

MINUTES OF THE House COMMITTEE ON InsuranceThe meeting was called to order by Chairman Rex Hoy at  
Chairperson3:30 ~~am~~ p.m. on March 2,, 1983 in room 521 S of the Capitol.All members were present except:  
No exceptions.

## Committee staff present:

Wayne Morris, Legislative Research  
Gordon Self, Revisor's Office  
Mary Sorensen, Committee Secretary

## Conferees appearing before the committee:

Robert R. Williams, Assistant Executive Director, KS Dental Association  
Jack Roberts, Blue Cross & Blue Shield  
Don Horttor, General Counsel for Delta Dental Plan  
Alice Kitchen, Mission, KS, Commission on the Status of Women  
Dixie Olson, Overland Park, Older Women's League  
Claire Ewert, Prairie Village, American Association of Retired Persons  
Grant Vonderschmidt, Blue Cross/Blue Shield Subscriber Services  
Bill Pittsenberger, Blue Cross/Blue Shield Staff Attorney  
Mark Heitz, Security Benefit Life  
Madeene Smith, Wichita, for AARP  
L. M. Cornish, Ks. Association of Property & Casualty Ins. Companies & KS. Life Association  
Dick Brock, Kansas Insurance Department  
Larry Magill, of the Independent Insurance Agents of Kansas

## Others present:

See List (Attachment 1) Pages 1 and 2First to be considered were HB 2446 and HB 2447. Rep. Baker moved to pass out HB 2446 and and HB 2447 favorably. Rep. DeBaun seconded. The motion carried.HB 2437 was next for consideration. Rep. Blumenthol said he thought the committee was moving too fast on this bill, and before any action was taken he would like to see an explanation of the bill and balloon of the requested amendments. The staff was asked to prepare this for the committee.HB 2517 was next for consideration. Robert R. Williams, Assistant Executive Director of the Kansas Dental Association, spoke in support of HB 2517. His testimony was passed around (Attachment 2) and he read from it. There was discussion as to why this bill was limited to dentists. Jack Roberts, of Blue Cross/Blue Shield, said they have no problems with the bill and have discussed it with the Dental Association and with Mr. Horttor of the Delta Dental Plan. He offered Attachment 3 with amendments suggested by Blue Cross/Blue Shield and then briefly explained the suggested amendments. Don Horttor, General Counsel for Delta Dental Plan, said their association agreed with the intent of the bill but if it is passed they would like the amendments offered by Blue Cross/Blue Shield and also two amendments proposed by their association (Attachment 4). Dick Brock, of the Insurance Department, said their department had no position on this bill, but the amendments offered would clear up some of their questions.HB 2518 was next on the agenda. Alice Kitchen, from Johnson County, representing the Commission on the Status of Women, spoke in support of the bill, and passed out her testimony (Attachment 5). Ms. Kitchen said they had been in conference with representatives of Blue Cross/Blue Shield on parts of this bill, and she thought they had worked out a compromise, which she passed around as Attachment 6. Dixie Olson, of Overland Park, representing the Older Women's League, spoke in support of the bill. Claire Ewert, of Prairie Village, representing the AARP, spoke in support of HB 2518, and passed out written testimony (Attachment 7). Grant Vonderschmidt, who said he was responsible for Subscriber Services of Blue Cross and Blue Shield in Kansas, spoke in opposition to HB 2518, and passed out written testimony (Attachment 8). He said that their group had a conversion program for many years, and passage of this bill would effectively destroy their program, which he explained. Bill Pittsenberger, Staff Attorney for Blue Cross and Blue Shield, also spoke in opposition to HB 2518. Mark Heitz, representing Security Benefit Life, spoke to present several problems he could see with the bill concerning conversion of policies.HB 2435 was considered next. Maedeene Smith, from Wichita, representing the American Association of Retired Persons, spoke in support of the bill and referred to Attachment 9, "Concerns and Responses Regarding Older Driver Discount Legislation" which had been furnished

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,  
room 521 S, Statehouse, at 3:30 ~~a.m.~~/p.m. on March 2, 1983

Page 2.

to the committee members. There was discussion as to the course available under the AARP program and a possible amendment to provide that the certificate issued after completion of the course should be issued by the agency or organization conducting the course and not by the state board of education. L. M. Cornish, representing the Kansas Association of Property and Casualty Insurance Companies, spoke regarding current plans for driver instruction offered by various insurance companies in Kansas, and said he thought it should be left to private enterprise.

