

MINUTES OF THE Senate COMMITTEE ON Governmental Organization

The meeting was called to order by Senator Vidricksen at
Chairperson

1:30 ~~XXX~~/p.m. on March 18, 1985 in room 531 N of the Capitol.

All members were present except:

Senator Frey

Committee staff present:

Julian Efird - Research
Bruce Kinzie - Revisor

Conferees appearing before the committee:

Ron Todd - Assistant Commissioner of Insurance
L. M. Cornish - Kansas Association of Property and Casualty Insurance Companies
Kansas Life Insurance Companies
Bud Grant - Kansas Chamber of Commerce
Ralph McGee - Kansas Federation of Labor
Judy Brown - Kansas National Education Association
Paul Fleener - Kansas Farm Bureau
Jim Oliver - Professional Insurance Agents of Kansas
Larry Magill - Independent Insurance Agents of Kansas
Joan Finney - State Treasurer
Bob George - Retired Chief Auditor
Marie Garrity - Retired civil service employee

The Chairman called the meeting to order and indicated that time was short today. He then introduced Ron Todd who spoke in support of HB 2109 concerning the continuation of the Office of Commissioner of Insurance, the Insurance Department, the office of State Treasurer and the Pooled Money Investment Board until July 1, 1993, under the provisions of the Kansas Sunset Law. Mr. Todd indicated that a separate department is needed to administer the complex insurance laws. The major functions of the Department of Insurance are to protect the solvency of the insurance companies in Kansas and to regulate policy forms and rates. Also, consumer Services Division handles complaints and inquiries having received over 80,000 phone calls in 1984.

The following conferees spoke in support of HB 2109 regarding the continuation of the Insurance Commissioner's Office: Bud Cornish, Bud Grant (Exhibit A), Ralph McGee (Exhibit B), Judy Brown, Paul Fleener (Exhibit C), Jim Oliver (Exhibit D) and Larry Magill (Exhibit E).

Joan Finney then spoke in support of the continuation of the State Treasurer's Office. She said that her office is the custodian of the funds of the State of Kansas and she would hate to see this powerful office be abolished. She also felt we should stop the continual erosion of the people's rights. Bob George then stated that the State Treasurer's office should be accountable to the people not an appointed authority. Marie Garrity indicated that she felt it a privilege to go to the polls and choose who should be the State Treasurer.

Since there was no opposition, Senator Bogina moved that HB 2109 be reported favorably for passage. This was seconded by Senator Francisco. Motion carried.

A motion to approve the minutes of the March 11 meeting was made by Senator Strick and seconded by Senator Hoferer. Motion carried.

The meeting was then adjourned by the Chairman.

GUEST LIST

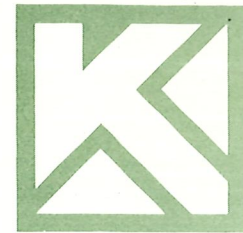
COMMITTEE: Senate Governmental Organization

DATE: March 18, 1985

NAME	ADDRESS	COMPANY/ORGANIZATION
Bill Oliver DVP CORP	Topeka "	OIA of Ks KCC
Dan Musselt	Manhattan	ITAK.
Bob Todd	Topeka	INS. Dept.
Lucian Garrity	Topeka	
Marie Garrity	Topeka	
Robert L. George	Topeka	
Juan Timney	Topeka	State Treasurer
Steven H. Hines	Topeka	State Treasurer's office
Judith Brown	Topeka	Ks - NEA
PHIL ANDERSON	TOPEKA	BUDGET DIV.

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

March 18, 1985

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate 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 and State Treasurer as elected state officials 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

EXHIBIT A

3/18/85

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.

The Committee also recommended that the position of State Treasurer continue to be an elected position. It was the finding of our Committee that the State Treasurer performs a number of very important actions that are directly responsible or answerable to the electorate. The receiving and placement of tax dollars is better served by an elected official.

KCCI believes the people of 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.

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

TESTIMONY OF RALPH McGEE, EXECUTIVE SECRETARY, KANSAS AFL-CIO
BEFORE THE GOVERNMENTAL ORGANIZATION COMMITTEE, MARCH 18, 1985

MR. CHAIRMAN:

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 OFFICES OF THE STATE TREASURER AND INSURANCE COMMISSIONER AS THEY ARE PRESENTLY CONSTITUTED.

