

Approved: 2/16/96
Date

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Dick Bond at 9:06 a.m. on February 15, 1996 in Room 529-S of the Capitol.

Members present were: Senator Clark, Senator Corbin, 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: Ron Smith, Kansas Bar Association
Nancy Kantola, Kansas Lawyer Service Corporation
Tom Wilder, Kansas Insurance Department
Brad Smoot, Blue Cross/Blue Shield
Canda Byrne, Kansas Mental Health Alliance
Ann Koci, Social and Rehabilitation Services

Others attending: See attached list

The chairman announced that **SB 475**, which is the companion bill to **SB 476**, has also been assigned to the subcommittee chaired by Senator Bond. These bills relate to the Pooled Money Investment Board.

Senator Steffes made a motion to approve the minutes of the meeting of February 14 as submitted. Senator Petty seconded the motion. The motion carried.

The hearing was opened on **SB 570**, insurance premium tax on risk retention groups. Ron Smith, Kansas Bar Association, introduced Nancy Kantola, Kansas Lawyer Service Corporation. Ms. Kantola stated that her organization seeks to have the premium tax on risk retention groups competitive with other malpractice carriers. (Attachment #1) In response to Senator Bond's question, Ms. Kantola advised that groups chartered out of state pay 6% premium tax, and risk retention groups chartered or licensed in this state to sell insurance in Kansas pay 2%, and domiciled property and casualty companies pay 1% premium tax. Senator Bond pointed out that the fiscal note on **SB 570** reflects that passage of this legislation would result in a loss of \$147,000 in state revenue. (Attachment #2)

Tom Wilder, Kansas Insurance Department, acknowledged the facts of the fiscal impact statement but said that the Insurance Department considers this a fair bill. (Attachment #3)

Dr. Wolff explained why different liability carriers pay different amounts of privilege tax and Ms. Kantola stated that risk retention groups are entities in which member attorneys must pay into the surplus to belong to the group. Senator Praeger asked whether the risk retention groups are totally self-funded and Ms. Kantola answered that they do have reinsurance. There were no further questions and no other conferees; the hearing on **SB 570** was closed.

The chairman opened the hearing on **SB 603**, concerning certain medical conditions to be covered notwithstanding ERISA. Senator Petty informed the committee that this bill resulted from the request of a constituent and was intended to clarify that, even if self-insured, the state government is responsible for including in its healthcare coverage all mandates and expectations imposed on other insurance carriers by state law.

In response to Senator Bond, Brad Smoot, Blue Cross/Blue Shield, clarified that the ERISA pre-emption does not apply to state groups. Mr. Smoot recommended striking, on page 2, line 13, the phrase "Notwithstanding federal ERISA provisions..."

Canda Byrne, Kansas Mental Health Coalition, appeared in support of the bill and requested an amendment to increase the lifetime limit on benefits. (Attachment #4)

Mr. Wilder stated that the Insurance Department has no position on this bill.

Senator Petty made a motion to amend the bill by substituting DSM-IV for DSM III throughout the bill and to conceptually amend the bill in section (f) to reflect that Sec. 1 shall apply to any plan negotiated by the State Employees Healthcare Commission. Senator Praeger seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on February 15, 1996.

Senator Petty moved to pass the bill as amended; Senator Praeger seconded the motion. The motion carried. Senator Petty will carry this bill.

Ann Koci, SRS, appeared before the committee with proposed amendments to **SB 593**, concerning SRS' right to coordinate benefits with a private carrier. This bill was heard in committee on February 14, 1996. Ms. Koci advised that SRS staff considered Section 2 of the bill unnecessary and proposed to amend the bill by striking Sec. 2 in its entirety and reducing the right to subrogation action from three years to two years. (Attachment #5)

Senator Steffes made a motion to amend **SB 593** as requested. Senator Clark seconded the motion; the motion carried.

Senator Praeger moved to pass **SB 593** as amended. Senator Petty seconded the motion. The motion carried. Senator Bond will carry this bill.

The chair called for the committee to consider action on **SB 572** which was heard in committee on February 7. Tom Wilder explained the agreed upon revisions to the bill and stated that the Insurance Department is comfortable with the expansion of investment authority of insurance companies. (Attachment #6) Senator Steffes moved to adopt the amendments agreed upon by the Insurance Department and Security Benefit Group, sponsor of the bill. Senator Lee seconded the motion. The motion carried.

Senator Lee moved to pass the bill as amended. Senator Petty seconded the motion; the motion carried. Senator Hensley will carry this bill on the Senate floor.

The committee then considered action on **SB 550**, the companion bill to SB 572. **SB 550** was heard in committee on February 6 and extends to property and casualty companies the same investment authority that SB 572 grants to life insurance companies. Tom Wilder again explained the changes contained in the balloon which he provided to committee members. (Attachment #7). Senator Praeger made a motion to amend **SB 550** as requested and to pass the bill. Senator Lee seconded the motion. The motion carried. Senator Hensley will also carry this bill.

The committee adjourned at 9:50 a.m. The next meeting is scheduled for February 16, 1996 .

SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: 2/15/96

NAME	REPRESENTING
Tom Wilder	Kansas Ins. Regt
Nancy Kantala	Kansas Lawyers Service Corp.
Jon Smith	Ks Bar Assoc
Melissa Wangemann	Hein, Ebert & Weir
Dennis Jackson	TIRRC
Carole Byrne	KMHC
Joe Furjanic	KCA
STEVE KEARNEY	CIGNA
Paul Franze	KGC
Charley Young	Via Christi Ry. Med. Cent.
Jenosa Sillman	Amvesters
Steve Asby	Health Care Commission
Ann KDCI	SRS
Roger Brazier	STATE TREASURER
Ruth Mann	Ks. Health Institute.
Donald R. Typer	Insurance Agent
David Hanson	Ks Insur Assoc



Testimony supporting SB 570 before the Senate Financial Institutions & Insurance
Committee

February 25, 1996

**KANSAS
LAWYER
SERVICE
CORPORATION**

P.O. Box 1037
1200 Harrison
Topeka, Kansas
66601-1037

(800) 280-5572
(913) 234-0399
FAX (913) 234-3813

Nancy E. Kantola
Executive Vice President

Suzanne "Susie" Sachs
Office Manager

Officers

Marcia Poell Holston
President
Topeka

D. Bruce Keplinger
Chairman
Overland Park

Robert M. Adrian
Salina

Thomas A. Hamill
Overland Park

Linda S. Trigg
Liberal

James L. Bush
Smith Center

Lori M. Callahan
Topeka

by Kansas Lawyer Service Corporation
Presented by Nancy E. Kantola, Executive Vice President

Mr. Chairman, members of the committee. Thank you for allowing us to appear in support of Senate Bill 570. Kansas Lawyer Service Corporation is a subsidiary of the Kansas Bar Association and the Kansas Bar Foundation, formed for the purpose of servicing lawyers with their insurance and employee benefits.

In 1988, the KBA was one of the first State Bar Associations to put up money to start Attorney's Liability Protections Society, hereafter referred to as ALPS, to assure Kansas lawyers could get malpractice insurance at reasonable and consistent rates.

ALPS was chartered as a Federal Risk Retention Group in Montana. The attachment gives a historical perspective of the need for and dedication to providing professional liability insurance in Kansas.

The KBA, and subsidiary are committed to having as many practicing lawyers covered by insurance as possible, to protect their clients, and to enhance the professionalism of lawyers.

We would like to have the amount of premium tax be competitive with other carriers providing malpractice insurance, i.e.: 2% rather than the 6% lawyers now pay for ALPS.

The Kansas Insurance Department finds this in keeping with the NAIC model laws and is providing additional detail and fiscal note, but I will be happy to answer any questions you have.

Respectfully submitted,

Nancy E. Kantola
Nancy E. Kantola

Senate 7141
2/15/96
Attachment #1

STATE OF KANSAS



DIVISION OF THE BUDGET
 Room 152-E
 State Capitol Building
 Topeka, Kansas 66612-1504
 (913) 296-2436
 FAX (913) 296-0231

Bill Graves
 Governor

Gloria M. Timmer
 Director

February 6, 1996

The Honorable Richard Bond, Chairperson
 Senate Committee on Financial Institutions and Insurance
 Statehouse, Room 128-S
 Topeka, Kansas 66612

Dear Senator Bond:

SUBJECT: Fiscal Note for SB 570 by Senate Committee on Financial Institutions and Insurance

In accordance with KSA 75-3715a, the following fiscal note concerning SB 570 is respectfully submitted to your committee.

Under current law, insurance risk retention groups chartered or licensed in Kansas are taxed at a different rate from those chartered outside of the state. SB 570 effectively places risk retention groups both in and outside of Kansas in the same tax category.

Estimated State Fiscal Impact				
	FY 1996 SGF	FY 1996 All Funds	FY 1997 SGF	FY 1997 All Funds
Revenue	--	--	(\$146,843)	(\$146,843)
Expenditure	--	--	--	--
FTE Pos.	--	--	--	--

According to the Kansas Insurance Department, those risk retention groups chartered outside of Kansas pay a premium tax rate of 6.0 percent. Domestic companies pay a rate of 2.0 percent. In

*Senate 7141
 2/15/96
 Attachment #2*

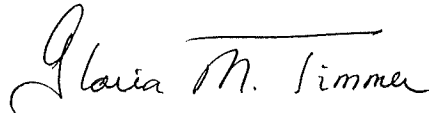
The Honorable Richard Bond, Chairperson

February 6, 1996

Page 2

1995, foreign risk retention groups were taxed at a rate of 6.0 percent on \$3,671,066 worth of premium payments. The amount collected totaled \$220,264. By applying the 2.0 percent rate required by SB 570, the premium tax liability of the foreign risk retention groups would total \$73,421. Therefore, reducing the rate from 6.0 to 2.0 percent, using 1995 actual premiums, would result in an estimated annual loss in premium tax receipts to the State General Fund of \$146,843.