HB 2460 was next for consideration. Dick Brock of the Insurance Department gave a brief overview of the bill, and said this bill had been requested by the insurance department. L. M. Cornish, representing the Kansas Life Association, spoke in opposition to HB 2460. He said he thought the present system was working well and there was no need for this bill.

HB 2485 was next to be explained, and Attachment 10 was passed around, with suggested amendments. Larry Magill, of the Independent Insurance Agents of Kansas, spoke in support of the bill. His written testimony is attached, and marked Attachment 11. Also attached is written testimony supplied by Jim Oliver, Executive Director of the Professional Insurance Agents of Kansas, in support of HB 2485 (Attachment 12).

Also attached is a copy of a Memorandum dated March 2, 1983, from Dick Brock, of the Kansas Insurance Department, concerning HB 2437 (Attachment 13). There were no comments on this memorandum.

The meeting adjourned at 5:20 PM.





March 1, 1983

Attachment 2

TESTIMONY

by

Robert R. Williams  
Assistant Executive Director  
Kansas Dental Association

INSURANCE COMMITTEE

Mr. Chairman and Members of the Committee:

In 1962 only one million Americans were covered by dental insurance. By 1980 that figure had risen to 80 million. If this figure continues, dental coverage will be as widespread as hospitalization coverage by 1985.

Not only has dental insurance increased, but the various types of plans have increased. These have become to be known as Alternative Health Care systems. Now there are plans offered by the conventional insurance company, as well as self-insured trusts and prepaid service corporations. The idea is to create competition in the delivery of health care services.

All of these groups must market their plans. At one time the plans were only marketed to consumers. Insurance was thought to be a contract between the insurance company and the beneficiary, with the health care professional only providing his services in the form of treatment. This concept has changed. Now these plans are also marketed to the health care professional, making them an integral part of the system. In most cases, the health care professional is asked to sign a contract agreeing to abide by certain provisions. The controls in the health care program are vested in this provider agreement and the health care professional's willingness to abide by the contract.

Currently in Kansas, it is possible for a third party to contract with only a few providers in a given area to provide services to its beneficiaries. This practice prevents the consumer from seeking services from the health care provider of his/her choice and eliminates any competition. One of the

Attch. 2

purposes of establishing an alternative health care system is to curb the rising cost of health care. In order for an alternative health care system to have any impact on the consumer market, it must be competitive.

House Bill No. 2517 assures that consumers may select any licensed Dentist participating in the dental plan. It also assures that all Dentists in the dental plan service area have the opportunity to participate in the dental plan. Some Dentists may choose not to participate. Some will choose to participate. But every Dentist should at least have the opportunity.

The Kansas Dental Association requests that House Bill No. 2517 be passed.

HOUSE BILL NO. 2517

By Committee on Insurance  
(By Request)

AN ACT concerning health insurance; and health care benefits; providing any licensed dentist the right to participate in health care plans.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Every health care plan offered in this state by an insurance company, or a prepaid service corporation, or an employer (regardless of whether such employer administers the benefits of such plan itself or relies on a third party for such administration), with dental services as a part of such plan, shall provide that a policyholder, or subscriber, or employee may select any licensed dentist participating in the plan for the provision of professional dental services under such plan.

(b) Any licensed dentist, upon the request of such dentist, may exercise the right to participate as a provider in any health care plan offered by an insurance company, or a prepaid service corporation, or an employer providing dental service. Such right to participate shall be conditioned on the execution by the licensed dentist of a contract between the dentist and the insurance company, prepaid service corporation, employer, or administrator of the employer's benefits, setting out the terms and conditions of participation. Such-licensed-dentist-may-exercise-such-right-for-a-period-beginning-at-least-30-days-prior-to-the-effective-date-of-the-plan-and-continuing-the-30-days-immediately-following-the-effective-date-of-the-plan---in-addition, each plan Every insurance company, prepaid service corporation, employer, or administrator of an employer's benefits shall provide that after-such-plan-becomes effective, a period of at least 30 days shall be provided on an annual basis, where any licensed dentist may exercise such right to participate in such plan.

Section 2. This act shall take effect and be in force from and after its publication in the statute book.

