

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Dick Bond at 9:13 a.m. on February 7, 1996 in Room 529-S of the Capitol.

All members were present.

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

Conferees appearing before the committee: Roger Viola, Security Benefit Group of Companies  
Tom Wilder, Kansas Insurance Department

Others attending: See attached list

The chair opened the hearing on **SB 532**, relating to investments by life insurance companies. Roger Viola, Securities Benefit Group, testified as a proponent and sponsor of this legislation, stating that the bill is necessary to allow Kansas life insurance companies to take advantage of good investment opportunities currently denied them under the Kansas investment laws. (Attachment #1)

Senator Lee questioned why SBG would invest in companies not rated by either the National Association of Insurance Commissioners, Standard & Poor's or Moody's Investment Services, and Mr. Viola responded that private placement companies would not be rated. Senator Lee also questioned the safety factor in investing in companies not rated and Senator Steffes responded that safety is in limitations of the amount of stock that can be purchased and on how much can be invested in one corporation.

Tom Wilder, Kansas Insurance Department, stated that the intent of the bill is to allow insurance companies to invest in private market securities. (Attachment #2) Mr. Wilder stated that the possibility does exist of investing in a company in or near default and that he would like to work with the revisor and SBG representatives to develop language to prevent insurers investing in poorly rated companies.

There were no further conferees; the hearing on **SB 532** was closed.

The hearing was opened on **SB 549**, relating to investments by life insurance companies in foreign jurisdictions and currencies. Roger Viola of Securities Benefit Group also testified as a proponent of this bill. Mr. Viola explained that the bill would enable life insurance companies to increase the quality and yield of their investments by allowing them to take advantage of a wider range of investment opportunities. (Attachment #3).

Tom Wilder, KID, testified that, although the Insurance Department is in favor of this legislation, they would like the opportunity to work on the language before any committee action is taken. (Attachment #4) Mr. Carman pointed out draft errors needing to be corrected.

Mr. Viola explained that a "Yankee Bond" is a bond issued by a foreign corporation but denominated in U.S. dollars, and the bill would also allow investment in foreign bonds denominated in foreign currency.

Senator Petty questioned if, with expanded investment opportunities, there is a mechanism to require investments to be prudent if insurance companies are allowed to take their losses when requesting premium or rate increases. Senator Bond explained that premiums are strictly a function of the marketplace and companies who attempt to make up losses with premium increases would lose their market share.

In response to Senator Clark's question, Mr. Viola and Mr. Wilder agreed that there are no express prohibitions from investing in any entity, as long as the investments are within the legal limits.

There being no further questions and no other conferees, the hearing on **SB 549** was closed.

The chair opened the hearing on **SB 572**, which is the life insurance company companion to the property and casualty insurance company bill, SB 550, heard in committee on Tuesday, February 6. This bill contains the same language problems as SB 550 which needs to be corrected before the committee can consider either bill.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on February 7, 1996.

Mr. Viola presented testimony on SB 572 (Attachment #5), as did Mr. Wilder (Attachment #6). The hearing was closed on SB 572. Mr. Wilder and Mr. Viola will meet with pertinent others to amend the language in all three bills heard in today's meeting and present proposed changes to Mr. Carman and the committee. he amended bills will be presented to the committee at a future meeting.

Senator Petty moved to approve the minutes of the meeting of February 6 as submitted. Senator Corbin seconded the motion. The motion carried.

The committee adjourned at 10:00 a.m. The next meeting is scheduled for February 8, 1996.





**The Security Benefit  
Group of Companies**

Security Benefit Life Insurance Company  
Security Benefit Group, Inc.  
Security Distributors, Inc.  
Security Management Company

Roger K. Viola  
Senior Vice President,  
General Counsel and Secretary  
913-295-3137

700 Harrison St.  
Topeka, Kansas 66636-0001  
(913) 295-3000

February 7, 1996

To the Senate Committee on Financial Institutions and Insurance

Re: Senate Bill No. 532  
Investments by Life Insurance Companies in Common Stocks

Dear Chairman and Committee Members:

Security Benefit Life Insurance Company respectfully requests your favorable consideration of Senate Bill No. 532. This bill would amend K.S.A. 40-2b07, which authorizes Kansas life insurance companies to invest a limited portion of their portfolios in common stocks which satisfy certain requirements. One requirement is that the outstanding debt of the company issuing the common stock must be eligible for investment under K.S.A. 40-2b05, which essentially requires that the debt be rated investment grade.

