

Approved

Stephen R. Cloud
Date 3-4-84

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Representative Stephen R. Cloud at
Chairperson

9:06 a.m./~~p.m.~~ on Wednesday, February 27, 1985 in room 522-S of the Capitol.

All members were present except:

Committee staff present:

Avis Swartzman - Revisor
Carolyn Rampey - Legislative Research Dept.
Jackie Breymeyer - Committee Secretary

Conferees appearing before the committee:

Bud Grant - Kansas Chamber of Commerce and Industry
Bill Sneed - Kansas Association of Defense Counsel
Craig Grant - KNEA, Lawrence
Paul Fleener - Kansas Farm Bureau
Ralph McGee - Kansas AFL-CIO
L.M. "Bud" Cornish - Kansas Association of Property & Casualty Ins. Cos., Inc.
Kansas Life Association
Mark Bennett, Sr. - American Insurance Association (formerly associated with)
Larry MaGill - Independent Insurance Agents of Kansas
Jim Oliver - Professional Insurance Agents of Kansas
Dick Brock - Administrative Assistant to Ins. Comm. Bell
Rep. Sprague - Subcommittee 1 Chairman

The meeting of the Governmental Organization Committee was called to order at 9:06 a.m. by Representative Stephen R. Cloud, Chairman. The February 21 minutes were approved. February 26 minutes were distributed. The chairman stated that HB 2108, which continues the Insurance Department and HB 2109, which continues the office of Insurance Commissioner would be heard jointly. Conferees could testify on one or both as they wish. He called on Bud Grant, Kansas Chamber of Commerce and Industry.

Mr. Grant distributed copies of his testimony and spoke as a proponent of HB 2108. (See Attachment A) He stated that the Department has acted in a responsible manner with well qualified insurance commissioners. Kansas has an outstanding reputation in the country with regard to insurance service and leadership qualities. The staff is competent and a continuity has developed which has elicited a positive response from insurance companies and the general public alike. He ended his testimony by saying that the people of Kansas and the insurance companies who operate in this state have been well served by the present system.

Bill Sneed, Kansas Association of Defense Counsel, distributed copies of a Resolution signed by John J. Jurcyk, Jr., KADC President. He said that continuation of the Kansas Insurance Department as it is now is essential to the best interest of the citizens of Kansas. (See Attachment B)

Craig Grant, Kansas National Education Association, spoke as a proponent, citing the excellent working relationship and great cooperation with the Department. Because of this great relationship and cooperation, the present status of the Department should not be changed.

Paul Fleener, Kansas Farm Bureau, spoke in favor of HB 2109 and read the policy position contained on page 2 of his testimony. (See Attachment C).

Ralph McGee, Kansas Federation of Labor AFL-CIO, spoke as a proponent, stating that members' health care has been good, their problems have been solved and he would urge the members of the Committee to retain the office of commissioner and the department. (See K)

L.M. "Bud" Cornish, Kansas Association of Property & Casualty Ins. Cos., Inc. and Kansas Life Association, distributed testimony (See Attachments D & E) in support of HB 2108 and HB 2109. Continuity is important in the insurance industry and the Insurance Department and the Commissioner should be directly responsible to the people of this state.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

SRC

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION,
room 522-S, Statehouse, at 9:06 a.m. ~~5:00~~ on Wednesday, February 27, 1985

Mark L. Bennett, a former representative of the insurance industry, spoke in support of House Bills 2108 and 2109. (See Attachment F) He said that during the period from 1948 until the present time, the Kansas Insurance Department has been one of the most efficient, respected departments in the country. In states where the appointive process takes place; real problems for the public have arisen.

Larry Magill, Jr., Independent Insurance Agents of Kansas, spoke of the Department and Commissioner in terms of its professionalism, expertise and ability as contrasted with other states such as New Jersey where they have had three appointed commissioners in less than a year. (See Attachment G) His organization urges the Committee to report both bills favorably for passage.

Jim Oliver, Professional Insurance Agents of Kansas, expressed the view that it is important to have the Insurance Department directly responsible to the citizens of the state. The Commissioner and Insurance Department have demonstrated their concern for the insuring public. The welfare of Kansas citizens would not be improved by taking away their right to elect or refuse to elect the Commissioner of Insurance. (See Attachment H)

Dick Brock, Administrative Assistant to Insurance Commissioner Bell, appeared before the Committee. He expressed his appreciation of the support of the various groups who appeared before the Committee. He stated that on previous visits before the committee he had given an overview of the Department but today he had brought a statment from Fletcher Bell, Commissioner of Insurance. He said he wouldn't go through it, but that the Committee could go through it at its convenience. (See Attachment I)

The Chairman asked if there was anyone else present who wanted to address House Bills 2108 and 2109. As there was no response, he stated that this concluded the hearing on these bills. He asked Representative Sprague, Chairman, Subcommittee 1, to give the Subcommittee Report on the Commissioner of Insurance and the Insurance Department. (See Attachment J)

Based on its conclusions, Subcommittee 1 recommends favorably one bill which continues the Office of Commissioner and the Department of Insurance in existence until 1993. He said that the Department should be commended for its consumer assistance activities. The Department should continue its efforts with continuing education. The Subcommittee does not believe this should be mandatory at this time. The Subcommittee knows the authority of the Department to set rates is limited and the Department is making efforts to assist and educate consumers. Areas of concern to the Subcommittee are the prizes and other incentives offered by companies if the cost adds greatly to consumer rates, and the simplicity and number of forms used by consumers. An interim study should be recommended to determine if legislative action is needed to distinguish more clearly the difference between insurance agents and stockbrokers.

Several Committee members commented on the Subcommittee Report and on various areas of the Insurance Department. One of the members commented that the public was well served when the Insurance Department lowered Blue Cross and Blue Shield rates.

Representative Roper moved the Subcommittee Report be adopted. Representative Sutter gave a second to the motion. The motion carried.

After reminding the Committee of tonight's dinner, the Chairman adjourned the meeting at 9:58 a.m.