Sincerely,



Gloria M. Timmer
Director of the Budget

cc: Linda DeCoursey, Insurance Department

570.FN

7141 2/15/96
2-2



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. 570 (Risk Retention Groups/Taxation)

Date: February 15, 1996

The Kansas Insurance Department supports Senate Bill 570 which changes the premium tax rate for risk retention groups which do business in Kansas. As a practical matter the bill only applies to the Attorney's Liability Protections Society ("ALPS") which provides malpractice insurance coverage for Kansas lawyers.

During the 1980's, Congress passed the Liability Risk Retention Act to encourage the formation of risk retention groups to meet markets needs not met by traditional insurers. The federal law requires risk retention groups to be licensed in a single state but permits them to cover risks located in other jurisdictions provided they comply with regulatory provisions of those states including premium taxes. Kansas requires ALPS to pay 6% premium tax. This is compared to the 2% tax paid by other foreign casualty companies which compete with them for business.

The Risk Retention Act requires that state regulatory provisions not discriminate against risk retention groups. There is an argument that the 6% tax is discriminatory because foreign casualty companies pay a lower rate of tax. The change in tax status would have an impact on state general fund receipts. The Department would collect approximately \$146,000 in premium taxes in FY 1997. The fiscal impact for FY 1998, 1999 and 2000 would be approximately \$515,000.

The Kansas Insurance Department asks for your favorable approval of S.B. 570.



KANSAS MENTAL HEALTH COALITION

P. O. Box 675, Topeka, Kansas 66601-0675
Telephone: (913) 233-0755 Fax: (913) 233-4804

"Joining together in one voice on critical needs of persons with mental illness."

FOR MORE INFORMATION CONTACT:

Canda Byrne, MSN, ARNP, CS
Advocacy Coordinator
112 S. W. 6th Street
Topeka, Kansas 66603
(913) 233-0755

FEBRUARY 15, 1996

SENATE BILL 603

Senator Bond and members of the Financial Institutions and Insurance Committee, my name is Canda Byrne. I am the Advocacy Coordinator for the Kansas Mental Health Coalition. The Kansas Mental Health Coalition is comprised of consumers, families, providers and advocates of persons with mental illness. The Coalition promotes the achievement of a broad array of integrated community and institutional services so that individual needs are met to provide the highest quality of life in the least restrictive environment.

I am here to speak in support of Senate Bill 603. We feel it is vital that the employees of the state of Kansas and their dependents are able to receive treatment for mental illness and substance abuse disorders. With the utilization review now in place in Kansas very few people receive thirty days of inpatient treatment. Most hospital stays for mental illness and substance abuse have been decreased to as little as three days, in some cases, and 7 to 14 days in others. Because of these shortened inpatient stays often more complete out-patient coverage is needed. It is for this reason that we respectfully recommend that the \$7,500 lifetime benefit be reconsidered. This covers approximately 150 out-patient visits, for a serious mental illness this is not many visits.

Texas provides equal coverage for serious mental illness to their state employees. In FY 1994 through their managed care for active employees the annual average claims cost for this coverage was \$49.37. Not much to spend for treatment for someone suffering from a serious mental illness.

Thank you for allowing me to provide testimony on SB 603. I would be glad to answer any questions.

Senate 7141
2/15/96
Attachment #4

SENATE BILL No. 593

By Committee on Financial Institutions and Insurance

2-5

9 AN ACT concerning social welfare; medical assistance provided by the
10 state; right to coordinate benefits with a private carrier.

11

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

13 Section 1. When medical assistance is furnished under K.S.A. 39-709
14 and amendments thereto or any other health care program funded by
15 federal moneys or state moneys to a person having private health care
16 coverage, the department of social and rehabilitation services or any other
17 state agency furnishing such medical assistance shall be entitled to be
18 subrogated to the rights that such person has against the carrier of such
19 coverage to the extent of health care services rendered. Such action may
20 be brought within ~~three~~ years from the date that service was rendered to
21 such person.

two

22 ~~Sec. 2. Every contract or agreement for private health care coverage~~
23 ~~entered into or renewed after July 1, 1996, is deemed to provide for~~
24 ~~payment to the state for actual cost the state incurs in rendering health~~
25 ~~care services to any party or beneficiary of such contract or agreement to~~
26 ~~the extent of benefits provided under the terms of the policy for services~~
27 ~~rendered.~~

2.

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

Senate 7/4/1
2/15/96
attachment # 5

SENATE BILL No. 572

By Committee on Financial Institutions and Insurance

1-31

9 AN ACT concerning life insurance company investments; securities lend-
10 ing transactions; amending K.S.A. 40-2b21 and repealing the existing
11 section.
12

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

14 Section 1. K.S.A. 40-2b21 is hereby amended to read as follows: 40-
15 2b21. Any life insurance company heretofore or hereafter organized un-
16 der any law of this state may invest with the direction or approval of a
17 majority of its board of directors or authorized committee thereof; any of
18 its funds; or any part thereof in repurchase agreements whereby the prin-
19 cipal amount of the agreement represents qualified investments de-
20 scribed in K.S.A. 40-2b01, 40-2b02, 40-2b03, 40-2b04 or 40-2b05. Fur-
21 ther, the repurchase agreement must be in writing; must have a specific
22 maturity date; must adequately identify each security to which the agree-
23 ment applies and must state that in the event of default by the party
24 agreeing to repurchase the securities described in the agreement at the
25 terms contained in the agreement, title to the described securities must
26 pass immediately to the insurance company without recourse. Repur-
27 chase agreements shall not qualify as an authorized investment under any
28 other section of this act except to the extent permitted under K.S.A. 40-
29 2b13. (a) As used in this section:

