

## MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 a.m. on March 3, 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:

Melissa Calderwood, Principal Analyst, Research Department  
Kathy Olsen, KBA, (Attachment 1)  
Tom Thull, State Banking Commissioner, (Attachment 2)  
Lance Caldwell, Promontory Interfinancial Network (Attachment 3)  
Dennis McKinney, State Treasurer (Attachment 4)  
Matt Goddard, Heartland Community Bankers (Attachment 5)  
Report of the Electronic Motor Vehicle Financial Security Verification System Task Force (Attachment 6)  
Joe Thesing, NAMIC (Attachment 7)  
Alex Hageli, PCI  
Dave Hansen, Kansas Assn. Of Property & Casualty Insurers and PCI (Attachment 8)  
Lee Wright, Farmers Insurance Group (Attachment 9)  
Bren Abbott, Farmers Insurance Group (Attachment 10)  
Rick Wilborn, Farmers Alliance (written only) (Attachment 11)  
Bill Sneed, State Farm Insurance (written only) (Attachment 12)  
Travis Burk, Kansas Association for Justice (Attachment 13)

## Others attending:

See attached list.

The Chair called the meeting to order and welcomed everyone.

The Minutes were previously e-mailed to committee members; therefore, the Chair asked for a motion to approve the Minutes of February 25 and 26. Senator Kelsey so moved. Senator Colyer seconded. Motion passed.

Hearing on

**HB 2185 - Public moneys, reciprocal deposit program.**

Melissa Calderwood, Principal Analyst, Research Department, gave an overview of the bill. She stated **HB 2185** would amend current law to allow local governments and the Pooled Money Investment Board (PMIB) to deposit public funds with banks that participate in a reciprocal deposit program, such as the Certificate of Deposit Account Registry Service (CDARS). Public fund balances that exceed the amount that is insured by the Federal Deposit Insurance Corporation (FDIC) and are deposited in reciprocal deposit program banks would not be required to be secured. She noted that the PMIB estimates that passage of **HB 2185** would require increased staff time to develop new documents and operating procedures; however, any costs could be handled with existing resources. She said according to the Office of the State Bank Commissioner, enactment of **HB 2185** would have no fiscal effect on the agency.

Kathy Olsen, KBA, testified in support of **HB 2185**. She stated that this bill will codify two Kansas Attorney General's opinions regarding the utilization of Reciprocal Deposit Programs for local and state public fund deposits in Kansas. She said on April 15, 2004, Kansas Attorney General Phill Kline issued an opinion letter in response to a request from State Representative Tom Thull that first enabled local government agencies to place public funds in certificates of deposit through FDIC-insured banks, savings and loan associations and

## CONTINUATION SHEET

Minutes of the Senate Financial Institutions And Insurance Committee at 9:30 a.m. on March 3, 2009, in Room 136-N of the Capitol.

savings banks that participated in the Certificate of Deposit Account Registry Service, a reciprocal deposit program administered by Promontory Interfinancial Network, LLC.

Ms. Olsen noted that since the issuance of the 2004 opinion, more than \$1 billion in public funds have benefitted from access to the CDARS reciprocal deposit program network. She said Kansas public entities utilizing the CDARS reciprocal deposit program include, but are not limited to counties, cities, school districts, water districts and community colleges. She said a subsequent Attorney General's opinion further clarified that banks, savings & loans and savings banks could also utilize the CDARS program for state idle fund deposits provided that the Pooled Money Investment Board determined that the program is consistent with its investment goals. She added that today there are 83 Kansas banks that are utilizing the CDARS reciprocal deposit program and 23 of those banks have utilized the program for public fund deposits. She said use of the CDARS program has increased dramatically in recent months because of the loss of excess deposit insurance as a viable option for banks seeking to insure and protect private and public depositors with deposit amounts that exceed the \$250,000 FDIC insurance limit. She said the ability for Kansas banks to have access to reciprocal deposit programs to maintain the local investment of idle public funds is more important now than ever. ([Attachment 1](#))

Tom Thull, State Banking Commissioner, testified in support of **HB 2185**. He stated that this bill would clarify how reciprocal deposit programs are to be treated under the statutes concerning public funds. He noted that at a time when there is intense competition for deposits, **HB 2185** will allow Kansas banks to compete for local public deposits. He said the ability to access reciprocal deposit programs is important for two reasons. First, the rate the bank is able to pay the depositor may be higher and second, these deposits are made available to the bank's loan customers. ([Attachment 2](#))

Lance Caldwell, Regional Director, Promontory Interfinancial Network, testified in support of **HB 2185**. Mr. Caldwell said Certificate of Deposit Account Registry Service (CDARS) program is a deposit placement service that provides up to \$50 million in Federal Deposit Insurance Corporation coverage per depositor through a single financial institution. He said CDARS has received approval for Public Unit Deposits across the United States. He said CDARS allows participating financial institutions to offer a competitive rate to Public Unit Depositors regardless of what other banks are paying within the network. ([Attachment 3](#))

State Treasurer, Dennis McKinney, testified in support of **HB 2185**. Treasurer McKinney stated that there are three primary goals in the management of state idle funds. They are, one, to protect the safety of the public funds, especially idle funds, two, utilize a system that engaged competition for idle monies to secure the best possible interest earnings for the benefit of the taxpayers and, three, invest idle funds in a way that allows the funds to remain within the Kansas economy, preferably in ways that allow the funds to provide liquidity for loans within the Kansas economy. He stated that idle funds are short term investments which may be needed in the near future, therefore, safety of the principal is paramount. ([Attachment 4](#))

Matt Goddard, Vice President, Heartland Community Bankers Association, submitted written testimony only. ([Attachment 5](#))

The Chair closed the hearing on **HB 2185**.

Hearing on

### **SB 260 - No cause of action for recovery of certain loss while operating uninsured motor vehicle.**

Melissa Calderwood, Research Department, gave an overview of **SB 260**. Ms. Calderwood stated a copy of the report of the Electronic Motor Vehicle Financial Security Verification System Task Force that was chaired this past interim by the Commissioner of Insurance and her representatives is in the Committee's handout material. She stated that anyone who has not maintained the personal injury protection benefits coverage

## CONTINUATION SHEET

Minutes of the Senate Financial Institutions And Insurance Committee at 9:30 a.m. on March 3, 2009, in Room 136-N of the Capitol.

mandated by current law would be prohibited from receiving a cause of action for recovery of non-economic loss sustained as a result of the accident. In addition, she said the bill would prohibit any similar benefit to anyone convicted of or who pled guilty to an alcohol or drug related violation in connection to an accident. (Attachment 6)

Joe Thesing, Director of State Affairs, National Association of Mutual Insurance Companies, (NAMIC), testified in support of **SB 260**. He said he would provide a broad brush of the national perspective. No pay, no play legislation prohibits the recovery of non-economic damages for uninsured motorists. It does not have any impact on the collection of economic loss and it does not impact economic recovery by passengers in a vehicle, he said. He added that no pay, no play legislation, NAMIC believes, is a concrete step states can take to reduce the number of uninsured motorists in the state. Electronic systems are still unproven. Electronic verification systems are costly, he noted. There are also still privacy concerns for customers and we are dealing with multiple data bases. He said the industry is committed to finding an electronic solution. He added this no pay, no play legislation is the result of three or four years of study and I believe it is a good step forward. (Attachment 7)

Alex Hageli, PCI, testified in support of **SB 260**. No pay, no play comes in many different forms, he said. Some states are straight forward but others have multiple variations. He said the results of no pay, no play are mixed. He said with respect to the benefits of no pay, no play, it is entirely self-executing. There is no cost to the companies and no cost to the state. It does reinforce the idea that insurance is an important public policy for its residents to purchase, to drive with insurance and, if they fail to do so, there will be consequences. In concluding his remarks, Mr. Hageli agreed to provide written testimony to the Committee.

Dave Hanson, on behalf of the Kansas Association of Property and Casualty Insurance Companies, testified in support of **SB 260**. Mr. Hanson stated that in response to growing concerns, the Legislature adopted a resolution three years ago establishing a task force to look into electronic verification of motor vehicle financial security compliance. He said a number of other states have already tried to use electronic verification and none have reported much success with reducing the number of uninsured motorists, nor with trying to avoid mismatches and erroneous matches. He said more recently, a web based system for comparing information is being tested in several states, but has not yet been in use long enough, nor on a broad enough scale to recommend in Kansas. He said, therefore we looked for other alternatives to recommend and found that a few states have tried and had some success with the "no pay, no play" concept with some variations, such as increased restrictions for repeat offenders. He noted that in addition to addressing uninsured motorists, some states have also included similar restrictions on motorists driving under the influence of intoxicating liquor or drugs and that similar provisions have been included in subsection (b) of the bill. He said this is more than a fairness issue, it is a strong message to those who violate the laws of Kansas and put others' lives at risk that such conduct now puts them at risk also. Mr. Hanson said "No Pay, No Play" is essentially self-policing and it has the capability of catching those who have succeeded in evading our current system. (Attachment 8)

Lee Wright, Senior Governmental Affairs Representative for Farmers Insurance Group, testified in support of **SB 260**. Mr. Wright stated that the concept of the legislation is relatively simple. He said if an uninsured driver is involved in a vehicle accident, they are restricted to recovering only their economic damages. Economic damages would include medical expenses, lost wages, and property damage. He said the uninsured driver is not eligible to receive compensation for non-economic damages (pain and suffering). He said also, **SB 260** would preclude a person involved in an accident and convicted of DUI from recovering for non-economic damages. (Attachment 9)

Bren Abbott, Abbott, Davidson & Southard, testified in support of **SB 260**. Mr. Abbott stated that this bill is a remarkably simple bill that limits when someone can make a claim for noneconomic losses. He said it only applies in two situations. Those are, when an illegally uninsured motorist is operating an uninsured automobile and when he or she is convicted of, or pleads guilty to, refusing or failing a test for alcohol or drugs following the accident or is convicted of driving under the influence of alcohol or drugs. (Attachment 10)

CONTINUATION SHEET

Minutes of the Senate Financial Institutions And Insurance Committee at 9:30 a.m. on March 3, 2009, in Room 136-N of the Capitol.

