

Approved February 10, 1987  
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Sen. Neil H. Arasmith at  
Chairperson

9:00 a.m./~~p.m.~~ on February 5, 1987 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research  
Bill Edds, Revisor of Statutes

Conferees appearing before the committee:

Mark Bennett, American Insurance Association  
L. M. Cornish, Kansas Association of Property and Casualty Insurance Companies  
Doug Mays, Securities Commissioner  
Roger Walter, Legal Counsel, Securities Commissioner

The minutes of February 4 were approved.

The meeting began with a brief request for the introduction of a bill by Mark Bennett, American Insurance Association. (See Attachment I.) L. M. Cornish, Kansas Association of Property and Casualty Insurance Companies, followed with a brief statement in support of Mr. Bennett's testimony.

Sen. Burke made a motion to introduce the bill, Sen. Werts seconded, and the motion carried.

Attention was turned to SB 66 dealing with securities which is part of the recommendations of the Task Force on Economic Development study. Doug Mays, Securities Commissioner, appeared to clarify amendments he had to offer. (See Attachment II.) He introduced Roger Walter, legal counselor for his office, and Steve Wassom, chief auditor. Roger Walter testified further on the amendments. He began with an explanation of subsections (c) and (d) on the second page. In his explanation, he used the term "cheap stock" for which Sen Gannon asked a definition. Mr. Walter said that it refers to stock issued at the initial formation of a company to insiders and to promoters as a reward before offering to the public. Mr. Walters continued with his explanation of amendments on page one and two which simplify the registration process, answering questions from the committee when the need arose. He concluded with an explanation of the final amendment on page four, subsection (f), which concerns secondary trading.

The chairman recalled that Mr. Walter had stated that section (b) would require revisions but that there had not been enough time for this to be done. The committee will need to consider this before acting on the bill. He also asked Mr. Walter to submit copies of his comments on the amendments to the committee which Mr. Walter agreed to do.

Mr. Mays concluded by summarizing the five areas with which the amendments deal: escrow provision, limitation on commission, filing fees, termination of registration after one year, and some "housekeeping". Mr. Wassom told the chairman that the amendments for section (b) would be ready by early next week.

Committee questions followed. Also, Sen. Kerr noted that the task force had recommended studying the ABA study with Professor Levitch. He asked where this stands now, and Mr. Walter answered that he did not know the status but that he would find out. This concluded the hearing on SB 66 until the committee gets the other amendments.

The chairman began a discussion of SB 23 dealing with notice prior to increasing premiums which had been previously heard. He distributed copies of SB 729 which had been requested at the hearing on SB 23. He informed the committee that he had received (See Attachment III.)

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.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on February 5, 1987.

another fiscal report comparing the two bills which stated that SB 729 would have no fiscal impact if it were enacted. Brief discussion followed as to how the committee wished to deal with the two bills.

Sen. Harder made a motion to reintroduce SB 729 and that it be referred to the Committee of the Whole, Sen. Reilly seconded, and the motion carried.

Sen. Werts made a motion to report SB 23 adversely, and Sen. Reilly seconded.

Sen. Gannon stated that SB 729 was bogged down in the House last year so maybe it would be wise to hold SB 23 a while. The chairman said either proposal is going to get bogged down; it probably wouldn't matter which bill. If the committee desires, it could go to an exempt committee for introduction.

On a call for a vote on Sen. Werts' motion, the motion carried.

The chairman announced that next Friday, February 13, he would call a meeting to consider SB 72 on branch banking.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS  
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2/5/87	Krohn Walter	Suite 212 - 503 KANSAS	Gen. Commissioner
2/5/87	Steve Wasson	" " "	" "
2/5/87	Douglas Mays	" " "	Sec. Commissioner
2/5/87	Eve Armstrong	Topeka	St. Banking Dept.
"	Jim M. Burdick	Topeka	Observer
"	Dick Brock	Topeka	Tax Dept.
2/5/87	John Spurgeon	Lawrence	Budget Dir.
2/5/87	L M Corbitt	Topeka	Asst. Dir. of P/C Co
2/5/87	Mark T. Bennett	Topeka	Gen. Inv. Off.

BEFORE THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND  
INSURANCE

Room 529-S

I represent the American Insurance Association.

In 1978 the legislature adopted what is now K.S.A. 40-1130 and 40-1131 relating to annual reports to the insurance commissioner by product liability insurers. At the time of the introduction of the bill, both the insurance industry and the insurance commissioner's office were of the view that the requirements would not attain the purpose for which they were intended. Later it developed that conclusion was correct and these statutes did not provide the desired information.


