

Approved: 02-16-2012

(Date)

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

The meeting was called to order by Chairperson Ruth Teichman at 9:30 AM on Tuesday, January 24, 2012 in 152-S of the Capitol.

All members were present except:
Senator Holland

Committee staff present:

Ken Wilke, Office of the Revisor of Statutes
Melissa Calderwood, Legislative Research Department
Heather O'Hara, Legislative Research Department
Marilyn Arnone, Committee Assistant

Conferees appearing before the Committee:

Kris Kellim, Kansas Insurance Department
Sandra M. Sigler, Kansas Association of Property and Casualty Insurance Companies

Others in attendance:

See attached list.

Vice-Chair Senator Masterson opened the meeting since Chair Teichman was delayed by Page pictures.

The Vice-Chair then opened the hearing on **SB 266–Insurance; Risk-based capital requirements**

Kris Kellim testified in support of **SB 266**. Risk Based Capital (RBC) is a method used to measure the minimum amount of capital an insurance company needs to support its overall operations. The Insurance Department is allowed to update the requirements of RBC with two exceptions. One exception is if the projected impact of the new RBC requirements is likely to cause a 2.5% variance in a domestic insurer's adjusted capital from the previous year, then the

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legislature must approve the new requirements. The Department now projects a likely 2.5% change in the adjusted capital of most domestic insurers based on application of the new RBC requirement. Because this exception applies, legislative approval of the new requirements is necessary. The Department does not believe the new instructions will cause a change in the regulatory control level of any domestic insurer or adversely affect any domestic insurer. This amendment would approve the new RBC requirements by changing the effective date for the RBC instructions from 2010 to 2011. (Attachment 1)

Sandra M. Sigler testified in support of **SB 266**. Three 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 calculation, 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 domestic companies or 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. This bill is again necessary because of the severity of the continued storm losses and the economic downturn. This bill seeks legislative approval to adopt the NAIC updates through the end of last year. (Attachment 2)

There being no opponents, the Vice-Chair closed the hearing on **SB 266**.

Chair Teichman arrived and introduced two Pages from her district. The girls were Emma Fowler and Katie Buhler both from Pratt, Kansas. She also asked Senator Longbine to introduce his Pages, Mitchell Argabright from Olpe, Kansas, and Derek Beck from Pittsburg, Kansas, who were also in attendance.

The Chair opened the hearing on **SB 264—Allowing trust companies as a nominee for life insurance companies** and asked Melissa Calderwood to give an overview of the bill. Last year **SB 185** pertained to allowing insurance companies other than life insurance companies to designate trust companies as nominee. **SB 264** would also allow life insurance companies to designate trust companies. This bill would have no fiscal effect.

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Kris Kellim testified in support of **SB 264**. This amendment would allow life insurance companies to use trust companies to manage their investments. Currently, life companies can use certain banks that have trust powers for this purpose. This amendment would add trust companies to the available options for life companies. This amendment would simply “level the playing-field” between life companies and non-life companies. (Attachment 3)

Chair Teichman remarked that it is her general policy to hold bills for a few days to allow all parties further review before final action. However, a similar bill to **SB 264** was heard last year, so she asked for a motion to pass **SB 264** out favorably.

*Senator Steineger moved, seconded by Senator Masterson, to pass SB 264 out favorably.
Motion carried.*

Chair Teichman asked Melissa Calderwood to complete the Interim Report she began on January 17 when time limits interrupted her report.

The Special Committee on Financial Institutions and Insurance met to study three issues – Uninsured Motorists, Criminal History Record Checks and Fingerprinting of Certain Financial Service Representatives, and State Implementation of the Federal Patient Protection and Affordable Care Act. Senator Ruth Teichman chaired the Committee with Representative Clark Shultz as Vice-Chair. Committee members were Senators Longbine, Masterson, Allen Schmidt and Vicki Schmidt; and Representatives Gregory, Landwehr, Mah, McCray-Miller and Mosier.

Ms. Calderwood continued with the third issue of study, State Implementation of the Federal Patient Protection and Affordable Care Act. Following its review of the assigned topic, the Special Committee on Financial Institutions and Insurance made the following conclusions and recommendations.

Implementation: The Committee notes the timelines for potential PPACA implementation and other activities surrounding a health insurance exchange.

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Patient Protection and Affordable Care Act Requirements: The Committee recognizes the challenges and uncertainty associated with implementation of the PPACA and requests the 2012 Legislature respond to the requirements contained in PPACA, including the development and implementation of a health insurance exchange, and recommends information be submitted to the appropriate Senate and House standing committees – Insurance, Financial Institutions and Insurance, Appropriations, Joint Health Policy Oversight, Health and Human Services, Public Health and Welfare, and Ways and Means. The Committee recognizes that conferees generally concluded, if the PPACA exchange requirements remain unchanged, that a state-based exchange would provide the greatest flexibility. Kansas Eligibility Enforcement System (KEES) Project. The Committee recognized the importance of the KEES project and retaining Kansas' eligibility criteria, even if a federal exchange is implemented. The Committee heard testimony concerning interoperability of the KEES, which uses service-oriented architecture and possesses the ability to send and receive information among various state agencies. The Committee notes, while the KEES project does not include funding to interface with a health insurance exchange, it possesses the capability to do so as an “add-on.” The Committee recognizes an additional \$2 million to \$4 million investment would be required to interface KEES to a health Exchange.

Exchange Planning – Kansas Insurance Department, Stakeholders. The Committee recognizes the contributions of the Kansas Insurance Department in accepting the challenge to coordinate work groups and stakeholders dedicated to evaluating governance, “best Practices,” interaction among consumers and insurance industry representatives, navigators, brokers, and outreach/education requirements. That work has produced meaningful and valuable information for legislators' deliberations. Legal Uncertainty, Funding Challenge. The Committee recognizes the challenges of interpretation and implementation of the Patient Protection and Affordable Care Act, particularly when federal rules and regulations have not been written or released, the U.S. Supreme Court decision regarding the individual mandate will not be issued until at least June 2012, timelines of the KEES implementation and a health insurance exchange (whether the model selected is a state-federal, or a state/federal –operated exchange) are not synchronized, and the funding sources are unidentified or could be unavailable – if a federal exchange is implemented, its funding source is not identified in the federal legislation. The Committee notes initial start-up costs could be the State's responsibility and the U. S. Department of Health and Human Services could tax insurers to pay for the exchange's maintenance until it becomes self-

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sustaining. Business Forum, Health Insurance Marketplace in Kansas. The Committee recommends the appropriate House and Senate committees hold hearings early in the 2012 Session to evaluate information communicated from the federal government, consider alternative insurance reform options such as Health Savings Accounts (HSAs) and Health Reimbursement Arrangements (HRAs), securing insurance through the business marketplace (both inside and outside a health insurance exchange), and address tax relief for employer contributions to an individual's private health insurance plan.

Ms. Calderwood answered questions from the Committee.

Chair Teichman thanked Ms. Calderwood for an excellent presentation of the Report.

Because of the interest in this important issue, and perhaps a lighter schedule for the Committee, the Chair ask Committee members if they would like further information presented on Medicaid and other relevant issues at future Committee meetings. The Committee agreed that would be very helpful.

The meeting was adjourned at 10:30 am. The next meeting will be on January 25, 2012.