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321



A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

HB 2108

February 27, 1985

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Governmental Organization

Mr. Chairman and Members of the Committee:

My name is Bud Grant and I am appearing on behalf of the Kansas Chamber of Commerce and Industry to indicate our support for HB 2108, which would extend the office of State Insurance Commissioner as an elected state official through July 1, 1993.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses plus 215 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

During the later part of 1984, the issue of whether the state insurance commissioner should remain a position which is elected by the people of the state of

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Attachment A

Kansas, or whether it should become an appointed position, was brought to the attention of the Kansas Chamber Board of Directors. Chairman George Nettels appointed a special committee to review this issue and report back any recommendations to the board at its February 5th meeting here in Topeka.

As a result of this action the KCCI Board of Directors adopted a policy position in support of keeping the position of State Insurance Commissioner as an elected office for the following reasons:

1. The Kansas Insurance Department for the past 38 years has performed in a very responsible manner under the direction of extremely well qualified insurance commissioners.

2. Kansas has developed an outstanding reputation for its insurance service and its leadership qualifications on a national level.

3. The elected insurance commissioner process has developed an extremely competent staff which has developed expertise through their long service in the department.

4. The elected insurance commissioner procedure has developed a continuity which has developed a positive response from the insurance companies and from the electorate.

5. The elected commissioner position, contrary to the appointed commissioner, has developed a tenure of office that has generated competence and stability. The average tenure of an elected insurance commissioner is 9 years 8 months compared to 2 years 5½ months for an appointed commissioner.

6. The elected commissioner has established a responsibility to the Kansas electorate who spends more than \$2 billion annually for insurance; while, at the same time, has responsibly regulated the activities of more than 1,100 insurance companies and 25,000 insurance agents.

7. The elected state insurance commissioner is directly responsible to the Kansas

voter rather than the possibility of confused loyalties that could be brought about by an appointed commissioner who would feel the pressure of politics.

KCCI believes the people of Kansas and those insurance companies who operate in Kansas have been well served by our present system. We therefore urge, Mr. Chairman and members of the Committee, that HB 2108 be recommended favorably for passage and that Kansas continue to provide an atmosphere in which the insurance industry can grow and expand and retain an elected form of office answerable to the electorate of Kansas.

I thank you for the opportunity of appearing before you today. I'd be very pleased to attempt to answer any questions.



RESOLUTION

WHEREAS, the Kansas Department of Insurance is recognized throughout the country as a leader in the field of insurance regulation; and

WHEREAS, this enviable and well-deserved reputation could not have developed without competent and inspired leadership and the people of Kansas have chosen wisely; and

WHEREAS, the above tributes were paid by Governor Robert B. Docking when commemorating the centennial year of the Insurance Department in 1971; and

WHEREAS, by his words Governor Docking not only recognized the historic and continuing excellence of the Kansas Insurance Department but also credited the wisdom of the Kansas electorate; and

WHEREAS, retention of the Kansas Insurance Department as an independent state agency is essential to the best interests of Kansas citizens; and

WHEREAS, a proposal to take away the power and the right for the electorate to choose the Commissioner of Insurance was soundly defeated in 1975; and

WHEREAS, the politicized environment of appointment commissioners results in a continuous change in staff, philosophy and leadership since the average tenure of

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appointed Commissioners of Insurance as of December 1, 1983 was less than 2.5 years; and

WHEREAS, through reasonable logic and observation, experience has shown that appointed commissioners owe their first allegiance to the person that appointed them which places the public interest in a secondary position; and

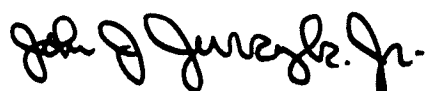
WHEREAS, the issue of appointive versus elective has nothing to do with any particular person or personality but rather solely to a practical application of the democratic process; and

NOW THEREFORE, BE IT RESOLVED That the KANSAS ASSOCIATION OF DEFENSE COUNSEL hereby declares its opposition to any proposal or effort which would result in abolition of the Insurance Department as a separate, free-standing state agency or remove the right of the Kansas public to elect the Commissioner of Insurance.

BE IF FURTHER RESOLVED that a copy of this resolution be mailed to the Governor and every member of the Kansas legislature; and

BE IT FINALLY RESOLVED that this action and the reasons therefore be appropriately reported to the membership at large. ADOPTED and APPROVED by the membership at the Association's mid-year meeting on December 1, 1984.

KANSAS ASSOCIATION DEFENSE COUNSEL

By 
John J. Jurcyk, Jr.

KADC President

Statement to:
HOUSE GOVERNMENTAL ORGANIZATION COMMITTEE

RE: H.B. 2109 - Sunset Law Legislation, Continuing in Existence
the Office of Commissioner of Insurance
February 27, 1985
Topeka, Kansas

Presented by:
Paul E. Fleener, Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and Members of the Committee:

We appreciate an opportunity to make a very brief statement in support of H.B. 2109, the legislation which provides that the Office of Commissioner of Insurance shall be continued in existence and subject to sunset on July 1, 1993.

Last summer when we first heard the "rumor," then later in the fall, when a news item appeared saying the Governor would propose to abolish two elected state offices - the Office of State Treasurer and Commissioner of Insurance - our farmers and ranchers examined that situation and could not agree with the proposal that was advanced. Our farmers and ranchers do have a strong policy position on Government Organization, Responsiveness and Finance. That statement indicates: "Laws, resolutions, programs and activities of government - at any level - should be: cost-efficient, necessary, useful and effective. There should be a cost-benefit analysis of every regulatory agency."

While H.B. 2109 addresses the Office of Commissioner of Insurance, our Farm Bureau resolution on Voting addresses the general topic of length of ballot and number of officials

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presently elected by voters in Kansas. Our policy position says this:

Electors in Kansas have an opportunity to vote in statewide elections for four constitutionally prescribed executive branch officers and for two statutorily prescribed officials. We support the right of Kansans to vote for candidates for all these offices. We will oppose legislation or executive action which would eliminate that voting opportunity.

