Approved January 20, 1988
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Senator Robert Frey at
Chairperson

10:00 a.m./~~p.m.~~ on January 14, 1988 in room 514-S of the Capitol.

All members were present except: Senators Frey, Burke, Feleciano, Gaines, Langworthy, Parrish, Talkington, Winter and Yost.

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Office of Revisor of Statutes

Conferees appearing before the committee:

Roy Worthington, Kansas Land Title

Roy Worthington, Kansas Land Title, presented a request for a committee bill concerning federal tax liens. Following his explanation of the proposed bill, Senator Feleciano made a motion to introduce the bill. Senator Langworthy seconded the motion. The motion carried.

Senator Gaines requested a bill be introduced that was requested by the Kansas Gas and Electric Company concerning theft of electric power without regard to dollar amounts. Following his explanation, Senator Gaines moved the bill be introduced. Senator Talkington seconded the motion. The motion carried.

Staff presented review of interim committee reports; Proposal #39 concerning corporate takeover; Proposal #40 concerning protection of property and Proposal #45 concerning compulsory automobile liability insurance.

Staff presented briefing of a supreme court decision concerning Collaterial Source Rule. A summary of the case will be presented to committee members later.

The meeting adjourned.

A copy of a bill request concerning federal tax liens is attached (See Attachment I).

A copy of an article from State Legislatures is attached (See Attachment II).

A copy of the guest list is attached (See Attachment III).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE DATE: 1-14-88

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Leslie H. Greenwood	Topeka	NOW
John W. Dozier	Topeka	Kansas Land Title Assn
Roy Worthington	Manhattan	Kansas Land Title Assn
Alice J. Ruhm	Topeka	Eagle Beacon / Press
Patricia Henshaw	Topeka	OJA
Rori Callahan	Topeka	Am. Ins. Assoc.
Marian Barnett mrs	Topeka	Docs. of the Day
Dennis Shockley	KCK	City of KCK

Attch. III

1-14-88

AN ACT

To repeal Kansas Statutes Annotated Sections 79-2607, 79-2608, 79-2609, 79-2610, 79-2611 and 79-2612, referring to federal tax liens, and to enact in lieu thereof seven new sections, referring to federal liens.

Be it enacted by the legislature of the State of Kansas as follows:

Section 1. Kansas Statutes Annotated Sections 79-2607, 79-2608, 79-2609, 79-2610, 79-2611 and 79-2612 are repealed and seven new sections enacted in lieu thereof, to be known as Kansas Statutes Annotated Sections 79-2613, 79-2614, 79-2615, 79-2616, 79-2617, 79-2618, 79-2619, to read as follows:

79-2613 Scope

This Act applies only to federal tax liens and to other federal liens notices of which under any Act of Congress or any regulation adopted pursuant thereto are required or permitted to be filed in the same manner as notices of federal tax liens.

Attch. I

79-2614 Place of Filing

(a) Notices of liens, certificates, and other notices affecting federal tax liens orother federal liens must be filed in accordance with this Act.

(b) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the register of deeds of the county in which the real property subject to the liens is situated.

(c) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed as follows:

(1) if the person against whose interest the lien applies is a corporation or a partnership whose principal executive office is in this State, as these entities are defined in the internal revenue laws of the

United States, in the office of the Secretary of State;

(2) if the person against whose interest the lien applies is a trust that is not covered by paragraph (1), in the office of the Secretary of State;

(3) if the person against whose interest the lien applies is the estate of a decedent, in the office of the Secretary of State;

(4) in all other cases, in the office of the register of deeds of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

79-2615 Execution of Notices and Certificates

Certification of notices of liens, certificates, or other notices affecting federal liens by the Secretary of the Treasury of the United States or his delegate,or by any official or entity of the United States responsible for filing or certifying of notice of any other lien, entitles them to be filed and no other

attestation, certification, or acknowledgement is necessary.