30 (1) "Acceptable collateral" means:

31 (A) With respect to securities lending transactions: Cash, cash equiv-
32 alents, letters of credit, direct obligations of, or securities that are fully
33 guaranteed as to principal and interest by, the government of the United
34 States or any agency of the United States, specifically including the federal
35 national mortgage association and the federal home loan mortgage cor-
36 poration, and with respect to lending foreign securities, sovereign debt
37 rated 1 by the SVO, all to the extent authorized by K.S.A. 40-2b01 et seq.
38 and amendments thereto;

39 (B) with respect to repurchase transactions: Cash, cash equivalents,
40 and direct obligations of, or securities that are fully guaranteed as to
41 principal and interest by, the government of the United States or any
42 agency of the United States, specifically including the federal national
43 mortgage association and the federal home loan mortgage corporation, all

Senate 4/1/11
2/15/96
Attachment #6

414
2/15/16
6-2

1 to the extent authorized by K.S.A. 40-2b01 et seq. and amendments
2 thereto; and

3 (C) with respect to reverse repurchase transactions: Cash and cash
4 equivalents to the extent authorized by K.S.A. 40-2b01 et seq. and amend-
5 ments thereto.

6 (2) "Cash equivalents" mean short-term, highly rated, and highly liq-
7 uid investments or securities readily convertible to known amounts of cash
8 without penalty and so near maturity that they present insignificant risk
9 of change in value. For purposes of this definition:

10 (A) "Short-term" means investments with a remaining term to ma-
11 turity of 90 days or less;

12 (B) "highly rated" means an investment rated "P-1" by Moody's In-
13 vestor's Service, Inc. or "A-1" by Standard and Poor's, or its equivalent
14 rating by a nationally recognized statistical rating organization recog-
15 nized by the SVO; and

16 (C) cash equivalents include government money market mutual funds
17 and money market mutual funds rated 1 by the SVO.

18 ~~(3) "Dollar roll transaction" means two simultaneous transactions~~
19 ~~with different settlement dates no more than 96 days apart such that, in~~
20 ~~the transaction with the earlier settlement date an insurer sells to a busi-~~
21 ~~ness entity, and in the other transaction the insurer is obligated to pur-~~
22 ~~chase from the same business entity, substantially similar securities of the~~
23 ~~following types:~~

delete reference to "dollar roll transactions" →

24 ~~(A) Mortgage backed securities issued, assumed or guaranteed by the~~
25 ~~government national mortgage association, the federal national mortgage~~
26 ~~association or the federal home loan mortgage corporation or their re-~~
27 ~~spective successors; and~~

28 ~~(B) asset-backed securities referred to in section 106 of Title 1 of the~~
29 ~~Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. Sec.~~
30 ~~77r-1), as amended.~~

31 (4) "Equivalent securities" mean:

32 (A) In a securities lending transaction, securities that are identical to
33 the loaned securities including the amount thereof, except as to certificate
34 number if held in physical form, except if any different security is ex-
35 changed for any loaned security by recapitalization, merger, consolidation
36 or other corporate action, such different security shall be deemed to be
37 the loaned security.

38 (B) In a repurchase transaction, securities that are identical to the
39 purchased securities including the amount of the purchased securities,
40 except as to certificate number if held in physical form.

41 (C) In a reverse repurchase transaction, securities that are identical
42 to the sold securities including the amount of the sold securities, except
43 as to certificate number if held in physical form.



7/14/11
2/15/196
6-3

1 (5) "Letters of credit" means clean, irrevocable and unconditional let-
2 ters of credit issued or confirmed by, and payable and presentable at,
3 financial institutions on the list of financial institutions meeting the stan-
4 dards for issuing letters of credit pursuant to the purposes and procedures
5 of the securities valuation office or any successor publication. To consti-
6 tute acceptable collateral for the purposes of this section, a letter of credit
7 must have an expiration date beyond the term of the subject transaction.

8 (6) "Market value" means for the purpose of this section:

9 (A) With respect to cash and letters of credit, the amounts thereof;
10 and

11 (B) with respect to any security as of any date, the price for the se-
12 curity on that date obtained from a generally recognized source, or the
13 most recent quotation from such a source, plus accrued but unpaid income
14 thereon to the extent not included in such price as of that date.

15 (7) "Qualified business entity" means a business entity which is, or is
16 a subsidiary or affiliate of:

17 (A) An issuer of obligations or preferred stock which are rated 1 or
18 2 by the SVO or an issuer of obligations, preferred stock, or derivative
19 instruments which are rated the equivalent of 1 or 2 by the SVO or by a
20 nationally recognized statistical rating organization recognized by the
21 SVO; or

22 (B) A primary dealer in United States government securities, as rec-
23 ognized by the federal reserve bank of New York.

