

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Dick Bond at 9:03 a.m. on January 16, 1996 in Room 529-S of the Capitol.

Members present were: Senator Clark, Senator Emert, Senator Hensley, Senator Lee, Senator Petty, Senator Praeger, Senator Steffes

Committee staff present: Dr. William Wolff, Legislative Research Department
Fred Carman, Revisor of Statutes
June Kossover, Committee Secretary

Conferees appearing before the committee: David Hanzlick, Kansas Dental Association
William Lewis, Member, Pooled Money Investment Board
William Sneed, Amvesters Financial Corporation
James Maag, Kansas Bankers Association
Tom Wilder, Kansas Insurance Department

Others attending: See attached list

David Hanzlick, Kansas Dental Association, appeared before the committee to request introduction of a bill to provide insurance coverage for diagnosis and treatment of jaws and jaw joints, as other similar diseases of the joints such as knees, ankles or hips, are covered. (Attachment #1) Senator Clark made a motion to introduce the legislation; Senator Praeger seconded the motion. The motion carried.

William Lewis, Pooled Money Investment Board, requested introduction of legislation to insure a system of checks and balances in the Municipal Investment Pool to reduce the possibility of a recurrence of loss such as the \$20 million loss recently outlined in the Legislative Post Audit report. (Attachment #2) Senator Steffes made a motion, seconded by Senator Emert, to introduce the bill. The motion carried.

On a motion by Senator Emert, seconded by Senator Clark, the minutes of the meeting of January 10 were approved as submitted.

The hearing was opened on **SB 412**. William Sneed, Amvesters Financial Corporation, appeared as a proponent of the legislation and explained that it will allow a domestic life insurance company to invest in tax lien certificates issued by taxing authorities nationwide. (Attachment #3) In response to Senator Steffes' question, Mr. Sneed explained that there would be limits as to how much could be invested by an insurance company. Mr. Sneed also provided committee members further clarification of the process of investing in tax liens. Chairman Bond requested that Mr. Sneed provide the committee with a flow chart or examples of how other states handle the sale of tax liens and also statutory limits on investments.

Tom Wilder, Kansas Insurance Department appeared in support of this legislation. (Attachment #4) The hearing on **SB 412** will be resumed upon receipt of the flow chart, etc.

The hearing was opened on **SB 413**, concerning life insurance companies' deposit of securities with a custodial bank. Mr. Sneed also appeared as a proponent of this legislation and explained that the bill would allow life insurance companies to deposit securities in any bank, regardless of location. (Attachment #5)

James Maag, Kansas Bankers Association, requested that **SB 413** be set aside pending consideration of **SB 450**, which was introduced at the request of the Insurance Commissioner's office and also deals with KSA 40-404. (Attachment #6)

Tom Wilder, Kansas Insurance Department, appeared in opposition to **SB 413**, stating that it would involve a significant shifting of funds from Kansas banks to financial institutions out of state and that if the bill should pass, limits should be put on the language, "any custodial bank." (Attachment #7)

The hearing on **SB 413** was closed. The chairman announced that hearings on **SB 414** and **SB 416**, scheduled for today's meeting will be rescheduled for a future meeting.

The committee adjourned at 9:55 a.m. The next meeting will be Wednesday, January 17, 1996, at 9:00 a.m.

SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: 1/16/96

NAME	REPRESENTING
Bill Speed	Amvestors
James Sullivan	"
TAD KRANAR	SECURITY BENEFIT
ROGER VIOLA	"
Sue Bond	
David, Hartzlick	RS Dental Ass'n
Lilly Kuitala	KTLA
Sonya Allen	State Banking Dept
Arny Johnson	State Bank Dept
Clayton McMurray	PMIB
Jim May	KBA
Chuck Stone	"
George Barber	KAFS
Bill Caton	PMIB
Melissa Wangemann	Hein, Ebert & Weir
Tom Wilder	Kansas Insurance Department
Matthew J. Lane	PMIB
Denise Lee	KCUA
Bud Swoot	BCBS



Statement before the Senate Committee
on Financial Institutions and Insurance
January 11, 1996

Mr. Chairman and members of the Committee, I am David Hanzlick. I am the Assistant Executive Director of the Kansas Dental Association.