79-2616 Duties of Filing Officer

(a) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection (b) is presented to a filing officer who is:

(1) the Secretary of State, he shall cause the notice to be marked, held, and indexed in accordance with the provisions of KSA 84-9-403(4) as if the notice were a financing statement within the meaning of the Uniform Commercial Code; or

(2) any other officer described in Section 2, he shall endorse thereon his identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice; the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.

(b) If a certificate of release, non-attachment, discharge, or subordination of any lien is presented to the Secretary of State for filing he shall:

(1) cause a certificate of release or non-attachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, but the notice of lien to which the certificate relates may not be removed from the files; and

(2) cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code.

(c) If a refiled notice of federal lien referred to in subsection (a) or any of the certificates or notices referred to in subsection (b) is presented for filing to any other filing officer specified in Section 2, he shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where the original notice of lien is entered.

(d) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this Act [or (reference previous federal tax lien registration act)], naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is $_____. Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of $_____ per page.

79-2617 Fees

The fee for filing and indexing each notice of lien or certificate or notice affecting the lien is:

(1) for a lien on real estate $_____.

(2) for a lien on tangible and intangible personal property, $_____.

(3) for a certificate of discharge or subordination, $_____.

(4) for all other notices, including a certificate of release or non-attachment, $_____.

The officer shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents filed by them.

79-2618 Uniformity of Application and Construction

This Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it.

76-2619 Short Title

Sections 79-2613 through 79-2619 may be cited as the Uniform Federal Lien Registration Act.

Section 2. This Act shall become effective upon publication in the Kansas Register.

Prop. 39 1-14-88

States Checkmate Corporate Raiders

Fearful that raids on local companies could mean the loss of jobs, tax revenues and community support, states are passing laws to make takeovers more difficult.

By Randy Welch

Earlier this year, Wall Street was awash with millions of dollars earned from hostile corporate takeovers, and from "raids" by powerful investors who threatened takeovers but could be bought off instead. The rest of America compared the news of lavish spending on Wall Street with often more dismal news nearby—local plants closed, workers laid off, wage cuts for union employees, and farmers and miners out of work. Skilled men and women lost their jobs, and often had to settle for low-paying work or face the upheaval of moving in search of employment. States lost tax revenues and corporate support for civic activities.

The merger mania on Wall Street, where huge fortunes were being made by speculators who produce nothing tangible, became a focus for public discontent. It seemed clearly wrong that long-established local companies could be taken over, broken up, or forced to lay off employees, because of little-understood, far-off financial manipulations. States had been searching for ways to protect local corporations since the merger wave began in the 1960s. Then, in April of last year, a Supreme Court ruling gave the states new leverage in their fight. The Court ruled in an Indiana case, *CTS Corp. vs. Dynamics Corporation of America,* that states could set up corporate statutes to make quick takeovers more difficult.

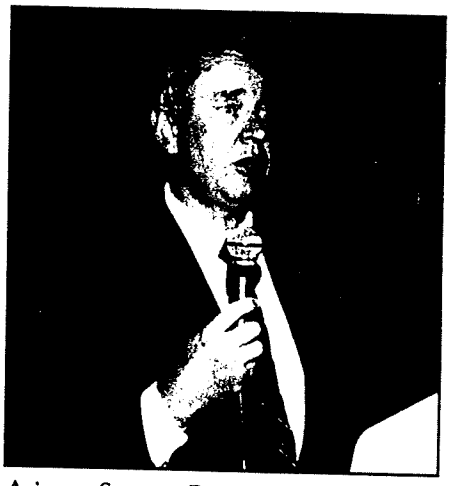
Wisconsin and Ohio already had laws similar to the Indiana statute, and by September similar laws passed in 11 more states. A number were enacted at the direct request of large local companies threatened by outside takeovers: Minnesota helped Dayton Hudson Corp. deter a threat by Dart Group Corp.; Massachusetts passed a bill to help the Gillette Co.; Washington passed one for Boeing; North Carolina helped Burlington Industries; Wisconsin did the same for G. Heileman Brewing; and Arizona responded to a request from Greyhound.

