

SESSION OF 2010

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2490**

As Amended by House Committee of the Whole

**Brief\***

HB 2490, as amended, would amend a provision in the Insurance Code to allow the incorporation of long-term care insurance into annuities and would enact new law providing for certain exclusions of insurance coverage. Under current law, long-term care insurance can be incorporated into life insurance policies, if approved by the Insurance Commissioner.

The bill also would provide that the Insurance Commissioner is permitted to adopt rules and regulations to implement provisions of the statute that apply to the formation of life insurance companies.

**Exclusions of Insurance Coverage**

The bill also would require all individual or group health insurance policies or contracts (including the municipal group-funded pool and the State Employee Health Plan) which are issued or renewed on and after July 1, 2010, to exclude coverage for:

- Abortions, unless the procedure is necessary to preserve the life of the mother.
- Illnesses and medical conditions caused substantially and directly by the use of tobacco products.
- Erectile dysfunction.

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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>

The bill would provide that coverage for these exclusions of coverage may be obtained through an optional rider for which an additional premium must be paid.

### **Exclusion for Certain Abortions**

Abortion is defined under the bill to mean the use of any means to intentionally terminate a pregnancy except for the purpose of causing a live birth. Abortion does not include: (1) the use of any drug or device that inhibits or prevents ovulation, fertilization or the implantation of an embryo; or (2) disposition of the product of *in vitro* fertilization prior to implantation.

Provisions of the bill applicable to the coverage exclusion for certain abortions would apply to all policies, contracts, and certificates of insurance delivered, renewed, or issued within Kansas or for an individual who resides or is employed in the state and to nonprofit medical and hospital service corporations.

### **Background**

The bill was introduced at the request of the Kansas Insurance Department whose representative indicated that the bill would allow insurance companies to sell a hybrid insurance product that includes an annuity and long-term care insurance. The representative noted that the Pension Protection Act of 2006 included a provision that addressed the taxation of combination annuity plans featuring long-term care insurance; effective January 1, 2010, long-term care insurance benefits paid out of these plans, the representative continued, are paid as tax-free, long-term care insurance benefits. There were no other proponents and no opponents present at the time of the Committee hearing.

The House Committee recommended the bill be placed on the Consent Calendar.

The House Committee of the Whole amended the bill to include a provision that would exclude coverage for certain

elective abortions. The provisions are similar to those included in 2010 HB 2564, with two notable exceptions; HB 2564 also would have excluded coverage for elective abortions in the case of a rape reported to a law enforcement agency or in the case of incest involving a minor and reported to a law enforcement agency. The House Committee of the Whole also recommended amendments to the bill that would exclude coverage of, and allow coverage through an optional rider (additional premium must be paid), for certain illnesses and medical conditions caused by the use of tobacco products, and for erectile dysfunction. The bill, as amended by the HCOW, was re-referred to the House Insurance Committee.

The fiscal note prepared by the Division of the Budget states that the Kansas Insurance Department indicates that the bill could be implemented within existing staffing and operating expenditure levels.

The fiscal note prepared by the Division of the Budget on HB 2564 (a bill with policy requirements similar to those in the HCOW amendment) would require changes in insurance policy forms which must be reviewed by the Department. However, the Department indicates that the bill could be implemented within existing resources. A fiscal note was not available to the other exclusions of coverage.