Approved 2/12/90
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by SENATOR RICHARD L. BOND at
Chairperson

9:00 a.m./~~p.m.~~ on THURSDAY, FEBRUARY 8, 1990 in room 529-S of the Capitol.

All members were present ~~except~~

Committee staff present:
Bill Edds, Revisors Office
Bill Wolff, Research Department
Louise Bobo, Committee Secretary

Conferees appearing before the committee:
Debbie Folkerts, Kansas State Nurses Association
Martin B. Dickinson, Great-West Life & Annuity Insurance Company
William T. McCullum, President and CEO, Great-West
Ron Todd, Assistant Commissioner of Insurance
Patrick Hurley, Pete McGill & Associates
Todd Thompson, Lawrence
Lee Wright, Farmers Insurance Group

Chairman Bond called the meeting to order at 9:15 a.m.

Debbie Folkerts, Kansas State Nurses' Association, was recognized for the purpose of requesting a bill introduction. She advised that this bill proposal was aimed at changing the current reimbursement laws for health care providers to include reimbursement to Advanced Registered Nurse Practitioners for currently "covered" services. (Attachment 1)

Senator Salisbury made a motion to allow this bill to be introduced. Senator Reilly seconded the motion. The motion passed.

SB 575 - Relating to transfer of the domicile of certain domestic life insurance companies to other states.

Martin B. Dickinson, Great-West Life & Annuity Insurance Company, spoke before the committee in support of this bill. He explained to the committee that this bill would have no negative effects on Kansas policyholders and yet would save the company, therefore, its policyholders, some $2 million dollars. He further explained that the bill would require that the company leave enough reserves in Kansas to provide full protection for Kansas policyholders. Mr. Dickinson advised that Great-West had no employees in Kansas and was a burden on the Insurance Department which had to monitor their activities.

Mr. Dickinson also introduced William T. McCullum, President and CEO of Great-West, who informed the committee that Colorado, along with thirteen other states, allow a simple method of transfer of a company's headquarters to another state. If this bill is approved, Great-West would be allowed to move its headquarters to Colorado without having to undergo extensive review by the insurance commissioners in the 49 states. He told the committee that Great-West had 1522 employees in Colorado and needed to concentrate their resources. (Attachment 2)

Ron Todd, Assistant Commissioner of Insurance, spoke briefly, informing the committee that the Insurance Department believed the policyholders would be protected in this bill while still accomplishing the goals of Great-West and, therefore, the Insurance Department had no objection to this proposal.

Senator Salisbury made a motion to pass SB 575 out of committee favorably. The motion was seconded by Senator Reilly. The motion passed.

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE,

room 529-S, Statehouse, at 9:00 a.m. ~~p.m.~~ on THURSDAY, FEBRUARY 8, 1990.

SB 576 - concerning notices, hearings, and administrative costs.

Patrick Hurley, Pete McGill & Associates, addressed the committee on behalf of Hoylake Investments Limited who have plans pending to acquire BAT. Mr. Hurley enumerated two reasons why the company felt this this bill was necessary--(1) it would eliminate the requirement for the mailing of certain statutory notices and (2) would shift the expense of any administrative hearings and notices from the state to the applicant. (Attachment 3)

Mr. Hurley introduced Todd Thompson, Lawrence attorney, who enlightened the committee further as to the need for these proposed amendments. Mr. Thompson said that under present law Hoylake Investments Limited would be required to send technical information to all shareholders at a cost of $3 million dollars. He further advised that time was of the essence because this particular application to acquire was pending.

Ron Todd assured the committee that the Insurance Department had intended to introduce basically the same bill and had no objections.

Lee Wright, Farmers Insurance Group, informed the committee that his organization, as a subsidiary of BAT, preferred to remain neutral at the present time.

Senator Parrish made the motion to pass SB 576 out of committee favorably. Senator Reilly seconded the motion. The motion passed.

The meeting adjourned at 10:00 a.m.