Minnesota Representative Wayne Simoneau

Randy Welch is a free-lance writer based in Denver, Colo. For information on corporate takeover laws call Pam Thayer in NCSL's Denver office.

But despite the popularity and generally bipartisan support for this fast-developing trend, critics raise a number of troubling questions: Are hostile takeovers really bad, or are they also a necessary tool for pruning inefficient businesses and bad management? Do such laws really work, or will they backfire? What other state laws concerning takeovers will the courts uphold? And, last but not least, will Congress, its attention now drawn to the issue, move in the name of interstate commerce to pre-empt the states' traditional power over corporate rules?

In the past, struggles for control of a corporation were waged by *proxy battles,* in which management and its opponents would each campaign for shareholders to vote for their side, either in person or by proxy. Later, proxy battles gave way to *tender offers,* in which one company offers to buy outright a certain number of shares in a second company. Originally, buyers did not have to disclose as much information about themselves, their purposes or intentions, as in a proxy battle. While a tender offer can be friendly or simply an investment, when it is not welcomed by management it is called a *hostile takeover.*



Arizona Senator Peter Kay

Although hostile takeovers are on the upswing, they were still only 1.2 percent of all mergers and acquisitions in 1986, pointed out Beryl Sprinkel, chairman of the President's Council of Economic Advisors, in recent testimony before Congress.

More straightforward tender offers began replacing lengthy proxy battles because the computerization of the stock exchange makes it possible for