Rick Wilborn, Farmers Alliance, submitted written testimony only in support of **SB 260**. (Attachment 11)

Bill Sneed, on behalf of The State Farm Insurance Companies, submitted written testimony only in support of **SB 260**. (Attachment 12)

Travis Burk testified on behalf of the Kansas Association for Justice in opposition to **SB 260**. Mr. Burk states that **SB 260** eliminates a cause of action for recovery of non-economic loss that is the result of an accident while operating an uninsured motor vehicle. He said non-economic damages are those damages that are not easily quantifiable in dollar amounts such as severe pain, disfigurement, and loss of enjoyment of life activities because of injury, including physical impairment. He said non-economic damages are the only compensation a jury can provide for the injury itself, as opposed to economic damages which represent the injured person's out-of-pocket costs such as lost wages, medical bills, and property damage. Mr. Burk said it is their belief that **SB 260** is disproportionate and not well tailored to encourage Kansans to buy and maintain auto coverage. He noted that **SB 260** attempts to punish people for driving without insurance coverage, but the punishment is completely disproportionate to failure to maintain insurance coverage and instead has the effect of protecting dangerous drivers. He also noted that this bill is not going to result in greater compliance with mandatory insurance coverage laws. He said this bill has the effect of punishing people who may be uninsured through no fault of their own. He added that under current law, there are already significant penalties for failure to maintain the required coverage such as fines and court costs, potential jail time and suspension of both the license of the driver and of the owner of the vehicle until damages are paid. (Attachment 13)

The Chair closed the hearing on **SB 260**.

The next meeting is scheduled for March 4, 2009.

The meeting was adjourned at 10:30 a.m.

**FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST**

DATE: 3-3-09

NAME	REPRESENTING
Travis Burk	Kansas Assoc. Justice
Lance Caldwell	Promontory / CDARS
Joe Downs Jr.	Farmers Ins. Company
Scott Gates	State Treasurer's Office
Scott Miller	Pooled Money Inv. Board
LIZ MILLER	PMIB
Dennis McKinney	Treasurer Office
Alex Kotovantz	P. I. A.
Halcy Davel	KCUA
Kari Presley	Kearney & Associates
Chuck Stokes	KBA
Tom Thull	OSBC
John Beech	KID
Lee Wright	Farmers Ins
Alex Hoyel	ACI
Lori Church	KAPCIC
Joe Thosing	NAMIC
Tracy Russell	Kansas Health Consumer Coalition
Bill Sneed	State Farm
Bren Abbott	Attorney



**Date:** March 3, 2009  
**To:** Senate Financial Institutions & Insurance Committee  
**From:** Doug Wareham, Senior Vice President-Government Relations  
**Re:** Support for H.B. 2185 – (Public Funds – Reciprocal Deposit Programs)

Madam Chair and members of the Senate Financial Institutions & Insurance Committee, I am Doug Wareham appearing on behalf of the Kansas Bankers Association (KBA). KBA's membership includes 347 Kansas banks, which operate more than 1,300 banking facilities in 440 towns and cities across the state. Thank you for the opportunity to appear in support of H.B. 2185 regarding the vitally important role Reciprocal Deposit Programs play in protecting local and state government deposits invested in qualified Kansas financial institutions.

H.B. 2185 will codify two Kansas Attorney General's opinions regarding the utilization of Reciprocal Deposit Programs for local and state public fund deposits in Kansas. On April 15, 2004, Kansas Attorney General Phill Kline issued an opinion letter in response to a request from State Representative Tom Thull that first enabled local government agencies to place public funds in certificates of deposit through FDIC-insured banks, savings and loan associations and savings banks that participated in the Certificate of Deposit Account Registry Service (CDARS), a reciprocal deposit program administered by Promontory Interfinancial Network, LLC. A copy of the 2004 Attorney General's opinion letter is attached to my testimony, along with a Regulatory Mailing (RM2004-01) from then Kansas State Bank Commissioner Clarence Norris that was sent to all state-chartered banks in May, 2004 apprising them that the CDARS reciprocal deposit program was acceptable for public funds deposits.

Since the issuance of the 2004 opinion more than \$1 billion in public funds have benefitted from access to the CDARS reciprocal deposit program network. Kansas public entities utilizing the CDARS reciprocal deposit program include, but are not limited to counties, cities, school districts, water districts and community colleges. A subsequent Attorney General's opinion on April 27, 2006, further clarified that banks, savings & loans and savings banks could also utilize the CDARS program for state idle fund deposits provided that the Pooled Money Investment Board determined that the program is consistent with its investment goals.

Today, there are 83 Kansas banks that are utilizing the CDARS reciprocal deposit program and 23 of those banks have utilized the program for public fund deposits. Use of the CDARS program has increased dramatically in recent months largely because of the loss of excess deposit insurance as a viable option for banks seeking to insure/protect private and public depositors with deposit amounts that exceed the \$250,000 FDIC insurance limit. The ability for Kansas banks to have access to reciprocal deposit programs to maintain the local investment of idle public funds is more important now than ever.

Once again, thank you for the opportunity to provide information in support of H.B. 2185 and I would be happy to stand for questions now or at the appropriate time.

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



# Office of the State Bank Commissioner

## Regulatory Mailing

### RM2004-01

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**To :** All State Chartered Banks  
**From:** Clarence W. Norris, Bank Commissioner  
**Date:** May 12, 2004  
**Re:** Certificate of Deposit Account Registry Service

As you know, examiners for the Office of the State Bank Commissioner routinely review public deposits and pledging requirements as part of the regular safety and soundness examination of banks. A recent opinion issued by the Kansas Attorney General's Office, Opinion No. 2004-9, permits governmental entities to invest idle funds which are not immediately needed in local banks which participate in a Certificate of Deposit Account Registry Service ("CDARS"). This deposit of funds is deemed to be in compliance with the requirements of K.S.A. 12-1675(b)(2).

Based on our review of the Attorney General's Opinion, as well as information on the CDARS website, [www.cdars.com](http://www.cdars.com), CDARS is a deposit placement service offered by Promontory Interfinancial Network in which a group of FDIC insured financial institutions reciprocate with one another to provide their large depositors with FDIC insurance on the entire deposit. This allows depositors to place large deposits with their local bank, and that bank in turn places those funds that exceed the FDIC limit with other banks in the CDARS network. In exchange for those deposits, the local bank receives Certificates of Deposit for the same amount from other network member banks. The depositor will continue to manage all funds with the original depository bank, so there is no need to be in contact with multiple banks regarding the funds on deposit. Monthly, the local depository bank will send a statement to the depositor listing each CD, the bank issuing the CD, maturity dates, interest earned, and other details.

The result of this arrangement is that the depositor receives FDIC coverage on its entire deposit, since each bank participating in the CDARS network will only have \$100,000 of the entity's funds on deposit; and the local bank will continue to have the entire amount of the deposit available for use in the local community because of the reciprocal deposits from other financial institutions.

The Attorney General's office opined that the CDARS program would be consistent with K.S.A. 12-1675(b)(2), if the following conditions were met:

1. The Kansas institution receiving the original deposit has a main or branch office located in the required area;
2. The Kansas institution receives reciprocal deposits in an amount equal to the funds placed by the governmental entity;
3. Other participating financial institutions are located within the U.S.; and
4. Each CD is in an amount eligible for full FDIC coverage.

A copy of the Attorney General's Opinion is attached. This mailing should not be construed as an endorsement by the Office of the State Bank Commissioner of the CDARS program or of Promontory Interfinancial Network. This mailing is provided for information purposes only.

April 15, 2004

ATTORNEY GENERAL OPINION NO. 2004-9

The Honorable John T. "Tom" Thull

State Representative, 72<sup>nd</sup> District

State Capitol, Room 302-S

Topeka, Kansas 67117

Re: Cities and Municipalities--Miscellaneous Provisions--Investment of Public Moneys by Governmental Subdivisions, Units and Entities; Conditions and Limitations; Investments in Certificates of Deposit through the Certificate of Deposit Account Registry Service (CDARS)

Synopsis: K.S.A. 12-1675(b)(2) allows specified governmental entities to invest idle public funds in certificates of deposit through FDIC-insured banks, savings and loan associations and savings banks that participate in the Certificate of Deposit Account Registry Service (CDARS). Specifically, the placement of public funds by a statutorily covered governmental entity through a participating institution would be consistent with K.S.A. 12-1675(b)(2) under the following conditions: (1) the Kansas participating institution has a main or branch office located in the investing governmental subdivision or, if applicable, in a county or counties in which all or part of the governmental entity is located; (2) the Kansas institution receives reciprocal deposits in an amount equal to the amount of funds placed by the governmental entity; (3) other participating institutions issuing certificates of deposit to the governmental entity are located throughout the United States; and (4) each certificate of deposit issued by such participating institutions is in an amount that is eligible for full FDIC insurance coverage. Cited herein: K.S.A. 12-1675; 12-1675a.

\* \* \*

Dear Representative Thull:

As State Representative for the 72<sup>nd</sup> District, you ask our opinion concerning the application of K.S.A. 12-1675(b)(2) to the investment of idle public funds by governmental entities in certificates of deposit through FDIC-insured banks, savings and loan associations and savings banks that participate in the Certificate of Deposit Account Registry Service (CDARS).

K.S.A. 12-1675 requires that idle funds of various government entities that are not immediately needed for the purposes for which they were collected or received be invested only in specified types of investments, including certificates of deposit with maturities of not more than two years in banks, savings and loan associations and savings banks.<sup>(1)</sup> Such financial institutions are, however, required to have a main or branch office located in the investing governmental unit. If such an



institution is not available, the public funds may be invested in those kinds of financial institutions that have a main or branch office in the county or counties in which all or part of the investing government unit is located.<sup>(2)</sup>

You inform us that CDARS is a bank service program by which a participating institution may arrange for the allocation of a customer's deposit in excess of the FDIC insurance limit (*i.e.*, \$100,000) among other participating institutions in amounts that are *then* eligible for insurance coverage by FDIC. The initial participating institution receives reciprocal deposits from other participating institutions (and their respective depositors) in a total amount equal to the customer's deposit. You further inform us that such reciprocal funds placed by other depositors through the participating institution are immediately available to the participating institution to meet the credit needs of its community. As you point out, the amount of a governmental entity's deposit thus effectively remains in the local financial institution through which the funds were placed.

Specifically, you ask whether the placement of public funds by a statutorily covered governmental entity<sup>(3)</sup> through a participating institution would be consistent with K.S.A. 12-1675(b)(2) under the following conditions: (1) the Kansas participating institution has a main or branch office located in the investing governmental subdivision or, if applicable, in a county or counties in which all or part of the governmental entity is located; (2) the Kansas institution receives reciprocal deposits in an amount equal to the amount of funds placed by the governmental entity; (3) other participating institutions issuing certificates of deposit to the governmental entity are located throughout the United States; and (4) each certificate of deposit issued by such participating institutions is in an amount that is eligible for full FDIC insurance coverage.