GUEST LIST

COMMITTEE: FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE DATE: Thurs. Feb 8, '96

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Debbie Folkerts ARNP	1415 Highland Dr. Conado	Kansas State Nurses Ass.
Charlotte Peake A.R.N.P.	3540 Sunset Dr. Bellevile	KS. State Nurses Assoc.
Pat RANSON	1701 Woodview Ct. Wichita	Reuben Finn
Patrick J. Kerley	Topeka	Hayden
Todd Thompson	2 Westwood - Lawrence	Anglo Group PLC
JOHN NOLTENSMEYER	401 Aplle Ln #8 LAWRENCE	INTERN - MORAN
David Hanson	Topeka	KS LIFE ASSOC.
STEVE KEPANEN	"	HOYCA/CE
MARTIN DICKINSON	3005 OXFORD RD LAWRENCE	GREAT-WEST LIFE ANN. INS. CO
Bill McCallum	6033 S Beder Denver	Great-west Life & An
W. Kay Adam	8515 E. Orchard Rd Englewood Co	Great-West Life Assu
Lee WRIGHT	Overland Park, Ks.	Farmers Ins Group
Terri Roberts	700 SW Jackson, Suite 601	Kansas State Nurses' Assn
Ron Todd	Topeka	Ins. Dept.
M. Hawver	"	Capital-Journal

KSNA
the voice of Nursing in Kansas

KANSAS STATE NURSES' ASSOCIATION
700 S.W. JACKSON, SUITE 601
TOPEKA, KANSAS 66603-3731
(913) 233-8638

February 8, 1990

Introduction of a Bill: Request

Chairman Bond and members of the Financial Institutions and Insurance Committee, my name is Debbie Folkerts A.R.N.P. and I am a family nurse practitioner from Concordia. I am here today as chairperson of the Kansas State Nurses' Association Advanced Practice Conference Group to ask this committee to introduce a bill aimed at changing the current reimbursement laws for health care providers to include reimbursement to Advanced Registered Nurse Practitioners (A.R.N.P.'s) for currently "covered" services." Attached is a copy of the bill draft.

We would welcome the opportunity to present testimony before this committee regarding the implications and necessity of this bill.

Thank you for your consideration of this request for a bill to be introduced.

testimon.3rd

Attachment 1
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SENATE BILL NO. 633

By Committee on Financial Institutions and Insurance

AN ACT relating to insurance; providing for reimbursement for services performed by advanced registered nurse practitioners under health and accident policies; amending K.S.A. 1989 Supp. 40-2,103 and 40-19c09 and repealing the existing sections.

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

New Section 1. Notwithstanding any provision of an individual or group policy or contract for health and accident insurance delivered within the state, whenever such policy or contract shall provide for reimbursement for any services within the lawful scope of practice of an advanced registered nurse practitioner within the state of Kansas, the insured, or any other person covered by the policy or contract, shall be allowed and entitled to reimbursement for such service irrespective of whether it was provided or performed by a duly licensed physician or an advanced registered nurse practitioner.

Sec. 2. K.S.A. 1989 Supp. 40-2,103 is hereby amended to read as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-2,102, 40-2,104 ~~and~~, 40-2,114 and section 1 and amendments thereto shall apply to all insurance policies, subscriber contracts or certificates of insurance delivered, renewed or issued for delivery within or outside of this state or used within this state by or for an individual who resides or is employed in this state.

Sec. 3. K.S.A. 1989 Supp. 40-19c09 is hereby amended to read as follows: 40-19c09. Corporations organized under the nonprofit medical and hospital service corporation act shall be subject to the provisions of the Kansas general corporation code, articles 60 to 74, inclusive, of chapter 17 of the Kansas Statutes

Annotated, applicable to nonprofit corporations, to the provisions of ~~sections 3 and 4 of this act, to the provisions of K.S.A. 40-2,116 and 40-2,117~~ section 1 and to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2a01 to 40-2a19, inclusive, 40-2111 to 40-2116, inclusive, 40-2216 to 40-2220, inclusive, 40-2401 to 40-2421, inclusive, and 40-3301 to 40-3313, inclusive, and amendments thereto, and to the provisions of K.S.A. 1989 Supp. 40-2221a, 40-2221b, 40-2229 and 40-2230, and amendments thereto, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

Sec. 4. K.S.A. 1989 Supp. 40-2,103 and 40-19c09 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL 575

SUMMARY OF TESTIMONY BY WILLIAM T. McCALLUM AND MARTIN B. DICKINSON ON BEHALF OF THE GREAT-WEST LIFE & ANNUITY INSURANCE CO.

