

## 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 January 17, 2006 in Room 234-N of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Ken Wilke, Office of Revisor of Statutes  
Bev Beam, Committee Secretary

Conferees appearing before the committee:

Clancy Norris, State Banking Commissioner

Others attending:

See attached list.

Introduction

The Chair welcomed members of the FI&I Committee and staff. After introductions, the Chair reviewed the Committee agenda for the upcoming week.

Special Order 2005-1

The Chair told the group that they have at their places Special Order 2005-1 issued by the office of the State Banking Commissioner. She said by law the Commissioner must send a notice to the Chairs of the House and Senate Financial Committees to inform them of any special orders he makes during the year. The Chair said this order revokes the Special Order of 2003-1. She said basically it changes who outlines the parameters of being able to purchase insurance. She asked Commissioner Norris for any comments on the Special Order. Commissioner Norris said with this Special Order state banks are now afforded the same opportunity to purchase and hold life insurance in a manner consistent with the parameters outlined in the Interagency Statement and consistent with safe and sound banking practices as national banks. (Attachment 1)

Interim Committee Report

The Chair asked Melissa Calderwood, Legislative Research Staff member, to report on the Interim-Committee on Financial Institutions and Insurance. Melissa said the committee was charged with the following:

To study the current financial environment created by the regulation provided by the Kansas Uniform Consumer Credit Code and separately to study the health care and health insurance environment in Kansas.

Assigned topics for interim study included:

1. To study the current finance charges, rates, and terms under the Kansas Uniform Consumer Credit Code and the impact of the Code on financial institutions, loan companies, and Kansas consumers and the current regulatory environment in Kansas; and

2. To study the 2005 (**HB 2143**) **An act amending the uniform consumer credit code; relating to finance charges** and other proposed UCCC amendments which deals with the UCCC and the limiting of finance charges.

Ms. Calderwood said the Special Committee on Financial Institutions and Insurance reviewed the two proposed bills and concluded that the interest rate ceiling legislation (**HB2143**) not be recommended and the alternate finance charge for closed-end consumer installment loans legislation (**HB 2278**) - **An act relating to the consumer credit code; concerning alternative finance charges on certain consumer loans** not be recommended to the 2006 Legislature and recommended the introduction of new legislation to address the

## CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on January 17, 2006 in Room 234-N of the Capitol.

requested (**HB 2278**) amendments. Ms. Calderwood said the Committee recommends the introduction of one bill on this topic.

Ms. Calderwood said the Committee also reviewed four proposed bills introduced during the 2005 Session that address health care and health insurance issues. The Committee recommended that the **abuse of health insurance legislation (SB 165) be recommended unfavorably; the assignment of health insurance for covered services legislation (SB 166) be recommended adversely; and, the insurance payments for covered dental services legislation (SB 167) be recommended adversely to the 2006 Legislature.** The Committee took no action on legislation that allowed for removal of limitations on deductibles, coinsurance and similar payments (**HB 2366**), as it had requested only a progress report. The Committee proposed no legislation. (Attachment 2)

### Introduction of Bills

The Chair called upon Ron Gaches on behalf of Security Finance. Mr. Gaches said he has come back with a fresh draft of (**HB 2278**) - that was presented to the Interim Committee that addressed several concerns raised by the Bank Commissioner's office as well as some legislators. The revised bill draft was one the Interim Committee recommended favorably. Mr. Gaches asked that this bill be introduced to this committee. Senator Barnett made a motion that the Committee introduce the proposed legislation. The motion was seconded by Senator Brownlee. Motion carried.

### Adjournment

The meeting adjourned at 10:20 a.m. The next meeting of the Committee is scheduled for January 18, 2006.

FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: Tuesday, January 17, 2006

NAME	REPRESENTING
Ron Coches	KAFS
<del>David Jork</del>	ICID
Derek Hen	Hein Law Firm
Kathly Olsen	Ks Bankers Assoc.
Matt Goddard	Heartland Community Bankers Assoc.
Alex Kotofantz	PIA
Cynthia Smith	SEL Health System
Bill Sneed	AHIP
Lee Wright	Farmers
Larry Magill	Ks Assn of Ins Agents
Daniel Magill	~ ~ ~
Judi Storik	OSBC
Clancy Norris	✓
Sonya Allen	✓
Pamie Amlover	KAFIA



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

KATHLEEN SEBELIUS, GOVERNOR

### SPECIAL ORDER 2005-1

**THIS ORDER** is hereby issued this 18<sup>th</sup> day of November, 2005, by the Kansas State Bank Commissioner (hereinafter "Commissioner") pursuant to K.S.A. 9-1715, as amended.