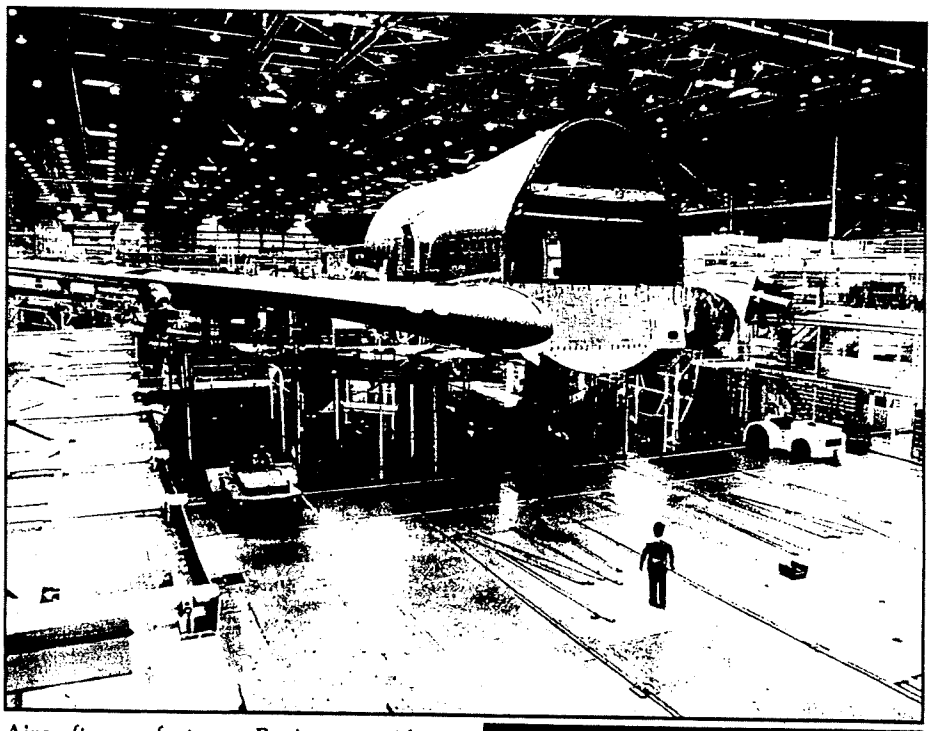
Attach. II

millions of shares to be traded quickly, before the management of the target company can put up defenses. In addition, more and more shares are held by institutional investors, who have no particular ties to individual companies, and who may feel a fiduciary obligation to take a quick profit through tender offers. Hostile takeovers were also encouraged by deregulation, a relaxed attitude toward antitrust enforcement by the Reagan administration, and a deregulated financial market that came up with tools such as "junk" bonds (with higher interest rates, but higher risk) to help finance takeovers. Thus the fate of companies is more and more in the hands of distant financial markets. So is the fate of individual stockholders. When a tender offer is made, for example, stockholders might not understand their options, or they might feel pressured to accept the higher price as quickly as possible.

Complaints about hostile takeovers came chiefly from business management, only rarely from employee groups or stockholders. But government did begin responding to the spectacle of merger wars. Corporations are legal creations of state governments, which traditionally regulate internal corporate matters such as charters and by-laws. The federal government began regulating the trading of securities, under its power to regulate interstate commerce, through the Securities Act of 1933 and the Securities Exchange Act of 1934. Since hostile takeovers were relatively rare before the 1960s, the two sets of powers did not come into conflict.

The key federal law now is the Williams Act of 1968, an amendment to the Securities Exchange Act, which was passed to regulate tender offers. The amendment requires that anyone who acquires more than 5 percent of any class of stock in a company must disclose having done so within 10 days, and any tender offer must disclose the buyer's background, source of funds and any major plans for restructuring the target company. It also requires that all shareholders who tender their shares within the minimum 20-day period get the same price, on a pro-rata basis if too many shares are offered.

The states tried regulating tender offers also, beginning with Virginia in 1968. By 1982, a total of 37 states had passed laws calling for disclosure of more information in tender offers. Then the Supreme Court struck down the Illinois Business Takeover Act in *Edgar vs. MITE Corp.*, effectively invalidating all 37 state laws. Like most of the "first generation" of state takeover laws, the Illinois law made such takeovers more difficult, and featured such provisions as an indefinite period for hearings by the secretary of state before an offer could begin, and the inclusion under the law of many companies that were incorporated in other states. The Supreme Court ruled the law created an unjustifiable burden on interstate commerce.



Aircraft manufacturer, Boeing, provides thousands of jobs in Washington.

Despite the 1982 Supreme Court decision, states kept looking for ways to protect local corporations from the unpopular hostile takeovers. A Minnesota law required a bidder striving for control of a company to have its offer reviewed by other shareholders, who would then vote on whether the bidder could purchase the shares, explains Randall Schumann. He is general counsel for the Wisconsin Securities Commission and chairman of the tender offer committee of the North American Securities Administrators Association. The Minnesota law was struck down by a federal court in August 1985, but the judge suggested in the case that the law might have been permissible if it had restricted only the *voting* power of the purchaser, instead of actual purchase rights. Given that hint, Schumann explains, both Indiana and Wisconsin passed such "control share" statutes in early 1986.

Under the Indiana law, when a buyer purchases more than a certain percentage of a company's shares he cannot vote the extra shares, unless a special meeting is held and other company shareholders vote to let him. Being unable to take quick control of a target should discourage raiders. The idea is that only "disinterested" shareholders get to decide on accepting a buyout offer; neither management nor the buyer can vote. The law also gives

Ashland Oil Inc. of Kentucky and Dayton Hudson Corp., headquartered in Minnesota, are both large employers.

some advantage to management in fighting a takeover, however, because it lengthens the overall time the process takes, which allows management to put up other defenses while the offer waits. It was that law the Supreme Court upheld by a 6-3 vote in the *CTS* case in April of last year. The court ruled that the Indiana law was consistent with the Williams Act in protecting shareholders and in giving no advantage to either management or the potential purchasers. The court also said that having the shareholder meeting within 50 days of the tender offer was not undue delay, that a purchaser was not deprived of ownership rights because an offer could be made *conditional* on getting the voting rights, and that any impact on interstate commerce was outweighed by the state's interest in defining shareholder rights.

