

SESSION OF 2019

SUPPLEMENTAL NOTE ON SENATE BILL NO. 32

As Amended by Senate Committee on Financial
Institutions and Insurance

Brief*

SB 32, as amended, would amend the Insurance Code to add an entity to the list of those entities providing healthcare benefit coverage that are not subject to the jurisdiction of the Commissioner of Insurance (Commissioner).

The bill would exempt a nonprofit agricultural membership organization incorporated in Kansas on June 23, 1931 (the Kansas Farm Bureau, referred to as KFB throughout this document), or an affiliate thereof, that provides healthcare benefit coverage for the payment of expenses to or for the members of the organization and their dependents from the jurisdiction of the Commissioner.

The bill would specify the healthcare benefit coverage provided by the nonprofit agricultural membership organization would not be considered insurance, notwithstanding any provision of law to the contrary. The bill would permit the risk under such coverage to be reinsured by a company authorized to conduct reinsurance in Kansas.

Further, the bill would require providers of this healthcare benefit coverage to file a signed, certified actuarial statement of plan reserves annually with the Commissioner.

Finally, the bill would make technical updates to incorporate this new coverage.

*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>

Background

The bill was introduced by the Senate Committee on Financial Institutions and Insurance at the request of the KFB.

In the Senate Committee hearing, representatives of the KFB and the Kansas Corn Growers Association and three Kansas farmers spoke in favor of the bill. The proponents generally stated the bill would offer more affordable healthcare options to members of the KFB. Written-only proponent testimony was provided by a representative of the Wichita Regional Chamber of Commerce.

Representatives of Blue Cross and Blue Shield of Kansas, Inc., Medica, and the National Multiple Sclerosis Society testified in opposition of the bill. The opponents generally stated the bill would exempt the KFB from federal and state requirements, specifically citing coverage for pre-existing medical conditions and other protections under the law, including guaranteed issue; prompt payment of claims; and health insurance benefit and provider mandates, including essential health benefits. Written-only opponent testimony was provided by representatives of the American Cancer Society Action Network and the Leukemia & Lymphoma Society.

Neutral testimony was provided by a representative of the Kansas Insurance Department (Department), who provided information on self-funded association health plans (AHPs). [*Note:* Under current law, all entities exempted from the Commissioner's jurisdiction in KSA 2018 Supp. 40-2222 are self-funded AHPs who generally offer benefits coverage through a self-insured plan.] Written-only neutral testimony was provided by a representative of the Kansas Association of Insurance Agents.

The Senate Committee amended the bill to specify the healthcare benefit coverage described in the bill would not be considered insurance; permit reinsurance for such coverage; and require the submission of a signed, certified actuarial

statement of plan reserves annually with the Commissioner. The Senate Committee amendment modifies an amendment submitted by the KFB during the Senate Committee hearing.

According to the fiscal note prepared by the Division of the Budget, as introduced, the Department indicated the bill could result in a decrease in premium taxes collected by the State (insurance premium tax revenue) if individuals switch from a fully-insured plan to a self-funded plan offered by the KFB because carriers of fully-insured plans pay a 2.0 percent premium tax (accident & health insurance companies) or a 5.77 percent privilege fee (Health Maintenance Organizations) and carriers of self-insured plans pay a 1.0 percent premium tax. The Department indicated enactment of the bill could result in a net increase in premium taxes collected by the State if enrollment in the health insurance plan includes mostly individuals who were previously uninsured. However, the fiscal effect cannot be estimated as the type of plan that KFB intends to offer and the individuals that would comprise the membership of the plan are unknown. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.