

## 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 28, 2009, in Room 136-N of the Capitol.

All members were present.

## Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes  
Melissa Calderwood, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Beverly Beam, Committee Assistant

## Conferees appearing before the committee:

Joan Wagon, Secretary, Department of Revenue (Attachment 1)  
Wylie Kannarr, Kansas Securities Commission (Attachment 2)  
Kevin Glendening, State Banking Commissioner's Office  
Melissa Calderwood, Research Department  
Senator Vratil (Attachment 3)  
Tom Krebs, KASB (Attachment 4)  
Bob Vancrum, Government Affairs Specialist, Blue Valley USD 229 (Attachment 5)  
John Meetz, Kansas Insurance Department (Attachment 6)

## Others attending:

See attached list.

**Bill introductions**

Joan Wagon, Secretary, Department of Revenue, presented an outline for the Rural Risk Bank Loan Guarantee program. Ms. Wagon said the problem which surfaced in discussions in the Kansas Innovation Consortium, even before the financial crisis emerged, is that banks are increasingly reluctant to loan funds for buildings in very rural areas. She said their costs of construction often exceed their value as collateral. Therefore, banks elevate their pricing to account for the fact that if the business doesn't survive, there may not be another use in the community for the building. She said thus, this rural risk has resulted in loan pricing being as much as 25% higher than a similar loan in a more populous market. She noted that often, the companies then turn to other banks for more competitive pricing, but often find they don't want to lend in rural markets. She said one proposed solution is for the Legislature to authorize a loan guarantee program to encourage lending in rural areas to entrepreneurial ventures so that local banks can be involved and innovative companies can locate in rural areas. She said this is nothing more than a loan guarantee. (Attachment 1)

Senator Brownlee moved introduction. Senator Steineger seconded. Motion passed.

Wylie Kannarr, Kansas Securities Commission, presented a proposed amendment to K.S.A. 2008 Supp. 40-5012a. He stated the technical changes proposed in this bill were originally submitted in 2008 as an amendment to **HB 2110**. He noted that representatives of both the insurance and viatical industries acknowledged the need for this change during last year's debate; however, the bill was caught up in procedural discussions and the proposed amendment was left out to facilitate passage of the bill on the House floor. He said this bill would clarify that the Office of the Securities Commissioner retains its jurisdiction over securities aspects of viatical settlements, bring greater uniformity to Kansas' viatical laws and keep wrongdoers from avoiding regulation. He said the amendment he is proposing is a preservation of the administrative authority of the Office of the Kansas Securities Commissioner. (Attachment 2)

Senator Brownlee moved introduction. Senator Steineger seconded. Motion passed.

Kevin Glendening, State Banking Commissioner's Office, introduced two bills. The first was amendments to the Uniform Consumer Credit Code. The second involves a transfer of the Kansas Loan Broker Act

## CONTINUATION SHEET

Minutes of the Senate Financial Institutions And Insurance Committee at 9:30 a.m. on January 28, 2009, in Room 136-N of the Capitol.

currently in the Securities Commissioner's Office to the office of the State Banking Commissioner. He said in discussions with the securities, it is confusing to the trade groups under which law they need to be licensed. Also in that bill would be amendments to the Kansas Credit Service Organization Act.

Senator Barnett moved introduction. Seconded by Senator Taddiken. Motion passed.

Hearing on:

SB 39 - School districts; direct investment moneys.

Melissa Calderwood gave an overview of the bill. She stated the Fiscal Note on **SB 39** is very thorough. She said under current law, the governing bodies of counties and municipalities have expanded investment authority to include investments in United States Government and agency securities, interest-bearing time deposits, and repurchase agreements with maximum maturities of four years. She said this expanded authority is allowed only if the municipality or county has a written investment policy that is approved annually by the Pooled Money Investment Board (PMIB). She noted that without this expanded authority, counties and municipalities may invest only in temporary notes or no-fund warrants, time deposits, open accounts, certificates of deposit, repurchase agreements and United States Treasury Bills or Notes with maximum maturities of two years. She said **SB 39** would allow the same expanded investment authority to school districts, with the same requirements of having written investment policies approved by the PMIB. She said **SB 39** could have an effect on the PMIB's future income and expenses. She said if school districts receive expanded investment authority, districts may choose to move investments from the MIP to their own investment portfolio. This would result in a loss of fee revenue to the PMIB.

