

MINUTES

SPECIAL COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

October 11, 2017
Room 548-S—Statehouse

Members Present

Senator Jeff Longbine, Chairperson
Representative Jim Kelly, Vice-chairperson
Senator Rick Billinger
Senator Lynn Rogers
Representative Cindy Neighbor
Representative Randy Powell
Representative Jene Vickrey

Staff Present

Melissa Renick, Kansas Legislative Research Department
Whitney Howard, Kansas Legislative Research Department
Katelin Neikirk, Kansas Legislative Research Department
David Wiese, Office of Revisor of Statutes
Eileen Ma, Office of Revisor of Statutes
Suzanne Nelson, Committee Assistant

Conferees

Jennifer Cook, Deputy Commissioner, Consumer and Mortgage Lending [Code Administrator, UCCC], Office of the State Bank Commissioner
Alex Horowitz, Senior Officer for Research, Consumer Finance, The Pew Charitable Trusts
Ken Williams, President and CEO, Catholic Charities of Northeast Kansas
Claudette Humphrey, Director, Stabilization Services, Catholic Charities of Northern Kansas
Whitney Damron, P.A., Kansas Community Financial Services Association
Julie Townsend, Government Affairs Director, Advance America
Brad Smoot, Legislative Counsel, Anderson Financial Services, d.b.a. LoanMax
Robyn Waller, LoanMax Area Manager, Wichita, Kansas
Ken Selzer, CPA, Kansas Commissioner of Insurance
Richard James, Attorney, DeVaughn James Injury Lawyers
Jasmine Fields, Victim Advocate, Kansas DUI Impact Center
Chris Conrade, Vice President, Conrade Insurance Group
Patrik Neustrom, Attorney, Neustrom & Associates, Salina, Kansas
Chris Combs, Private Citizen, Wichita, Kansas
Sean Brennan, Attorney, Accident Recovery Team, Law Offices of King, Brennan & Albin, Wichita, Kansas and former client, ScharMaine Chappell, Wichita, Kansas
Callie Denton, Executive Director, Kansas Trial Lawyers Association
Clark Shultz, Assistant Commissioner of Insurance, Kansas Insurance Department
William Sneed, Legislative Counsel, State Farm Insurance Companies

Larrie Ann Brown, Legislative Counsel, Property Casualty Insurers Association of America
Brad Smoot, Legislative Counsel, American Insurance Association
Gary Domer, Manager, Kansas Automobile Insurance Plan
Christine Peterson, Group Controller, Enterprise Leasing Company of Kansas, LLC

Others Attending

See [Attached List](#).

Morning Session

Welcome and Introductions

Chairperson Longbine called the meeting to order at 9:35 a.m. He welcomed guests and conferees and thanked the staff for their diligent work in putting together the meeting. He then asked staff to review the charge and legislation subject to the review of the Committee.

Overview of Committee Charge and Resources Available on Topic #1; Overview of 2017 HB 2267

Melissa Renick, Kansas Legislative Research Department (KLRD), presented an overview of the first of two topics that were charged to the Special Committee on Financial Institutions and Insurance by the Legislative Coordinating Council (LCC). The LCC authorized one day for review of both topics.

Topic #1: *Study the impact of 2017 HB 2267, including study of current finance charges, rates, and terms under the Kansas Uniform Consumer Credit Code (UCCC); the impact of the proposed legislation and potential modifications related to the Consumer Financial Protection Bureau's (CFPB) anticipated Final Rule on small dollar lending on financial institutions, loan companies, Kansas consumers; and the current regulatory environment in Kansas.*

Ms. Renick highlighted where to access Committee and topic-related information, including the Kansas Legislature's website [http://kslegislature.org/li/b2017_18/committees/ctte_spc_2017_special_committee_on_financial_ins_1/documents/] and KLRD's resource page [<http://www.kslegresearch.org/KLRD-web/Committees/Committees-Spc-FinancialInstitutionsIns.html>] containing surveys, research papers and other items available on both Committee topics, and a link to the CFPB's now Final Rule on the CFPB website for the topic of small dollar lending. Ms. Renick noted the Final Rule was issued on October 5, 2017. Ms. Renick also mentioned the following documents contained in the Committee packets:

- A copy of the minutes from the March 13, 2014, meeting of the House Committee on Financial Institutions wherein there was an informational briefing on the subject of payday and short-installment loans ([Attachment 1](#)); and
- A KLRD memo authored by Katelin Neikirk on Payday Lending: State and Federal Regulations and relevant case law ([Attachment 2](#)).

