

Approved: March 31, 2005  
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 17, 2005 in Room 234-N of the Capitol.

All members were present.

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:

Jarrold Forbes, Kansas Insurance Department  
Brad Smoot, Blue Cross Blue Shield of Kansas City  
Ron Gaches, First Data Corporation  
William Sneed, State Farm Insurance Companies  
Brad Smoot, American Insurance Associations  
David Hanson, Kansas Association of Property & Casualty Insurance Companies and Kansas Life & Health Insurance Association  
Jim Hall, American Council of Life Insurers  
Richard Wilborn, Farmers Alliance  
Larrie Ann Lower, Kansas Association of Health Plans  
Jeff Kniep, Kansas Action Network  
Terry Humphrey, Kansas Trial Lawyers Association  
Jacob S. Graybill, Patterson, Gott & Graybill, LC  
Barb Hinton, Kansas Legislative Division of Post Audit

Others attending:

See attached list.

Madam Chair called the meeting to order.

Madam Chair opened the hearing on **HB 2203**.

**HB 2203 - Medical and hospital service corporations; termination of coverage for cause approved by commissioner of insurance**

Terry Weber, Kansas Legislative Research Department, presented an overview on **HB 2203**. **HB 2203** would amend K.S.A. 40-92306 which concerns nonprofit medical and hospital service corporations. **HB 2203** would add language that permits nonprofit medical and hospital services corporations to cancel health insurance policies without offering continuation coverage. The original language did not include Blue Cross and Blue Shield of Kansas City. This bill would remedy the inconsistencies. There is no fiscal effect. **HB 2203** passed the House with a 122 to 0 vote.

Jarrold Forbes, Kansas Insurance Department, testified in behalf of **HB 2203**. **HB 2203** would allow a nonprofit medical and hospital service corporation to cancel a policy for "cause" such as fraud. (Attachment 1)

Ken Wilke, Officer of Revisor of Statutes, asked if the types of cause that are permitted, going to be set forth in any rules and regulations? Craig VanAalst stated his that it was his understanding it would be in fraud and misrepresentation.

Brad Smoot, Blue Cross Blue Shield of Kansas City, testified in support of **HB 2203**. (Attachment 2)

There were no further questions.

Madam Chair closed the hearing on **HB 2203**.

CONTINUATION SHEET

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Madam Chair opened the hearing on **HB 2276**.

**HB 2276 - Transmission of money charges**

Melissa Calderwood, Kansas Legislative Research Department, presented an overview of **HB 2276**. The House Committee recommended a substitute for **HB 2276** which would allow new law providing a person complying with the provision of K.S.A. 9-508 through 9-513 and the amendments thereto may charge a different price for a transmission of money. **HB 2276** would provide that the charges are based upon the mode of transmission, use of the transaction and that the price charged for the services are identical for all forms of attainment accepting the same mode of transmission. **HB 2276** was brought to the committee by Western Union. The bill was amended as a substitute to be related only to the mode of transmission.

Ron Gaches, First Data Corporation/Western Union, testified in support of **HB 2276**. The bill is intended to provide that Western Union and other money transmitters may charge a different price for internet or phone ordered money transmissions as opposed to the walk-up price. (Attachment 3)

Senator Barone asked why do we need this bill? Mr. Gaches said Kansas is one of eleven states that have a credit card surcharge act which provides that the price of goods or service purchases shall be the same as the price of goods or services paid for by cash. So charging a different price for a service that is paid for by credit card is in violation of Kansas statute. Senator Barone stated that Ron's explanation about credit cards is covered in the bill, so why do we need this? Mr. Gaches said that the intent of the bill is to make it clear those money transmitters providing that service would be allowed to charge a price different from the walk-up price. Senator Barone asked that Ken Wilke, Advisor of Statutes, take a look at this issue.

There were no other questions.

Madam Chair closed the hearing on **HB 2276**.

Madam Chair opened the hearing on **HB 2357**.

**HB 2357 - Establishing a self audit program for insurance**

Melissa Calderwood, Department of Research, presented an overview on **HB 2357**. **HB 2357** is a new law related to self audits conducted by insurance companies. There are a number of provisions in this bill which would include making an insurance client's self evaluated audit privileged information and therefore not subject to discovery or admissible as evidence in any civil, criminal or administrative procedure. **HB 2357** was requested by the House Insurance Committee by Representative Carter.

Bill Sneed, The State Farm Insurance Companies, testified in support of **HB 2357**. There must be an insurance compliance audit. Audits may not be allowed to hide illegal or improper activities. The privilege does not apply to preexisting materials. On page 4, line 39 would cover this. The intent of the definition of a self evaluated audit document is that those documents that are generated from that audit would garner the privilege. (Attachment 4)

Brad Smoot, American Insurance Association, testified in support of **HB 2357**. Mr. Smoot stated Kansas has numerous laws that shield various types of information from court action. (Attachment 5)

Dave Hanson, Kansas Association of Property & Casualty Insurance Companies and the Kansas Life & Health Insurance Association, testified in support of **HB 2357**. (Attachment 6)

Jim Hall, American Council of Life Insurers, testified in support of **HB 2357**. Mr. Hall focused on the life insurance side of this bill. (Attachment 7)

Richard Wilborn, Farmers Alliance, testified in support of **HB 2357**. (Attachment 8)

Larrie Ann Lower, Kansas Association of Health Plans, briefly testified in support of **HB 2357** stating she

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agreed with all the previous speakers and offered her written testimony to the committee. (Attachment 9)

Jeff Kniep, Kansas Action Network, testified in opposition of **HB 2357**. Business ethics and corporate compliance are under extensive scrutiny for very good reasons. Fraud is fraud, and it should be dealt with accordingly. (Attachment 10)

Terry Humphrey, Kansas Trial Lawyers Association, testified in opposition of **HB 2357**. Ms. Humphrey stressed to the Committee that **HB 2357** creates an absolute privilege for self evaluative audits which are performed by insurers on their own business activities and their compliance with state and federal law. As a result self evaluative audits any documents related to that audit are undiscoverable and inadmissible in court of law in administrative and civil proceedings. They are not subject to production under the Open Records Act. Ms. Humphrey also attached two articles relating to her testimony. (Attachment 11)

Jacob Graybill, Patterson, Gott & Graybill, LC, testified in opposition of **HB 2357**. (Attachment 12) Mr. Graybill's opposition on this bill is based on its intention to facilitate misconduct. The concern is about renegade management, pillaging the assets of the insurance companies. Mr. Graybill also handed out material that he referred to in which to support his testimony. (Attachment 13)

Barb Hinton, Legislative Division of Post Audit, had written testimony, taking a neutral position on **HB 2357**. (Attachment 14) Chair Teichman handed out a balloon amendment that addresses post audit. (Attachment 15)

Madam Chair announced that the Committee would be meeting March 21.

The meeting was adjourned.