

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on March 10, 2005 in Room 234-N of the Capitol.

All members were present except:
Dennis Wilson- excused

Committee staff present:
Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Sandy Yingling, Committee Secretary

Conferees appearing before the committee:
Sonya Allen, Office of the State Bank Commissioner
Doug Wareham, Vice President-Government Affairs, Kansas Bankers Association
Jarrod Forbes, Assistant Director Government Affairs, Kansas Insurance Department
Dave Hanson, Legislative Counsel, Kansas Insurance Associations

Others attending:
See attached list.

Madam Chair opened the meeting by expressing concerns about **SB 264**.

SB 264 - Municipalities; deposit of public funds.

SB 264 was introduced by Senator Wilson. Madam Chair stated she has been in discussion with the KBA, the Senate President and Senator Wilson. The KBA has arranged discussions of the parties concerned and would like to have the opportunity to work out a compromise. Madam Chair would like to keep this bill open until next session and she stated that Senator Wilson does not agree with her. Madam Chair expressed that it is her desire to satisfy everyone concerned, not stop the bill.

Madam Chair opened the hearing on **HB 2097**.

HB 2097 - Banks and trust companies, exchange of certain examinations and reports.

Sonya Allen, Office of the Bank Commissioner, testified in support of **HB 2097**. This bill amends K.S.A. 9-1303 which authorizes the bank commission to share information with other regulatory bodies. The main purpose of this amendment is found on lines 39 and 40 of the bill. (Attachment 1).

Senator Barnett asked, how long has it been since banks have been insured by private insurers? Judy Stork and Sonya Allen, Office of the Bank Commissioner, said sometime back in the 1950's. The reason for striking lines 19 through 22 is that there are not any private insurers. There were no other questions.

Madam Chair closed the hearing on **HB 2097**.

Madam Chair opened the hearing on **HB 2098**.

HB 2098 - Banks, granting of trust authority.

Melissa Calderwood, Kansas Legislative Research Department, gave an overview of **HB 2098**. The bill amends K.S.A. 9-1601. **HB 2098** is related to the trust authority of banks. The bill would allow that banks are allowed to act as trustee to both medical savings accounts (MSA) and health savings accounts (HSA) without a special permit. Under current law banks are permitted to act as trustees without a special permit for IRAs and 401k trusts. The bill would be effective upon publication of Kansas register. The fiscal note would have a negligible effect.

Sonya Allen, Office of the Bank Commissioner, testified in support of **HB 2098**. This amendment allows the

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MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 10, 2005 in Room 234-N of the Capitol.

commissioner to issue trust powers to a bank to perform various trust activities including offering individual retirement accounts (IRA). Various banks have requested that they be allowed to offer medical savings accounts and health savings accounts to their customers, without obtaining trust powers from the commissioner, if those MSAs and HSAs are invested only in bank deposits. The remainder of the changes would be clean up items. (Attachment 2)

Senator Barnett asked how much is the minimum amount to open an HSA? Ms. Allen said she did not know of any statutory minimum. The commission does not have any regulations in place with regard to how the banks administer these accounts. This statute only gives them the authority to do so.

Doug Wareham, Kansas Bankers Association, testified in favor of **HB 2098**. This bank will allow state chartered banks, which do not currently have trust powers, with the authority to act as trustee or custodian for medical savings accounts and health savings accounts. The President has stressed the importance of HSAs as part of the solution to skyrocketing health insurance costs. Mr. Wareham offered to follow-up on Senator Barnett's question by presenting it at a seminar he will be attending. (Attachment 3)

There were no other questions.

Madam Chair closed the hearing on **HB 2098**.

Madam Chair opened the hearing on **HB 2171**.

HB 2171 - Insurance; risk-based capital requirements.

Melissa Calderwood, Kansas Legislative Research Department, presented an overview of **HB 2171**. Melissa stated this was the second bill the committee has seen that related to annual date change from December 31, 2003 to December 31, 2004. The risk-based capital instructions and formula are developed by NAIC that insurance companies must use in the preparation of their financial reports to the department. The bill was requested by the Insurance Department. The fiscal note showed there is no impact.