In a review of the legislative history of K.S.A. 12-1675,<sup>(4)</sup> former Attorney General Carla Stovall identified a number of complimentary purposes that the statute seeks to serve: Liquidity and a reasonable rate of return; the safeguarding of public funds; and promotion of Kansas financial institutions that would presumably invest in the local community and the State.

Regarding liquidity and a reasonable rate of return, participation in CDARS would maintain liquidity, or immediate availability, to meet community credit needs the same as if the full investment were deposited in a Kansas financial institution. Additionally, as the rate of return is statutorily established,<sup>(5)</sup> any negotiated interest rate would need to conform with those statutory parameters.

Regarding the safeguarding of public funds, initially we note that although the term "invested" as required by K.S.A. 12-1675 is not statutorily defined, the ordinary meaning<sup>(6)</sup> is "to commit money for a long period in order to earn a financial return; to place money with a view to minimizing risk rather than speculating for large gains at greater hazard."<sup>(7)</sup> Certainly, participation in CDARS would increase the safety and minimize the risk of invested funds as all funds would enjoy the benefit of FDIC insured protection, not just the first \$100,000. Thus participation in CDARS would maximize the safeguarding of public funds for amounts over the first \$100,000 of a public entity's investment.

Finally, participation in CDARS would continue to further the promotion of Kansas financial institutions that would presumably invest in the local community and the State as the full amount of a public entity's deposit would be available to the local financial institution to meet community credit needs.

In conclusion, it is our opinion that K.S.A. 12-1675(b)(2) allows the specified governmental entities to invest idle public funds by governmental entities in certificates of deposit through FDIC-insured banks, savings and loan associations and savings banks that participate in the Certificate of Deposit Account Registry Service (CDARS). Specifically, the placement of public funds by a statutorily covered governmental entity through a participating institution would be consistent with K.S.A. 12-1675(b)(2) under the following conditions: (1) the Kansas participating institution has a main or branch office located in the investing governmental subdivision, or if applicable, in a county or counties in which all or part of the governmental entity is located; (2) the Kansas institution receives reciprocal deposits in an amount equal to the amount of funds placed by the governmental entity; (3) other participating institutions issuing certificates of deposit to the governmental entity are located throughout the United States; and (4) each certificate of deposit issued by such participating institutions is in an amount that is eligible for full FDIC insurance coverage.

Sincerely,

Phill Kline

Attorney General of Kansas

Camille Nohe

Assistant Attorney General

PK:JLM:CN:jm

1. K.S.A. 12-1675(b)(2).

2. *Id.*

3. County, city, township, school district, area vocational-technical school, community college, firemen's relief association, community mental health center, community facility for the mentally retarded or any other governmental entity, unit or subdivision of the state of Kansas having authority to receive, hold and expend public moneys or funds.

4. Attorney General Opinion No. 2001-35.

5. The statutorily required "investment rate" is a rate which is the equivalent yield for United States government securities having a maturity date as published in the Wall Street Journal, nearest the maturity date for equivalent maturities. K.S.A. 12-1675a(g).

6. See *e.g.*, *State v. Cameron*, 30 Kan.App.2d 1156, 1158 (2002) (words in a statute are given their ordinary and plain meaning).

7. Webster's 3<sup>rd</sup> New International Dictionary, p. 1189 (1968).



KATHLEEN SEBELIUS, Governor

OFFICE OF THE STATE BANK COMMISSIONER

J. THOMAS THULL, Bank Commissioner

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

March 3, 2009

To: Ruth Teichman, Chairman; Karin Brownlee, Vice Chairman; Chris Steineger, Ranking  
Minority Member; Jeff Colyer; Jim Barnett; Mark Tadiken; Richard Kelsey; Tom Holland;  
Ty Masterson  
From: J. Thomas Thull, Bank Commissioner  
Re: HB 2185  
Date: March 3, 2009

Members of the Senate Financial Institutions and Insurance Committee, I am Tom Thull, Bank Commissioner, and I am appearing in support of HB 2185.

The bill would clarify how reciprocal deposit programs are to be treated under the statutes concerning public funds. Our office requested an Attorney General's opinion concerning one particular reciprocal deposit program, called CDARs, offered by Promontory Interfinancial Network. We are still awaiting issuance of the opinion.

In addition to Promontory Interfinancial Network, there is at least one other such reciprocal deposit program available now, and others may follow. Therefore, it appears that legislation to clarify these issues is the most efficient and comprehensive way to address them. This legislation would in effect clarify that these reciprocal deposits are to be treated as any traditional FDIC insured deposit in a financial institution.

At a time when there is intense competition for deposits, HB 2185 will allow Kansas banks to compete for local public deposits. The ability to access reciprocal deposit programs is important for two reasons. First, the rate the bank is able to pay the depositor may be higher. Second, these deposits are made available to the banks loan customers.

With respect to the impact that pledging has on the rates paid on public deposits, Earl McVicker, Chairman of the Board and President, Central Bank and Trust Company, Hutchinson, KS says pledging may reduce the rate paid on the deposit by as much as 1%, or depending on the cost of the securities pledged, the bank may lose up to 1% on the amount of the deposit. Earl wanted me to remind you that if the bank has to purchase securities, the amount of money used to purchase securities is no longer available to make loans.

Respectfully,

J. Thomas Thull  
Bank Commissioner

*FI&I Committee  
3-3-09  
Attachment 2*

Written Testimony for the Record of

Lance Caldwell  
Regional Director  
Promontory Interfinancial Network, LLC

Regarding House Bill No. 2185

Before the Senate Financial Institutions and Insurance Committee  
March 3, 2009

Thank you Ms. Chairwoman and Committee members for this opportunity to provide a written statement regarding the Certificate of Deposit Account Registry Service (CDARS).

My name is Lance Caldwell and I serve as Regional Director for Promontory Interfinancial Network, LLC (Promontory) which is based in Arlington, VA. I, along with my team members, support approximately 83 financial institutions across Kansas in utilizing our services. Promontory was founded in 2002 by former regulators Gene Ludwig, Alan Binder and Mark Jacobsen. A copy of our founders and board members is attached.

The CDARS program is a deposit placement service that provides up to \$50 million (or more) in Federal Deposit Insurance Corporation (FDIC) coverage per depositor through a single financial institution. With almost 3,000 network members nationwide, billions of dollars are placed through the programs each week.

CDARS has received approval for Public Unit Deposits across the United States. Currently, CDARS is enabled in 43 states and there are 2 states with legislation pending. I have attached a map of the country which depicts the availability of this program to Public Unit Depositors.

CDARS allows participating financial institutions to offer a competitive rate to Public Unit Depositor regardless of what other banks are paying within the network. In some cases, the rates offered to the Public Entity can be higher since the financial institution does not have to pledge collateral and the deposits are available for local lending purposes. I have attached a diagram which depicts how the CDARS service neutralizes rate differences across participating members.

Thank you for this opportunity to comment today and Promontory supports House Bill No. 2185. I am available to answer any additional questions you may have regarding Promontory or CDARS.

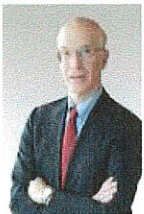
*FI&I Committee  
3-3-09  
Attachment 3*

# The People Behind Promontory

## Founders



**Eugene A. Ludwig**  
**Chairman & CEO**  
 Former Comptroller of the  
 Currency



**Alan S. Blinder**  
**Vice Chairman**  
 Former Vice Chairman of  
 the Board of Governors of  
 the Federal Reserve System



**Mark P. Jacobsen**  
**President & COO**  
 Former Chief of Staff of  
 the FDIC and Office of the  
 Comptroller of the Currency

## Board Members

**Eugene A. Ludwig**

Chairman & CEO, Promontory Interfinancial Network  
 Former Comptroller of the Currency

**Alan S. Blinder**

Vice Chairman, Promontory Interfinancial Network  
 Former Vice Chairman, Federal Reserve Board

**James M. Culberson**

Chairman Emeritus, First National Bank & Trust  
 Former President, American Bankers Association

**Art Certosimo**

Vice Chairman, Promontory Interfinancial Network  
 EVP and Head of Broker Dealer Services,  
 Bank of New York Mellon

**Kenneth M. Duberstein**

Chairman & CEO, The Duberstein Group  
 Former White House Chief of Staff

**Mark P. Jacobsen**

President & COO, Promontory Interfinancial Network  
 Former Chief of Staff, Comptroller of the Currency  
 and FDIC

**Edward W. Kelley, Jr.**

Former Governor, Federal Reserve Board

**Frank N. Newman**

Chairman & CEO, Shenzhen Development Bank,  
 China; Chairman Emeritus, Bankers Trust  
 Company

**Donald G. Ogilvie**

Chairman, American Bankers Association  
 International; Former President and CEO, ABA

