

## MINUTES OF THE HOUSE COMMITTEE ON INSURANCE.

The meeting was called to order by Chairperson Rep. Robert Tomlinson at 3:34 p.m. on January 25, 2000 in Room 527-S of the Capitol.

All members were present except:	Representative Tom Burroughs Representative Toelkes
Committee staff present:	Dr. Bill Wolff, Research Ken Wilke, Revisor Mary Best, Secretary
Conferees appearing before the committee:	Linda DeCoursey—Kansas Department of Insurance Larry Ann Lower—Kansas Association of Health Plans David Hanson—Kansas Insurance Associations
Others attending:	See attached Committee Guest List

**HB 2651-Insurance; examination related expenses**

Immediately upon calling the meeting to order, Chairperson Tomlinson began the public hearings, on **HB 2651**, by distributing a copy of the fiscal note, (Attachment #1) attached hereto and incorporated into the Minutes by reference, on the bill to each member of the committee. The Chair then proceeded to recognize Linda DeCoursey of the Kansas Insurance Department.

Ms. DeCoursey presented the committee with written testimony. A copy of this written testimony was furnished to the committee and is (Attachment #2) attached hereto and incorporated into the Minutes by reference. Ms DeCoursey explained the bill compensated the insurance examiners for their benefits, expenses, all outside consulting and data processing fees for performing examinations and a pro rata aggregate amount of not more that \$18,000.00 paid by the insurance companies or societies being examined. This money is used to purchase, maintain and enhance the examination equipment and computer software for examination purposes. She further explained the amount paid for these consulting and data processing fees, as well as the prorated amount to fund the examination equipment should collectively not total more that \$25,000.00 for any one company examination or for one of its subsidiaries or any combination of businesses of that company.

Ms. DeCoursey continued to explain their request to change two (2) areas of K.S.A. 40-223. These changes would (1) increase the annual aggregate amount to \$75,000.00, and (2) to eliminate the cap of \$25,000.00. She went on to explain the law regarding the matter had not been changed since 1988, but the way the examiners conduct their business had (using computers). The goal of the Department is to soon be a paperless office. The Insurance Department feels "that companies will be able to comply with examiners request of sending information electronically. This goal being to save companies from paying the examiners travel and actual time spent examining the company". Ms. DeCoursey then explained the Annual Aggregate and how it worked. She then addressed the deletion of the \$25,000.00 cap imposed on the Department at this time. After closing by explaining how the Insurance Department felt these changes would save the department money, Ms. DeCoursey stood for questions from the committee.

Mr. Don Gaskill, council for the Insurance Department, fielded the committee questions on behalf of Ms. DeCoursey. Questions were presented by Representatives Grant, Empson, Boston, and Chairperson Tomlinson. Questions ranged from: the number of examiners used to examine the companies to accreditation and number of examines; where did the \$75,000.00 amount come from.

With no further questions, Ms. Larry Ann Lower, Kansas Association of Health Plans, was introduced. Ms. Lower presented Neutral Testimony to the committee. A copy of the written testimony (Attachment #3) is attached hereto and incorporated into the Minutes by reference. Ms. Lower acknowledged the need for KID to have the resources necessary to perform their need tasks, but questioned the need to assess companies up

to \$75,000.00 for data processing equipment and software, which represented an increase of "more than 400% over the current amount".

They also questioned the need to remove the aggregate cap of \$25,000.00 giving KID the authority to impose unlimited amounts for consulting fees on the companies being assessed. They (KAHP) opposed these increases "in the assessment authority for examination purposes with no apparent standard of reasonableness". While they do not oppose an increase in the current \$18,000.00 and \$25,000.00 fee amounts, they do and would oppose complete removal of the \$25,000.00 aggregate cap for data processing equipment, consulting fees and software.

Ms Lower then stood for questions from the committee. Questions were asked by Representative Cox regarding the KID pro rata (75,000/20). With no further questions by the committee, the Chairperson recognized Mr. David Hanson, Kansas Insurance Associations.

Mr. Hanson presented Opposing Testimony to the committee. A copy of the written testimony (Attachment #4) is attached hereto and incorporated into the Minutes by reference. Mr. Hanson explained the financial impact the proposed changes would have on the insurance industry and the insuring public of Kansas.

Mr. Hanson brought to the attention of the committee, that in addition to premium taxes, the perspective companies also must pay an assortment of additional fees (i.e. filing fees) in order to do business in Kansas. They are also required to pay certain expenses required by statute which is to be reimbursed and a fee fund assessment paid to the Insurance Department Service Regulation Fund to maintain the Department and paying expenses incidental thereto. This is in accordance to K. S. A. 40-112.