As a result, life insurance companies do not have the opportunity under K.S.A. 40-2b07 to invest in companies which have issued only privately-placed debt that is not rated, even though some of these companies may be very good investments. We are also excluded from investing in companies which have only bank debt outstanding. Some of the companies currently excluded under K.S.A. 40-2b07 are listed in the table attached to this testimony.

We could invest in such companies, to a limited extent, under the "basket" or "leeway" clause, which permits investments of almost any type up to an aggregate of ten percent of admitted assets. Since other types of investments are included under the leeway clause, however, it is highly undesirable to rely solely on the leeway clause for making investments in such companies, which should qualify as common stock investments under K.S.A. 40-2b07.

The proposed bill would accomplish this by amending K.S.A. 40-2b07(g) to provide that eligibility of an issuing corporation's debt obligations is not required if the issuing corporation has (i) net assets of \$10,000,000 or more; (ii) net worth of \$1,000,000 or more; and (iii) an aggregate market value of \$500,000,000 or more. Only very large companies would satisfy this standard.

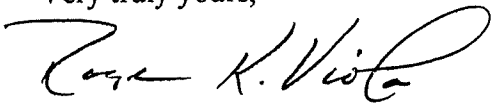
*Senate 7141  
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Attachment #1*

This bill does not alter the other very conservative limitations on common stock investments in K.S.A. 40-2b07. A Kansas life insurer's total investment in common stocks cannot exceed the lesser of 15 percent of admitted assets, or its combined capital and surplus. In contrast, the most recent version of the Model Investment Law allows common stock investments up to 20 percent of admitted assets, with none of the other restrictions found in K.S.A. 40-2b07.

This bill is needed to enable Kansas life insurance companies to take advantage of good investment opportunities currently denied them under the Kansas investment laws.

Thank you for your time and consideration. I would be happy to address any questions you may have.

Very truly yours,

A handwritten signature in black ink that reads "Roger K. Viola". The signature is written in a cursive style with a large, sweeping initial "R".