Thereafter and in 1983, a new bill relating to the same subject was enacted which now appears as K.S.A. 40-1132 and 40-1133. This law does attain the objectives desired by the first bill. At the time of the introduction of what is now K.S.A. 40-1132 and 40-1133, the bill contained a repealer of K.S.A. 40-1130 and 40-1131. That repealer was eliminated by the legislature prior to the enactment of K.S.A. 40-1132 and 40-1133.

The attached bill repeals 40-1130 and 40-1131 since it is of no benefit to the Department nor to the insuring public, and its cost of conformance is not justified since the information sought will still be obtained under K.S.A. 40-1132 and 40-1133.

The American Insurance Association and the insurance industry respectfully request the introduction of the attached bill repealing K.S.A. 40-1130 and 40-1131.

Respectfully submitted,

AMERICAN INSURANCE ASSOCIATION



Mark L. Bennett

SENATE BILL No. \_\_\_\_\_

By Committee on Financial Institutions and Insurance

AN ACT repealing K.S.A. 40-1130 and 40-1131, relating to annual reports to insurance commissioner by product liability insurers.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 40-1130 and 40-1131 are hereby repealed.

Section 2. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 66

By Legislative Commission on Kansas Economic Development

1-23

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AN ACT concerning securities; relating to certain expenses; deposit of securities in escrow; amending K.S.A. 17-1259 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 17-1259 is hereby amended to read as follows: 17-1259. (a) When securities are registered by notification or by coordination or by qualification, they may be offered and sold ~~by the issuer, any other person on whose behalf they are registered~~ by a registered agent of the issuer or by any registered broker-dealer. Every registration shall remain effective ~~until revoked by the commissioner~~ for one year after its effective date unless the commissioner by rule or order extends the period of effectiveness or until terminated upon request of the registrant with the consent of the commissioner. No registration is effective while a stop order is in effect under K.S.A. 17-1260, and amendments thereto. So long as a registration remains effective, all outstanding securities of the same class shall be considered to be registered for the purpose of any nonissuer distribution. A registration statement relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the invest-

ment company act of 1940, may be amended after its effective date so as to increase the securities specified therein as proposed to be offered. The commissioner may permit the omission of any document or item of information from any registration statement. So long as the registration statement remains effective the registrant shall file reports semiannually for securities registered-by-qualification-and-annually-for-securities-registered by notification or coordination and such reports shall include-a-balance-sheet-and-a-profit-and-loss-statement-for-the issuer's-most-recent-fiscal-year-and-such-other-information-as the-commissioner-may-require. Upon completion of a registered offering a registrant shall file a final report of sales.

(Section (b) has been omitted from this proposed draft. The registration fee schedule is being revised to simplify the rate structure. The revision will require additional study and will be submitted when completed.)

(c) The commissioner at the time of the granting of the authorization to sell securities as herein provided, may determine and fix the maximum amount, ~~which shall not exceed 15%~~, that may be paid as or in the way of commission, advertising expenses and all other expenses from the sale of such securities, ~~but any profit resulting from a rise in the market value of securities subsequent to their purchase by the sale of securities.~~

~~(d)-(1)-Before any authorization to sell securities shall be issued by the commissioner as herein provided, all stock or securities of any kind issued, or to be issued in payment of property, patents, formulae, goodwill, promotion or intangible assets shall be deposited by the person to whom they are to be~~

issued or by the company or promoter issuing them, with the commissioner, or a depository approved by the commissioner in this or any other state, to be held in escrow. -- The owners of such securities shall not be entitled to withdraw such securities from escrow until the company shall show to the satisfaction of the commissioner that it has had sufficient earnings, after taxes, to pay a dividend or dividends to all stockholders aggregating at least 6%, but such dividend or dividends need not actually be paid. If such dividend or dividends have not actually been paid, the evidence submitted to the commissioner, to show that the company has had such sufficient earnings, shall be in permanent documentary form or transcribed oral testimony, or both, and such documents and transcribed testimony shall be retained as part of the permanent files of the commissioner. -- Such earnings shall not include gains from sale of capital assets or the sale of depreciable property or real or personal property used in trade or business and in case of dissolution or insolvency during the time such securities are held in escrow the owners of such securities shall not participate in the assets until after the owners of all other securities shall have been paid in full. -- No assignment or transfer of such securities shall be made unless, upon application therefor, the commissioner shall find that such assignment or transfer would be in keeping with the purpose of this act except this subsection (d)(1) shall not apply to securities entitled to registration by notification. -- It shall be unlawful for any person in whose name any of the securities deposited in escrow were issued, to sell, contract to



