

Approved: March 24, 1997  
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Emert at 10:14 a.m. on March 20, 1997 in Room 529-S of the Capitol.

All members were present except:

Committee staff present: Mike Heim, Legislative Research Department  
Jerry Donaldson, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Mary Blair, Committee Secretary

Conferees appearing before the committee: Roger Palmer, Blue Cross/Blue Shield (BC/BS)  
Michael Schlatman, Consolidated Forensic  
Investigations, Inc. (CFI)  
Rick Guinn, Johnson Co. Assistant District Attorney  
Tom Wilder, Department of Insurance  
Scott Hesse, Assistant Attorney General  
Elena Nuss, Assistant Fire Marshal

Others attending: See attached list

Motion to approve the minutes of 3/18/97 meeting was made by Senator Donovan, seconded by Senator Harrington. Motion carried.

**SB 378 - Kansas Fraudulent Insurance Act**

Conferee Palmer, who manages the Special Investigation Unit at BC/BS of Kansas, testified before committee in support of **SB 378**. He briefly shared his unit's need for the bill particularly in the portion of the bill that pertains to the extension of the statute of limitations. (attachment 1)

Conferee Schlatman, Sr. Investigator of CFI, testified before committee in support of **SB 378**. He briefly summarized the following: the insurance fraud problem; his personal view of the position of the insurance industry; duties of the Kansas Insurance Department Fraud Unit; rationale to support passage of the bill, and provided statistical data relating to insurance fraud from the Insurance Information Institute 1995 Fact Book and other sources. (attachment 2).

Conferee Guinn testified in support of **SB 378** stating that this "long overdue legislation" would allow for the Insurance Commissioner's Office to be able to use their expertise and help put insurance fraud cases together in an understandable fashion for investigators and prosecutors. He also stated that the bill would, like the arson bill, grant agencies immunity from disclosure of information lawsuits when they are working on insurance fraud cases. (attachment 3)

Conferee Wilder testified before committee requesting support for **SB 378**. He stated that this "legislation will help give the Insurance Department, insurance companies and law enforcement agencies the tools needed to prosecute insurance related crimes." He outlined key features of the act, provided a list of State agencies with subpoena power, copies of news articles related to insurance fraud and a letter to the Chair from the Coalition Against Insurance Fraud (COIF) listing elements essential for an effective anti-fraud effort which are all present in **SB 378**. (attachment 4) Written testimony included newspaper articles related to the subject. (Press Clippings-no date, Kansas Wichita Eagle 2/4/97, The Capital-Journal-no date)

Conferee Hesse appeared before committee to oppose **SB 378** on behalf of the Office of the Attorney General stating that the bill "creates a weak law enforcement agency which would duplicate current law enforcement efforts and would not be as effective as the KBI or other existing law enforcement agencies." He stated that "the problem of ferreting out white collar crime, specifically insurance fraud, does not lie with the creation of additional government agencies, such as the insurance fraud unit; the solution to the problem of insurance fraud is sufficient funding of law enforcement we already have." (attachment 5)

Conferee Nuss, testified on behalf of the State Fire Marshal Gale Haag stating that Marshal Haag joins the Kansas Attorney General in opposing **SB 378**, agreeing that the state does not need another police agency. He requested the legislature increase the resources available to state agencies who are working to eradicate insurance-related crimes in Kansas. (attachment 6)

No action was taken on **SB 378** at this time.

**SB 156 - Civil liability for parents and guardians of minors who shoplift**

There was extensive discussion by committee members regarding **SB 156**, a bill which was heard in committee on Feb. 20. Senator Emert made the suggestion to add language to an existing bill, KSA 38-120 to deal with this problem. After further discussion, **Senator Bond made a motion to adopt a substitute bill for SB 156 that would amend KSA 28-120 to include theft of property and assignment language. Senator Feleciano seconded. Motion carried.**

Meeting adjourned by the Chair at 11:00 a.m.

The next scheduled meeting is Friday, March 21, 1997.

# SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3/20/97 p1

NAME	REPRESENTING
GREG DEBACKER	National Congress for Father's & Children
TRAD KRANAR	SECURITY BENEFIT GROUP
DAVID HANSON	K's INSUR ASSOCS
Jim Gunn	Go. Co. D.A.'s office
Kevin Davis	American Family Ins
Lee WRIGHT	Farmers Ins. Group
Jim Clark	KCDAA
Scott Emeola	
Wm. Scott Hesse	Office of Attorney
Nancy Lindberg	AG
Bill Mitchell	Alliance
Robbie Wilson	Farmers Alliance
BOB GRANT	KCCI
Trish Copeland	Security Benefit Group
Sheshaun	State Farm
Callee Hill Denton	Bottenberg's Assoc.
Roger Blum	Blue Cross Blue Shield-Kansas
Michael A. Little	CONSOLIDATED FOREIGN FINANCIAL INC
Donna Puffelger	SRS





An Independent Licensee  
of the Blue Cross and  
Blue Shield Association  
  
1133 SW Topeka Boulevard  
Topeka, Kansas 66629-0001

55 3/20/97 att 1  
Local Corporate Phone #  
(913) 291-7000  
Corporate 800 Number -  
(800) 432-0216

## TESTIMONY TO THE SENATE JUDICIARY COMMITTEE IN SUPPORT OF SENATE BILL 378, MARCH 20, 1997

Honorable Chairman, Members of the Judiciary Committee:

My name is Roger Palmer. I manage the Special Investigation Unit at Blue Cross Blue Shield of Kansas. I thank you for the opportunity to testify before you today.

