

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 22, 2006 in Room 234-N of the Capitol.

All members were present except:

Jim Barone- excused

Dennis Wilson- excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department

Terri Weber, Kansas Legislative Research Department

Ken Wilke, Office of Revisor of Statutes

Bev Beam, Committee Secretary

Conferees appearing before the committee:

Sonya Allen, State Banking Commissioner's office

Brad Smoot, BCBS

Larrie Ann Lower, Kansas Assn. Of Health Plans

Shannon Ratliff, Ratliff Law Firm

Bill Sneed, State Farm Insurance

Others attending:

See attached list.

Senator Schmidt moved to approve Minutes of March 14, 15 and 16. Senator Wysong seconded. Motion passed.

Final Action

The Chair said the committee has heard **(HB 2874) - An act relating to transmission of money; providing for the regulation thereof.** The Chair said there were some questions raised regarding **(HB 2874)** and Sonya Allen of the State Banking Commissioner's Office was present to talk about the amendments.

Sonya Allen said there were two issues brought up about **(HB 2874)**. She said the first issue was brought up by Ken Wilke concerning the need to add a provision on Page 2 of the bill. It has to do with the Kansas Open Records Act. It is required that if there is a confidentiality provision enacted or substantially amended that it Sunsets in five years unless the legislature reauthorizes it. That adds a new subsection (e) on Page 2 of the bill making that expire in 2011 unless the legislature reauthorizes it.

The second provision is on Page 4 line 26. She said Senator Wysong raised the issue of whether or not \$100,000 in net worth was an appropriate amount for a money transmitter. We did a review of other states laws and also found that in Kansas law it had been \$100,000 since our laws were enacted in 1967, so it was probably appropriate to increase that amount. We propose to amend that to \$250,000 in net worth. (Attachment 1)

Senator Brungardt moved to pass the amendments to **(HB 2874)** out favorably. Senator Wysong seconded. Motion passed.

Senator Wysong moved to pass the **(HB 2874)** out favorably as amended. Senator Steineger seconded. Motion passed.

The Chair opened discussion on **(HB 2692) - An act concerning insurance; pertaining to risk-based capital requirements.**

The Chair said there were two amendments to **(HB 2692)**. The first offered by John Federico. She said he would like to change group life so they can offer it to groups of two or more instead of three or more. Senator Wysong moved to amend **(HB 2692)** to offer group life to groups of two or more. Senator Steineger seconded. Motion passed.

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The Chair said the other amendment to **(HB 2692)** was brought by Dave Hanson of the Kansas Association of Property and Casualty Insurance Companies and the Kansas Life and Health Insurance Association. Mr. Hanson said the word “insured” needs to be corrected to “insurer” and when that is corrected, we are providing a new definition for domiciliary state consistent with the law that was passed last year and we are tying these amendments to the amendments that were made last year. (Attachment 2)

Senator Schmidt moved to approve the amendment to (HB 2692). Senator Brungardt seconded. Motion passed.

Senator Wysong moved to pass (HB 2692) out favorably as amended. Senator Barnett seconded. Motion passed.

The Chair called for discussion by the Committee on **(SB 592)**. Senator Barnett asked if there was a time requirement for exposure to asbestos for someone with a Mesothelioma. Shannon Ratliff said there is no threshold for a person diagnosed with Mesothelioma. They don’t have to go through the Prima Facie cases as long as they have the definition of Meso in the bill and as long as they have a diagnosis from a Board certified pathologist as meso, they can go straight into the system, there is no requirement of any exposure.

Ken Wilke said there were issues raised that required amendments and he had a balloon for that. The first issue involved the question of the automatic adoption of various amendments likely to be American Medical Association guidelines and that is not proper under Kansas Law, so the one you have would go through the various places where there is an automatic amendment and just require those documents be put in place as they exist on July 1, 2006, which is the effective date of the Act.

On Page 7 the material set off on the right part of the section of **(HB 2868)** was apparently not included in the bill and should have been. So, I’ve pulled those particular portions from **(HB 2868)** and proposed to bring those in starting after line 25 on Page 7, he said. The subsection (e) deals with a civil action alleging an asbestos claim based upon mesothelioma, no prima facie showing is required. That should have been carried over. The subsections (h) and (i) also apply to both the asbestos and silicosis sections in the original **(HB 2868)**. They should have been carried over since they do apply to asbestosis and that is why they are included here.

The third thing that is necessary is on lines 16 through 18 in the amended material in **(HB 2868)**. The subsection (i) that is in **(HB 2868)** says that presentation of prima facie evidence meeting requirements in various subsections, but we don’t know what section that refers back to. After consulting with the requester of the amendments, we just basically cut out all the subsections and left “meeting the requirements of section 3 and amendments thereto.”