~~sell, or offer to sell, any of the securities until after they are released from escrow.~~

~~(2) -- Whenever it is determined that a security which has been escrowed with the Kansas securities commissioner, pursuant to subsection (d)(1) of this section for three consecutive years after voluntary dissolution or revocation of the corporate charter, the Kansas securities commissioner may destroy such stock. -- The securities commissioner shall maintain a permanent record of all stock destroyed. -- Such record shall include: -- (A) Name of issuer, (B) stock certificate number, (C) number of shares represented by the certificate, (D) name of the owner of the stock certificate, and (E) CUSIP number if applicable.~~

(e)(d) The commissioner shall keep a register showing the issuer, date of registration, amount in number of dollars, of the securities registered.

(f)(e) Neither the commissioner nor any employee of the securities department shall be interested as an officer, director, or stockholder in securing any authorization to sell securities under the provisions of this act.

(g)(f) For application for an exemption, pursuant to subsection (m) of K.S.A. 17-1261, and amendments thereto, or for application for an amendment to a registration, there shall be paid to the commissioner a registration fee of \$10. -- A reregistration shall not be considered to be an amendment of a registration under this section. Upon termination of a registration the filing of a final report as required by section (a) shall satisfy the filing requirements of K.S.A. 17-1261(m)(3), and

amendments thereto.

Sec. 2. K.S.A. 17-1259 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 729

By Committee on Federal and State Affairs

3-10

0018 AN ACT relating to insurance; concerning recording and report-  
0019 ing of loss and expense experience; amending K.S.A. 40-937  
0020 and 40-1118 and repealing the existing sections.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 40-937 is hereby amended to read as fol-  
0023 lows: 40-937. (a) *Recording and reporting of loss and expense*  
0024 *experience.* The commissioner shall ~~promulgate~~ *develop* reason-  
0025 able ~~rules and regulations~~ and statistical plans; ~~reasonably~~  
0026 ~~adopted to each of the rating systems on file with,~~ which may be  
0027 ~~modified from time to time and~~ which shall be used thereafter by  
0028 each insurer in the recording and reporting of its loss and  
0029 ~~country-wide~~ expense experience, in order that the experience  
0030 of all insurers may be made available at least annually in such  
0031 form and detail as may be necessary to aid ~~him~~ *the commissioner*  
0032 in determining whether rating systems comply with the stan-  
0033 dards set forth in K.S.A. 40-927, *and amendments thereto.* Such  
0034 ~~rules and regulations~~ and plans may also provide for the record-  
0035 ing and reporting of expense experience items which are spe-  
0036 cially applicable to this state ~~and are not susceptible of determi-~~  
0037 ~~nation by a prorating of country-wide expense experience.~~ In  
0038 ~~promulgating such rules and regulations and developing such~~  
0039 plans, the commissioner shall give due consideration to the  
0040 rating systems on file with ~~him~~ *the commissioner* and, in order  
0041 that such ~~rules and regulations~~ and plans may be as uniform as is  
0042 practicable among the several states, ~~to the rules and regulations~~  
0043 ~~and to the form of the plans used for such rating systems in other~~  
0044 states. ~~No insurer shall be required to record or report its loss~~  
0045 ~~experience on a classification basis that is inconsistent with the~~

0046 ~~rating system filed by it.~~ The commissioner may designate one or  
0047 more rating organizations or other agencies to assist ~~him the~~  
0048 *commissioner* in gathering such experience and making com-  
0049 pilations thereof, and such compilations shall be made available,  
0050 ~~subject to reasonable rules and regulations promulgated~~ by the  
0051 commissioner, to insurers and rating organizations. ~~Provided,~~  
0052 ~~That nothing in this act shall be construed to require, nor shall~~  
0053 ~~the commissioner adopt any rule to require, any insurer to record~~  
0054 ~~or report its loss or expense experience on any basis or statistical~~  
0055 ~~plan not consistent with the rating system filed by it.~~

0056 (b) *Interchange of rating plan data.* Reasonable ~~rules and~~  
0057 ~~regulations~~ and plans may be ~~promulgated~~ *developed* by the  
0058 commissioner for the interchange of data necessary for the ap-  
0059 plication of rating plans.

0060 (c) *Consultation with other states.* In order to further uni-  
0061 form administration of rate regulatory laws, the commissioner  
0062 and every insurer and rating organization may exchange infor-  
0063 mation and experience data with insurance supervisory officials,  
0064 insurers and rating organizations in other states and may consult  
0065 with them with respect to rate making and the application of  
0066 rating systems.