ROGER K. VIOLA

COMMON STOCKS NOT ELIGIBLE BECAUSE ISSUER'S DEBT IS UNRATED

Company Name	Ticker	Market Value (in millions)
ATRIA SOFTWARE INC	ATSW	553.501
AUTODESK INC	ACAD	1,483.538
BHC COMMUNICATIONS -CL A	BHC	2,317.517
CABLETRON SYSTEMS	CS	5,839.367
CAMBRIDGE TECHNOLOGY PARTNER	CATP	823.170
CASCADE COMMUNICATIONS CORP	CSCC	2,377.963
CHRIS-CRAFT INDS	CCN	1,257.623
CISCO SYSTEMS INC	CSCO	20,623.734
CITIZENS CORP	CZC	670.928
COBRA GOLF INC	CBRA	663.195
COMMERCE GROUP INC/MA	CGI	766.136
COMPUWARE CORP	CPWR	793.650
COREL CORP	COSFF	635.765
DAVIDSON & ASSOCIATES INC	DAVD	764.302
DIAGNOSTIC PRODUCTS CORP	DP	505.896
DOUBLETREE CORP	TREE	508.147
ELECTRONIC ARTS INC	ERTS	1,368.584
ELECTRONICS FOR IMAGING INC	EFII	1,088.937
ENRON GLOBAL PWR & PIPELINES	EPP	518.395
EXPRESS SCRIPTS INC -CL A	ESRX	764.388
FILENET CORP	FILE	600.096
FINANCIAL SEC ASSURANCE HLDG	FSA	636.924
FLORIDA EAST COAST INDS	FLA	617.799
FTP SOFTWARE INC	FTPS	753.188
HEALTHCARE COMPARE CORP	HCCC	1,502.881
HUMANA INC	HUM	4,430.941
INTL SPEEDWAY CORP	3ISWY	541.148
KELLY SERVICES INC -CL A	KELYA	1,054.860
LATTICE SEMICONDUCTOR CORP	LSCC	636.285
LEARNING CO	LRNG	506.991
LONE STAR STEAKHOUSE SALOON	STAR	1,432.116
MACROMEDIA INC	MACR	1,829.271
MCAFEE ASSOCIATES INC	MCAF	881.821
MEDIC COMPUTER SYSTEMS INC	MCSY	707.063
MID OCEAN LIMITED	MOCNF	1,282.854
MYLAN LABORATORIES	MYL	2,788.627
NETMANAGE INC	NETM	934.743
NETWORK GENERAL CORP	NETG	726.740
NOVELL INC	NOVL	5,274.719
OEA INC	OEA	612.168
OXFORD HEALTH PLANS INC	OXHP	2,530.883
PARTNERRE LTD	PTREF	1,398.375
PEOPLESOFT INC	PSFT	2,113.019
PRESSTEK INC	PRST	1,383.858
PRUDENTIAL REINS HLDGS INC	RE	1,168.750
READERS DIGEST ASSN -CL A	RDA	5,525.465
REINSURANCE GROUP AMER INC	RGA	616.032
ROUGE STEEL CO -CL A	ROU	515.755
STRUCTURAL DYNAMICS RESEARCH	SDRC	888.505
TRANSATLANTIC HOLDINGS INC	TRH	1,683.735
U S HEALTHCARE INC	USHC	7,138.398
UNITED TELEVISION INC	UTVI	865.407
VIKING OFFICE PRODS INC	VKNG	1,913.846
WEIS MARKETS INC	WMK	1,215.936
WELLPOINT HLTH NETWRK -CL A	WLP	3,196.438
ZILOG INC	ZLG	712.576

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Kathleen Sebelius  
Commissioner of Insurance  
**Kansas Insurance Department**

**MEMORANDUM**

To: Senate Financial Institutions  
and Insurance Committee

From: Tom Wilder, Director of  
Government and Public Affairs

Re: S.B. 532 (Investments of Life Insurance Companies)

Date: February 7, 1996

Senate Bill 532 amends part of the investment code for life insurance companies. The bill states that certain limitations on the types of securities investments which may be made by life insurers do not apply if the company which issues the securities: (a) has net assets of \$10.0 million or more; (b) has net worth of \$1.0 million or more and (c) has an aggregate market value of \$500 million or more. The intent of the bill, as expressed by Security Benefit Group in its testimony when the legislation was first introduced, is to allow insurers to invest in private market securities which may not be rated by either the National Association of Insurance Commissioners, Standard & Poor's or Moody's Investment Services.

The Kansas Insurance Department is concerned that the language of the bill may go beyond what is intended. The bill states that the provisions of K.S.A. 40-2b05 do not apply if the companies meet the net worth, net asset and market value standards. The statute which is exempted requires life insurance companies to only invest in corporate obligations which are rated "1" or "2" by the NAIC Securities Valuation Office or are rated investment grade by Standard & Poor's or Moody's corporate bond guides. A copy of K.S.A. 40-2b05 is attached for your review.

*Senate 7141  
2/7/96  
Attachment #2*

The Department does not object to allowing life insurers to invest in the securities of companies which are not rated by the investment rating organizations because they have private issues of stock. The securities of these companies might not be rated but the company is an otherwise good investment. There is a concern, however, about a life insurance company investing, for example, in a company which is rated "3", "4" or "5" by the NAIC.

The Insurance Department believes this exemption for the investment standards set out in K.S.A. 40-2b05 should be narrowly drawn to cover only those situations where the securities are not otherwise rated by NAIC or by Standard and Poor's or Moody's. With the appropriate amendment to S.B. 532, the Department will support the bill.

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may be used when determining investments in this act or in compliance with requirements.

(e) (1) The term "fixed charges" shall include actual interest incurred in each year on funded and unfunded debt. In the testing of obligations where interest is partially or entirely contingent upon earnings fixed charges shall include contingent interest payments; and

(2) the term "net earnings available for fixed charges" shall mean income, before deducting interest on funded and unfunded debt and after deducting operating and maintenance expenses, taxes other than income taxes, depreciation and depletion. Extraordinary, non-recurring items of income or expense shall be excluded.