We have been in the anti-fraud business for the past thirteen years. Our mission is to detect, deter, and prosecute health care fraud on behalf of the 700,000 plus Kansans who buy our products.

I would like to voice our support for this bill. If for no other reason, we desperately need an expanded 'statute of limitation' from the currently antiquated two years, to a more universally accepted five years.

Our office handles more than 600 potential cases every year. For example, in July 1996, three cases were well documented as criminal "fraud cases," each in an amount greater than \$10,000. However, there was one common problem. Each case fell beyond the current two year statute. Two missed by months. One missed by days.

Without a longer statute of limitations, potentially easy convictions for the prosecutors went untried. Ultimately, without due process, Kansans were the losers each time.

Please loosen the handcuffs of time that shackle our ability to investigate health care fraud. I urge you to support the adoption of Senate Bill 378.

Thank you.

*Senate Judiciary  
Attachment 1  
3-20-97*



55 3/20 att # 2

**Consolidated Forensic Investigations, Incorporated**

Post Office Box 16144 • Shawnee Mission, KS 66203 • 913-671-7500 • Fax 913-671-7503

**Testimony of Michael A. Schlatman**

**President/Senior Investigator**

**Given To The**

**KANSAS SENATE JUDICIARY COMMITTEE**

**March 20, 1997**

**In Support of Senate Bill No. 378**

*Senate Judiciary  
attachment 2  
3/20/97*

## INDEX

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  - B. Information Resources
  - C. About The Witness

## THE INSURANCE FRAUD PROBLEM

The insurance fraud problem is of monumental proportions throughout the United States. It is estimated that over four (4) billion dollars is paid in fraudulent claims each year. This estimate is based on known files considered to be fraudulent. The actual amount of insurance fraud is unknown.

The payments are made on fraudulent files due to various factors including lack of loss assessment by agents and underwriting, lack of law enforcement investigation, lack of proper investigations by the State Insurance Departments, lack of information obtained by insurance carriers and economic constraints. (This area includes excessive litigation costs over the amount of the claim.)

The Insurance Information Institute estimates that annually, at least ten percent (10%) of all non-catastrophe claims made in every state (both property and casualty) are indeed fraudulent. This factor would raise the fraudulent loss payments to even more billions of dollars.



Fraudulent claims are submitted by persons throughout the social/economic strata. There is no one particular group of people that submits this type of claim. The losses include both property (fire, burglary, auto theft, theft) and casualty losses (staged accidents with injuries, death claims, health claims, workmans compensation claims, etc.). It has become a common practice of insureds to inflate even legitimate claims.

In Kansas, millions of dollars are lost due to fraudulent claims. Due to the lack of an expanded duties of the fraud unit within the Insurance Commission Department and the lack of a provision to require insurance carriers to report suspected fraudulent files, there are no reliable statistical databases to report the scope of this massive problem. (The passage of Senate Bill No. 378 would enhance this capability.)

## THE WITNESS'S VIEW OF THE INDUSTRY

The insurance industry in our state (Kansas is home to thirty-five (35) property and casualty companies, plus many others not headquartered here write coverage) is not required by statute to report losses proven or believed to be fraudulent in nature.

Thousands of claims each year are reported and many eventually paid which are indeed fraudulent. These claims are generally not reported as fraud to state or local authorities. To do so without immunity, there is a possibility the carrier could be sued for "initiating prosecution" against their insured. Furthermore, the present immunity from civil litigation is inadequate to protect the carriers from allegations of impropriety.

During the many years this witness has been investigating claims, numerous carriers have expressed the position that they would not report even proven fraudulent losses due to the immunity being inadequate. Additionally, there is no central authority to report these

types of claim. Local law enforcement agencies lack resources, training and expertise to pursue many aspects of the insurance loss.

The payment of fraudulent claims, increases costs to the carrier and results in the raising of premiums to all Kansas consumers. The more fraudulent claims that are resisted and are not paid provides a deterrent to the claimant and others in submitting such future claims.

Furthermore, with vigorous investigation many such claims are and would be withdrawn resulting in lower insurance costs to your constituents. (The passage of Senate Bill No. 378 would expand duties of the fraud unit, require reporting and give adequate immunity protection to the insurance industry.)

## KANSAS INSURANCE DEPARTMENT FRAUD UNIT

The expansion of duties of the fraud unit within the Insurance Commission Department is long overdue. Many states including our neighboring state of Missouri have had fraud units with similar duties for years.

These units review files, investigate and vigorously pursue prosecution of persons and organizations involved in insurance fraud individually or as progressive schemes.

In general, law enforcement agencies do not have the training, expertise or resources to investigate the sometimes intricate aspects of the claims presented. The review of financial records, loss histories, contractual requirements in commercial losses and insurance contractual requirements are in some cases not investigated or can even be unknown to the law enforcement agency.

The expansion of the fraud unit duties will provide the accurate assessment of files believed to be fraudulent in nature and would

result in more thorough investigations. More investigations could result in a decline in fraudulent losses. (Presently, law enforcement agencies already contact the Insurance Commissioner's Department requesting assistance on these matters.)

Since the Commissioner's Department contributes to and is not supported by the general fund, no increase in expenditures from that fund would be made. (The passage of Bill No. 378 is an inexpensive option to protect commerce and consumers.)