Mr. Chairman and Members of the Committee, those are the sentiments of the farmers and ranchers across the state. Those sentiments were expressed in resolution form by voting delegates from each of the 105 county Farm Bureaus in the annual meeting of Kansas Farm Bureau December 2-4, 1984.

We respectfully request your consideration of the views of the farmers of this state as you consider action on H.B. 2109. We ask you to recommend this bill favorably for passage.

Kansas Association of

PROPERTY & CASUALTY
INSURANCE COMPANIES, INC.

L. M. Cornish
Legislative Chairman
Merchants National Tower
Topeka, Kansas 66612

February 26, 1985

MEMBER COMPANIES:

Armed Forces Ins. Exchange
Ft. Leavenworth

Bremen Farmers Mutual Ins. Co.
Bremen

Consolidated Farmers Mutual Ins. Co., Inc.
Colwich

Farm Bureau Mutual Ins. Co., Inc.
Manhattan

Farmers Alliance Mutual Ins. Co.
McPherson

Farmers Mutual Insurance Co.
Ellinwood

Great Plains Mutual Ins. Co., Inc.
Salina

Kansas Fire & Casualty Co.
Topeka

Kansas Mutual Insurance Co.
Topeka

Marysville Mutual Insurance Co., Inc.
Marysville

McPherson Hail Insurance Co.
Cimarron

Midwest Fire and Casualty Co. (Mutual)
Wellington

Mutual Aid Assn. of the Church
of the Brethren
Abilene

Patrons Mutual Insurance Assn.
Olathe

Swedish American Mutual Insurance Co., Inc.
Lindsborg

Town and Country Fire and Casualty Ins. Co., Inc.
Hutchinson

Upland Mutual Insurance, Inc.
Chapman

Wheat Growers Mutual Hail Ins. Co.
Cimarron

Rep. Steve Cloud
Chairman
House Governmental Organization Committee
Statehouse
Topeka, Kansas 66612

RE: HB 2108-HB 2109

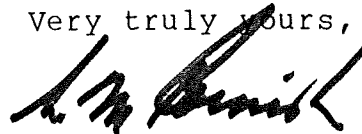
Dear Rep. Cloud:

The Association, consisting of domestic Kansas property and casualty insurance companies, supports the enactment of HB 2108 and HB 2109, which will continue in existence the Kansas Insurance Department and the office of Commissioner of Insurance.

The Kansas Insurance Industry supports the continued existence of the present regulatory structure as it has served both the industry and the people of Kansas well over many years. It has provided a substantial continuity in the regulatory area which is extremely important to the on-going business.

The Kansas Insurance Department has regulated the industry in the best interest of Kansas policyholders and is nationally acclaimed. The current Commissioner has been a leader in the insurance regulatory field for many years.

Very truly yours,



L. M. CORNISH

LMC:sh

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Kansas Life Association

OFFICERS:

President
Darrell H. Schultz
McPherson

Vice-President
Gary A. Walter
Manhattan

Secretary-Treasurer
Archie Dykes
Topeka

EXECUTIVE COMMITTEE
V. L. Rocereto
Topeka

LEGISLATIVE COMMITTEE
T. M. Murrell, Chairman
Topeka

Steven S. Lobell
Topeka

Keith Hawkins
Shawnee Mission

February 26, 1985

L.M. Cornish
General Counsel
900 Merchants Natl. Bank Bldg.
Topeka, Kansas 66612

Rep. Steve Cloud
Chairman
House Governmental Organization Committee
Statehouse
Topeka, Kansas 66612

RE: HB 2108-HB 2109

Dear Rep. Cloud:

The Association, consisting of domestic Kansas life/health insurance companies, supports the enactment of HB 2108 and HB 2109, which will continue in existence the Kansas Insurance Department and the office of Commissioner of Insurance.

We believe it is important that the Kansas Insurance Department and its Commissioner be directly responsible to the citizenry of this state as the Kansas citizen spends more than two billion dollars annually for insurance.

The Kansas Insurance Industry supports the continued existence of the present regulatory structure as it has served both the industry and the people of Kansas well over many years. It has provided a substantial continuity in the regulatory area which is extremely important to the on-going business.

Very truly yours,



L. M. CORNISH

LMC:sh

Alliance Life Insurance Co.
McPherson

The American Home Life Insurance Co.
Topeka

American Investors Life Insurance Co.
Topeka

The Centennial Life Insurance Co.
Mission

Chartered Protective Life Insurance Co.
Hutchinson

Cimarron Life Insurance Co.
Cimarron

Farm & Ranch Life Insurance Co.
Wichita

First Kansas Life Insurance Co.
Newton

The Great American Life Ins. Co.
Hutchinson

Great-West Life & Annuity Ins. Co.
Wichita

Kansas Farm Life Insurance Co.
Manhattan

Life Insurance Co. of Kansas
Wichita

Manhattan Mutual Life Ins. Co.
Manhattan

National Reserve Life Insurance Co.
Topeka

Pioneer National Life Ins. Co.
Overland Park

The Pyramid Life Insurance Co.
Shawnee Mission

Security Benefit Life Insurance Co.
Topeka

Standard Mutual Life Ins. Co.
Lawrence

The Victory Life Insurance Co.
Topeka

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Attachment E

BEFORE THE HOUSE COMMITTEE ON
GOVERNMENTAL ORGANIZATION

February 27, 1985

I am Mark L. Bennett and I am appearing in favor of the passage of House Bills 2108 and 2109 continuing the Kansas Insurance Department as it presently exists and the office of Commissioner of Insurance as it presently exists.

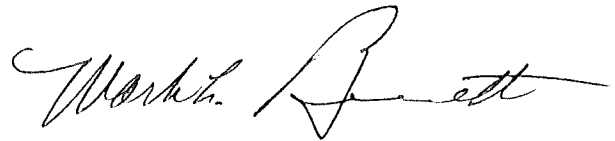
I have had occasion to work with the Department since 1948 as a representative of the insurance industry, primarily in legislative matters. That representation started in 1948 at which time the Commissioner was elected and not appointed. During the entire period from 1948 until the present time, the Kansas Insurance Department has been one of the most efficient and respected departments in the 50 states.