**Warren Rudman**

Co-Chairman, Stonebridge International  
 Former U.S. Senator

**Jeffrey B. Schreier**

Managing Director, Bank of New York Mellon

**L. William Seidman**

Chief Commentator of CNBC-TV  
 Former Chairman, FDIC

**J. Michael Shepherd**

President & COO, Bank of the West

**O. Jay Tomson**

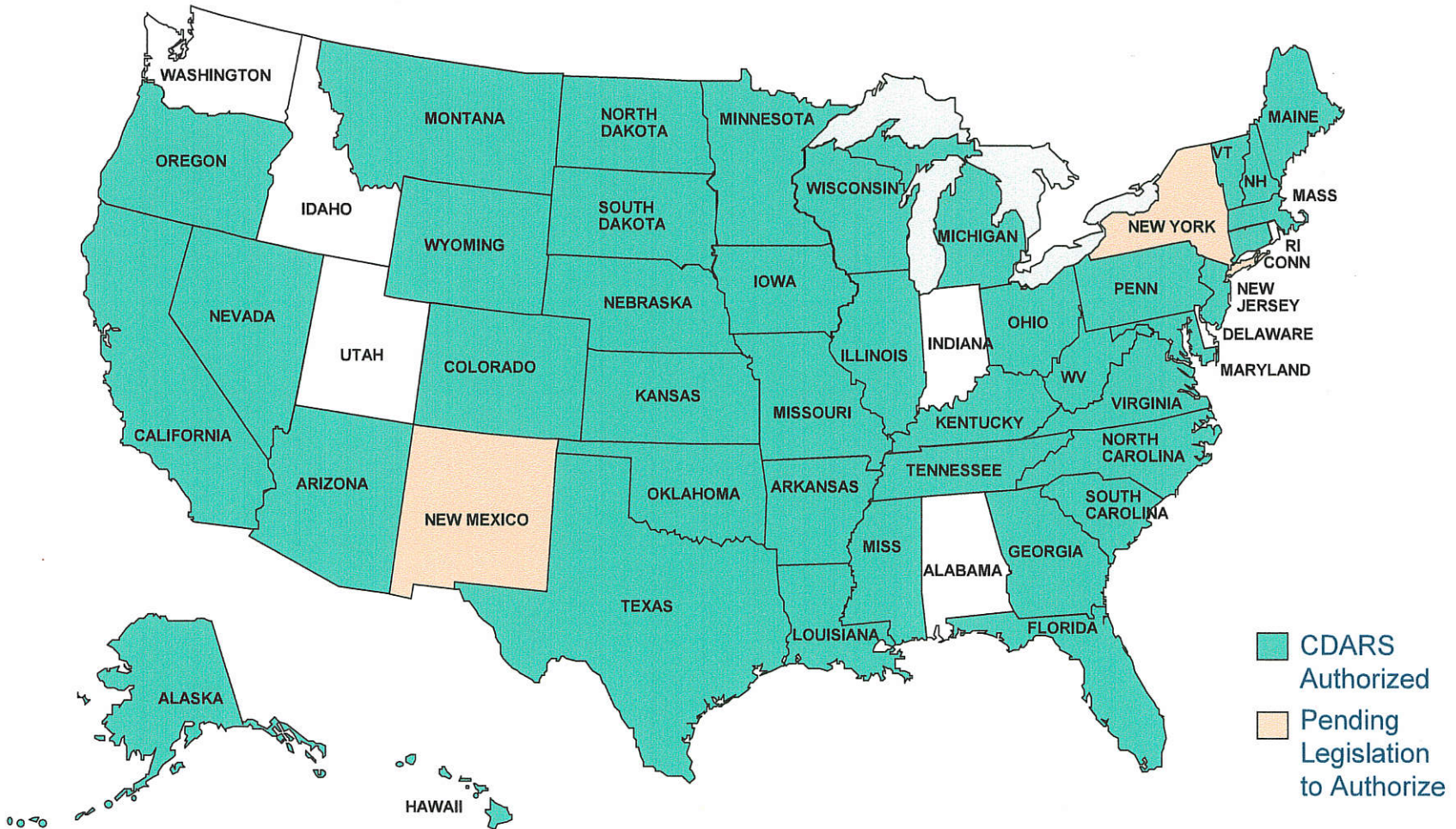
Chairman, First Citizens National Bank, Mason  
 City, IA; Former President, Independent  
 Community Bankers of America

**Frank G. Zarb**

Chairman, Frank Zarb Associates  
 Former Chairman & CEO, NASD

# Availability of CDARS for Local Governments

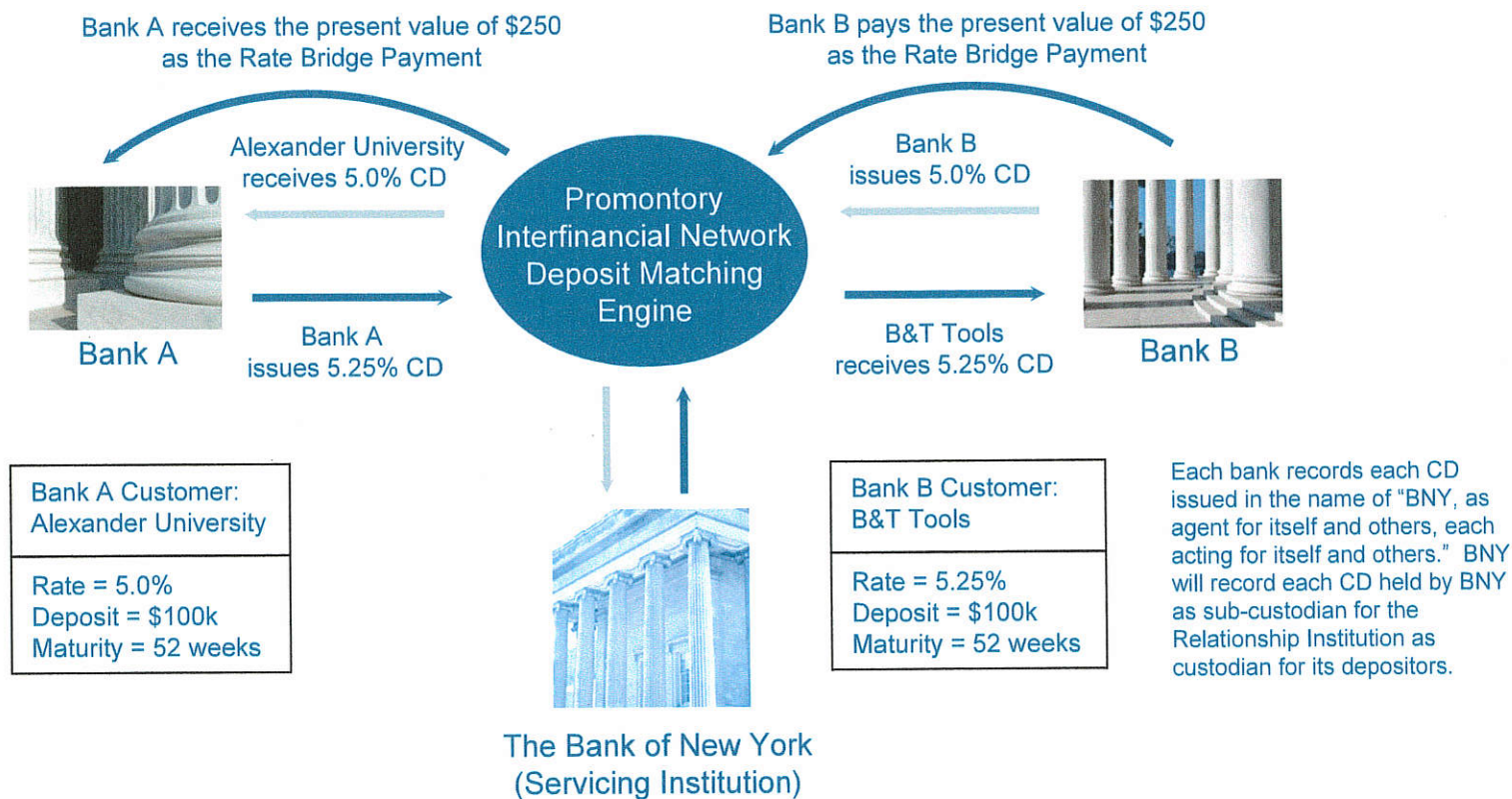
As of January 2009



3-5

# CDARS Reciprocal Transactions

## Your Bank Controls the Interest Rate



The Rate Bridge Payment =  $PV \{(5.25\% - 5.0\%) \times \$100,000\} = PV \text{ of } \$250$



## What if CD Rates are Different Between Banks?

Here is a one-to-one example:

Bank A agree to pay its customer 5.00%.

---

Bank B agrees to pay its customer 5.25%.

---

Bank A issues and insures CD for Bank B customer at Bank B's rate, 5.25%.

---

Bank B issues and insures CD for Bank A customer at Bank A's rate, 5.00%.

---

Bank B sends **Rate Bridge Payment** equal to the present value of  $0.25\% \times \text{Principal Amount}$  to Bank A.







STATE OF KANSAS

**Dennis McKinney**

TREASURER

900 SW JACKSON ST, STE 201  
TOPEKA, KANSAS 66612-1235

PHONE: 785-296-3171

FAX: 785-296-7950

March 3, 2009

Testimony to the Senate Committee on Financial Institutions

Hearing on Public Funds Deposits and Reciprocal Loan Agreements, HB 2185

Thank you Mr. Chairman for the opportunity to provide comments on the issue of reciprocal deposit agreements for the deposit of state funds.

There are three primary goals in the management of our idle funds:

1. Protect the safety of the public funds, especially idle funds. A large part of idle funds are not open to long term investment as they will be needed for expenditure within 30 days and even more within 90 days. Therefore, it is imperative that the monies be safe and available when needed.
2. Utilize a system that engages competition for idle monies to secure the best possible interest earnings for the benefit of taxpayer.
3. In a manner consistent with goals one and two, invest idle funds in a way that allows the funds to remain within the Kansas economy, preferably in ways that allow the funds to provide liquidity for loans within the Kansas economy. One study conducted at Wichita State University indicates a significant benefit to the Kansas economy when public funds facilitate loans and business investment within our economy.

My concern is growing that more and more public funds in Kansas are moving into non-bank investments such as federal agency securities which have more risk than a bank deposit, a slightly higher return on the investment, and take the public funds completely out of the Kansas economy. We should begin to give more attention to this issue over the next year.

Reciprocal deposit agreements give us an avenue to have the benefit of the best insurance known today, FDIC Insurance. In addition, the reciprocal agreements also help us to find

*FI&I Committee  
3-3-09  
Attachment 4*

competitive rates from Kansas banks which will, in turn, use these deposits to make loans in the Kansas economy. This remains an effective way to strengthen the Kansas economy.

House committee amendments address the two concerns which I shared with the Director of Investments of the Pooled Money Investment Board. Those two concerns were as follows.

First, several days may elapse between the placement of the deposit with the originating bank and distribution of the monies to the reciprocal banks. Wyoming covers its risk during this period by requiring that securities be pledged as collateral by the originating bank (as under current law) to secure the state's funds during this distribution period. I recommend a similar requirement under our law. House amendments clarify that the PMIB may, by policy, insure that all deposits under this program are insured or collateralized at every step of the process.

Second, certificates of deposit are currently held by the state in the Treasurer's vault. If a reciprocal deposit program finds this difficult, some type of third party should verify all of the appropriate documents are in place to secure the state's deposits. Under the program described to the committee on Monday, Feb. 2, this would be achieved by certificates or book entry records being maintained in a third party custodial bank which would also provide real time updates on the status of the deposits. We want to be clear that PMIB will, by board policy, insure this level of safety.

Again, idle funds are short term investments which may be needed in the near future. Therefore, safety of the principal is paramount. I believe that the reciprocal deposit program authorized in 2185 will allow us to achieve this level of safety for our short term investments, provide competition for our investments to protect the taxpayers' interests, and facilitate greater lending and investment in the Kansas economy by Kansas banks.