H. 2517 7

Attachment 4

HOUSE BILL NO. 2517

By Committee on Insurance

(By Request)

AN ACT concerning health insurance; and health care benefits; providing any licensed dentist the right to participate in health care plan.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Every plan for the providing of health care offered in this state, regardless of by whom such plan is offered, if dental services are a part of such plan, shall provide that the patient may select any licensed dentist participating in the plan for the provision of professional dental services under such plan.

(b) Any licensed dentist, upon the request of such dentist, may exercise the right to participate as a provider in any such plan providing dental service. Such right to participate shall be conditioned on both the execution by the licensed dentist of a contract setting out the terms and conditions of such participation and the compliance after such execution by the dentist with all such terms and conditions. Every such plan shall provide annually a period of at least thirty days during which time any licensed dentist who has not previously been denied the right to participate may exercise that right to participate.

Section 2. This act shall take effect and be in force from and after its publication in the statute book.

*Atch. 4*



To: House Insurance Committee  
From: Alice Kitchen, Commission on the Status of Women  
Date: March 1, 1983  
Subject: HB 2518

As a member of the Kansas City Metropolitan Regional Commission on the Status of Women who has served on an Insurance Committee I have become particularly concerned about the lack of assessible and adequate affordable medical coverage. Women who are too young for Medicare, recently divorced, or suddenly widowed are especially vulnerable. HB 2518 proposes remedies for the problems created by non assessibility, inadequate notice, inability to pay large lump sum premiums, and the gap created by the spouse who becomes eligible for Medicare and terminates from the company plan.

We urge your favorable support of this legislation as it provides protection for a limited but "at risk" group. According to one of the major insurers in Kansas only 6,000 out 78,000 people who were in a position to convert elected to do so. (Keep in mind that larger number represents the total eligible group and the people we are speaking to represent only a limited portion.)

We recognize that this may cause some addition up front changes that will have to be made by the insurers. While we don't dismiss those difficulties we believe that Kansans who fall into this short term "at risk" category have a right to have access to the medical coverage they had prior to the change in family status.

In summary we ask you to support the following changes:

1. Access to equal coverage with no new waiting period.
2. More flexibility in payment schedule.
3. Extension of time to decide to convert to 90 days after notification.
4. Adequate notification at the time of the change.
5. Coverage for the uninsured spouse whose partner has retired and become Medicare eligible.

SUBSTITUTE FOR HOUSE BILL 2518

For all Health insurance -

- 6 months coverage under group policy for divorced, widowed and dependent whose spouse becomes eligible for medicare.
- From 32-90 days enable conversion privilege, but without retroactive coverage.

EXPLANATION

To require insured terminated from a group policy due to death or divorce from a covered employee or termination of a covered employee due to inception of medicare eligibility to be covered by the group policy for 6 months.

After 6 months then keep the 31 day conversion privilege during which insurance may be retroactive. Then from 32-90 days require insurance companies to grant conversion privilege, but without retroactive coverage for the uninsured period.

*Alrie Kitchen  
Karin Ewert*

Attachment 7

Making payment on a monthly or quarterly basis works no hardship on the insured person. Women in particular who have experienced a loss find themselves short of funds. We know more than 5 million women over the age of 65 live alone, and half of that number are living their last years below the poverty level. Four out of five minority women over 65 are living with incomes below \$2000 a year. Women are poor and need help with this bill.

If the coverage of the employee terminates because the employee is eligible for Medicare, the coverage of the spouse shall continue under the conversion policy until the spouse is an eligible age for Medicare. A woman in Hutchinson certainly needs help as this bill supplies. She runs a paper route to pay her health premium of \$300 per month.

This is just another example of the need for conversion as shown in <sup>H.R.</sup> Bill 2518

Clairie Everett

3/2/83

Atch. 7

TESTIMONY IN REGARD TO HOUSE BILL 2518 - AN ACT RELATING TO CONVERSION

I am Grant Vonderschmidt and I am responsible for Subscriber Services of Blue Cross and Blue Shield of Kansas.

We feel that House Bill 2518 in its current form would effectively destroy the conversion program that has been in place at Blue Cross and Blue Shield for many years. Our existing conversion program offers coverage to everyone leaving group benefits. This includes the employee, the spouse (if no longer covered under a family membership), and children who reach the limiting age of the contract or who may for any reason want an individual membership. The existing program is automatic--that is an opportunity for conversion coverage is offered as soon as we are notified by group management that the individual is no longer covered under the group program. We have computer programs designed to prepare a bill that is sent to the home address. Subscribers are given 30 days to respond to the bill and the conversion benefits parallel our standard non-group contract which offers \$250,000 lifetime major medical benefits.