**WHEREAS**, pursuant to the Interagency Statement on the Purchase and Risk Management of Life Insurance, issued by The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision on December 7, 2004; and set out in the respective agency's issuances, including the Federal Deposit Insurance Corporation's Financial Institution Letter FIL 127-2004, (hereinafter referred to as "the Interagency Statement"), a national banking association and a federal saving association may purchase life insurance when such purchases are incidental to the business of banking, or useful in connection with the conduct of the association's business, are consistent with safe and sound banking practices, and are made in accordance with the guidelines in the Interagency Statement; and,

**WHEREAS**, no provision of Kansas law presently allows a state-chartered bank to purchase life insurance within the same parameters and for all of the purposes allowed for national banks and federal savings associations who operate in the same markets as state-chartered banks; and

**WHEREAS**, K.S.A. 9-1715, as amended, grants to the Commissioner the power to authorize state banks "to engage in any activity in which such banks could engage were they operating as any insured depository institution at the time such authority is granted..."; and,

**WHEREAS**, the Commissioner deems the issuance of this special order to be reasonably required to preserve the welfare of state banks and to promote competitive equality of state-chartered banks with other insured depository institutions;

**IT IS THEREFORE ORDERED**, that notwithstanding any restrictions currently contained in the Kansas Banking Code, K.S.A. 9-501 et seq., Kansas state-chartered banks are hereby authorized to purchase and hold life insurance in a manner consistent with the parameters outlined in the Interagency Statement, and consistent with safe and sound banking practices;

Senate FI & I Com.  
Attachment 1  
January 17, 2006

**Special Order 2005-1**

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**IT IS FURTHER ORDERED**, that Kansas state-chartered banks shall not invest in life insurance policies where the aggregate cash surrender value of the policies from any one insurance company would exceed 15% of the bank's capital, or where the cash surrender value of policies from all insurance companies would exceed 25% of the bank's capital unless approval is obtained from the Commissioner to exceed the limits, and that such limits shall apply both at the time of purchase and throughout the life of the insurance policies;

**IT IS FURTHER ORDERED**, that for purposes of this special order, "capital" shall consist of a bank's capital stock, surplus, undivided profits, allowance for loan and lease losses, capital notes and debentures, and reserve for contingencies;

**IT IS FURTHER ORDERED**, that the limitations prescribed in this special order shall not apply to any such life insurance policies in place before July 1, 1993;

**IT IS FURTHER ORDERED**, that Special Order 2003-1 is hereby revoked; and

**IT IS FURTHER ORDERED**, that pursuant to K.S.A. 9-1715(b), as amended, the terms of this special order shall become effective November 18<sup>th</sup>, 2005 and shall remain in full force and effect until amended or revoked by the Commissioner.

**IT IS SO ORDERED.**

**STATE BANK COMMISSIONER**

A handwritten signature in cursive script that reads "Clarence W. Norris". The signature is written in black ink and is positioned above the printed name.

**Clarence W. Norris**

Reports of the  
Special Committee on Financial  
Institutions and Insurance  
to the  
2006 Kansas Legislature

**CHAIRPERSON:** Senator Ruth Teichman

**VICE-CHAIRPERSON:** Representative Clark Shultz

**RANKING MINORITY MEMBER:** Representative Nile Dillmore

**OTHER MEMBERS:** Senators Nick Jordan, Vicki Schmidt, and Chris Steineger; and Representatives Eric Carter, Oletha Faust-Goudeau, Dick Kelsey, Rob Olson, and Virgil Peck

**STUDY TOPICS**

Review of the Kansas Uniform Consumer Credit Code

Review of the Health Care and Health Insurance in Kansas

*December 2005*

# Special Committee on Financial Institutions and Insurance

## REVIEW OF THE KANSAS UNIFORM CREDIT CODE

### CONCLUSIONS AND RECOMMENDATIONS

The Committee reviewed two proposed bills introduced during the 2005 Session that make amendments to the Uniform Consumer Credit Code. The Committee concluded that the interest rate ceiling legislation (HB 2143) not be recommended and the alternate finance charge for closed-end consumer installment loans legislation (HB 2278) not be recommended to the 2006 Legislature and recommended new legislation to address the requested HB 2278 amendments.

