Approved: Feb. 8, 2006
Date

MINUTES OF THE HOUSE FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Ray Cox at 3:30 P.M. on February 1, 2006 in Room 527-S of the Capitol.

All members were present except:
Oletha Faust-Goudeau- excused

Committee staff present:
Melissa Calderwood, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes Office
Patti Magathan, Committee Secretary

Conferees appearing before the committee:
Cynthia Smith, Sisters of Charity
Dale McAllister, Security Benefit Corporation
Ron Gaches - Gaches, Braden, Barbee & Associates, representing Kansas Association of Financial Services and Kansas Association of Mortgage Brokers

Others attending:
See attached list.

Chairman Cox opened the agenda with a bill introduction at the request of the Bank Commissioner to change one word in Uniform Consumer Credit Code 16A-3-308A. In paragraph (4) the word recession is changed to rescission. Without objection, the bill was introduced.

Chairman Cox then opened hearing on **HB 2669 Withholding of wages, allowing automatic enrollment in 403 (b) retirement plan.**

First to testify was **Ms. Cynthia Smith**, Advocacy Counsel for the Sisters of Charity Health Center, who testified as a proponent. She explained that this bill would allow providers of 403 (b) retirement plans to enroll new employees in the plan automatically. Employees would be given the option not to enroll in the plan, and an amendment has been added to the bill to include the word "voluntary." Enrollment is not currently an automatic process and involves extra paperwork for the employer and the employee. According to research by Hewitt Associates, automatic enrollment is becoming more commonly utilized by companies offering 401 (k) plans. Federal Law governs other retirement plans that are using automatic enrollment, but does not cover 403 (b) plans. **(Attachment 1)**

Questions followed her testimony. Ms. Smith explained that the proposed change does not have any bearing on the rules and regulations of specific company 403 (b) plans in terms of beneficiaries, investment direction, investment amounts, or matching funds. The intent of this law is to streamline the enrollment process.

Mr. Dale McAllister, representing Security Benefit Corporation, testified as a proponent. He expressed his company's support of this bill and their desire to expand the bill into other employer retirement programs such as 401 (k) and 457 plans. He cited data indicating that 2005 was a negative savings year meaning that people are spending more than they make. Automatic enrollment would stimulate participation and promote financial security of the Kansas workforce. Automatic enrollment is being advocated at the federal level. **(Attachment 2)**

Chairman Cox asked if Ms. Smith and Mr. McAllister would negotiate a mutually agreeable motion and report back to the committee at a later date. They agreed.

Chairman Cox closed the hearings on **HB 2669** and opened hearing on **HB 2735 - UCCC, definition of appraised value, independent valuation model.**

Ron Gaches, representing both the Kansas Association of Financial Services and the Kansas Association of Mortgage Brokers, testified as a proponent and explained that the proposed law adds to the definition of appraised value in current law to permit alternative valuation methods (A.V.M.). This law would apply only on a refinance or a second mortgage and would not apply on a first mortgage. Benefits of this law would be

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

savings in both cost and time, and would safeguard against certain types of fraud. **(Attachments 3 and 4)**

There were several questions related to statistical models and vendors of statistical models. Representative Brunk asked if any particular models were acceptable to the administration. Kevin Glendening of the Office of the State Banking Commissioner said that he understands that models are proprietary. His interpretation is that his agency would not be in a position to endorse models, but would endorse vendors. They would want to retain the authority to reject a product and/or vendor; however, they remain neutral on this proposed law.

Representative Goico asked if this method is accepted in other states. Mr. Gaches replied that Kansas is one of only four states that don't have this provision in existing law.

Representative Brown asked if the models as a whole are more accurate in metropolitan areas rather than rural areas. Mr. John Pendergast, of HSBC, said that the models have proven more accurate in metropolitan areas, and they anticipate that they will be used primarily in metro areas. Mr. Gaches added that in time they foresee that the models will improve for smaller communities. They are also updated regularly to account for market fluctuations.

Representative George asked if either the lender or the borrower would have the option of using a traditional appraisal if so desired. Mr. Pendergast replied in the affirmative.

Representative Humerickhouse stated that this law would relate to UCCC and would not apply to banks. He questioned if that would be acceptable to the banking community. Mr. Gaches replied that the Kansas Bankers have elected to continue with their present model and have chosen not to include an A.V.M. in their model at this time.

Representative Cox said that there needs to be a clarification on wording regarding the Banking Commissioner's role in endorsing A.V.M. products and vendors. Hearings will be continued on Wednesday, February 8.

Representative Grant made a motion to approve the minutes of January 25. Chairman Cox asked for objections. There were none. Minutes were approved as written.

Meeting was adjourned at 4:45 P.M. Next meeting will be February 8, 2006.

