recommend

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Attachment 1

changes in the lifetime benefit in succeeding years subject to the approval of the Commissioner of Insurance. This increase in the lifetime benefit will allow the pool to continue to provide coverage for enrollees with ongoing serious health conditions. This increase in the lifetime benefit will likely increase the expenses incurred by the pool, which could result in increased premiums and/or an increase in the amount of the assessment paid by the insurance companies operating in the State.

In late 2010, the majority of insurance companies that market individual coverage in Kansas advised KID that they would no longer issue individual coverage to children under the age of 19. KID staff held numerous meetings and conference calls with representatives of the insurers to discuss the loss of this product in the Kansas market and to seek alternative ways to make this type of coverage available to Kansas consumers. As a result of these discussions, KID determined that amending the eligibility requirements for the KHIA pool was the best way to make this type of coverage available to children under the age of 19 in the future. SB 14 amends the eligibility requirements in K.S.A. 40-2122 to permit children under the age of 19 to enroll in the pool when coverage is unavailable from private insurers in the county in which they reside. The amendment to K.S.A. 40-2124 amends the provisions related to pre-existing conditions exclusions and prohibits the application of such exclusions to coverage provided to children under the age of 19 who enroll pursuant to the amended eligibility provisions in 40-2122. The amendments to K.S.A. 40-2122 and 40-2124 may result in an increase in enrollees under the age of 19 in the pool and increased expenses, which could result in increased premiums and/or an increase in the amount of the assessment paid by the health insurance companies operating in the State.

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

Kevin R. Davis
Director of Consumer Assistance and Government Affairs
Kansas Insurance Department

TESTIMONY ON
SB 15

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
January 26, 2011

Madam Chair 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 and our expert on RBC.

Thank you for the opportunity to testify in support of Senate Bill 15. This bill pertains to 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 seeks to achieve that.

First I will explain what RBC is and why it is needed. 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.

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% based upon changes made in the RBC factors then the new standards must be adopted through 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.

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Attachment 2

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.

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. Mr. Abitz and I will be happy to stand for questions at the appropriate time.

Kevin Davis
Director, Consumer Assistance and Government Affairs

KANSAS ASSOCIATION OF P&C INSURANCE COS.

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Senate Financial Institutions and Insurance Committee
Testimony on Senate Bill 15

January 26, 2011

Madam Chair 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, thereby allowing our companies to bring any concerns to you and avoiding constitutional problems of allowing the NAIC and/or the Insurance Commissioner to exercise legislative powers in adopting changes without any guidelines or restrictions. Two years ago, legislation was passed which not only approved the previous year's update of the NAIC's model rules and regulations, but also established criteria that would permit the Insurance Commissioner to adopt NAIC suggested updates for the RBC calculations, subject to two guidelines established as 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 we would not have to bring this bill back to you each 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.

Therefore, the bill before you seeks legislative approval to adopt the NAIC updates through the end of last year, as has been done in previous years. And we hope you will approve the update again this year, as we do not believe the updated formula and instructions will adversely affect our member companies. We very much appreciate the work of the Insurance Commissioner and her staff in 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

DAVID A. HANSON

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Attachment 3