History: L. 1972, ch. 179, § 5; L. 1987, ch. 160, § 8; L. 1991, ch. 130, § 2; July 1.

**40-2b06.** Preferred and guaranteed stocks; definitions. Any life insurance company heretofore or hereafter organized under any law of this state may invest by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in preferred stocks of, or stocks guaranteed by, a corporation incorporated under the laws of the United States of America, or of any state, district, insular or territorial possession thereof, or of the Dominion of Canada, or any province thereof; in an amount not to exceed 25% of its admitted assets as shown by the company's last annual report, as filed with the state commissioner of insurance, or a more recent quarterly financial statement as filed with the commissioner, on a form prescribed by the national association of insurance commissioners, within 45 days following the end of the calendar quarter to which the interim statement pertains, and which meets the following qualifications:

(a) All bonds or other evidences of indebtedness and preferred stocks shown on the last published annual statement of the issuing corporation, if any, senior to the preferred stock acquired must be eligible as investments under K.S.A. 40-2b05 or 40-2b06, and amendments thereto, as of the date of acquisition;

(b) if cumulative preferred, not in arrears as to dividends, or if noncumulative, has paid full dividends in each of the last three years;

(c) sinking fund payments are on a current basis;

(d) if net earnings available for fixed charges for the most recently completed three

fiscal year period is at least equal to 1 1/4 times the aggregate fixed charges, plus full contingent interest and preferred dividend requirements of the preferred stock under consideration and those on a parity therewith or having a priority thereto, for the same period; and

(e) the corporation must have been in existence for a period of not less than five years.

(f) (1) "Fixed charges" shall include actual interest incurred in each year on funded and unfunded debt; and

(2) "net earnings" shall mean income, before deducting interest on funded and unfunded debt, and after deducting operating and maintenance expenses, depreciation and depletion and all taxes, including income taxes. Extraordinary, nonrecurring items of income or expenses shall be excluded.

History: L. 1972, ch. 179, § 6; L. 1983, ch. 156, § 6; L. 1987, ch. 160, § 9; July 1.

**40-2b07.** Common stocks; call options. Any life insurance company heretofore or hereafter organized under any law of this state may invest by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in the common stock of any corporation organized and doing business under the laws of the United States or any state, or of the District of Columbia, or of the Dominion of Canada or any province of the Dominion of Canada, in an amount, based upon cost, not exceeding 15% of its admitted assets or not exceeding the combined capital and surplus, whichever is the lesser, as shown by the company's last annual report as filed with the state commissioner of insurance or a more recent quarterly financial statement as filed with the commissioner, on a form prescribed by the national association of insurance commissioners, within 45 days following the end of the calendar quarter to which the interim statement pertains. Such life insurance company may write exchange traded, covered call options on shares it owns and may purchase call options for the sole purpose of closing out a position taken previously with respect to one or more options having been written. The purchase of a call option for any reason other than as a closing transaction and the writing of naked (uncovered) call options are hereby prohibited. Investments in common stocks and the writing of call options shall be further limited as follows:

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**The Security Benefit  
Group of Companies**

Security Benefit Life Insurance Company  
Security Benefit Group, Inc.  
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Security Management Company

Roger K. Viola  
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700 Harrison St.  
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February 7, 1996

To the Senate Committee on Financial Institutions and Insurance

Re: Senate Bill No. 549  
Investments by Life Insurance Companies in Foreign Entities and Currencies

Dear Chairman and Committee Members:

Security Benefit Life Insurance Company respectfully requests your favorable consideration of Senate Bill No. 549. This bill would amend K.S.A. 40-2b04 to allow Kansas life insurance companies to invest limited portions of their portfolios in foreign entities and investments denominated in foreign currencies. This bill is substantially the same as the foreign investment provisions of the final draft of the Model Investment Law approved by the NAIC working group, except for changes requested by the Kansas Insurance Department, and language which relates exclusively to the Kansas investment laws.