FINANCIAL INSTITUTIONS COMMITTEE
GUEST LIST

DATE: February 1, 2006

NAME	REPRESENTING
Ron Gaches	KAFS
John Pendergast	HSBC
Doug Heyen	HSBC
Pat Green	Wells Fargo Financial
Patricia Barbieri Lightner	HSBC
Cynthia Smith	SCL Health System
[illegible] Lampe	SCL Health System
Marilyn Jacobson	Budget
[illegible]	Rep. Dillmore
Dale McAllister	Security Benefit
Natalie Haag	Security Benefit
Kevin Glendening	Office of the State Bank Comm.
Clancy Norris	" " " " "
[illegible] Smith	KMHA
Brad Smoot	First American
[illegible] Ann Lower	Captive Strategies
[illegible]	[illegible] Consulting
Kathy Olsen	Ks Bankers Assoc
Jim Gartner	PSWS
Bill Henry	KS Credit Union Assn

Sisters of Charity of Leavenworth Health System

House Committee on Financial Institutions
State of Kansas

Testimony in support of H. 2669
403(b) Automatic Enrollment
February 1, 2006

Cynthia Smith, JD
Advocacy Counsel
Sisters of Charity of Leavenworth Health System

Mr. Chairman, members of the committee, we appreciate this opportunity to offer testimony on House Bill 2669. I am Cynthia Smith, Advocacy Counsel for the Sisters of Charity of Leavenworth Health System (SCLHS). I am joined today by Gene Lampe, SCLHS Manager of Compensation and Benefits.

SCLHS operates three hospitals in Kansas – St. Francis Health Center in Topeka, Providence Medical Center in Kansas City, Kansas, and Saint John Hospital in Leavenworth – as well as three safety net clinics. These facilities, as well as the Motherhouse, employ more than 3,600 people in Kansas who are eligible to participate in our 403(b) retirement plans. We requested H. 2669 so that we can offer an automatic enrollment program for our Kansas employees.

A 403(b) retirement plan is like a 401(k) retirement plan for 501(c)(3) tax exempt organizations like SCLHS. Generally, these plans allow employees to deposit an amount of wages pre-tax into investment funds and a certain percentage is often matched by the employer.

According to annual studies conducted by Hewitt Associates and anecdotal reports cited in the financial press, automatic enrollment is becoming more commonly utilized by companies offering 401(k) retirement plans for their employees. Instead of employees being required to take the initiative to get enrolled in the plan and choose investment options, new employees are automatically enrolled. Generally, a minimal amount, maybe only one or two percent, would be withdrawn from their wages and invested in one of the plan's lower risk options, such as a bond fund. The plan is still voluntary, in that employees always have the opportunity to opt out of enrollment if they choose not to participate. The employee can also choose to increase or decrease their deduction, or change investment choices.

Currently, SCLHS provides information to employees about 403(b) retirement plan benefits, but employees must still take the initiative to enroll. Currently, the participation rate in our plans ranges from a solid 80 percent at the SCLHS corporate office, to as little as 25 percent at some of our hospitals. Our leadership is convinced that offering an automatic enrollment program would increase participation in our 403(b) program and result in more employees receiving the full benefits of the program and saving for their retirement.

SCLHS requested H. 2669 based on advice from our legal counsel that a change to state law was necessary for us to offer an automatic enrollment program for our employees.

Kansas law prescribes when employers may withhold, deduct or divert wages, under KSA §44-319. Employer 401(k) retirement plans are subject to ERISA, which preempts the state law and allows automatic enrollment programs. However, our church-based 403(b) plan is not covered by ERISA. Therefore, the change to the state law proposed in H. 2669 to allow diversion of wages into the retirement plan is necessary.

I have also provided an amendment to clarify that employees are able to "opt out" of the retirement plans, even when there is an automatic enrollment program. Adding the word "voluntary" before the words "403(b) retirement" on line 21 will clarify that participation ultimately remains voluntary.

The leadership of SCLHS believes strongly that taking this action is doing the right thing for our employees. We appreciate your consideration of this legislation, and urge its favorable passage.

9801 Renner Boulevard, Suite 100 – Lenexa, KS 66219-9745   913-895-2800

Session of 2006

HOUSE BILL No. 2669

By Committee on Financial Institutions

1-20

AN ACT relating to the withholding of wages; amending K.S.A. 44-319 and repealing the existing section.

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

Section 1. K.S.A. 44-319 is hereby amended to read as follows: 44-319. (a) No employer may withhold, deduct or divert any portion of an employee's wages unless: (1) The employer is required or empowered to do so by state or federal law; (2) the deductions are for medical, surgical or hospital care or service, without financial benefit to the employer, and are openly, clearly and in due course recorded in the employer's books; ~~or~~ (3) the employer has a signed authorization by the employee for deductions for a lawful purpose accruing to the benefit of the employee*; or (4) the deductions are for an automatic enrollment in a 403(b) retirement plan established by the employer*.

voluntary

(b) Nothing in this section shall be construed as prohibiting the withholding of amounts authorized in writing by the employee to be contributed by ~~him~~ *the employee* to charitable organizations; nor shall this section prohibit deductions by check-off of dues to labor organizations or service fees, where such is not otherwise prohibited by law.

