

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Senator August "Gus" Bogina, Chairperson, at 11:47 a.m. on April 8, 1992 in Room 123-S of the Capitol.

All members were present except:

No one was absent

Conferees appearing before the committee:

Judith McConnell, Executive Director, Kansas Corporation Commission
Ron Todd, Commissioner of Insurance
Ron Nitcher, Comptroller, Insurance Department
William Sneed, State Farm Insurance Companies

HB 3180 - Collection of quarterly assessments of utility intrastate gross operating revenues.

Judith McConnell appeared before the Committee in support of HB 3180 and reviewed Attachment 1. She told members that the proposed legislation represents an attempt to bring the calendar year filing in synch with the state fiscal year assessment schedule. If implemented, KCC would avoid the need to request estimates of regulated agencies. In answer to a question, she said that the proposal would decelerate collections.

Senator Doyen moved, Senator Rock seconded, that HB 3180 be recommended favorable for passage. The motion carried on a roll call vote.

HB 3169 - Insurance department service regulation fund, fees and tax receipts, annual assessments by commissioner.

Insurance Commissioner Ron Todd distributed and reviewed Attachment 2 in support of HB 3169. He introduced Ron Nitcher, Comptroller for the Insurance Department, who reviewed Attachment 3. Senator Feleciano expressed his opinion that the Department should assess fees sufficient to fund the regulatory program without subsidy from the premium tax. The Commissioner noted that the insurance industry has long contended that they've paid premium taxes to the SGF in excess of the operational costs of the Department. He stated that this proposal, which would implement the fee structure with \$4.8 million in SGF support, represents a compromise which has been difficult to reach.

William Sneed appeared before the Committee on behalf on the State Farm Insurance Companies to oppose HB 3169. He distributed and reviewed Attachment 4. Mr. Sneed stated that because of the retaliatory tax mechanism, premium tax revenue from foreign insurance companies could be reduced and premium taxes in "home" industries could increase if the fee structure is not carefully considered.

It was moved by Senator Gaines and seconded by Senator Feleciano that HB 3169 be recommended favorable for passage. Senator Feleciano stated that although he seconded the motion, he believed that the Department should work toward becoming 100% fee funded. The motion carried on a roll call vote.

HB 3168 - Pooled money investment board loans; converted to bond financing.

Senator Winter noted his objection to authorizing the Department of Administration to refinance loans through the issuance of bonds without insuring that the bonds would be tax exempt. Secretary Seltsam stated that each loan must be reviewed independently and that, upon passage of HB 3168, the Department anticipated issuing RFPs in an attempt to determine if the refinancing would be tax exempt. It was moved by Senator Winter and seconded by Senator Feleciano that HB 3168 be amended by requiring that the bonds be sold at public sale and that bond counsel provide an opinion that the interest on the bonds is excluded from gross income for federal income tax purposes. The motion carried on a voice vote.

Senator Kerr queried whether it had been determined that the federal government would not view this action as arbitrage. Secretary Seltsam stated that bond counsel would render an opinion and if it were regarded as arbitrage, it would not be a tax exempt issue.

Senator Winter moved, Senator Feleciano seconded, that HB 3168 as amended be recommended favorable for passage. The motion failed on a roll call vote, 6-4.

The meeting was adjourned at 12:50 p.m.

Senate Ways and Means Committee

April 8, 1992

Testimony of

Judith McConnell
Executive Director
Kansas Corporation Commission

HB 3180

The Kansas Corporation Commission appreciates the opportunity to testify before the Ways and Means Committee in support of HB 3180.

House Bill 3180 was introduced at the request of the Commission to make technical amendments to K.S.A. 66-1502 and K.S.A. 66-1503. The Commission filed its request originally with the House Appropriations subcommittee charged with a review of its budget; it was described by Commission staff as "technical" because the bill makes no substantive change to its assessment procedures. The amendatory language is to clarify the procedures the KCC uses in making direct and indirect assessments to public utilities and common carriers, thereby allowing the commission to utilize the most current and accurate information on file for assessment purposes.

HB 3180 would amend K.S.A. 66-1502 and K.S.A. 66-1503 by delaying for one quarter the gross intrastate revenue used as the basis for assessments. This would give the Corporation Commission additional time to review annual reports filed with the Corporation Commission pursuant to K.S.A. 66-123. Some of the utilities and common carriers now provide preliminary or estimated gross intrastate revenue amounts so the Commission can assess the fourth quarter costs as set forth in K.S.A. 66-1503. This bill provides consistent revenue figures used for reimbursable expenditures under K.S.A. 66-1502.

Presently, the commission assesses costs to all public utilities, pursuant to K.S.A. 66-1503, on a quarterly basis. Public utilities are assessed based on their intrastate gross operating revenues, which are found in the annual reports sent to the Commission pursuant to K.S.A. 66-123. These reports are based on the preceding calendar year, while the Commission works on a fiscal year. House Bill 3180 will allow the Commission to assess a true quarterly assessment. Amendments to K.S.A. 66-1502 are to parallel the amendments to K.S.A. 66-1503, allowing assessments on a monthly basis, where applicable, on all direct costs associated with investigations or appraisals of public utilities and common carriers.