I appreciate this opportunity to request the introduction of legislation that is important to those Kansans who suffer with tempo-mandibular Dysfunction (TMD) and Cranio-mandibular Dysfunction (CMD).

This measure would provide for equitable treatment of Kansans who suffer from TMD and CMD. Today in Kansas, and in many other states, insurance companies treat diseases of the jaw and the jaw joint very differently from similar diseases of other joints, such as the knee, ankle or hip.

While insurance companies generally provide reimbursement for the diagnosis and treatment of the knee joint, for example, they often do not provide coverage for similar services that are provided in treating the jaw and jaw joint. We believe that treating the jaw and jaw joint differently than other bones and joints is unjustified and unfair.

The end result is that patients often have to pay out-of-pocket for treatment of the jaw and jaw joint. They would not have to pay, however, for similar services that are provided to other joints.

The legislation that we are asking this Committee to introduce today would very simply require that treatment of the jaw and jaw joint be provided on the same basis as treatment for any other bone or joint of the human body.

Thank you for your consideration of these comments.

AN ACT concerning accident and health insurance; relating to the non-discriminatory coverage of skeletal joints.

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

Section 1. This Act applies to all individual or group accident and sickness insurance policies issued, delivered, renewed or amended by an insurance company, health maintenance organization, preferred provider organization, or self-insurance plan.

Section 2. No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless it provides that the coverage provided for any diagnostic, therapeutic or surgical procedure involving a bone or joint of the skeletal structure may not exclude or deny the same coverage for the same diagnostic, therapeutic or surgical procedure involving any other bone or joint of the face, neck or head.

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

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January 16, 1996

Chairman and Members
Senate Financial Institutions and Insurance Committee

State of Kansas Public Funds Investment Legislation

This request for legislation is presented for the Pooled Money Investment Board by William E. Lewis, member.

On January 3, 1996, the State's independent auditors outlined in their report to Legislative Post Audit, a \$20 million loss in the Municipal Investment Pool(MIP). The Pooled Money Investment Board(PMIB) has spent considerable time over the last year to determine the reasons for this loss, how to prevent reoccurrence, and develop a fiscally responsible strategy to recoup the loss and operate effectively in the future.

In our discussions, as you might expect, the question was raised as to the disposition of the \$20 million loss. Due to the investment strategy and recording methods utilized during the period of the loss, it is extremely difficult, if not impossible, to accurately determine who the depositors were, if any, that benefited from this loss. A charge to the depositors was therefore not considered realistic. For the loss to remain in the pool, especially with very low deposit balances, combined with the scheduled withdrawal of State moneys, the yield of the pool will become uncompetitive and it will collapse with the \$20 million loss being held by the last man out. Neither of these alternatives are deemed realistic or reasonable.

The Board , therefore, has looked ahead to develop an operational system that will result in an effective investment operation and one that will have a system of checks and balances to reduce the possibility of reoccurrence of loss in the future. In addition, the Board has reviewed sound investment strategies that will minimize the effects of this loss to the people of the State of Kansas.

Considering the loss in the MIP and the reasons for that loss, the Board is recommending legislation that will address the restructuring of the investment function of the State. This restructuring is composed of two integral areas:

- A combined pool with expanded investment powers and
- The redefinition of responsibilities within the PMIB

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Attachment #2

The first area is the combining of investment pools or a combined portfolio.