## RATIONAL TO SUPPORT PASSAGE

1. Passage of Senate Bill No. 378 would expand duties within the fraud unit of the Kansas Insurance Commissioner's Department to investigate and deter fraudulent insurance claims in Kansas.
2. It would assist local law enforcement agencies in identifying and suppressing this type of crime. White collar crime in Kansas should be reduced.
3. The citizens of Kansas would be further protected from increased insurance premiums due to the payment of fraudulent losses. Decreased loss payments should retard premium expansion. Additionally, the citizens would be physically protected from being injured during fire or staged accidents, etc., should these losses be reduced.
4. Passage will provide adequate immunity from civil litigation for insurance companies and their representatives. It would also require them to report these losses with failure to do so being a misdemeanor offense.

This factor would relieve the carrier which are victims from frivolous allegations of initiating prosecution.

Should fraudulent losses be reduced, Kansas would become even more attractive to the industry, spurning more economic growth.

5. The Insurance Commissioner's Department is not supported by the General Fund, so resources would not be siphoned.
  
6. The expansion of the duties of the fraud unit would bring Kansas into parity with other states in the vigorous investigation of fraudulent claims.

## CONCLUSION

This witness has contacted insurance industry representatives, consultants and members of the insurance investigation community who whole-heartedly support the passage of Senate Bill No. 378.

This bill would bring Kansas into parity with other states in the suppression of insurance fraud. It would furthermore enhance economic growth and further protect the citizens of Kansas.

It would upon proper implementation, prevent businesses and housing stock being lost from the economic base.

With the reduction of fraudulent claim payments, the insurance industry could expand, spawning further economic growth in our state.



## ENCLOSURES

1. Data from the Insurance Information Institute 1995 Fact Book
  - A. Property/Casualty Insurance Companies by State
  - B. Direct Written Premiums
  - C. Direct Written Premiums by Line 1995
  - D. Causes of Reported Fires - 1992
  - E. Incendiary and Suspicious Fires - 1993
  - F. Average Costs to Hospitals - 1992 (Two pages)
  - G. Automobile Thefts in Cities and Populations Over 100,000 - 1992 (Two pages)
  - H. Information Resources (Three pages)
  - I. Information Sheet About The Witness

**Property/Casualty Insurance Companies by State**

The property/casualty insurance business in the United States comprised 3,916 individual companies in 1994, according to information provided by state insurance departments. Although about 900 of these companies write most of the business, no single company or group has more than 12 percent of the market, and the 10 largest companies account for less than 45 percent of the premium volume.

**PROPERTY/CASUALTY INSURANCE COMPANIES BY STATE, 1994**

State	Home offices	State	Home offices
Alabama	35	Montana	16
Alaska	9	Nebraska	93
Arizona	37	Nevada	8
Arkansas	30	New Hampshire	29
California	165	New Jersey	68
Colorado	39	New Mexico	6
Connecticut	60	New York	209
Delaware	86	North Carolina	70
Dist. of Columbia	10	North Dakota	45
Florida	82	Ohio	167
Georgia	53	Oklahoma	55
Hawaii	12	Oregon	15
Idaho	18	Pennsylvania	204
Illinois	290	Rhode Island	19
Indiana	122	South Carolina	26
Iowa	189	South Dakota	55
Kansas	35	Tennessee	58
Kentucky	39	Texas	260
Louisiana	28	Utah	13
Maine	8	Vermont	316
Maryland	52	Virginia	38
Massachusetts	58	Washington	28
Michigan	59	West Virginia	14
Minnesota	172	Wisconsin	189
Mississippi	18	Wyoming	3
Missouri	206	<b>Total</b>	<b>3,916</b>

Source: State Insurance Departments.

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**CASUALTY**

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.....+9.8  
.....+24.4  
.....-5.1  
.....\$19.3\*

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**PREMIUMS, 1957-1993\***

Annual change	Property premium	Annual % change
	\$242,290,952*	
	61,353,439	
19.5	74,263,992	+21.0
+8.2	98,826,043	+33.1
+7.4	111,680,839	+13.0
+7.9	131,798,114	+18.0
19.9	143,880,947	+9.2
42.4	140,882,556	-2.1
+6.0	160,906,144	+14.2
23.8	173,526,209	+7.8
-9.1	158,746,775	-8.5
+6.7	171,544,733	+8.1
19.1	149,642,189	-12.8
12.7	173,031,850	+15.6
-0.5	148,224,919	-14.3

**by State**

... by property/casualty insurance  
 ... ed more than \$245 billion, an in-  
 ... n. Data provided by A.M. Best  
 ... 93 percent of the nation's total  
 ... is for the tabulations that fol-  
 ... by line.  
 ... the premium totals shown else-  
 ... tabulations presented here are

based on direct premiums written and those used elsewhere are based on net premiums written. Direct written premiums are the amounts actually paid by the policyholders.

**DIRECT WRITTEN PREMIUMS BY STATE, 1993**

(\$1,000)			
State	Total all lines	State	Total all lines
Alabama	\$3,183,301	Montana	\$722,806
Alaska	702,932	Nebraska	1,581,434
Arizona	3,438,471	Nevada	1,290,862
Arkansas	2,073,714	New Hampshire	1,175,866
California	33,636,081	New Jersey	10,317,327
Colorado	3,557,660	New Mexico	1,289,802
Connecticut	4,446,602	New York	19,667,321
Delaware	834,753	North Carolina	5,293,096
District of Columbia	778,401	North Dakota	559,512
Florida	12,771,908	Ohio	7,616,565
Georgia	6,106,306	Oklahoma	2,653,987
Hawaii	1,520,331	Oregon	2,760,564
Idaho	880,570	Pennsylvania	12,359,739
Illinois	11,537,542	Rhode Island	1,084,893
Indiana	4,730,120	South Carolina	2,845,989
Iowa	2,425,760	South Dakota	658,824
Kansas	2,347,444	Tennessee	4,117,920
Kentucky	2,923,711	Texas	16,815,208
Louisiana	3,965,515	Utah	1,266,667
Maine	975,101	Vermont	617,601
Maryland	4,535,747	Virginia	4,975,246
Massachusetts	7,553,989	Washington	4,427,828
Michigan	9,037,745	West Virginia	1,280,475
Minnesota	4,535,613	Wisconsin	4,715,273
Mississippi	1,923,167	Wyoming	380,593
Missouri	4,769,141	<b>Total</b>	<b>\$245,667,023</b>

Source: A.M. Best Company, Inc., Best's Executive Data Service.