FEBRUARY 8, 1989

S.B. 575 will reduce the burdens of the Kansas Insurance Department and prevent an unnecessary cost of over $2,000,000 to the Great-West Life & Annuity Insurance Co. ("GWL&A"), currently domiciled in Kansas. The bill will have no negative effects on Kansas policyholders and no significant effect on State revenues.

GWL&A has no offices or employees in Kansas. Only 274 of its 63,100 policyholders are Kansas residents. GWL&A is a wholly-owned subsidiary of The Great-West Life Assurance Company of Canada ("Great-West"). The United States activities of Great-West and GWL&A are headquartered in Colorado. Great-West has 1,522 employees in Colorado and a Colorado payroll of $44,000,000.

The directors of Great-West and GWL&A have concluded that the domicile of GWL&A must be moved to Colorado -- its principal place of business. Under existing Kansas law, that would require creation of a new corporation in Colorado and extensive review by the insurance commissioners of every one of the 49 states in which GWL&A is licensed to do business -- at an estimated cost for lawyers, actuaries, and other expenses of $50,000 per state, or a total of $2,450,000.

Colorado and 13 other states have adopted a simpler method of transfer to another state -- redomestication. Redomestication would permit GWL&A to move its domicile to Colorado, subject to

Attachment 2
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2/8/90

approval by the Kansas and Colorado commissioners. Commissioners in other states would treat GWL&A's existence as continuing in Colorado. The entire process could be completed at an estimated cost of less than $250,000.

Adoption of a general redomestication law would raise important questions as to the retention in Kansas of insurance companies that have headquarters here and that provide important employment opportunities for Kansans. Therefore S.B. 575 is drafted so as to permit redomestication by only one company -- GWL&A -- which has no employees in Kansas.

S.B. 575 requires that GWL&A leave in the custody of the Kansas Commissioner the reserves necessary to provide full current and future protection for all current Kansas policy-holders.

The assets of GWL&A have grown from $105 million in 1984 to $2.8 billion as of December 31, 1989. GWL&A is now the largest Kansas life insurance company and is estimated to hold more than one-third of the assets of all Kansas life insurance companies. Yet during 1989 GWL&A paid only $766 in taxes and fees to the State of Kansas.

GWL&A has become a burden on the Kansas Insurance Department entirely out of proportion to any benefits the State or its citizens derive from GWL&A's domicile in Kansas. Redomestication of GWL&A in Colorado would remove this burden and enable the Department to devote its energies to protection of Kansas policy-holders and to supervision and development of companies that are important Kansas employers.

TESTIMONY

OF

PATRICK J. HURLEY

OF

PETE MCGILL & ASSOCIATES

ON BEHALF OF

HOYLAKE INVESTMENTS LIMITED

TO THE

SENATE COMMITTEE

ON FINANCIAL INSTITUTIONS

AND INSURANCE

FEBRUARY 8, 1990

Attachment 3
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2/8/90

Mr. Chairman and Members of the Committee:

I am Patrick J. Hurley of Pete McGill and Associates and we are appearing on behalf of Hoylake Investments Limited in support of the passage of SB 576 which makes certain technical amendments to the Kansas Insurance Holding Companies Act. We believe that the changes to this law contained in SB 576 are basically of a "housekeeping" nature and do not represent any radical change in the law.

I've attached to this testimony a memorandum from Mr. Todd N. Thompson of the Lawrence law firm of Barber, Emerson, Springer, Zinn, & Murray which traces the history of the Insurance Holding Companies Act in Kansas and which leads to these proposed amendments. Mr. Thompson is present today and is available for any technical questions which the committee may have. But I will try to briefly explain the need for this legislation and its effect.

The legislative changes proposed in SB 576 are really very simple. These proposed changes would do two things:

First, they would eliminate the requirement for the mailing of certain statutory notices as they relate to shareholders under the Kansas Insurance Holding Companies Act; and

Second, they would add a new section to the Act which would shift the expense of any administrative hearings and notices from the state to the applicant.

The first series of amendments would strike throughout the current law any remaining references to shareholders as it relates to mailing requirements. This would save the applicant considerable unnecessary expenses without in any way jepardizing the interest of any of the parties. It would also in no way impair the ability of the Insurance Department to carry out its statutory responsibilities under this act to ultimately approve or disapprove the application in Kansas.