David Wiese, Office of Revisor of Statutes, presented an overview of HB 2267, which would amend three statutes within the UCCC relating to consumer loans, outlining the provisions of sections 1 and 2 of the bill and the new section 3, which adds language pertaining to military borrowers prohibiting a lender from charging any monthly maintenance fees to a military borrower or his or her dependents ([Attachment 3](#)). Following the presentation, Mr. Wiese answered questions from Committee members about the definition of the term “military borrower” and the party or individual who requested introduction of HB 2267.

Presentation on Consumer Loans Subject to the UCCC and the Current Regulatory Environment

Chairperson Longbine recognized Miki Bowman, Kansas Bank Commissioner, who was in the audience.

Jennifer Cook, Deputy Commissioner, Consumer and Mortgage Lending [Code Administrator, UCCC], Office of the State Bank Commissioner (OSBC), presented an overview of the role and responsibilities of the Consumer and Mortgage Lending Division (CML) of the OSBC. A list of licensed entities with the OSBC is available on the agency’s website [www.osbckansas.org]. One of CML’s primary responsibilities is to examine licensed entities for compliance with state and federal law. Other responsibilities include administering grants to support consumer education and awareness, and to respond to consumer questions and concerns.

Ms. Cook also provided information on the UCCC, the primary state law that governs consumer loans and credit sales, or any loan for personal, family or household use, which includes payday, title, and installment loans (also called small dollar loans). Other topics covered in the presentation included ([Attachment 4](#)):

- Licensing activity for the first half of 2017;
- Kansas total loan volume;
- CML consumer loan activity;
- Small dollar lending in Kansas;
- Consumer loan volumes by type;
- Trends in small dollar lending* (detailed below);
- Payday loans;
 - Terms;
 - Fees;
 - Disclosures;
 - Right to Rescind;
 - Repayment Plans;
 - Prohibitions;
 - Criminal prosecution not allowed; and
 - Lender requirements;
- Payday loans to military borrowers;
- Other small dollar/installment loans;

- Title loans;
- Agency authority;
- Consumer education initiatives;
 - KansasMoney.gov;
- Consumer inquiries and complaints in 2016;
- Federal regulation and the CFPB;
- The CFPB Final Rule; and
- OSBC working draft summary—CFPB Final Rule on Payday, Vehicle Title, and Certain High-Cost Installment Loans.

*Among the information provided in Ms. Cook’s presentation was a discussion of trends in small dollar lending and statistical data on CML licensees. The agency noted: some lenders are moving away from the traditional payday loan model and into an installment loan product, which is also permitted under the UCCC (a separate presentation slide demonstrated this decline from an estimated \$415 million in CY 2012 to \$325 million in CY 2016); a growing challenge for both state and federal regulators is unlicensed lenders that operate primarily, or only, online; and online unlicensed lenders often operate outside state or federal jurisdiction. It was further noted the CFPB rule will impact the type of small dollar lending products lenders offer in the future.

Chairperson Longbine asked Ms. Cook to explain the jurisdiction of the CFPB and the relationship between state and federal agencies and regulatory oversight of each, especially with the Final Rule being so new. She explained the CFPB was created by the 2010 Dodd-Frank Act, which has very expansive reach and authority. Its scope includes, but is not limited to, almost any type of consumer transaction, mortgage lending, small dollar lending, and auto financing. Since CFPB issues federal rules, mortgage lenders, for example, must follow that rule and states must ensure their state laws do not conflict with the federal rule.

Chairperson Longbine also asked Ms. Cook to explain what would transpire during the 21-month implementation period for the new small dollar lending rule issued on October 5, 2017. She stated the 21-month period reflects on the Final Rule’s complexity and the time it will take other state regulators to sort through everything that will need to be aligned with the federal rule. It also ensures that unanticipated issues are addressed, which might also extend that time frame. The CML Division is just beginning to review the new rule to understand what changes will need to be made to the UCCC to ensure alignment with the new federal rule.