Attached to our testimony is a copy of the bill showing additional changes requested by the Insurance Department. We acquiesce in these changes and strongly recommend passage of this bill as amended.

This bill would enable life insurance companies to increase the quality and yield of their investments by allowing them to take advantage of a wider range of investment opportunities. Access to foreign investments would provide Kansas life insurance companies with a substantially larger number of investment choices exhibiting greater yields and better diversification opportunities. Greater diversification reduces the overall risk of an investment portfolio.

Our primary purpose in seeking passage of this bill is to acquire authority to invest in "Yankee Bonds". These are bonds of foreign entities denominated in U.S. dollars. A chart attached to our testimony shows the high ratings of some of the primary issuers of Yankee Bonds. Under current law, we could not invest in any of these bonds except under the "basket" or "leeway" clause, which permits investments of almost any type up to an aggregate of ten percent of admitted assets. Since other types of investments are included under the leeway clause, it is highly undesirable to rely solely on the leeway clause for making foreign investments. This important category of investments needs to be explicitly authorized for life insurance companies to take full advantage of foreign investment opportunities and further diversify their portfolios.

*Senate 7/4/96  
2/7/96  
Attachment #3*

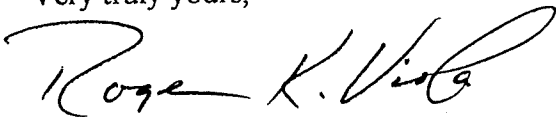
Subsection (b) of this bill limits foreign investments to 20 percent of admitted assets. It also limits foreign investments made in any single country to three percent of admitted assets, except that ten percent of admitted assets may be invested in countries which have a sovereign debt rating of SVO 1--the highest rating category. Subsection (c) imposes similar limits on investments in foreign currencies, except that they must not exceed ten percent of admitted assets.

In addition, each foreign investment must satisfy the same qualifications and limitations imposed by current law on domestic investments of the same type, including rating requirements. In other words, each foreign investment needs to qualify under both K.S.A. 40-2b04, as amended, and at least one other section of the life insurance investment laws. Consequently, this bill would not allow a life insurance company to increase the amount of its lower-quality investments beyond the limits currently in effect.

This bill is needed to allow Kansas life insurance companies to compete more effectively with other financial institutions for the best investment opportunities in our global economy.

Thank you for your time and consideration. I would be happy to address any questions you may have.

Very truly yours,



ROGER K. VIOLA

## Yankee Bond Issuers

<b>Banks</b>	<b>Moody's/S&amp;P Rating</b>
ABN - AMRO	Aa2/A+
Dresdner	Aa1/AA
Swiss Bank	Aa2/AA
Westpac	A1/A+
World Bank	Aaa/AAA
 <b>Other Companies</b>	
British Telecom	Aaa/AAA
Grand Metropolitan (Pillsbury/Burger King)	A2/A+
British Gas	A1/AA-
Telecom Malaysia	A1/A+
Nestlé	Aaa/AAA
Philips Electronics	A3/BBB+
Bass Ale	A1/A+
British Petroleum	A1/AA-
Hanson PLC	A2/A+
Imperial Oil	AA2/AA+
Ford BV	A1/A+

## SENATE BILL No. 549

By Committee on Financial Institutions and Insurance

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9 AN ACT concerning insurance; life insurance company investments in  
10 foreign jurisdictions and currencies; amending K.S.A. 40-2b04 and re-  
11 pealing the existing section.  
12

