

Approved: March 14, 1997
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:00 a.m. on March 11, 1997, in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Corbin, Senator Lee, Senator Bond, Senator Donovan, Senator Goodwin, Senator Hardenburger, Senator Karr, Senator Praeger, Senator Steffes and Senator Steineger.

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Bob Nugent, Revisor of Statutes
Shirley Higgins, Secretary to the Committee

Conferees appearing before the committee: Kathleen Sebelius, Commissioner of Insurance
Marty Kennedy, Kansas Insurance Department
John Ensley, Kansas Domestic Preference Legislative Group
David Hanson, Kansas Insurance Associations
Bill Sneed, AmVestors Financial Corporation
Tad Kramar, Security Benefit Group

Others attending: See attached list

The minutes of the March 6 meeting were approved.

Senator Langworthy welcomed a new committee member, Senator Les Donovan, replacing Senator Mike Harris who resigned.

HB 2082--Concerning insurance; insurance premium tax reduction.

Kathleen Sebelius, Commissioner of Insurance, gave a brief overview of **HB 2082**, noting that the original intent of the bill was to deal with a potential constitutional problem with Kansas' premium tax laws. The House Insurance Committee amended the bill to lower the tax rate for foreign insurers and to give foreign and domestic insurers a salary tax credit to be phased in over a ten-year period. The fiscal impact of the House amendments on the state general fund would be \$22 million whereas the fiscal impact of the original bill was \$3.7 million. (Attachment 1) She stated that **HB 2082**, as amended, neutralizes any economic development incentive because the tax break is available regardless of where a company does business. She introduced Marty Kennedy of the Kansas Insurance Department to give a more detailed overview of the bill.

Mr. Kennedy referred to two pass outs. The first included a chart comparing key provisions of **HB 2082** as introduced with **HB 2082** as amended by the House Insurance Committee and a chart comparing the impacts on State General Fund receipts as introduced with the phased implementation provided in the amended bill. (Attachment 2) The second included a list of premium tax practices throughout the country. (Attachment 3)

John Ensley, Kansas Domestic Preference Legislative Group, testified in support of **HB 2082** as amended on behalf of the following foreign (out-of-state) insurance companies: Guardian, Massachusetts Mutual, Metropolitan Life, Mutual of New York, New York Life, Northwestern, Prudential, and Travelers. Mr. Ensley explained the three aspects of domestic tax preference under current Kansas law and the amendments addressing them. He listed the positive effects he believed **HB 2082** would have as amended. He was in support of technical amendments to be offered by another conferee, David Hanson. (Attachment 4)

Senator Bond began a discussion regarding the effect of a uniform tax rate for domestic and foreign insurance companies. Mr. Kennedy said the Department could provide the committee with information concerning the various rates of other states that might be impacted by the bill. He was not certain the Department could quantify that amount, but they could identify the states that would have a positive effect for Kansas companies

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on March 11, 1997.

that did business with them. Senator Bond felt it would be helpful if an attempt was made to quantify the positive impact of a uniform rate of 1 percent or 2 percent in Kansas. Mr. Ensley stated that his clients do not advocate a particular rate. All his clients seek is a constitutional tax applicable to foreign and domestic companies, leaving it up to the Legislature to determine the rate. Whatever that rate is, his clients wish it to be fair and apply uniformly to foreign and domestic companies in all three areas of the domestic preference. He concluded, if all three areas are addressed in a constitutional manner, his clients would waive their right to back tax claims if the tax on domestic and foreign companies is uniform at any rate.

David Hanson testified in support of **HB 2082** on behalf of Kansas Association of Property and Casualty Insurance Companies and the Kansas Life Insurance Association, whose members are domestic insurance companies in Kansas. Mr. Hanson believed the provisions of the bill will benefit Kansas by accomplishing a gradual phase-in of the tax rate equalization while encouraging insurance growth through tax credits for employee salaries in Kansas. Furthermore, he noted that reduction of the premium tax to 1 percent may relieve the retaliatory taxes that are flowing out of Kansas to other states. (Attachment 5) Mr. Hanson also submitted a balloon of the bill with further proposed amendments prepared by various industry representatives and groups. He explained each amendment to the committee beginning on page 15 of the balloon. (Attachment 6)

Bill Sneed, representing AmVestors Financial Corporation (a wholly owned subsidiary of American Investors Life Insurance Company) testified in support of **HB 2082**. Mr. Sneed explained that American Investors Life Insurance Company sells annuities only. Both the original bill and the amended version contain provisions pertaining to the repeal of the premium tax on annuities, therefore, American Investors Life Insurance Company obviously supports those provisions. He believed the elimination of the premium tax on annuities is a step in the right direction to remove roadblocks to economic progress in Kansas. (Attachment 7) He also supported the amendments found on pages 15, 18, and 19 of the balloon submitted by Mr. Hanson.

Tad Kramar, Security Benefit Life Insurance Company, followed with further testimony in support of **HB 2082**. Mr. Kramar highlighted the most significant advantages of the insurance tax reform provisions in the bill: removal of competitive disadvantage, encouragement to save through annuities, and repeal of the privilege tax. Mr. Kramar also supported the amendments in the balloon submitted by Mr. Hanson. (Attachment 8)

There being no further time, Brad Smoot, representing the American Insurance Association (AIA), was unable to present his testimony in support of **HB 2082** as amended. Of special interest to AIA companies are proposed amendments to Section 7 of the bill concerning retaliatory taxes. (Attachment 9)

Senator Langworthy announced that **HB 2082** will go into a subcommittee consisting of herself and Senators Corbin, Steffes, Lee, and Goodwin. Depending upon time available, remaining conferees may have to testify only before the subcommittee.

The meeting was adjourned at 12:04 p.m.

The next meeting is scheduled for March 12, 1997.

SENATE ASSESSMENT & TAXATION COMMITTEE
GUEST LIST

DATE: March 11, 1997

| NAME | REPRESENTING |
|-------------------|------------------------------------|
| John Ensley | Ks. Domestic Preference |
| Robert R. Baldwin | Metropolitan Life Ins. Co. |
| David Hanson | Ks Insur Assocs |
| JAMES HACC | American Council of Life Insurance |
| Bill Mitchell | Alliance |
| Richard Wilborn | Alliance Ins Co |
| Jim Wright | Farmers Ins Group |
| Richard Saxe | Prudential Ins. Co. |
| Jim Freed | Sen. Clark |
| Danielle Lee | Governor's Office |
| Kathy Peterson | Prudential |
| Ed Spiess | Peterson Public Affairs |
| Tom Wilder | Kansas Ins. Dept. |
| Brad Swoot | AIA |
| Bill Sneed | AmVestors |
| Marty Kennedy | KID |
| Dennis Stackley | KID |
| Sandra M. Moursy | Ks Insurance Dept. |
| Brenda Kramer | SBG |

SENATE ASSESSMENT & TAXATION COMMITTEE
GUEST LIST

DATE: 3/11/97

| NAME | REPRESENTING |
|------------|--------------|
| TAD KRAMER | SBC |
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Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

MEMORANDUM

To: Senate Assessment and Taxation Committee
From: Kathleen Sebelius, Commissioner of Insurance
Re: House Bill 2082 (Insurance Premium Taxes)
Date: March 11, 1997

As you are aware, the insurance industry is a significant economic force in this state. Kansans spent over \$6.2 billion last year for insurance premiums. There are over 1,500 insurers that do business in Kansas and they employ approximately 21,000 people (not including agents and brokers). In fiscal year 1995, the industry paid \$90.5 million in taxes and fees to the state general revenue fund.

The original intent behind this legislation was to deal with a potential constitutional problem with our premium tax laws. Kansas insurance companies are taxed annually at 1% of their premium income and foreign insurers pay a 2% premium tax. In 1985, the United States Supreme Court, in Metropolitan Life Insurance Company v. Ward, held that a similar tax differential imposed by the State of Alabama was unconstitutional. A number of state supreme courts have also invalidated their premium tax statutes because they tax in state and out of state insurance companies at different rates. I am concerned that the Kansas premium tax statute may be unconstitutional.

Since the Metropolitan Life Insurance Company decision in 1985, over 50 foreign insurers have paid their premium taxes to Kansas under protest. The Insurance Department estimates that if the Kansas tax is challenged and overturned, and if the court orders the state to pay back all foreign premium taxes above the 1% domestic rate, we will have to refund \$500 million. It is clearly time for the Kansas Legislature to address this issue.

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Topeka, Kansas 66612-1678

Senate Assessment & Taxation
3-11-97
913 296-3071
Fax 913 296-2283
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Consumer Assistance Hotline
1 800 432-2484 (Toll Free)

Attachment 1

House Bill 2082, as originally introduced, raised the premium tax rates for all insurers to 2%, while giving companies a salary tax credit based on the number of their Kansas based employees. The tax credit was designed to encourage companies to move business operations to Kansas. In addition, the credit would reduce the effective tax rate of domestic companies so that they would pay no more in taxes than under the current statute. The impact on the state general fund from these changes would be approximately \$3.7 million.

The House Insurance Committee amended the bill to lower the tax rate for foreign insurers to 1%. The bill also gives foreign and domestic insurers a salary tax credit of 0.25%. These changes would be phased in over a ten year period. The fiscal impact of these changes on the state general fund would be \$22 million.

The legislation repeals the Kansas tax imposed on annuity premiums. This provision was in the original legislation and is in the amended bill. Kansas is one of the few states that still imposes this tax and it places Kansas life insurers at a competitive disadvantage. I support the repeal of this tax as does the Governor. The legislation also does away with the privilege tax paid by domestic insurers. The repeal of these two taxes will save Kansas insurance companies approximately \$2.5 million annually.

Ultimately, tax policy must be shaped by the Legislature. I urge this Committee to approve legislation which will take care of the potential constitutional issues with our current premium taxes. Those changes to our law should be designed so that Kansas insurers will not see any increase in their effective tax rates. The bill should also encourage economic development by giving companies incentives to have business operations in this state.

Comparison of Insurance Tax Bills

Key Provisions

| | HB 2082 As Introduced | HB 2082 As Amended |
|-------------------------------------|---|--|
| Premium Tax | Equalize at 2%, with Salary Credit up to 50% of Tax. Begins in Tax Year 1997. | Equalize at 1% on a phased in basis for 10 years beginning Tax Year 1998. |
| Privilege Tax | Repeal. (<i>Domestic Ks. companies</i>) | Repeal. |
| Premium Tax on Annuities | Repeal effective Jan. 1, 1997. | Repeal effective Jan. 1, 1997. |
| Fire Fighter Tax Credit | Current Law. | Extend to Foreign Companies on a phased-in basis beginning Tax Year 1998. |
| Kansas Investment Tax Credit | Extend provisions of credit to include foreign companies. | Repeal Effective Tax Year 1998. Credit would be replaced with a Salary Credit of up to .25% of taxable premiums. |

Comparison of Insurance Tax Provisions

Impacts on State General Fund Receipts

Estimate Based on 1995 Receipts

| | Introduced HB 2082 | Phased Implementation of Amended Bill | | | Total Amended HB 2082 |
|---|-----------------------|---------------------------------------|----------------------|----------------------|-----------------------------|
| | | FY 1998 | FY 1999 | FY 2000 | |
| Premium Tax Equalization & Salary Credits | (\$3,700,000) * | 0 | (6,000,000) | (7,400,000) | (\$22,000,000) ** |
| Repeal Privilege Tax | (\$1,000,000) | (1,000,000) | (1,000,000) | (1,000,000) | (\$1,000,000) |
| Remove Tax on Annuities | (\$1,500,000) | (1,500,000) | (1,500,000) | (1,500,000) | (\$1,500,000) |
| Other Amendments | | | | | |
| Foreign Fire Fighters Relief Credit | \$0 | 0 | (350,000) | (700,000) | (\$3,500,000) |
| Repeal Kansas Investment Tax Credit | \$0 | 0 | 2,000,000 | 2,000,000 | \$2,000,000 *** |
| Total Fiscal Impact | (\$6,200,000) | (\$2,500,000) | (\$6,850,000) | (\$8,600,000) | (\$26,000,000) |

* This amount includes a revenue increase of \$8.6 million to increase the domestic Premium Tax Rate to 2.0 percent, the same as foreign companies. This increase on domestic companies is offset by a salary tax credit of \$12.3 million, to allow companies doing business in the state to reduce their rate from 2.0 percent to 1.0 percent. Of this amount, \$8.6 million goes to domestic companies to hold them harmless from the tax rate increase, and \$3.7 million goes to foreign companies with Kansas employees.

** Includes \$18.6 million to reduce the Premium Tax Rate to 1.0 percent, and \$3.4 million for a salary tax credit of 1/4 percent. This credit offsets the tax increase related to the repeal of the Kansas Investment Tax Credit described below. Of the total tax reduction, \$2.0 million goes to Kansas companies and \$20.0 million goes to out of state insurance companies.

*** The repeal of this investment credit is an increase in the taxes of domestic companies that is offset by a salary tax credit shown above.

~~***~~ This amount includes the Premium Tax Rate equalization at 2.0 percent, as included in the Introduced Version of HB 2082. Also includes the salary tax credit proposed as an offset to the repeal of the Kansas Investment Tax Credit, as included in the amended version by the House Insurance Committee.

