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STATEMENT OF BRAD SMOOT
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BLUE CROSS BLUE SHIELD OF KANSAS
SENATE WAYS & MEANS COMMITTEE
Regarding 2015 Senate Bill 309
May 21, 2015

Chairman Masterson and Members:

BCBSKS and its more than 1500 Kansas employees operating from 11 different communities serve approximately 930,000 of your fellow Kansans in 103 Kansas counties. We contract with 100% of the acute care medical facilities in the state and 96% of medical doctors and other providers in our service area. This enables our members to have access to the health care services they need and deserve.

BCBSKS is a mutual insurance company, which means the company is owned by and operated for the benefit of our policyholders. Nearly \$1.7 billion was paid last year for over 16.4 million claims on their behalf. We handle these claims efficiently, averaging about 90% of our premium dollar in payments to providers, mostly in Kansas. With the remaining premium, we maintain reserves, pay employees and provide facilities, equipment and other routine operational costs, including more than \$63.5 million in federal, state and local taxes in 2014.

On behalf of our BCBSKS customers and policyholders, we must respectfully oppose the enactment of SB 309, as another tax on health insurance consumers who are already overly burdened with federal and state taxes.

Our objections are both practical and legal. Health insurers and their Kansas customers have long been payers of state premium taxes, privilege fees, real and personal property taxes, as well as federal payroll and income taxes. See attached estimate for BCBSKS 2015. We have just recently been pounded with the huge taxes associated with the Affordable Care Act, nearly doubling our current state and federal tax burdens. See attachment. If the shock to our customers from ACA taxes wasn't severe enough, we are now faced with two additional state taxes to add to the costs of health insurance coverage. The tax load on our policyholders would be an estimated \$116.5 million dollars and growing.

You will see on the attachment that the estimated impact of the new state tax imposed by SB 309 on our customers is just over \$4 million annually. If the tax were just levied on exchange policies the impact would be just under \$100 per individual to over \$300 per family depending on plan design and other factors (e.g. age, location, etc.). However, since the federal law requires similar policies sold on and off the exchange to be priced the same, we are required to spread this proposed new state tax to all those small businesses and families whether they purchase directly from us or through the new exchange mechanism. Consequently, this is not

just a tax on consumers who qualify for a federal health insurance subsidy, it is also a new cost to all those small businesses and families who must pay for coverage entirely out of their own pockets.

Kansans are now required by federal law to have health insurance. Health insurance premiums continue to rise due to medical inflation, patient utilization and exploding federal taxation. We really can't imagine a less appropriate source of taxation than for the state of Kansas to pile on the ACA tax load with additional state taxes.

One other practical problem is that any tax based on federal exchange policies as is contemplated by SB 309, is at best an unreliable revenue stream. First, we believe that the tax imposed by SB 309 may interfere with the operation of the federal exchange. The federal government has already taken a strong stand against such state interference and we believe it would likely do so in regard to a state exchange user fee which is levied on top of the federal fee collected for the federal exchange operated here in Kansas. (For example, federal preemption was exercised in the case of states that tried to interfere with the navigator provisions of the federal law and regulations.)

In addition, the entire country is awaiting a U.S. Supreme Court decision in the King v. Burwell case that addresses the legality of premium subsidies in federally administered exchanges. Should the Court declare the subsidies illegal, the entire federal exchange for Kansas would likely crumble and with it the revenues from the 3.5% tax imposed by SB 309. Both these legal possibilities suggest that SB 309 does not give the state a reliable stream of funding for the immediate future, let alone the out years.

Finally, the bill operates retroactively, requiring some insurers to submit monthly payments for all of 2015. Not only have we not collected the tax in our approved rates for 2015 but have not proposed to collect them in the rates we have filed already for 2016. If we were allowed by the Kansas Insurance Department to amend those rates in the next few weeks, we might recoup those tax costs for both years, thus doubling the burden on 2016 insurance purchasers in the individual and small group markets.

Kansas collects a lot of taxes already from health insurers and their customers. The 2% premium tax and the 1% privilege fee for HMO's generate tens of millions annually. Premium tax receipts from health insurers grow every year. And unlike individual and corporate income taxes, it doesn't matter if we make money or lose money in a given year; these gross receipts taxes continue to rise with the constantly rising insurance premium. We think the new federal taxes are more than enough burden for our customers to shoulder without the state piggy-backing another tax on small businesses and families who are simply following the federal law requiring them to purchase health insurance. We respectfully urge you to not advance SB 309. Thank you for consideration of our views.

Blue Cross and Blue Shield of Kansas, Inc.
2015 Estimates

	BCBSKS	Solutions	Total
KS Premium/Privilege Fee	\$ 17,543,320 ⁽¹⁾	\$ 559,770 ⁽²⁾	\$ 18,103,090
Payroll taxes	14,487,304	-	14,487,304
Federal income taxes	27,418,400	43,000	27,461,400
Real estate taxes	562,700	-	562,700
Personal property taxes	207,900	-	207,900
Sub-total: Current taxes/fees	<u>60,219,624</u>	<u>602,770</u>	<u>60,822,394</u>
ACA Health Insurer Provider Tax	28,815,000	- ⁽³⁾	28,815,000
ACA Comparative Effectiveness Fee	789,039	29,478	818,517
ACA Risk Adjustment Fee	44,377	17,885	62,262
ACA Reinsurance - Program Administration Fee	11,490,012	592,277	12,082,289
ACA Reinsurance - US Treasury Contribution Fee	3,830,004	197,426	4,027,430
ACA Exchange User Fee	2,634,345	1,669,115	4,303,460
Sub-total: ACA related taxes/fees	<u>47,602,777</u>	<u>2,506,181</u>	<u>50,108,958</u>
Additional Privilege Fee (2.31%)	-	1,293,069	1,293,069
KS FFM Tax (SB 309)	2,634,345	1,669,115	4,303,460
Sub-total: Additional 2015 KS taxes/fees	<u>2,634,345</u>	<u>2,962,184</u>	<u>5,596,529</u>
Grand total: Estimated 2015 taxes/fees	<u>\$ 110,456,746</u>	<u>\$ 6,071,135</u>	<u>\$ 116,527,881</u>

(1) The KS Premium Tax is 2%.

(2) The KS Privilege Fee is currently set at 1%.

(3) The ACA Health Insurer Provider Tax is not applicable to Solutions until 2016.