Thank you for allowing me time to present the views of the Treasurer's office.



Matthew S. Goddard, Vice President

700 S. Kansas Ave., Suite 512  
Topeka, Kansas 66603  
Office (785) 232-8215 • Fax (785) 232-9320  
mgoddard@hcbankers.com

To: Senate Financial Institutions and Insurance Committee

From: Matthew Goddard  
Heartland Community Bankers Association

Date: March 3, 2009

Re: House Bill 2185

The Heartland Community Bankers Association appreciates the opportunity to appear before the Senate Committee on Financial Institutions and Insurance to express our support for House Bill 2185.

House Bill 2185 codifies two opinions from the Kansas Attorney General that allow public funds to be invested in certificates of deposit in a reciprocal deposit program. The first opinion, Opinion No. 2004-9, dealt with local units of government while the second opinion, Opinion No. 2006-10, concerned state monies.

In a reciprocal deposit program, a bank or savings and loan accepts a deposit from a customer that is in excess of the Federal Deposit Insurance Corporation limit, currently set at \$250,000. With the facilitation of the reciprocal deposit program administrator, the financial institution then deposits the uninsured funds with members of the reciprocal network so that each deposit does not exceed the \$250,000 FDIC limit. By opening accounts and depositing the uninsured funds at multiple institutions, the entire deposit is now insured by the federal government.

The key to the reciprocal network is that at the same time one institution is sending uninsured funds to other depositories, the reciprocal deposit program administrator is sending an equal amount of funds back to the original bank or savings and loan. Not only are the dollar amounts the same, but so are the terms of the CD. So, if a customer makes a \$1 million deposit into ABC Savings Bank for a one year term and 1.5 percent interest rate, ABC can send \$750,000 into the reciprocal network and get back \$750,000 for one year at 1.5 percent.

HCBA believes it is important when considering HB 2185 to remember that it merely codifies the status quo. The bill does not change any current practices. Any costs associated with the reciprocal network would continue to be born by the participating financial institution.

The Heartland Community Bankers Association respectfully requests the Senate Financial Institutions and Insurance Committee recommend House Bill 2185 favorable for passage.

Thank you.

*FI&I Committee  
3-3-09  
Attachment 5*

**Report of the  
Electronic Motor Vehicle Financial  
Security Verification System Task Force  
to the  
2009 Kansas Legislature**

**CHAIRPERSON:** Insurance Commissioner Sandy Praeger

**VICE-CHAIRPERSON:** Representative Delia Garcia

**LEGISLATIVE MEMBERS:** Senators Ruth Teichman and Anthony Hensley; and Representative Virgil Peck

**NON-LEGISLATIVE MEMBERS:** Consumer Interests representative, Gavin Wittman, Educational Credit Union, Topeka, Kansas; Law Enforcement representative, Major Mark Bruce, Kansas Highway Patrol, Topeka, Kansas; Law Enforcement representative, Jerry Little, Lawrence City Prosecutor, Lawrence, Kansas; Department of Revenue representative, Tim Blevins, CIO, Department of Revenue, Topeka, Kansas; Division of Motor Vehicles representative, Carmen Alldritt, Director of Motor Vehicles, Topeka, Kansas; KAIFA representative, Jean Curry, Shelter Insurance Company, Salina Kansas; KAIA representative, Doug Buckles, Newkirk, Dennis, and Buckles, Independence, Kansas; NAMIC representative, George Cooper, State Farm, Bloomington, Illinois; AIA representative, Ginny Boyles, ACE-INA Group, Philadelphia, Pennsylvania; KAPCIC, foreign company, Tony Kimmi, Farm Bureau, Manhattan, Kansas; KAPCIC, domestic company, Brad Miller, Farmers Alliance, McPherson, Kansas; PCI representative, Alex Hageli, PCI, Des Plaines, Illinois; Top 6 Auto Insurance Writers in Kansas, Lee Wright, Farmers Insurance Group, Overland Park, Kansas; Insurance Department representative, Commissioner Sandy Praeger, Topeka, Kansas

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December 2008

*FI&I Committee  
3-3-09  
Attachment 6*

# Electronic Motor Vehicle Financial Security Verification System Task Force

## RESPONSE TO UNINSURED MOTORISTS—THIRD YEAR REPORT

### CONCLUSIONS AND RECOMMENDATIONS:

The Task Force notes that it received testimony from three families who shared their personal experiences with uninsured motorists. The Task Force appreciates the families' participation in its discussion and its consideration of an electronic verification system that is appropriate for Kansas.

In its discussion of the criteria established by 2008 SCR 1616 and in consideration of the recommendations and conclusions of the two previously authorized Task Forces, the Task Force makes a number of conclusions and recommendations:

- **Uninsured motorist solutions: Pool for compensation of property damages.** The Task Force considered the option presented by the Dodge City government representatives and appreciates the proposal to provide compensation for property damages through a surcharge on vehicle tags. *As the Task Force considers how best to address uninsured motorists, it believes that this proposal does not warrant further study, however, as the proposal further penalizes those individuals who choose to license or tag a vehicle. The Task Force is unaware of the actuarial necessity for the Pool and the potential impact on those individuals who pay vehicle fees and tag renewal fees.*
- **Uninsured motorist solutions: No Pay, No Play.** After considerable discussion about the appropriate level of non-economic damages able to be recovered by impaired drivers and uninsured drivers, *the Task Force is supportive of legislation that would bar uninsured motorists from the recovery of non-economic losses sustained as the result of an accident that occurred while the motorist was operating an uninsured vehicle.* The Task Force recommends that such motorists should not be permitted to recover any property damages in accidents where the motorist fails to maintain financial security, as required by Kansas law. The Task Force notes its consideration of 2005 HB 2286.
- **Design of an Electronic Motor Vehicle Financial Security Verification System.** The Task Force cites its continued review, time spent during the past three Interim sessions, and its considerable discussion on defining "real-time" verification and how to best develop a verification system for Kansas. The Task Force has reviewed the experiences in other states including the potential for a web-based verification system while carefully considering the needs of law enforcement, the Division of Motor Vehicles, the courts, the insurers, and Kansas motorists. *The Task Force acknowledges the importance of this time and review in developing a verification system and cites four goals to serve as the framework for addressing electronic real-time verification in the future:*

- *Assist the Director of Motor Vehicles and county treasurers in registration of motor vehicles in compliance with motor vehicle financial security law,*
- *Provide law enforcement officers with roadside information during traffic stops to determine whether vehicles are in compliance with motor vehicle financial security law,*
- *Provide greater assurance to the motoring public that other vehicles on the road are insured as required by law, and,*
- *Offer convenient insurance policy interface and reporting for companies required to provide insurance policy information to the state.*

**Proposed Legislation:** None. (The Task Force is not permitted to introduce legislation).

## BACKGROUND

The 2008 Legislature considered proposals to address uninsured motorists' issues, including the recommendations of a task force convened during the 2006 and 2007 Interim.

During its review the Legislature passed SCR 1616, which reauthorized the task force enacted by the 2006 Legislature (SCR 1619). The task force was reauthorized by the 2007 Legislature (SCR 1603).

The 2007 Task Force made three conclusions in its report to the 2008 Legislature:

- While the Task Force makes no recommendation on an electronic verification system, it does encourage continued monitoring of a number of issues identified during its meetings.
- The Task Force encourages AAMVA, NAIC, and NCOIL to adopt standards for states to use in developing their electronic financial security verification systems.
- The Task Force calls on the Legislature to evaluate lower-cost insurance options and review the compulsory requirements for proof of auto insurance.

The task force, as authorized by 2008 SCR 1616, was again called to study the design of an electronic motor vehicle financial verification

system for real time verification of compliance with the financial security requirements of KSA 40-3401 *et seq.* to combat uninsured motorists.

The resolution stated that the design of an electronic motor vehicle financial security verification system needs to include the following factors:

- The likelihood the system would reduce the number of uninsured motorists in the state;
- The likelihood the system would aid law enforcement in the identification of uninsured motorists in this state;
- The reliability of the system;
- The cost-effectiveness of the system;
- Privacy protections of the system;
- Data security and integrity of the system; and
- Any other issue related to the proper design and implementation of the system.

A copy of the Task Force reports can be obtained from the Kansas Legislative Research Department.

The 18 members of the Task Force were appointed as follows:

- The Insurance Commissioner or designated representative;
- The Secretary of Revenue or designated representative;
- The Director of the Division of Motor Vehicles or designated representative;
- Four legislators—one member each appointed by the Senate President, the Senate Minority Leader, the Speaker of the House of Representatives, and the House Minority Leader;
- One member representing a domestic property and casualty insurance company appointed by the Insurance Commissioner from a list submitted by the Kansas Association of Property and Casualty Insurance Companies;
- One member representing a foreign property and casualty insurance company appointed by the Insurance Commissioner from a list submitted by the Kansas Association of Property and Casualty Insurance Companies;
- One member representing foreign stock insurance companies appointed by the Insurance Commissioner from a list submitted by the American Insurance Association;
- One member representing automobile insurance companies appointed by the Insurance Commissioner from a list of the top six automobile insurance premium writers in Kansas;
- One member representing a property and casualty company appointed by the Insurance Commissioner from a list submitted by the Property Casualty Insurers Association of America;
- One member representing a property and casualty company appointed by the Insurance Commissioner from a list submitted by the National Association of Mutual Insurance Companies;
- One member representing the Kansas licensed insurance agents appointed by the Insurance Commissioner from a list submitted by the Kansas Association of Insurance Agents;
- One member representing licensed Kansas insurance agents appointed by the Insurance Commissioner from a list submitted by the Kansas Association of Insurance and Financial Agents;
- Two members appointed by the Governor representing law enforcement; and
- One member appointed by the Governor representing the consumer interests.

SCR 1616 requires a report that contains the results of the Task Force's study and its recommendations and conclusions be transmitted to the Speaker of the House of Representatives, the Senate President, the Chairperson of the House Insurance and Financial Institutions Committee, and the Chairperson of the Senate Financial Institutions and Insurance Committee no later than the convening of the 2009 Kansas Legislature.

#### **TASK FORCE ACTIVITIES**

The Task Force conducted its meetings in the State Capitol on Thursday, October 9, 2008, and Thursday, December 11, 2008. Task Force meetings included testimony from members of the general public who had automobile accident experiences with uninsured motorists, a state legislator and Dodge City representatives, Task Force members (low-cost auto insurance policies; pay-to-play options), and representatives of the

Kansas Insurance Department and the Kansas Department of Revenue. In December, the Task Force elected Representative Delia Garcia as its Vice-Chairperson.