Ms. Cook also discussed the agency’s concern with the growing number of unlicensed and unregulated lenders on the Internet. These entities make helping a consumer who has done business with an unlicensed, unregulated Internet lender very challenging because many of these businesses do not respond or cooperate in answering and settling complaints. She then responded to questions from Committee members about the proposed rule and potential impact on Kansas lenders and the regulation of unlicensed lenders and permitted enforcement actions.

Comments from Proponents and Neutral Parties to 2017 HB 2267

Following the overview of the UCCC and contemporary issues, Chairperson Longbine requested comment on HB 2267. Alex Horowitz, Senior Officer for Research, Consumer Finance, The Pew Charitable Trusts, presented testimony in support of HB 2267. He commented that Pew’s research shows that payday loans today in Kansas carry excessive fees

that drain millions of dollars from residents each year. With a typical annual percentage rate (APR) of 391 percent for a payday loan in Kansas today, a borrower of a \$300 loan would result in a debt for an average period of five months and would repay a total of \$750. Mr. Horowitz also noted the Final Rule covers payday and auto title loans that have terms up to 45 days or carry a balloon payment, but does not limit rates and fees. He stated payday loans and auto installment loans already exist in Kansas, and because payday and auto title lenders are likely to only issue loans with terms longer than 45 days once the Final Rule takes effect, the Final Rule would not cover these loans in Kansas. Mr. Horowitz provided the representative costs of these two loans with finance charges (termed “fees” in his example). Mr. Horowitz also highlighted Colorado’s experience and changes in 2010 law that better align the interests of borrowers and lenders and would be “compatible” with federal rules ([Attachment 5](#)).

Ken Williams, President and CEO, Catholic Charities of Northeast Kansas, presented testimony supporting HB 2267. He assisted in developing the Kansas Loan Pool Project (KLPP) that has helped more than 100 families refinance over \$150,000 in payday loans since the inception of the program. Mr. Williams stated although most payday loan stores operate similarly, they vary widely in their final payoff calculations and methodology. Some stores compound interest on a daily basis, while others calculate interest using a two-week cycle. This makes estimating the final payoff very difficult ([Attachment 6](#)).

Claudette Humphrey, Director of Stabilization Services, Catholic Charities of Northern Kansas, spoke in favor of HB 2267. She oversees the KLPP for the Catholic Diocese of Salina comprised of 31 counties in north central and northwestern Kansas. She currently works with 30 individuals, of which 28 have relief loans that are for consumers already caught in the debt cycle of payday lending. The remaining two loans are alternative loans, which are made in lieu of utilizing a payday lender. She implored the committee to take appropriate action to alleviate the financial burden of those who utilize these short-term, high-interest loans ([Attachment 7](#)).

Chairperson Longbine pointed the Committee’s attention to the written-only proponent testimony of Michael Schuttloffel, Executive Director, Kansas Catholic Conference ([Attachment 8](#)).

Following the conclusion of the proponents’ testimony, Ms. Humphrey and Mr. Horowitz responded to Committee questions about the changes proposed in HB 2267 and the impact on persons similar to those in the KLPP, projected decreases in consumer loan transactions cited in the bill’s fiscal note, and the fiscal projections and overall economic impact of the Colorado law on industry.

Jennifer Cook presented neutral testimony regarding HB 2267. She related that the bill, as drafted, presents potential challenges and ambiguities that would affect OSBC’s ability to appropriately regulate certain financial products authorized under the UCCC. She noted several provisions in the bill add complexity to the UCCC. Ms. Cook also stated it is unclear how HB 2267 would interact with the Final Rule and noted the length of the Final Rule’s implementation period. Yet, she continued, the UCCC needs to be updated because many consumer credit products exist today that were not contemplated in 1973 when the UCCC was first enacted ([Attachment 9](#)). At the conclusion of her testimony, Ms. Cook responded to questions from Committee members about steps the agency would take in future UCCC legislative proposals and the agency’s interest in working with stakeholders on HB 2267. Ms. Cook indicated she would welcome such conversation.