WE OF THE KANSAS AFL-CIO BELIEVE THAT BOTH THE PRESENT TREASURER AND INSURANCE COMMISSIONER HAVE DONE AN EXCELLENT JOB. THE FACT THAT THE PEOPLE OF KANSAS HAVE CONTINUED TO RETURN THEM TO OFFICE BY LARGE MAJORITY IS TESTIMONY TO THE CONFIDENCE THAT KANSANS HAVE PLACED IN THEM.

FOR THESE REASONS THE KANSAS AFL-CIO URGES THIS COMMITTEE TO RECOMMEND THE CONTINUANCE OF THE OFFICES OF STATE TREASURER AND INSURANCE COMMISSIONER AS ELECTIVE OFFICES AS PRESENTLY CALLED FOR BY KANSAS LAW.

THANK YOU.

Statement to:
SENATE GOVERNMENTAL ORGANIZATION COMMITTEE

RE: H.B. 2109 - Sunset Law Legislation: Continuing in Existence
the Office of Commissioner of Insurance and the
Office of State Treasurer

March 18, 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 and the Office of State Treasurer 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 the situation and could not agree with the proposal. 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."

Our Farm Bureau resolution on "Voting" addresses the general

topic of length of ballot and number of officials 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.



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

MARCH 18, 1985
TESTIMONY BEFORE THE GOVERNMENTAL ORGANIZATION COMMITTEE

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 this 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.

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 receipt 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 or her 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 Commissioner of Insurance. One simply cannot improve regulation of the insurance business by diluting the authority and responsibilities of the Commission of Insurance or removing it from the eyes of the public.

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

Testimony on HB 2109
Before the Senate Governmental Organization Committee
By: Daniel R. Messelt, Governmental Affairs Chairman
Independent Insurance Agents of Kansas

Thank you for the opportunity to appear in support of HB 2109 continuing the Insurance Department, the Insurance Commissioner's office, the State Treasurer's office and the Pooled Money Investment Board 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 provide Kansas consumers.

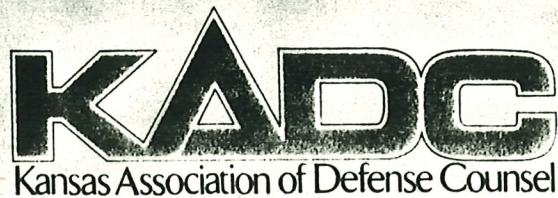
The House subcommittee's review of the Insurance Department's operations and management have confirmed this position through their thorough review process. The subcommittee recommended no statutory changes because the Department has consistently taken a leadership role over the years in proposing needed changes in Kansas statutes to keep abreast of new developments in the industry (e.g. M.E.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. Let us simply say that we see no reason to change a system that is working very well. We would be happy to respond to questions or provide additional information. We urge the committee to report HB 2109 favorably for passage.



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

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

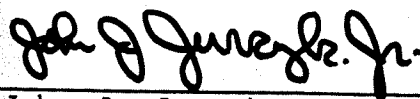
NOW THEREFORE, BE IT RESOLVED That the KANSAS ASSOCIATION OF DEFENSE COUNSEL hereby declares its opposition to any proposal or effort which would result in abolition of the Insurance Department as a separate, free-standing state agency or remove the right of the Kansas public to elect the Commissioner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

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.

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.

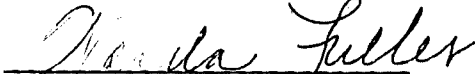
3. The Commissioner of Insurance and the Department should remain sensitive to the concerns of consumers who pay generally rising rates for insurance coverage and who often do not understand complicated insurance provisions that nevertheless affect them directly. The Subcommittee is mindful that the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

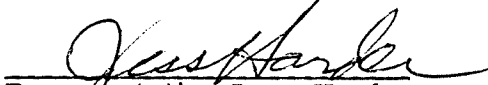
However, the Subcommittee wishes to point out several areas of concern that emerged during its review of the Department. First, the Subcommittee generally disapproves of the practice of insurance companies to offer prizes and other incentives to agents if the cost of these bonuses adds greatly to the 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.

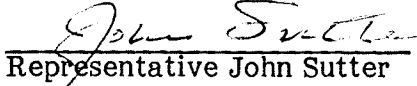
4. The House Governmental Organization Committee should recommend to the Legislative Coordinating Council that an interim study be conducted to determine if legislative action is needed to more clearly distinguish between insurance agents and stockbrokers. The Subcommittee is concerned that the distinction 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