During its October meeting, the Acting Chairman welcomed Task Force members and introductions were made. Task Force members were provided copies of the previous Task Force reports, the authorizing legislation, and other resource materials associated with the Task Force review.

**Finding Solutions.** Representative Pat George opened the discussion on finding solutions, including legislation, to addressing issues associated with uninsured motorists. Joining the representative were Dodge City Mayor, Kent Smoll, and the City Attorney, Terry Malone. Mayor Small spoke of the high incident of persons driving uninsured motor vehicles in western Kansas and suggested that one solution would be a requirement of an annual automobile insurance premium that is only refundable upon return of the vehicle tag. This solution, however, he continued, would create a real hardship for the average citizen, particularly many workers living from paycheck to paycheck. Mayor Smoll urged the Task Force to consider a fee that would be collected at the time of the securing a tag for a vehicle – this modest fee (projected at \$10-\$15/vehicle) would be placed into an insurance pool to pay out property damage-only claims of less than \$5,000. Each claim would be subject to a small deductible to discourage fraud. (The State would contract with insurance companies to offer UMI coverage). Mayor Smoll also encouraged the Task Force and the Legislature to consider enactment of stricter penalties for driving uninsured, noting that a number of the uninsured also are unlicensed. City Prosecutor Malone noted that during his tenure, he has encountered many situations involving uninsured motorist accidents and the devastating consequences on the working poor. The prosecutor encouraged the Task Force to study the concept of uninsured motorist property damage coverage and noted

efforts in other states. Task force members discussed whether results had been seen in states mandating some level of Uninsured Motorist Property Damage (UMPD) coverage, whether current UMPD policyholders would cancel existing coverage (optional) and opt for coverage under the pool, and whether the suggested fee would be sufficient given the number of vehicles tagged in Kansas.

**Perspectives.** The Task Force next received written testimony from Rusty and Julie Russell of Independence. The Russells detailed information about Ms. Russell's parents injuries as a result of an auto accident near Caney in January 2005. While Ms. Russell's mother and the other driver sustained minor injuries, the auto accident proved fatal for her father. While dealing with the results of the accident and the resulting medical costs, the family learned that the other driver (who had failed to stop at a stop sign) had no auto insurance. The Russell family asked the Task Force to consider penalties for driving without insurance that are severe enough to help reduce the burden those motorists inflict on other drivers and their families. The Task Force also heard from Bill Bradt of Forsyth, Missouri, whose wife died as a result of an automobile accident on Highway 400 west of Fredonia. The driver at fault had no driver's license and the vehicle owner did not carry automobile insurance. Mr. Bradt asked that Kansas consider implementing a follow-up system (to the compulsory liability insurance requirement) to ensure that drivers retain that insurance coverage. New York and Louisiana were cited as states with systems Kansas could consider. Mr. Bradt encouraged the Task Force to consider whether or not a person involved in an accident with an uninsured motorist will be able to collect from the insured motorist's own insurance company and what will happen to the person's rates at the time of renewal, as well as the impact on an uninsured motorist's "rate" and effectively all insured drivers' rates. Mr. Bradt also encouraged the Task Force to review the Insurance Industry Committee on



Motor Vehicle Administration (IICMVA) report on using web-based auto insurance verification. Mr. Bradt also asked the Task Force to reconsider the severity of the penalties for driving without insurance. The Task Force discussed the status of states' verification systems as identified in the IICMVA report and a member distributed an article about the progress of web-based verification in Texas (TexasSure database, funded by an annual fee of \$1 paid at the time of registration or registration renewal).

In December, the Task Force heard from Joe Francis, Humboldt, about a March 2008 accident affecting the life of his daughter. His daughter has over \$500,000 in medical bills paid for by her health insurance. The other driver in the accident was at fault and driving a borrowed car. The car insurance on the vehicle had expired about three weeks prior to the accident. Mr. Francis asked the Task Force to consider the expenses an insured driver faces when in an accident, whether at fault or not at fault. He further stated that a proposal worthy of consideration would be denying compensation from insurers or other persons involved in an accident to uninsured motorists. Responding to a Task Force question, Mr. Francis indicated he was very supportive of pay-to-play options.

**Low-Cost Policies.** Task Force member Ginny Boyles (ACE representative), briefed the Task Force on low-cost auto insurance policies, including New Jersey's BASIC policy. Ms. Boyles noted this low-cost policy is designed for persons who have little or no assets to protect and provides minimum coverage protection. The BASIC policy provides: \$5,000 in Property Damage Liability coverage and \$15,000 in medical coverage (Personal Injury Protection or PIP). The BASIC policy does not include any coverage if the insured injures someone else in an at-fault accident. However, Ms. Boyles continued, optional \$10,000 in Bodily Injury Liability is available. If the optional Bodily Injury coverage is not purchased, there is no coverage for pain, suffering or other personal hardships

and the insured could be responsible for certain economic damages, such as lost wages, in an at-fault accident. No coverage is provided under this form for Uninsured/Underinsured Motorist or Physical Damage (although offered as an option by some insurers), and only the Limited Right to Sue option is provided for PIP. Ms. Boyles encouraged consideration of minimum limits for Property Damage and Medical Coverage. At the time the BASIC policy was developed, there was both an affordability and availability issue in the marketplace, with very few choices of insurers. Task Force members discussed addressing availability and the Dollar-A-Day medical coverage in New Jersey (eligible Medicaid recipients) and how a Kansas policy could look. Ms. Boyles' comments also addressed low-cost options in California.

#### **Verification System Design Requirements.**

Neil Woerman, Director of Information Technology, Kansas Insurance Department, next briefed the Task Force on work by the Department, along with Department of Revenue staff (Task Force members Alldritt and Blevins) and law enforcement representatives, to create requirements for the design of an electronic motor vehicle financial security verification system. Mr. Woerman first outlined four goals or specifications for the system:

- Assist the Director of Motor Vehicles and county treasurers in registration of motor vehicles in compliance with motor vehicle financial security law;
- Provide law enforcement officers with roadside information during traffic stops to determine whether vehicles are in compliance with motor vehicle financial security law;
- Provide greater assurance to the motoring public that other vehicles on the road are insured as required by law; and,
- Offer convenient insurance policy interface and reporting for companies required to

provide insurance policy information to the state.

Mr. Woerman also addressed twelve suggested requirements for the system design. Among those requirements are: Searches must be national, and if possible international, in scope, not just for vehicles registered in Kansas (1); Information must be "near real-time". This term will need to be defined, but should occur as soon as practical following any motor vehicle transaction to initiate or cancel coverage (2); System must be easily, reliably and accurately accessible from a patrol car, fixed locations and from other computer applications such as the state's electronic vehicle registration system (5); System must maintain compliance with approved national data standards for exchange of electronic insurance reporting information (8); and a new system meeting these requirements should be established legislatively to replace the current system maintained by the Department of Revenue (10).

**Task Force Discussion.** The Task Force discussed the specifications and requirements at length, with questions about whether a vendor could meet all twelve requirements and what states have met all or most of the requirements. Task Force members representing the Kansas Department of Revenue discussed modernization efforts with registration and driver's licenses and the model presented by the National Law Enforcement Telecommunications System (NLETS) transactions. The Department representatives also discussed the Vehicle Information Processing System (VIPS) modernization, noting a target completion of 2010. The Task Force discussed the importance of a national scope and access to national data as part of the framework for verification. Task Force members then reviewed the requirements for insurance companies, with focus on how companies would report data (at the state level or to a national source), the impact of reporting requirements for smaller companies, and whether states

had a common protocol for reporting, such as IICMVA protocols. Task Force members also discussed issues associated with enforcement and punishment of uninsured motorists and how to best approach a reduction in the number of uninsured motorists – from verification systems to ID cards (fraud prevention) to affordability and cost issues to education of the general public (risk of lawsuits, personal assets).

**No Pay, No Play Options.** In December, the Task Force received testimony from David Hanson, Kansas Association of Property and Casualty Insurance Companies (KAPCIC)/Property Casualty Insurers Association of America (PCI) regarding the concept of no pay, no play (or pay to play). Mr. Hanson reviewed a provision in the Kansas Automobile Injury Reparations Act (KSA 40-3117) regarding tort actions and the ability to recover damages for pain and suffering. Mr. Hanson asked the Task Force to review 2005 HB 2286 which would have provided that persons who are injured in an automobile accident, but do not have PIP benefits protections (as required under the Act), would have no cause of action for the recovery of noneconomic loss sustained as a result of the accident. Additionally, persons convicted, in connection with the accident, under the state laws governing breath or blood alcohol test refusal or test failure, DUI, and DUI for persons under 21, would not have a cause of action for the recovery of the noneconomic damages.

Alex Hegeli, PCI representative to the Task Force, talked about states' laws addressing noneconomic damages and the uninsured motorist rates in those states. Mr. Hanson noted that KSA 40-3117 establishes a precedent by limiting recoveries. The Task Force members further discussed activities in other states including recovery of damages to vehicles, towing laws, the ability for passengers to sue for pain and suffering, and the recovery of medical expenses.

**Consideration of Design System Requirements.** The Task Force continued its discussion of the design goals and requirements at its December meeting. The Task Force discussed whether the requirements could be included in an RFP in the systems' modernization at the Kansas Department of Revenue. The Task Force then received testimony presented by William Sneed, State Farm Insurance Companies, on behalf of Task Force member, George Cooper. Mr. Cooper responded to the goals and requirements, noting that, in general, the goals serve as reasonable public policy objectives. Some of the suggested requirements, however, present a number of challenges for the insurance industry. Mr. Cooper responded to aspects of six of the requirements, including those requirements addressing the scope of the search, the expectation of having information "near real-time", multiple search fields being available for input, system compliance with approved national data standards, system ability to provide access to nearly 100 percent of vehicles operating on Kansas roads, and the issue of verifying financial security for all commercial vehicles. Mr. Cooper noted these requirements. Mr. Cooper noted that "near real-time" and the availability of insurance information can vary greatly based upon the business practices and technologies of individual insurance carriers. Making multiple search fields available for input will require cooperative dialogue between insurers and vehicle registration personnel, as each collects different data to verify coverage/registration. Mr. Cooper also noted that verifying insurance for commercial vehicles is a difficult task, and there are differences between how states identify a commercial vehicle for registration purposes. In addition, commercial policies often are written on a fleet basis and do not identify specific vehicles (VINs would not be available as search criteria). Brad Smoot, American Insurance Association, also provided comments on the requirements. Mr. Smoot was supportive of Mr. Cooper's comment and suggested that the Task Force consider excluding commercial policies from verification requirements as

was done in Wyoming and Oklahoma. Mr. Smoot encouraged the Task Force to support a verification system that is web-based to help achieve national access.