Comments from Opponents to HB 2267

Whitney Damron, P.A., Kansas Community Financial Services Association, presented testimony opposing HB 2267. He commented that HB 2267 proposes to eliminate a source of credit that has been available to consumers for more than 25 years. Payday loan transaction rates in Kansas are among the lowest in the country and are as low or lower than surrounding states. Kansas has some of the strongest pro-consumer protections in statute, including military best practices lending requirements; forms to be available in Spanish; 24-hour right of rescission; no loan rollovers; no criminal prosecution for bad checks; and a limit of two outstanding loans per customer. He related that in Kansas, payday loan transactions are straightforward. A consumer can easily determine the amount he or she wants to borrow (\$500 maximum), with a fee charged of not more than \$15 per \$100 borrowed. The length of the term is typically two weeks (e.g., to the borrower's next payday). A borrower must have a job and a checking account to complete a transaction. Mr. Damron also posed that the full ramifications of the Final Rule are unknown at this time, but will be discovered over the 21-month implementation period, which would make statutory changes in 2018, or closer to the actual implementation date more prudent. He concluded that the Legislature should not proceed with HB 2267 or related legislation at this time ([Attachment 10](#)).

Julie Townsend, Government Affairs Director, Advance America, spoke against HB 2267. She commented this bill would not improve the short-term lending industry in Kansas, but rather, it would completely eliminate the industry, reduce financial choice, and force consumers to turn to costlier, less regulated forms of short-term credit. Ms. Townsend related that HB 2267 also includes an interest rate cap as high as 36 percent on a short-term loan. Interest rate caps on short-term loans, she continued, are intended to serve as effective bans on the service and have unintended consequences, creating an economically non-viable environment for lenders, forcing them to close their doors, costing thousands of employees their jobs, and leaving consumers with fewer credit options ([Attachment 11](#)).

Brad Smoot, Legislative Counsel, Anderson Financial Services, d.b.a. LoanMax, presented testimony opposing HB 2267. He stated LoanMax has been offering title loans for more than 13 years. He explained those who have not purchased real estate cannot get a home equity loan and those without credit cards or even a credit history cannot borrow from more traditional lenders. For these Kansans, LoanMax and similar lenders provide a reliable, fully regulated source of short-term cash. Customers use a vehicle as collateral for an open-line of credit; however, no annual fees or late fees are charged and interest is not compounded (e.g., as credit cards). In LoanMax's Kansas experience, the average loan is less than \$560 and the average term of the loan is only 3 months. Customers may pay in full at any time. Mr. Smoot's client issues thousands of this type of loan each year with very few complaints filed with the OSBC. Mr. Smoot indicated these numbers tell him a title loan with open-ended credit is a lending tool that is very much in demand, well-understood by customers, a good alternative to other lending options, and a useful part of the financial market place for certain borrowers. Mr. Smoot encouraged the Committee to continue to allow open-ended credit products, such as title loans, to remain regulated by the OSBC ([Attachment 12](#)).

Robyn Waller, LoanMax Area Manager, Wichita, Kansas, presented testimony opposing HB 2267. She stated LoanMax operates 29 stores and employs 75 people in more than a dozen Kansas communities, including her home town of Wichita. Getting a loan is quick, and terms and conditions of the loan are straightforward. Ms. Walker noted her testimony includes a copy of one of the loan documents given to customers to clarify and to remind them of the loan conditions and other options ([Attachment 13](#)).

Chairperson Longbine pointed the Committee's attention to the opponent written-only testimony of Rachele Cronk, an Advance America branch manager ([Attachment 14](#)).

Whitney Damron, Julie Townsend, and Robyn Waller responded to questions from Committee members about qualifications of loan applicants and the determination of an applicant's ability to repay, whether rollovers occur in Kansas and are permissible, the default rate on conferees' loan products and collection practices, and requested a response to the calculations of and numbers cited for Kansas loan products in proponent testimony.

Chairperson Longbine closed the hearing on HB 2267 and the meeting was recessed at 11:45 a.m. for lunch, to reconvene at 1:00 p.m., with recommendations to follow discussion of the second topic assigned by the LCC.

Afternoon Session

Review the potential impact associated with amendments to the Insurance Code governing automobile liability insurance policies contained in 2017 HB 2104.