Comparison of State Premium Tax Provisions

| State | Tax Rate | Comments |
|-------------|---------------------------------|---|
| Alabama | 2.80% Foreign 1.30% Domestic | Foreign and domestic company tax rates are being equalized on a phased basis. By 1999, foreign and domestic companies will be taxed at a rate of 2.3%. |
| Alaska | 2.70% | |
| Arizona | 2.00% | |
| Arkansas | 2.50% | Authorized life and disability insurers may take a credit for non-commissioned salaries and wages of Arkansas employees, not to exceed 80 percent of taxes due on disability insurance and HMO's and 70 percent of taxes due on life insurance premiums. |
| California | 2.35% Include annuity | |
| Colorado | 2.25% | Rate is 1.0 percent for companies maintaining a regional home office in the state. The statute defines what constitutes a regional home office. |
| Connecticut | 1.75% | A tax credit is available for qualifying companies. It is 10.0 percent of the amount invested with respect to any insurance business which is incorporated in the state, occupies a new facility in the state and employs not less than 25 percent of its work force in new jobs. |
| Delaware | 1.75% | |
| DC | 2.25% Include annuity | |
| Florida | 1.75% Include annuity | May take 15.0 percent of the amount paid in salaries to employees located in state as credit against premium tax. When retaliatory taxes are computed, 80 percent of the credit shall not be taken into consideration. |
| Georgia | 2.25% | May reduce tax rate to 1.25 percent if at least 25 percent of total assets, exclusive of direct obligations to the US Government, are invested in Georgia property, as defined in the statute. May reduce rate to 0.5 percent if the 75 percent of total assets are invested in Georgia properties. |

Comparison of State Premium Tax Provisions

| State | Tax Rate | Comments |
|---------------|--|--|
| Hawaii | 2.75% Life 4.27% All others | Tax credit of 1% of premiums if the insurer maintains in state books and records. |
| Idaho | 2.75% | |
| Illinois | 2.00% | Domestic companies that maintain their principle place of business in Illinois and meet other specific requirements do not pay the tax. |
| Indiana | 2.00% | An insurer that proposes a project to create new jobs may apply to a board, created for this purpose, and may receive a credit against premium taxes for up to 10 years. |
| Iowa | 2.00% | |
| Kansas | 2.00% Foreign 1.00% Domestic Include Annuity | |
| Kentucky | 2.00% Include annuity | Kentucky domestic life insurers pay an ad valorem tax on capital and taxable reserves, in lieu of other taxes. |
| Louisiana | 2.25% Life 3.00% Prop.&Cas. | Taxes may be reduced by between 66.7 and 95 percent according to the portion of a company's admitted assets invested in the state. |
| Maine | 1.00% LTC Insurance 2.00% All others Include annuity | |
| Maryland | 2.00% | - Property insurance written prior to 1/1/94 by domestic insurers is not subject to premium tax. - Life companies that have their home offices in Maryland may take a credit against their premium tax for the fees for valuing life insurance policies, not to exceed 15 percent of the total tax due. |
| Massachusetts | 2.00% Life 2.28% All others | |

Comparison of State Premium Tax Provisions

| State | Tax Rate | Comments |
|----------------|---|--|
| Michigan | | All are subject to the Michigan single business tax. |
| Minnesota | 2.00% most insurers | Mutual insurers who do not write life insurance, whose assets did not exceed \$1.6 Billion as of Dec.31, 1989, pay 0.5 percent. Annuities are not taxed. |
| Missouri | 2.00% | |
| Mississippi | 3.00% | Credit available for total admitted assets in qualifying Mississippi investments. Credits carry between 1 percent and 50 percent of taxes, depending on percentage of assets invested in Mississippi. |
| Montana | 2.75% | |
| Nebraska | 0.50% Group accident and health 1.00% All others | |
| Nevada | 3.50% | Companies that own and maintain home offices or regional home offices in Nevada receive a credit of 50 percent of the aggregate premium tax plus the full value of the ad valorem tax on the building where it's housed. These credits may not reduce the premium tax due by more than 80 percent. |
| New Hampshire | 2.00% | |
| New Jersey | 1.05% Group Acc. & Health 2.10% All others | Separate rate of 5.25 percent of previous 3 years' average underwriting profit for ocean marine companies. |
| New Mexico | 3.00% | |
| New York | 1.00% Accident & Health 0.80% Life 1.30% All others | Domestics get a 90% tax credit for retaliatory taxes paid in other jurisdictions. |
| North Carolina | 2.23% Fire & Lightning 1.90% Others | |

Comparison of State Premium Tax Provisions

| State | Tax Rate | Comments |
|----------------|--|--|
| North Dakota | 2.00% Life 1.75% All others | |
| Ohio | 2.50% | |
| Oklahoma | 2.25% | Allows credit of between 15 percent and 50 percent for companies maintaining a regional home office in the state, according to how many Oklahomans are employed. |
| Oregon | 2.25% | Oregon domestic companies organized prior to 1971 are not subject to this tax. |
| Pennsylvania | 2.00% Include annuity | |
| Puerto Rico | 4.00% 1.00% Annuity Consideration | Domestic insurers maintaining a home office in Puerto Rico are exempt from premium taxes. |
| Rhode Island | 2.00% | |
| South Carolina | 2.25% Fire 0.75% Life 1.25% All others | |
| South Dakota | 2.50% 1.25% Annuity Consideration | If a company's principal office or regional home office is located in South Dakota over half of the year, it may deduct 50 percent of the premium tax plus an amount equal to the ad valorem taxes on property used as such office, up to another 20 percent of the tax due. |
| Tennessee | 1.75% Domestic Life 1.95% Foreign Life 2.50% All other | Foreign life company rate will decline .5 percent per year until 2000, when the rate will be equal for foreign and domestic companies: 1.75 percent. |
| Texas | 2.00% Health, HMO & Accident 3.50% All others | May be eligible for credits with Texas qualified investments. |
| Utah | 2.25% | |

Comparison of State Premium Tax Provisions

| State | Tax Rate | Comments |
|----------------|--|---|
| Vermont | 2.00% | |
| Virgin Islands | 5.00% | |
| Virginia | 2.25% | |
| Washington | 2.00% | |
| West Virginia | 3.00% 1.00% Annuity Consideration | |
| Wisconsin | 2.38% Foreign P&C 0.50% Foreign Marine 2.00% All others but Domestic Life | Domestic life insurers with less than \$750 million of insurance in force pay an annual license fee of 3.5 percent of gross income from all sources, except life insurance premiums and interest needed to maintain reserves, but not more than the foreign rate. Domestic companies with more than \$750 million in force pay the same as the foreign companies. |
| Wyoming | 1.00% 0.75% Annuity Consideration | |

KANSAS DOMESTIC PREFERENCE LEGISLATIVE GROUP

Testimony of John D. Ensley

SENATE COMMITTEE ON ASSESSMENT AND TAXATION

House Bill 2082, as amended

March 11, 1997

I am here today to speak in favor of House Bill 2082, as amended. The Kansas Domestic Preference Legislative Group is comprised of eight major out-of-state insurance companies and their twenty affiliates. I present my testimony today on behalf of all these companies.

The most significant purpose of H.B. 2082 is to deal with the domestic preferences in Kansas insurance taxes in light of the U.S. Supreme Court decision in Metropolitan Life Ins. Co. v. Ward, 451 U.S. 648 (1985). The Ward case held that discrimination against out-of-state (foreign) insurance companies violates the Equal Protection Clause of the United States Constitution and that requiring investments in the taxing state is likewise in violation when it furthers discrimination against foreign insurance companies and in favor of the taxing state's domestic insurance companies.

In 1981, 26 states discriminated facially against foreign insurers in their taxation of insurance companies. Today, in the wake of the Ward case, 19 of those states have acted legislatively to eliminate their domestic company tax preferences, 2 states have taken half measures and are still in litigation, and Kansas remains one among just 5 states that still discriminate facially against foreign insurers.

We applaud the Insurance Commissioner for her recognition of the constitutional problem posed by the premium tax rate differential in Kansas. That differential, 2% on foreign insurers and 1% on domestic insurers, is strikingly similar to the Alabama

*Senate Assessment & Taxation
3-11-97
Attachment 4*

rate differentials in the Ward case. The Commissioner's recognition of this problem is a major step in the direction of a solution, and H.B. 2082 as originally introduced addressed the problem posed by the rate differential.

However, Kansas has two other domestic company tax preferences that must be resolved if the type of residence-based discrimination addressed by the Supreme Court is to be resolved in Kansas:

- A. The domestic company credit for Kansas investments (K.S.A. 40-252c).
- B. The domestic company credits for fire marshal fees under K.S.A. 75-1508 and for a limited amount of firefighters relief taxes under K.S.A. 40-1703 (K.S.A. 40-252(A)).

H.B. 2082 as originally introduced addressed the domestic company credit for Kansas investments by simply extending it to foreign insurance companies. This might appear to be sufficient, but fails to recognize that no foreign insurance company would ever be likely to invest 30% of its admitted assets in Kansas. Thus, such an investment provision applicable to both foreign and domestic companies would, in practice, continue to discriminate against foreign companies under current law. As amended, H.B. 2082 replaces the credit for Kansas investments with a credit that should encourage foreign companies to expand their presence in Kansas and their contributions to the Kansas economy.

H.B. 2082 as originally introduced did not address the fire credits available only to domestic fire insurance writers. These credits should be extended to foreign fire insurance writers if the residence-based discrimination rejected in the Ward case is to be fully addressed in Kansas.

To resolve all three aspects of domestic tax preference under current Kansas law, the House amendments to H.B. 2082 accomplish the following:

A. Differential premium tax rates (K.S.A. 40-252). Domestic companies are now taxed at 1% of premiums and foreign companies are taxed at 2% of premiums.

SOLUTION:

(1) **H.B. 2082, as amended, equalizes premium tax rates at 1% for all companies, foreign and domestic, with a 10-year phase-down of the premium tax rate on foreign companies at 0.1% per year.**

(2) **H.B. 2082, as originally introduced and as amended, repeals the privilege tax on domestic companies (K.S.A. 40-2801, et seq.) so that no domestic company's direct tax will exceed any foreign company's direct tax, and amends the "in lieu" provision (K.S.A. 40-252b) so that the premium tax truly replaces the privilege (income) tax without subjecting domestic insurers to new taxes on their intangible property.**

B. Domestic company credit for Kansas investments (K.S.A. 40-252c). Domestic companies investing 30% of their admitted assets in Kansas investments are allowed a credit for 25% of their direct premium tax so that qualifying domestic companies pay an effective tax rate of 0.75% instead of 1%.

SOLUTION:

(1) **H.B. 2082, as amended, repeals the domestic company investment credit. To the extent H.B. 2082 as originally introduced would have extended this credit to foreign companies it would have created a new domestic preference. Foreign companies cannot invest 30% of their admitted assets in Kansas and may be prohibited from doing so by their own state regulators.**

(2) **H.B. 2082, as amended, replaces the investment credit with a limited salary credit available to foreign and domestic companies without recapture from foreign companies through the retaliatory tax. The salary credit**

is limited to 0.25% of taxable premiums (25% of the direct tax at 1%) rather than at 50% as in H.B. 2082 as originally introduced (1% of taxable premiums). This assures that most domestic companies that qualified for the investment credit under current law and attained an effective direct tax rate of 0.75% will continue to do so.

(3) H.B. 2082, as amended, adds a small company tax credit to assure that all domestic companies that attained the 0.75% effective tax rate under current law will continue to do so in the future. To further this end, the technical amendments would set small company premiums \$15 million world wide and the maximum small company credit at \$30,000. Also, to avoid creating another domestic preference, the small company credit is extended to small foreign companies without recapture through the retaliatory tax.

C. Credits for fire marshal fees under K.S.A. 75-1508 and for limited amounts of firefighters relief tax under K.S.A. 40-1703. These credits are allowed to domestic fire writers (K.S.A. 40-252(A)), but not to foreign fire writers (K.S.A. 40-252(D)(3)).

SOLUTION:

Since a repeal of these credits would increase taxes on some domestic companies, H.B. 2082, as amended, extends the fire credits to foreign fire writers. To minimize the revenue impact of this change, the fire credits for foreign fire writers are phased in over 10 years at 10% each year.

If Kansas insurance taxes are reformed along the lines of H.B. 2082, as amended, no domestic insurance company should incur any tax increase, and the companies in our group will cease protesting

their Kansas taxes and will withdraw all their tax claims and protests under current law.

We believe that H.B. 2082, as amended, will have the following positive effects:

1. No tax increase should be experienced by any Kansas domestic insurance company.
2. Kansas domestic insurance companies doing business in other states will, over time, pay far less in retaliatory taxes to most other states.
3. Kansas will become a far more attractive state in which to maintain insurance operations because of:
 - A. the elimination of the discriminatory features of the Kansas premium tax, and
 - B. the provision of a salary credit which will not be recaptured from qualifying foreign insurance companies through the retaliatory tax.
4. Kansas will also become a far more attractive state in which to do business because of the repeal of the tax on annuity premiums.
5. Kansas insurance taxes will be simplified.
6. Kansas will avoid constitutional problems with its premium tax in the wake of Metropolitan Life v. Ward and a sizable potential tax refund liability to foreign insurance companies.
7. Kansas will avoid constitutional problems with the investment tax credit under Bethlehem Motors Corp. v. Flynt, 256 U.S. 421 (1921), cited with approval in Metropolitan Life v. Ward.