**Task Force Discussion.** The Task Force then discussed the requirements and the goals for the verification system. Members discussed the scope of the searches and the necessity for the term "international." The discussion also focused on defining "real-time", what information insurance companies currently can access and verify, and what role a data clearinghouse could play in verification. The Task Force members questioned what data would be reported to a clearinghouse or similar entity, including policy number and VIN. The Task Force also discussed the merits of a web-based verification system and the potential to impact the number of uninsured motorists and whether it would be appropriate to seek re-authorization for the Task Force.

## CONCLUSIONS AND RECOMMENDATIONS

The Task Force notes that it received testimony from three families who shared their personal experiences with uninsured motorists. The Task Force appreciates the families' participation in its discussion and its consideration of an electronic verification system that is appropriate for Kansas.

The Task Force makes a number of conclusions and recommendations:

- **Uninsured motorist solutions: Pool for compensation of property damages.** The Task Force considered the option presented by the Dodge City government representatives and appreciates the proposal to provide compensation for property damages through a surcharge on vehicle tags. *As the Task Force considers how best to address uninsured motorists, it believes that this proposal does not warrant further study, however, as the proposal further penalizes*

*those individuals who choose to license or tag a vehicle. The Task Force is unaware of the actuarial necessity for the Pool and the potential impact on those individuals who pay vehicle fees and tag renewal fees.*

- **Uninsured motorist solutions: No Pay, No Play.** After considerable discussion about the appropriate level of non-economic damages able to be recovered by impaired drivers and uninsured drivers, *the Task Force is supportive of legislation that would bar uninsured motorists from the recovery of non-economic losses sustained as the result of an accident that occurred while the motorist was operating an uninsured vehicle.* The Task Force recommends that such motorists should not be permitted to recover any property damages in accidents where the motorist fails to maintain financial security, as required by Kansas law. The Task Force notes its consideration of 2005 HB 2286.
- **Design of an Electronic Motor Vehicle Financial Security Verification System.** The Task Force cites its continued review, time spent during the past three Interim sessions, and its considerable discussion on the defining “real-time” verification and how to best develop a verification system

for Kansas. The Task Force has reviewed the experiences in other states including the potential for a web-based verification system while carefully considering the needs of law enforcement, the Division of Motor Vehicles, the courts, the insurers, and Kansas motorists. *The Task Force acknowledges the importance of this time and review in developing a verification system and cites four goals to serve as the framework for addressing electronic real-time verification in the future:*

- *Assist the director of motor vehicles and county treasurers in registration of motor vehicles in compliance with motor vehicle financial security law;*
- *Provide law enforcement officers with roadside information during traffic stops to determine whether vehicles are in compliance with motor vehicle financial security law;*
- *Provide greater assurance to the motoring public that other vehicles on the road are insured as required by law; and,*
- *Offer convenient insurance policy interface and reporting for companies required to provide insurance policy information to the state.*

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www.namic.org

March 3, 2009

The Honorable Ruth Teichman  
Chair, Senate Financial Institutions and Insurance Committee  
State Capitol  
300 SW 10th Street  
Topeka, Kansas 66612

Re: Letter in Support of Senate Bill 260  
March 3, 2009 Hearing

Dear Senator Teichman:

Founded in 1895, the National Association of Mutual Insurance Companies (NAMIC) is a full service national trade association with more than 1,400 member companies that underwrite over 40% of the property/casualty insurance premium in the United States. In Kansas, we have 149 member companies, including 16 domiciled companies, which underwrite 58% of the state's automobile insurance business.

NAMIC writes to express its strong support for Senate Bill 260. It is a positive, pro-active step to reduce the number of uninsured drivers in this state.

As the Kansas Electronic Motor Financial Security Verification Task Force said in its preliminary report:

"The Task Force is supportive of legislation that would bar uninsured motorists from the recovery of non-economic losses sustained as the result of an accident that occurred while the motorist was operating an uninsured vehicle."

We appreciate your effort to give this issue the serious attention it deserves. If there is anything NAMIC can do to assist you, or if you have any questions or comments, please do not hesitate to contact me. In the meantime, I remain,

Sincerely,



Mark Johnston  
State Affairs Manager - Midwest

FI&I Committee  
3-3-09  
Attachment 7

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FAX No. 785-232-0005

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L. M. CORNISH - (1999)

*Of Counsel*

**MARVIN W. MAYDEW**  
[mmaydew@aol.com](mailto:mmaydew@aol.com)

March 3, 2009

**Testimony on Senate Bill 260 before the Senate Financial Institutions and Insurance Committee**

Madam Chair and Members of the Committee:

Thank you for this opportunity to present information in support of Senate Bill 260 on behalf of the Kansas Association of Property and Casualty Insurance Companies, our state trade association for domestic property casualty insurance companies in Kansas and also on behalf of PCI, the Property Casualty Insurers Association of America, a national trade association with over 1,000 member insurers in the U.S. and whose member companies write over 40% of the property casualty business in Kansas.

In essence, this bill restricts the type of damages that an injured owner or operator of an uninsured vehicle can recover in Kansas in the event of an automobile accident. The bill does not restrict the amount of actual or pecuniary damages, such as reasonable medical expenses, lost earnings and property damage that can still be sought and recovered by an uninsured owner or operator. Also, there is no restriction on damages that may be sought by passengers (other than the uninsured owner), such as the uninsured motorist's children, in the event they are injured in the accident. This is not a new concept, but rather a legislative remedy to address the uninsured motorist problem found in most states.

Nearly every state has adopted mandatory automobile liability coverage similar to the required coverage in Kansas. And with the adoption of such mandated coverage, other states have also struggled to find a way to assure compliance and reduce the number of uninsured motorists. In fact, the problem has been more pervasive in most other states, while Kansas has generally been ranked among the states with the lowest uninsured motorist population. Looking back ten years ago, the Insurance Research Council, a division of the American Institute for CPCU and the Insurance Institute of America, which are independent, nonprofit educational and research organizations, conducted a national study and estimated that the uninsured motorist population nationwide averaged about 14%, with Kansas estimated to have an average of about 8%, ranking us in 7th place among the states with the lowest uninsured motorist populations. Since then, the estimates and rankings have changed somewhat and, depending on the estimates used, some would suggest that the percentages of uninsured motorists have been increasing nationally and in most states, including Kansas. Along with the increasing estimates, there have been increased concerns raised about doing something to make uninsured motorists comply with the law.

In response to these growing concerns, the Legislature adopted a resolution three years ago establishing a task force to look into electronic verification of motor vehicle financial security compliance. A number of other states have already tried to use electronic verification and none have reported much success with reducing the number of uninsured motorists, nor with trying to avoid mismatches and erroneous matches. More recently, a web based system for comparing information is being tested in several states, but has not yet been in use long enough, nor on a broad enough scale to recommend in Kansas. We therefore looked for other alternatives to recommend and found that a few states have tried and had some success with the "no pay - no play" concept with some variations, such as increased restrictions for repeat offenders. In addition to addressing uninsured motorists, some states have also included similar restrictions on motorists driving under the influence of intoxicating liquor or drugs and we have included similar provisions in subsection (b) of the bill. We believe this is more than a fairness issue, it is a strong

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message to those who violate the laws of Kansas and put others' lives at risk, that such conduct now puts them at risk also. Thus, we recommended to the task force that this concept be adopted in Kansas and the task force concluded its work several months ago with a report that recommends passage of this type of legislation, rather than trying to implement electronic verification at this time. Considering the current financial situation, this legislation certainly has the advantage of not requiring any new funding. "No Pay - No Play" is essentially self-policing and it has the capability of catching those who have succeeded in evading our current system. In states that have tried it, there have already been legal challenges to the constitutionality in at least two states and the courts have ruled the provisions are constitutional.

We would therefore urge your favorable consideration of Senate Bill 260.

Respectfully,

David A. Hanson  
Legislative Counsel



**FARMERS**

11880 College Boulevard  
Suite 201 A  
Overland Park, Kansas 66210  
Bus 913-234-3902

**March 3, 2009**

**To: Senator Ruth Teichman, Chairperson  
Senate Financial Institutions and Insurance Committee**

**From: Lee Wright, Senior Governmental Affairs Representative**

**Re: Testimony on Senate Bill 260 – No Pay, No Play**

**Position: Support**

**Madam Chairperson and members of the Committee. My name is Lee Wright and I am representing Farmers Insurance. Thank you for this opportunity to appear in support of SB 260. This legislation is often referred to as “No Pay, No Play”.**

**The concept of the legislation is relatively simple. If an uninsured driver is involved in a vehicle accident, they are restricted to recovering only their economic damages. Economic damages would include medical expenses, lost wages, and property damage. The uninsured driver is not eligible to receive compensation for non-economic damages (pain and suffering).**

**Currently, California, Michigan, Louisiana New Jersey and Alaska have No Pay, No Play laws in place. No Pay, No Play legislation is also being considered this year in several of our border states.**

**SB 260 would also preclude a person involved in an accident and convicted of DUI from recovering for non-economic damages.**

**In addition, the interim Kansas legislative task force on Electronic Motor Vehicle Financial Security Verification Systems recommends supporting No Pay, No Play legislation.**

**At this time, I would like to introduce Bren Abbott from Farmers branch legal office. Bren can provide the Committee additional information as his practice handles motor vehicle accident claims involving uninsured motorists on a regular basis.**

**Thank you.**

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**SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE**  
**SENATE BILL 260**  
**TESTIMONY BY BREN ABBOTT**  
**ABBOTT, DAVIDSON & SOUTHARD**

Senate Bill 260 is a remarkably simple bill that limits when someone can make a claim for noneconomic losses. It only applies in two situations:

1. When an illegally uninsured motorist is operating an uninsured automobile and
2. When he or she is convicted of, or pleads guilty to, refusing or failing a test for alcohol or drugs following the accident or is convicted of driving under the influence of alcohol or drugs.

Let me address these individually. The first one dealing with an uninsured motorist has two limitations. The driver must be illegally uninsured **and** the car itself must be uninsured. This provision actually provides the driver two opportunities to be insured. Even if he chooses to not get insurance as required by law, he may still have a cause of action for noneconomic losses if he or she is driving a car that is insured.