The meeting reconvened at 1:08 p.m. Chairperson Longbine opened the hearing on HB 2104 and the discussion of:

***Topic #2:** Review the potential impact associated with amendments to the Insurance Code governing automobile liability insurance policies contained in 2017 HB 2104. Such study should include a review of insurance policy pricing and the marketplace, cost estimates and other available data relating to impact on premiums and policyholders, and pertinent driver data.*

Melissa Renick, KLRD, presented an overview of the second topic and the resource materials available. Ms. Renick noted the topic was requested by the House Committee on Insurance and its letter outlined the study's scope as follows: 1) how the bill would impact pricing in the marketplace, including how it would affect persons who have difficulty purchasing minimum limit policies; 2) how the increase would affect the pricing for motorists with coverage higher than the minimums; 3) whether persons with suspended licenses could purchase coverage; and 4) an update on other states' laws regarding stacking and off-set allowances and where Kansas "fits" in proximity. She also reviewed the Special Committee on Insurance's report to the 2016 Legislature on the topic of minimum motor vehicle liability rates and the enactment of the Committee bill (2016 HB 2446), which only increased the property damage limit ([Attachment 15](#)).

Whitney Howard, KLRD, presented an overview of a memorandum discussing the current law and statutory changes proposed by HB 2104 regarding uninsured motorist (UM) and underinsured motorist (UIM) coverage and insurance setoff in Kansas, as well as other approaches taken by various select states that either allow or prohibit setoff ([Attachment 16](#)).

David Wiese, Office of Revisor of Statutes, briefed the Committee on HB 2104 and the proposed changes to motor vehicle liability insurance that would amend certain uninsured motorist coverage provisions and increase the minimum policy limits for bodily injury (BI) ([Attachment 17](#)).

Melissa Renick, KLRD, was recognized to provide published personal auto liability insurance and states' data and highlighted where Kansas "fits" in the data, including the top ten most expensive and least expensive states for auto insurance (2014); prior Kansas ranking and average expenditure data; average expenditures for auto insurance by state (2010-2014); and private passenger cars insured—the shared and voluntary markets (2014) ([Attachment 18](#)). Ms. Renick also reviewed a written-only handout from Ted Smith, Division of Vehicles, Kansas Department of Revenue, regarding insurance-related license and vehicle registration suspensions due to vehicle insurance coverage issues. Data presented included traffic convictions for no proof of insurance, suspensions due to missed SR 22 filings, and suspension due to accident with no insurance ([Attachment 19](#)).

Ken Selzer, Kansas Commissioner of Insurance, gave a brief overview of a booklet created and published by the Kansas Insurance Department (KID) regarding auto and homeowners insurance. This booklet is just one of many resources available on KID's website [www.ksinsurance.org]. He urged the Committee to use KID anytime for input, collaboration, and research regarding any insurance topic. He noted KID is very concerned about changes that will increase uninsured motorist costs and increase the UMR (uninsured motorist rate). Commissioner Selzer referenced one of three indicators in the data KLRD provided (liability insurance premiums) and commented on Kansas' number being much lower than the national average given the current limits ([Attachment 20](#)).

Comments from Proponents to HB 2104

Richard James, Attorney, DeVaughn James Injury Lawyers, presented testimony in favor of HB 2104. He told the Committee the current minimum levels of liability insurance shift the responsibility for medical bills and expenses from the bad driver to the injured party and government-funded health insurance programs. He posed that Kansas does not need more medical expenses going to Medicaid or Medicare when those costs should be paid for by the bad driver. When no insurance is available, the health care provider goes unpaid, and hospitals and doctors suffer financially. He related that under Kansas law, an injured person with minimum limits has no UIM coverage that he or she can rely upon. He mentioned his client, Tommie Burton, who received less than \$25,000 because the minimum limits had to be shared among multiple people since four individuals were killed or severely injured in his case. His bills exceeded \$100,000. Mr. James also pointed members' attention to several other clients' statements attached to his written testimony. He urged the Committee to set the BI limits at a realistic amount and to stop the UIM offset, which results in illusory UIM coverage that policyholders cannot collect ([Attachment 21](#)).