In summary, the annual reports are filed on a calendar year basis. House Bill 3180 would allow assessing both the reimbursable and non-reimbursable costs on a state fiscal year.

HB 3180 would have no fiscal impact to the normal operations of the Corporation Commission.

HB 3180 allows for more accurate and equitable quarterly assessments to the public utility and common carrier.

*SWAM
April 8, 1992
Attachment 1*

Testimony by
Ron Todd, Commissioner of Insurance
Before the Senate Ways and Means Committee
House Bill No. 3169

I am here today to express my support of House Bill No. 3169 which proposes to make the Insurance Department fee-funded beginning with FY 1993.

Before the provisions of House Bill No. 3169 are explained, I would like to take a minute to explain the background that led to the development of this proposal.

Last year, our House Appropriations Subcommittee recommended that the Insurance Department become fee-funded. As a result, 1991 House Bill No. 2574 was introduced but never passed out of committee. The same provisions of that bill were added to 1991 Senate Bill No. 53 through a House floor amendment but were later removed in conference committee.

I fully understand and am sympathetic to the fact that the state's financial position has not vastly improved since last year. However, if my office is to continue to effectively meet the regulatory challenges presented by the insurance industry, particularly with regard to insurance company solvency, rising workers compensation insurance rates and problems associated with the availability and affordability of health insurance, we need additional staff and funding beyond what the state general fund can provide. As a result, I asked our subcommittee this year to again recommend that we become a fee-funded agency.

Making the Insurance Department fee-funded would bring us in line with the way many other states choose to fund their insurance departments. Presently, there are 23 other state insurance departments that are fee-funded and approximately 6 others trying to become fee-funded. In addition, the Insurance Department appears to be the only agency in our state responsible for regulating an industry that is not fee-funded. Other agencies in Kansas regulating industries that are fee-funded include the Corporation Commission, the Office of the Securities Commissioner, the Banking Department, the Savings and Loan Department, the Department of Credit Unions and the Real Estate Commission.

In developing House Bill No. 3169, we met with the chief executive officers of several of our domestic insurance companies including, in part, Blue Cross and Blue Shield, Security Benefit Life Insurance Company, American Investors Life Insurance Company, Farm Bureau Mutual Insurance Company and Farmers Insurance Company. With the input received from these companies, we believe we have developed a proposal which minimizes not only the additional burden that would be imposed on domestic insurers to do business in our state but also any additional retaliatory tax that might be assessed by other states.

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Attachment 2

I would like to emphasize that should House Bill No. 3169 be enacted, the legislature would retain complete budgetary control over the Insurance Department. The only change, of course, would be the source of funding for our budget.

As a final comment, I would like to note that in their Senate subcommittee report, the two members of this committee assigned to review the Insurance Department's budget expressed their support of House Bill No. 3169.

With your permission Mr. Chairman, I would now ask that Ron Nitche of my staff be allowed to explain the specific provisions of House Bill No. 3169 as well as its fiscal impact.

Testimony by
Ron Nitcher, Insurance Department
Before the Senate Ways and Means Committee
House Bill No. 3169

House Bill No. 3169 contains three major provisions. It makes the Insurance Department fee-funded beginning in FY 1993, allows the Commissioner of Insurance to impose assessments on insurance companies and groups, and establishes new fees and authorizes certain existing taxes and fees to be increased. Specifically, this bill establishes a new fee fund entitled the Insurance Department Service Regulation Fund for the purpose of funding our insurance company regulation program which is currently funded from the state general fund. All fees plus a small amount of premium tax necessary to generate a maximum total of \$4.8 million annually would be deposited into the new fee fund rather than the state general fund where such revenue is currently deposited. Based on the \$3 million in fees collected last fiscal year, \$1.8 million in premium tax would be deposited into the new fund. The \$4.8 million figure is based on the Governor's FY 1993 recommendation for the insurance company regulation program which includes an appropriation of \$4,820,632 from the state general fund and an appropriation in the amount of \$61,145 from the general facilities building fund. In essence, this proposal freezes state support of the insurance company regulation program in the future to a maximum of \$4.8 million per year.

In addition, the Commissioner of Insurance would be authorized to make an assessment on all insurance companies and groups doing business in Kansas equal to the difference between the \$4.8 million and the budget approved by the legislature. Each company or group would be assessed a pro-rata share based on the total amount of their assets. An insurer or group's assessment could not be less than \$500 nor exceed .0000015 of their total assets or \$25,000, whichever is less. In the event that the total amount to be assessed is less than the amount that would be produced by assessing each insurer or group the \$500 minimum, the Commissioner would be authorized to establish a lower minimum. The proposal also limits the annual increase in the assessment and includes a penalty provision for late payments. Based on the amount of funding your committee approved for our agency for the upcoming fiscal year we would anticipate a FY 1993 assessment of approximately \$100 on each insurer.