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

14 Section 1. K.S.A. 40-2b04 is hereby amended to read as follows: 40-  
15 2b04. Any life insurance company heretofore or hereafter organized un-  
16 der any law of this state may invest by loans or otherwise, with the direc-  
17 tion or approval of a majority of its board of directors or authorized  
18 committee thereof, any of its funds, or any part thereof in bonds or other  
19 evidences of indebtedness issued, assumed or guaranteed by any foreign  
20 government, except as provided in K.S.A. 40-2b03, and amendments  
21 thereto, in an amount not to exceed 5% of its admitted assets as shown  
22 by the company's last annual report, as filed with the state commissioner  
23 of insurance or a more recent quarterly financial statement as filed with  
24 the commissioner, on a form prescribed by the national association of  
25 insurance commissioners, within 45 days following the end of the calendar  
26 quarter to which the interim statement pertains. The 5% limitation shall  
27 be in addition to any investments in foreign nations required by virtue of  
28 a company doing business in a foreign nation: (a) As used in this section:  
29 (1) "Business entity" means a sole proprietorship, corporation, lim-  
30 ited liability company, association, partnership, joint-stock company, joint  
31 venture, mutual fund, trust, joint tenancy or other similar form of business  
32 organization, whether organized for-profit or not-for-profit.  
33 (2) "Domestic jurisdiction" means the United States, Canada, and a  
34 state or political subdivision of the United States or Canada.  
35 (3) "Foreign currency" means a currency other than that of the  
36 United States or Canada.  
37 (4) "Foreign investment" means an investment in a foreign jurisdic-  
38 tion or in an asset domiciled in a foreign jurisdiction. An investment shall  
39 not be deemed to be foreign if the issuing business entity, qualified pri-  
40 mary credit source or qualified guarantor is a domestic jurisdiction or a  
41 business entity domiciled in a domestic jurisdiction, unless:  
42 (A) The issuing business entity is a shell business entity; and  
43 (B) the investment is not assumed, accepted, guaranteed or insured

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1 or otherwise backed by a domestic jurisdiction or a business entity, that  
2 is not a shell business entity, domiciled in a domestic jurisdiction.

3 (5) "Foreign jurisdiction" means a jurisdiction outside of the United  
4 States or Canada.

5 (6) "Qualified guarantor" means a guarantor against which an in-  
6 surer has a direct claim for full and timely payment evidenced by a con-  
7 tractual right for which an enforcement action can be brought in a do-  
8 mestic jurisdiction.

9 (7) "Qualified primary credit source" means the credit source to  
10 which an insurer looks for payment as to an investment and against which  
11 an insurer has a direct claim for full and timely payment evidenced by a  
12 contractual right for which an enforcement action can be brought in a  
13 domestic jurisdiction.

14 (8) "Shell business entity" means a business entity having no eco-  
15 nomic substance except as a vehicle for owning interests in assets issued,  
16 owned or previously owned by a business entity domiciled in a foreign  
17 jurisdiction.

18 (b) Any life insurance company organized under any law of this state  
19 may acquire foreign investments of the same types as those that an insurer  
20 is permitted to acquire under K.S.A. 40-2b01, 40-2b02, 40-2b03, 40-2b05,  
21 40-2b06, 40-2b07, 40-2b24, 40-2b26, 40-2b27 and 40-2b28 and K.S.A.  
22 1995 Supp. 40-2b29, and amendments thereto, if:

23 (1) The aggregate amount of foreign investments then held by the  
24 insurer does not exceed 20% of its admitted assets; and

25 (2) the aggregate amount of foreign investments then held by the in-  
26 surer in a single foreign jurisdiction does not exceed 10% of its admitted  
27 assets for jurisdictions that have a sovereign debt rating of SVO 1, or 3%  
28 of its admitted assets for all other jurisdictions.

29 (c) An insurer may acquire investments denominated in foreign cur-  
30 rencies, whether or not they are foreign investments acquired under sub-  
31 section (b), if:

32 (1) The aggregate amount of investments then held by the insurer  
33 denominated in foreign currencies does not exceed 10% of its admitted  
34 assets; and

35 (2) the aggregate amount of investments then held by the insurer de-  
36 nominated in the foreign currency of a single foreign jurisdiction does not  
37 exceed 10% of its admitted assets for jurisdictions that have a sovereign  
38 debt rating of SVO 1, or 3% of its admitted assets for all other jurisdic-  
39 tions.

