

Approved: \_\_\_\_\_  
Date

## 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 1, 2006 in Room 234-N of the Capitol.

All members were present except:  
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:  
Brad Smoot, American Insurance Assn.  
John Campbell, General Counsel, Kansas Ins. Dept.  
Robert Hayes, Executive Director, Health Care Stabilization Fund

Others attending:  
See attached list.

The Chair called the meeting to order. She said Minutes of February 15, 16, 20, 21, and 22 would be approved at the end of the meeting.

The Chair said the hearing would continue on **(SB 539)** concerning casualty insurance companies; relating to certain requirements regarding filing rates, forms and premiums. The chair asked Melissa Calderwood for an overview of **(SB 539)**. Ms. Calderwood said **(SB 539)** would amend certain refiling requirements for casualty insurance companies. No insurance company shall transact business in Kansas until certified copies of its charter and amendments are filed and approved by the commissioner of insurance. The insurance commissioner may also require the filing of other documents and papers as are necessary to determine compliance with the state laws, she said.

She said except for contracts pertaining to large risks which are exempt from the filing requirements of this section, each contract of insurance or indemnity issued or delivered in this state will be effective on filing, or any subsequent date selected by the insurer, unless the commissioner disapproves such contract of insurance within 30 days after filing because the rates are determined to be inadequate, excessive, unfairly discriminatory or otherwise fail to meet the requirements of this act. The failure of any insurance company to comply with this section will not constitute a defense to any action brought on its contracts, she said.

The bill would remove the current exception for personal lines filing which currently are to be on file for a waiting period of 30 days before becoming effective. The requirement for large risks is on Page 6 of the bill beginning on line 29 and again defined in K.S.A. 40-955 and would be amended to be defined for insured that has total insured property values of \$2,000,000 or more; total annual gross revenues of \$5,000,000 or more; or the annual aggregate paid premium of \$25,000 or more. New laws would also be created by the bill to allow for risk adjustment methods that would commit insurers to increase or decrease premiums on a given risk basis without documentation up to 40% based on any factor, with the exception that the adjustment could not be based on race, creed, national origin or religion of the insured and could not apply to insurance that covers personal lines, farms and property, including crop insurance. The Commissioner, in accordance with the rules and regulations filing act, would be permitted to broaden the range of plus or minus 40% for any type of insurance subject to K.S.A. 40-955. The bill would allow that any insurer aggrieved by the commissioner's finding would be allowed to appeal pursuant to the Administrative Procedure Act, she said.

The Chair called on Brad Smoot for his testimony. Mr. Smoot said he hoped to streamline and simplify this legislation and bring as many parties on board as possible. The bill was introduced at the request of the American Insurance Association and, by the committee. Essentially the American Insurance Association is urging the various states to modernize their policy and rate filing mechanisms. Historically, the states, including Kansas, have been what we call "prior approval" states. In 1999, then-Commissioner Kathleen Sebelius brought the legislature a proposal to reduce some of these long-standing market barriers. That

## CONTINUATION SHEET

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legislation removed prior approval rates for commercial insurance products, moving them to a “file and use” process. “Large commercial risks” were exempted from any rate filing requirement. These reforms have worked well and in our opinion, it is time to consider further modernization.

It has been eight years since the legislature updated our insurance regulatory environment. We think it’s time to consider making some of the changes that many of our sister states have adopted, including neighboring Midwestern states of Colorado, Nebraska, Missouri and Oklahoma.

Basically, we come to you today to allow the practice of filing of forms to match the filing of rates. We think **(SB 539)** points us in that direction.

The Chair asked Mr. Smoot to go through the balloons. (Attachment 1)

The Chair asked John Campbell, General Counsel for the Kansas Insurance Department for his testimony. Mr. Campbell said the Kansas Insurance Department supports **(SB 539)**. He said this bill is the result of discussions between the representatives of the insurance industry, insurance agents and the Kansas Insurance Department. Its purpose is to promote the benefits of competition while still providing protections for consumers, he said. It will allow the market to more rapidly react to changing market conditions. At the same time, it provides for the review of these products by the Department in order to insure that those products comply with the provisions of the Kansas Insurance Code, he said

The Chair called for testimony from Robert Hayes, Executive Director, Health Care Stabilization. Mr. Hayes said he signed up as an opponent because the bill was just introduced a couple of weeks and he wasn’t aware of who was supporting it and wasn’t aware of the proposed amendments until late yesterday afternoon. Initially, opposition was to the removal of the prior approval for the basic coverage policies required by K.S.A. 40-3401 and found in **(SB 539)**. He said Health Care Stabilization Fund and their health care providers benefit from the prior approval requirements for basic professional liability insurance policies. The prior approval requirements that would be removed if this bill were to be enacted would result in immediate and long-reaching coverage differences in the basic professional liability insurance policies that are mandatory for Kansas doctors, hospitals and other health care providers. (Attachment 2)

I have only had a brief time to review the amendments presented today, but they sound good. Since they are now taking out the parts we were concerned with, I am more comfortable with the bill, but I am waiting until I see the final bill.

Following questions, the Chair said if it is the will of the committee, before taking final action on this bill, the committee would wait and see the bill in final form at the next committee meeting.

The Chair asked for a motion to approve the minutes. Senator Wysong so moved. Senator Schmidt seconded. Motion passed.

The meeting adjourned at 10:30 a.m.