- The current investment operations of the State under the PMIB will be combined into one pool or portfolio. It will reduce liquidity risk and improve the efficiency of investment operations. The \$20 million MIP loss will be absorbed into this pool and its effect on yield will be negligible in a \$3.5 billion portfolio as opposed to its current effect on the \$600 million MIP portfolio.
- The PMIB investment authority will be expanded to include high grade:
 1. Commercial Paper
 2. Bankers Acceptances
 3. Negotiable bank CD's

These additional investment types will increase the yield of the pool.

- A fee, determined by the PMIB, of up to .25% will be assessed on assets within the pool. This fee will be utilized to pay down the \$20 million loss amount. It is anticipated that this fee will be at least partially offset by the increased yield obtained by implementation of the expanded powers.

This investment strategy is fiscally sound and preserves the benefits of an effective MIP.

The second area the Board addressed related to the prevention of additional losses as well as the implementation and ongoing operations of the above restructuring. In this regard the Board is recommending, and including in this proposed legislation, that the administrative and operational responsibilities of all PMIB activities be the direct function of the PMIB and not the State Treasurer and that the Chairman of the PMIB be designated by the Governor.

This action will provide the board with better control over and ability to improve:

- Investment Strategy and Risk Management
- Communication to the Board
- Communication to the people of Kansas
- Operational procedures
- Financial controls.

The above recommendation for legislation is based upon observations by the Board and substantiated in findings of the independent auditor and the Legislative Post Audit. The Board findings include, but are not limited to, the lack of a dual entry general ledger system, lack of response to Board directives, inexperience in operational and portfolio management, and inadequate financial reporting and analysis.

We respectfully request introduction of this measure.

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Summary

Effects of current Pooled Money Investment Board recommendations:

Change in operational basis of pool

- One investment pool for all State funds (excluding KPERS and other special funds)
 - ◊ Economy of scale
 - ◊ Reduce loss of liquidity risk
 - ◊ Simplify management
- Municipal investment Pool will be an account(s) within the pooled money investment portfolio
- Expand investment powers to include high-grade:
 - ◊ Commercial Paper
 - ◊ Bankers' Acceptances
 - ◊ Negotiable bank CD's
- Fee of up to 25 basis points (.25%) of all dollars invested will be assessed and be utilized to reduce \$20 million loss

Separation of responsibilities from State Treasurer

- PMIB Chairman to be designated by the Governor(State Treasurer to be a statutory member)
- Administrative and operational duties separated from the State Treasurer's operation
- No projected cost savings with an increase envisioned due to:
 - ◊ Proper training of personnel
 - ◊ Implementation of adequate operating systems
 - ◊ Improved Board communications and development

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MEMORANDUM

TO: The Honorable Dick Bond, Chairman
Senate Financial Institutions and Insurance Committee

FROM: William W. Sneed, Legislative Counsel
AmVestors Financial Corporation
American Investors Life Insurance Company

DATE: January 16, 1996

RE: S.B. 412

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent AmVestors Financial Corporation and its wholly-owned subsidiary, American Investors Life Insurance Company. S.B. 412 amends K.S.A. 40-2b09, which sets out the types of investments in which Kansas life insurance companies may participate. This amendment would allow a domestic life insurance company in the State of Kansas to invest in tax lien certificates issued by taxing authorities nationwide.

K.S.A. 40-2b09 in its present form allows Kansas life insurance companies to invest in bonds, notes, obligations or other evidence of indebtedness, generally including

- ▶ mortgages or deeds of trust which constitute first liens on real property
- ▶ loans or credit advances guaranteed or issued by the federal government or otherwise insured by an insurance company
- ▶ contracts of sale, purchase money mortgages or deeds of trust secured by property obtained through foreclosure
- ▶ participation in mortgage lending

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Attachment #3

The amendment we offer would allow domestic life insurance companies another investment option: the tax lien certificate. A tax lien is a lien placed by a county or municipality on real property for nonpayment of taxes. Approximately 28 states have implemented a statutory procedure that enables counties to sell the accrued taxes, plus interest and penalties, in a public auction. Kansas does not have such a procedure. (See Attachment 1.) Tax certificates representing these sales are awarded in two ways. The first method involves competitive bidding on the lien's interest rate, with a maximum rate set by the county. Essentially, the bidder agrees to pay the property owner's real estate taxes to the county, after considering the property value, at an interest rate that compensates the bidder for potential risks. The second method involves competitive bidding on the amount of the lien plus an overage, resulting in a flat amount that the bidder believes fully covers his investment and any risks.