We currently bill approximately 80,000 subscribers on a conversion basis each year. As indicated earlier, this process is automatic starting with the deletion of the subscriber's name from the group bill. The conversion bill is normally produced within 24 hours of processing the group remittance.

House Bill 2518 in its current form specifies that subscribers leaving group benefits be offered group benefits and rates. It's this

provision of the bill that destroys our automated process and which would require manual preparation of each conversion bill. Our people have estimated (and we feel very conservatively) that for us to change our group billing process to accommodate individual group benefits and rates would cost us an additional \$500,000 in administrative costs the first year. This cost would be incurred primarily to establish the necessary records and computer programs to carry over group benefits and rates to an individual basis. Ongoing administrative costs beyond the first year have not been estimated but they also are substantial. House Bill 2518 carries a provision that gives the applicant a 90 day period during which they can determine whether or not they want the coverage. In view of the fact that we bill approximately 80,000 group conversions on an annual basis, the 90 day application acceptance period represents a substantial risk to our organization. We know that those subscribers who incur medical expense during the 90 day period will pay for their coverage. This is another way of saying that we know that we'll pick up a disproportionate share of poor risks. This subjects Blue Cross and Blue Shield to undue financial risks at a time when we are seeking every possible means to control the ever increasing cost of medical care.

The provisions of this bill create an extremely complex administrative problem in regard to the continuation of benefits and rates for individual subscribers taking group benefits and rates into the conversion category. For example--how do we adjust rates? Do we file individual rates with the Insurance Commissioner--the rate for

each individual being determined by the utilization of that individual under the particular set of group benefits carried to the conversion category?

It's our feeling that we offer an excellent conversion program at the present time and the provisions of House Bill 2518 only serve to destroy that program which is at present providing a valuable service to the people of Kansas.

Presented by Grant Vonderschmidt  
Vice President, Subscriber Services  
Kansas Blue Cross & Blue Shield  
To the House Committee on Insurance  
March 2, 1983

Concerns and Responses Regarding Older  
Driver Discount Legislation

Prepared by The American Association of  
Retired Persons Driver Improvement Program  
Staff, January, 1983.

- A. Concern - Statistics show that drivers age 55 and over are among the safest on the road. Why is there a need for legislation that would require attendance at a driver improvement course?

Response - When accident records are examined on an age group basis, drivers age 55 and over fare well. They constitute 24% of the driving population and are involved in only 18% of the accidents. However, this is not the total picture.

It is not enough to consider only age and the number of accidents. It is necessary to factor in the number of miles driven. Research shows that the number of annual miles driven by motor vehicle operators begins to decline significantly after age 55. The combination of age, accidents and miles driven is the criteria used to determine accident involvement statistics, and these factors should be considered when examining the safe driving practices and abilities of older persons. When accident involvement rates per driving exposure are determined, a U-shaped curve results. Violation and accident rates per mile are higher for the youngest and oldest drivers and lower for those in the middle ranges. Older people actually have a high rate of accidents per miles driven. Statistics often do not include this driving exposure factor and need to be corrected.

The National Safety Council confirms that drivers age 55 and over have a poorer accident record than drivers in their middle years. The U.S. Department of Transportation reports that older drivers are at fault more frequently than middle age drivers in accidents and violations reported by law enforcement officials. The Department of Transportation recommends that special consideration be given to older drivers when driver improvement courses are developed.

- B. Concern - Since a number of driver improvement courses already exist, why aren't older drivers enrolling?

Response - Nationwide, many older drivers do attend driver improvement courses, but the number expands significantly when an economic incentive is available through legislative mandate. The greater the number of older drivers attending one of the driver improvement courses, the more significant the accident and violation reduction will be among these drivers. More importantly, there will be accident claim filing reductions and lower injury and fatality rates on our nations roadways.

- C. Concern - It seems that older drivers are being singled out for special consideration. Isn't this age discrimination? Why not allow drivers of all ages to participate in any mandated insurance incentive program?

Response - The American Association of Retired Persons is interested in resolving problems of older persons. However, if the states will pass legislation allowing discounts for all drivers attending driver improvement courses, we would not be opposed. We have been informed by numerous insurance companies and insurance trade associations that they are against legislation involving the younger driver. In fact they have fought against including drivers below age 55 in many states where legislation has been enacted for drivers age 55 and over. This legislation does not establish a special category of drivers in any discriminating sense. It simply recognizes an area of need and provides an incentive to help older drivers and the insurance industry reduce accidents and accident claims.