Senator Vratil testified in support of **SB 39**. He stated that the language in **SB 39** would enable Kansas school districts to invest idle funds in securities issued by federal agencies. He said currently, Kansas cities and counties are authorized to invest their idle funds in securities issued by approved federal agencies. He noted that **SB 39** would add school districts to the list of entities so authorized and place the same constraints on school districts that exist for cities and counties. He said a school district would be able to invest idle funds in securities issued by federal agencies if and only if the school district has a written investment policy previously approved by the municipal pooled money investment board. In conclusion, he said the language in **SB 39** proposes to treat Kansas school districts in the same way that cities and counties are treated. If adopted, the language would enable school districts to maximize the investment potential of the districts' idle funds; therefore, reducing the burden placed on taxpayers to fund our schools. (Attachment 3)

Following questions of Senator Vratil by the Committee, Tom Krebs, Governmental Relations Specialist, Kansas Association of School Boards, testified in support of **SB 39**, stating that currently, K.S.A. 12-1677b does not include school districts when describing opportunities for governmental entities to invest idle funds. He said **SB 39** simply amends the statute to give school districts the same latitude. He noted that KASB supported this bill last year and is supportive of the bill this year. He said as part of their local school finance policies, members have adopted the stance that local boards be allowed to be the best stewards of the public's money by investing it in ways that maximize return yet always be secured and never invested in a speculative manner. He noted that this amendment allows school districts to better invest their idle funds as it gives them a wider array of possibilities from which to choose, including direct obligations of the federal government.

Robert Vancrum, Blue Valley USD 299, Government Affairs Specialist, testified in support of **SB 39**, stating that **SB 39** is a bill that would allow school districts the same monetary investment authority that is granted to cities and counties under existing law. He said the same or a similar bill passed this committee and the full Senate as **SB 425** last year but was sent to House Education and not worked last year because it was very late and because it became caught up in a logjam of education bills that didn't get worked there. He said the bill would still require the securities to be acquired pursuant to a written investment policy that must be approved by the pooled money investment board. He said the statutes currently bar mortgage backed securities from investment and that has not changed. He said adding notes and federal agency securities and US government sponsored enterprises to the list of permitted investments for USDs would allow them to receive higher returns on their short term investments.

CONTINUATION SHEET

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The Chair kept the hearing open on **SB 39**.

Hearing on

SB 50 - Risk-based capital requirements; establishing a trend test calculation.

John Meetz, Government Affairs Liaison, Kansas Insurance Department appeared in support of **SB 50**. He said this bill would add a trend test calculation to the risk-based capital requirements for property and casualty insurance companies doing business in the state of Kansas. He explained Risk Based Capital is a method developed by the NAIC to measure the minimum amount of capital that an insurance company needs to support its overall business operations. He said currently, the Insurance Department can only use the RBC ratio to determine a company's solvency. He said **SB 50** would add the use of a trend test that is calculated using a combination of the RBC and the losses, loss adjustment expenses and general expenses compared to premiums earned. He said this additional tool gives the Insurance Department a more accurate representation of a company's financial situation, thus allowing the Insurance Department to potentially take appropriate regulatory action. He said the Department believes that a trend test calculation is crucial to determining the financial solvency of the insurance companies that many Kansans rely on when faced with a disaster.

The Chair closed the hearing on **SB 50**.

Senator Barnett moved to pass SB 50 out to the full Senate. Senator Masterson seconded. Motion passed.