There is a statutory holding period that varies by state during which the owner of the property may extinguish the lien by paying the outstanding tax amount plus penalties (on average, a 10% flat fee) and interest at the stated rate. If the property owner redeems (pays the amount owed in full), the tax certificate holder is made whole by the county. However, if the property owner fails to pay taxes by the end of the holding period, the tax certificate holder can file for a tax deed or follow alternative procedures necessary to obtain title to the property. In many counties, this action may be taken only if all subsequent tax liens are paid in full. Once a judgment extinguishing all subsequent liens has been granted, either absolute title is vested in the tax certificate holder or the property is auctioned. If the property is auctioned, either an investor buys the real estate and pays

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off the tax certificate holder, the holder is awarded the property, or the property owner pays off the taxes and retains the property.

The reality is that tax liens are rarely settled through foreclosure. This is because the lien to value ratio is high. In other words, the amount of the lien is small compared to the value of the property. Nearly half of tax liens offered for sale by local governments involve property owners whose failure to pay taxes is a first-time offense. These "first-timers" usually pay off the lien with penalties within six months of the tax lien auction.

In sum, tax lien certificates have unique and desirable investment characteristics:

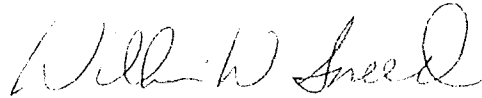
- ▶ net returns of 10% to 12% on average
- ▶ exceptional collateral security due to superior priority status of tax liens over all existing first mortgages
- ▶ tax liens are rarely settled through foreclosure

We have been involved in discussions with the Insurance Department for some time regarding investments by life insurance companies in tax lien certificates. The Insurance Code contains what is called a "leeway clause," which allows life insurance companies to invest in items not specifically permitted by statute in an aggregate amount not to exceed 10%. In other words, Kansas life insurance companies may currently invest in tax lien certificates to a limited extent. Our amendment, by specifically allowing investment in tax liens, does two things: (1) allows life insurance companies greater opportunities to take advantage of a profitable investment vehicle; and (2) allows the investment to be more effectively regulated by the Insurance Department as a specific, separate statutory investment rather than one lumped together with other "leeway" investments.

We submit that passage of this amendment will open new avenues of profitability for Kansas life insurance companies. This in turn contributes to a healthy statewide economy which benefits all Kansans. Thus, we respectfully request your favorable action on S.B. 412.

We appreciate the opportunity to present our testimony. If you have any questions about the content or impact of this legislation, please feel free to contact me.

Respectfully submitted,



William W. Sneed

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Kansas Insurance Department

MEMORANDUM

To: Senate Financial Institutions
and Insurance Committee

From: Tom Wilder, Director
Government and Public Affairs

Re: S.B.412 (Investment in Tax Lien Certificates)

Date: January 16, 1996

Senate Bill 412 allows life insurance companies to invest in tax lien certificates. These certificates are evidence of tax liens which local governments have on real property for unpaid taxes. The tax liens are usually "bundled" by tax authorities and then sold on the public market for an amount less than the value of the combined tax liens. The tax lien certificates can, in some instances, be a better investment than a mortgage on the real estate since a tax lien has priority over all other claims against the property.