The second amendment would save the Insurance Department considerable expenses which it would otherwise have to incur when it conducts the necessary hearings on these types of applications.

I will explain the first amendment a little further. When the Kansas Insurance Holding Companies Act was originally enacted sixteen years ago, it unnecessarily extended the requirements that all mailing and notices be made to shareholders even though the interests of shareholders are not the statutory responsibility of the Insurance Department (but rather of the Securities Commission).

While many of the original requirements relative to shareholders have been eliminated over the years by subsequent legislative actions or by court decisions, a number of such notice requirements remain inadvertently in the law.

In particular the law still states in certain places that the FORM A which is required to be filed by the applicant with the Insurance Department, must be sent to all "shareholders" and "security holders". In the Hoylake application, because of its unique nature, this would result in an absolutely unnecessary and purposeless mailing of hundreds of pages of technical information to approximately 150,000 shareholders, nearly all of whom are located out of the country, at a cost estimated to run upwards of three million dollars.

The Kansas Insurance Department had originally intended to introduce the same type of legislation as contained in SB 576 and we are informed by them that they support the passage of this bill.

We therefore respectfully urge your expeditious approval of SB 576 so that the parties and the Department may proceed to give the Hoylake application the full fair consideration required under our state laws.

Thank you. Mr. Thompson or I would be happy to answer any questions you may have.

MEMORANDUM

To: Hoylake file
From: Todd N. Thompson
Date: January 26, 1990
Re: Mailing Requirement in Holding Companies Act

The Kansas Insurance Holding Companies Act was adopted in 1974. It was patterned after the Model Act adopted in 1969 by the National Association of Insurance Commissioners ("NAIC"). As initially enacted, the Act was plainly designed to protect not only the interests of the insurance company policyholders, but also the shareholders. Indeed, the declaration of public interest and policy contained in K.S.A. 40-3301 continues to this day to make numerous references to the "shareholders" of an insurer. *See*, K.S.A. 40-3301 (a), (b)(1), (b)(4) and (c)(3).

As part of the effort to protect shareholders, certain notice requirements were incorporated into the Act to guarantee that shareholders were fully advised of any proposed changes in ownership or control of an insurance company. K.S.A. 40-3304 (a) contains a requirement that any insurer that is subject to a takeover, merger or other change in control send a copy of the Form A filing to its shareholders. The last sentence of K.S.A. 40-3304 (b) requires that amendments to the Form A also be sent to the shareholders. In addition, the insurer is required by K.S.A. 40-3304 (d)(2) to give notice to its shareholders of the public hearing on any Form A application.

Subsection (e) of K.S.A. 40-3304 provides that the mailing of the Form A and the notices shall be made by the insurer, but paid for by the applicant, the person making the Form A filing. The Commissioner is authorized to require an acceptable bond or other deposit from the applicant to secure the payment for the mailing expenses.

The Kansas Insurance Department has, apparently quite consistently over the years, construed the Act to require the mailing to the shareholders of the controlling entity (e.g. B.A.T.) that is being acquired, not just the shareholders of the insurance company itself. We are advised the effect of this interpretation and the above provisions is to subject Hoylake to an expense of nearly three million dollars to make the requisite mailings to B.A.T. shareholders.

THE 1983 AMENDMENTS

All of the above-noted provisions remain in the Kansas Insurance Holding Companies Act today. However, in 1983 the Act was amended to delete the two sections which most overtly provided for protection of insurance company shareholders. At that time, subsection (d)(1) of K.S.A. 40-3304 was amended. That subsection enumerates the grounds which authorize the Commissioner to refuse to approve an application for change of control. Subpart (C) of 40-3304 (d)(1) was amended by striking

language at the end of that subpart relating to the interests of shareholders not affiliated with the applicant. The amendment was as follows:

> (C) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer; or prejudice the interests of its policyholders ~~or the interests of any remaining securityholders who are unaffiliated with such acquiring party;~~

In addition, the entirety of subpart (D) was deleted from the statute. That subpart had been worded as follows:

> (D) The terms of the offer, request, invitation, agreement or acquisition referred to in subsection (a) of this section are unfair and unreasonable to the securityholders of the insurer;

Again, the above-quoted subpart (D) was deleted in its entirety. A copy of Chapter 159 of the 1983 Kansas Session Laws, which shows the changes, is attached as Exhibit A.