An official of state government, appointed either directly or indirectly by another elective officer, must be responsible in his administration to the appointing elective officer's constituents and consequently is not free to administer the office solely in his department's interest. This situation has caused real problems for the insuring public in some states where the Insurance Commissioner has been appointed rather than elected.

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I believe the people of Kansas should continue to elect their Insurance Commissioner in order to have direct control over him through the elective process and not have that right diluted by being forced to rely on some other elective officer's appointment to protect them in the determination of what is and what is not an adequate but not excessive insurance premium for their insurance needs.

Respectfully submitted,

A handwritten signature in cursive script, reading "Mark L. Bennett". The signature is written in dark ink and is positioned to the right of the typed name below it.

MARK L. BENNETT

Testimony on HB 2108 and HB 2109
Before the House Governmental Organization Committee
By: Larry W. Magill, Jr., Executive Vice President
Independent Insurance Agents of Kansas

Thank you for the opportunity to appear in support of HB 2108 continuing the Insurance Department and HB 2109 continuing the Insurance Commissioner's office for another 8 years under the sunset statutes. Our Board of Governors unanimously approved a resolution in support of the department, but most importantly, in support of retaining an elected Insurance Commissioner.

Our association is composed of 660 independent insurance agencies across the state. Small businesses for the most part who represent a number of different insurance companies and offer the consumer professional advice and a range of insurance products. We make no rate or policy form filings and aside from licensing and related statutes, have very few official dealings with the Department.

But we do rely on the Department extensively as a resource in answering technical coverage and statutory interpretation questions. Generally on an informal basis we resolve consumer complaints and through our Conference Committee we raise general consumer issues in regard to policy forms, operation of assigned risk plans, coverage cost and availability problems, to name a few. We look to the Department as an educational resource for interpretation of insurance statutes and frequently help arrange meetings around the state to deal with recent legislation or other areas of concern between the Department and agents.

In all of these situations, we have found in working with the Department that they are extremely responsive to the needs of the consumer and knowledgeable and consistent in their interpretation of Kansas statutes. The important point here is the knowledge and consistency an elected commissioner and professional staff have provided Kansas consumers.

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Your subcommittee's review of the Insurance Department's operations and management have confirmed this position through their thorough review process. The Department has consistently taken a leadership role over the years in proposing needed changes in Kansas statutes to keep abreast of new developments in the industry (e.g. M.G.T.'s, HMO's, PPO's, etc.) and to properly and efficiently manage their operations (e.g. changes in insurance company examination and financial requirements).

Other examples of the Department's ability can be found in their responsibility to oversee company solvency. In two recent insolvencies of foreign insurance companies, Excalibur and Ideal Mutual, the Department had obtained special deposits to protect Kansas consumers before these companies were placed in receivership, a benefit to both Kansas consumers and the state general fund.

Not that the relationship between our association and the Department has always been smooth. Reasonable people can disagree on legislative goals and interpretation of statutes. The important point is the knowledge and professionalism they bring to the process that demands our respect.

Contrast this situation with New Jersey where they have had three appointed commissioners in less than a year. The most recent candidate formerly headed the state lottery. New Jersey, not coincidentally has some of the most severe automobile insurance availability and cost problems of any state in the country. Or contrast Kansas with Missouri which has had six commissioners in nine years. Quite obviously an appointed commissioner system brings none of the knowledge, stability and consistency to such a major policy setting agency that affects virtually every voter in the state.

A great deal more could be said about why Kansas should retain its present elected commissioner system and about the vital job the Kansas Insurance Department performs regulating the insurance industry. Other conferees will, no doubt, cover many of these points. We would be happy to respond to questions or provide additional information. We urge the committee to combine HB 2108 and HB 2109 along with legislation continuing the Treasurer's office and report them favorably for passage.



James R. Oliver, Executive Director ■ 627 Topeka Ave., Topeka, Kansas 66603-3296 ■ Phone (913) 233-4286

TESTIMONY BEFORE THE GOVERNMENTAL ORGANIZATION COMMITTEE

February 27, 1985

Mr. Chairman, Members of the Committee:

My name is Jim Oliver, Executive Director of the Professional Insurance Agents of Kansas, an association of some 650 independent insurance agents throughout Kansas.

My association appreciates the opportunity of appearing before you in support of HB 2108 and HB 2109.

The most important factor to be considered in any plan of organization which affects the Insurance Commissioner and the Insurance Department, is the importance of having the Insurance Department directly responsible to the citizens of this state.

I cannot stress strongly enough that our membership is totally committed to furthering that responsibility, not because the Commissioner and the Insurance Department are "easy" on the insurance industry, but because the Commissioner and the Insurance Department have demonstrated their concern for the insuring public of this state.

The Insurance Department is a major policymaking agency which not only controls but, in actuality, establishes the insurance environment which affects the personal and economic security of every Kansas citizen, both those who are insured and those few who purchase no kind of insurance protection.

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The regulation of insurance rates, control over insurance contracts, surveillance over the financial condition and market activities of insurers, admission and authorization of companies to do business in this state, licensing and qualification of insurance agents, maintenance of insurance markets and the all important function of assisting Kansas policyholders on specific and individual problems obviously involve far more than a recipe type of administration of the insurance statutes. We want to see that administration in the hands of an elected commissioner with an experienced staff.

In insurance departments headed by an appointed commissioner, there is an inherent lack of continuity because, despite the experience, abilities and dedication to public service an individual appointee may possess, his or her continuation in office depends on factors separate and apart from his ability to meet the needs and demands of the public. Witness the average length of service of commissioners appointed by a governor is less than 2.5 years. An appointed commissioner is seriously hampered by a lack of authority to make independent decisions and his loyalties are only naturally divided between the official who appointed him or her and the public he or she is supposed to serve.