The second part of the law involves a situation when a drunk driver is involved in an accident. This provision is simply another warning that driving a car while under the influence of alcohol or drugs is not acceptable.

It should be first noted that the act does not eliminate all claims of the injured person. Rather, it only eliminates the claims of "noneconomic losses," which are defined as pain and suffering and disability, disfigurement and any accompanying mental anguish suffered by the injured party. The proposed law specifically allows the injured party to collect reasonable expenses of necessary past and future medical care, hospitalization and treatment and past and future loss of time, income and diminished earning capacity.

I probably spend close to 50% of my law practice defending uninsured motorist claims. I see on a daily basis the devastation that is caused when people elect to illegally operate uninsured motor vehicles or to operate vehicles under the influence of alcohol. This bill is yet another way of telling these drivers that they are not in the right.

What is the harm in telling people that if that don't play by our laws, then they do not get to take advantage of them? It may take some money out of the pockets of the trial lawyers, but it is likely to slow the rate of growth in premiums and, possibly, even reduce premiums. See, *The Effects of a No-Pay/No-Play Plan on the Costs of Auto Insurance*, Rand Institute for Civil Justice. Currently, motorists that are illegally uninsured can collect damages, which certainly drive up the price of auto insurance for law-abiding motorist. This bill provides another incentive for people to purchase insurance.

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*3-3-09*  
*Attachment 10*

# Farmers Alliance

Insuring Rural America Since 1888

To: Senate Financial Institutions and Insurance Committee

From: Richard E. Wilborn

Re: Senate Bill No. 260

Date: March 3, 2009

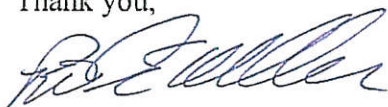
Madam Chairman and Members of the Committee, I appreciate this opportunity to share our views relating to recovery of economic or noneconomic loss sustained as a result of an accident while operating an uninsured vehicle.

My name is Rick Wilborn. I am Vice President of Government Affairs for the Farmers Alliance Mutual Insurance Companies. Farmers Alliance is a Kansas domestic property and casualty company that has been operating in and committed to the State of Kansas since 1888. We also provide property and casualty insurance in eight other contiguous states.

You will have heard from a number of conferees, explaining the many benefits and empirical evidence supporting this measure. As a Kansas domestic Insurer providing auto insurance in many states, we are experiencing the increase in the number of uninsured motorists. The provisions contained in S.B. 260 provide immediate results in lowering uninsured motorist loss costs and send an immediate message to the motoring public, both Kansans and out of staters, of the consequences of not purchasing Automobile Liability Insurance that is required by law. This approach eliminates the costly installation of unproven and cumbersome electronic systems at the local government and state government levels. In addition, additional costs are not incurred by Insurers and thus are not passed on to the insuring public.

I urge your support of S.B. 260.

Thank you,



Rick E. Wilborn, CPCU

1122 N. Main, P.O. Box 1401 • McPherson, KS 67460  
620.241.2200 • fax 620.241.5482 • www.fami.com  
Farmers Alliance Mutual Insurance Company  
Alliance Indemnity Company • Alliance Insurance Company, Inc.

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**TO:** THE HONORABLE RUTH TEICHMAN, CHAIR  
SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

**FROM:** WILLIAM W. SNEED, LEGISLATIVE COUNSEL  
THE STATE FARM INSURANCE COMPANIES

**RE:** S.B. 260

**DATE:** MARCH 3, 2009

Madam Chair, Members of the Committee: My name is Bill Sneed and I represent State Farm Insurance Companies ("State Farm"). State Farm is the largest insurer of homes in the United States and Kansas. We appreciate the opportunity to testify on S.B. 260. S.B. 260 restricts the tort liability of financially responsible Kansans who are involved in accidents with uninsured or drunk drivers. It limits the recovery of an uninsured vehicle owner who is driving an uninsured motor vehicle or an intoxicated driver to economic damages.

One of the perceived inequities of the tort system as it applies to motor vehicles is that an injured insured person has little hope of recovering from the at-fault driver for his or her injury if that driver is uninsured. On the other hand, after an auto accident, an uninsured injured person may make a claim against a financially responsible tortfeasor with a reasonable degree of certainty that he or she will recover not only out-of-pocket expenses but also non-economic intangible loss such as pain and suffering. The tort system, in effect, gives the uninsured a "free ride" entitling them to take advantage of a compensation structure to which they do not contribute. Responsible Kansans, by contrast must purchase increasingly expensive uninsured motor vehicle insurance in order to be fully protected for accidents caused by uninsured drivers.

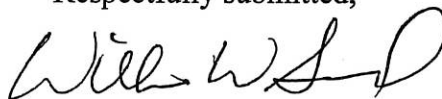
S.B. 260 addresses this inequity by limiting the recovery of a driver of an uninsured motor vehicle, who is also the owner of a vehicle that does not comply with the Kansas Auto Repairs Act, to economic damages. Approximately 9% of all Kansas motorists are uninsured. (Source: study commissioned by the Insurance Research Council.) One of the purposes of this bill is to provide an incentive to uninsured owners and drivers to purchase insurance so they will pay their fair share of auto accident compensation costs. This sharing of costs enhances insurance affordability. In addition, S.B.260 has the potential of reducing insurance costs and the personal liability of insured Kansans, because the percentage of claim dollars now going to uninsured drivers will no longer be paid.

The Kansas Department of Transportation reported that in 2003, there were 2,280 injuries and 97 fatalities in alcohol related auto accidents. On average there are 9 alcohol related crashes per day in Kansas. Kansas has lowered the blood alcohol level to .08. In 1996, Kansas enacted

stiffer penalties for those convicted of driving under the influence. Kansas also imposes stiffer fines and longer jail sentences on repeat offenders. These same individuals are able to avail themselves of the all the tort remedies that the law allows. Financially responsible Kansans are forced to compensate drivers whose intoxication may have contributed to the loss.

S.B. 260 redresses systemic fairness issues inherent in the current tort system, encourages the purchase of insurance, reinforces drunk driving laws by limiting the recovery of intoxicated drivers and enhances insurance affordability. State Farm appreciates the opportunity to speak to the Committee on this issue, and we respectfully urge the Committee to pass this bill out of committee.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Will W. Sneed". The signature is fluid and cursive, with a large, stylized initial "W".

William W. Sneed

WWS:kjb



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To: Senator Ruth Teichman, Chairperson  
Members of the Senate Financial Institutions & Insurance Committee

From: Travis Burk, Attorney at Law  
Patterson, Gott & Burk, LC, Wichita  
On behalf of the Kansas Association for Justice

Date: March 3, 2009

Re: SB 260 An act concerning insurance; relating to the recovery of economic  
or non-economic loss--**OPPOSED**

The Kansas Association for Justice is a statewide nonprofit organization of attorneys who serve Kansans seeking justice. Our association's position on SB 260 is opposed.

SB 260 eliminates a cause of action for recovery of non-economic loss that is the result of an accident while operating an uninsured motor vehicle. Non-economic damages are those damages that are not easily quantifiable in dollar amounts such as severe pain, disfigurement, and loss of enjoyment of life activities because of injury, including physical impairment. Non-economic damages are usually awarded to severely injured persons or to the family of someone that has died. Non-economic damages are the only compensation a jury can provide for the injury itself, as opposed to economic damages which represent the injured person's out-of-pocket costs such as lost wages, medical bills, and property damage.

As you might guess, non-economic damages are the primary way that juries compensate severely injured Kansans with little economic loss because they are unemployed, such as children, women working in the home, and retired persons. Kansas limits non-economic damages to \$250,000.

First and foremost, KsAJ does not condone failure to comply with Kansas laws requiring auto insurance. However, we believe SB 260 is disproportionate and not well tailored to

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encourage Kansans to buy and maintain auto coverage. And while we believe the limit on non-economic damages is an injustice that should be corrected by the Legislature, and we welcome the opportunity to engage in a policy discussion on this topic, we believe loss of a cause of action for non-economic damages is misplaced as a penalty for driving without insurance.

SB 260 attempts to punish people for driving without insurance coverage. But the "punishment" is completely disproportionate to failure to maintain insurance coverage and instead has the effect of protecting dangerous drivers. For example, if a drunk driver hits an uninsured motorist, the fact that the motorist is uninsured does not make the drunk that hit them any less intoxicated or such conduct any less wrongful. Dangerous and/or impaired drivers should still be accountable even though they randomly hit an uninsured motorist.

SB 260 is not going to result in greater compliance with mandatory insurance coverage laws. In these tough economic times, it is easy to imagine a cash-strapped family having to pick which bills to pay first or paying bills a few days late. When the bills pile up, difficult choices must be made: it is not a situation that anyone would choose. For these people, SB 260 will likely not increase their compliance with the law, since it does not address the reason they are uninsured.

SB 260 has the effect of punishing people who may be uninsured through no fault of their own. Perhaps because of a divorce or death automatic withdrawals for insurance payments are not processed or are overlooked. Especially in the case of divorce, one party may purposely refuse to pay bills. But if an accident occurs during the lapse in coverage, it would be a cruel injustice to deny such drivers a legal remedy that they would otherwise have but for what amounts to a technicality and not intentional non-compliance with the law.

Under current law, there are already significant penalties for failure to maintain the required coverage: fines and court costs, potential jail time and suspension of both the license of the driver and of the owner of the vehicle until damages are paid. Now, if an uninsured motorist loses their license or is jailed and cannot get to work, they risk losing their job—a significant punishment and deterrent. If the Legislature believes these penalties have become insufficient, reviewing and increasing them is an appropriate place to start, as opposed to enacting the policy of SB 260.

KsAJ has testified before this committee that the mandatory minimum insurance laws do not protect Kansans because the benefit limits are outdated and have not kept pace with inflation. It is often the case that auto insurance settlements do not cover all the expenses that arise from an auto accident, including medical bills, property damage, and lost wages. Kansas law setting the minimum auto insurance coverage limits has not been changed for 36 years. Likewise, uninsured motorist and underinsured motorist (UM/UIM) coverage needs to be reviewed and revised because it does not provide the coverage that consumers expect.

**Travis Burk on behalf of the Kansas Association for Justice**  
**Senate FI&I--SB 260**  
**March 3, 2009**  
**Page 3 of 3**

We believe it is time for the Legislature to review the entirety of Kansas' mandatory coverage laws, including the penalties for non-compliance. Until that time, SB 260 is a step in the wrong direction.

We respectfully request that the committee oppose SB 260.