

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 10, 2005 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

Sandy Yingling, Committee Secretary

Conferees appearing before the committee:

Sonya Allen, Office of the State Bank Commissioner

Doug Wareham, Vice President-Government Affairs, Kansas Bankers Association

Jarrod Forbes, Assistant Director Government Affairs, Kansas Insurance Department

Dave Hanson, Legislative Counsel, Kansas Insurance Associations

Others attending:

See attached list.

Madam Chair opened the meeting by expressing concerns about **SB 264**.

SB 264 - Municipalities; deposit of public funds.

SB 264 was introduced by Senator Wilson. Madam Chair stated she has been in discussion with the KBA, the Senate President and Senator Wilson. The KBA has arranged discussions of the parties concerned and would like to have the opportunity to work out a compromise. Madam Chair would like to keep this bill open until next session and she stated that Senator Wilson does not agree with her. Madam Chair expressed that it is her desire to satisfy everyone concerned, not stop the bill.

Madam Chair opened the hearing on **HB 2097**.

HB 2097 - Banks and trust companies, exchange of certain examinations and reports.

Sonya Allen, Office of the Bank Commissioner, testified in support of **HB 2097**. This bill amends K.S.A. 9-1303 which authorizes the bank commission to share information with other regulatory bodies. The main purpose of this amendment is found on lines 39 and 40 of the bill. (Attachment 1).

Senator Barnett asked, how long has it been since banks have been insured by private insurers? Judy Stork and Sonya Allen, Office of the Bank Commissioner, said sometime back in the 1950's. The reason for striking lines 19 through 22 is that there are not any private insurers. There were no other questions.

Madam Chair closed the hearing on **HB 2097**.

Madam Chair opened the hearing on **HB 2098**.

HB 2098 - Banks, granting of trust authority.

Melissa Calderwood, Kansas Legislative Research Department, gave an overview of **HB 2098**. The bill amends K.S.A. 9-1601. **HB 2098** is related to the trust authority of banks. The bill would allow that banks are allowed to act as trustee to both medical savings accounts (MSA) and health savings accounts (HSA) without a special permit. Under current law banks are permitted to act as trustees without a special permit for IRAs and 401k trusts. The bill would be effective upon publication of Kansas register. The fiscal note would have a negligible effect.

Sonya Allen, Office of the Bank Commissioner, testified in support of **HB 2098**. This amendment allows the

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commissioner to issue trust powers to a bank to perform various trust activities including offering individual retirement accounts (IRA). Various banks have requested that they be allowed to offer medical savings accounts and health savings accounts to their customers, without obtaining trust powers from the commissioner, if those MSAs and HSAs are invested only in bank deposits. The remainder of the changes would be clean up items. ([Attachment 2](#))

Senator Barnett asked how much is the minimum amount to open an HSA? Ms. Allen said she did not know of any statutory minimum. The commission does not have any regulations in place with regard to how the banks administer these accounts. This statute only gives them the authority to do so.

Doug Wareham, Kansas Bankers Association, testified in favor of **HB 2098**. This bank will allow state chartered banks, which do not currently have trust powers, with the authority to act as trustee or custodian for medical savings accounts and health savings accounts. The President has stressed the importance of HSAs as part of the solution to skyrocketing health insurance costs. Mr. Wareham offered to follow-up on Senator Barnett's question by presenting it at a seminar he will be attending. ([Attachment 3](#))

There were no other questions.

Madam Chair closed the hearing on **HB 2098**.

Madam Chair opened the hearing on **HB 2171**.

HB 2171 - Insurance; risk-based capital requirements.

Melissa Calderwood, Kansas Legislative Research Department, presented an overview of **HB 2171**. Melissa stated this was the second bill the committee has seen that related to annual date change from December 31, 2003 to December 31, 2004. The risk-based capital instructions and formula are developed by NAIC that insurance companies must use in the preparation of their financial reports to the department. The bill was requested by the Insurance Department. The fiscal note showed there is no impact.

Jarrod Forbes, Kansas Insurance Department, testified in favor of **HB 2171**. The insurance department does this so that power is not being delegated to the NAIC. It is only right that the insurance companies have the right to look at these requirements and sign-off on them as well. This is why the department has this bill for the legislators every year. ([Attachment 4](#))

Ken Wilke, Office of Revisor of Statutes, offered clarification that these risk-based capital requirements apply only to property and casualty insurance. There is a separate set of risk-based capital requirements for health organizations.

David Hanson, Kansas Insurance Associations, testified in support of **HB 2171**. The reference date in the statutory definition of "RBC instructions" was originally requested to make sure that the adopted instructions and formula were limited to those that we had had an opportunity to review, rather than potential future revisions, which could adversely affect our companies' risk-based capital evaluation and the resulting action or control levels. ([Attachment 5](#))

Senator Barone asked, how many years have similar bills run without any problems? Wouldn't it be possible to craft language so legislature does not need to run these bills every year? Jarrod Forbes stated they have been running these since the mid 1990s. Ken Wilke said that the difficulty is our Supreme Court has several decisions that say you cannot delegated legislative authority to an outside body. What has been done in some other cases is to delegate, in this case the insurance commissioner, the ability to update these by rule and regulation. Mr. Hanson added there has not been a problem in the past few years, but last year there was almost a problem. When they started the risk-based concept, the plan was to increase the instructions and make the standards more and more stringent. Last year the initial proposal probably affected some of the domestic companies. Senator Barone asked if it couldn't be worked on an acceptance basis rather than a routine basis? Mr. Hanson said there are times in other situations where the legislature is delegated to the regulator the authority to do it by rules and regulations. The problem is, it does not always give us the

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opportunity to look at the regulations or instructions before somebody approves it.

Chair Teichman said there have been good points brought up. She suggests the committee continue with the bill as it is this year and asks the insurance department and the agents to see if there is some way to work it out. Senator Brownlee stated she resonates with Senator Barone, in her first four years in the senate, she asked the exact same question. Senator Brownlee likes the idea of it saying December 31 of the "calendar year" that way it would always adopt. Chair Teichman would still like to move **HB 2171** and address it over the summer. Senator Brownlee stated it is not rocket science. Chair Teichman stated Senator Brownlee's idea was a good one, but she would like to have the insurance department and the agents sit down and talk about it before a decision is made. There were no other questions.

Madam Chair closed the hearing on **HB 2171**

Madam Chair reopened the hearing on **HB 2097**.

Senator Steineger made a motion to pass **HB 2097** favorably. The motion was seconded by Senator Wysong. The motion carried.

Madam Chair reopened the hearing on **HB 2098**.

Senator Steineger made a motion to pass **HB 2098** favorably. The motion was seconded by Senator Brownlee. The motion carried.

Madam Chair reopened the hearing on **HB 2171**.

Senator Barnett made a motion to pass **HB 2171** favorably to the consent calendar. The motion was seconded by Senator Wysong. The motion carried.

Meeting adjourned at 10:01.