The very personal nature of the services performed by the Insurance Department, the sensitive and pressurized area of insurance regulation, the necessary right of the public to have a direct voice in their insurance environment, and the absence of any necessity for change, would strongly suggest the Kansas Insurance Department is not a proper subject for any plan of executive reorganization. More simply stated, the insurance welfare of Kansas citizens would not be improved or their interests more efficiently protected by taking away the public's right to elect or refuse to elect the Commission of Insurance. One simply cannot improve regulation of the insurance business by diluting the authority and responsibilities of the Commissioner of Insurance or removing it from the eyes of the public.

The Professional Insurance Agents of Kansas strongly ~~support~~ support the passage of HB 2108 and HB 2109.

Presented to
Governmental Organization Committee
Kansas House of Representatives
Statement by Fletcher Bell, Commissioner of Insurance
February 27, 1985

The persistent and recurring rumors and reports concerning retention of the State Treasurer and Commissioner of Insurance as elective offices raises a question that deserves analysis and evaluation. I believe my credentials as a native Kansan, a former member of the staff of the Kansas Insurance Department and as the current Commissioner of Insurance qualifies me to render a knowledgeable opinion on this subject - one that is based on fact, not theory.

To air this opinion is the reason for this statement. I must admit that I feel somewhat frustrated in speaking out because I'm afraid my motives might be misunderstood. In order that I might dispel any such misunderstandings, let me assure the reader at the outset that my statement is not to be construed as a plea for self-preservation. Nor are my remarks to be considered as a criticism of any individual or any group of individuals who support the objectives of the appointive process. I do, however, hope to impress upon people the very serious nature of the subject. I hope to acquaint them more fully with the responsibilities of the Commissioner of Insurance and the impact the decisions of the individual in that office has on every man, woman and child in this state. My experience as an employee of the Kansas Insurance Department, my contact with insurance regulatory officials of the other forty-nine states and U.S. territorial possessions, and the role of leadership I have played in the National Association of Insurance Commissioners including a term as president of that association allows me to speak with some degree of authority on these matters.

With this background, first let me say that if you asked me for the one most important factor to be considered in any plan of organization which affects the Insurance Department, I would urge consideration of the importance of having the Insurance Department directly responsible to the citizens of this state. I believe that over the years the importance and the nature of the functions and responsibilities of the Commissioner of Insurance have been grossly miscalculated. The office has been labeled as a "minor" office -- it has been referred to as "just another administrative office" and similar misnomers when in fact, the Insurance Department is a major policymaking agency which not only controls but, in actuality, establishes the insurance environment which affects the personal and economic security of every Kansas citizen, both those who are insured and those few who purchase no kind of insurance protection. The regulation of insurance rates, control over insurance contracts, surveillance over the financial condition and market activities of insurers, admission and authorization of companies to do business in this state, licensing and qualification of insurance agents, maintenance of insurance markets and the all important function of assisting Kansas policyholders on specific and individual problems obviously involve far more than a recipe type of administration of the insurance statutes. When these functions are

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Attachment I

considered together with other intangible but significant factors which must enter into any effective process of safeguarding the insurance welfare of Kansas citizens -- when the complexities of the insurance business itself are taken into account -- when it is realized that the Commissioner of Insurance is responsible for regulating the activities of more than one thousand insurance companies and over twenty thousand agents -- when it is known that Kansas citizens spend more than two billion dollars annually for insurance -- and, when the very real, personal and significant effect insurance has on the life of every citizen is considered, it seems more than abundantly clear that the Commissioner of Insurance and the Insurance Department must stand alone in its responsibilities to the public.

I am, of course, aware of the fact that the Governor and the Kansas legislature must be concerned with the consistency of their decisions. In this regard, it should be recognized that the nature of the functions, duties, and responsibilities of the Kansas Insurance Department -- as I have outlined -- clearly place it in a different category than other agencies and offices whose chief officer is now appointed. While I certainly will not dispute the value of these offices to the citizens of this state, I believe a careful review of their role will reveal that many of them do not possess the policymaking role, the personal and direct responsibilities to the public, and the industrial regulatory functions that are vested in the Commissioner of Insurance. On the other hand, I am convinced that the public would be better served if some of these offices, particularly those of a regulatory nature, were headed by elected officials as opposed to being appointed. In other words, the duties performed by many of these offices are necessary as an administrative function of state government while the duties and responsibilities of the Commissioner of Insurance and other offices are necessary as a direct service to the people of this state. This is an extremely significant distinction which should not be ignored.

But the elected versus appointed argument does not begin or end with the policymaking question. Some people apparently believe the primary difference between an elective and appointive office is the fact that an elective office fills a policymaking role while an appointee is purely an administrator. For those who believe this, it is important to recognize that establishment of policy is a cornerstone of insurance regulation. While the legislature enacts the laws governing insurance, the Commissioner of Insurance sets the tone for the way those laws will be enforced and during his or her first days in office a policy decision must be made. Are the insurance laws to be administered in such a way that they are so pro-consumer they are anti-insurance industry? Are they to be administered in such a way that they are so pro-industry they are anti-consumer? Or are they to be administered in a way that balances the needs and desires of all parties to an insurance contract -- the insurer -- the insureds -- and the claimants in such a way that the public is served by a healthy, vibrant, competitive insurance industry while at the same time assuring that the public is treated fairly at a reasonable cost. This sounds easy but I can name states where each of these three alternatives has been chosen. And I can name states where this primary policy objective changes with a high degree of regularity.

Establishment of this primary policy then calls for policy decision in each of the areas of responsibility that will produce a consistent and

rational result that is compatible with the primary objective. Admission requirements may be administered in a way that few applications are refused -- they may be administered in such a way that relatively few companies gain a certificate of authority -- or they may be administered in a way that allows financially strong companies with a demonstrated record of fair policyholder treatment to be admitted.

Similarly, the insurance rate regulatory acts can be administered so tightly that artificially low rates are approved -- insurers can be allowed to charge as much as they can and still be competitive -- or they can be used to produce rates commensurate with the risk thereby enhancing the availability of coverage.

Review and approval of insurance contracts can range from a very perfunctory review to a demand that even insignificant, nonmaterial items are cause for objection.

This same kind of scenario can be repeated for each statutory segment of responsibility.

Further, policy decisions become evident in areas that are not subject to legislative guidelines. Consumer assistance - consumer education -- legislative initiatives, etc.