Finally, we have reviewed and agree with the technical amendments to H.B. 2082 which have been proposed by Mr. David Hanson on behalf of the Kansas Association of Property and Casualty Insurance Companies and the Kansas Life Insurance Association.

We urge your favorable action on H.B. 2082, as amended.

KANSAS DOMESTIC PREFERENCE LEGISLATIVE GROUP

Guardian (2)

Guardian Life Insurance Company of America
Guardian Insurance & Annuity Co.

Massachusetts Mutual (3)

Massachusetts Mutual Life Insurance Co.
Connecticut Mutual Life Insurance Co.
CM Life Insurance Co.

Metropolitan Life (8)

Metropolitan Life Insurance Co.
Metropolitan Insurance & Annuity Co.
Metropolitan Tower Life Insurance Co.
Metropolitan Property & Casualty Insurance Co.
Metropolitan Casualty Insurance Co.
Metropolitan General Insurance Co.
Metropolitan Group Property & Casualty Insurance Co.
New England Mutual

Mutual of New York (2)

MONY
MONY Life Insurance Company of America

New York Life (3)

New York Life Insurance Co.
New York Life Insurance & Annuity Co.
New York Life Insurance & Health Insurance Co.

Northwestern (1)

Northwestern Mutual Life Insurance Co.

Prudential (3)

Prudential Insurance Company of America
Pruco Life Insurance Co.
Prudential Property & Casualty Insurance Co. (PRUPAC)

Travelers (6)

Aetna Casualty & Surety Co.
Aetna Casualty & Surety Co. of Illinois
Standard Fire & Insurance Co.
Automobile Insurance Co. of Hartford, Connecticut
Farmington Casualty Co.
Aetna Commercial Insurance Co.

David A. Hanson
Kansas Insurance Associations
Topeka, Kansas
(913) 232-0545

TESTIMONY ON HB2082
March 11, 1997

TO: Senate Assessment and Taxation Committee
State Capitol
Topeka, Kansas

RE: House Bill No. 2082

Madam Chairperson and Members of the Committee:

Thank you for this opportunity to appear before the Committee. I am David Hanson and am appearing on behalf of Kansas Association of Property and Casualty Insurance Companies and the Kansas Life Insurance Association, whose members are domestic insurance companies in Kansas.

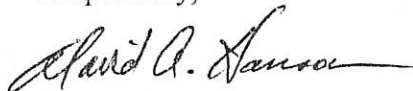
We appreciate the hard work of the Insurance Commissioner and her staff in trying to resolve the insurance tax issues addressed in House Bill 2082, including equalization of premium tax rates in Kansas without increasing the taxes on our Kansas domestic companies. We also appreciate the efforts of insurance industry representatives, groups and trade associations in also addressing these issues without increasing taxes on Kansas companies.

We support the provisions of House Bill 2082 and believe these provisions will benefit Kansas by accomplishing a gradual phase-in of the tax rate equalization, while encouraging insurance growth through tax credits for employee salaries in Kansas. We also believe our companies may be able to better compete in the marketplace with the proposed repeal of the annuity premium tax, which very few states impose, and repeal of the privilege tax, which is imposed on Kansas domestic companies only. We would also note that by equalizing the premium tax rate at 1% for all companies, our domestic companies that do business in other states may be able to reduce the retaliatory taxes they have to pay in those other states.

We would like you to consider the proposed amendments that have been submitted for your review. These amendments are the result of our collective efforts and have been worked out with the various industry representatives and groups. We would join the other proponents in supporting these amendments and encouraging your favorable consideration of House Bill 2082.

Again, we appreciate every effort to resolve these issues without increasing taxes on Kansas companies. Thank you for your consideration.

Respectfully,



DAVID A. HANSON

HOUSE BILL No. 2082

By Committee on Insurance

1-24

Senate Assessment + Taxation
3-11-97
Attachment to

10 AN ACT concerning insurance; insurance department service regulation
11 fund; disposition of fees and certain taxes; assessments for mainte-
12 nance and expenses of department; exemptions; penalties and interest;
13 transfers from state general fund, temporary insufficiencies; schedule
14 of fees and taxes for insurance companies and fraternal benefit soci-
15 eties; credit; deductions; returns; time for payment; repealing privilege
16 tax; amending K.S.A. 40-112, 40-252, ~~40-252a~~ 40-252b and 40-253
17 and K.S.A. 1996 Supp. 40-246 and repealing the existing sections; also
18 repealing K.S.A. 40-252c, 40-2801, 40-2802, 40-2805, 40-2806, 40-
19 2807, 40-2808, 40-2809, 40-2810, 40-2811 and 40-2812 and K.S.A.
20 1996 Supp. 40-2803 and, 40-2804 and 40-2813.

21

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

23 Section 1. K.S.A. 40-112 is hereby amended to read as follows: 40-
24 112. (a) For the purpose of maintaining the insurance department and
25 the payment of expenses incident thereto, there is hereby established the
26 insurance department service regulation fund in the state treasury which
27 shall be administered by the commissioner of insurance. All expenditures
28 from the insurance department service regulation fund shall be made in
29 accordance with appropriation acts upon warrants of the director of ac-
30 counts and reports issued pursuant to vouchers approved by the com-
31 missioner of insurance or by a person or persons designated by the com-
32 missioner.

33 (b) On and after the effective date of this act, all fees received by the
34 commissioner of insurance pursuant to any statute and the portion of taxes
35 received pursuant to K.S.A. 40-252 and amendments thereto, which is
36 certified by the commissioner of insurance to be necessary for the pur-
37 poses of the insurance department service regulation fund and which,
38 together with the total amount of fees deposited to the credit of the
39 insurance department service regulation fund pursuant to this subsection,
40 does not total more than \$4,800,000 for any fiscal year, shall be remitted
41 to the state treasurer for deposit in the state treasury and credited to the
42 insurance department service regulation fund. The total amount credited
43 to the insurance department service regulation fund pursuant to this sub-

1 section for any fiscal year shall not exceed \$4,800,000.

2 (c) Except as otherwise provided by this section, the commissioner
 3 of insurance shall make an annual assessment for the fiscal year ending
 4 June 30, 1993, and for each fiscal year thereafter, on each group of affil-
 5 iated insurers whose certificates of authority to do business in this state
 6 are in good standing at the time of the assessment. The total amount of
 7 all such assessments for a fiscal year shall be equal to the amount sufficient
 8 which, when combined with the total amount to be credited to the in-
 9 surance department service regulation fund pursuant to subsection (b) is
 10 equal to the amount approved by the legislature to fund the insurance
 11 company regulation program. With respect to each group of affiliated
 12 insurers, such assessment shall be in proportion to the amount of total
 13 assets of the group of affiliated insurers as reported to the commissioner
 14 of insurance pursuant to K.S.A. 40-225 and amendments thereto for the
 15 immediately preceding calendar year, shall not be less than \$500 and shall
 16 not be more than the amount equal to .0000015 of the amount of total
 17 assets of the group of affiliated insurers or \$25,000, whichever is less. The
 18 total assessment for any fiscal year after the fiscal year ending June 30,
 19 1993, shall not increase by any amount greater than 15% of the total
 20 budget approved by the legislature to fund the insurance company reg-
 21 ulation program for the fiscal year immediately preceding the fiscal year
 22 for which the assessment is made. In the event the total amount of the
 23 assessment would be less than the aggregate amount resulting by assess-
 24 ing the \$500 minimum on each insurer, the commissioner may establish
 25 a lower minimum to be assessed equally on each insurer.

26 (d) *If, by the laws of any state other than Kansas or by the retaliatory*
 27 *laws of any state other than Kansas, any insurer domiciled in Kansas shall*
 28 *be required to pay any fee or tax in such other state of licensure, and the*
 29 *fee or tax is due and payable either because the insurance department*
 30 *service regulation fee imposed by this section on insurers licensed in Kan-*
 31 *sas and organized or domiciled in such other state is greater than the*
 32 *comparable fee or tax assessed in such other state, or such other state has*
 33 ~~*not comparable fee or tax but requires payment on a retaliatory basis,*~~
 34 *then to the extent such fee or tax amounts are legally due and are paid in*
 35 *such other state, any insurer domiciled in Kansas may claim a dollar-for-*
 36 *dollar credit for such fees paid against its annual premium taxes due the*
 37 *state of Kansas under K.S.A. 40-252 and amendments thereto, but such*
 38 *credit shall only be calculated on the amount which would not have been*
 39 *required to be paid in such other state of licensure in the absence of the*
 40 *existence of the insurance department service regulation fee imposed by*
 41 *this section, and in no event shall the credit permitted by this section*
 42 *exceed 90% of the insurer's annual premium tax due the state of Kansas.*
 43 *The insurance commissioner shall prescribe the forms for reporting such*

no

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1 *credits.*

2 ~~(d)~~ (e) Assessments payable under this section shall be past due if not
3 paid to the insurance department within 45 days of the billing date of
4 such assessment. A penalty equal to 10% of the amount assessed shall be
5 imposed upon any past due payment and the total amount of the assess-
6 ment and penalty shall bear interest at the rate of 1.5% per month or any
7 portion thereof.

8 ~~(e)~~ (f) On or after July 1, 1992, when there exists in the insurance
9 department service regulation fund a deficiency which would render such
10 fund temporarily insufficient during any fiscal year to meet the insurance
11 department's funding requirements, the commissioner of insurance shall
12 certify the amount of the insufficiency. Upon receipt of any such certi-
13 fication, the director of accounts and reports shall transfer an amount of
14 moneys equal to the amount so certified from the state general fund to
15 the insurance department service regulation fund. On June 30 of any fiscal
16 year during which an amount or amounts are certified and transferred
17 under this subsection, the director of accounts and reports shall provide
18 for the repayment of the amounts so transferred and shall transfer the
19 amount equal to the total of all such amounts transferred during the fiscal
20 year from the insurance department service regulation fund to the state
21 general fund.

22 ~~(f)~~ (g) Any unexpended balance in the insurance department service
23 regulation fund at the close of a fiscal year shall remain credited to the
24 insurance department service regulation fund for use in the succeeding
25 fiscal year and shall be used to reduce future assessments or to accom-
26 modate cash flow demands on the fund.

27 ~~(g)~~ (h) The commissioner of insurance shall exempt the assessment
28 of any insurer which, as of December 31 of the calendar year preceding
29 the assessment, has a surplus of less than two times the minimum amount
30 of surplus required for a certificate of authority on and after May 1, 1994,
31 and which is subject to the premium tax liability imposed on insurers
32 organized under the laws of this state. The commissioner of insurance
33 may also exempt or defer, in whole or in part, the assessment of any other
34 insurer if, in the opinion of the commissioner of insurance, immediate
35 payment of the total assessment would be detrimental to the solvency of
36 the insurer.

37 ~~(h)~~ (i) As used in this section:

38 (1) "Affiliates" or "affiliated" has the meaning ascribed by K.S.A. 40-
39 3302 and amendments thereto;

40 (2) "group" or "group of affiliated insurers" means the affiliated in-
41 surers of a group and also includes an individual, unaffiliated insurer; and

42 (3) "insurer" means any insurance company, as defined by K.S.A. 40-
43 201 and amendments thereto, any fraternal benefit society, as defined by

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1 K.S.A. 40-738 and amendments thereto, any reciprocal or interinsurance
 2 exchange under K.S.A. 40-1601 through 40-1614 and amendments
 3 thereto, any mutual insurance company organized to provide health care
 4 provider liability insurance under K.S.A. 40-12a01 through 40-12a09 and
 5 amendments thereto, any mutual nonprofit hospital service corporation
 6 under K.S.A. 40-1801 through 40-1816 and amendments thereto, any
 7 nonprofit medical service corporation under K.S.A. 40-1901 through 40-
 8 1915 and amendments thereto, any nonprofit dental service corporation
 9 under K.S.A. 40-19a01 through 40-19a14 and amendments thereto, any
 10 nonprofit optometric service corporation under K.S.A. 40-19b01 through
 11 40-19b14 and amendments thereto, any nonprofit medical and hospital
 12 service corporation under K.S.A. 40-19c01 through 40-19c11 and amend-
 13 ments thereto, any health maintenance organization, as defined by K.S.A.
 14 40-3202 and amendments thereto, or any captive insurance company, as
 15 defined by K.S.A. 40-4301 and amendments thereto, which is authorized
 16 to do business in Kansas.