24 (8) "Repurchase transaction" means a transaction in which an insurer
25 purchases securities from a business entity which is obligated to repur-
26 chase the purchased securities or equivalent securities from the insurer
27 at a specified price, and either within a specified period of time or upon
28 demand.

29 (9) "Reverse repurchase transaction" means a transaction in which
30 an insurer sells securities to a business entity and is obligated to repur-
31 chase the sold securities or equivalent securities from the business entity
32 at a specified price and either within a specified period of time or upon
33 demand.

34 (10) "Securities lending transaction" means a transaction in which
35 securities are loaned by an insurer to a business entity which is obligated
36 to return the loaned securities or equivalent securities to the insurer,
37 within a specified period of time or upon demand.

38 (11) "Substantially similar securities" mean securities that meet all
39 the criteria for substantially similar securities specified in the NAIC ac-
40 counting practices and procedures manual, as amended, and in an amount
41 that constitutes good delivery form.

42 (12) "SVO" means the securities valuation office of the National As-
43 sociation of Insurance Commissioners or any successor office established

7/15/196
6-4

1 by the National Association of Insurance Commissioners.
2 (b) Any life insurance company organized under any law of this state
3 ~~may enter into securities lending, repurchase, reverse repurchase, and~~
4 ~~dollar roll transactions, subject to the following requirements:~~
5 (1) The insurer's board of directors shall adopt a written plan which
6 specifies guidelines and objectives to be followed, such as:
7 (A) A description of how cash received will be invested or used for
8 general corporate purposes of the insurer;
9 (B) operational procedures to manage interest rate risk, counterparty
10 default risk and the use of acceptable collateral in a manner that reflects
11 the liquidity needs of the transaction; and
12 (C) the extent to which an insurer may engage in these transactions.
13 (2) The insurer shall enter into a written agreement for all transac-
14 tions authorized in this section ~~other than dollar roll transactions~~. Such
15 agreement shall adequately identify each security to which the agreement
16 applies and shall require that each transaction terminate on a specified
17 date no more than one year from its inception or upon earlier demand of
18 the insurer. In a repurchase transaction, the agreement must also state
19 that in the event of default by the party agreeing to repurchase the se-
20 curities described in the agreement at the terms contained in the agree-
21 ment, title to the described securities must pass immediately to the insur-
22 ance company without recourse. Such agreement shall be with the
23 counterparty business entity, except for securities lending transactions the
24 agreement may be with an agent acting on behalf of the insurer, if such
25 agent is a qualified business entity, and if such agreement:
26 (A) Requires the agent to enter into separate agreements with each
27 counterparty that are consistent with the requirements of this section; and
28 (B) prohibits securities lending transactions under the agreement
29 with the agent or its affiliates.
30 (3) Cash received in a transaction under this section shall be invested
31 in accordance with K.S.A. 40-2b01 et seq. and amendments thereto, and
32 in a manner that recognizes the liquidity needs of the transaction, or shall
33 be used by the insurer for its general corporate purposes. For so long as
34 the transaction remains outstanding, the insurer, its agent or custodian
35 shall maintain in the United States, as acceptable collateral received in a
36 transaction under this section, either physically or through book entry
37 systems, (A) possession of the acceptable collateral; or (B) a perfected
38 security interest in the acceptable collateral.
39 (4) For purposes of calculating the limitations of K.S.A. 40-2b01 et
40 seq. ~~and amendments thereto, securities lending, repurchase,~~ reverse re-
41 ~~purchase and dollar roll~~ transactions shall not be considered investments
42 in the counterparty, or in any issue of securities issued by the counter-
43 party, or in the jurisdiction in which the counterparty is located. For

and

delete reference to "dollar rolls"

a resolution authorizing investments under this section and

delete reference to "dollar rolls"

of the Federal Reserve or through clearing corporations as permitted by K.S.A. 1995 Supp. 40-2b20

and

delete reference to "dollar rolls"

Handwritten notes: 2/18/18, 6-9

1 of the purchase price paid by the insurer, the business entity shall be
2 obligated to provide additional acceptable collateral, the market value of
3 which, together with the market value of all acceptable collateral then
4 held in connection with the transaction, equals at least 102% of such
5 purchase price. Securities acquired by an insurer in a repurchase trans-
6 action ~~may~~ not be sold in a reverse repurchase transaction, loaned in a
7 securities lending transaction or otherwise pledged.

shall

8 (c) Unless otherwise specified, an investment limitation computed on
9 the basis of an insurer's admitted assets or capital and surplus shall relate
10 to the amount ~~required to be shown on the insurer's last annual report as~~
11 ~~filed with the commissioner of insurance or a more recent quarterly fi-~~
12 ~~ancial statement as filed with the commissioner, on a form prescribed~~
13 ~~by the National Association of Insurance Commissioners, within 45 days~~
14 ~~following the end of the calendar quarter to which the interim statement~~
15 ~~pertains. For purposes of computing any limitation based upon admitted~~
16 ~~assets, the insurer shall deduct from the amount of its admitted assets the~~
17 ~~amount of the liability recorded on such statutory balance sheet for:~~

as

- 18 (1) The return of acceptable collateral received in a reverse repur-
- 19 chase or a securities lending transaction;
- 20 ~~(2) cash received in a dollar roll transaction; and~~
- 21 (3) the amount reported as borrowed money in the most recently filed
- 22 financial statement to the extent ~~not included in subparts (1) and (2).~~

delete reference to "dollar rolls"