As noted earlier, House Bill No. 3169 proposes to establish new fees and authorize certain existing taxes and fees to be increased. New fees to be established include a notification fee of \$250 for risk retention and purchasing groups seeking to do business in Kansas; a \$2 annual registration fee for individuals soliciting memberships for prepaid service plans; and, a \$100 notification fee payable by companies when appointing a managing general agent. Existing taxes and fees that would be increased by this bill include an increase in the excess lines premium tax rate

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Attachment 3

from 4% to 6% and an increase in our service of process fee from \$3 to \$25.

With regard to fiscal impact, as explained previously, House Bill No. 3169 limits state support of our insurance company regulation program to \$4.8 million per year since fees and premium tax totaling this amount which are now deposited into the general fund would instead be deposited into a fee fund. Therefore, whatever amount the legislature authorizes us to spend in excess of the \$4.8 million represents a savings to the general fund. For example, if our budget is approved by the legislature in the amount of \$4,925,693 as passed by your committee the savings to the state would be over \$125,000. Such savings would grow in future years in direct correlation with any increases approved to our budget by the legislature.

Although the provision making the Insurance Department fee-funded would generate a savings to the state general fund, it would also increase the total amount of taxes and fees that a foreign insurance company must pay to do business in Kansas thereby reducing the amount of retaliatory tax that we collect for deposit into the state general fund. However, because not all insurance companies are in a situation where they must pay retaliatory tax, the savings to the state general fund resulting from the \$4.8 million cap would exceed any loss in retaliatory tax.

Based on the amount of excess lines premium tax collected in FY 1991, the increase in the excess lines premium tax rate would generate an additional \$750,000 annually for deposit into the state general fund. The increase in the service of process fee and the establishment of the new fees developed under this proposal would generate an estimated \$50,000 in additional revenue for the new fee fund. However, the amount collected from these additional fees would indirectly benefit the state general fund since it would reduce the amount of premium tax to be deposited into the fee fund.

Overall, we anticipate this proposal will benefit the state general fund by a minimum of \$800,000 annually through increased revenue and from savings achieved by assessing the insurance industry for part of the cost of operating the Insurance Department. For FY 1993, based on our budget as approved by your committee, we are estimating the benefit to the state general fund to be over \$900,000. In the event the legislature approves a merit increase for state employees, the benefit to the general fund will be over \$1 million. Again, this amount should increase each year as our budget increases but state support of the Insurance Department remains capped at \$4.8 million.

Since this proposal would provide the Insurance Department with a more stable source of revenue which is needed if we are to continue to successfully meet our increasing regulatory challenges and responsibilities and at the same time provide a substantial benefit to the state general fund, we urge your favorable consideration of House Bill No. 3169.

MEMORANDUM

TO: Senator Gus Bogina
Chairman, Senate Ways & Means Committee

FROM: William W. Sneed
Legislative Counsel
The State Farm Insurance Companies

DATE: April 8, 1992

RE: House Bill 3169

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent the State Farm Insurance Companies. Please accept this memorandum as our testimony in opposition to H.B. 3169. As I am sure the proponents of the bill will indicate, this bill proposes to annually levy an assessment on each group of affiliated insurers doing business in Kansas for payment into the Insurance Department Service Regulation Fund.

My client supports the proper funding of all Insurance Departments throughout the United States. This, coupled with the fact of difficult financial times facing the state of Kansas, has encouraged some legislators throughout the United States to consider funding mechanisms similar to those found in H.B. 3169. Although we are not opposed to playing a role in the adequate funding of state Insurance Departments, we are opposed to mechanisms like H.B. 3169.

First, we are philosophically opposed to such funding mechanisms inasmuch as they would tend to have, on a more direct basis, the industry being regulated paying for such regulation. Although we can attest to the outstanding regulation done by the Kansas Insurance Department, we are concerned that such funding mechanisms may create an

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Attachment 4

appearance that neither the legislature nor the industry wishes to establish. Further, such funding mechanisms could potentially bring claims that additional fines and assessments made by an insurance company might have some relationship to additional funding for a Department's future budget.

Second, the industry during fiscal year 1991 contributed over \$78,000,000.00 in taxes and fees to the State General Fund. Additionally, the industry contributed over \$470,000.00 in special reimbursement type funds, over \$17,000,000.00 to the Kansas Workers' Compensation Fund, over \$1,400,000.00 in excess lines agent payments, and the payment of just under \$4,000,000.00 in firefighters relief tax payments. Even excluding these additional outside funds and taxes, the industry directly paid to the state over \$78,000,000.00. That, in turn, is for a potential 4.8 million dollar Insurance Department budget. Thus, it would appear to my client that the insurance industry is paying its fair share relative to the amount of General Fund monies utilized to regulate the same industry.

Again, we applaud the efforts to provide additional funds to the Insurance Department, particularly in the area of financial regulation. However, based upon the above, we do not support H.B. 3169, and respectfully request your unfavorable treatment of the bill.

Respectfully submitted,



William W. Sneed
Legislative Counsel
The State Farm Insurance Companies