

SESSION OF 2004

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2613**

As Reported Without Recommendation by  
House Committee on Financial Institutions

**Brief\***

HB 2613 concerns the definition of "security" and which agency of state government regulates which type of security. The bill amends the Kansas securities act to include variable rate annuities in the definition of security by excluding from the definition only fixed rate annuities.

Given the change in the definition of security and removal from insurance law of the exemption provided for fixed and variable rate annuities from the securities act, the Insurance Commissioner's authority to regulate fixed and variable rate annuities is limited solely to the terms and provisions in those contracts and the obligations of insurance companies under the contracts. The companies that issue variable rate annuities and the agents who sell them are subjected to the regulatory authority of the Securities Commissioner.

**Background**

HB 2613 was requested by the Securities Commissioner who explained that variable annuities have an investment component and are subject to market risk and abusive sales practices. Variable annuities meet the test for a security and are a security at the federal level. Passage of the bill is the best way to protect Kansas consumers and assure there are no gaps in oversight of annuities sales and sellers.

The bill was opposed by representatives of Security Benefit Group, Kansas Association of Investment and Financial Advisors, Kansas Association of Insurance Agents, American Family Insurance Group, the American Council of Life Insurers, and the Prudential

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Company.

The fiscal note prepared by the Division of the Budget includes the Office of the Securities Commissioner estimate that HB 2613 could produce additional licensing fee revenues of \$40,000, since any person selling securities must be registered. The Office further notes that additional expenditures for examinations and investigation of complaints related to the variable contracts could be absorbed within its current budget.