Last but not least, the discharge of responsibilities that give a surface appearance of requiring little more than a recipe-type of administration, often call for the establishment of a consistent policy. This is most evident in areas like the Health Care Provider Availability Act particularly with respect to the defense of the Health Care Stabilization Fund. This particular activity closely parallels the management of a liability insurance company and decisions regarding negotiated settlements or pursuing a judicial remedy are extremely important not only from the standpoint of an individual case but also from a broader perspective because a public perception of "easy" money would generate more claims and more interest from people who might profit.

To summarize, the policymaking versus administrative theory, those who contend that the office of Insurance Commissioner is an administrative position are not familiar with the duties of the office; have not actually studied the office; and, certainly have not faced the day to day challenges that are brought to the Commissioner. Rather, they have arrived at their position on the basis of uninformed hearsay or their own misunderstanding. Hearsay and misperceptions are not a sound basis for decision making but facts are. Therefore, it is suggested that reliance on the factual information at hand should determine the answer to the questions of policymaking versus administrative.

There are many potential disadvantages of the appointive process when applied to the Commissioner of Insurance. There is an almost inherent lack of continuity because, despite the experience, abilities and dedication to public service an individual appointee may possess, his or her continuation in office depends on factors separate and apart from an ability to meet the needs and demands of the public. To illustrate this point, it should be of interest that as of December 31, 1983 the average length of service of appointed Commissioners is less than 2.5 years. Closer to home, the state

of Missouri has had six Commissioners in the last nine years and one of those, the current Commissioner, has held the post for four years which means Missouri had five Commissioners in five years. Unfortunately, the tenure of the current Commissioner is the unusual example. Missouri Commissioners have changed frequently. Nebraska is more stable but, even so, Nebraska has had five Commissioners in ten years. The Oklahoma Commissioner is elected and, until this year, the Colorado Commissioner was a civil service position. In all honesty and sincerity, I simply cannot understand how the public can benefit from this kind of frequent and constant change in insurance regulatory personnel and philosophy unless the Insurance Department has performed inadequately. Even if a well-qualified and knowledgeable Commissioner is replaced by a person of equal abilities there is a serious disruption in services and activities because generally there is no period of transition available as there is in the case of elected offices.

Secondly, all Kansans should be quite proud of the constructive and meaningful progress which has been achieved in the field of insurance regulation and the insurance process under elected commissioners. Kansas is nationally recognized as a leader in state insurance regulation and its consumer programs have been emulated by a number of states. Obviously, much of this progress could not have been made without the assistance and most of all, the support of the Kansas legislature. But equally obvious is the fact that many of the legislative recommendations which have been made and many of the programs that have been implemented in Kansas would quite probably not have been developed had the Commissioner of Insurance been an appointed official and thus required to serve two masters. He or she would have been seriously hampered by a lack of authority to make independent decisions, his or her loyalties would only naturally be divided between the official that employed them and the public they are supposed to serve; and, of perhaps the most significance, an appointee would have a greatly reduced incentive to initiate insurance reforms since they would, perhaps in reality, be more concerned with satisfying the individual responsible for their employment which is infinitely more easy than satisfying the general public. In other words, the appointment process places the Commissioner of Insurance in an obscure position as far as the public is concerned and it is extremely difficult, if not impossible for them to fix the responsibility for their insurance welfare.

In addition, it must be recognized that the Insurance Department is not a "one man operation". While the Commissioner of Insurance is the policymaking authority and is directly responsible for the myriad details and decisions which must be disposed of, the success or failure of any administration depends on an ability to develop and maintain a competent and seasoned staff which is knowledgeable in the field of insurance regulation. The current staff is comprised of individuals who possess these qualities. For example, over one-third of the staff of the Insurance Department have an average of sixteen years of service. Of these, twenty-four employees have devoted an average of 20 years to public service in the Insurance Department. This is a reflection of intentional efforts to develop and retain a professional staff and there should be no question that this accumulation of experience is most significantly benefiting the people of Kansas. These people work hard -- they are conscientious -- but -- most important -- most of them are that rare type of individual who gain great satisfaction from the opportunity they have to be of service to the

public. This type of individual is difficult to find and all levels of government need this kind of dedication. Yet -- appointment of the Commissioner would place these individuals in a most vulnerable position. Only those serving in a clerical position are civil service employees. Therefore, through no fault of their own, regardless of their job performance, and irrespective of their abilities, the people of Kansas can lose their services. No one should attempt to delude themselves into believing this cannot or will not happen. It has happened and I have seen it happen in other states.

This statement would not be complete without addressing some of the arguments which favor the appointive process. One of the most common is the notion advanced that the perceived or presumed long tenure of the Insurance Commissioner and/or State Treasurer means they are out of the public view and tend to be re-elected by name recognition alone. This is a preposterous argument. How can a public official gain name recognition while at the same time being "out of the public view"? The argument is further invalidated by its proponents constant failure to measure the other State, Congressional, County and local government offices by the same yardstick.

Another argument frequently heard is that an appointed commissioner or treasurer would be accountable to the people by being accountable to the Governor or other appointing authority. People making this claim apparently believe accountability can be delegated and to a degree it probably can be but this doesn't give people much solace when they need to know who is really responsible for decisions affecting their welfare. No one can seriously believe any Governor would not side-step issues of public irritation and frustration while attempting to make political gains from the more pleasant events that sometimes occur.

In addition, it is often inferred that the public expressed their wishes when they approved the Constitutional Amendment in 1972 that removed the state auditor, state printer and state treasurer as constitutional offices; provided that the candidates for Governor and Lt. Governor run and be elected as a "team"; provided for a four year term of office for the constitutional officers; etc. Of the myriad factors involved in the 1972 constitutional proposition no one knows what individual voters wanted or didn't want when they cast their vote. But, the Insurance Commissioner was not a consideration at that time and subsequent events, including the resounding disapproval of Executive Reorganization Order No. 13 in 1975, indicate quite clearly that public sentiment, and at that time the overwhelming sentiment of the legislature, favors retention of the Insurance Commissioner and State Treasurer as elective offices.