Jasmine Fields, Victim Advocate, Kansas DUI Impact Center, spoke in favor of HB 2104. The Center supports increasing the minimum liability limits and the prohibition of the offset. Ms. Fields also told the Committee there is fear that higher premiums will cause more people to drive without insurance, but these fears of individuals' breaking the law should not decide what the right action is for Kansas ([Attachment 22](#)).

Chris Conrade, Vice President, Conrade Insurance Group, supported HB 2104. He told members Kansas has had tremendous economic changes in the past 35 years, but the minimum limits for automobile coverage are outdated and need to be adjusted. He related that individuals who have minimum limits coverage, as required by law, erroneously believe they have adequate protection. Mr. Conrade also reflected that minimum limits should protect the Kansas budget, which current limits do not. Each time medical expenses are not covered by the auto insurance of the at-fault driver, the costs are shifted to government-financed programs like

Medicaid and Medicare, and consequently to the Kansas taxpayers. Mr. Conrade also agreed the UIM setoff is unfair and should be addressed ([Attachment 23](#)).

Patrik Neustrom, Attorney, Neustrom & Associates, Salina, Kansas, presented testimony in favor of HB 2104. He stated the minimum limits for BI and for UIM coverage (\$25,000/\$50,000) is not enough. When both drivers have 25/50 policies, the underinsured provision pays \$0. There may not be enough to pay all the damage, but due to the offset, individuals cannot get the \$25,000 limit on their policy, even though they are certainly underinsured for the loss and they certainly paid a premium for that kind of coverage. Mr. Neustrom noted, by increasing limits or eliminating the offset, Kansas can provide adequate financial security so bad drivers can pay for the injuries they cause. Mr. Neustrom also requested members read the written-only testimony of his client, Danielle Robinson (see [Attachment 28](#) below) ([Attachment 24](#)).

Chris Combs, private citizen, Wichita, Kansas, testified in support of HB 2104. He told the Committee about an accident in April 2016 in which he was injured and accumulated approximately \$16,000 in medical bills, besides missing work due to the injury and surgery. Since he and the at-fault driver had the same minimum \$25,000 coverage, Mr. Combs was denied the \$25,000 UIM coverage for which he had paid monthly premiums. He believes this is unfair treatment and should be changed so it cannot negatively affect other Kansans in the future ([Attachment 25](#)).

Sean Brennan, Attorney, Accident Recovery Team, Law Offices of King, Brennan & Albin, Wichita, and a former client, ScharMaine Chappell, testified in support of HB 2104. Ms. Chappell related she had been rear-ended in her vehicle in May 2016 and suffered a herniated disc, which required her to have discectomy surgery, with medical bills totaling more than \$143,000. The driver who hit her admitted fault and had coverage of \$25,000 with Progressive Insurance. Her attorney negotiated her medical bills down to \$20,000, forcing her medical providers to accept deep discounts for their services. Her attorney also accepted a large reduction in his fees so she could have a small monetary recovery towards her continuing medical treatment and loss of work. Her attorney explained to her that if this accident had happened in a state other than Kansas, she would have been able to seek the \$25,000 coverage she had paid for, which would have made a significant difference in the outcome of her settlement and provided support for her future medical expenses and time off from work ([Attachment 26](#)).

Callie Denton, Executive Director, Kansas Trial Lawyers Association, testified in support of HB 2104. She explained that Kansas has a mandatory, comprehensive auto insurance law called the Kansas Auto Injury Reparations Act (KAIRA), which requires drivers to be responsible and to have the financial security to compensate people promptly. However, KAIRA is failing its purpose because Kansans are often left with uncompensated expenses after a collision, even when they are not at fault and have purchased insurance. She remarked that policyholders should get the UIM coverage they purchased from their insurance company and passage of HB 2104 would stop the UIM setoff and enable policyholders to recover damages they would have been entitled to receive up to the policy limit from the negligent driver ([Attachment 27](#)).

Chairperson Longbine directed the Committee's attention to written-only proponent testimony of Danielle Robinson, private citizen of Wakefield, Kansas ([Attachment 28](#)), and Misha Rosiere, private citizen of Wichita, Kansas ([Attachment 29](#)).

Clark Shultz, Assistant Commissioner of Insurance, and Chris Conrade answered questions about the number of insurance policies written at the minimum limits, the current

UMR, and known impacts of changes to insurance premiums that would be created by changes to the limits and enactment of setoff provisions, and the affordability of insurance coverage.