Although it was the *CTS* case that made it to the Supreme Court, that law is the second of two Indiana bills actually passed to help Arvin Industries, a Fortune 500 auto-parts company in Columbus, Ind. Arvin was threatened with a takeover in August 1986, by the Belzberg family, corporate raiders from Canada.

"Hostile takeovers are a drain on resources," contends Robert Garton, president pro tem of the Indiana Senate, who was instrumental in getting the bills passed. "The argument often used is that incompetent managers need to be replaced, but that wasn't the case at Arvin—they just reached $1 billion in income, a record for the firm. If those who want to take companies over have such altruistic motives, then why do they always go after companies with good track records? They always cloak their actions in the argument that this is good for somebody else. This particular law does not prohibit hostile takeovers, it just makes sure all sides are treated evenly."

Similar legislation cropped up all over after the *CTS* decision. Other types of state legislation on takeovers remain from before *CTS,* and an NCSL survey last September shows 27 states that currently have one or more laws governing takeovers. They generally fall into four categories: "control share" laws, like Indiana's, which limit the voting rights of a would-be acquirer; "fair price" laws, which require a buyer who gets majority control and then wants to buy the rest of the shares to pay an equivalent price to the remaining shareholders; "cash out" laws, which are similar to fair price but are aimed at letting minority shareholders redeem shares for the buyout price after a takeover even if the buyer does not want to buy more shares; and "freeze out" laws, which prohibit a buyer from merging, selling, or substantially restructuring the company for several years without special approval. Eighteen of the above bills passed in 1987.

States have also looked at other possibilities, such as laws prohibiting corporations from paying "greenmail," which is the practice of paying above-market stock prices to buy back shares from hostile acquirers. Greenmail increases corporate debt without increasing productivity. Another type of law requires an independent appraisal before management

State Laws Governing Corporate Acquisitions

(September 1987)

State	Type of Statute
Arizona	Control share* 3 year freeze out*
Connecticut	Fair price
Florida	Control share* Fair price*
Georgia	Fair price
Hawaii	Control share*
Illinois	Fair price
Indiana	Control share 5 year freeze out
Kentucky	Fair price 5 year freeze out
Louisiana	Control share* Fair price
Maine	Cash out
Maryland	Fair price
Massachusetts	Control share* (domestic firms) Control share* (foreign firms)
Michigan	Fair price
Minnesota	Control share* 5 year freeze out*
Mississippi	Fair price
Missouri	Control share* 5 year freeze out
Nevada	Control share*
New Jersey	5 year freeze out
New York	5 year freeze out
North Carolina	Control share* (expires 6/30/89) Fair price*
Ohio	Control share
Oklahoma	Control share
Pennsylvania	Cash out
Utah	Control share*
Virginia	Fair price
Washington	Fair price 5 year freeze out* (expires 12/31/88)
Wisconsin	Control share Fair price 3 year freeze out* (expires 9/10/91)

Definitions

Control share acquisition laws usually require shareholder approval of the acquisition of a specified percentage of voting shares of the target company, or may deny voting rights to the acquirer of a specified percentage of the target company's voting stock unless shareholders vote to grant the acquirer those voting rights.

After a potential acquirer has reached a given ownership level of a target company's share, **a fair price** statute gives all shareholders the right to sell their shares to the potential acquirer and receive a fair price for them.

Cash out provisions set standards under which an acquirer must redeem the shares of dissenting shareholders at a fair price as defined in the statute.

Freeze out measures focus on the actual merger of corporations and may require either prior approval by the target company's board of directors of a business combination with an interested shareholder or may mandate a cooling off period. At the end of that period the combination may proceed only under given conditions (e.g., stockholder approval and purchase of shares at a fair price).