- D. Concern - Many automobile insurance companies already offer discounts for older drivers based on accidents per age group. Would this legislation jeopardize these discounts?

Response - Seven states have already enacted similar legislation. The discount provided to graduates of approved driver improvement courses is the last discount applied. The automobile insurance industry writes policies on accidents per age group and thus considers older drivers a good risk. In fact, some insurance companies reduce premiums for drivers after age 55 or 65, much the same as they do for drivers after age 25. The issue is not whether some automobile insurance companies may or may not reduce rates for older drivers as a marketing tool. The primary issue is reducing accidents per mile involving drivers age 55 and over. The goal of mandated legislation is to provide a discount on automobile insurance premiums to encourage older drivers to take a driver improvement course and to reduce the chances of accidents and accident claim filings. The driver, age 55 and over, is earning a discount by taking a positive, preventive step. The discount given graduates of approved driver education courses is given in addition to any other marketing discounts provided to non smokers, seat belt wearers, those reaching a certain age etc. None of these marketing discounts were dropped when states mandated this legislation.

- E. Concern - Other drivers not involved in driver improvement courses would have to subsidize the discount provided to those who complete one of the approved courses by paying higher premiums.



Response - This has not been the case in the other mandated states. In Texas where the insurance discount has been in effect for 10 years, the phrase used by insurance companies is that the discount is "fully earned". Although most states recently enacted this legislation, it is our belief that research will show a significant accident and violation reduction. The insurance companies will save money due to fewer accident claim filings. As a consequence drivers not participating in the mandated insurance driver improvement program will not pay a higher premium, but will be encouraged by their insurance companies to enroll in a driver improvement course.

- F. Concern - Why must the word mandated be included in the language? Can't the language be changed to allow voluntary participation?

Response - Any company may provide a voluntary discount at present. Unfortunately, few have chosen to do so. If all are required to participate, insurance companies have said that they would go along.

- G. Concern - The legislation includes the term "appropriate reduction" and contains a retake feature. What does this mean?

Response - This legislation was developed in consultation with the three major insurance trade associations: American Insurance Association, National Association of Independent Insurers and The Alliance of American Insurers. These associations represent over 650 insurance companies. All three groups requested that several specific phrases be included in the legislation. The term "appropriate reduction" would allow competition within the insurance industry of each state to set the reduction percentage. In other words, if the bill becomes law, no one would dictate the terms of an "appropriate reduction" to the state's insurance industry. Each company in the state would set its own discount rate and be able to raise or lower the percentage each year based on the accident claims experience of policyholders that graduate from approved driver improvement courses. The insurance trade associations also felt that any individual graduating from an approved course should retake an approved curriculum every two or three years. This does not mean to imply that the insurance trade associations endorse this legislation. But rather that this language is less objectionable to the industry.

- H. Concern - What research is available to prove driver improvement courses work?

Response - Numerous studies have been conducted on the well known courses. The results demonstrate effectiveness. The insurance industry, however, has always considered these evaluations

"limited tests", not demonstrating "statistically significant" accident or violation reductions. According to the insurance industry, to demonstrate "statistical significance", any course evaluation must involve 15,000 - 20,000 students, randomly assigned to a control group that doesn't take the course and a treatment group that completes the course. Both groups need to be followed for a period of time via questionnaires and access to Department of Motor Vehicle records. Financially and logistically, this has proved impossible for course developers. The insurance industry has not been willing to initiate a study of this size or to work with course developers.

I. Concern - Will the course sponsors make money?

Response - The prime motivation behind the driver improvement curriculums is education not financial rewards. The American Association of Retired Persons subsidizes 75% of overall program costs. Other course sponsors make a small profit but certainly not out of line with their costs.

J. Concern - Why is it that several of the states which have passed this legislation have only a small percentage of eligible drivers participating to date?

Response - The courses that have been approved need help from the insurance companies to notify potential students. Most insurance companies have been unwilling to tell their eligible policyholders that the discount can be obtained. In spite of this reluctance by the insurance industry, the word is spreading and the number of graduates is increasing.

