

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 February 25, 2009, in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Beverly Beam, Committee Assistant

Conferees appearing before the committee:

Senator Vratil, (Attachment 1)
Chad Austin, Kansas Hospital Association (Attachment 2)
Terry Humphrey, Kansas Association for Justice (Attachment 3)
Russ Hazlewood, Kansas Association for Justice (Attachment 4)
Mike Hutfles, Hutfles Government Relations, Inc. (Attachment 5)
Kathy Olsen, Kansas Bankers' Association (Attachment 6)
John Donley, Kansas Livestock Association (Attachment 7)
Michael McLin, Division of Motor Vehicles (Attachment 8)
Leslie Kaufman, Kansas Coop Council (Attachment 9)
Mary Jane Stankiewicz, Kansas Grain & Feed and Kansas Ag Retailers (Attachment 10)
Tom Bruno, Farm Credit Association (Attachment 11)
Brad Harrelson, Kansas Farm Bureau (Attachment 12)
Sue Shulte, Kansas Corn Growers (Attachment 13)

Others attending:

See attached list.

The Chair called the meeting to order and asked for approval of the Minutes of February 3, 4, 5, 9, 10, 11, 12, 17 and 18 as previously e-mailed to Committee members. Senator Kelsey moved approval. Senator Steineger seconded. Motion passed.

Hearing on

SB 167 - Hospitals; increasing the enforceable limit of a hospital lien.

Melissa Calderwood, Principal Analyst, Research Department, gave an overview of the bill. Ms. Calderwood stated **SB 167** would increase the enforceable limit of a hospital lien from \$5,000 to \$20,000. She noted that **SB 167** would have no fiscal effect on state operations; however, the bill would have the potential to increase the amount a hospital could recover in certain instances where a patient is unable to pay for services rendered.

Senator John Vratil testified in support of **SB 167**. Senator Vratil said the language in **SB 167** seeks to increase the amount a hospital can recover in certain instances where a patient is unable to pay for services provided by the hospital. The hospital is able to recover the amount before the patient recovers any of the settlement, he said. He noted that currently, a hospital can recover up to \$5,000 for a patient who is involved in a non-workman's compensation accident or an injury resulting from negligence. He said **SB 167** would increase the amount to \$20,000. He said the \$5,000 ceiling was established in 1972. Prior to the 1972 increase, hospitals could recover \$1,500, he said.

Chad Austin, Vice President Government Relations, testified in support of **SB 167**. Mr. Austin stated that currently, the fully enforceable amount of \$5,000 is many times insufficient to cover the full costs of care. He said the existing Kansas statute states that charges in excess of \$5,000 are subject to an "equitable distribution" as determined by the court. Kansas Hospital Association has two primary reasons for supporting **SB 167**, he said. First, most injuries that result from a tort-type of claim, such as an automobile accident, incur charges in excess of \$5,000 and many health care insurers will deny payment until the claim is settled. Second, these types of claims often take up to two or more years to come to settlement and the healthcare

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provider is left holding the receivable the entire time without recourse to collect the fees owed. He said leaving it up to the court to determine an equitable distribution that may take up to two years after incurring the costs of providing the care, without any assurances that the costs in excess of \$5,000 will be covered, is inappropriate in today's economic environment.

Terry Humphrey, Kansas Association for Justice, testified in opposition to **SB 167**. Ms. Humphrey stated that in 1997, Kansas Association for Justice and the Kansas Hospital Association reached consensus on legislation that established the current hospital lien law. She said the carefully crafted compromise established protection for Kansans hurt through no fault of their own, in vehicle accidents or other accidents, whose hospital charges exceed their insurance coverage, judgment, or settlement. It also provides protection for hospitals, which may assert liens in an unlimited amount that are automatic and fully enforceable up to the first \$5,000, and enforceable through "equitable distribution" for reasonable and necessary charges over \$5,000. She noted that **SB 167** upsets this delicate compromise. In conclusion, she said until mandated minimum auto limits for both liability and uninsured motorists' and underinsured motorists' coverage is increased by the Legislature, it is imperative that the protections for Kansas patients in the hospital lien law remain unchanged. (Attachment 3)

Russell Hazlewood, Attorney, Graybill & Hazlewood, L.L.C. testified in opposition to **SB 167**. Mr. Hazlewood said in 1997 K.S.A. 65-406 was amended to remove the statutory lien ceiling, allowing a hospital to assert a lien in any amount up to its reasonable and necessary charges. He noted that apparently mindful that an unlimited hospital lien could result in a harsh, unjust outcome for the injured victim in some cases, the legislature inserted a statutory mechanism intended to balance the competing interests of the hospital and the injured patient. (Attachment 4)

Following Q & A, the Chair closed the hearing on **SB 167**.