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## DIRECT WRITER PREMIUMS BY LINE, 1995

(\$1,000)

State	Inland marine	Ocean marine	Surety	Fidelity	Burglary & theft	Boiler & machinery
Alabama	\$96,683	\$11,724	\$29,167	\$13,022	\$1,682	\$11,382
Alaska	17,791	6,044	12,403	1,918	171	3,191
Arizona	54,330	3,029	42,191	6,570	959	7,281
Arkansas	60,855	3,625	16,063	6,622	987	5,677
California	901,871	136,728	322,759	104,111	13,594	61,606
Colorado	73,921	2,568	48,063	10,068	1,271	7,376
Connecticut	81,101	23,236	28,112	25,747	3,143	12,289
Delaware	16,497	2,493	6,653	4,029	661	2,623
D.C.	22,207	1,523	24,255	17,640	867	2,857
Florida	321,957	88,353	146,606	35,510	6,878	25,647
Georgia	175,963	16,595	48,785	21,309	3,971	16,768
Hawaii	29,177	4,849	15,374	4,854	435	2,230
Idaho	20,094	513	11,041	2,526	299	3,018
Illinois	271,657	41,238	113,109	63,521	6,664	35,905
Indiana	97,607	5,095	37,369	15,934	1,563	16,555
Iowa	55,636	1,433	16,432	9,750	1,049	7,802
Kansas	56,856	1,495	18,577	9,667	858	6,506
Kentucky	85,109	7,141	34,876	10,399	1,174	11,830
Louisiana	117,379	91,118	42,270	12,309	1,768	18,107
Maine	20,833	12,099	8,019	3,687	272	5,245
Maryland	95,805	24,229	49,447	19,831	2,597	11,349
Massachusetts	131,101	47,889	61,144	31,479	3,347	18,612
Michigan	174,964	21,827	48,289	31,505	3,904	24,210
Minnesota	110,608	12,957	34,875	21,606	2,599	14,369
Mississippi	76,572	6,543	21,151	7,093	1,160	5,295
Missouri	116,085	29,342	37,680	20,829	3,203	12,664
Montana	15,530	683	6,816	2,706	215	2,769
Nebraska	35,192	1,388	15,437	7,240	802	5,627
Nevada	30,431	1,224	29,638	3,310	748	3,799
New Hampshire	20,226	5,490	7,849	3,906	376	3,066
New Jersey	211,620	45,513	81,138	35,804	5,964	27,374
New Mexico	28,092	378	16,271	3,928	409	3,226
New York	462,350	523,900	181,383	164,798	15,080	56,748
North Carolina	131,267	12,417	42,179	19,931	1,932	17,193
North Dakota	12,512	144	6,387	2,716	259	2,353
Ohio	207,653	26,184	75,050	37,306	7,887	30,301
Oklahoma	65,354	4,346	21,808	9,671	1,075	6,378
Oregon	61,358	19,321	33,179	7,004	1,113	8,758
Pennsylvania	203,673	38,033	100,069	46,015	5,181	38,674
Rhode Island	31,716	7,582	9,335	5,043	497	3,243
South Carolina	77,083	7,037	24,118	6,880	1,455	7,152
South Dakota	13,834	275	19,332	2,378	257	1,586
Tennessee	109,621	20,116	37,340	16,850	2,137	11,957
Texas	419,958	113,260	166,258	53,128	6,076	46,969
Utah	28,835	2,012	14,588	5,248	531	3,016
Vermont	10,495	1,294	3,564	11,411	206	1,650
Virginia	125,813	17,970	57,114	18,993	2,800	16,941
Washington	112,655	94,098	64,389	14,788	2,473	13,375
West Virginia	27,633	1,742	14,786	4,539	411	4,910
Wisconsin	86,074	6,875	27,128	17,125	3,617	16,724
Wyoming	9,655	172	8,352	1,415	167	1,797
<b>Totals</b>	<b>\$5,821,289</b>	<b>\$1,555,496</b>	<b>\$2,340,219</b>	<b>\$1,013,669</b>	<b>\$126,743</b>	<b>\$685,978</b>

Source: A.M. Best Company, Inc., Best's Executive Data Service.