17 Sec. 2. K.S.A. 1996 Supp. 40-246 is hereby amended to read as fol-
 18 lows: 40-246. The commissioner of insurance is prohibited from issuing
 19 any license or authority to write policies of insurance, or to solicit and
 20 obtain such policies, to any person, agent or corporation, unless such
 21 person, agent or corporation is a legal resident of this state at the time
 22 such license or authority is issued. Under such regulations and restrictions
 23 deemed necessary by the commissioner of insurance, licenses may be
 24 issued to nonresident agents, who are licensed by the state in which they
 25 reside, upon the payment of an annual fee of \$10. ~~Whenever any other~~
 26 ~~state imposes on Kansas companies or agents additional or greater fees,~~
 27 ~~obligations or prohibitions, the same shall be imposed on similar com-~~
 28 ~~panies and agents of such other state. Whenever any person, agent or~~
 29 ~~corporation so authorized to issue policies of insurance and solicit and~~
 30 ~~transact insurance business shall remove from this state the authority~~
 31 ~~issued to such person, agent or corporation shall be revoked, and the~~
 32 ~~same shall be null and void \$25.~~

33 Sec. 3. K.S.A. 40-252 is hereby amended to read as follows: 40-252.
 34 Every insurance company or fraternal benefit society organized under the
 35 laws of this state or doing business in this state shall pay to the commis-
 36 sioner of insurance fees and taxes specified in the following schedule:

A
*Insurance companies organized under
 the laws of this state:*

40 1. Capital stock insurance companies and mutual legal reserve life insurance companies:
 41 Filing application for sale of stock or certificates of indolentness \$25
 42 Admission fees:
 43 Examination of charter and other documents 500

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6-4

| | | |
|----|---|------|
| 1 | Filing annual statement | 100 |
| 2 | Certificate of authority | 10 |
| 3 | Annual fees: | |
| 4 | Filing annual statement | 100 |
| 5 | Continuation of certificate of authority | 10 |
| 6 | 2. Mutual life, accident and health associations: | |
| 7 | Admission fees: | |
| 8 | Examination of charter and other documents | 4500 |
| 9 | Filing annual statement | 100 |
| 10 | Certificate of authority | 10 |
| 11 | Annual fees: | |
| 12 | Filing annual statement | 100 |
| 13 | Continuation of certificate of authority | 10 |
| 14 | 3. Mutual fire, hail, casualty and multiple line insurers | |
| 15 | and reciprocal or interinsurance exchanges: | |
| 16 | Admission fees: | |
| 17 | Examination of charter and other documents | 4500 |
| 18 | Filing annual statement | 100 |
| 19 | Certificate of authority | 10 |
| 20 | Annual fees: | |
| 21 | Filing annual statement | 100 |
| 22 | Continuation of certificate of authority | 10 |

23 In addition to the above fees and as a condition precedent to the con-
 24 tinuation of the certificate of authority provided in this code, all such
 25 companies shall pay a fee of \$2 for each agent certified by the company
 26 and shall also pay a tax annually upon all premiums received on risk lo-
 27 cated in this state at the rate of 1% 2% per annum less (1) for tax years
 28 prior to 1984; any taxes paid on business in this state pursuant to the
 29 provisions of K.S.A. 40-1701 to 40-1707, inclusive; and 75-1508 and
 30 amendments thereto and (2) for tax years 1984 and thereafter, any taxes
 31 paid on business in this state pursuant to the provisions of K.S.A. 75-1508
 32 and amendments thereto and the amount of the firefighters relief tax
 33 credit determined by the commissioner of insurance. The amount of the
 34 firefighters relief tax credit for a company for the current tax year shall
 35 be determined by the commissioner of insurance by dividing (A) the total
 36 amount of credits against the 1% 2% tax imposed by this section for taxes
 37 paid by all such companies on business in this state under K.S.A. 40-1701
 38 to 40-1707, inclusive; and amendments thereto for tax year 1983; by (B)
 39 the total amount of taxes paid by all such companies on business in this
 40 state under K.S.A. 40-1703 and amendments thereto for the tax year
 41 immediately preceding the current tax year; and by multiplying the result
 42 so obtained by (C) the amount of taxes paid by the company on business
 43 in this state under K.S.A. 40-1703 and amendments thereto for the cur-

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1 rent tax year.

2 Funds accepted prior to January 1, 1907, by a life insurer under an
3 agreement which provides for an accumulation of funds to purchase tax-
4 able annuities at later dates shall be taxable premiums either when re-
5 ceived or when actually applied to the purchase of annuities; at the option
6 of the insurer. If the funds are declared upon receipt, any interest or
7 other gain that accrues thereon shall not be taxable as premium income;
8 but if the funds are declared when applied to the purchase of annuities,
9 the premium tax shall be paid on the entire amount so applied. Any such
10 funds declared upon receipt which are thereafter withdrawn before ap-
11 plication to the purchase of annuities may be deducted from tax base as
12 "premiums" returned on account of cancellations.

13 In the computation of the gross premiums all such companies shall be
14 entitled to deduct any premiums returned on account of cancellations, all
15 premiums received for reinsurance from any other company authorized
16 to do business in this state, dividends returned to policyholders and pre-
17 miums received in connection with the funding of a pension, deferred
18 compensation, annuity or profit-sharing plan qualified or exempt under
19 sections 401, 402, 404, 408, 457 or 501 of the United States internal
20 revenue code of 1986. Should any such company remove or maintain, or
21 both, either their home, principal or executive office or offices from this
22 state, every such company shall be subject to the provisions of subsection
23 D of this section.

24 B

25 *Fraternal benefit societies organized*
26 *under the laws of this state:*

27 Admission fees:

| | |
|---|-------|
| 28 Examination of charter and other documents | \$500 |
| 29 Filing annual statement | 100 |
| 30 Certificate of authority | 10 |

31 Annual fees:

| | |
|---|-----|
| 32 Filing annual statement | 100 |
| 33 Continuation of certificate of authority | 10 |

34 C

35 *Mutual nonprofit hospital service corporations; nonprofit medical service corporations; non-*
36 *profit dental service corporations; nonprofit optometric service corporations and non-*
37 *profit pharmacy service corporations organized under the laws of this state:*

38 1. Mutual nonprofit hospital service corporations:

39 Admission fees:

| | |
|---|-------|
| 40 Examination of charter and other documents | \$500 |
| 41 Filing annual statement | 100 |
| 42 Certificate of authority | 10 |

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| | | |
|----|--|-------|
| 1 | Annual fees: | |
| 2 | Filing annual statement | 100 |
| 3 | Continuation of certificate of authority | 10 |
| 4 | 2. Nonprofit medical service corporations: | |
| 5 | Admission fees: | |
| 6 | Examination of charter and other documents | \$500 |
| 7 | Filing annual statement | 100 |
| 8 | Certificate of authority | 10 |
| 9 | Annual fees: | |
| 10 | Filing annual statement | 100 |
| 11 | Continuation of certificate of authority | 10 |
| 12 | 3. Nonprofit dental service corporations: | |
| 13 | Admission fees: | |
| 14 | Examination of charter and other documents | \$500 |
| 15 | Filing annual statement | 100 |
| 16 | Certificate of authority | 10 |
| 17 | Annual fees: | |
| 18 | Filing annual statement | 100 |
| 19 | Continuation of certificate of authority | 10 |
| 20 | 4. Nonprofit optometric service corporations: | |
| 21 | Admission fees: | |
| 22 | Examination of charter and other documents | \$500 |
| 23 | Filing annual statement | 100 |
| 24 | Certificate of authority | 10 |
| 25 | Annual fees: | |
| 26 | Filing annual statement | 100 |
| 27 | Continuation of certificate of authority | 10 |
| 28 | 5. Nonprofit pharmacy service corporations: | |
| 29 | Admission fees: | |
| 30 | Examination of charter and other documents | \$500 |
| 31 | Filing annual statement | 100 |
| 32 | Certificate of authority | 10 |
| 33 | Annual fees: | |
| 34 | Filing annual statement | 100 |
| 35 | Continuation of certificate of authority | 10 |
| 36 | In addition to the above fees and as a condition precedent to the con- | |
| 37 | tinuation of the certificate of authority, provided in this code, every cor- | |
| 38 | poration or association shall pay annually to the commissioner of insur- | |
| 39 | ance a privilege fee in an amount equal to 1% 2% per annum of the total | |
| 40 | of all premiums, subscription charges, or any other term which may be | |
| 41 | used to describe the charges made by such corporation or association to | |
| 42 | subscribers for hospital, medical or other health services or indemnity | |
| 43 | received during the preceding year. In such computations all such cor- | |

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1 porations or associations shall be entitled to deduct any premiums or
2 subscription charges returned on account of cancellations and dividends
3 returned to members or subscribers.

4 D

5 Insurance companies organized under the
6 laws of any other state, territory or country:

7 1. Capital stock insurance companies and mutual legal reserve life insurance companies:

| | |
|--|------|
| 8 Filing application for sale of stock or certificates of indebtedness | \$25 |
| 9 Admission fees: | |
| 10 Examination of charter and other documents | 500 |
| 11 Filing annual statement | 100 |
| 12 Certificate of authority | 10 |
| 13 Annual fees: | |
| 14 Filing annual statement | 100 |
| 15 Continuation of certificate of authority | 10 |

16 In addition to the above fees all such companies shall pay \$5 for each
17 agent certified by the company, except as otherwise provided by law.

18 As a condition precedent to the continuation of the certificate of au-
19 thority, provided in this code, every company organized under the laws
20 of any other state of the United States or of any foreign country shall pay
21 a tax upon all premiums received during the preceding year at the rate
22 of 2% per annum.

23 Funds accepted prior to January 1, 1907, by a life insurer under an
24 agreement which provides for an accumulation of funds to purchase tax-
25 able annuities at later dates shall be taxable premiums either when re-
26 ceived or when actually applied to the purchase of annuities; at the option
27 of the insurer. If the funds are declared upon receipt, any interest or
28 other gain that accrues thereon shall not be taxable as premium income,
29 but if the funds are declared when applied to the purchase of annuities,
30 the premium tax shall be paid on the entire amount so applied. Any such
31 funds declared upon receipt which are thereafter withdrawn before ap-
32 plication to the purchase of annuities may be deducted from tax base as
33 "premiums" returned on account of cancellations.

34 In the computation of the gross premiums all such companies shall be
35 entitled to deduct any premiums returned on account of cancellations,
36 dividends returned to policyholders and all premiums received for rein-
37 surance from any other company authorized to do business in this state
38 and premiums received in connection with the funding of a pension,
39 deferred compensation, annuity or profit-sharing plan qualified or exempt
40 under sections 401, 403, 404, 408, 457 or 501 of the United States internal
41 revenue code of 1986.

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1 2. Mutual life, accident and health associations:

2 Admission fees:

| | | |
|---|--|-------|
| 3 | Examination of charter and other documents | \$500 |
| 4 | Filing annual statement | 100 |
| 5 | Certificate of authority | 10 |

6 Annual fees:

| | | |
|---|--|-----|
| 7 | Filing annual statement | 100 |
| 8 | Continuation of certificate of authority | 10 |

9 In addition to the above fees, every such company organized under the
10 laws of any other state of the United States shall pay \$5 for each agent
11 certified by the company, and shall pay a tax annually upon all premiums
12 received at the rate of 2% per annum.

13 Funds accepted prior to January 1, 1907, by a life insurer under an
14 agreement which provides for an accumulation of funds to purchase tax-
15 able annuities at later dates shall be taxable premiums either when re-
16 ceived or when actually applied to the purchase of annuities, at the option
17 of the insurer. If the funds are declared upon receipt, any interest or
18 other gain that accrues thereon shall not be taxable as premium income,
19 but if the funds are declared when applied to the purchase of annuities,
20 the premium tax shall be paid on the entire amount so applied. Any such
21 funds declared upon receipt which are thereafter withdrawn before ap-
22 plication to the purchase of annuities may be deducted from tax base as
23 "premiums" returned on account of cancellations.

24 In the computation of the gross premiums all such companies shall be
25 entitled to deduct any premiums returned on account of cancellations,
26 dividends returned to policyholders and all premiums received for rein-
27 surance from any other company authorized to do business in this state
28 and premiums received in connection with the funding of a pension,
29 deferred compensation, annuity or profit-sharing plan qualified or exempt
30 under sections 401, 403, 404, 408, 457 or 501 of the United States internal
31 revenue code of 1986.

32 3. Mutual fire, casualty and multiple line insurers and reciprocal or interinsurance ex-
33 changes:

34 Admission fees:

| | | |
|----|--|-------|
| 35 | Examination of charter and other documents and issuance of | |
| 36 | certificate of authority | \$500 |
| 37 | Filing annual statement | 100 |
| 38 | Certificate of authority | 10 |

39 Annual fees:

| | | |
|----|--|-----|
| 40 | Filing annual statement | 100 |
| 41 | Continuation of certificate of authority | 10 |

42 In addition to the above fees, every such company or association or-
43 ganized under the laws of any other state of the United States shall pay

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1 a fee of \$5 for each agent certified by the company and shall also pay a
 2 tax annually upon all premiums received at the rate of 2% per annum. In
 3 the computation of the gross premiums all such companies shall be en-
 4 titled to deduct any premiums returned on account of cancellations, all
 5 premiums received for reinsurance from any other company authorized
 6 to do business in this state, and dividends returned to policyholders.