In summary, the very personal nature of the services performed by the Insurance Department, the sensitive and pressurized area of insurance regulation, the necessary right of the public to have a direct voice in their insurance environment, and the absence of any necessity for change, would strongly suggest the Kansas Insurance Department is not a proper subject for any plan of executive reorganization. More simply stated, the insurance welfare of Kansas citizens would not be improved or their interests more efficiently protected by taking away the public's right to elect or refuse to elect the Commissioner of Insurance. Regulation of the insurance business cannot be improved by diluting the authority and responsibilities of the Commissioner of Insurance or removing the office

from the eyes of the public. Finally, the most prevailing argument of all is the fact that the people government is supposed to serve have been served well by the current structure.

SUBCOMMITTEE REPORT

TO: House Governmental Organization Committee
 FROM: Subcommittee I
 RE: Sunset Review of the Office of Commissioner of Insurance and
 the Insurance Department

The Subcommittee makes the following recommendation:

1. The Committee should recommend favorably one bill which continues the Office of Commissioner and the Department of Insurance in existence until 1993.

Background and Subcommittee Activities

The Subcommittee held seven meetings in connection with its review of the activities of the Insurance Commissioner and the Department of Insurance. Most of the Subcommittee's work focused on the activities of the Department.

The Kansas Insurance Department was established in 1871 and has a budget for FY 1985 of \$30,410,672. Of that amount, \$3,725,574 is from the State General Fund and is used to support the Department's activities in Topeka and at its branch office in Wichita. Remaining money is from assessments and taxes on insurance policies, most of which is expended as aid to local units and other assistance in the form of distributions made from various funds administered by the Department. The Insurance Department is currently authorized to employ 139.0 F.T.E. persons. (The Governor is recommending that one additional position be added in FY 1986.)

The various programs of the Insurance Department, the number of persons authorized, and the estimated budget for FY 1985 as recommended by the Governor are shown below:

<u>Program</u>	<u>Authorized F.T.E. Positions</u>	<u>FY 1985 Estimate</u>
Insurance Company Regulation	116.35	\$ 3,725,574*
Insurance Company Examination	12.00	814,945
Health Care Stabilization	3.50	10,581,257
Workers' Compensation	4.15	12,363,800
Firefighters Relief Fund	1.00	2,880,563
Group Funded Workers' Compensation	2.00	44,533
TOTAL	139.00	\$30,410,672

* Funded from the State General Fund.

*2/27/85
Attachment J*

Most of the activities of the Department are carried out by the Insurance Company Regulation program whose major activities include regulating more than 1,200 companies that do insurance business in Kansas, examining policy forms, determining premium charges, examining the claims practices of insurance companies, and examining, licensing, and regulating insurance agents and brokers.

Other programs are the Insurance Company Examination division whose examiners review the financial condition of insurance companies doing business in the state, the Workers' Compensation program which administers the "second injury" fund, the Health Care Stabilization division which administers the fund that provides malpractice insurance coverage for health care providers, the Firefighters Relief program that oversees payments to firefighters relief associations, and the Group Funded Workers' Compensation program that administers the program for group-funded self-insurance pools.

The Subcommittee's activities began with a tour of the Insurance Department's offices and a meeting with the Commissioner of Insurance. Two meetings were devoted to a staff review of the activities of the Department and question-and-answer periods involving Insurance Department staff.

The Subcommittee expressed particular interest in three aspects of the Department's operations and devoted two meetings to the consumer assistance program, the educational requirements for insurance agents and brokers, and the Department's rate approval procedures.

All meetings were open to the public and were attended by representatives of the Insurance Department and the Independent Insurance Agents of Kansas. Also present at several meetings were representatives of the Division of the Budget and the press.

Subcommittee Recommendations and Conclusions

The Subcommittee's generally favorable review of the Office of Commissioner and Department of Insurance is reflected in its recommendation that the two entities be continued for the maximum time provided for under the Kansas Sunset Law. In addition, the Subcommittee makes the following observations and recommendations:

1. The Department should be commended for its consumer assistance activities which are coordinated and handled primarily by the consumer assistance division. The division reviews consumer complaints in Topeka and at its branch office in Wichita and has operated a toll-free "hot-line" since 1973. The division participates in the State Disaster Emergency Plan and Catastrophe Evaluation Service and becomes involved in market conduct examinations relating to the claims processing and complaint handling practices of companies being reviewed.

In particular, the Subcommittee wishes to voice its support for the division's outreach activities which include publishing consumer brochures and organizing and conducting senior citizen forums, consumer education seminars, and insurance education workshops for state employees. In addition, the Subcommittee thinks the division provides

an important service when it assists consumers and coordinates the activities of insurance companies whenever a disaster or other event results in many claims being made at one time involving a number of insurance companies.

2. The Department should continue its efforts to promote the development of continuing education programs for agents and brokers on a voluntary basis. The Subcommittee calls attention to activities undertaken by the Independent Insurance Agents of Kansas, which were endorsed by the Commissioner of Insurance, to award certificates to agents who voluntarily meet continuing education requirements established by participating insurance organizations.


The Subcommittee encourages the Commissioner to lend public support to other worthy initiatives made by insurance companies and agents to continue their professional development and urges companies and associations to make renewed efforts to develop on a voluntary basis educational programs that meet the needs of their particular agents.

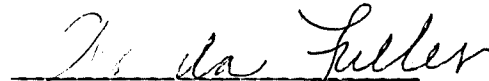
3. The Commissioner of Insurance and the Department should remain sensitive to the concerns of consumers who pay generally rising rates for insurance coverage and who often do not understand complicated insurance provisions that nevertheless affect them directly. The Subcommittee is mindful that the authority of the Department to set rates is limited and that the Department is making commendable efforts to assist and educate consumers.