## DIRECT WRITER PREMIUMS BY LINE, 1995

(\$1,000)

Financial guaranty	Glass	Aircraft	Earthquake	Credit	Accident & health	Miscellaneous
\$14,066	\$128	\$9,263	\$3,470	\$4,481	\$60,422	\$23,785
5,427	4	15,204	3,588	506	5,036	3,439
19,114	126	19,184	1,163	933	46,461	24,398
3,432	128	9,339	5,764	904	38,373	10,880
189,983	3,449	92,772	542,131	35,515	204,756	91,148
9,572	176	13,905	1,227	2,430	58,364	13,532
14,178	128	23,338	1,873	2,527	27,514	10,128
6,829	20	3,445	254	2,351	10,591	2,873
19,694	16	13,539	213	215	57,892	2,407
100,819	1,953	53,187	2,306	11,567	216,052	115,835
16,025	184	39,057	2,245	9,139	121,008	45,616
3,488	93	7,353	566	682	20,774	5,094
1,450	70	5,558	442	752	9,819	6,130
57,767	1,547	42,460	17,035	11,101	315,697	68,873
17,790	153	15,240	16,073	3,825	126,193	21,544
4,898	261	7,857	1,450	1,883	88,505	9,407
5,697	200	12,439	1,918	1,966	81,212	9,954
9,896	119	6,549	13,176	2,958	45,311	13,904
20,271	130	18,393	1,076	2,250	90,092	59,781
2,677	17	2,709	309	402	8,881	4,758
18,445	125	9,337	1,083	3,919	47,553	30,061
36,247	718	10,506	2,465	3,966	36,106	9,087
31,963	322	25,189	1,154	4,352	102,726	344,068
27,825	498	30,613	670	2,543	217,755	18,441
6,179	84	6,082	6,968	8,658	50,955	15,346
16,135	240	23,904	30,248	4,594	181,861	19,581
2,215	38	4,404	445	349	14,285	4,473
1,702	195	7,087	937	514	60,854	7,934
10,468	47	9,593	2,036	710	16,764	7,085
2,111	23	4,296	524	1,002	9,235	5,289
27,722	692	22,874	2,058	12,494	98,445	40,228
4,969	49	5,876	680	528	16,951	5,462
228,268	1,527	38,945	5,401	22,500	284,186	23,086
20,629	182	13,075	1,094	9,638	73,425	26,656
876	61	2,750	65	1,331	19,702	2,837
30,129	580	31,890	12,183	9,150	288,326	31,056
4,767	180	17,495	1,019	5,120	46,293	18,698
3,194	147	12,886	13,720	4,037	84,003	12,126
101,361	434	27,145	2,419	11,618	140,746	54,172
18,411	32	3,893	406	1,379	42,515	3,270
15,116	113	7,699	7,353	5,010	52,274	13,743
1,674	74	2,427	97	212	30,482	2,739
14,196	118	13,083	16,710	5,209	74,211	24,600
67,290	1,337	93,884	2,075	8,619	276,020	84,562
5,769	51	10,550	5,101	1,053	18,335	6,374
1,692	21	1,284	199	117	3,429	1,318
10,725	216	36,764	1,524	3,041	79,222	32,212
28,154	494	37,484	29,593	3,163	55,377	21,676
7,239	92	2,882	531	1,101	29,222	4,439
16,504	260	11,577	651	3,099	216,386	17,372
574	29	2,421	331	449	9,725	73
<b>\$1,285,622</b>	<b>\$17,943</b>	<b>\$938,667</b>	<b>\$766,019</b>	<b>\$235,864</b>	<b>\$4,375,186</b>	<b>\$1,</b>

Source: A.M. Best Company, Inc., Best's Executive Data Service.

**Leading Causes of Fire**

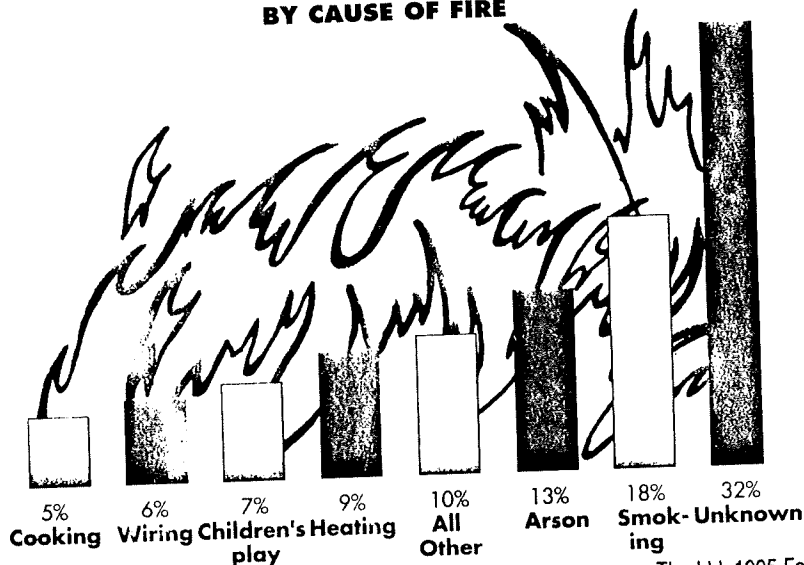
In 1992 accidents related to cooking caused more residential fires than any other known cause. Careless smoking is the leading known cause of residential fire deaths.

**CAUSES OF REPORTED FIRES, 1992**

Cause	Residential				Nonresidential			
	Fires	Deaths	Injuries	\$ Loss	Fires	Deaths	Injuries	\$ Loss
Incend./susp.	12.0%	13.0%	10.0%	17.0%	26.3%	25.4%	17.7%	45.5%
Children playing	4.0	7.0	11.0	4.0	2.6	1.6	2.1	0.5
Smoking	5.0	18.0	10.0	4.0	3.9	8.7	6.8	1.2
Heating	15.0	9.0	9.0	11.0	5.4	2.4	8.1	4.2
Cooking	21.0	5.0	21.0	7.0	6.5	1.6	8.4	2.1
Electrical wiring	8.0	6.0	7.0	10.0	8.4	8.7	10.8	7.3
Appliances	6.0	1.8	4.0	4.0	4.7	2.4	5.3	1.9
Open flame	5.0	4.0	5.0	4.0	8.0	11.1	9.2	3.5
Other heat, spark	1.1	1.4	1.3	1.0	1.4	4.0	2.4	1.0
Other equipment	1.1	0.5	1.0	3.0	5.8	6.3	12.1	4.6
Natural causes	1.6	0.2	0.6	2.0	2.5	—	2.9	2.3
Exposure	3.0	1.1	0.9	7.0	5.5	1.6	1.0	3.2
Unknown	17.0	32.0	19.0	26.0	18.9	26.2	13.2	22.8

NOTE: Columns of figures may not add to 100 percent because of the effects of rounding.  
Source: U.S. Fire Administration; National Fire Incident Reporting System.