7 E

8 Fraternal benefit societies organized under the laws
 9 of any other state, territory or country:

10 Admission fees:

| | |
|---|-------|
| 11 Examination of charter and other documents | \$500 |
| 12 Filing annual statement | 100 |
| 13 Certificate of authority | 10 |

14 Annual fees:

| | |
|---|-----|
| 15 Filing annual statement | 100 |
| 16 Continuation of certificate of authority | 10 |

17 F

18 Mutual nonprofit hospital service corporations, nonprofit medical service corporations, non-
 19 profit dental service corporations, nonprofit optometric service corporations and non-
 20 profit pharmacy service corporations organized under the laws of any other state, ter-
 21 ritory or country:

22 1. Mutual nonprofit hospital service corporations:

23 Admission fees:

| | |
|---|-------|
| 24 Examination of charter and other documents | \$500 |
| 25 Filing annual statement | 100 |
| 26 Certificate of authority | 10 |

27 Annual fees:

| | |
|---|-----|
| 28 Filing annual statement | 100 |
| 29 Continuation of certificate of authority | 10 |

30 2. Nonprofit medical service corporations, nonprofit dental service cor-
 31 porations, nonprofit optometric service corporations and nonprofit
 32 pharmacy service corporations:

33 Admission fees:

| | |
|---|-------|
| 34 Examination of charter and other documents | \$500 |
| 35 Filing annual statement | 100 |
| 36 Certificate of authority | 10 |

37 Annual fees:

| | |
|---|-----|
| 38 Filing annual statement | 100 |
| 39 Continuation of certificate of authority | 10 |

40 In addition to the above fees and as a condition precedent to the con-
 41 tinuation of the certificate of authority, provided in this code, every cor-
 42 poration or association shall pay annually to the commissioner of insur-
 43 ance a privilege fee in an amount equal to 2% per annum of the total of

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1 all premiums, subscription charges, or any other term which may be used
 2 to describe the charges made by such corporation or association to sub-
 3 scribers in this state for hospital, medical or other health services or in-
 4 demnity received during the preceding year. In such computations all
 5 such corporations or associations shall be entitled to deduct any premiums
 6 or subscription charges returned on account of cancellations and divi-
 7 dends returned to members or subscribers.

8 G

9 *All insurers shall pay a fee of \$10 for*
 10 *issuance of an amended certificate of authority.*

11 For the purpose of insuring the collection of the tax upon premiums,
 12 assessments and charges as set out in subsection A, G, D or F, every
 13 insurance company, corporation or association shall at the time it files its
 14 annual statement, as required by the provisions of K.S.A. 40-225, and
 15 amendments thereto, make a return, verified by affidavits of its president
 16 and secretary or other chief officers, to the commissioner of insurance,
 17 stating the amount of all premiums, assessments and charges received by
 18 the companies or corporations in this state, whether in cash or notes,
 19 during the year ending on the December 31 next preceding.

20 Commencing in 1985 and annually thereafter the estimated taxes shall
 21 be paid as follows: On or before June 15 and December 15 of such year
 22 an amount equal to 50% of the full amount of the prior year's taxes as
 23 reported by the company shall be remitted to the commissioner of in-
 24 surance. As used in this paragraph, "prior year's taxes" includes (1) taxes
 25 assessed pursuant to this section for the prior calendar year, (2) fees and
 26 taxes assessed pursuant to K.S.A. 40-253, and amendments thereto, for
 27 the prior calendar year, and (3) taxes paid for maintenance of the de-
 28 partment of the state fire marshal pursuant to K.S.A. 75-1508, and
 29 amendments thereto, for the prior calendar year.

30 Upon the receipt of such returns the commissioner of insurance shall
 31 verify the same and assess the taxes upon such companies, corporations
 32 or associations on the basis and at the rate provided herein and the bal-
 33 ance of such taxes shall thereupon become due and payable giving credit
 34 for amounts paid pursuant to the preceding paragraph, or the commis-
 35 sioner shall make a refund if the taxes paid in the prior June and Decem-
 36 ber are in excess of the taxes assessed.

37 H

38 The fee prescribed for the examination of charters and other docu-
 39 ments shall apply to each company's initial application for admission and
 40 shall not be refundable for any reason.

41 I

42 (a) Each company required to pay a tax on premiums under subsec-
 43 tions A, G, D and F shall be allowed, as a credit against that tax, an

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1 amount equal to 25% of the salaries paid to Kansas employees. Before
2 taking into account any other credit or offset against the premium tax
3 imposed under this section, the credit allowed under this subsection may
4 not reduce such premium tax by more than $\frac{1}{2}$ thereof.

5 (b) As used in this section:

6 (1) "Employees" means persons who reside in Kansas and who are
7 common law employees of an insurance company or its affiliate. "Em-
8 ployees" does not include independent contractors or any person to this
9 extent such employee's compensation is based on commissions.

10 (2) "Insurance company" or "company" means any entity subject to
11 a tax on premiums under K.S.A. 40-252.

12 (3) "Salaries" means the gross compensation paid to Kansas employ-
13 ees, as reported on federal or state income tax returns for the calendar
14 year for which a tax on premiums is imposed under K.S.A. 40-252 and
15 amendments thereto, but only to the extent compensation is paid for in-
16 surance company operations performed in Kansas. "Salaries" does not
17 include compensation based on commissions.

18 (c) For an insurance company having affiliates, the gross amount of
19 all premiums of an insurance company subject to premium tax under
20 K.S.A. 40-252 and amendments thereto and those of its insurance com-
21 pany affiliates subject to premium tax under K.S.A. 40-252 and amend-
22 ments thereto may be aggregated. In addition, all salaries paid to em-
23 ployees may be aggregated. Subject to the limitation on the salary credit
24 set forth in this subsection, the total allowable salary credit may be de-
25 termined as if all the aggregated premiums were received and all the
26 aggregated salaries were paid by one insurance company. Once the total
27 allowable salary credit is determined for all insurance company affiliates,
28 the total credit may be allocated among the insurance company and its
29 insurance company affiliates at the discretion of the insurance company
30 on a per insurance company basis, subject to the limitation on the salary
31 credit as set forth in this subsection.

32 (d) The computation of salaries, the allowable salary credit and the
33 allocation of the credit among insurance company affiliates shall be made
34 on forms supplied by the commissioner of insurance.

35 (e) For the purposes of calculating any tax due under K.S.A. 40-253
36 and amendments thereto from a taxpayer not organized under the laws
37 of this state, the credit allowed by this subsection shall be treated as a tax
38 paid under K.S.A. 40-252 and amendments thereto.

39 (f) Premiums received by a life insurer for the purchase of any annuity
40 contract shall no longer be deemed taxable premiums and shall no longer
41 be subject to the tax imposed by this section.

42 The provisions of this section shall be applicable to all taxable years
43 commencing after December 31, 1997.

3
6-12

1 Sec. 4. K.S.A. 40-252e is hereby amended to read as follows: 40-
 2 252e. (a) Every insurance company organized under the laws of this state
 3 or doing business in this state and required by this act to pay a premium
 4 tax or privilege fee pursuant to K.S.A. 40-252 and amendments thereto
 5 shall be entitled to a credit, on the premium taxes or privilege fees im-
 6 posed by K.S.A. 40-252 and amendments thereto, of twenty-five percent
 7 (25%) 25% of such taxes or fees if at least thirty percent (30%) 30% of
 8 such insurance company's admitted assets is invested in Kansas securities.

9 (b) For the purpose of this section: (1) The term "insurance com-
 10 pany" shall mean any insurance company; mutual nonprofit hospital cor-
 11 poration; nonprofit medical service corporation or any corporation; soci-
 12 ety or association to which K.S.A. 40-252 and amendments thereto applies;

13 (2) The term "admitted assets" shall mean the assets treated as ad-
 14 mitted assets in the annual statement required to be filed with the com-
 15 missioner of insurance pursuant to this act and K.S.A. 40-225 and amend-
 16 ments thereto; and

17 (3) The term "Kansas securities" shall mean real estate in this state,
 18 bonds of the state of Kansas; bonds or interest bearing warrants of any
 19 county, city, town, school district or municipality or subdivision of the
 20 state of Kansas; notes or bonds secured by mortgages or other liens on
 21 real estate located in the state of Kansas; cash deposits in regularly estab-
 22 lished national or state banks in this state on the basis of the average
 23 monthly deposits throughout the calendar year; policy loans secured by
 24 the legal reserve on policies insuring residents of the state of Kansas; and
 25 any other Kansas property or securities in which, by the laws of the state
 26 of Kansas, such insurance companies may invest their funds.

27 Sec. 3. K.S.A. 40-252 is hereby amended to read as follows: 40-
 28 252. Every insurance company or fraternal benefit society organ-
 29 ized under the laws of this state or doing business in this state shall
 30 pay to the commissioner of insurance fees and taxes specified in
 31 the following schedule:

A

32 Insurance companies organized under
 33 the laws of this state:

34

35 1. Capital stock insurance companies and mutual legal reserve life
 36 insurance companies:

37 Filing application for sale of stock or certificates of

| | |
|---|------|
| 38 indebtedness | \$25 |
| 39 Admission fees: | |
| 40 Examination of charter and other documents | 500 |
| 41 Filing annual statement | 100 |
| 42 Certificate of authority | 10 |

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| | | |
|----|--|-------|
| 1 | Annual fees: | |
| 2 | Filing annual statement..... | 100 |
| 3 | Continuation of certificate of authority | 10 |
| 4 | 2. Mutual life, accident and health associations: | |
| 5 | Admission fees: | |
| 6 | Examination of charter and other documents | \$500 |
| 7 | Filing annual statement..... | 100 |
| 8 | Certificate of authority..... | 10 |
| 9 | Annual fees: | |
| 10 | Filing annual statement..... | 100 |
| 11 | Continuation of certificate of authority | 10 |
| 12 | 3. Mutual fire, hail, casualty and multiple line insurers and reciprocal | |
| 13 | or interinsurance exchanges: | |
| 14 | Admission fees: | |
| 15 | Examination of charter and other documents | \$500 |
| 16 | Filing annual statement..... | 100 |
| 17 | Certificate of authority..... | 10 |
| 18 | Annual fees: | |
| 19 | Filing annual statement..... | 100 |
| 20 | Continuation of certificate of authority | 10 |

21 In addition to the above fees and as a condition precedent to the
 22 continuation of the certificate of authority provided in this code,
 23 all such companies shall pay a fee of \$2 for each agent certified by
 24 the company and shall also pay a tax annually upon all premiums
 25 received on risk located in this state at the rate of 1% per annum
 26 less (1) for tax years prior to 1984, any taxes paid on business in
 27 this state pursuant to the provisions of K.S.A. 40-1701 to 40-1707,
 28 inclusive, and 75-1508 and amendments thereto and (2) for tax
 29 years 1984 and thereafter, any taxes paid on business in this state
 30 pursuant to the provisions of K.S.A. 75-1508 and amendments
 31 thereto and the amount of the firefighters relief tax credit deter-
 32 mined by the commissioner of insurance. The amount of the fire-
 33 fighters relief tax credit for a company for the current tax year
 34 shall be determined by the commissioner of insurance by dividing
 35 (A) the total amount of credits against the 1% tax imposed by this
 36 section subsection for taxes paid by all such companies on business
 37 in this state under K.S.A. 40-1701 to 40-1707, inclusive, and
 38 amendments thereto for tax year 1983, by (B) the total amount of
 39 taxes paid by all such companies on business in this state under
 40 K.S.A. 40-1703 and amendments thereto for the tax year immedi-
 41 ately preceding the current tax year, ~~tying~~ the result so obtained
 42 by (C) the amount of taxes paid by the company on business in this
 43 state under K.S.A. 40-1703 and amendments thereto for the cur-

and by multiplying

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1 rent tax year.

2 ~~Funds accepted prior to January 1, 1997, by a life insurer under~~
3 ~~an agreement which provides for an accumulation of funds to pur-~~
4 ~~chase taxable annuities at later dates shall be taxable premiums~~
5 ~~either when received or when actually applied to the purchase of~~
6 ~~annuities, at the option of the insurer. If the funds are declared~~
7 ~~upon receipt, any interest or other gain that accrues thereon shall~~
8 ~~not be taxable as premium income, but if the funds are declared~~
9 ~~when applied to the purchase of annuities, the premium tax shall~~
10 ~~be paid on the entire amount so applied. Any such funds declared~~
11 ~~upon receipt which are thereafter withdrawn before application~~
12 ~~to the purchase of annuities may be deducted from tax base as~~
13 ~~“premiums” returned on account of cancellations.~~

14 In the computation of the gross premiums all such companies
15 shall be entitled to deduct any premiums returned on account of
16 cancellations, all premiums received for reinsurance from any
17 other company authorized to do business in this state, dividends
18 returned to policyholders and premiums received in connection
19 with the funding of a pension, deferred compensation, annuity or
20 profit-sharing plan qualified or exempt under sections 401, 403,
21 404, 408, 457 or 501 of the United States internal revenue code of
22 1986. Should any such company remove or maintain, or both, ei-
23 ther their home, principal or executive office or offices from this
24 state, every such company shall be subject to the provisions of sub-
25 section D of this section.

including funds accepted before January 1, 1997, and declared and taxed as annuity premiums which, on or after January 1, 1997, are withdrawn before application to the purchase of annuities,

26 **B**
27 *Fraternal benefit societies organized*
28 *under the laws of this state:*

29 Admission fees:

| | |
|---|-------|
| 30 Examination of charter and other documents | \$500 |
| 31 Filing annual statement | 100 |
| 32 Certificate of authority | 10 |

33 Annual fees:

| | |
|---|-----|
| 34 Filing annual statement | 100 |
| 35 Continuation of certificate of authority | 10 |

Funds received by life insurers for the purchase of annuity contracts and funds applied by life insurers to the purchase of annuities shall not be deemed taxable premiums or be subject to tax under this section for tax years commencing on or after January 1, 1997.