Comments from Opponents to HB 2104

William Sneed, Legislative Counsel, State Farm Insurance Companies, presented testimony in opposition to HB 2104. He related it is his client's position that financial responsibility (F.R.) laws and the appropriate levels require the Legislature to balance fair limits for the state while remaining aware, if minimums become too high, it will create insurance affordability problems for some and cause more uninsured drivers on the road. His client also believes, if UIM coverage is required by statute, it should be on a modified difference-in-limits basis, rather than a strict difference-in-limits to ensure that when other injured parties are involved and the liability insurance limits from the wrongdoer have been reduced to an amount that is less than his insured's UIM limits, the insured would still be able to recover an amount up to the UIM limits. Regarding the argument that the insured is not getting what he or she paid for, it is false and misleading, Mr. Sneed continued, because UIM is priced on the difference-in-limits basis, which keeps the cost of UIM relatively low. Since Kansas has a relatively low UIM rate, Mr. Sneed posed that the marketplace is working and a change is not necessary at this time ([Attachment 30](#)).

Larrie Ann Brown, Legislative Counsel, Property Casualty Insurers Association of America, spoke against passage of HB 2104. She told members that this bill would raise the F.R. limits for BI. She posed that raising the minimum BI limits is not needed to cover the cost of injuries in today's health market, since the cost of auto injury claims in Kansas is generally lower than the current BI F.R. An Insurance Research Council study based upon 2012 claims showed that 90.1 percent of claims in Kansas were under \$25,000, with the average claim being around \$13,500. ([Attachment 31](#))

Brad Smoot, Legislative Counsel, American Insurance Association, presented opponent testimony. He urged the Committee not to endorse an increase in current auto minimums as proposed in HB 2104. He remarked that Kansas has already expended enormous amounts of time and effort to deal with UM. Even with minimums like those in Kansas, those drivers are still present among us because some people cannot afford to maintain insurance coverage. The law in question is a mandatory minimum. The question posed by this interim topic and HB 2104 is how much liability coverage will constituents be required to purchase regardless of the cost or their personal ability to pay. HB 2104 would double the minimum coverage, tying Kansas with Alaska for the highest in the country. Mr. Smoot urged the Legislature to be cautious about making such a move and to be aware of the unintended consequences for Kansans ([Attachment 32](#)).

Gary Domer, Manager, Kansas Automobile Insurance Plan (KAIP), presented testimony opposing HB 2104. He noted KAIP is not a government agency, but is regulated by KID, and provides the state's residual market for individuals and businesses that are unable to obtain automobile coverage through the regular voluntary insurance market. Mr. Domer told members KAIP's main book of business is private passenger automobile business, including motorcycles and motor homes. KAIP also writes non-owned auto coverage for those who do not own an automobile. If enacted, this bill would increase the amount the majority of policyholders pay by 34 percent for liability coverage. Attached to his written testimony is a table showing the new premiums based upon current rates filed and approved by KID ([Attachment 33](#)).

Christine Peterson, Group Controller, Enterprise Leasing Company of Kansas, LLC, testified in opposition to HB 2104. She urged the Committee not to proceed with the bill. She told members that higher motorist F.R. leads to higher insurance claims, resulting in higher insurance premiums for all policyholders in Kansas. She asked members if raising the entry level for insurance coverage would bring the current uninsured vehicles into compliance with current laws and posed the answer would be “no” ([Attachment 34](#)).

Chairperson Longbine pointed the Committee’s attention to the opponent written-only testimony:

- Doug Mays, Allstate Insurance ([Attachment 35](#));
- David Monaghan, American Family Insurance ([Attachment 36](#));
- Marlee Carpenter, Kansas Association of Property and Casualty Insurance Companies ([Attachment 37](#)); and
- Nicole Brockman, The General Insurance ([Attachment 38](#)).

Bill Sneed, Brad Smoot, Larrie Ann Brown, and Gary Domer addressed questions from Committee members. The discussion addressed how people become uninsured when they must have proof of insurance to get a drivers license and tags; who monitors and reports drivers with no insurance; why KAIP’s rates are so much higher than the voluntary market; and a request for actuarial evidence supporting an increase of 25 percent to 34 percent of total premium in Kansas and what was the cause. Chairperson Longbine also reminded members that Kansas has weather-related events like hail, which is also an underlying consideration in the total premium.