Mr. Hanson and his people are concerned about the "additional unlimited potential liability for outside consultant and data processing fees in an examination, which could conceivably become unfairly burdensome or oppressive to a company". Mr. Hanson continued to explain to the committee that the current law has no limitations in the extent of an examination, or money that may be spent on outside consultants but does limit the amount that the examined company can be required to reimburse to Insurance Department for those expenses. He continued to explain that any increase or removal of the current limit would increase the amount to the company and in turn would be passed on to the people (or policyholders). Mr. Hanson explained the bill as written now would only place a cap on the computers but there would be no cap on the fees paid to the Commissioner.

Mr. Hanson also pointed out to the committee the companies are subject to examination at least once every five years and whenever the Commission deems necessary. The Commissioner may retain anyone she so chooses to conduct this business, with a "reasonable cost" being paid by the company being examined. For these reasons, Mr. Hanson and his people do not feel it is in the best interest to remove or increase limits on the amounts these companies will have to pay. With this Mr. Hanson stood for questions.

Questions were asked by Representatives O'Brien and Dreher. With no further questions, public hearings on HB 2651 came to a close. There will be no further action on the bill until Thursday Feb. 3<sup>rd</sup>.

Next meeting will be Tuesday, Feb. 1<sup>st</sup>.

# HOUSE INSURANCE COMMITTEE GUEST LIST

DATE: Jan 25, 2000

NAME	REPRESENTING
Trish Hein	SPAs
Jeff Botenberg	Investors
John MUGLER	Investors
David Hanson	K's INSUR ASSNS
Anne Spess	Peterson Public Affairs Group
Don GASKILL	Kansas Ins Dept
Larrie Ann Lower	KATP
Mike Huttles	Ks. Gov't Consulting
Maria Espinoza	Federico Consulting
Carrie Donovan	KAI/A

STATE OF KANSAS



DIVISION OF THE BUDGET

Room 152-E

State Capitol Building

Topeka, Kansas 66612-1575

(785) 296-2436

FAX (785) 296-0231

Bill Graves  
Governor

Duane A. Goossen  
Director

January 25, 2000

The Honorable Bob Tomlinson, Chairperson  
House Committee on Insurance  
Statehouse, Room 112-S  
Topeka, Kansas 66612

Dear Representative Tomlinson:

SUBJECT: Fiscal Note for HB 2651 by House Committee on Insurance

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2651 is respectfully submitted to your committee.

HB 2651 would increase the aggregate limit collected by the Kansas Insurance Department for purchasing, maintaining and enhancing examination equipment and computer software from \$18,000 to \$75,000, which is collected on a pro rata basis from the companies examined. The bill also removes the collective limit of \$25,000 any single insurance company pays for its share of equipment and software costs necessary to examine insurance companies and their subsidiaries.

The bill could increase revenue to the Insurance Company Examination Fund up to \$75,000. The companies examined would fund the increase of \$75,000 on a pro rata basis. The bill would require no changes to *The FY 2001 Governor's Budget Report*.

Sincerely,

Handwritten signature of Duane A. Goossen in black ink.

Duane A. Goossen  
Director of the Budget

cc: Arron Small, Insurance Department

USE THE COMM  
1-25-00  
#1 1-1



Kathleen Sebelius  
Commissioner of Insurance  
**Kansas Insurance Department**

TO: House Committee on Insurance  
FROM: Linda J. De Coursey, Director of Government Affairs  
RE: HB 2651 – Company Exams Related Expenses  
DATE: January 25, 2000

Mr. Chairman and members of the committee:

Thank you for the opportunity to discuss HB 2651 with you. This statute sets out the compensation for examiners, their benefits, travel expenses related to conducting examinations of insurance companies or societies. All compensation, expenses, benefits, all outside consulting and data processing fees necessary to perform any examination, and a pro rata amount not to exceed an aggregate amount of \$18,000 is paid by the insurance companies or societies being examined. The \$18,000 is designated to fund the purchase, maintenance and enhancement of examination equipment and computer software for examination purposes. The amount paid for all outside consulting and data processing fees, and the prorated amount to fund the examination equipment shall not collectively total more than \$25,000 at any one company examination or its subsidiaries or combination thereof.

We are requesting changes in two areas of K.S.A. 40-223. One is increasing the annual aggregate amount of \$18,000 to \$75,000. The second change is to eliminate the \$25,000 cap.

→ This section of the law was added in 1988, and has not been changed since then. However, much has changed since 1988 in the insurance department and way the examiners actually conduct their examinations....that is the use of computers.