36 **C**
37 *Mutual nonprofit hospital service corporations, nonprofit medical service corporations, non-*
38 *profit dental service corporations, nonprofit optometric services corporations and non-*
39 *profit pharmacy service corporations organized under the laws of this state:*

40 1. Mutual nonprofit hospital service corporations:

41 Admission fees:

| | |
|---|-------|
| 42 Examination of charter and other documents | \$500 |
| 43 Filing annual statement | 100 |

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| | | |
|----|---|-------|
| 1 | Certificate of authority..... | 10 |
| 2 | Annual fees: | |
| 3 | Filing annual statement..... | 100 |
| 4 | Continuation of certificate of authority | 10 |
| 5 | 2. Nonprofit medical service corporations: | |
| 6 | Admission fees: | |
| 7 | Examination of charter and other documents | \$500 |
| 8 | Filing annual statement..... | 100 |
| 9 | Certificate of authority..... | 10 |
| 10 | Annual fees: | |
| 11 | Filing annual statement..... | 100 |
| 12 | Continuation of certificate of authority | 10 |
| 13 | 3. Nonprofit dental service corporations: | |
| 14 | Admission fees: | |
| 15 | Examination of charter and other documents | \$500 |
| 16 | Filing annual statement..... | 100 |
| 17 | Certificate of authority..... | 10 |
| 18 | Annual fees: | |
| 19 | Filing annual statement..... | 100 |
| 20 | Continuation of certificate of authority | 10 |
| 21 | 4. Nonprofit optometric service corporations: | |
| 22 | Admission fees: | |
| 23 | Examination of charter and other documents | \$500 |
| 24 | Filing annual statement..... | 100 |
| 25 | Certificate of authority..... | 10 |
| 26 | Annual fees: | |
| 27 | Filing annual statement..... | 100 |
| 28 | Continuation of certificate of authority | 10 |
| 29 | 5. Nonprofit pharmacy service corporations: | |
| 30 | Admission fees: | |
| 31 | Examination of charter and other documents | \$500 |
| 32 | Filing annual statement..... | 100 |
| 33 | Certificate of authority..... | 10 |
| 34 | Annual fees: | |
| 35 | Filing annual statement..... | 100 |
| 36 | Continuation of certificate of authority | 10 |
| 37 | In addition to the above fees and as a condition precedent to the | |
| 38 | continuation of the certificate of authority, provided in this code, | |
| 39 | every corporation or association shall pay annually to the commis- | |
| 40 | sioner of insurance a privilege fee in an amount equal to 1% per | |
| 41 | annum of the total of all premiums, subscription charges, or any | |
| 42 | other term which may be used to describe the charges made by | |
| 43 | such corporation or association to subscribers for hospital, medical | |

tax

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6-16

1 or other health services or indemnity received during the preced-
2 ing year. In such computations all such corporations or associa-
3 tions shall be entitled to deduct any premiums or subscription
4 charges returned on account of cancellations and dividends re-
5 turned to members or subscribers.

6 D

7 Insurance companies organized under the
8 laws of any other state, territory or country:

9 1. Capital stock insurance companies and mutual legal reserve life
10 insurance companies:

| | |
|--|------|
| 11 Filing application for sale of stock or certificates of | |
| 12 indebtedness | \$25 |
| 13 Admission fees: | |
| 14 Examination of charter and other documents | 500 |
| 15 Filing annual statement | 100 |
| 16 Certificate of authority | 10 |
| 17 Annual fees: | |
| 18 Filing annual statement | 100 |
| 19 Continuation of certificate of authority | 10 |

20 In addition to the above fees all such companies shall pay \$5 for
21 each agent certified by the company, except as otherwise provided
22 by law.

23 As a condition precedent to the continuation of the certificate
24 of authority, provided in this code, every company organized un-
25 der the laws of any other state of the United States or of any foreign
26 country shall pay a tax upon all premiums received during the
27 preceding year at the rate of 2% following rate per annum:

| 28 Tax Year | Rate |
|------------------------|------|
| 29 1997 and before | 2.0% |
| 30 1998 | 1.9% |
| 31 1999 | 1.8% |
| 32 2000 | 1.7% |
| 33 2001 | 1.6% |
| 34 2002 | 1.5% |
| 35 2003 | 1.4% |
| 36 2004 | 1.3% |
| 37 2005 | 1.2% |
| 38 2006 | 1.1% |
| 39 2007 and thereafter | 1.0% |

40 Funds accepted prior to January 1, 1997, by a life insurer under
41 an agreement which provides for an accumulation of funds to pur-
42 chase taxable annuities at later dates shall be taxable premiums
43 either when received or when actually applied to the purchase of

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~~annuities, at the option of the insurer. If the funds are declared upon receipt, any interest or other gain that accrues thereon shall not be taxable as premium income, but if the funds are declared when applied to the purchase of annuities, the premium tax shall be paid on the entire amount so applied. Any such funds declared upon receipt which are thereafter withdrawn before application to the purchase of annuities may be deducted from tax base as "premiums" returned on account of cancellations.~~

including funds accepted before January 1, 1997, and declared and taxed as annuity premiums which, on or after January 1, 1997, are withdrawn before application to the purchase of annuities,

In the computation of the gross premiums all such companies shall be entitled to deduct any premiums returned on account of cancellations, dividends returned to policyholders and all premiums received for reinsurance from any other company authorized to do business in this state and premiums received in connection with the funding of a pension, deferred compensation, annuity or profit-sharing plan qualified or exempt under sections 401, 403, 404, 408, 457 or 501 of the United States internal revenue code of 1986.

Funds received by life insurers for the purchase of annuity contracts and funds applied by life insurers to the purchase of annuities shall not be deemed taxable premiums or be subject to tax under this section for tax years commencing on or after January 1, 1997.

2. Mutual life, accident and health associations:

Admission fees:

| | |
|--|-------|
| Examination of charter and other documents | \$500 |
| Filing annual statement | 100 |
| Certificate of authority | 10 |

Annual fees:

| | |
|--|-----|
| Filing annual statement | 100 |
| Continuation of certificate of authority | 10 |

In addition to the above fees, every such company organized under the laws of any other state of the United States shall pay \$5 for each agent certified by the company, and shall pay a tax annually upon all premiums received during the preceding year at the rate of 2% following rate per annum:

| Tax Year | Rate |
|---------------------|------|
| 1997 and before | 2.0% |
| 1998 | 1.9% |
| 1999 | 1.8% |
| 2000 | 1.7% |
| 2001 | 1.6% |
| 2002 | 1.5% |
| 2003 | 1.4% |
| 2004 | 1.3% |
| 2005 | 1.2% |
| 2006 | 1.1% |
| 2007 and thereafter | 1.0% |

~~Funds accepted prior to January 1, 1997, by a life insurer under~~

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1 ~~an agreement which provides for an accumulation of funds to pur-~~
 2 ~~chase taxable annuities at later dates shall be taxable premiums~~
 3 ~~either when received or when actually applied to the purchase of~~
 4 ~~annuities, at the option of the insurer. If the funds are declared~~
 5 ~~upon receipt, any interest or other gain that accrues thereon shall~~
 6 ~~not be taxable as premium income, but if the funds are declared~~
 7 ~~when applied to the purchase of annuities, the premium tax shall~~
 8 ~~be paid on the entire amount so applied. Any such funds declared~~
 9 ~~upon receipt which are thereafter withdrawn before application~~
 10 ~~to the purchase of annuities may be deducted from tax base as~~
 11 ~~“premiums” returned on account of cancellations.~~

12 In the computation of the gross premiums all such companies
 13 shall be entitled to deduct any premiums returned on account of
 14 cancellations, dividends returned to policyholders and all premi-
 15 ums received for reinsurance from any other company authorized
 16 to do business in this state and premiums received in connection
 17 with the funding of a pension, deferred compensation, annuity or
 18 profit-sharing plan qualified or exempt under sections 401, 403,
 19 404, 408, 457 or 501 of the United States internal revenue code of
 20 1986. l

21 3. Mutual fire, casualty and multiple line insurers and reciprocal or
 22 interinsurance exchanges:

23 Admission fees:

| | |
|---|-------|
| 24 Examination of charter and other documents and issuance of | |
| 25 certificate of authority..... | \$500 |
| 26 Filing annual statement..... | 100 |
| 27 Certificate of authority..... | 10 |
| 28 Annual fees: | |
| 29 Filing annual statement..... | 100 |
| 30 Continuation of certificate of authority | 10 |

31 In addition to the above fees, every such company or association
 32 organized under the laws of any other state of the United States
 33 shall pay a fee of \$5 for each agent certified by the company and
 34 shall also pay a tax annually upon all premiums received during the
 35 preceding year at the rate of 2% following rate per annum:

| 36 Tax Year | Rate |
|--------------------|------|
| 37 1997 and before | 2.0% |
| 38 1998 | 1.9% |
| 39 1999 | 1.8% |
| 40 2000 | 1.7% |
| 41 2001 | 1.6% |
| 42 2002 | 1.5% |
| 43 2003 | 1.4% |

including funds accepted before January 1, 1997, and declared and taxed as annuity premiums which, on or after January 1, 1997, are withdrawn before application to the purchase of annuities,

Funds received by life insurers for the purchase of annuity contracts and funds applied by life insurers to the purchase of annuities shall not be deemed taxable premiums or be subject to tax under this section for tax years commencing on or after January 1, 1997.

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| | | |
|---|---------------------|------|
| 1 | 2004 | 1.3% |
| 2 | 2005 | 1.2% |
| 3 | 2006 | 1.1% |
| 4 | 2007 and thereafter | 1.0% |

5 For tax years 1998 and thereafter, the annual tax shall be reduced for
6 the "applicable percentage" of ~~(A) any taxes paid on business in this state~~
7 pursuant to the provisions of K.S.A. 75-1508 and amendments thereto
8 and ~~(B) the amount of the firefighters relief tax credit determined by the~~
9 commissioner of insurance. The amount of the firefighters relief tax credit
10 for a company taxable under this subsection for the current tax year shall
11 be determined by the commissioner of insurance by dividing (A) the total
12 amount of taxes paid by all such companies on business in this state under
13 K.S.A. 40-1701 to 40-1707 and amendments thereto for tax year 1983 as
14 then in effect, by (B) the total amount of taxes paid by all such companies
15 on business in this state under K.S.A. 40-1703 and amendments thereto
16 for the tax year immediately preceding the current tax year, and by mul-
17 tiplying the result so obtained by (C) the amount of taxes paid by the
18 company on business in this state under K.S.A. 40-1703 and amendments
19 thereto for the current tax year. The "applicable percentage" shall be as
20 follows:

(1)
(2)

| Tax Year | Applicable Percentage |
|---------------------|-----------------------|
| 1998 | 10% |
| 1999 | 20% |
| 2000 | 30% |
| 2001 | 40% |
| 2002 | 50% |
| 2003 | 60% |
| 2004 | 70% |
| 2005 | 80% |
| 2006 | 90% |
| 2007 and thereafter | 100% |

32 In the computation of the gross premiums all such companies shall
33 be entitled to deduct any premiums returned on account of can-
34 cellations, all premiums received for reinsurance from any other
35 company authorized to do business in this state, and dividends re-
36 turned to policyholders.

E

37 Fraternal benefit societies organized under the laws
38 of any other state, territory or country:

40 Admission fees:

| | | |
|----|--|-------|
| 41 | Examination of charter and other documents | \$500 |
| 42 | Filing annual statement | 100 |
| 43 | Certificate of authority | 10 |

6-20

1 Annual fees:

2 Filing annual statement 100

3 Continuation of certificate of authority 10

4 F

5 Mutual nonprofit hospital service corporations, nonprofit medical service corporations, non-

6 profit dental service corporations, nonprofit optometric service corporations and non-

7 profit pharmacy service corporations organized under the laws of any other state, ter-

8 ritory or country:

9 1. Mutual nonprofit hospital service corporations:

10 Admission fees:

11 Examination of charter and other documents \$500

12 Filing annual statement 100

13 Certificate of authority 10

14 Annual fees:

15 Filing annual statement 100

16 Continuation of certificate of authority 10

17 2. Nonprofit medical service corporations, nonprofit dental service corporations,

18 nonprofit optometric service corporations and nonprofit pharmacy service cor-

19 porations:

20 Admission fees:

21 Examination of charter and other documents \$500

22 Filing annual statement 100

23 Certificate of authority 10

24 Annual fees:

25 Filing annual statement 100

26 Continuation of certificate of authority 10

27 In addition to the above fees and as a condition precedent to the

28 continuation of the certificate of authority, provided in this code,

29 every corporation or association shall pay annually to the commis-

30 sioner of insurance a ~~privilege fee~~ in an amount equal to 2% per

31 annum of on the total of all premiums, subscription charges, or any

32 other term which may be used to describe the charges made by

33 such corporation or association to subscribers in this state for hos-

34 pital, medical or other health services or indemnity received dur-

35 ing the preceding year. The rate of the annual ~~privilege fee~~ under this

36 subsection shall be as follows:

tax

tax

| Tax Year | Rate |
|-----------------|------|
| 1997 and before | 2.0% |
| 1998 | 1.9% |
| 1999 | 1.8% |
| 2000 | 1.7% |
| 2001 | 1.6% |
| 2002 | 1.5% |

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| | | |
|---|---------------------|------|
| 1 | 2003 | 1.4% |
| 2 | 2004 | 1.3% |
| 3 | 2005 | 1.2% |
| 4 | 2006 | 1.1% |
| 5 | 2007 and thereafter | 1.0% |

6 In such computations all such corporations or associations shall be
 7 entitled to deduct any premiums or subscription charges returned
 8 on account of cancellations and dividends returned to members or
 9 subscribers.