23 Sec. 2. K.S.A. 40-2b21 is hereby repealed.
24 Sec. 3. This act shall take effect and be in force from and after its
25 publication in the statute book.

not included in subpart (1)

SENATE BILL No. 550

By Committee on Financial Institutions and Insurance

1-29

9 AN ACT concerning insurance; property and casualty insurance compa-
10 nies; transactions; amending K.S.A. 40-2a21 and repealing the existing
11 section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 40-2a21 is hereby amended to read as follows: 40-
15 2a21. Any insurance company, other than life, heretofore or hereafter
16 organized under any law of this state may invest with the direction or
17 approval of a majority of its board of directors or authorized committee
18 thereof, any of its funds, or any part thereof in repurchase agreements
19 whereby the principal amount of the agreement represents qualified in-
20 vestments described in K.S.A. 40-2a01, 40-2a02, 40-2a03, 40-2a04 or 40-
21 2a05. Further, the repurchase agreement must be in writing, must have
22 a specific maturity date, must adequately identify each security to which
23 the agreement applies and must state that in the event of default by the
24 party agreeing to repurchase the securities described in the agreement
25 at the terms contained in the agreement, title to the described securities
26 must pass immediately to the insurance company without recourse. Re-
27 purchase agreements shall not qualify as an authorized investment under
28 any other section of this act except to the extent permitted under K.S.A.
29 40-2a16.

30 *As used in this section:*

31 (a) (1) *Acceptable collateral means:*

32 (A) *With respect to securities lending transactions, cash, cash equiv-*
33 *alents, letters of credit, direct obligations of or securities that are fully*
34 *guaranteed as to principal and interest by, the government of the United*
35 *States or any agency of the United States, specifically including the federal*
36 *national mortgage association and the federal home loan mortgage cor-*
37 *poration, and with respect to lending foreign securities, sovereign debt*
38 *rated 1 by the SVO, all to the extent authorized by K.S.A. 40-2a01 et seq.*
39 *and amendments thereto;*

40 (B) *with respect to repurchase transactions, cash, cash equivalents*
41 *and direct obligations of, or securities that are fully guaranteed as to*
42 *principal and interest by the government of the United States or any*
43 *agency of the United States specifically including the federal national*

Senate 7/21
2/15/96
Attachment #7

414
2/15/94
7-2

1 mortgage association and the federal home loan mortgage corporation, all
 2 to the extent authorized by K.S.A. 40-2a01, et seq. and amendments
 3 thereto; and
 4 (C) with respect to reverse repurchase transactions, cash and cash
 5 equivalents to the extent authorized by K.S.A. 40-2a01 et seq. and amend-
 6 ments thereto.
 7 (2) "Cash equivalents" means short-term, highly rated and highly liq-
 8 uid investments or securities readily convertible to ~~know~~ amounts of cash
 9 without penalty and so near maturity that they present insignificant risk
 10 of change in value. For purposes of this definition:
 11 (A) "Short-term" means investments with a remaining term to ma-
 12 turity of ~~180~~ days or less;
 13 (B) "highly rated" means an investment rated "P-1" by Moody's In-
 14 vestor's Service, Inc. or "A-1" by Standard and Poor's, or its equivalent
 15 rating by a nationally recognized statistical rating agency recognized by
 16 the SVO; and
 17 (C) cash equivalents include ~~governmental~~ money market mutual
 18 funds and money market mutual funds rated 1 by the SVO.
 19 (3) "Dollar roll transaction" means two simultaneous transactions
 20 with different settlement dates no more than 96 days apart such that, in
 21 the transaction with the earlier settlement date an insurer sells to a busi-
 22 ness entity, and in the other transaction the insurer is obligated to pur-
 23 chase from the business entity, substantially similar securities of the fol-
 24 lowing types:
 25 (A) ~~Mortgage-backed securities issued, assumed or guaranteed by the~~
 26 ~~government national mortgage association, the federal national mortgage~~
 27 ~~association or the federal home loan mortgage corporation or their re-~~
 28 ~~spective successors; and~~
 29 (B) ~~asset back securities referred to in section 106 of title 1 of the~~
 30 ~~secondary mortgage market enhancement act of 1984 (15 U.S.C. sec. 77r-~~
 31 ~~1), as amended.~~
 32 (4) "Equivalent securities" means:
 33 (A) In a securities lending transaction, securities that are identical to
 34 the loaned securities including the amount thereof, except as to certificate
 35 number if held in physical form, provided that if any different security
 36 shall be exchanged for any loaned security by recapitalization, merger,
 37 consolidation or other corporate action, such different security shall be
 38 deemed to be the loaned security;
 39 (B) in a repurchase transaction, securities that are identical to the
 40 purchased securities including the amount of the purchased securities,
 41 except as to certificate number if held in physical form; and
 42 (C) in a reverse repurchase transaction, securities that are identical
 43 to the sold securities including the amount of the sold securities, except

known

90

organization

government

delete reference to "dollar roll transactions"