**Proposed Legislation:** The Committee recommends the introduction of one bill on this topic.

### BACKGROUND

The charge to the Special Committee on Financial Institutions and Insurance was to study significant issues related to both the current financial environment created by the regulation provided by the Kansas Uniform Consumer Credit Code and separately, to study the current health care and health insurance environment in Kansas. The assigned topics for interim study included:

- Study of the current finance charges, rates, and terms under the Uniform Consumer Credit Code (UCCC or the Code) and the impact of the Code on financial institutions, loan companies, and Kansas consumers, and the current regulatory environment in Kansas; and
- Study of 2005 HB 2143 (and other proposed UCCC amendments) which deals with the UCCC and the limiting of finance charges.

The study topics were requested by the House Committee on Financial Institutions. The House Committee reviewed several proposals to amend the Uniform Consumer Credit Code during the 2005 Session. After

conducting a hearing on HB 2143, the Committee passed a motion to table bill discussion until a date certain (February 16, 2006) and requested an interim study to address the issues raised by HB 2143 proponents and opponents and other pending Uniform Consumer Credit Code legislation, including 2005 HB 2278.

The 2005 Legislature amended a number of provisions of the Code, including:

- Establishment of a contract rate to replace the annual rate in prior law;
- The computation of finance charges for consumer loans secured by a first or second lien real estate mortgage by creating an amortization method;
- Establishment of a minimum net worth requirement for license applicants; and
- Authorization of a statute of limitation for prosecution of crimes under the Code and allow for a restitution provision and also allow the Administrator (if deemed necessary) to require fingerprinting of applicants, licensees, agents, or others directly engaged in lending activities.

The Legislature also amended the finance charge for payday loan cash advances under the Code and enacted new law to create certain protections for military payday loan borrowers.

## COMMITTEE ACTIVITY

In November, the Deputy Commissioner of Consumer and Mortgage Lending (the Code Administrator) and lenders, both current and pending, regulated under the Code, presented testimony about the current finance charges, rates and terms under the Code and its impact and the current regulatory environment in Kansas. Committee staff also provided a history of the Code and interest rates established by the Legislature and recent and proposed amendments to the Code.

**Overview of the Code in Kansas.** The Administrator of the Kansas Uniform Consumer Credit Code provided an overview on the Code and its history; the number and scope of entities regulated under the Code; recent changes in the Code; and its impact on businesses and consumers. The Administrator noted that the Code, adopted in nine states, remains relatively uniform in the basic intent and application of the law among the states. The UCCC intent and purpose serves to establish some basic rules of conduct between individuals who want to obtain credit for their personal needs and those companies who desire to provide that credit. The framework of the Code recognizes three essential points:

- Individuals generally need, at some point in time, access to credit for themselves and their families;
- Companies in the business of extending credit generally are more knowledgeable about credit matters than most ordinary individuals who are seeking credit; and
- It is appropriate to have some reasonable consumer protections in place to

compensate for that unequal knowledge about credit matters.

The Administrator highlighted the growth in supervised loan licensees over the past fifteen years, with 63 licensed companies and 208 licensed locations in 1990 to an October 2005 total of 393 licensed companies and 1,386 licensed locations. The Administrator also noted that refunds and consumer savings for the period of July 1999 to October 2005 totaled \$28.9 million for nearly 34,000 Kansas consumers.

An industry representative noted that the consumer lending industry is heavily regulated with the Code governance including loan origination fees; prepayment penalties; security of borrowers' personal information; late payment penalties; when a fee may or may not be charged for various administrative services; audit authority of the Bank Commissioner's Office; Commissioner's access to lenders' files; and qualifications of licensed lenders. Another representative added that with the passage of 2005 Sen. Sub. for HB 2172, the UCCC Administrator has more than sufficient powers to protect consumers. The Committee also received information from two title loan lenders and the customers each lender serves and products available. One of the lenders spoke to the application process for supervised lenders in Kansas.

**Other activities.** The Committee received resource information provided by staff that detailed other states' regulation of nondepository loans, including payday lending laws and title loan legislation. The Committee also received two articles on deregulation of consumer credit interest rates for its review.

**Legislation.** The Committee held hearings on two 2005 UCCC bills: HB 2143 and HB 2278. HB 2278 did not receive a hearing during the 2005 Session.

**HB 2143 (interest rate ceiling).** The bill



would amend the Code to allow for a seller to charge an interest rate not to exceed 21 percent per year. The interest rate ceiling would apply to the finance charges under the Code: closed-end consumer credit sales; open-end consumer credit sales; and lender credit sales. Under current law, the finance charge rates for open-end credit are not capped and instead are subject to the rate agreed to by the parties to the transaction with established limitations on any prepaid finance charges.