K. Concern - How would the legislation be implemented?

Response - In the proposed legislation, an appropriate state agency is designated to select the courses that will be approved for the mandated insurance discount program. In most states the Department of Motor Vehicles has been selected. Program regulations and guidelines are usually drawn up in consultation with officials of states which have already passed similar legislation.

L. Concern - Will this legislation cost the state anything?

Response - There is no fiscal note for the state. New York state assesses each student two dollars to cover all administrative costs. The fee is collected by the course sponsors at the course site. This can be accomplished in any state.

FOR FURTHER INFORMATION REGARDING THIS PROGRAM WRITE:

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Mandated  
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# HOUSE BILL No. 2485

By Committee on Insurance

(By Request)

2-22

0017 AN ACT relating to insurance; concerning extension of credit to  
0018 policyholders by agent; amending K.S.A. 40-282 and repealing  
0019 the existing section.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 40-282 is hereby amended to read as fol-  
0022 lows: 40-282. (a) Any insurance agent, as defined in K.S.A. 40-239  
0023 and amendments thereto, may extend credit to policyholders in  
0024 connection with the issuance or servicing of policies procured or  
0025 negotiated by such agent but any such credit so extended shall  
0026 satisfy one of the following conditions, unless otherwise autho-  
0027 rized by law:

0028 (a) (1) If credit is extended to policyholders for a period of  
0029 not more than ~~thirty (30)~~ 30 days from the date the premium is  
0030 due, and such credit is not evidenced by a written instrument,  
0031 there shall be no interest charged for such credit; or

0032 (b) (2) if credit is extended to policyholders for a period of  
0033 more than ~~thirty (30)~~ 30 days from the date the premium is due,  
0034 and such credit is not evidenced by a written instrument, interest  
0035 may be charged for credit extended after ~~thirty (30)~~ 30 days at a  
0036 rate not exceeding ~~one and one-half percent (1½%)~~ 1½% per  
0037 month on the unpaid balance; or

0038 (c) (3) if the extension of credit to a policyholder is evidenced  
0039 by a written instrument setting forth the terms thereof, and signed  
0040 by the policyholder, any interest charged for such credit shall be  
0041 clearly stated in the instrument but it shall not exceed the legal  
0042 rate of interest authorized in K.S.A. 16-207 and amendments  
0043 thereto.

0044 (b) Any insurance agent ~~or broker~~ extending credit to policy-

0045 holders as provided in this section may cancel such insurance  
0046 according to the terms of the policies ~~on a pro-rata basis~~ for  
0047 nonpayment of the policyholders' accounts, except as provided in  
0048 K.S.A. 40-277 and amendments thereto.

subparagraphs (a)(1) or (2) of  
Any such cancellation shall be construed as cancellation by the insurance company  
such agent represents.

0049 Such insurance agent ~~or broker~~ shall have a lien on any return  
0050 premium for the policies to the extent of the amount owed by the  
0051 policyholder.

all  
of the same policyholder

0052 Sec. 2. K.S.A. 40-282 is hereby repealed.

0053 Sec. 3. This act shall take effect and be in force from and after  
0054 its publication in the statute book.

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Testimony on HB 2485  
By: Larry W. Magill, Jr., Executive Manager  
Independent Insurance Agents of Kansas

Thank you for this opportunity to appear in support of House Bill 2485, a measure we requested that this committee introduce. Basically, HB 2485 amends K.S.A. 40-282, a statute which provides insurance agents the ability to extend credit to customers either: 1) on less than 30 days at no interest; 2) for more than 30 days at a rate of interest of 1½% per month without a written instrument on open account or; 3) as provided in a written instrument so long as the interest rate does not exceed that allowed by K.S.A. 16-207. Our amendment simply adds a clarification that an agent who has not been paid may cancel an insured's policies to collect any unpaid amount with the excess unearned premium, if any, paid to the insured.

Independent insurance agents represent a number of insurance companies. The agent generally pays for their insured's policies monthly on what is known as an "account current" or consolidated billing covering all policies issued through that company that month. If the agent extends open account credit to an insured it very often happens that the agent pays or advances, the insured's premium to the company before the agent is fully paid. If the insured later refuses to pay or is unable to pay according to their agreement, the agent should have the option of cancelling the coverage according to the policies' terms, and applying the unearned premium for the remainder of the policy period to the insured's balance. Any excess unearned premium would be returned to the policyholder.