*Note: * indicates law adopted in 1987.*

Source: NCSL

can take a company private through a leveraged buy-out. Schumann cites such leveraged buy-outs, in particular, as "an area that has resulted in shareholder abuse." Other states changed their laws to allow corporate directors to consider the interests of employees, customers, suppliers and others who "hold a stake" in the corporation, a switch from previous mandates to consider only the financial return to stockholders. Many of the measures have never been tested in federal court, including the "freeze out" laws and the provisions, like those in Massachusetts, that attempt to apply state laws to outside companies that do business in the state.

Critics of anti-takeover legislation shake their heads at this flurry of activity. First, hostile takeovers are relatively rare events, they point out. Second, they question whether it is wise or just to cut down on the opportunities stockholders may have to sell their stocks. Studies of the Ohio and New Jersey acts indicated that anti-takeover laws caused an overall drop in stock values of 1 to 2 percent for companies headquartered in those states. Others point out it is not shareholders lobbying for anti-takeover laws, but management. As *Forbes* magazine put it, "The heads of large corporations are working for a special variety of laissez-faire in which all markets are free except the market for control of large corporations."

Arizona state Senator Peter Kay, a retired stockbroker and chairman of the Senate Judiciary Committee, agrees with the argument that management is just protecting itself. Greyhound got the Arizona Legislature to pass anti-takeover legislation this year, saying it was threatened by a never specified raider and Kay is unhappy about the new law.

"Every year since Greyhound has been here," Kay says, "they've been threatening to leave if we didn't do this or that. They were lured here from Chicago by extensive tax benefits, and they have been heavy-handed ever since. The fact is, Greyhound management was thinking of themselves rather than the stockholder. Stock appreciates if people come in from the outside, recognize hidden values and bid up the stock. My amendment to bar greenmail and golden parachutes for executives did not pass. I knew it wouldn't, but I wanted to point out to the pub-

lic what a heavy-handed operation this was. I don't say to my constituents, 'I support the free-enterprise system, except when it comes to large corporations. Them we have to protect. That's in effect what the legislatures are doing."

Representative Wayne Simoneau of Minnesota, the chief author of that state's new control share and freeze out bill, offers a sharply different viewpoint. Simoneau wanted to help $6.5 billion Dayton-Hudson, a popular corporate citizen that gives 5 percent of its profits to charitable causes, as it fought off a takeover attempt from the smaller Dart Group. Simoneau says he has been watching takeover activities intently since raider Irwin Jacobs' attack on Grain Belt Beer in Minnesota

Photo: Kathleen Proa

Indiana State Senate Majority Leader Joseph Harrison, left, and Connecticut Attorney General Joseph Lieberman, testify before Congress.

12 years ago cost the jobs of a number of his friends.

"The analogy I would draw," he says, "is that you may have a next-door neighbor you think highly of, with a nice house and yard. You and I can't prevent him from selling his house, but you can prevent him, through city regulation, from opening a bottle shop, a junk yard or a used-car lot. What the states are saying is that greenmail attempts are wrong, golden parachutes are wrong, and raiding a company to junk out its assets is wrong."

The arguments over whether hostile takeovers hurt or benefit the economy are not likely to end. Some economists insist that not only do shareholders get good prices for their holdings in a takeover, but the acquiring firms also benefit, and the overall economy benefits from more productive use of resources. Others argue that the immense corporate debt piled up in such takeovers is a threat to the economy and results in unnecessary layoffs to pay the debt, that takeover activities distract from productive investments and long-term planning, that the acquiring firms' shares show long-term losses and so do the values of most of the target firms. Only investment bankers and financiers profit from the money magic, those economists say.

It is not even certain whether hostile takeovers typically result in layoffs. The usual argument is that a buyer will lay off employees, or sell parts of the company taken over, to increase profit margins and help pay the debts incurred in the takeover. The counter-argument is that no buyer will close down a profitable division, and that any layoffs that increase profits are justified. Analysis of actual takeovers show mixed results.