**RESIDENTIAL FIRE DEATHS BY CAUSE OF FIRE**



residential  
 king is the

Residential	
Injuries	\$ Loss
17.7%	45.5%
2.1	0.5
6.8	1.2
8.1	4.2
8.4	2.1
10.8	7.3
5.3	1.9
9.2	3.5
2.4	1.0
12.1	4.6
2.9	2.3
1.0	3.2
13.2	22.8

ounding.

**PERSON**

Based on data reported by fire departments in its survey, the NFPA estimates that 84,500 of the structural fires that occurred in the United States in 1993 were of an incendiary or suspicious nature. This represents a decrease of 10.1 percent from a year ago. These incendiary and suspicious fires took the lives of 560 civilians, a decrease of 7.4 percent from the previous year.

Property damage from these fires was up 17.6 percent to \$2.4 billion. This increase is due to fire losses that occurred during the wildfires in Southern California and the World Trade Center fire and explosion in New York with estimated combined losses of \$1,039,000,000.

There were 41,500 vehicle fires of incendiary or suspicious origin in 1993, a decrease of 5.7 percent from the year before. These fires did an estimated \$137 million in property damage, a decrease of 13.3 percent from 1992.

**INCENDIARY AND  
 SUSPICIOUS FIRES IN  
 STRUCTURES, 1993**

	Estimate*	Change from 1992
<b>Fires</b>		
Structural fires of incendiary origin	54,000	-6.9%
Structural fires of suspicious origin	30,500	-15.3
<b>Total</b>	<b>84,500</b>	<b>-10.1</b>
<b>Civilian deaths</b>		
Structural fires of incendiary origin	415	-10.8
Structural fires of suspicious origin	145	+3.6
<b>Total</b>	<b>560</b>	<b>-7.4</b>
<b>Dollar loss**</b>		
Structural fires of incendiary origin	\$1,901,000,000***	+27.3
Structural fires of suspicious origin	450,000	-11.1
<b>Total</b>	<b>\$2,351,000,000</b>	<b>+17.6</b>

\*Estimates based on data reported by fire departments responding to the 1993 National Fire Experience Survey.  
 \*\*Includes direct property losses only; does not include indirect losses such as business interruption or temporary shelter costs.  
 \*\*\*This figure reflects fire losses that occurred during the wildfires in Southern California in October and November 1993 and the World Trade Center fire and explosion in New York City, which together resulted in an estimated loss of \$1,039,000,000.  
 Source: National Fire Protection Association estimates.

2%  
 known

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CHAPTER 6: LOSSES BY CATEGORY

Shield plans, which usually make direct payments for covered services of the participating hospital or physician, paid \$63.1 billion in benefits in 1992. Self-insured and health maintenance organization (HMO) plans recorded \$132.1 billion in paid claims for the same period.

In 1992, the average cost for treating a patient in a community hospital was \$819.83 per in-patient day. In 1991, the average cost was \$752.10.

On a state-by-state basis, the average charge per day in 1992 ranged from a low of \$457.25 in South Dakota to a high of \$1,133.50 in California.

**HEALTH INSURANCE BENEFITS PAYMENTS, 1991-1992**

	(\$ millions)		
	1991	1992	% change
Private insurers	\$97,600	\$104,800	+7.4
Blue Cross/Blue Shield	60,000	63,100	+5.2
Other plans*	112,000	132,100	+17.9
Private sector total**	222,400	246,400	+10.8
Medicare	114,000	129,200	+13.3
Medicaid	76,900	97,100	+26.3
Public sector total	190,900	226,300	+18.5
<b>Totals</b>	<b>\$413,300</b>	<b>\$472,700</b>	<b>+14.4</b>

\* Includes self-insurers, Health Maintenance Organizations, employer-employee sponsored plans, etc.  
 \*\* Some duplications in figures.  
 Sources: Health Insurance Association of America; U.S. Health Care Financing Administration.

**AVERAGE COSTS TO HOSPITALS, 1992\***

State	Avg. cost to hospitals per patient day*	Avg. length of stay in days	Avg. cost to hospitals per patient stay*
Ala.	\$728.94	7.0	\$5,080.13
Alaska	1,115.85	6.6	7,455.75
Ariz.	1,050.84	5.3	5,502.00
Ark.	633.25	7.0	4,376.30
Calif.	1,133.50	5.9	6,626.25
Colo.	904.28	6.6	5,932.86
Conn.	1,012.24	7.2	7,241.24
Del.	\$919.97	6.6	\$6,123.48

(Table continues)

State  
 D.C.  
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 Ga.  
 Hawaii  
 Idaho  
 Ill.  
 Ind.  
 Iowa  
 Kan.  
 Ky.  
 La.  
 Main  
 Md.  
 Mass  
 Mich  
 Minn  
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% change

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- +5.2
- +17.9
- +10.8
- +13.3
- +26.3
- +18.5
- +14.4**