Sec. 2. K.S.A. 44-319 is hereby repealed.

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

Hewitt NEWS & Information

Hewitt Associates LLC
100 Half Day Road
Lincolnshire, IL 60069
Tel (847) 295-5000
Fax (847) 295-7634
www.hewitt.com

Argentina
Australia
Austria
Belgium
Brazil
Canada
Channel Islands
Chile
China
Czech Republic
France
Germany
Greece
Hong Kong
Hungary
India
Ireland
Italy
Japan
Malaysia
Mauritius
Mexico
Netherlands
Philippines
Poland
Puerto Rico
Singapore
South Africa
South Korea
Spain
Sweden
Switzerland
Thailand
United Kingdom
United States
Venezuela

For Immediate Release
January 10, 2006

Contact: Maurissa Kanter, (847) 442-7656, maurissa.kanter@hewitt.com
Kristen Polich, (847) 442-7648, kristen.polich@hewitt.com

Hewitt Survey Reveals New Employer Trends in Retirement

Automated Features Continue to Play Key Role in 2006 as Companies Lose Confidence in Workers' Ability to Save for Retirement

LINCOLNSHIRE, Ill.—Despite continued efforts to educate employees on the importance of saving for retirement, many companies do not feel workers are stepping up to the challenge, according to a new study by Hewitt Associates, a global human resources services firm. To address these concerns, an increasing number of companies are implementing automated features that make retirement saving a reactive decision rather than a proactive one.

Hewitt's study of more than 220 large U.S. companies reveals that only 6 percent are confident their employees will take accountability for their own retirement future this year, down from 12 percent in 2005. In order to encourage workers to take control of their retirement savings, 23 percent of companies are very likely to add automatic enrollment features in their 401(k) plans by the end of the year. Thirteen percent of companies are very likely to add contribution escalation features, and one in five companies (20 percent) plan to add automatic rebalancing of 401(k) accounts.

-more-

"Companies that have already implemented automatic features to their 401(k) plans have seen significant results in helping employees save and invest better for retirement. This is creating momentum and prompting other companies to consider them as well," said Lori Lucas, director of participant research at Hewitt Associates. "Automated features change the equation so that inertia around retirement saving and investing works in employees' favor: if an employee does nothing, it is ok because the 401(k) plan is on autopilot."

Link to Changes in Pension Plans

According to Hewitt's study, the majority of companies offering pension plans are not likely to make changes to them in 2006. However, 15 percent say they are very likely to close participation to new employees, 6 percent say they are very likely to freeze accruals, and 5 percent are very likely to change the design of their pension plan.

"As employers reduce their pension benefits, the 401(k) plan becomes an even more critical savings vehicle," said Lucas. "Effectively, it means that workers need to be doing a lot more when it comes to saving for retirement—and that's why it's important for companies to support workers' efforts through 401(k) plan design, delivery and communication."

Education and Communication Efforts Remain a Key Priority

In addition to automating the 401(k) plan, many companies will continue to educate workers on the value of saving in their plan this year. The majority of companies (96 percent) say they are somewhat or very likely to focus on making sure their employees understand how their 401(k) plan works and the value of it. Nearly two-thirds (64 percent) say they are somewhat or very likely to encourage long-term saving by educating workers on the advantages of preserving their retirement wealth when leaving the company.

-more-

1-5

In addition, 16 percent of companies say they are very likely to add online third-party investment advisory services to employees, enabling them to tap into financial experts who can assist them with retirement saving and planning.

Other Key Findings

- Only 13 percent of companies say they are very likely to add a Roth 401(k) in 2006. Reasons cited by employers for not offering a Roth 401(k) this year included administrative complexity, vague guidelines, concerns about lack of use by employees, and difficulties communicating the Roth 401(k).
- Six percent of companies say they are very likely to add annuities as a form of payment option in 2006.
- Sixteen percent of companies offering company stock will either limit employees' investment in company stock or eliminate it as an investment option in 2006.
- Consistent with last year, the majority of companies (79 percent) say they plan to make no changes to their company match. Eight percent say they plan to add/increase the company match, and only 1 percent say they plan to reduce or eliminate the company match.

About Hewitt Associates

With more than 60 years of experience, Hewitt Associates (NYSE: HEW) is the world's foremost provider of human resources outsourcing and consulting services. The firm consults with more than 2,400 companies and administers human resources, health care, payroll and retirement programs on behalf of more than 350 companies to millions of employees and retirees worldwide. Located in 35 countries, Hewitt employs approximately 22,000 associates. For more information, please visit www.hewitt.com.

# # #

THE WALL STREET JOURNAL. ONLINE

Retirement Plans Go Automatic

To Boost Returns, Employers Move Away From Money Market Funds as Default Option

By Jeff D. Opdyke, The Wall Street Journal, 1280 words
Jul 20, 2005

Document Text

Copyright (c) 2005, Dow Jones & Company Inc. Reproduced with permission of copyright owner. Further reproduction or distribution is prohibited without permission.