G

~~All insurers shall pay a fee of \$10 for
 issuance of an amended certificate of authority.~~

Payment of Taxes

13 For the purpose of insuring the collection of the tax upon pre-
 14 miums, assessments and charges as set out in subsection A, C, D
 15 or F, every insurance company, corporation or association shall at
 16 the time it files its annual statement, as required by the provisions
 17 of K.S.A. 40-225, and amendments thereto, make a return, verified
 18 by affidavits of its president and secretary or other chief officers,
 19 to the commissioner of insurance, stating the amount of all pre-
 20 miums, assessments and charges received by the companies or cor-
 21 porations in this state, whether in cash or notes, during the year
 22 ending on the December 31 next preceding.

23 Commencing in 1985 and annually thereafter the estimated
 24 taxes shall be paid as follows: On or before June 15 and December
 25 15 of such year an amount equal to 50% of the full amount of the
 26 prior year's taxes as reported by the company shall be remitted to
 27 the commissioner of insurance. As used in this paragraph, "prior
 28 year's taxes" includes (1) taxes assessed pursuant to this section for
 29 the prior calendar year, (2) fees and taxes assessed pursuant to
 30 K.S.A. 40-253, and amendments thereto, for the prior calendar
 31 year, and (3) taxes paid for maintenance of the department of the
 32 state fire marshal pursuant to K.S.A. 75-1508, and amendments
 33 thereto, for the prior calendar year.

34 Upon the receipt of such returns the commissioner of insurance
 35 shall verify the same and assess the taxes upon such companies,
 36 corporations or associations on the basis and at the rate provided
 37 herein and the balance of such taxes shall thereupon become due
 38 and payable giving credit for amounts paid pursuant to the pre-
 39 ceding paragraph, or the commissioner shall make a refund if the
 40 taxes paid in the prior June and December are in excess of the
 41 taxes assessed.

H

42 The fee prescribed for the examination of charters and other
 43

6-22

1 documents shall apply to each company's initial application for ad-
2 mission and shall not be refundable for any reason.

3 Sec. 4. K.S.A. 40-252b is hereby amended to read as follows:

4 ~~40-252b. For taxable years commencing on and after January 1, 1998,~~
5 ~~the fees, charges and taxes provided for by K.S.A. 40-252 and~~
6 ~~amendments thereto shall be in lieu of all other license fees, premium~~
7 ~~or occupation taxes, income taxes, intangible property taxes, or other~~
8 ~~fees levied or assessed upon the basis of income, premiums, and~~
9 ~~gross receipts and intangible property by this state and any municipi-~~
10 ~~ality, county or other political subdivision of this state, and no~~
11 ~~municipality, county or other political subdivision of this state shall~~
12 ~~impose any license fee or privilege, premium, income, intangible~~
13 ~~property or gross receipts tax or fee upon any insurance company~~
14 ~~or corporation taxed under the provisions of K.S.A. 40-252 and~~
15 ~~amendments thereto and organized under the laws of this state or~~
16 ~~doing business in this state, or upon any of its agents or represen-~~
17 ~~tatives for the privilege of doing an insurance business therein:~~
18 ~~Provided, however,~~ This section shall not be construed to prohibit
19 the levy and collection of (a) state, county or municipal taxes upon
20 the real and tangible personal property of such company, (b) tax
21 for the purpose of maintaining the office of the fire marshal of this
22 state as provided in K.S.A. 75-1508 and amendments thereto, (c) the
23 firemen's relief fund tax as provided for in K.S.A. 40-1701 through
24 40-1707 and amendments thereto, and (d) the intangibles tax as provided
25 for in article 31 of chapter 70 of the Kansas Statutes Annotated, and any
26 amendments thereto; (e) a tax by the state of Kansas upon the privilege
27 of doing business within the state measured by the income of the insur-
28 ance company; and (f) municipal occupation taxes levied upon any
29 basis other than income, *intangible property*, premiums or gross re-
30 cepts.

7

31 New Sec. 5. (a) For tax years beginning on or after January 1,
32 1998, each company required to pay a tax on premiums under
33 subsection A, C, D or F of K.S.A. 40-252 and amendments thereto
34 shall be allowed as a credit against such tax ~~5% of the salaries paid~~
35 ~~to Kansas employees. Before taking into account any other credit~~
36 ~~or offset against the tax on premiums imposed under K.S.A. 40-~~
37 ~~252 and amendments thereto, the credit allowed under this section~~
38 ~~may not reduce such tax by more than 0.25% of premiums taxable~~
39 ~~thereunder.~~

in an amount equal to

40 (b) As used in this section, unless the context otherwise re-
41 quires:

42 (1) "Affiliate" means an insurance company which, directly or
43 indirectly, through one or more intermediaries, controls, is con-

6-23

1 trolled by or is under common control with another insurance
 2 company. "Affiliate" also includes any company or business entity
 3 other than an insurance company which, directly or indirectly,
 4 through one or more intermediaries, controls, is controlled by or
 5 is under common control with an insurance company and which
 6 performs insurance company operations for an insurance com-
 7 pany. For purposes of this definition, control exists if any company
 8 or business entity, directly or indirectly, owns, holds with the
 9 power to vote or holds proxies representing all the voting stock or
 10 other voting securities of any other company or business entity.

11 (2) "Insurance company" or "company" means any entity sub-
 12 ject to a tax on premiums under subsection A, C, D or F of K.S.A.
 13 40-252 and amendments thereto, including the attorney-in-fact au-
 14 thorized by and acting for the subscribers of a reciprocal insurer
 15 or inter-insurance exchange under powers of attorney. For the
 16 purposes of this section, a reciprocal and its attorney-in-fact will
 17 be considered a single entity.

18 (3) "Insurance company operations" means one or more or any
 19 combination of the following functions or services performed in
 20 connection with the development, sale and administration of prod-
 21 ucts giving rise to receipts subject to a tax on premiums under
 22 subsection A, C, D or F of K.S.A. 40-252 and amendments thereto:
 23 actuarial, medical, legal, investments, accounting, auditing, un-
 24 derwriting, policy issuance, information, policyholder services,
 25 premium collection, claims, advertising and publications, public
 26 relations, human resources, marketing, sales office staff, training
 27 of sales and service personnel, and clerical, managerial and other
 28 support for any such functions or services.

29 (4) "Kansas employees" means persons who reside in Kansas
 30 and who are common law employees of an insurance company or
 31 its affiliate. "Kansas employees" does not include independent
 32 contractors or any person to the extent such person's compensa-
 33 tion is based on commissions.

are employed

34 (5) "Salaries" means gross compensation paid to Kansas em-
 35 ployees as reported to the State of Kansas for income tax purposes
 36 ~~during~~ the calendar year for which a tax on premiums is imposed
 37 under K.S.A. 40-252 and amendments thereto, but only to the ex-
 38 tent compensation is paid for insurance company operations per-
 39 formed in Kansas for an insurance company or its insurance com-
 40 pany affiliates subject to the tax on premiums under subsection A,
 41 C, D or F of K.S.A. 40-252 and amendments thereto. "Salaries"
 42 does not include compensation based on commissions.

for

43 (c) For an insurance company having affiliates:

B-24

1 (1) Salaries paid by a noninsurance company affiliate shall be
2 allocated among insurance company affiliates pursuant to the
3 agreement between or among the insurance company and its af-
4 filiates.

5 (2) The gross amount of all premiums of an insurance company
6 subject to tax under subsection A, C, D or F of K.S.A. 40-252 and
7 amendments thereto and those of its insurance company affiliates
8 subject to such tax may be aggregated. In addition, all salaries paid
9 to Kansas employees may be aggregated. Subject to the limitation
10 on the salary credit set forth in subsection (a) of this section, the
11 total allowable salary credit may be determined as if all the aggre-
12 gated premiums were received and all the aggregated salaries
13 were paid by one insurance company. Once the total allowable
14 salary credit is determined for all insurance company affiliates, the
15 total credit may be allocated among the insurance company and
16 its insurance company affiliates at the discretion of the insurance
17 company on a per insurance company basis, subject to the limita-
18 tion on the salary credit as set forth in subsection (a) of this section.

19 (d) The computation of salaries, the allowable salary credit and
20 the allocation of the credit among insurance company affiliates
21 shall be made on forms supplied by the commissioner of insurance.

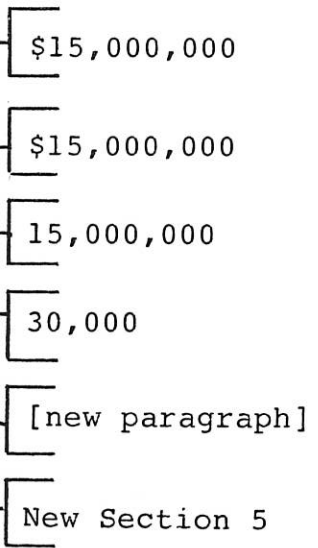
22 (e) For purposes of calculating any tax due under K.S.A. 40-
23 253 and amendments thereto from a taxpayer not organized under
24 the laws of this state, the credit allowed by this section shall be
25 treated as a tax paid under K.S.A. 40-252 and amendments thereto.

26 New Sec. 6. For tax years beginning on or after January 1,
27 1998, a foreign or domestic insurance company required to pay a
28 tax on premiums under subsection A, C, D or F of K.S.A. 40-252
29 and amendments thereto and writing less than ~~\$10,000,000~~ in pre-
30 miums in all states shall be allowed as a small company credit
31 against such tax the amount computed as follows:

32 (a) Subtract the total dollar amount of all premiums written by
33 the company in all states from ~~\$10,000,000~~.

34 (b) Divide the result obtained in (a) by ~~10,000,000~~.

35 (c) Multiply the quotient obtained in (b) by ~~20,000~~. Before tak-
36 ing into account any other credit or offset against the tax on pre-
37 miums imposed under K.S.A. 40-252 and amendments thereto, the
38 employment credit allowed under ~~K.S.A. 40-252d~~ and amend-
39 ments thereto and the small company credit allowed under this
40 section, taken together, may not reduce such tax by more that
41 0.25% of premiums taxable under K.S.A. 40-252 and amendments
42 thereto. For purposes of calculating any tax due under K.S.A. 40-
43 253 and amendments thereto from a taxpayer not organized under



6-25

1 the laws of this state, the credit allowed by this section shall be
2 treated as a tax paid under K.S.A. 40-252 and amendments thereto.

3 Sec. 5-7. K.S.A. 40-253 is hereby amended to read as follows: 40-
4 253. Whenever the existing or future laws of any other state or country
5 shall require from insurance companies or fraternal benefit societies or-
6 ganized under the laws of this state, ~~applying to do business in such other~~
7 ~~state or country, any deposit of securities in such state or country for the~~
8 ~~protection of policyholders therein, or otherwise, or any payment for~~
9 ~~taxes, fines, penalties, certificates of authority, licenses, fees, compensa-~~
10 ~~tion for examination, or otherwise, assessments for operating or admin-~~
11 ~~istrative expenses of funds for state insurance or workers compensation~~
12 ~~offices, guaranty associations or assigned risk or risk sharing plans or~~
13 ~~pools, greater than the amount required for such purpose from insurance~~
14 ~~companies or agents of other states by the then existing laws of this state,~~
15 ~~then, and in every case, all companies and agents of any such state or~~
16 ~~country, doing business in this state shall make the same deposit, for a~~
17 ~~like purpose, with the commissioner of insurance of this state, and pay to~~
18 ~~the commissioner of insurance for taxes, fines, penalties, certificates of~~
19 ~~authority, licenses, fees, compensation for examination, or otherwise, as-~~
20 ~~sessments for operating or administrative expenses of funds for state in-~~
21 ~~surance or workers compensation offices, guaranty associations or as-~~
22 ~~signed risk or risk sharing plans or pools, an amount equal to the amount~~
23 ~~of such charges and payments imposed by the laws of such other state or~~
24 ~~country upon the companies of this state and the agents thereof.~~

including taxes or fees based
on fire premiums,

or

including taxes or fees based
on fire premiums,

or

The provisions of this section shall not apply
to special purpose assessments or guaranty
association assessments both under the laws of
this state and under the laws of any other
state or country, and any tax offset or credit
for any such assessment shall, for purposes of
this section, be treated as a tax paid both
under the laws of this state and under the
laws of any other state or country.

25 Sec. 6. ~~(8).~~ K.S.A. 40-112, 40-252, 40-252b, ~~40-252c,~~ 40-253, 40-
26 2801, 40-2802, 40-2805, 40-2806, 40-2807, 40-2808, 40-2809, 40-2810,
27 40-2811 and 40-2812 and K.S.A. 1996 Supp. 40-246, 40-2803 and, 40-
28 2804 and 40-2813 are hereby repealed.

9.

29 Sec. 7. ~~(9).~~ This act shall take effect and be in force from and after its
30 publication in the statute book.

10.

Sec. 8. K.S.A. 40-2813 is hereby
amended to read as follows:
[see attached]

K.S.A. 40-252c is hereby repealed for tax
years beginning on and after January 1,
1998.