Hearing on

SB 275 - Implements of husbandry, exempt from certificates of title.

Due to time constraints, the chair skipped an overview of **SB 275**.

Mike Hutfles, appearing on behalf of Southwestern Association, testified in support of **SB 275**. Mr. Hutfles said in summary, if **SB 275** is not enacted, an undue burden will be placed on Kansas sellers and purchasers of agricultural equipment, construction equipment, forestry equipment, and lawn care and grounds equipment to determine if a non-highway certificate of title is required. He said it also creates confusion for lenders to determine if they should protect their investment in that equipment purchase by having their interest noted on a non-highway certificate of title or on a UCC-1 Financing Statement. (Attachment 5)

Kathleen Olsen, Kansas Bankers Association, testified in support of **SB 275**. Ms. Olsen stated that **SB 275** was introduced in response to an article that was published in the Kansas University Law Review, which presented a theory that tractors and other implements of husbandry should be considered "non-highway vehicles." She said as such, the article theorized that such implements should be required to have a non-highway title, and like other titled vehicles, perfection of a security interest should be accomplished by noting the lien on the title. She noted that vehicles that are exempt from registration are also exempt from titling, unless specifically required to be titled by another statute. She said implements of husbandry are not specifically included in the titling statutes, either as a highway or non-highway vehicle. She noted that the bill provides clarification to the law in two areas: (1) specifically states that implements of husbandry are not non-highway vehicles and (2) strikes the reference to "farm tractors" from K.S.A. 84-9-311. Ms. Olsen said the intent of this legislation is to put to rest any notion that the body of law regarding tractors or other implements of husbandry has changed since the enactment of the titling statutes. She said implements of husbandry are now and have always been exempt from registration and titling requirements. She added that the fact that the Department of Revenue, Division of Vehicles, does not even have a method for the titling of implements of husbandry, is further proof that such has been and currently is the status of the law. Ms. Olsen asked that the F I & I Committee Minutes reflect that **SB 275** merely clarifies the law. She said it is not new law. (Attachment 6)

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John Donley, Assistant General Counsel, Kansas Livestock Association, testified in support of **SB 275**. Mr. Donely said **SB 275** is simply to clarify the law. He said he echos the comments made by the other conferees. He said Kansas Livestock Association is supportive of **SB 275** as a clarification of current law and encourages the Committee to support passage of the bill. (Attachment 7)

Michael McLin, Bureau Manager of Titles and Registrations submitted written testimony only in favor of **SB 275**. (Attachment 8)

Leslie Kaufman, Kansas Coop Council testified in support of **SB 275**. Ms. Kaufman stated that the Kansas Coop Council also agrees with testimony of prior conferees. (Attachment 9)

Mary Jane Stankiewicz, COO and Senior Vice President of the Kansas Grain and Feed Association and the Kansas Agribusiness Retailers Association, submitted written testimony in support of **SB 275**. (Attachment 10)

Tom Bruno, Farm Credit Association, testified in support of **SB 275**. Mr. Bruno said he echoed the comments made by the other conferees and urged the Committee to act quickly to pass this bill. (Attachment 11)

Brad Harrelson, State Director, KFB Government Relations, testified in support of **SB 275**. He said Kansas producers operate in an industry with increasingly high capital investment costs. He said maintaining stability and consistency in the ability to obtain financing is critical to their success and to the future of the industry. (Attachment 12)

Jere White, Kansas Corn Growers Association and Kansas Grain Sorghum Producers Association presented written testimony only in support of **SB 275**. (Attachment 13)

Senator Taddiken suggested that the Minutes reflect that **SB 275** is current law, not new law, it just clarifies the law.

The Chair closed the hearing on **SB 275**.

Action on

The Chair said since there were no opponents to **SB 275** she was ready to work the bill. Senator Taddiken moved to pass **SB 275** out favorably and place it on the Consent Calendar. Senator Masterson seconded. Motion passed.

The next meeting is scheduled for February 26, 2009.

The meeting was adjourned at 10:30 a.m.