The next meeting is scheduled for January 29, 2009.

The meeting was adjourned at 10:20 a.m.

**FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST**

**DATE:** 1-28-09

NAME	REPRESENTING
Joe Mosimann	Hein Law Firm
Kari Presley	Kearney & Associates Inc.
Brad Stauffer	Carter Group
Tom Kutz	KASB
Wiley Kannarr	KSC
Erin Hoesje	KSC
Liz Miller	PMB
Scott Miller	PMIP
Chris Gigstad	Federico Consulting
Matt Casey	GJA ✓
Lori Church	KAPCIC
Natalie Haag	Security Benefit
Carrie Ann Lower	Aetna
Kevin Glendening	OSBC
Anne Spiess	American Cancer Society
Joan Wagner	KDOR
David R. Corbin	KDOR
Matt J. Hancum	Blue Valley USD 229
John Kratil	self
Ken Abitz	Ks. Ins. Dept.
John Meetz	KID



## Outline for Rural Risk Bank Loan Guarantee program

**The problem** which surfaced in discussions in the Kansas Innovation Consortium, even before the financial crisis emerged, is that banks are increasingly reluctant to loan funds for buildings in very rural areas. Their costs of construction often exceed their value as collateral. So, banks elevate their pricing to account for the fact that if the business doesn't survive, there may not be another use in the community for the building. Thus, this "rural risk" has resulted in loan pricing being as much as 25% higher than a similar loan in a more populous market. Often, the companies then turn to other banks for more competitive pricing, but often find they don't want to lend in rural markets.

**One proposed solution** is for the Legislature to authorize a loan guarantee program to encourage lending in rural areas to entrepreneurial ventures so that local banks can be involved and innovative companies can locate in rural areas.

### **Components** of the program:

- Banks lending in non-metropolitan areas may apply for a state loan guarantee not to exceed 50% of the loan for commercial building projects if approved by the state.
- The bank originating the loan shall be responsible for monitoring the loan, and in the case of any default, working out the loan with the borrower to obtain the collateral. The bank shall be in first position and the state, second.
- Underwriting requirements for these loans must conform to standard bank policy and cannot be modified just to qualify for this program. Repayment ability from the cash flow of the business is a primary consideration in making the loan, in addition to the business management capability, collateral and owner's equity contributions.
- Loan pricing cannot reflect an increased amount for "rural risk" and should reflect comparable pricing for similar commercial ventures in other areas.
- The program shall be administered by the State Treasurer and shall describe the application process in rules and regulation. A fee may be charged by the State Treasurer for loan administration.
- Approved loans shall be for commercial, manufacturing or value-added agricultural facilities and equipment. Loans may not be used for working capital or inventory.
- The State Treasurer shall establish an advisory committee to aid in evaluating the loan applications and determining which applicants should receive the guarantee.

*F.I. & I. Committee*

*1-28-09*

*Attachment 1*

- This state guarantee for rural risk may be combined with other guarantee programs, if they are available, such as SBA loan guarantees.
- Effective FY2011, an amount not to exceed ten percent of the value of the guaranteed portion of all loans shall be appropriated annually to fund this program until cap of \$15 million is reached. This appropriation shall be placed in a Rural Development Trust Fund and allowed to accumulate to fund repayment of these loans should a default occur. In the case of a default, the proceeds from the sale of collateral shall also be placed in this fund.
- The State Treasurer may set an annual limit for loans guaranteed by the state.

# KANSAS

OFFICE OF THE SECURITIES COMMISSIONER

KATHLEEN SEBELIUS, GOVERNOR  
CHRIS BIGGS, COMMISSIONER

January 26, 2009

Senator Teichman  
Kansas State Capitol  
300 S.W. 10<sup>th</sup> Street, Room 241 E  
Topeka, Kansas 66612

Re: Proposed amendment to K.S.A. 2008 Supp. 40-5012a

Dear Senator Teichman:

I would like to formally request you to submit the attached bill for consideration by the Senate. The technical changes proposed in this bill were originally submitted to you last year as an amendment to House Bill 2110. This bill would clarify that the Office of the Securities Commissioner retains its jurisdiction over securities aspects of viatical settlements, bring greater uniformity to Kansas' viatical laws and keep wrongdoers from avoiding regulation.