6-24

Sec. 8. [from previous page]

For all taxable years commencing after December 31, 1993, any taxpayer who makes expenditures for the purpose of making all or any portion of an existing building or facility accessible to persons with a disability, which building or facility is on real property located in this state and used in a trade or business or held for the production of income, shall be entitled to claim a tax credit in an amount equal to 50% of such expenditures or, the amount of \$10,000, whichever is less, against the tax liability imposed against such taxpayer pursuant to ~~article 28 of chapter 40 of the Kansas Statutes Annotated,~~ and amendments thereto. Such tax credit shall be deducted from the taxpayer's tax liability for the taxable year following the year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the taxable year in which the expenditures are made. Terms used in this section shall have the same meanings as ascribed thereto in K.S.A. 79-32,175, and amendments thereto.

1996

K.S.A. 40-252

For the purpose of calculating any tax due under K.S.A. 40-253 and amendments thereto from a taxpayer not organized under the laws of this state, the credit allowed by this section shall be treated as a tax paid under K.S.A. 40-252 and amendments thereto.

MEMORANDUM

TO: The Honorable Audrey Langworthy, Chair
Senate Assessment and Taxation Committee

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

DATE: March 11, 1997

RE: HB 2082

Madame Chair, Members of the Committee: My name is Bill Sneed and I am legislative counsel for American Investors Life Insurance Company, a Kansas-domiciled life insurance company headquartered in Topeka. A significant portion of American Investors' business involves the sale of a variety of annuity products. We appreciate the opportunity to testify in support of the repeal of the premium tax on annuity products contained in HB 2082.

Kansas is one of only a handful of states in the nation which impose a premium tax on annuity products. Our neighboring states of Colorado, Missouri, Oklahoma and Iowa do not assess a tax on annuity premiums. The tax affects domestic as well as foreign companies which sell annuity products within our state. It is important to note that most states, even if they do not impose a premium tax on annuities, do impose retaliatory premium taxes on Kansas insurance companies for annuity products sold in those states. Thus, Kansas companies are forced to pay Kansas dollars to other states simply because our own state imposes the premium tax on annuities.

For purposes of illustration, I would like to take a few moments to describe the far-reaching effects that the provision for taxation of annuity products has on the insurance industry, and more generally, the Kansas economy.

American Investors Life Insurance Company recently acquired a Florida-based insurance

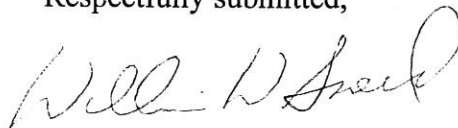
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company. Many factors go into the decision of whether to move operation of the Florida company to Kansas and further, whether to redomesticate. One very important factor is the scheme of taxation in our state. The Florida company boasts millions of dollars in premium volume attributable to annuity products. Current Kansas law levies a tax on annuity products--Florida law does not. This creates an obvious disincentive to redomesticate the Florida company to Kansas. This disincentive spills over to any future acquisition by American Investors, or any other Kansas-domiciled company. The same problem creates a "red flag" for other companies who are considering redomestication to Kansas.

Clearly, our state needs the economic boost provided by the relocation and/or redomestication of insurance companies to Kansas. The taxation of annuity products in this state, unfortunately, only serves as a roadblock to economic progress. We believe that elimination of the premium tax on annuities as provided in HB 2082 is a step in the right direction.

Please don't hesitate to contact me if you have questions or need further information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William W. Sneed". The signature is written in a cursive style with a large, looping initial "W".

William W. Sneed



**The Security Benefit
Group of Companies**

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

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

Date: March 11, 1997

To: Members of the Senate Committee on Assessment and Taxation

From: Tad M. Kramar

Re: House Bill No. 2082: Insurance Tax Reform

I am Assistant Vice President and Assistant Counsel of Security Benefit Life Insurance Company.

The Security Benefit Group of Companies is a financial services organization specializing in the sale and service of annuity, mutual fund and life insurance products. The parent company, Security Benefit Life Insurance Company, has been in business for over 100 years. The Security Benefit Group of Companies currently has over \$6.6 billion in assets under management and employs 530 Kansans. Our home office is in Topeka.

I am here today to speak in favor of H.B. 2082. This insurance tax reform bill represents a major step in the effort to make Kansas more attractive to insurance companies considering relocation to Kansas or establishment of an office in Kansas. I will briefly highlight its most significant advantages.

Remove Competitive Disadvantage

The current annuity premium tax places Kansas-domiciled insurance companies at a competitive disadvantage when we sell annuities in other states. Only nine states and the District of Columbia currently tax annuities. None of our neighboring states tax annuities, and South Dakota is the only Midwestern state which taxes annuities. Over the last two years, four states repealed their annuity premium taxes.

However, nonqualified annuities sold by Kansas insurance companies are taxed in every state due to "retaliatory" tax laws. For example, a Kansas company doing business in Illinois must pay at least as much premium tax to Illinois as an Illinois company doing the same amount of business in Kansas would have to pay to Kansas. Since most states do not tax annuities, or tax them at a lower rate than Kansas, nonqualified annuities sold by Kansas insurance companies are taxed in every state, while annuities sold by most of our non-Kansas competitors are taxed at a lower rate or not at all. H.B. 2082 would remove this substantial competitive disadvantage by repealing the Kansas annuity premium tax.

Encourage Saving

It is generally agreed that Social Security can no longer be relied upon to provide financial security for retirement. Thus, it is very important for people to save and accumulate funds for their retirement.

*Senate Assessment & Taxation
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Attachment 8*

However, the annuity premium tax discourages saving by placing a significant burden on one of the key ways in which people save money. Since most insurance companies are reimbursed for the tax by their annuity contract holders, the annuity premium tax is really a tax on the people of Kansas who own annuities. Repeal of the annuity premium tax will assist Kansas annuity holders in saving for their retirement, their children's education, and other beneficial purposes.

Repeal the Privilege Tax

The privilege tax imposes an additional competitive disadvantage on Kansas insurance companies.

Kansas imposes the privilege tax on only Kansas-domiciled insurance companies and not on out-of-state insurance companies doing business in Kansas. Very few other states impose both privilege and premium taxes on their domestic insurance companies. Repeal of the privilege tax would level the playing field in Kansas between domestic and out-of-state insurance companies. It would also promote economic development by eliminating another negative factor currently faced by insurance companies considering relocation to Kansas.

Repeal of the privilege tax would promote economic development at very little cost. In fiscal year 1996, the insurance industry paid over \$90 million in taxes and fees to the State of Kansas. Only \$1 million came from the privilege tax.

Need for Complete Repeal of the Annuity Premium Tax

Although we strongly support H.B. 2082, it does have a significant flaw which needs to be corrected. Current law gives insurance companies the option of paying annuity premium tax either (1) when they receive deposits to be accumulated for purchase of annuities at a later date (referred to as "front-end"); or (2) at the time of annuitization--that is, when the insurance company actually applies the accumulated funds to the purchase of annuities (referred to as "back-end"). The attached diagram illustrates these concepts.

Instead of repealing the annuity premium tax, this bill appears to require back-end taxpayers to keep track of all annuities for which deposits were received before 1997, and pay tax on all of those annuities which eventually annuitize, to the extent that the annuities include deposits received before 1997.

To make matters worse, in order to determine whether retaliatory tax is owed, Kansas insurance companies will need to make this type of calculation every year for every state in which we do business! To impose such an unreasonable burden on Kansas insurance companies would surely be inconsistent with the goal of promoting economic development by improving the economic and regulatory environment for the Kansas insurance industry.

Senate Committee on Assessment and Taxation

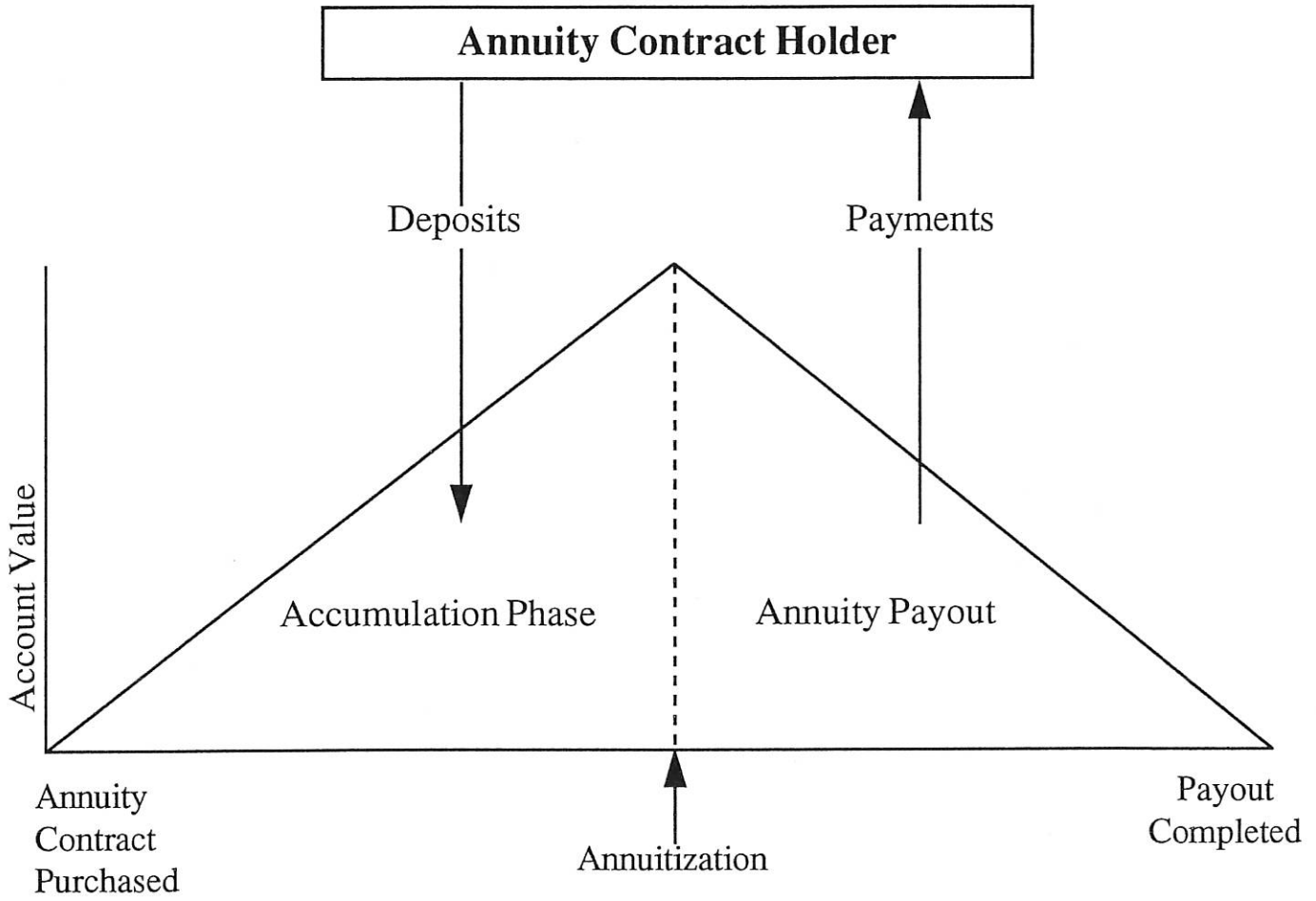
March 11, 1997

Page 3

Representatives of major Kansas and out-of-state insurance companies and associations reviewed and approved a balloon which corrects this problem and will be submitted by one of the other conferees. It also contains other changes, mostly of a technical nature.

I encourage you to approve these proposed revisions, and to vote favorably on H.B. 2082. Thank you for allowing us the opportunity to testify on this very important legislation.

DEFERRED ANNUITY



BRAD SMOOT
ATTORNEY AT LAW

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**Statement of Brad Smoot, Legislative Counsel
American Insurance Association
Senate Assessment & Taxation Committee
Regarding House Bill 2082
March 11, 1997**

Madam Chair and Members of the Committee: The American Insurance Association (AIA) is a trade group of more than 270 property and casualty insurers whose members provide various lines of insurance including workers compensation, auto, home and general liability in Kansas and across the nation. We are pleased to support HB 2082 and the effort to eliminate the current discriminatory insurance premium tax system.

The situation created by the discriminatory premium tax creates difficulties for the Insurance Department, domestic and foreign insurers and the state budget. It creates the potential for enormous contingent liability for the state treasury and ultimately, Kansas taxpayers. We appreciate the efforts and foresight of the Kansas Insurance Commissioner and her staff in bringing the issue to the Legislature. And we are equally encouraged by the willingness of the House of Representatives to tackle the issue in an effective and comprehensive way. With the amendments offered to this committee by the domestic insurance industry, AIA can enthusiastically support the passage of HB 2082.

Of special interest to AIA companies are proposed amendments to Section 7 of the bill, concerning retaliatory taxes. The Kansas Insurance Department proposed limiting retaliatory taxes on special purpose assessments to those listed in the italicized language on lines 10 through 13 and 19 through 22. Such was a good step toward reducing the vagueness of the "or otherwise" language of lines 10 and line 19, now stricken. But the amendments will go even further by eliminating special purpose assessments as a basis for retaliation. This would bring Kansas in line with the overwhelming number of other states which do not use such fees and assessments in their retaliatory tax calculations.

We encourage the Committee to include the amendments previously suggested and act favorably on HB 2082, as amended.

*Senate Assessment & Taxation
3-11-97
Attachment 9*