SESSION OF 2008

SUPPLEMENTAL NOTE ON SENATE BILL NO. 443

As Amended by Senate Committee of the Whole

Brief*

SB 443, as amended, would enact the Long-Term Care Partnership Program Act, an act requiring the Kansas Health Policy Authority, in conjunction with the Kansas Insurance Department, to establish a long-term care partnership program in Kansas to provide for the financing of long-term care through a combination of private insurance and medical assistance. The bill would allow individuals who are beneficiaries of a Kansas Long-Term Care Partnership Program policy to be eligible for assistance under the state's medical assistance program (Medicaid) using the asset disregard. The bill would create requirements for state agencies and insurance companies who offer partnership policies.

A "long-term care partnership program" would be defined by the bill to mean "a qualified state long-term care insurance partnership as defined in section 1917(b) of the Social Security Act, 42 U.S.C. 1396p" (Deficit Reduction Act of 2005 amendment (DRA)). Long-term care policies issued prior to April 1, 2007, could not receive the partnership designation.

The bill would require that the program:

- Provide incentives for individuals to insure against the costs of providing for their long-term care needs;
- Provide a mechanism for individuals to qualify for coverage under medical assistance while having certain assets disregarded for eligibility determinations and recovery; and

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*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

- Reduce the financial burden on the state's medical assistance program by encouraging the pursuit of private initiatives.

Additionally, the act would provide for dollar-for-dollar asset protection for individuals who are beneficiaries of qualified long-term care partnership policies (after the effective date of the state plan amendment or after the issue date of an exchanged policy).

The bill would require four state agencies – the Kansas Health Policy Authority, the Department of Social and Rehabilitation Services, the Kansas Department on Aging, and the Kansas Insurance Department – to post on their websites information on how to access the National Clearinghouse established under the DRA, when the clearinghouse becomes available to consumers.

Among the responsibilities assigned to the Insurance Commissioner, the Commissioner must determine the level of inflation protection reasonably necessary to protect individuals who purchase a Kansas partnership policy. The bill also would establish requirements for insurance companies that issue policies in Kansas to provide regular reports to the U.S. Department of Health and Human Services, the Kansas Health Policy Authority, and the Insurance Commissioner. Insurance companies providing the partnership policies also must advise consumers of the benefits associated with the partnership policies, submit a form certifying the partnership policies, verify producers are receiving the training required before the sale of the products, and maintain records regarding training (which must be made available to the Insurance Commissioner upon request).

Finally, the bill would permit the Insurance Commissioner to promulgate rules and regulations necessary to carry out the provisions of this act.

Background

The bill was introduced at the request of the Kansas Insurance Department, whose representative indicated that the establishment of the Long-Term Care Partnership Program in Kansas would provide a partnership of private long-term care insurance and medical assistance and the bill would provide an incentive for individuals in Kansas to purchase long-term care insurance. The Department noted that, at present, it has authorized ten different companies that offer such policies. There were no other proponents and no opponents at the time of the Committee hearing.

The Senate Committee on Financial Institutions and Insurance recommended an amendment to the bill to delete a provision regarding the exchange of long-term care insurance policies for policies qualifying under the Act and to clarify the rules and regulations to be adopted pursuant to the Act would be promulgated by the Insurance Commissioner (the original bill allowed the Department on Aging, the Department of Social and Rehabilitation Services, and the Kansas Health Policy Authority to adopt rules and regulations). A technical amendment also was recommended.

The Senate Committee of the Whole made amendments to the bill that are technical in nature.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill indicates there would be a negligible fiscal effect on the operations of the four state agencies with new responsibilities under the bill. The agencies (the Kansas Health Policy Authority, the Department of Social and Rehabilitation Services, the Kansas Department on Aging, and the Kansas Insurance Department) indicate that any additional duties could be performed within current resources. Additionally, the Kansas Health Policy Authority states that medical assistance expenditures could increase by a small amount, estimated at less than $100,000 from the State General Fund in FY 2009 and FY 2010.

The Authority estimates the program will be cost neutral in five to seven years and any increase in medical assistance expenditures would be offset by savings in nursing facility expenditures. In later years, the fiscal note continues, savings in nursing facility expenditures will exceed any increases in medical assistance expenditures. A estimate of potential savings cannot be made.