Jarrod Forbes, Kansas Insurance Department, testified in favor of **HB 2171**. The insurance department does this so that power is not being delegated to the NAIC. It is only right that the insurance companies have the right to look at these requirements and sign-off on them as well. This is why the department has this bill for the legislators every year. (Attachment 4)

Ken Wilke, Office of Revisor of Statutes, offered clarification that these risk-based capital requirements apply only to property and casualty insurance. There is a separate set of risk-based capital requirements for health organizations.

David Hanson, Kansas Insurance Associations, testified in support of **HB 2171**. The reference date in the statutory definition of "RBC instructions" was originally requested to make sure that the adopted instructions and formula were limited to those that we had had an opportunity to review, rather than potential future revisions, which could adversely affect our companies' risk-based capital evaluation and the resulting action or control levels. (Attachment 5)

Senator Barone asked, how many years have similar bills run without any problems? Wouldn't it be possible to craft language so legislature does not need to run these bills every year? Jarrod Forbes stated they have been running these since the mid 1990s. Ken Wilke said that the difficulty is our Supreme Court has several decisions that say you cannot delegated legislative authority to an outside body. What has been done in some other cases is to delegate, in this case the insurance commissioner, the ability to update these by rule and regulation. Mr. Hanson added there has not been a problem in the past few years, but last year there was almost a problem. When they started the risk-based concept, the plan was to increase the instructions and make the standards more and more stringent. Last year the initial proposal probably affected some of the domestic companies. Senator Barone asked if it couldn't be worked on an acceptance basis rather than a routine basis? Mr. Hanson said there are times in other situations where the legislature is delegated to the regulator the authority to do it by rules and regulations. The problem is, it does not always give us the

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opportunity to look at the regulations or instructions before somebody approves it.

Chair Teichman said there have been good points brought up. She suggests the committee continue with the bill as it is this year and asks the insurance department and the agents to see if there is some way to work it out. Senator Brownlee stated she resonates with Senator Barone, in her first four years in the senate, she asked the exact same question. Senator Brownlee likes the idea of it saying December 31 of the "calendar year" that way it would always adopt. Chair Teichman would still like to move **HB 2171** and address it over the summer. Senator Brownlee stated it is not rocket science. Chair Teichman stated Senator Brownlee's idea was a good one, but she would like to have the insurance department and the agents sit down and talk about it before a decision is made. There were no other questions.

Madam Chair closed the hearing on **HB 2171**

Madam Chair reopened the hearing on **HB 2097**.

Senator Steineger made a motion to pass **HB 2097** favorably. The motion was seconded by Senator Wysong. The motion carried.

Madam Chair reopened the hearing on **HB 2098**.

Senator Steineger made a motion to pass **HB 2098** favorably. The motion was seconded by Senator Brownlee. The motion carried.

Madam Chair reopened the hearing on **HB 2171**.

Senator Barnett made a motion to pass **HB 2171** favorably to the consent calendar. The motion was seconded by Senator Wysong. The motion carried.

Meeting adjourned at 10:01.

FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: Thurs. March 10, 2005

NAME	REPRESENTING
Dag Wareham	Kansas Bankers Assn.
Bill Sneed	State Farm
Tara Eubanks	State Farm
Alex Koboyantz	PIA
Sam	KID
David Hanson	Ks Insur Assas
Janie Ann Power	KATP
Sonya Allen	OSBC
Judei Stork	OSBC



KANSAS

KATHLEEN SEBELIUS, GOVERNOR

OFFICE OF THE STATE BANK COMMISSIONER
CLARENCE W. NORRIS, *Bank Commissioner*

March 10, 2005

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

Madame Chairman and Members of the Committee:

My name is Sonya Allen. I am the General Counsel for the Office of the State Bank Commissioner. I am here today to request your favorable consideration of **House Bill 2097**.