The Kansas Department of Insurance supports the passage of S.B. 412. Real estate investments of various types are currently permitted for life insurance companies under the Insurance Code. The addition of tax lien certificates to the list of such investments would expand the investment flexibility of life insurance companies. If the Senate Committee agrees to support this legislation, you may also want to consider allowing other insurance companies to invest in tax lien certificates by amending K.S.A. 40-2a12.

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Attachment #4

MEMORANDUM

TO: The Honorable Dick Bond, Chairman
Senate Financial Institutions and Insurance Committee

FROM: William W. Sneed, Legislative Counsel
AmVestors Financial Corporation
American Investors Life Insurance Company

DATE: January 16, 1996

RE: S.B. 413

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent AmVestors Financial Corporation and its wholly-owned subsidiary, American Investors Life Insurance Company. S.B. 413 amends K.S.A. 40-404, which currently requires domestic life insurance companies to deposit securities in banks having their principal place of business in Kansas or in the state vault run by the Commissioner of Insurance. Our amendment would allow life insurance companies to deposit securities in any bank, regardless of its location.

K.S.A. 40-404 requires domestic life insurance companies to deposit assets, with either the insurance commissioner or a Kansas bank, equal to the net reserve of all policies and annuity contracts in force in the company. This deposit requirement is in addition to the requirement regarding capital deposits by life insurance companies required by statute. The statute was created in 1927. The original language only provided for deposit of securities with the Commissioner of Insurance. When the number of depositing domestic insurance companies rendered the state vault as sole depository impractical in the late 1980s, the statute was amended to allow custodial deposit arrangements with Kansas banks as an option.

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As recently as the late 1980s, the deposit of securities either in the state vault or a custodian bank was a process of physical transfer of securities and other assets. The technological revolution of the past few years has rendered the process as one taking place almost entirely on paper -- so much so that the Commissioner of Insurance herself has introduced legislation eliminating the state vault.

Because the deposit of securities today by insurance companies does not so much involve the physical presence of the securities, we submit that the requirement that the deposit be made in a bank within the state or in the state vault is outdated and unnecessary. Custodian banks, under this same statute, are allowed to physically redeposit the assets with a clearing corporation -- more likely than not one which is not located in the State of Kansas. Thus, the physical presence within the state of the securities or other deposited assets becomes a non-issue.

The role of the custodian Kansas bank today has been reduced to that of a "middle man." The life insurance company must deal with a Kansas bank because the statute says so. The Kansas bank then simply turns around and subcontracts part or all of its custodial duties to a non-Kansas bank.

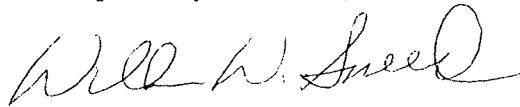
In the meantime, the costs associated with deposits in Kansas banks have risen to such levels that the costs are not competitive with out-of-state banks. In other words, the Kansas bank charges far more for custodial services than out-of-state banks would for the same services. Kansas life insurance companies are forced to pay non-competitive rates for the custodial services, thus to some degree hindering the Kansas life insurance company's ability to compete with out-of-state life insurance companies operating in Kansas but not subject to the same restriction.

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Our amendment would allow Kansas life insurance companies the flexibility to choose the most appropriate custodian bank to fit the company's financial needs. The most appropriate bank may very well be a Kansas bank in some situations. We simply ask that the life insurance company have the ability to choose. Thus, we request your favorable action on S.B. 413.

We appreciate the opportunity to present our testimony. Please feel free to contact me if you have any questions.

Respectfully submitted,



William W. Sneed



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

January 16, 1996

TO: Senate Committee on Financial Institutions and Insurance
RE: SB 413 - Deposit of securities with a custodian bank

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee in opposition to SB 413. This bill would amend K.S.A. 40-404 by striking the provision of subsection (e) of that statute which provides that the securities of a Kansas insurance company may be deposited in a custodian bank "having its principal place of business in Kansas" and inserting language which would allow such companies to deposit securities with "any custodian bank".