The Department of Insurance does not oppose this bill. Representatives of both the insurance and viatical industries acknowledged the need for this change during last year's debate, however, the bill was caught up in procedural discussions and our proposed amendment was left out to facilitate passage of the bill on the House floor.

The amendment that I am proposing is a preservation of the administrative authority of the Office of the Kansas Securities Commissioner. This amendment is the inclusion of Section 14(f)(2) of the NCOIL Life Settlements Model Act, which has been left out of K.S.A. 2008 Supp. 40-5012a(f). Specifically, the provision states "This Act shall not preempt, supersede, or limit any provision of any state securities law or any rule, order, or notice issued thereunder." K.S.A. 2008 Supp. 40-5012a(f)(1) already provides for preservation of our authority to investigate, examine and prosecute violations of law. Failure to include this amendment will leave the Office of the Securities Commissioner in the awkward position of having to either ignore minor violations of the Kansas Uniform Securities Act or engage in criminal prosecution.

*FI & I Committee  
1-28-09  
Attachment 2*

Thank you for your consideration of this matter. I have designated Associate General Counsel Wiley Kannarr as our liaison on this matter. Please feel free to contact either me or Mr. Kannarr with any questions you may have.

Sincerely,

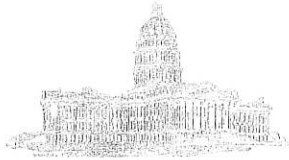
A handwritten signature in black ink, appearing to read "Chris Biggs". The signature is fluid and cursive, with the first name "Chris" written in a larger, more prominent script than the last name "Biggs".

Chris Biggs  
Securities Commissioner  
618 S. Kansas Avenue  
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(785) 296-5215



# State of Kansas

JOHN VRATIL  
SENATOR, ELEVENTH DISTRICT  
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## Vice President Kansas Senate

COMMITTEE ASSIGNMENTS  
VICE CHAIR: EDUCATION  
WAYS AND MEANS  
MEMBER: JUDICIARY  
ORGANIZATION, CALENDAR  
AND RULES  
INTERSTATE COOPERATION  
KANSAS CRIMINAL  
CODE RECODIFICATION  
COMMISSION

Testimony Presented to  
Senate Committee on Financial Institutions and Insurance  
By Senator John Vratil  
January 28, 2009  
Concerning Senate Bill 39

Good morning! Thank you for the opportunity to appear before the Senate Committee on Financial Institutions and Insurance in support of Senate Bill (SB) 39. The language in SB 39 would enable Kansas school districts to invest idle funds in securities issued by federal agencies.

Currently, Kansas cities and counties are authorized to invest their idle funds in securities issued by approved federal agencies. Senate Bill 39 would add school districts to the list of entities so authorized and place the same constraints on school districts that exist for cities and counties. A school district would be able to invest idle funds in securities issued by federal agencies if and only if the school district has a written investment policy previously approved by the municipal pooled money investment board.

The language in SB 39 proposes to treat Kansas school districts in the same way that cities and counties are treated. If adopted, the language would enable school districts to maximize the investment potential of the districts' idle funds; therefore, reducing the burden placed on taxpayers to fund our schools.

I ask that you support SB 39 because it strengthens the ability of Kansas school districts to make the best use of the resources available to them.