The legislation was requested by the Office of the State Bank Commissioner. Opponents to the legislation indicated their support for the legislative decision in 1999 to remove interest rate caps on open-ended credit and general support for deregulation of consumer credit interest rates. One opponent noted that the deregulation of interest rates has allowed consumer finance and mortgage companies the ability to more accurately price risk, allowing consumers with outstanding credit histories to benefit from lower interest rates and also allowing consumers who previously were denied credit viable options in the marketplace.

**HB 2278 (alternate finance charge, closed-end installment loans).** The bill would amend the Code by creating an alternate finance charge to the finance charges currently specified in KSA 16a-2-401, providing for a sliding-scale rate structure for closed-end consumer installment loans that are financed between \$100 and \$1,000. The loan term would be a minimum of four months and a maximum of eighteen months and five days. The rates and charges would not apply to payday loans.

Specifically, the bill would allow a licensee to charge, in lieu of the charges

specified in current law:

- A loan acquisition charge not exceeding the lesser of 10 percent of the financed amount or \$75; and
- A monthly installment account handling charge, based on a sliding-scale rate. For example, an account handling charge for a loan financed in the amount of \$550 would be up to \$17.50 while the charge for a \$1,100 loan would be an amount up to \$22.50.

The legislation was requested by Security Finance Corporation. The bill requestor provided information about the company and its lending history in other states and an overview of the installment loan industry. The requestor also presented a bill draft to the Committee which made a number of changes to the language contained in HB 2278. The main revision to the legislation is allowing fees to be based on a monthly fee, rather than an interest charge. The Committee noted that additional work needed to be done on paragraph E of the new bill draft. There was no opposition testimony presented at the hearing.

## CONCLUSIONS AND RECOMMENDATIONS

The Special Committee on Financial Institutions and Insurance concluded that the interest rate ceiling legislation (HB 2143) not be recommended and the alternate finance charge for closed-end consumer installment loans legislation (HB 2278) not be recommended to the 2006 Legislature and recommended the introduction of new legislation to address the requested HB 2278 amendments.

# Special Committee on Financial Institutions and Insurance

## REVIEW OF THE HEALTH CARE AND HEALTH INSURANCE IN KANSAS

### CONCLUSIONS AND RECOMMENDATIONS

The Committee reviewed four proposed bills introduced during the 2005 Session that address health care and health insurance issues. The Committee recommended that the abuse of health insurance legislation (SB 165) be recommended unfavorably; the assignment of health insurance for covered services legislation (SB 166) be recommended adversely; and, the insurance payments for covered dental services legislation (SB 167) be recommended adversely to the 2006 Legislature. The Committee took no action on legislation that allowed for removal of limitations on deductibles, coinsurance and similar payments (HB 2366), as it had requested only a progress report.

*Proposed Legislation:* None.

### BACKGROUND

The charge to the Special Committee on Financial Institutions and Insurance was to study significant issues related to both the current financial environment created by the regulation provided by the Kansas Uniform Consumer Credit Code and separately, to study the current health care and health insurance environment in Kansas. The assigned topics for interim study included:

- Review the current regulation of health care and the health insurance environment in Kansas and review current pending legislation: SB 165–Health insurance abuse; SB 166–Assignment of health insurance for covered services; SB 167–Insurance payments for covered dental services; and HB 2366–Changing terms of individual health care policies; and
- Review this pending legislation to address questions about health care costs, cost containment strategies, marketplace competition, and consumer interests. Also study whether the changes in the proposed legislation

would create two different standards between large, self-insured groups and individual and small group insureds.

The study topics were requested by the Senate Committee on Financial Institutions and Insurance.

### COMMITTEE ACTIVITIES

In September, representatives of the Kansas Insurance Department, the Kansas Department of Health and Environment, the Kansas business community, the Kansas health insurance industry and the Lieutenant Governor of Kansas each presented information about the current health care and health insurance environment in Kansas. A number of policy issues for the Legislature to consider were noted, including but not limited to, cost containment, data and reporting, insurance industry claims system and oversight, the legal system, public health, as well as other related issues, such as public health insurance. At its November meeting, the Committee continued its discussion and recommendations on relevant proposed

legislation. The Committee also received a progress report on a proposed pilot project.