Representative Louis Johnson of Kentucky, who chairs the Judiciary Civil Committee, believes his state saved jobs when it drove off the Belzbergs with legislation to help protect Ashland Oil, the state's biggest corporation and an "outstanding" corporate citizen, according to Johnson. Whatever the long-range philosophic arguments are, Johnson points out, it was clear the Belzbergs had a record of taking greenmail or selling off assets, not helping corporations grow. With tough economic times in Kentucky, support of Ashland drew widespread bipartisan support.

North Carolina, however, tried similar legislation to help Burlington Industries fend off a takeover but found that averting takeovers does not necessarily save jobs.

The company's managers took over the company themselves in a leveraged buyout and 935 employees were laid off, half of them being part of North Carolina's 20,000 Burlington employees.

Ironically, another objection to laws to discourage takeovers is that they may not always do that. Companies where management controls a large block of stock, for example, may find themselves more vulnerable under control share legislation because management cannot vote in a takeover attempt. Lamaur Inc. of Minneapolis actually became a victim of that state's control share law. Lamaur's management controlled 31 percent of the company stock, but was not going to be able to vote in the "disinterested" stockholders' meeting once another company made a bid for it, so it accepted a friendly merger instead.

Such concerns caused Delaware to pause before considering corporate takeover legislation. Delaware is a key state, because half of the Fortune 500 companies and 40 percent of all companies listed on the New York Stock Exchange are incorporated there. Initially, the state bar committee that suggests changes in acquisition law, and that usually has the ear of the state legislature, recommended a delay in passing such laws. Now, however, the bar is considering a freeze out proposal that would restrict corporate takeover activity.

A committee of the bar association's corporate law section has drafted model legislation patterned after New York's corporate takeover statute with suggested amendments for Delaware. After a period for comment from members, the bar plans to make a recommendation to the legislature.

The uncertainty about the effects of all the new legislation has nettled corporations, raiders, the securities industry, and now Congress. A number of bills have been introduced in both houses of Congress to establish a uniform law for tender offers. Analysts consider most to be balanced in that

they do not prohibit acquiring companies from using junk bonds, or from selling the assets of companies they take over. Most lengthen the time tender offers must remain open, and insist on earlier disclosure of takeover attempts along with more information. Some bills take into account the need to protect the fiduciary responsibilities of pension fund managers. Another idea is to outlaw defensive measures such as greenmail. Wall Street generally favors a federal approach, to prevent having to deal with 50 state laws and states protective of their local corporations. Corporate management generally prefers keeping power in the hands of its state legislative allies.

State legislators themselves, however, are wary of any federal bill that moves to pre-empt traditional state power to regulate corporations. For example, bills that prohibit golden parachutes enter the area of compensation of officers; bills that prohibit other defensive tactics enter the areas of internal corporate governance and the attributes of shareholder ownership. Despite Wall Street complaints about having to deal with 50 different state laws, the fact is that there are already 50 different sets of state laws on corporate governance with which Wall Street routinely deals on any merger or acquisition. Moreover, as Indiana state Senate Majority Leader Joseph Harrison testified before Congress in September, the very fact that states are flexible and able to respond quickly to the fast-changing world of corporate takeovers is a positive aspect of the present system.

The states won a major victory on this issue in October, when the Senate Banking and Finance Committee, chaired by U.S. Senator William Proxmire of Wisconsin, agreed to delete the provisions of Proxmire's SB 1323 that infringed on state powers over defensive measures. That legislation was expected to linger until early this year as the Senate awaits House Energy and Commerce Committee action on takeover legislation. The House committee is generally bent on pre-empting states' authority over New York-type "freeze out" statutes, state determination of shareholder voting rights and possibly some state regulatory control over tender offers. But with the present preoccupation with stock market fluctuations, House action is less likely until early spring.