On line 38, page 7 of **(SB 592)** the subsections (b) through (g) should have been changed to (b) through (e) because of the amendments that were made and this was just an internal reference that got missed.

The Chair called for any other questions from the committee.

The Chair recognized Senator Steineger. Senator Steineger said his thoughts on the underlying bill are that on a more global picture, he does agree that the American courts and lawsuits are out of control.

I think it is very expensive and ultimately harmful to our national competitors to have a court system where there are so many lawsuits and many of them are frivolous. I think what we really need is a systemic look and overhaul of the way we process lawsuits and jurisprudence. I don’t agree that going at it piecemeal, like this bill attempts to, is the way to go. I think this way will take forever if you want to overhaul the way we do lawsuits in this country. I think this bill needs to be part of a larger study this summer or ongoing about what is a bigger better way to overhaul jurisprudence permanently and how we process lawsuits and who can sue and over what. So, I think this bill and this issue needs to be looked at more thoroughly in some summer committee of some sort that has attorneys but, also has some business people, since they are the ones most negatively impacted by this, and try to find a more systemic solution. I don’t think we should move this bill forward, Senator Steineger said.

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The Chair asked for further comments and asked for the wishes of the committee.

Senator Brownlee moved to pass out favorably the balloon as presented. Senator Wysong seconded. Motion passed.

Senator Brownlee moved to pass (SB 592) out favorably. Senator Wysong seconded. Motion passed with Senator Steineger voted No. (Attachment 3)

The Chair said her intention at this time is to try to amend into **(HB 2691) - An act concerning insurance; pertaining to HIPAA compliance** - some of the bills we have had in the F I & I Committee. Some of the bills she said she would like to amend into it are **(SB 405) - certain foreign insurance companies doing business in the state; SB 422 - concerning surety bonds; eliminating requirements for multiple sureties and SB 442 - An act concerning insurance; pertaining to allowing certain lienholders and mortgagees to be shown on the application for insurance.**

These are all bills we have passed out of this committee. The Chair said she asked Larrie Ann Lower, Kansas Association of Health Plans, to explain the bill. **(HB 2693) - An act concerning insurance; pertaining to continuation of certain group policies; establishing a pilot program to allow certain small businesses to provide health insurance through the state employees health benefits program has been presented by the Insurance Department.**

Larrie Ann said this bill was presented by the Insurance Department to the House Committee. The House Committee passed it out of committee but then it got amended on the floor with some pilot project and then it got killed in final action. Health insurance companies have treated HMO's and PPO's the same as far as continuation of coverage issues of people they have moved from coverage to coverage. But there is a technical change in the bill in the legislation that we needed to make sure that health plans treat HMO's and PPO's the same. This is just a technical change.

The Chair moved to **(HB 2366)**. The Chair said she would like to gut **(HB 2366)** and drop into it **(SB 522)** which is Barbara Allen's bill; **(SB 539) - concerning casualty insurance companies; relating to certain requirements regarding filing rates, forms and premiums**, which is the bill that would change the approval process for policy forms for certain lines of commercial insurance and **(SB 322) - Relating to the Kansas Automobile Reparations Act; concerning certain penalties; providing for triple damages, which is the penalty phase of the uninsured motorist.**

Ken Wilke said what was in the bill was rewritten so it would conform to the Department of Labor guidelines and some of the terminology was cleaned up and you will see some additional changes in here where we may have a second internal appeal or review. Everything that was in **(SB 522)** that left the senate is in here. Mr. Wilke said there was one additional amendment made last night in the House that is not in here. I don't know if you want to include that or not. The substance of that other amendment was to also require that when an insured is notified what the external review process is, they also be advised of their right to waive the second appeal and go directly to the external review process. (Attachment 4)

Senator Wysong moved to move out (HB 2366) favorably as amended which includes (SB 522); (SB 539) and (SB 322). Senator Barnett seconded. Motion passed.

Senator Steineger moved that (HB 2691) be amended to include the following three: (SB 405) as passed by the Senate; (SB 422) as passed by the Senate and (SB 442) as passed by the Senate and (HB 2693) as passed by the House be amended into (HB 2691). Senator Barnett seconded. Motion passed.

Senator Steineger moved to pass (HB 2691) out favorably as amended. Senator Brungardt seconded. Motion passed.

The Chair said depending on what happens to **(SB 512)** and **(SB 592)**, we might have a meeting at the rail.

Meeting adjourned at 10:30 a.m. This is the final meeting of this Committee for 2006.