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tient stay\*

- 30.13
- 5.75
- 2.00
- 6.30
- 6.25
- 2.86
- 1.24
- 3.48

Table continues

1995 PROPERTY/CASUALTY INSURANCE FACTS

State	Avg. cost to hospitals per patient day*	Avg. length of stay in days	Avg. cost to hospitals per patient stay*
D.C.	1,124.20	7.4	8,217.88
Fla.	885.58	6.9	6,092.04
Ga.	720.86	7.3	5,237.54
Hawaii	761.02	8.9	6,875.60
Idaho	618.04	7.0	4,346.24
Ill.	848.82	7.2	6,048.01
Ind.	821.76	6.5	5,305.32
Iowa	588.35	8.3	4,920.46
Kan.	661.03	7.8	5,114.73
Ky.	674.18	7.0	4,652.45
La.	836.25	6.6	5,457.23
Maine	674.15	7.7	5,142.23
Md.	805.91	6.4	5,139.34
Mass.	937.05	6.9	6,381.28
Mich.	846.63	7.0	5,898.84
Minn.	618.09	8.8	5,456.08
Miss.	515.92	7.4	3,807.47
Mo.	791.61	7.4	5,789.10
Mont.	474.21	10.0	4,704.20
Neb.	600.30	9.6	5,713.51
Nev.	951.76	6.0	5,777.78
N.H.	776.03	7.1	5,480.01
N.J.	736.58	8.1	5,909.46
N.M.	949.60	5.4	5,094.48
N.Y.	743.53	9.9	7,315.98
N.C.	710.78	7.4	5,217.01
N.D.	484.37	11.3	5,301.73
Ohio	875.48	6.5	5,649.09
Okla.	740.34	6.6	4,846.98
Ore.	1,011.40	5.1	5,111.55
Pa.	792.76	7.6	5,954.72
R.I.	800.92	6.7	5,355.24
S.C.	782.04	7.2	5,616.82
S.D.	457.25	10.2	4,652.82
Tenn.	796.46	6.8	5,392.35
Texas	932.89	6.1	5,666.26
Utah	1,036.30	5.1	5,104.36
Vt.	726.21	7.0	5,046.12
Va.	774.41	6.8	5,226.13
Wash.	974.24	5.4	5,238.49
W.Va.	654.62	6.9	4,496.09
Wis.	674.03	7.3	4,909.49
Wyo.	515.44	8.6	4,370.00
Nation	\$819.83	7.1	\$5,794.43
1991	752.10	7.2	5,359.56

\* Reported by hospital as expense.

Source: American Hospital Association, Hospital Statistics (1993-94 edition).



Claim Frequency		
<b>Worst</b>		
Volkswagen Cabriolet	Small	460
Ford Mustang Conv.	Midsized	394
Cadillac DeVille 2Dr.	Large	340
Ford Mustang	Midsized	333
Honda Civic 2Dr.	Midsized	250
<b>Average Loss Payment per Claim</b>		
<b>Best</b>		
Buick Skylark 2Dr.	Midsized	18
Buick LeSabre 4Dr.	Large	21
Buick Riviera	Midsized	22
Mazda 323 2 Dr.	Small	25
Geo Metro 2Dr.	Small	26
<b>Worst</b>		
Mercedes SL Conv. Series	Small	886
BMW 525i/535i	Midsized	515
Lexus LS 400	Large	493
Chevrolet Corvette Conv.	Small	460
Acura Legend 4 Dr.	Large	414

\* Results are relative — 100 represents the average for all passenger cars.  
Source: Highway Loss Data Institute.

Rank	
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16	Sac
17	Me
18	Cle
19	St.
20	Ne
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22	Atl
23	Jac
24	Oa
25	Bo
26	Sa
27	Da
28	Lo
29	Ho
30	Ka
31	Fe
32	Ne
33	Ch
34	San
35	Bo
36	Pa
37	N
38	Sa
39	Fl
40	Bo
41	Sa
42	D
43	D
44	C
45	T
46	W
47	S
48	P
49	B
50	R
51	I
52	I
53	I
54	S
55	P
56	K
57	S

**AUTOMOBILE THEFTS IN CITIES WITH POPULATIONS OF MORE THAN 100,000, 1992**

Rank	City	State	1992 Population	1992 Thefts	1992 Thefts per 100,000
1	Newark	NJ	277,544	13,930	5,019.02
2	Fresno	CA	367,376	13,011	3,541.60
3	Bridgeport	CT	141,480	4,739	3,349.59
4	Gary	IN	119,125	3,593	3,016.16
5	Detroit	MI	1,044,128	27,344	2,618.84
6	Hartford	CT	139,477	3,621	2,596.13
7	Tampa	FL	291,920	7,339	2,514.04
8	Springfield	MA	156,501	3,722	2,378.26
9	Miami	FL	373,791	8,710	2,330.18
10	Inglewood	CA	113,678	2,590	2,278.37
11	Providence	RI	161,010	3,656	2,270.67
12	Elizabeth	NJ	110,838	2,478	2,235.70
13	Milwaukee	WI	643,017	14,241	2,214.72
14	Pittsburgh	PA	373,842	8,124	2,173.11