The Kansas Insurance Department's approach to management focuses on continuous improvement in our services, and one of the major functions of the insurance department is to monitor the solvency of insurance companies. In the business plan for the Financial Surveillance

Division, it is the goal to be paperless very soon. What that means is that companies will be able to comply with examiners request of sending information electronically. The goal is also to save the companies from having to pay for the examiners travel and actual time spent with the companies. However, \$18,000 doesn't go far these days when trying to constantly upgrade computers, replacing old ones, and purchasing expensive software packages specialized enough to complete a comprehensive exam.

**\$18,000 Annual Aggregate**

Here is how the pro rata works:

Days in which the DP fund is charged

260	working days in a year
(30)	Vacation/Sick Leave
<u>(7)</u>	Training
223	Data Processing days billed to companies being examined from examiners not on annual statement review
<u>(90)</u>	Annual Statement Review
133	Data processing days billed to companies being examined from examiners on annual statement review

Data Processing Fund Rate

7	Examiners @ \$8.00/day	for 223 days	\$12,488.00
4	Examiners @ \$8.00/day	for 133 days	<u>4,256.00</u>
		Total Receipts	\$16,744.00

We have 11 examiners. There are 260 working days in a year, minus 30 days for vacation/sick leave, and minus 7 days for training. That leaves 223 data processing days bills to companies from examiners not on annual statement review. We do not charge the companies for review of the annual statements and that review is estimated at 90 days, leaving 133 data processing days billed to companies from examiners on annual statement review. As you can see, the above amount was budgeted to not go over the statutory \$18,000.

The Market Conduct Division figures are not currently included in these figures. This division includes three examiners and they have conducted an average of four exams a year.

The formula used to pro rate the cost to the insurance companies is as follows:

$\$18,000/\text{number of examiners}/\text{number of actual days worked per year on examination of companies.}$

On average, the Insurance Department examines 20 insurance companies or societies per year. And, according with the figures above, the companies would be billed for the data processing fund approximately \$8/day for how many days the examiners work.

### **Deleting \$25,000 cap**

Currently in K.S.A. 40-223, the amount paid for all outside consulting and data processing fees necessary to perform any examination; and the pro rata amount to fund the purchase of examination equipment and computer software shall not collective total more than \$25,000 at any one company examination including examination of its subsidiaries or combination thereof.

In December of 1997, the Kansas Insurance Department received its second accreditation by the National Association of Insurance Commissioners (NAIC). In the 1980's the NAIC developed a program to accredit state insurance departments. States had to:

- meet minimum standards in monitoring the financial condition of insurance companies,
- take action to require companies, in bad financial shape, to develop financial plans to avoid bankruptcy.

The program requires a state insurance department to meet or exceed a number of requirements:

- strong state laws to regulate insurers,
- well trained staff to monitor and examine companies,
- have in place adequate examination systems to detect company problems.

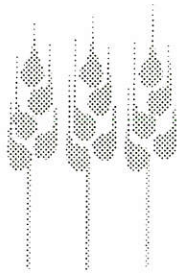
The Kansas Insurance Department was among the first five insurance departments to meet those standards and receive accreditation in 1991. Departments are review every five years. In our most recent review, one of the recommendations made by the review team was for the Kansas

Insurance Department to seek elimination of the \$25,000 limitation on the amount the Department may bill companies for services of specialists for examination purposes.

They acknowledged that most of Kansas domestic insurance industry is made up of small to medium sized companies, and the dollar amount is of no issue there. However, several Kansas domestics that are quite large, and the limit could constrict the amount of work the examination staff could perform. When outside specialists are needed, the Department must contract for them. The letter from the NAIC cited two examples where difficulties arise: (1) When a large company is examined the \$25,000 limit may very easily constrict the amount of work the examination staff could perform; and (2) the scope of the specialists work is influenced by the dollar limitation.

Mr. Chairman, members of the committee, by passing HB 2651 favorably out of committee, the examination process of the companies would be brought one step closer to achieving the goals of saving companies money in the long run. This is accomplished by increasing the fund annual aggregate amount to \$75,000. Companies could file much of the exam related information by computer, and the examiner would not have to spend as much time at the site, thus saving companies money. Also, by eliminating the current \$25,000 limitation, so that the Kansas Insurance Department will be in compliance with the NAIC accreditation recommendations. These changes will result in a stronger, more efficient examination process for the companies of Kansas.