40 (d) Notwithstanding the provisions of K.S.A. 40-2b13 and amend-  
41 ments thereto, the insurer's total foreign investments and investments de-  
42 nominated in foreign currencies shall not exceed the limitations set forth  
43 in subsections (b) and (c).

invest, by loans or otherwise,  
with the direction or approval of  
a majority of its board of direc-  
tors or authorized committee  
thereof, any of its funds, or any  
part thereof, in

Any life insurance company  
organized under any law of this  
state may invest, by loans or  
otherwise, with the direction or  
approval of a majority of its  
board of directors or authorized  
committee thereof, any of its funds,  
or any part thereof, in

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1 (e) The investment limitations in subsections (b) and (c) computed on  
2 the basis of an insurer's admitted assets shall relate to the amount <sup>required</sup> as  
3 ~~to be shown on the insurer's last annual report as filed with the commis-~~  
4 ~~sioner of insurance or a more recent quarterly financial statement as filed~~  
5 ~~with the commissioner, on a form prescribed by the National Association~~  
6 ~~of Insurance Commissioners, within 45 days following the end of the cal-~~  
7 ~~endar quarter to which the interim statement pertains.~~

8 (f) Investments acquired under this section shall be aggregated with  
9 investments of the same types made under K.S.A. 40-2b01, 40-2602, 40-  
10 2b03, 40-2b05, 40-2b06, 40-2b07, 40-2b24, 40-2b26, 40-2b27 and 40-  
11 2b28 and K.S.A. 1995 Supp. 40-2b29, and amendments thereto, and in a  
12 similar manner, for purposes of determining compliance with the limits,  
13 if any, contained in the other sections.

14 Sec. 2. K.S.A. 40-2b04 is hereby repealed.

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

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Kathleen Sebelius  
Commissioner of Insurance  
**Kansas Insurance Department**

**MEMORANDUM**

To: Senate Financial Institutions  
and Insurance Committee

From: Tom Wilder, Director of  
Government and Public Affairs

Re: S.B. 549 (Investment in Foreign Securities)

Date: February 7, 1996

The Kansas Department of Insurance supports S.B. 549 which allows Kansas life insurance companies to invest in foreign securities. Currently, domestic life insurers are permitted to invest in Canadian government obligations without limit and to generally invest in other foreign government obligations up to 5% of their admitted assets. The bill allows investment by a life insurance company in an obligation of a foreign jurisdiction or assets domiciled in a foreign jurisdiction up to 40% of the admitted assets of the life insurer under certain circumstances.

The legislation is patterned after a section in the Model Investment Act developed by the National Association of Insurance Commissioners. The Department does request that several minor changes be made to the bill to bring the language in the legislation into line with the provisions set out in the Model Investment Act. A list of those changes is attached to my testimony.

Senate Bill 549 will give domestic life insurance companies more investment flexibility. The Insurance Department requests the Committee approve S.B. 549 with the changes as set out in the attachment to this memo.

### Proposed Changes To S.B. 549

- (1.) Page 1, line 29: the word "means" should be changed to "includes"
- (2.) Page 3, lines 2 and 3: the phrase "amount required to be shown" should be "amount as shown" to be consistent with the current statute.
- (3.) Page 3, line 9: "40-2602" should be "40-2b02"
- (4.) The bill makes reference to "SVO" in several places. This term should be defined in Section 1(a). The term is defined in the Model Act. The legislation could use the following definition:

"SVO" means the Securities Valuation Office of the National Association of Insurance Commissioners or any successor office established by the National Association of Insurance Commissioners.

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**The Security Benefit  
Group of Companies**

Security Benefit Life Insurance Company  
Security Benefit Group, Inc.  
Security Distributors, Inc.  
Security Management Company

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February 7, 1996

To the Senate Committee on Financial Institutions and Insurance

Re: Senate Bill No. 572  
Securities Lending and Related Transactions by Life Insurance Companies

Dear Chairman and Committee Members:

Security Benefit Life Insurance Company respectfully requests your favorable consideration of Senate Bill No. 572. This bill amends K.S.A. 40-2b21 to allow Kansas life insurance companies to engage in securities lending, repurchase, reverse repurchase, and dollar roll transactions. This bill is substantially the same language as found in the final draft of the Model Investment Law approved by the NAIC working group, except for changes requested by the Kansas Insurance Department, and language which relates exclusively to the Kansas investment laws.