**Cost Containment.** The Lieutenant Governor addressed the activities of the Kansas Health Care Cost Containment Commission, a commission created by Executive Order to focus upon health care system inefficiencies; health care quality and safety; escalating costs; and health information technology and exchange. The Lieutenant Governor highlighted four focus areas determined by the Commission:

- Patient identification (ID) card information standardization and advanced ID card technologies;
- Common barriers to payment of valid claims;
- Single credentialing process for physicians; and
- Health Information Technology (HIT)/ Health Information Exchange (HIE).

The Commission priorities were determined by a focus on quality, safety, and cost-effectiveness.

Health insurance industry representatives also addressed cost containment issues. Cost drivers identified included government mandates and regulations, compliance with the Health Insurance Portability Accountability Act (HIPAA), increased demand for medical resources due to the aging of the public, litigation, fraud, and abuse. Another representative highlighted additional items: lifestyle choices; prescription drugs; cost-shifting and the uninsured; expansion of services; use of new medical technologies; federal tax policy; and the lack of personal financial responsibility in a third party payment system.

**Data and Reporting Information.** The

Director of the Office of Health Information for the Kansas Department of Health and Environment highlighted the use of Kansas health data assets for informed decisions. The official noted that the state faces several challenges including:

- The rising cost of health care;
- The call for more consumer-oriented reporting on providers;
- Addressing the needs of the uninsured and the underinsured; and
- Assuring an adequate workforce for care for aging population.

Health care data identified as critical for future evaluation was outpatient data from hospitals, ambulatory surgical centers and physician clinics, emergency room visits, and ERISA plan experience.

A business representative suggested that uniform performance measures should be established for doctors and hospitals.

**Insurance Industry Claims System and Compensation.** The Committee heard testimony from a business representative about allowing for transparency on all costs for doctors and hospitals. A health insurer noted that negotiated provider “write-offs” were more than seven times the cost of the administrative expense for the insurer. Write-offs, an industry cost containment effort, place pressure on physicians and hospitals dealing with inflationary trends in medical malpractice insurance, indigent care costs, under reimbursement of government programs, nursing shortages, expensive technologies, and other ordinary business expenses.

**Insurance Industry Oversight.** Kansas Insurance Department officials noted how the Department, as the health insurance industry regulator in Kansas, is working toward a more efficient regulatory model.

According to its testimony, the Department is making the review of health insurance forms and premium rates as efficient as possible in order to attract more health insurers to offer coverage and increase competition. The current Insurance Commissioner serves as a proponent of speed to market initiatives at the state and national level. The Department currently is putting together an on-line checklist to address requirements for new filings, a measure designed to speed up the approval process and eliminate the need for disapproval due to missing or incomplete documents.

**Legal System.** Addressing needed reforms to aid employer health care and insurance, a business representative indicated that society should take a look at tort reform, defined as full disclosure of all awards and settlements received as part of a claim, with all collateral sources of payments being fully disclosed.

**Public Health.** The Committee also heard suggestions from business and health insurers on how to encourage healthy lifestyles and slow the percentage of increase of health insurance premiums. Suggestions included:

- Promoting healthy lifestyles and encouraging employee consumerism—defined as employees understanding cost implications, seeking healthcare information, communicating with their doctors, demonstrating self care, actively managing chronic conditions, practicing prevention, engaging in activities to maintain and improve personal health and making appropriate plan and provider decisions; and
- Encouraging self-responsibility, implementing tiered pricing for pharmaceuticals, encouraging the use of generic drugs, and instituting disease

management programs for chronic illnesses.

The Committee also heard testimony of a personalized on-line health information program for employees in an employer-based health insurance environment.

**Other activities.** The Committee activities also included the discussion of recent Interim Committee reports and recommendations on relevant health insurance issues, including the 2003 review of health insurance mandates and the 2003 Health Insurance Issues Working Group. The Committee also reviewed a number of resource materials provided by staff. Resource materials addressed health care costs and surveys, employer health care costs and employee access trends, and projections in future health care spending. The Committee also briefly discussed the health insurance environment in light of the 2005 law that established the Kansas Health Policy Authority.

Although not an assigned topic for its review, the Committee received an update on the status of mental health parity in Kansas from representatives of the National Association of Social Workers, the Kansas State Nurses Association, and a local psychiatrist.

**Legislation.** The Committee held hearings on three 2005 health insurance bills: SB 165, SB 166, and SB 167. A Humana representative briefed the Committee on a three-year pilot project, that had recently received approval from the Insurance Commissioner, to address issues raised by 2005 HB 2366. The pilot project would last three years and allow the insurer to offer a “flexible health plan” product. The Committee made no recommendation on this legislation.