This bill amends K.S.A. 9-1303. This statute authorizes information sharing by our agency with various other regulatory bodies. The main purpose of this amendment is found on lines 39 and 40 of the bill. We are adding two entities to the list of who can receive confidential bank examination information. The first is the Office of Thrift Supervision. They are the regulator of all federal thrifts in the United States. The second is the Financial Crimes Enforcement Network (FinCEN). This entity was created in 1990 and is a division of the United States Department of the Treasury. It is a link between the law enforcement, financial, and regulatory communities and is a network to allow sharing of information and to find new ways to prevent and detect financial crime. It provides intelligence and analytical support to more than 150 federal, state, local, and international law enforcement agencies to support financial criminal investigations. FinCEN uses anti-money laundering laws, such as the Bank Secrecy Act (BSA) to require reporting and recordkeeping by banks and other financial institutions. Banks are required to file Currency Transaction Reports as well as Suspicious Activity Reports. Our agency has started reviewing bank records for compliance with BSA requirements. We have also recently entered into a Memorandum of Understanding with FinCEN to receive confidential information. We, in turn, would like to share information with them.

The other change noted in this bill can be found beginning on line 18. We are removing the ability for the bank commissioner to accept a report of examination from a CPA or independent auditor who audits the accounts of any bank insured by a private insurer. There are no banks in Kansas that are privately insured. All banks are insured by the Federal Deposit Insurance Corporation.

The remainder of the strike-outs in this bill are considered clean-up.

Thank you for your consideration. I would be happy to answer any questions for the committee.

Attachment 1
3/10/05
FI+I



KANSAS

KATHLEEN SEBELIUS, GOVERNOR

OFFICE OF THE STATE BANK COMMISSIONER
CLARENCE W. NORRIS, *Bank Commissioner*

March 10, 2005

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

Madame Chairman and Members of the Committee:

My name is Sonya Allen. I am the General Counsel for the Office of the State Bank Commissioner. I am here today to request your favorable consideration of **House Bill 2098**.

This bill amends K.S.A. 9-1601. This statute authorizes the commissioner to issue trust powers to a bank to perform various trust activities. The statute goes on to allow a bank to offer individual retirement accounts (IRA), without obtaining trust authority from the commissioner, if the IRA invests only in time or savings deposits in that bank. Various banks have requested that they be allowed to offer medical savings accounts (MSA) and health savings accounts (HSA) to their customers, without obtaining trust powers from the commissioner, if those MSAs and HSAs are invested only in bank deposits. The bank's administrative responsibilities with respect to MSAs and HSAs are similar to those in IRAs, and we believe they should be allowed to offer such accounts without trust powers. The changes found on lines 38 to 41 of the bill add this authority. The remainder of the changes noted in the bill are clean-up items.

National banks are allowed to offer these accounts to their customers without trust powers.

Thank you for your consideration. I would be happy to answer any questions for the committee.

Attachment 2
3/10/05
FI+I



Date: March 10, 2005
To: Senate Financial Institutions and Insurance Committee
From: Doug Wareham, Vice President-Government Affairs
Re: H.B. 2098

Madam Chairman and members of the Committee, the Kansas Bankers Association appreciates the opportunity to appear in support of H.B. 2098.

H.B. 2098 will provide state chartered banks, which do not currently have trust powers, with the authority to act as trustee or custodian for medical savings accounts (MSA) and health savings accounts (HSA). Currently, state chartered banks are allowed to act as trustees or custodians of Individual Retirement Accounts (IRA). A number of the rules that apply to IRAs are very similar to those that apply to MSAs and HSAs, thus it is a natural fit for banks to provide these services to those individuals seeking these services. In fact, the federal act which established HSAs specifically states that any bank can be a HSA trustee or custodian, without regard to trust powers. This means that at the present time, nationally chartered banks have this authority, without regard to trust powers, placing state-chartered banks in a disadvantaged position.

As you are all aware, President Bush has stressed the importance of HSAs as part of the solution to skyrocketing health insurance costs. Health industry experts have estimated there will be more than 3.2 million individuals with some form of health savings account/arrangement by the end of 2005.

As a result of the growing desire for HSAs, KBA does believe it is important to level the playing field on this matter as quickly as possible and would like to stress the importance of having this statutory change become effective once this act is published in the Kansas register.