Committee Discussion of Conclusions and Recommendations for the Report to the 2018 Legislature

Committee Discussion Topic #2 (HB 2104)

Chairperson Longbine opened discussion on the Committee’s report and requested comments and recommendations on the second assigned topic (outlined below with general topic italicized).

- *Stakeholder Input.* A Committee member suggested getting the various groups together to discuss if a more comprehensive proposal, not just adjustments to the two BI limits, could be created. This topic, the member continued, has been looked at before, but the Committee could try one more time to get a compromise. Some members felt those discussions had already been had, and in the past, those discussions have not been as fruitful and a compromise could not be reached. However, it was noted the current mix of stakeholders could arrive at a comprehensive proposal.
- *Data Requested–Insurance Policies, State Experience.* Committee members would like to see more up-to-date and complete numbers. During discussion,

Committee members asked that the Committee not make a recommendation on the bill's status yet and requested more information about available policy data and cost estimates for Oklahoma and Colorado (e.g., states with experience with setoff provisions). The Committee would like to see statistics from states that allow setoffs and what the difference is from those who do not allow setoffs.

- *Data Requested–Health Care Cost Estimates, Fiscal Impact on Government Payors.* Committee members also suggested bringing health care providers, including hospitals and doctors, into the conversation to discuss what is being written off in terms of uncompensated care, and include what the transfer or “shifted” costs are, especially in the instances of Medicare and Medicaid, and the effect on taxpayers.
- *Data Requested–Kansas Insurance Premiums.* Committee members would like data on what the automobile liability insurance premiums would be and what the setoff would be separately, then combined, and the effects on all rate payers (e.g., Kansas motorists required to maintain F.R.).
- *Recommendation to the 2018 Legislature on HB 2104’s Disposition.* The Committee makes no recommendation at this time. Members requested the review of data and analysis noted in the above discussion during the 2018 Legislative Session (the bill resides in the House Committee on Insurance).

Discussion of Topic #1 (HB 2267):

Chairperson Longbine directed the Committee’s attention to consideration of conclusions and recommendations for the Committee Report. Discussion included the following (outlined by general topic):

- *CFPB Final Rule–Implementation Time Line and Uncertainty.* The Chairperson requested Committee members comment on the recent Final Rule and its implementation, noting the presentation provided by the OSBC and conferee comments. Committee discussion included concerns about having to change the UCCC again and consumer lending provisions if the Committee or the Legislature takes action too soon. It was noted that regulators have not had a chance to take a look at the new ruling and will have 21 months to examine its scope. Discussion also focused on avoiding unintended consequences and the impact on consumers. A Committee member commented there could be potential litigation from Congress or others that will elongate the Final Rule’s implementation period.
- *OSBC Evaluation and Updates to Legislature.* Committee members commented on the consideration of consumer lending legislation by the Legislature. It was noted OSBC will need time to work through this new rule. Members discussed the appropriate timeline for legislative review of current and potential legislation, and some members requested a notification schedule (regular information updates provided by the OSBC to the standing committees on Financial Institutions) during the 2018 Legislative Session. It was noted these committees traditionally receive updates from the OSBC in January and this topic could be covered.

- *Lending Trends in Kansas.* The Committee discussion included trends seen in consumer lending, including the length of the loans (and whether the new CFPB rule would be applicable). Other trends or practices, a member commented, such as rolling (or consecutive) loans should be reviewed. It was also noted the Kansas legislation (HB 2267) is not an exact duplicate of Colorado law.
- ***Recommendation to the 2018 Legislature on HB 2267's Disposition.*** The Committee makes no recommendation at this time. The OSBC is encouraged to hold regular stakeholder meetings to assist in drafting changes to the UCCC, in light of the CFPB Final Rule and the 21-month implementation period.

Adjourn

Chairperson Longbine adjourned the meeting at 3:53 p.m.

Prepared by Suzanne Nelson

Edited by Melissa Renick and Whitney Howard

Approved by the Committee on:

December 28, 2017

(Date)