2

7/14/196
2/15/196
7-3

1 as to certificate number if held in physical form.
 2 (5) "Letters of credit" means clean, irrevocable and unconditional let-
 3 ters of credit issued or confirmed by, and payable and presentable at,
 4 financial institutions on the list of financial institutions meeting the stan-
 5 dards for issuing letters of credit pursuant to the purposes and procedures
 6 of the securities valuation office or any successor publication. To consti-
 7 tute acceptable collateral for the purposes of this section, a letter of credit
 8 must have an expiration date beyond the term of the subject transaction.
 9 (6) "Market value" means for the purpose of this section:
 10 (A) With respect to cash and letters of credit, the amounts thereof;
 11 and
 12 (B) with respect to any security as of any date, the price for the se-
 13 curity on that date obtained from a generally recognized source, or the
 14 most recent quotation from such a source, plus accrued but unpaid income
 15 thereon to the extent not included in such price as of that date.
 16 (7) "Qualified business entity" means a business entity which is, or is
 17 a subsidiary or affiliate of:
 18 (A) An issuer of obligations or preferred stock which are rated 1 or
 19 2 by the SVO or an issuer of obligations, preferred stock or derivative
 20 instruments which are rated the equivalent of 1 or 2 by the SVO or by a
 21 nationally recognized statistical rating organization recognized by the
 22 SVO; or
 23 (B) a primary dealer in ~~the~~ United States government securities, as
 24 recognized by the federal reserve bank of New York.
 25 (8) "Repurchase transaction" means a transaction in which an insurer
 26 purchases securities from a business entity which is obligated to repur-
 27 chase the purchased securities or equivalent securities from the insurer
 28 at a specified price, and either within a specified period of time or upon
 29 demand.
 30 (9) "Reverse repurchase transaction" means a transaction in which
 31 an insurer sells securities to a business entity and is obligated to repur-
 32 chase the sold securities or equivalent securities from the business entity
 33 at a specified price and either within a specified period of time or upon
 34 demand.
 35 (10) "Securities lending transaction" means a transaction in which
 36 securities are loaned by an insurer to a business entity which is obligated
 37 to return the loaned securities or equivalent securities to the insurer,
 38 within a specified period of time or upon demand.
 39 (11) "Substantially similar securities" means securities that meet all
 40 the criteria for substantially similar securities specified in the NAIC ac-
 41 counting practices and procedures ~~manuals~~, as amended, and in an
 42 amount that constitutes good delivery form ~~as determined from time to~~
 43 ~~time by the public securities association.~~

delete the word "the"

manual

delete phrase "as determined from time to time by the public securities association"

7-4
2/15/16
HIT

1 (12) "SVO" means the securities valuation office of the national as-
2 sociation of insurance commissioners or any successor office established
3 by the national association of insurance commissioners.

4 (b) Any property and casualty insurance company organized under
5 any law of this state may enter into securities lending, repurchase, reverse
6 repurchase and dollar roll transactions, subject to the following require-
7 ments:

8 (1) The insurer's board of directors shall adopt a written plan which
9 specifies guidelines and objectives to be followed, such as:

10 (A) A description of how cash received will be invested or used for
11 general corporate purposes of the insurer;

12 (B) operational procedures to manage interest rate risk, counterparty
13 default risk and the use of acceptable collateral in a manner that reflects
14 the liquidity needs of the transaction; and

15 (C) the extent to which an insurer may engage in these transactions.

16 (2) The insurer shall enter into a written agreement for all transac-
17 tions authorized in this section ~~other than dollar roll transactions~~. Such
18 agreement shall adequately identify each security to which the agreement
19 applies and shall ~~require~~ that each transaction terminate on a specified

20 date no more than one year from its inception or upon earlier demand of
21 the insurer. In a repurchase transaction, the agreement must also state
22 that in the event of default by the party agreeing to repurchase the se-
23 curities described in the agreement at the terms contained in the agree-
24 ment, title to the described securities must pass immediately to the insur-
25 ance company without recourse. Such agreement shall be with the
26 counterparty business entity. For securities lending transactions the
27 agreement may be with ~~an~~ ~~it~~ acting on behalf of the insurer, if such
28 agent is a qualified business entity, and if such agreement:

29 (A) Requires the agent to enter into separate agreements with each
30 counterparty that are consistent with the requirements of this section; and

31 (B) prohibits securities lending transactions under the agreement
32 with the agent and its affiliates.

33 (3) Cash received in a transaction under this section shall be invested
34 in accordance with K.S.A. 40-2a01 et seq. and amendments thereto, and
35 in a manner that recognizes the liquidity needs of the transaction, or shall
36 be used by the insurer for its general corporate purposes. For so long as
37 the transaction remains outstanding, the insurer, its agent or custodian
38 shall maintain, in the United States, as to acceptable collateral received
39 in a transaction under this section, either physically or through book entry
40 systems: (A) Possession of the acceptable collateral; or (B) a perfected
41 security interest in the acceptable collateral.