During his testimony before the Senate Commercial and Financial Institutions Committee in 1983 relative to the amendments, the Committee minutes reflect that Assistant Commissioner Ron Todd made reference to a "question raised by the U.S. Supreme Court as to the constitutionality of protecting securityholders." Mr. Todd did not identify the U.S. Supreme Court decision, but it is believed that Mr. Todd was referring to *Edgar v. Mite Corp.*, 457 U.S. 624 (1982). Copies of the minutes of the committee meeting where Mr. Todd testified, and the Edgar case, are attached as Exhibit B.

In *Edgar* the U.S. Supreme Court addressed a challenge to the validity of the Illinois Business Take-Over Act and the burdens the statute placed on interstate commerce in the interests of protecting Illinois resident shareholders. The U.S. Supreme Court acknowledged the validity of the State's interest in protecting Illinois investors, but commented:

> While protecting local investors is plainly a legitimate state objective, the State has no legitimate interest in protecting nonresident shareholders.

457 U.S. at 644 (emphasis added).

Without getting into unnecessary detail with regard to the *Edgar* decision, suffice it to say that *Edgar* was viewed at the time as a very significant case with regard to the extent to which a state statute could intrude upon interstate commerce without falling victim to a constitutional challenge. As a result, many states reviewed and/or revised

statutes that tended to create burdens or placed restrictions on interstate transactions, especially securities transactions.

The fundamental concern expressed by the Court in *Edgar* was not really a new development. In *S.E.C. v. National Securities, Inc.*, 393 U.S. 453 (1969), the U.S. Supreme Court had already drawn a clear line between state efforts to protect policyholders and those directed at protecting shareholders. In the *National Securities* case, the S.E.C. alleged violations of the antifraud provisions of the 1934 Securities Act. The defendants defended the charges by arguing that the transaction in question had been approved by the Arizona Director of Insurance. In holding that the State of Arizona had attempted to extend its authority too far, the U.S. Supreme Court stated:

> In this case, Arizona is concerning itself with a markedly different set of problems [than the regulation of the business of insurance]. It is attempting to regulate not the "insurance" relationship, but the relationship between a stockholder and the company in which he owns stock. This is not insurance regulation, but securities regulation. . . . The crucial point is that here the state has focused its attention on stockholder protection; it is not attempting to secure the interests of those purchasing insurance policies. Such regulation is not within the scope of the McCarran-Ferguson Act.

Id. at 460. (The McCarran-Ferguson Act was passed in 1945 in response to the U.S. Supreme Court case of *United States v. South-Eastern Underwriters Association*, 322 U.S. 533 (1944), in which the Court had ruled that the insurance business was "commerce" and thus state control thereof was subject to the limitations of the commerce clause. The McCarran-Ferguson Act restored the state's power to regulate "the business of insurance." So long as the state's activities fall within the definition of "business of insurance," the state is free to regulate. Not surprising, precisely what activities relate to the "business of insurance" has been the subject of some debate and litigation.")

Another likely impetus for the 1983 amendments to the Kansas Act was a proposal made to the NAIC in 1981 to eliminate the provisions of the Model Act dealing with shareholder protection. The obvious purpose of the proposal was to avoid conflict with federal (and even other state) laws. The proposal suggested the deletion of all specific references to securityholders.

The amendments made in 1983 may also have come about in part as the result of a decision handed down in December of 1981 by the Federal District Court for the District of Kansas. In *Professional Investors Life Insurance Company, Inc. v. Roussel*, 528 F. Supp. 391 (D. Kan. 1981), the Court reviewed a constitutional challenge to the Insurance Holding Companies Act. In its review the Court determined that to the extent

the Act protected the policyholders, the Act was valid. However, the court specifically stated:

> To the extent the law operates to protect securityholders, it does not receive McCarran-Ferguson protection.

Id. at 402 (emphasis added). The Kansas Insurance Commissioner, Fletcher Bell, had intervened in the *Professional Investors* case to defend the validity of the Insurance Holding Companies Act, and thus was undoubtedly aware of the Court's ruling.

CONCLUSION

At the time the 1983 amendments were made, it would have been appropriate for all of the changes contained in the amendment we are currently proposing to have been made. Each of the sections proposed to be deleted from the act have as their purpose and genesis the protection of shareholders, a purpose that is not within the purview of the Commissioner's authority. The changes contained in the legislation we have proposed is of a "housekeeping" nature and does not represent any radical change in the law.