# Kansas Association of Health Plans

1206 SW 10th Street  
Topeka, KS 66604

785-233-2747  
Fax 785-233-3518  
kahp@kansasstatehouse.com

**Testimony before the  
House Insurance Committee  
The Honorable Robert Tomlinson, Chairman  
Hearings on HB 2651  
January 25, 2000**

Chairman Tomlinson and members of the committee. Thank you for allowing me to appear before you today. I am Larrie Ann Lower, Executive Director of the Kansas Association of Health Plans (KAHP).

The KAHP is a nonprofit association dedicated to providing the public information on managed care health plans. Members of the KAHP are Kansas licensed health maintenance organizations, preferred provider organizations and others who support managed care. KAHP members serve many of the Kansans enrolled in an HMO.

The KAHP appreciates the opportunity to provide comment on HB 2651. Current law allows the KID to assess a fee of up to \$18,000 for data processing equipment and software. Current law also allows the KID to assess an aggregate amount of not more than \$25,000 for the data processing equipment and software **and** consulting fees.

The KAHP acknowledges the need for the KID to have the necessary resources to conduct an examination of insurance companies and HMO's. However, the **legislation before you would allow the KID to assess companies up to \$75,000 for data processing equipment and software, which represents more than a 400% increase over the current amount.**

In addition, the legislation removes the \$25,000 aggregate cap the KID can assess for the combination of data processing equipment, software and consulting fees. **The removal of this cap would appear to provide the KID the authority to assess companies an unlimited amount for consulting fees. The KAHP opposes the substantial increases in the KID's assessment authority for examination purposes with no apparent standard of reasonableness.** The KAHP has not had the opportunity to obtain information regarding the amount of assessments currently being paid for KID examinations. **We would not necessarily oppose an increase in the current \$18,000 and \$25,000 fee amounts due to inflation, but we would oppose the complete removal of the \$25,000 aggregate cap for data processing equipment, software and consulting fees.**

I will be happy to try to answer any questions the committee may have.

*Use Ins Comm  
1-25-00  
#3 3-1*

David A. Hanson  
Kansas Insurance Associations  
Topeka, Kansas  
(785) 232-0545

**TESTIMONY ON HB 2651**  
**January 25, 2000**

TO: House Insurance Committee  
State Capitol  
Topeka, Kansas

RE: House Bill No. 2651

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to appear before the Committee. I am David Hanson and am appearing on behalf of the Kansas Association of Property and Casualty Insurance Companies and the Kansas Life Insurance Association, whose members are domestic insurance companies in Kansas.

We have several concerns with the proposed amendment in House Bill 2651, primarily in terms of the potential financial impact on the insurance industry and the insuring public in Kansas. This industry plays a major role in the Kansas economy, providing coverage for risks, paying benefits, providing jobs and paying taxes. In the property and casualty coverages, we have experienced significant losses from catastrophic storms and weather related conditions during the last ten years. While there is not much that can be done about the weather, we can and should avoid any unnecessary additional financial burdens on the insurance companies that have remained in Kansas through these difficult years.

In addition to paying premium taxes to the State, our companies are also required to pay an assortment of additional fees, such as filing fees, to do business in Kansas. Additionally, companies are required to pay certain expenses required by statute to be reimbursed and a fee fund assessment to the Insurance Department Service Regulation Fund as provided in KSA 40-112 for the purpose of maintaining the Department and paying expenses incidental thereto.

We are therefore concerned with the proposed additional unlimited potential liability for outside consultants and data processing fees in an examination, which could conceivably become unfairly burdensome or oppressive to a company. Current law does not limit the extent of an examination or the amount that can be paid for outside consultants and data processing, but rather limits the amount that the examined company can be required to reimburse the Commissioner's office for those expenses. To the extent such expenses exceed \$25,000, they may be paid out of the Department Service Regulation Fund since the public derives a benefit from the Department's examination and monitoring of the companies. Increasing or removing the current limit that a company can be required to reimburse the Department would increase the cost to the company and would in turn increase the cost to the policyholders.

*Use Ins Comm*  
*1-25-00*  
*#4*      *4/1*

David A. Hanson  
Kansas Insurance Associations  
Topeka, Kansas  
(785) 232-0545

We would also point out that under KSA 40-222 insurance companies are subject to examination whenever the Commissioner deems necessary and at least once every five years. In such an examination, the Commissioner may “retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the company which is subject of the examination.” In view of these other expenses and the taxes and fees companies are required to pay already, the current limitation on the amount insurance companies can be required to pay for outside consulting and data processing fees should not be removed or increased.

For these reasons, we feel that removing or increasing the limit on the amount companies can be required to pay for outside consulting and data processing fees would not be in the best interests of the State. Thank you for letting us present these concerns.

Respectfully,



DAVID A. HANSON