Once again, thank you for the opportunity to appear in support of H.B. 2098.

Attachment 3
3/10/05
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K a n s a s I n s u r a n c e D e p a r t m e n t

Sandy Praeger COMMISSIONER OF INSURANCE

COMMENTS
ON
HB 2171—RISK BASED CAPITAL REQUIREMENTS
SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE
MARCH 10, 2005

Madam Chair and members of the committee:

Thank you for the opportunity to visit with you on behalf of the Kansas Insurance Department. This bill is a proposal to amend K.S.A. 40-2c01(j), which is the definition of "RBC instructions" for life as well as property and casualty insurance companies.

Risk-based capital (RBC) is a method that has been used by the Kansas Insurance Department since the mid 1990's to evaluate the financial solvency of insurance companies doing business in this state. The RBC statutes also prescribe various forms of regulatory action that may be taken, or shall be taken, in the event that a company's calculated RBC meets certain thresholds.

Companies must file financial reports with the Department using RBC instructions and formulas developed by the National Association of Insurance Commissioners (NAIC). These instructions, including the formulas, are amended each year to address various matters, such as changes to line references in the annual statement blanks and to reflect any necessary modifications or adjustments to the formulas.

The current law requires companies to use the December 31, 2003 version of the "RBC instructions". This bill would reflect a change in the date of the standard so that companies would use the "RBC instructions", including the formulas, in effect as of December 31, 2004.

Thank for the opportunity to speak today I would be happy to stand for any questions the committee may have.

Jarrod Forbes
Assistant Director
Government Affairs

*Attachment 4
3/10/05
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KANSAS INSURANCE ASSOCIATIONS

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Kansas Association of Property & Casualty Ins. Cos.

Member Companies:

Armed Forces Insurance
Exchange
Ft. Leavenworth

Bremen Farmers Mutual
Insurance Co.
Bremen

Columbia Insurance Group
Salina

Farm Bureau Mutual
Insurance Company
Manhattan

Farmers Alliance Mutual
Insurance Company
McPherson

Farmers Mutual Insurance Co.
Ellinwood

Federated Rural Electric
Insurance Exchange
Lenexa

Kansas Mutual Insurance Co.
Topeka

Marysville Mutual Insurance Co.
Marysville

Mutual Aid Association of the
Church of the Brethren
Abilene

Mutual Aid eXchange
Overland Park

Upland Mutual Insurance Co.
Chapman

Senate Financial Institutions and Insurance Committee Testimony on House Bill 2171

March 9, 2005

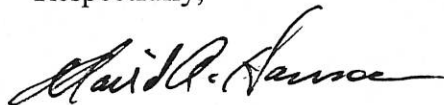
Madam Chair and Members of the Committee:

Thank you for this opportunity to present information 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.

The risk-based capital provisions referenced in the Bill were developed by the NAIC for adoption and use by the states as a standardized method of monitoring the solvency of insurers and assessing the need for corrective action. The reference date in the statutory definition of "RBC instructions" was originally requested to make sure that the adopted instructions and formula were limited to those that we had had an opportunity to review, rather than potential future revisions, which could adversely affect our companies' risk-based capital evaluation and the resulting action or control levels. While we believe our companies remain in good standing under the previously adopted NAIC instructions and formula, we also believe any significant changes in those instructions and formula by the NAIC should be carefully considered before adoption in Kansas.

At this point, we do not believe there will be any substantial adverse effect from the latest revisions referred to in the Bill before you. Thank you for your consideration.

Respectfully,



DAVID A. HANSON

Kansas Life Insurance Association

Member Companies:

The American Home Life
Insurance Company
Topeka

American Investors Life
Insurance Company
Topeka

Blue Cross/Blue Shield
of Kansas
Topeka

Employers Reassurance
Corporation
Overland Park

First Life America Corporation
Topeka

Preferred Health Systems
Wichita

The Pyramid Life Insurance
Company
Shawnee Mission

Security Benefit Life Insurance
Company
Topeka