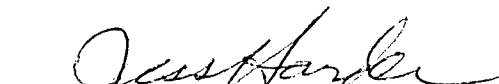
However, the Subcommittee wishes to point out several areas of concern that emerged during its review of the Department. First, the Subcommittee generally disapproves of the practice of insurance companies to offer prizes and other incentives to agents if the cost of these bonuses adds greatly to the rates paid by consumers. Second, the Subcommittee urges the Department to continue to simplify the language of insurance policies and, if possible, to reduce the number of forms involved. Finally, the Subcommittee urges the Commissioner and the Department, whenever they are engaged in activities relating to the approval of rates and forms, to continue to give considerable weight to the concerns of consumers who bear the cost of insurance coverage.

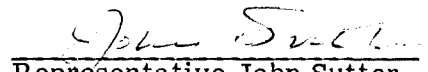
4. The House Governmental Organization Committee should recommend to the Legislative Coordinating Council that an interim study be conducted to determine if legislative action is needed to more clearly distinguish between insurance agents and stockbrokers. The Subcommittee is concerned that the distinction between selling insurance and selling stocks is blurred and that persons qualified to do one are not necessarily qualified to do the other. It is the Subcommittee's opinion that the Legislature may want to enact statutes that more explicitly delineate between the two types of activities to ensure that

persons who work in the two areas are properly qualified and regulated. The Subcommittee thinks that an interim study would provide the information necessary for the Legislature to address the issue.


Representative Dale Sprague
Subcommittee Chairman


Representative Wanda Fuller


Representative Jesse Harder


Representative John Sutter


Representative Tom Walker

TESTIMONY OF RALPH McGEE, EXECUTIVE SECRETARY, KANSAS AFL-CIO
BEFORE THE GOVERNMENTAL ORGANIZATION COMMITTEE, FEBRUARY 27, 1985

MR. CHAIRMAN:

WE UNDERSTAND THAT THIS COMMITTEE IS CHARGED WITH HOLDING HEARINGS AND MAKING RECOMMENDATIONS TO THE HOUSE OF THE KANSAS LEGISLATURE REGARDING THE OPERATION OF THE "SUNSET LAW" ON THE OFFICE OF THE COMMISSIONER OF INSURANCE AND THE KANSAS INSURANCE DEPARTMENT.

THE KANSAS AFL-CIO DESIRES TO TAKE THIS OPPORTUNITY TO GO ON RECORD URGING THIS COMMITTEE AND THE KANSAS LEGISLATURE TO TAKE THE NECESSARY ACTION TO CONTINUE THE COMMISSIONER'S OFFICE AND THE DEPARTMENT AS IT IS PRESENTLY CONSTITUTED.

THE MAINTENANCE OF A WELL-REGULATED INSURANCE INDUSTRY IS VITALLY IMPORTANT TO THE MEMBERS OF THE KANSAS AFL-CIO. THE EXISTENCE AND AVAILABILITY OF DEPENDABLE AND REASONABLY PRICED HEALTH, ACCIDENT, LIABILITY AND LIFE INSURANCE COVERAGE IS OF VITAL IMPORTANCE TO OUR MEMBERS BECAUSE SUCH COVERAGE IS AN ESSENTIAL ELEMENT OF PROGRAMS OF FINANCIAL SECURITY WHICH OUR MEMBERS ARE STRIVING TO DEVELOP AND MAINTAIN FOR THE PROTECTION OF THEIR FAMILIES AND THEIR OWN WELL-BEING. WE OF THE KANSAS AFL-CIO BELIEVE THAT THE PRESENT COMMISSIONER, FLETCHER BELL, HAS DONE AN EXCELLENT JOB IN REGULATING THE INSURANCE INDUSTRY IN SUCH A WAY THAT THE KANSAS CONSUMERS OF INSURANCE HAVE BEEN PROTECTED FROM THE BAD INSURANCE SALES PRACTICES THAT ARE PERMITTED IN SOME OTHER STATES. FURTHER, IT HAS BEEN THE EXPERIENCE OF MY ORGANIZATION THAT THE COMMISSIONER AND HIS PEOPLE HAVE ALWAYS BEEN OPEN AND RESPONSIVE TO INQUIRIES AND REQUESTS FROM OUR ORGANIZATION. OF GREATER IMPORTANCE IS THE FACT THAT MANY OF OUR MEMBERS, AS INDIVIDUALS, HAVE HAD THEIR INDIVIDUAL INSURANCE PROBLEMS RESOLVED QUICKLY AND EFFICIENTLY BY THE COMMISSIONER AND HIS DEPARTMENT.

Attachment K

WE REALIZE THAT A GOOD PORTION OF THE REASON FOR THE DEPARTMENT'S RESPONSIVENESS COMES FROM THE PERSONAL CONCERN FROM THE COMMISSIONER HIMSELF. FLETCHER BELL HAS BEEN A GOOD, EFFECTIVE AND RESPONSIVE PUBLIC SERVANT. THE FACT THAT THE PEOPLE OF KANSAS HAVE CONTINUED TO RETURN HIM TO OFFICE BY LARGE MAJORITY IS TESTIMONY TO THE CONFIDENCE THAT KANSANS HAVE PLACED IN HIM.

THE OTHER REASON FOR THE EFFECTIVENESS OF THE DEPARTMENT IS THAT IT HAS A GREAT DEGREE OF AUTONOMY AND THAT IT MUST PERIODICALLY SUBJECT ITSELF TO THE JUDGMENT OF THE VOTERS OF KANSAS.

WE BELIEVE THAT WE HAVE A HEALTHY, WELL-REGULATED INSURANCE INDUSTRY IN KANSAS AND THAT IT WILL REMAIN THIS WAY SO LONG AS THE INDIVIDUAL RESPONSIBLE FOR IT'S OPERATION IS SUBJECT TO VOTER APPROVAL OR DISAPPROVAL.

FOR THESE REASONS THE KANSAS AFL-CIO URGES THIS COMMITTEE TO RECOMMEND THE CONTINUANCE OF THE OFFICE OF COMMISSIONER OF INSURANCE AS AN ELECTIVE OFFICE AND THAT THE DEPARTMENT OF INSURANCE BE CONTINUED AS PRESENTLY CALLED FOR BY KANSAS LAW.

THANK YOU.