IN WHAT MARKS the broadest effort yet to both simplify retirement savings and get larger numbers of people to save appropriately for life after work, companies are increasingly making 401(k) choices for their employees.

In recent years, companies have been trying to boost participation by automatically enrolling employees in their plans. Those efforts have been successful, and today nearly 20% of large U.S. businesses are automatically enrolling employees as opposed to making them sign up on their own, according to new research from Hewitt Associates, a Lincolnshire, Ill., human-resources services firm. That marks the highest level ever and represents a significant shift: For most of this decade, only about 14% of companies offered autoenrollment.

But the latest efforts go beyond just enrolling people: Now many companies are taking the additional step of choosing certain funds as default options and even automatically increasing the amount employees contribute each year. In the past, the default option was typically a conservative money-market account, and employers left it up to workers to determine their contribution level. The goal now is to make sure employees invest the money in a more aggressive, but still prudent, way and thereby ultimately increase the size of their nest egg.

Many of the new default options involve so-called lifecycle funds, which automatically reallocate holdings among different asset classes as an employee ages. Last year, for example, nearly 1,200 employers added to their 401(k) plans lifecycle funds from Boston financial- services company Fidelity Investments, and 850 of those companies made the funds their default option, instead of plain-vanilla money-market funds. And already this year, more than 800 plans have adopted Fidelity's Annual Increase Program, a feature launched last summer that automatically ratchets higher the amount of money a worker saves annually. Other providers, including Charles Schwab & Co. and Vanguard Group, offer similar 401(k) plan features.

Automated 401(k) plans essentially use workers' natural inertia "for their benefit," says Doug Herron, chief financial officer of the Columbus, Ohio-based Safelite Group Inc., which automatically enrolls employees in its plan and automatically escalates their annual savings.

Automation works by essentially turning the traditional 401(k) model inside out. Typically, workers must opt into a retirement plan and then determine for themselves how much to save, where to invest, when to rebalance their account and when to increase the amount of money taken from every paycheck -- decisions they often never address.

Automated plans force workers to opt out, meaning they must tell an employer they don't wish to participate. When workers are eligible to join their 401(k) plan, they're automatically enrolled -- unless they explicitly opt out. Then, typically between 2% and 6% of their paycheck is automatically funneled into their 401(k) account. That approach aims to counteract the inertia and procrastination that often keeps employees from joining their 401(k) plan in the first place.

Workers can opt out of any or all of these automated features, but companies are finding that most employees choose not to. Retailer J.C. Penney Co. saw participation in the company's 401(k) plan surge to 85% from 71% in about 18 months after it began automatically enrolling workers. When the U.S. arm of Australian mining firm BHP Billiton Ltd. began autoenrolling employees in a 401(k) plan, nonparticipation dwindled from more than 500 workers to just two.

These moves toward automation are part of a growing realization that the biggest selling point of a 401(k) plan --

allowing workers to directly manage their retirement money -- is also its weakest link. Workers often don't have the time, the inclination or the necessary skills to invest prudently. Because of that, workers, particularly young ones, often never bother to sign up for their plan. Those who do frequently invest too much in company stock, leave their savings in a tepid money-market account or chase oversized gains in the stock market without recognizing the risk.

The groundswell of interest in automated retirement savings has captured the attention of lawmakers at a time when retirement finances are high on the American agenda. As such, several bills are winding through Congress that would exempt companies from certain 401(k) rules if they offer at least an autoenrollment feature.

Getronics NV, a Dutch firm with 3,300 U.S. employees, this month began automatically enrolling new hires in the company's 401(k) plan, and earlier this year added a program to automatically increase worker contributions by one percentage point every year. Last year it began defaulting employees into Fidelity's lifecycle funds. Getronics says it's now looking to add an autorebalancing feature in 2006 that will ensure workers' accounts remain balanced between stocks and bonds and cash.

In the last several months Vanguard has signed up about a dozen companies to a program called One Step that essentially mimics what Getronics is doing by wrapping all those automated functions -- enrollment, contribution escalation and asset allocation -- into one package. Vanguard says numerous other companies are looking to join the program.

According to Hewitt, which also administers 401(k) plans, 9% of companies already offer automatic savings escalation, and another 10% plan to add it in coming months. About 26% of companies offer autorebalancing, more than double the 2003 level. Nearly 40% of companies now default their employees into lifecycle funds or other premixed funds, up from 30% in 2003.

By going automatic, companies hope to essentially force workers into saving and investing more effectively. Currently, about 75% of eligible employees opt into their 401(k) plan. At the largest companies, the number slips to roughly two-thirds. And with new hires, the statistics are lower: Between 30% and 40% of new workers sign up for their 401(k) plan.