*FI & I Committee  
1-28-09  
Attachment 3*

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KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS



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Testimony on **SB 39**  
before the  
**Senate Financial Institutions and Insurance**

by

**Tom Krebs, Governmental Relations Specialist**  
Kansas Association of School Boards

**January 28, 2009**

Madam Chair and Members of the Committee;

Currently, K.S.A. 12-1677b does not include school districts when describing opportunities for governmental entities to invest idle funds. **SB 39** simply amends the statute to give school districts the same latitude. KASB is supportive of the bill.

Our members have adopted, as part of our local school finance policies, the stance that local boards be allowed to be the best stewards of the public's money by investing it in ways that maximize return yet always be secured and never invested in a speculative fashion. Amending K.S.A. 12-1677b allows school districts to better invest their idle funds as it gives them a wider array of possibilities from which to choose, including direct obligations of the federal government.

Thank you for your consideration.

*FI & I Committee  
1-28-09  
Attachment 4*

TESTIMONY TO SENATE FINANCIAL INSTITUTIONS AND  
INSURANCE COMMITTEE ON SB 39

January 28, 2009

Robert Vancrum, Blue Valley USD 229,  
Government Affairs Specialist

Blue Valley USD 229 is a public school district in Southeastern Johnson County with 20,563 FTE students, and comprising 91 square miles of territory. Unlike some adjacent districts it has a lot of land still in agricultural use or platted and undeveloped, and likely will return to rapid growth in housetops and new families when the current housing and economic recession has reversed itself. It has a fifth high school and ninth middle school planned, approved by the voters and in some stage of construction.

SB39 is a bill that would allow school districts the same monetary investment authority that is granted to cities and counties under existing law under KSA 12-1677 and KSA 12-1675. The same or similar bill passed this committee and the full Senate as SB 425 last year but was sent to House Education and not worked last year, both because it was very late and because it became caught up in a logjam of education bills that didn't get worked there. I am aware of no opposition to it this year.

The bill would still require the securities to be acquired pursuant to a written investment policy that must be approved by the pooled money investment board. The statutes currently bar mortgage backed securities from investment and that is not changed. But adding notes and federal agency securities and US government sponsored enterprises to the list of permitted investments for USDs would allow them to receive higher returns on their short term investments and in the case of bond funds raised for building projects especially, on mid-term investments as well. I hope you agree that this is just good money management and good government.

*FI & I Committee*

*1-28-09*

*Attachment 5*



# Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

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## TESTIMONY ON SB 50

### SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE January 28, 2009

Madam Chair and Members of the Committee:

Thank you for the opportunity to appear in support of SB 50. This bill would add a trend test calculation to the risk-based capital (RBC) requirements for property and casualty insurance companies doing business in the state of Kansas.

First, let me explain what RBC requirements actually do. RBC is a method developed by the NAIC to measure the minimum amount of capital that an insurance company needs to support its overall business operations. The Kansas Insurance Department uses RBC to set capital requirements considering the size and degree of risk taken by the insurer. If a company falls below certain RBC requirements then the Insurance Department will go through a number of steps to determine the financial "health" of the company in question, with the ultimate goal of bringing that company back to a level where it is capable of meeting its contractual obligation to Kansas policy holders.

Currently, the Insurance Department may only use the RBC ratio to determine a company's solvency. SB 50 would add the use of a trend test that is calculated using a combination of the RBC and the losses, loss adjustment expenses and general expenses compared to premiums earned. This additional tool gives the Insurance Department a more accurate representation of a company's financial situation, thus allowing the Insurance Department to potentially take appropriate regulatory action.

The trend test calculation itself does not necessarily mean that companies doing business in Kansas will have to maintain a higher level of capital. It simply means that financial surveillance personnel at the Insurance Department will have another tool to determine a company's solvency and potential trends toward insolvency.

Ultimately, we believe that a trend test calculation is crucial to determining the financial solvency of the insurance companies that so many Kansans rely upon when faced with disaster. Thank you for the opportunity to appear today I would now stand for questions.

John Meetz  
Government Affairs Liaison

*FI&I Committee  
1-28-09  
Attachment 6*