**SB 165 (abuse of health insurance).** The bill would enact new law to clarify the act of the abuse of health insurance. The bill

defines the “abuse of health insurance” as, if as a regular business practice, the provider either knowingly accepts from any third party payor the amount the payor covers as payment in full for service rendered; or the provider submits a fee to the third party payor which is higher than the fee the provider had agreed to accept from the insured with the understanding of waiving the required deductible, co-pay, out-of-network penalty or another similar financial liability. The bill was requested by HCA.

Proponents of the measure noted that current Kansas law does not treat certain business practices, defined in the bill as “abuse,” as fraudulent or illegal and that tolerating these practices results in higher costs for doing business in Kansas. The proponents also noted that waiver of co-pays and deductibles impacts: increased utilization; increased employer premiums; patient confusion; undermining quality initiatives and state programs; jeopardizing patient safety; and increased burden on Medicaid and Uninsured.

Opponents to SB 165 indicated that the proposed legislation seems unenforceable, as no requirements direct a state agency to provide enforcement and oversight. Other provisions highlighted for concern: the advertisement prohibition is confusing; difficult to make comparisons with Medicare and Medicaid; differences in the Kansas market and definition of market dynamics; and the issue of quality.

**SB 166 (assignment of health insurance for covered services).** The bill would enact new law to prohibit health benefit plans issued on or after July 1, 2005, from containing any provision that would limit or restrict the rights of insureds from assigning payment of benefits, regardless of whether or not the provider of services is a participating provider who provides health care or dental services to the insured.

Proponents cited current Kansas law,

KSA 40-439 (1969 statute), and the principal of patient choice (free assignability) over a 2003 opinion from the Kansas Insurance Department that allowed that all insurance carriers could restrict their insureds’ ability to assign their benefits via contract. The proponents noted that insureds seeking treatment from out-of-network or non-participating providers are likely to have to pay the full cost of treatment upfront or pay after they have filed the proper claim and received reimbursement from their carrier. Passage of such legislation is anticipated to reduce administrative costs to the insurer. A representative of a regional medical center noted that the legislation addresses the elimination of bad debt and unnecessary legal action that the refusal of assignment of benefits has placed on Kansas medical providers. Proponents also included two dental service consumers.

An opponent, a health insurer, noted that direct reimbursement to participating providers saves customers money by helping lower the insured portion of the payment and reducing the out-of-pocket expense of insureds. The opponent classified the proposal as “anti-consumer” with the potential for two classes of Kansas consumers, those who have the benefits of negotiated health care prices and protection from “balance billing” and those who do not. A representative of health insurance plans testified that Kansas courts have recognized the use of non-assignment clauses in certain instances since 1981. Business representatives indicated that provider networks allow lower costs for businesses. Both SB 166 and SB 167 would reduce providers’ incentives to contract for lower rates.

**SB 167 (insurance payments for covered dental services).** The bill would enact new law to require health benefit plans that include provisions for dental services issued on or after July 1, 2005, to allow for equal payment for health insurance services rendered regardless of whether the dentist is a participating provider, belonging to the

insured's provider network.

SB 166 and SB 167 were introduced at the request of the Kansas Dental Association. Similar to the testimony for SB 166, proponents testified that current practice for dental services compensation reduces access to dental care and creates an unfair burden on insureds who choose to seek care from a non-participating provider, eliminating the insureds economic freedom to choose.

Opponents to the proposal noted that both SB 166 and SB 167 greatly, if not completely, diminish the incentives for providers to contract with health plans. A representative of health insurers noted that the assignment of benefits could easily be expanded to all providers and recommended consideration be given to a cost impact study, similar to those utilized in consideration of health insurance mandates. Another representative of a health insurer testified that negotiating reimbursement

rates keeps premiums lower and helps reduce out-of-pocket expenses for its customers.

## CONCLUSIONS AND RECOMMENDATIONS

The Special Committee on Financial Institutions and Insurance recommended that the abuse of health insurance legislation (SB 165) be recommended unfavorably; the assignment of health insurance for covered services legislation (SB 166) be recommended adversely; and, the insurance payments for covered dental services legislation (SB 167) be recommended adversely to the 2006 Legislature. The Committee took no action on legislation that allowed for removal of limitations on deductibles, coinsurance and similar payments (HB 2366), as it had requested only a progress report.