Fears of lawsuits may also play a role. When the notion of automating 401(k) plans began to emerge in the late 1990s, many companies felt that implementing such tactics might increase their liability from workers angered by the retirement plan's performance. Today, companies "now realize they have liability if they don't help workers, because many workers are making poor decisions because they're not sure what they should be doing," says Brooks Hamilton, a Dallas benefits consultant.

Limited numbers of companies began offering autoenrollment in the mid-1990s, but realized it wasn't enough because workers often left the money sitting in the default money-market option.

Companies are now taking the next step. Rock-Tenn Co., a Norcross, Ga., packaging firm, began offering Vanguard's One Step program in January after offering autoenrollment for about three years. The company noticed, however, "that people ended up staying where we put them, so we wanted to help them plan better for retirement," says Saba Yohannes, Rock-Tenn's senior benefits manager. The company now automatically enrolls workers at 2% of their salary, automatically invests them in a premixed retirement fund, and in October, when pay raises come, automatically increases by one percentage point the amount of money workers save each year.

"You're seeing a sea change in perspective," says David Wray, president of the Profit Sharing/401(k) Council of America, which lobbies on behalf of 401(k) plans and their participants. The 401(k) system "has spent millions and millions on educating workers, and still we don't have as many people in these plans as there should be." Automating the process, he says, "is about good outcomes for employees."

Auto Pilot

Companies are increasingly automating their 401(k) plans beyond enrollment:

-- Worker contributions are automatically invested in a premixed retirement fund of stocks, bonds and cash.

-- Worker assets are automatically rebalanced each year to keep their investments properly calibrated as employees draw closer to retirement.

-- Worker contributions are automatically increased by one percentage point or more every year.

Reproduced with permission of the copyright owner. Further reproduction or distribution is prohibited without permission.

THE WALL STREET JOURNAL. ONLINE

Saving Effortlessly for Retirement

Some Companies Automate Features of 401(k)s to Help With Investment Decisions

By Jane J. Kim, The Wall Street Journal, 807 words
Apr 26, 2005

Copyright (c) 2005, Dow Jones & Company Inc. Reproduced with permission of copyright owner. Further reproduction or distribution is prohibited without permission.

For many employees, saving for retirement could soon be as easy as doing nothing.

After years of offering workers more tools and education to help them make their own investment decisions, companies are now rolling out automatic 401(k) features designed to make those choices for them.

At BHP Billiton Ltd., new U.S. employees are automatically enrolled in the company's 401(k) plan and defaulted into a managed account, where their funds are invested for them across an investment mix of the company's underlying funds. Soon, they won't even have to worry about how much to contribute. This July, the Australian mining company, which has extensive U.S. operations, will automatically boost new employees' contributions by 1% a year and give the firm's existing 1,800 workers who are eligible for the plan a chance to sign up.

The latest generation of 401(k)s pulls together all three automatic options -- enrollment, contribution increases and investing -- into one package. Although less than 1% of employers have adopted the full autopilot design, many others are adopting certain features of those plans.

At R.R. Donnelley & Sons Co., participation in the company's 401(k) jumped to 92% from 68% after the Chicago printing giant automatically enrolled all of its employees in January 2005. At J.C. Penney Co., in Plano, Texas, 401(k) participation has jumped to 86% from about 71% since the company started automatically enrolling employees in 1997. Other studies indicate that automatic enrollment boosts the rates of plan participation from a national average of about 75% of eligible employees to between 85% and 95%.

Still, some companies have been slow to embrace automatic features amid regulatory uncertainty and fears over being sued by workers if they put them into investment options that were too aggressive. In some cases, additional costs are a concern since employers would be required to shell out more, either to offer managed accounts as the default option or because the company would have to pay out more in employer matches, says Stephen Utkus of the Vanguard Center for Retirement Research, a unit of investment-services giant Vanguard Group Inc.

But new government regulations are helping to boost employers' confidence in automatic 401(k) plans. The Internal Revenue Service issued a "general information letter" in March 2004 noting that any level of contribution rates and escalation increases were allowed, and encouraged companies to use a higher automatic enrollment contribution percentage, says Mark Iwry, a former benefits tax counsel at the Treasury Department and senior fellow at the Brookings Institution. The letter also made clear that companies can escalate that percentage over time in accordance with a fixed schedule, such as 1% a year, or in response to pay increases.

Meanwhile, automatic 401(k) plans are gaining support in Congress with the introduction of a bill earlier this month by Illinois Rep. Rahm Emanuel. Similar bills are being discussed in the Senate and could be formally introduced later this year, industry watchers say. The proposed legislation would clarify some of the rules and clear away the "legislative underbrush" that would allow companies to adopt plans more widely, says Peter Orszag, director of the Retirement Security Project and senior fellow at the Brookings Institution.

A recent survey by benefits consultant Hewitt Associates LLC of Lincolnshire, Ill., says that of those employers likely to implement automatic features, nearly 60% report they may offer automatic enrollment, or automatic enrollment in conjunction with other features such as lifestyle funds and/or contribution rate increases, in the next year. Only 14% of large employers had implemented such features in 2003.