Most personal insurance, homeowners, auto, life and health is on a "direct billed" basis where the insurance company bills the insured direct and provides whatever payment plan it desires. But some miscellaneous personal insurance such as floaters and umbrella liability policies are billed by the agent as well as virtually all commercial insurance coverages.

A typical commercial account may have 3 to 4 policies all with different expiration dates. The insured may owe some on all policies at any one time or only one. If the insured, for example, buys another business, it would cause additional premiums on all policies when coverage is added for the new entity. If the insured then gets into financial difficulty and is unable to pay the additional premiums, the agent needs to be able to cancel coverage and have a lien on the return premiums to the extent of the earned premium the agent has advanced to the company. After all, it was the agents' money paid to the insurance company in the first place.

We have heard of situations where bankruptcy courts have attempted to obtain the return premiums on insurance policies when the insured never paid them. In effect, the agent would be paying their own money to the court.

Other examples include various state mandated "assigned risk" plans such as the "FAIR Plan" for property insurance covering fire and other perils, the Kansas Auto Insurance Plan and the Health Care Providers Insurance Availability Plan. Occasionally an agent may advance his own money for an insured to one of these plans and the agent should have the right to request cancellation for nonpayment of the account.

Providing "open account" credit to insureds is a customer service independent agents want to offer. It makes it easy to bind coverage over the phone and is the only way to properly handle commercial (business) accounts. House Bill 2485 protects the agent extending "open account" credit by allowing the agent to cancel coverage if necessary to use the unearned premium on the insured's policies to pay the debt owed. It gives the agent a clear lien against the unearned premium - the money the agent advanced for the client. We urge the committee's support of HB 2485.



Attachment 12 Re: HB 248-

TESTIMONY BEFORE THE HOUSE INSURANCE COMMITTEE  
MARCH 1, 1983

My name is Jim Oliver. I am the Executive Director of the Professional Insurance Agents of Kansas representing some 682 agents across the state.

It has been common practice among independent insurance agents to extend credit to their policyholders who may be unable to pay the entire premium when a policy is due. KSA 40-282 made provision for the agent to charge reasonable interest on open accounts, but one hurdle keeps cropping up. The agent must pay the insurance company the net premiums for the policies he has written in from 30 to 45 days after the month in which those policies were written. The Kansas Insurance Department has interpreted the language of insurance contracts as a two-party contract between the company and the insured. Thus, if the agent extends credit and pays the company, he cannot cancel the insurance for non-payment -- only the company could do that.

House Bill No. 2485 would correct this situation and would permit the agent to cancel the insurance of a non-paying customer for whom he had advanced money to the insurance company and have a lien on the return premiums from the company. The Professional Insurance Agents of Kansas wholeheartedly support this bill and ask that the committee pass it.

Atch. 12

# INSURANCE DEPARTMENT

TOPEKA

Attachment

## MEMORANDUM

TO: Committee on Insurance  
House of Representatives  
State of Kansas

FROM: Dick Brock  
Kansas Insurance Department

SUBJECT: House Bill No. 2437

DATE: March 2, 1983


Yesterday, one of the conferees on the subject bill referred rather specifically and dramatically to an amicus curiae brief filed by the Department of Insurance in connection with an automobile injury case involving State Farm Mutual Insurance Company. The purpose of this memorandum is not to influence your action on House Bill No. 2437. Rather, I only wish to advise you that our past and continuing legal arguments with State Farm have absolutely no bearing on your decision with respect to House Bill No. 2437.

Simply stated, the legal arguments the Department has had and is having with State Farm revolves around the existing statutory definition of "personal injury protection benefits". We say this definition limits such benefits to the amounts specified therein. State Farm says it means any amount for the same coverage as specified by the definition. This argument has now been placed before the Kansas Court of Appeals and a decision is pending.

Again, however, the argument involves existing statutory language — not a philosophical position that would have a bearing on House Bill No. 2437. As a matter fact, the language that apparently prompted the comments about the litigation (i.e. "... including any excess benefits above the minimum limit ...", lines 246-247) were inserted at the suggestion of the Department to avoid further arguments on this point.

I know this is a very small point in relation to the bill as a whole. Nevertheless, I felt obligated to clarify the Department's position inasmuch as the description of our legal involvement seemed to infer that we were, or should be, objecting to the above quoted provision when such was not the case.

Respectfully submitted,

  
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Richard D. Brock  
Administrative Assistant

RDB:mmk

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