0067 (d) *Rules and regulations.* The commissioner may make rea-  
0068 sonable rules and regulations necessary to effect the purposes of  
0069 this act.

0070 Sec. 2. K.S.A. 40-1118 is hereby amended to read as follows:  
0071 40-1118. (a) *Recording and reporting of loss and expense expe-*  
0072 *rience.* The commissioner shall ~~promulgate rules and regula-~~  
0073 ~~tions and develop~~ statistical plans, ~~reasonably adopted to each of~~  
0074 ~~the rating systems on file with him, which may be modified from~~  
0075 ~~time to time and which shall be used thereafter~~ by each insurer  
0076 in the recording and reporting of its loss and ~~country-wide~~  
0077 expense experience, in order that the experience of all insurers  
0078 may be made available at least annually in such form and detail  
0079 as may be necessary to aid ~~him the commissioner~~ in determining  
0080 whether rating systems comply with the standards set forth in  
0081 K.S.A. 40-1112, ~~and amendments thereto.~~ Such ~~rules and regu-~~  
0082 ~~lations~~ and plans may also provide for the recording and report-

0083 ing of expense experience items which are specially applicable  
0084 to this state ~~and are not susceptible of determination by a~~  
0085 ~~prorating of country-wide expense experience.~~ In promulgating  
0086 such ~~rules and regulations~~ and plans, the commissioner shall  
0087 give due consideration to the rating systems on file with ~~him the~~  
0088 ~~commissioner~~ and, in order that such ~~rules and regulations~~ and  
0089 plans may be as uniform as is practicable among the several  
0090 states, ~~to the rules and regulations~~ and to the form of the plans  
0091 used for such rating systems in other states. ~~No insurer shall be~~  
0092 ~~required to record or report its loss experience on a classification~~  
0093 ~~basis that is inconsistent with the rating system filed by it.~~ The  
0094 commissioner may designate one or more rating organizations or  
0095 other agencies to assist ~~him the commissioner~~ in gathering such  
0096 experience and making compilations thereof, and such compila-  
0097 tions shall be made available, ~~subject to reasonable rules and~~  
0098 ~~regulations promulgated~~ by the commissioner, to insurers and  
0099 rating organizations. *Provided, That nothing in this act shall be*  
0100 ~~construed to require, nor shall the commissioner adopt any rule~~  
0101 ~~to require, any insurer to record or report its loss or expense~~  
0102 ~~experience on any basis or statistical plan not consistent with the~~  
0103 ~~rating system filed by it.~~

0104 (b) *Interchange of rating plan data.* Reasonable ~~rules and~~  
0105 ~~regulations~~ and plans may be ~~promulgated~~ *developed* by the  
0106 commissioner for the interchange of data necessary for the ap-  
0107 plication of rating plans.

0108 (c) *Consultation with other states.* In order to further uni-  
0109 form administration of rate regulatory laws, the commissioner  
0110 and every insurer and rating organization may exchange infor-  
0111 mation and experience data with insurance supervisory officials,  
0112 insurers and rating organizations in other states and may consult  
0113 with them with respect to ratemaking and the application of  
0114 rating systems.

0115 (d) *Rules and regulations.* The commissioner may make rea-  
0116 sonable rules and regulations necessary to effect the purposes of  
0117 this act.

0118 Sec. 3. K.S.A. 40-937 and 40-1118 are hereby repealed.

0119 Sec. 4. This act shall take effect and be in force from and  
0120 after its publication in the statute book.

SUPPLEMENTAL NOTE ON SENATE BILL NO. 729

As Amended by Senate Committee on  
Financial Institutions and Insurance

Brief of Bill\*

S.B. 729, as amended, would amend two statutes relating to property and casualty insurance companies and concerns recording and reporting of loss and expense experience.

The bill as amended would strike from current laws language that restricts the authority of the Insurance Commissioner to adopt statistical plans different from the rating systems filed with the Commissioner by the companies. The effect is to authorize the Commissioner to develop statistical plans requiring property and casualty companies to record and report loss and expense experience on specific classifications of insurance.

Committee amendments are technical.

Background

The bill was requested by the Commissioner of Insurance and supported by the Joint Subcommittee on Insurance as legislation necessary to gather data on actual claim losses on and expenses related to property and casualty insurance policies issued in this state. The data would be used to aid the Commissioner, and the Legislature, in determining whether rating systems filed and used by the companies comply with Kansas law.

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\* Bill briefs are prepared by the Legislative Research Department and do not express legislative intent.