42 (4) For purposes of calculating the limitations of K.S.A. 40-2a01 et
43 seq. and amendments thereto, securities lending, repurchase, reverse re-

and
• delete reference to "dollar rolls"
a resolution authorizing investments under
this section
delete "dollar rolls"
require
an agent
or
of the Federal Reserve or through a clearing
corporation as permitted by K.S.A. 40-2a20
or any amendments thereto
and



4147
2/15/96
7-5

1 purchase ~~and dollar roll~~ transactions shall not be considered investments
2 in the counterparty, or in any issue of securities issued by the counter-
3 party, or in the jurisdiction in which the counterparty is located. For
4 purposes of calculations made to determine compliance with this part 4
5 of subsection (b), no effect will be given to the insurer's future obligation
6 to resell securities in the case of a repurchase transaction, or to repurchase
7 securities in the case of a reverse repurchase transaction. An insurer may
8 not enter into a transaction under this section if, as a result of and after
9 giving effect to the transaction:

delete "dollar rolls"

10 (A) The aggregate amount of all securities then loaned or sold to, or
11 purchased from, any one business entity pursuant to this section would
12 exceed 5% of its admitted assets. In calculating the amount sold to or
13 purchased from a business entity pursuant to repurchase or reverse re-
14 purchase transactions, effect may be given to netting provisions under a
15 master written agreement; or

16 (B) the aggregate amount of all securities then loaned or sold to, or
17 purchased from, all business entities under this section, without the effect
18 of netting referred to in subpart (A), would exceed 40% of its admitted
19 assets.

delete "dollar rolls"

20 (5) In a securities lending transaction, the insurer shall receive ac-
21 ceptable collateral having a market value as of the transaction date at
22 least equal to 102% of the market value of the securities loaned by the
23 insurer in such transaction as of that date. If at any time the market value
24 of such acceptable collateral is less than the market value of the loaned
25 securities, the business entity to which the securities are loaned shall be
26 obligated to deliver additional acceptable collateral, the market value of
27 which, together with the market value of all acceptable collateral then
28 held in connection with the transaction, equals at least 102% of the market
29 value of the loaned securities.

delete "dollar rolls"

30 (6) In a reverse repurchase transaction (~~other than a dollar roll trans-~~
31 ~~action~~), the insurer shall receive acceptable collateral having a market
32 value as of the transaction date at least equal to 95% of the market value
33 of the securities transferred by the insurer in such transaction as of that
34 date. If at any time the market value of such acceptable collateral is less
35 than 95% of the market value of the securities so transferred, the business
36 entity shall be obligated to deliver additional acceptable collateral, the
37 market value of which, together with the market value of all acceptable
38 collateral then held in connection with the transaction, at least equals 95%
39 of the market value of the transferred securities.

40 (7) ~~In a dollar roll transaction, the insurer shall receive cash in an~~
41 ~~amount at least equal to the market value of the securities transferred by~~
42 ~~the insurer in such transaction as of the transaction date.~~

43 (8) In a repurchase transaction, the insurer shall receive as acceptable

7/27/16
2/15/16
7-6

shall

1 collateral transferred securities having a market value at least equal to
2 102% of the purchase price paid by the insurer for such securities. If at
3 any time the market value of such acceptable collateral is less than 100%
4 of the purchase price paid by the insurer, the business entity shall be
5 obligated to provide additional acceptable collateral, the market value of
6 which, together with the market value of all acceptable collateral then
7 held in connection with the transaction, equals at least 102% of such
8 purchase price. Securities acquired by an insurer in a repurchase trans-
9 action ~~may~~ not be sold in a reverse repurchase transaction, loaned in a
10 securities lending transaction, or otherwise pledged.

relate

11 (c) Unless otherwise specified, an investment limitation computed on
12 the basis of an insurer's admitted assets or capital and surplus shall ~~related~~
13 to the amount required to be shown on the insurer's last annual report as
14 filed with the commissioner of insurance or a more recent quarterly fi-
15 nancial statement as filed with the commissioner, on a form prescribed
16 by the national association of insurance commissioners, within 45 days
17 following the end of the calendar quarter to which the interim statement
18 pertains. For purposes of computing any limitation based upon admitted
19 assets, the insurer shall deduct from the amount of its admitted assets the
20 amount of the liability recorded on such statutory balance sheet for:

as

delete "dollar rolls"

- 21 (1) The return of acceptable collateral received in a reverse repur-
22 chase or a securities lending transaction;
- 23 ~~(2) cash received in a dollar roll transaction; and~~
- 24 ~~(3) the amount reported as borrowed money in the most recently filed~~
25 ~~financial statement to the extent not included in parts 1 and 2 above.~~

(2)

extent not included in subpart (1) above

26 Sec. 2. K.S.A. 40-2a21 is hereby repealed.
27 Sec. 3. This act shall take effect and be in force from and after its
28 publication in the statute book.