This obviously would allow a Kansas insurance company to do its safekeeping with banks which are chartered in states other than Kansas. It was the policy decision of the Legislature in 1987 to insert subsection (e) into K.S.A. 40-404 as an alternative to having all safekeeping of insurance company securities with the Insurance Commissioner and State Treasurer.

We believed then and continue to believe that the provisions of subsection (e) are positive for Kansas. Kansas banks can provide the necessary safekeeping services at a reasonable and competitive price and thus assure that the Commissioner will be working with a Kansas institution if there is ever any question concerning the securities which have been deposited with the bank.

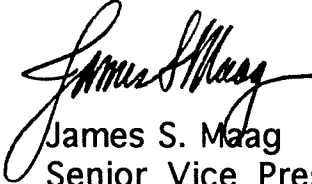
It is our understanding that the Insurance Commissioner will be presenting legislation which would repeal K.S.A. 40-404 and move the provisions of subsection (e) of that statute to an amended version of K.S.A. 40-230. It is our further understanding that the

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Attachment #6*

Commissioner is recommending that the provision that the custodian bank must be one which has its principal place of business in Kansas be retained.

The Kansas Bankers Association would respectfully request that the committee set aside any further consideration of SB 413 in light of the Insurance Commissioner's proposed legislation and that the provisions of subsection (e) of K.S.A. 40-404 be retained as part of any legislation addressing the safekeeping of the securities of Kansas insurance companies.

Once again, I wish to thank the chairman and members of the committee for this opportunity to discuss the provisions of SB 413 with you.


James S. Maag
Senior Vice President

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Kansas Insurance Department

MEMORANDUM

To: Senate Financial Institutions
and Insurance Committee

From: Tom Wilder, Director
Government and Public Affairs

Re: S.B.413 (Deposit of Securities)

Date: January 16, 1996

Senate Bill 413 amends K.S.A. 40-404 which provides for the deposit of cash or securities by a life insurance company with the Commissioner of Insurance in an amount equal to the net reserve of all insurance policies and annuity contracts in force for the company. The funds are held by the Insurance Department in the event of an insolvency of the company in order to pay the claims of policyholders. The cash and securities may be deposited directly with the Commissioner and held in the State Securities Vault or they can be deposited with a Kansas bank pursuant to a joint custodial agreement between the Commissioner and the insurance company. The funds in the bank can not be released without the agreement of the Insurance Commissioner.

The proposed bill would remove the requirement that cash and securities are deposited in a custodian bank with its principal place of business in Kansas. The legislation allows life insurance companies to deposit such funds in any custodian bank no matter where that bank is located. As of December 31, 1995, six insurance companies had deposits of \$3.8 billion in Kansas banks pursuant to K.S.A. 40-404. An additional \$2.7 billion in cash and securities was deposited in the State Securities Vault.

The Kansas Insurance Department does not support S.B. 413 because it represents a potential shift of a significant amount of cash and securities from Kansas banks to financial institutions outside of the state. The Insurance Department has proposed legislation, which was introduced in the Senate, that will privatize the operations of the State Securities Vault and will require all insurance companies to deposit their cash and

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Attachment #7*

securities in banking institutions. The Insurance Department bill specifies the funds must be held under a joint custody agreement in a Kansas financial institution. The cash and securities in excess of \$6.0 billion which are being held on deposit for the benefit of Kansas policyholders should be maintained in financial institutions in this state.

If the Senate Financial Institutions and Insurance Committee does approve the provisions of S.B. 413, there should be limits placed on the type of custodian banks which are eligible for such deposits. The bill should be amended to specify that such banks must have their principal place of business within the United States and the bank should be subject to the regulation of federal banking authorities. It is important for the Kansas Insurance Department to be able to have quick access to the cash and securities on deposit with the bank in the event of an insolvency.

The Kansas Insurance Department requests the Senate Financial Institutions and Insurance Committee not pass S.B. 413.

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