One reason for the growth: Some 401(k) plan providers are aggressively ramping up their marketing efforts. Since Vanguard introduced its "One Step" 401(k) last year, about 250 of its plan sponsors have added automatic savings increases as a voluntary benefit. Although only eight companies, including BHP Billiton, have signed on to offer the full autopilot design, the firm expects to have 20 firms by year's end.

At Fidelity Investments, between 6% and 7% of plan sponsors have signed up for its Annual Increase Program launched in June. And in August, Principal Financial Group Inc. launched its "Step Ahead" option, which allows workers to automatically increase their 401(k) deferrals over time. Since January, there has been a 20% increase in the number of employers using the option, while the number of participants has more than doubled over the same period, notes a company spokeswoman.

Automatic Transmission

When individuals are automatically enrolled in 401(k) plans, participation rates can jump substantially, according to a study of one large company's employees with between 3-15 months of tenure.

RATE OF PARTICIPATION

Before Automatic After Automatic
Enrollment Enrollment

New Employees 37% 86%
Younger Employees* 25 83
High-Income Employees** 68 94

* Ages 20-29
** Earning more than $80,000 a year

Sources: Based on a 2000 study by Brigitte Madrian,Wharton School; Dennis Shea, UnitedHealth Group Inc.
Reproduced with permission of the copyright owner. Further reproduction or distribution is prohibited without permission.

Sisters of Charity of Leavenworth Health System

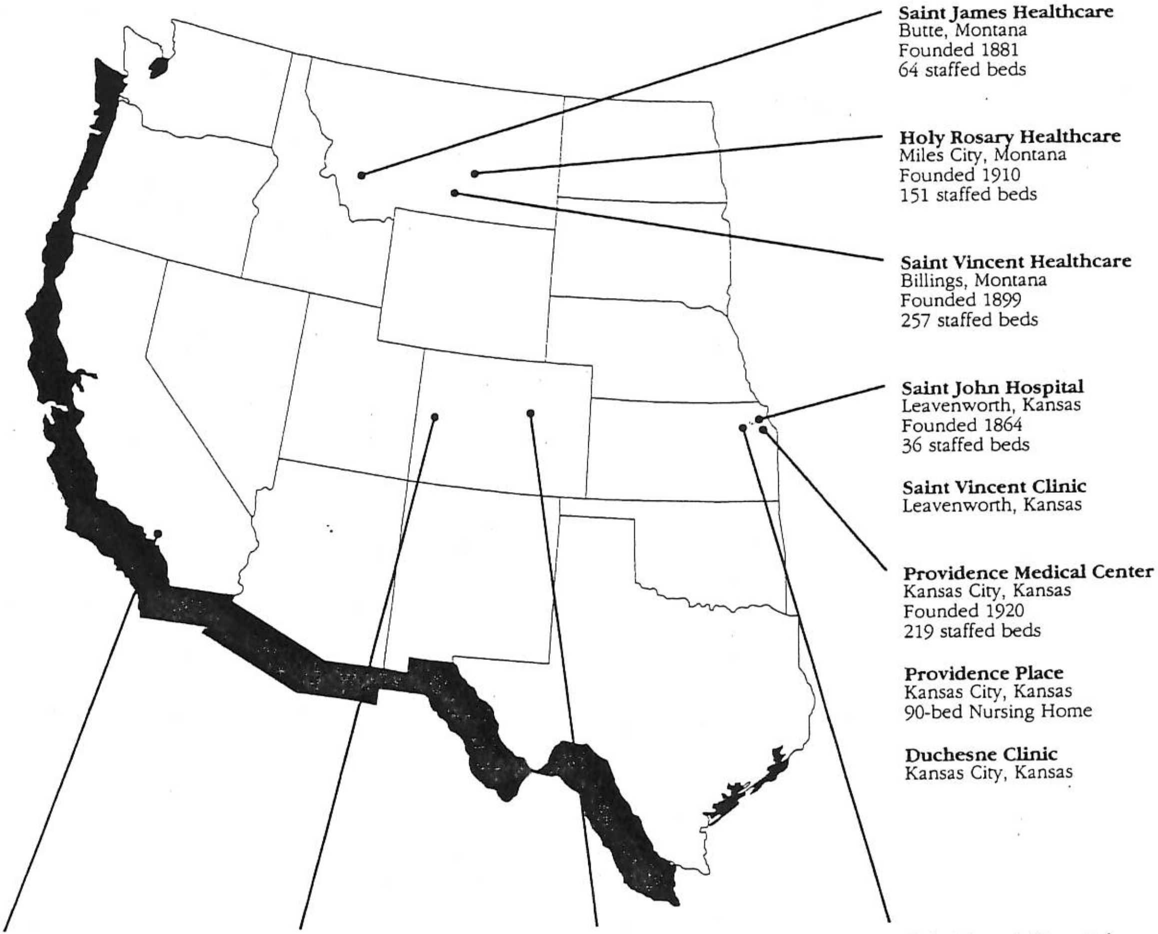
Fact Sheet

The Sisters of Charity of Leavenworth Health System (SCLHS) is a Catholic, not-for-profit multi-institutional system dedicated to improving the health of those we serve.