1983 Kansas Sess. Laws

(a) of this section unless, after a public hearing thereon, ~~said~~ *the* commissioner finds that:

(A) After the change of control the domestic insurer referred to in subsection (a) of this section would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(B) the effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein;

(C) the financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders ~~or the interests of any remaining securityholders who are unaffiliated with such acquiring party~~;

~~(D) the terms of the offer, request, invitation, agreement or acquisition referred to in subsection (a) of this section are unfair and unreasonable to the securityholders of the insurer;~~

~~(E)~~*(D)* the plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest; or

~~(F)~~*(E)* the competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control.

(2) The public hearing referred to in paragraph (1) of subsection (d) of this section shall be held as soon as practical after the statement required by this subsection (a) of this section is filed, and at least ~~twenty~~ ~~(20)~~ *20* days' notice thereof shall be given by the commissioner of insurance to the person filing the statement. Not less than seven ~~(7)~~ days' notice of such public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the commissioner of insurance. The insurer shall give such notice to its securityholders. The commissioner of insurance shall issue an order after the conclusion of such hearing setting forth ~~said~~ *the* commissioner's findings. At such hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interests may be affected thereby shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments.

(e) All statements, amendments, or other material filed pur-

Exh. A

Approved February 23, 1983
Date

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

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

9:00 a.m./p.m. on February 22 1983 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Bruce Kinzie, Revisor's Office

Conferees appearing before the committee:

Ron Todd, Kansas Insurance Department
Gary McCallister, Kansas Trial Lawyers Association
L. M. Cornish, Kansas Association of Property & Casualty Insurance Companies
Homer Coven, The Western Insurance Companies

The minutes of February 21 were approved.

The hearing began on SB 145 which was introduced at the request of the Insurance Commissioner's Office. Ron Todd, Kansas Insurance Department, began his testimony in support of the bill. Mr. Todd said that this amends the Insurance Holding Company Act and provides that anyone who tries to acquire more than 10% of control over a domestic insurance company would have to go through specific procedures and meet with the insurance commissioner's approval. He said that lines 180-182 change the reason for which the commissioner could disapprove a transaction. Also, he said that on line 177 all after "policyholders" should be deleted. He also explained two minor changes in amendments located on line 28, to put "and" back in because the meaning is changed without it; and on line 245, to change "each person" to read "each such person" so there will be no question as to if it refers back to the first "person" mentioned in that section of the bill.

Sen. Pomeroy referred to Mr. Todd's statement earlier that a question was raised by the U. S. Supreme Court as to the constitutionality of protecting security holders who are being deleted in the bill and asked what the decision was. Mr. Todd did not know the specifics of the decision but agreed to furnish Sen. Pomeroy with this information. The hearing on SB 145 was concluded.

The hearing began on SB 291 which was referred by the Judiciary Committee and had been requested to be introduced by the Kansas Trial Lawyers Association. Kathleen Sebelius, Kansas Trial Lawyers Association, introduced Gary McCallister, a Topeka trial lawyer, and said he would be giving testimony in support of the bill. Mr. McCallister explained that the first five pages of the bill are existing Laws in the insurance code and include unfair claim settlement practices in paragraph 9. He said that the amendment is located in paragraph 13 (b) which gives the commissioner the authority to hear unfair practice claims brought by an individual against an insurance carrier. After the commissioner hears the complaint, he can decide if it falls in the 14 categories listed in paragraph 9. If the complaint is in one of these categories, the commissioner must determine if the practice is occurring with such frequency as to be a business practice. This amendment is not intended to usurp the authority of the commissioner but would act as a private enforcement vehicle which should be of some assistance to the commissioner. Mr. McCallister said that the reason he has come with the bill is that the Supreme Court says there is no such cause of action in the State of Kansas so the request for a legislative form to accomplish this is needed. He explained that this action has been taken in California. He gave the committee an example of a case of false representation by an insurance carrier which acted in bad faith. In this case, the policyholder had no recourse in the State of Kansas because he was unable to prove that the action was a general business practice. This bill would not place the burden of proof on the individual as it is now. This bill would allow for the value of the claim and the attorney's fee for bringing action for the recovery of the damage.

EXH B