Securities lending would enable Kansas life insurance companies to achieve a greater return on their investments at virtually no additional risk. In a typical securities lending transaction, a life insurance company would lend a bond from its portfolio to a securities dealer. This bill would require the dealer to give the insurance company collateral in the form of cash, or securities nearly equivalent to cash, equal to at least 102% of the market value of the loaned securities. The insurance company would invest the collateral and expect to obtain a higher return on its investment than the fee it pays the dealer for the use of the collateral. On a date specified in the securities lending agreement, or upon demand from the insurance company, the dealer would deliver the same or an equivalent security to the insurance company, and the insurance company would return the collateral to the dealer.

Securities dealers are the primary borrowers of securities because they often find it is the least expensive way to acquire a security which they have sold short and need to deliver. Other reasons for borrowing are the implementation of sophisticated trading and arbitrage strategies which require borrowing securities, and a desire to acquire securities from a non-dealer to disguise a trading strategy from other dealers.

A repurchase transaction is basically a secured cash loan, with the insurance company as lender. In a repurchase transaction, a life insurance company purchases securities from a business entity, which is obligated to buy back the identical securities from the insurance company at a specified price within a specified time period or upon demand. The bill requires that the insurance company

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Attachment #5*

receive securities having a market value of at least 102% of the purchase price paid by the insurance company. When an insurance company has funds to invest on a short-term basis, it may find that a repurchase transaction offers the highest return, depending on conditions in the market for repurchase transactions compared to the returns offered by other short-term investments.

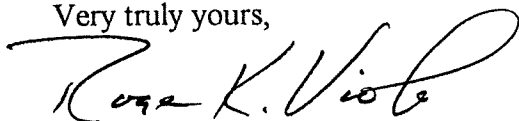
A reverse repurchase transaction is essentially a secured cash loan, with the insurance company as borrower. The insurance company sells securities to a business entity and is obligated to buy back the identical securities from the business entity at a specified price within a specified time period or upon demand. An insurance company would engage in a reverse repurchase transaction if it had a short-term need for funds, did not consider it advantageous to sell securities at that time, and found a reverse repurchase transaction to be less expensive than other forms of borrowing.

A dollar roll is a special type of reverse repurchase transaction. In the NAIC Accounting Practices and Procedures Manual dollar rolls are called "dollar repurchase agreements". The main difference between a dollar roll and other reverse repurchase transactions is that the securities which the insurance company buys back from the business entity do not need to be the identical securities, but only "substantially similar". This flexibility may allow the insurance company to obtain more favorable terms than in other types of reverse repurchase transactions. Although we do not currently intend to engage in dollar roll transactions, we would like to have the authority to do so in the event market conditions become favorable and we find such transactions would provide profitable investment opportunities.

This bill would enable Kansas life insurance companies to enhance the return on their investments by engaging in securities lending, and to enter into repurchase, reverse repurchase, and dollar roll transactions whenever market conditions, and the investment and liquidity objectives of the insurance company, would render such transactions advantageous to the company.

Thank you for your time and consideration. I would be happy to address any questions you may have.

Very truly yours,



ROGER K. VIOLA



Kathleen Sebelius  
Commissioner of Insurance  
**Kansas Insurance Department**

**MEMORANDUM**

To: Senate Financial Institutions  
and Insurance Committee

From: Tom Wilder, Director of  
Government and Public Affairs

Re: S.B. 572 (Life Insurance Companies/Investments)

Date: February 7, 1996

The Kansas Department of Insurance supports S.B. 572 which would make changes in the investment powers of domestic life insurance companies. Currently, Kansas life insurers are permitted to invest in repurchase agreements. The legislation would also permit investments in reverse repurchase agreements and "dollar roll" transactions and allows securities lending.

The Insurance Department does have some concerns about the expanded investment authority, particularly the provisions regarding dollar roll investments. The Department would also like further clarification about Subsection 4 of the bill starting on page 4 which concerns "counterparty exposure." These are the same questions raised in my testimony on S.B. 550 which is a similar investment bill for domestic property and casualty companies.

The Department staff will meet this afternoon with representatives of Security Benefit Group and Mt. Hawley Insurance Company to discuss these issues. The Department will provide the Committee with suggested revisions to S.B. 550 and S.B. 572 once we have reviewed our concerns with the insurers.

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Attachment #6*