Today, the Sisters of Charity of Leavenworth Health System is made up of the system office, ten hospitals, one nursing home, four stand-alone clinics for the uninsured and other related entities.

These Affiliates are located in the states of Colorado, California, Montana and Kansas, and include 3,000 licensed beds, approximately 2,200 staffed beds and over 10,000 employees.

The Affiliates are also involved in a variety of regional partnerships which are dedicated to improving the health of their respective communities.



HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS
Testimony on House Bill 2669
February 1, 2006
By: Dale McAllister, Assistant Vice President and Counsel
Security Benefit Corporation

Good afternoon ladies and gentlemen. My name is Dale McAllister. I am Assistant Vice President and Counsel to Security Benefit Corporation, and have 25 years of experience working on all aspects of retirement plans offered by many different types of employers. Although Security Benefit has not previously been involved with House Bill 2669, we have decided to support this Bill as part of our policy of encouraging and promoting retirement savings by the workforce of the United States in general and Kansas in particular.

Ladies and gentlemen, our workforce needs to save more for retirement. Just on Monday of this week the United States Commerce Department reported that Americans had a negative savings rate for the 2005 calendar year. That means that during 2005, as 78 million baby boomers are entering into their final work years prior to retirement, we actually spent more than we made, dipping into our retirement savings instead of adding to it. This was the first full year of negative savings in America since the Depression year of 1933. This is true even though tax advantaged savings plans, like IRAs and 401(k), 403(b) and governmental 457 deferred compensation plans, are widely available.

What can be done? Michigan Governor Grandholm recently proposed that her State encourage retirement savings by offering a State 401(k) plan for private employees whose employers do not offer their own program. This is Kansas, not Michigan, and we are not here to propose that plan today. But at the federal level, the Internal Revenue Service and other agencies have been encouraging the development of what are called "automatic enrollment" 401(k), 403(b),and governmental 457 plans since 2000 and automatic enrollment IRAs since 2004.

Automatic enrollment plans encourage retirement savings by taking what we believe is the correct position that every eligible employee should want to save for their retirement and helps them do so. For example, under a "traditional" 401(k) plan, an employee must actually go through a process of signing up to participate in the plan and choosing an amount to contribute by a salary reduction to the plan, or they will accumulate no retirement savings. Although some employees really do need every dime they earn for the problems of today, many employees never sign up out of inertia or lack of concern for the future—at least until it is too late to save very much.

An automatic enrollment plan does not force an employee to save. However, in an automatic enrollment plan, employees are automatically signed up and contribute, for example, 3% of their compensation to the plan unless they affirmatively elect not to participate. Each employee is free to elect to contribute more, or less, or nothing at all. But if they do nothing, and many employees do, they will be making at least some contributions toward their retirement.

A recent study from the Employee Benefits Research Institute and the Investment Company Institute had found that 401(k) plan participation rates increase from an average of 66% in a traditional 401(k) up to 92% with automatic enrollment. That difference, which shows the power of employee inertia, can make a big difference in the retirement prospects of a lot of people.

Congress is currently doing its part to encourage automatic enrollment. Two somewhat different retirement bills with strong automatic enrollment provisions for 401(k), 403b and governmental 457 plans were passed in December, HR-2830 and S-1783. Each bill would give legislative endorsement to these plans, establish some limits and relieve employers who are subject to the Employee Retirement Income Security Act of 1974 (ERISA) from fiduciary liability for some aspects of offering and operating these programs. We are confident that the final conference committee bill that will be enacted by Congress and signed into law will greatly encourage automatic enrollment plans. You will be hearing more about them.

There are a couple of problems—state law problems—that have inhibited the spread of automatic enrollment plans for employers who wish to offer them to their workers, and are likely to continue to be road blocks even after Congress is done with the present legislation. First, many states, including Kansas, have very specific payroll withholding statutes on the books that limit payroll deductions that can be taken without an affirmative written employee consent. In Kansas, K.S.A. 44-319 does not authorize deductions for automatic enrollment plans. Under the statute, only when an employee affirmatively signs up for a salary reduction 401(k), 403(b), 457 or IRA plan is a deduction authorized.

House Bill 2669, as presently written, would change this result for a 403(b) plan. We support that change but think it should be extended to 401(k) and 457 plans and payroll deduction IRAs. With these amendments, the Legislature would not be requiring any employer to change its plan. It would simply be removing a roadblock that currently holds back an employer who may wish to try this new program.

Another problem with automatic enrollment plans for some employers is the investment of contributions automatically made to their plan. When employees sign up for most traditional salary reduction plans, they have to choose how contributions are invested at the same time. But when contributions are made by default to an automatic enrollment plan, the employer must chose investments, although employees are always free to change their investment elections at any time.

Although many employers are willing to accept investment responsibility, they are reluctant to do so due to the potential liability and lawsuits that can result from their actions, even when taken in complete good faith. When the present legislation makes it out of Congress, we expect that it will relieve employers from liability for investment decisions taken in an automatic enrollment plan, where the employer is subject to ERISA and employees can change their investments at any time. This will expand the protection already offered these ERISA employers by recent actions of the U.S. Department of Labor.

Not all employers are subject to ERISA, however. State and local governmental entities and churches and church related organizations are outside ERISA regulation and the protection that will be extended to most other employers by Congress in the pending legislation. We would support the amendment of House Bill 2669 to include a reasonable liability relief provision for employers making investment decisions in automatic enrollment plans when participants are able to readily change investments at any time.

We urge the Committee to support present national efforts to promote financial security of the Kansas workforce by supporting House Bill 2669, modified to include 401(k), governmental 457 and payroll reduction IRA plans. We also support an amendment to the bill to relieve employers offering these plans form liability for investment decisions that they make when their employees will not decide for themselves. This bill will cost no money, will not require a new regulatory mandate, and will not force employers or their employees to do anything. It will simply give a Kansas green light to a new, promising retirement program that is currently being promoted by Congress and federal authorities.

Thank you for your time and attention this afternoon. I would be glad to address any questions that committee members may have.

GACHES, BRADEN, BARBEE & ASSOCIATES
PUBLIC AFFAIRS & ASSOCIATION MANAGEMENT
825 S. Kansas Avenue, Suite 500 • Topeka, Kansas 66612 • Phone: (785) 233-4512 • Fax: (785) 233-2206

House Financial Institutions Committee
Hearings on HB 2735 – Relating to Alternative Valuation Methods
Comments of Kansas Association of Financial Services
Provided by Ron Gaches, Executive Director
Wednesday, February 1, 2006

Thank you Chairman Cox for this opportunity to express the support of the Kansas Association of Financial Services for HB 2735 which authorizes the use of independent valuation models in determining the value of real estate in the case of a nonpurchase money real estate transaction.

The bill provides that the Bank Commissioner's office would have sole authority to determine which independent valuation model might be acceptable as a substitute for a regular appraisal. A number of national firms now specialize in providing these valuation services and the overwhelming majority of states now allow their use.

Our proposed language specifically provides that the alternative valuation method could not be used for purchase money real estate transactions. So the tool would be used for refinancing or for second mortgages.

The chief advantage for consumers, mortgage borrowers, is a significant savings at the time of closing. Depending on the location in the state a typical purchase money appraisal might cost in the range of $275-350. The maximum cost for an independent valuation model appraisal is about $50. Since the borrower pays the fee for the appraisal, the consumer savings is in the $225-300 range.

The chief advantage for the lender is speed. Alternative valuation models (AVM) are computerized databases with nearly immediate response times. Many lenders supplement the AVM with a visual inspection to ensure the property is in good shape.

The other advantage of AVM is that it is an effective tool against appraisal fraud. Appraisal fraud is the practice of appraising a property for greater than it true fair market value for the purpose of (1) selling the borrower a home at a price greater than fair market value, or (2) taking advantage of the lending company by borrowing money greater than the FMV needed to actually purchase the home. Such fraud is relatively rare but seems to be a growing problem.

HB 2735 offers consumers real savings while still protecting the interests of lenders and borrowers. We urge your support.

1. It appears that HB 2735 would eliminate the requirement of using a state licensed or certified appraiser in the case of non-purchase money transactions. Since we have no data to pinpoint how many of these are currently being done by licensed/certified appraisers, it is hard to give an actual impact. However, I would assume that this could be a substantial loss of revenue to appraisers and may substantially impact their livelihoods.

2. One function of the Kansas Real Estate Appraisal Board is to protect the public. If non-purchase money transactions can be made without using a licensed/certified appraiser, I don't believe the public is being adequately protected. However, since the public would have no recourse through this agency, it would probably not have an impact.

3. Eliminating the need for an appraiser in non-purchase money transactions may substantially reduce the need for appraisers, resulting in fewer appraisers, which may have a substantial impact on the agency as far as annual renewal fees. We currently have approximately 1,200 appraisers licensed by this agency, each paying an annual renewal fee of 200.00.

4. Without data from the lenders specifically indicating how many of these types of transactions are currently being performed by licensed/certified appraisers, we are unable to give any cost estimates.

5. The bill could be implemented within our current staffing and operating expenditure levels.

6. Without having actual data to quantify the impact, we can only guess the long range effect of the bill, but think it may greatly reduce the number of license/certified appraisers who are able to compete with AVM's. Based upon the information available, it would appear that within the next three year period the Board could easily forecast a 200-400 decrease in the number of appraisers licensed by this agency, reducing annual fees by 200.00 per appraiser.

Ron Gaches