*(Table continues)*

2-70

1995 PROPERTY/CASUALTY INSURANCE FACTS

Rank	City	State	1992 Population	1992 Thefts	1992 Thefts per 100,000
15	Fort Worth	TX	465,262	9,940	2,136.43
16	Sacramento	CA	383,102	8,179	2,134.94
17	Memphis	TN	628,865	13,214	2,101.25
18	Cleveland	OH	513,487	10,764	2,096.26
19	St. Louis	MO	402,573	8,429	2,093.78
20	New Haven	CT	130,229	2,726	2,093.24
21	Jersey City	NJ	230,277	4,805	2,086.62
22	Atlanta	GA	410,876	8,451	2,056.82
23	Jackson	MS	199,964	4,061	2,030.87
24	Oakland	CA	386,086	7,766	2,011.47
25	Boston	MA	572,822	11,411	1,992.07
26	San Bernardino	CA	170,269	3,340	1,961.60
27	Dallas	TX	1,046,562	20,515	1,960.23
28	Los Angeles	CA	3,615,355	67,981	1,880.34
29	Houston	TX	1,695,239	30,938	1,824.99
30	Kansas City	MO	441,162	8,042	1,822.91
31	Fort Lauderdale	FL	155,727	2,836	1,821.14
32	New Orleans	LA	505,008	9,124	1,806.70
33	Chula Vista	CA	140,189	2,478	1,767.61
34	San Diego	CA	1,151,853	20,231	1,756.39
35	Baton Rouge	LA	237,390	4,109	1,730.91
36	Portland	OR	458,132	7,901	1,724.61
37	New York	NY	7,375,097	126,959	1,721.46
38	San Francisco	CA	750,885	12,669	1,687.21
39	Flint	MI	142,906	2,409	1,685.72
40	Buffalo	NY	330,466	5,485	1,659.78
41	Stockton	CA	218,787	3,624	1,656.41
42	Denver	CO	492,672	8,084	1,640.85
43	Dayton	OH	184,877	2,969	1,605.93
44	Chicago	IL	2,832,901	44,988	1,588.05
45	Tallahassee	FL	130,077	2,032	1,562.15
46	Washington	DC	589,000	9,117	1,547.88
47	San Antonio	TX	972,824	14,722	1,513.33
48	Phoenix	AZ	999,900	14,983	1,498.45
49	Baltimore	MD	755,517	11,300	1,495.66
50	Riverside	CA	234,929	3,503	1,491.09
51	Little Rock	AR	179,498	2,617	1,457.95
52	Beaumont	TX	118,828	1,719	1,446.63
53	Long Beach	CA	445,405	6,318	1,418.48
54	Seattle	WA	544,940	7,698	1,412.63
55	Philadelphia	PA	1,603,638	22,416	1,397.82
56	Kansas City	KS	152,511	2,125	1,393.34
57	Santa Ana	CA	304,666	4,201	1,378.89

(Table continues)

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(Table continues)

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0700. Fax. 312-368-8336. Assists insurance companies with property claims adjustment and arson and fraud claims investigation.

**Insurance Education Foundation** ■ Bob Bischoff, chairman, 3601 Vincennes Road, P.O. Box 68700, Indianapolis, IN 46268-6870. Tel. 317-876-6046. Fax. 317-879-8408. Organization dedicated to educating Main Street America about how insurance works.

**Insurance Fund Foundation** ■ Jon Torgerson, president, 13555 S.E. 36th St., Suite 105, Bellevue, WA 98006. Tel. 206-747-6631. Fax. 206-747-6590. Provides educational programs and materials to teachers, students and the general public.

**Insurance Information Institute** ■ Gordon C. Stewart, president, 110 William St., New York, NY 10038. Tel. 212-669-9200. Fax. 212-732-1916. A primary source for information, analysis and referral on insurance subjects.

**Insurance Institute for Highway Safety** ■ Brian O'Neill, president, 1005 North Glebe Road, Suite 800, Arlington, VA 22201. Tel. 703-247-1500. Fax. 703-247-1678. Research and education organization dedicated to reducing loss, death, injury and property damage on the highways. Fully funded by property/casualty insurers.

**\*Insurance Institute for Property Loss Reduction** ■ Eugene L. Le-comte, president, 73 Tremont St., Suite 510, Boston, MA 02108-3910. Tel. 617-722-0200. Fax. 617-722-0202. An insurance industry sponsored nonprofit organization dedicated to reducing losses, deaths, injuries and property damage resulting from natural hazards.

**Insurance Institute of America, Inc.** ■ Dr. Norman A. Baglini, CPCU, CLU, president and CEO, 720 Providence Rd., Malvern, PA 19385-0770. Tel. 215-644-2100. Fax. 215-251-9995. Provides educational programs and professional certification to people in property and liability insurance. Offerings range from entry-level to advanced, specialized programs. Certification is determined through the administration of national exams.

**Insurance Library Association of Boston** ■ Jean Lucey, director, 156 State St., Boston, MA 02109. Tel. 617-227-2087. Fax. 617-723-8524. A nonprofit, independent membership library serving the research and education interests of all branches of the insurance industry.

**Insurance Regulatory Examiners Society** ■ Gary Domer, president, 130 N. Cherry St., Suite 202, Olathe, KS 66061. Tel. 913-768-4700. Fax. 913-768-4900. Nonprofit professional and educational association for examiners and other professionals working in insurance regulation.

**Insurance Research Council** ■ Elizabeth A. Sprinkle, acting executive director, 1200 Harger Rd., Suite 310, Oak Brook, IL 60521. Tel. 708-572-1177. Fax. 708-572-9856. Provides the public and the insur-

ance industry with timely research information relevant to public policy issues affecting risk and insurance.

**\*Insurance Services Office, Inc.** ■ Fred R. Marcon, president, 7 World Trade Center, New York, NY 10048-1199. Tel. 212-898-6000. Fax. 212-898-5525. Provides research, advisory, rating, actuarial, statistical and other services relating to property and casualty insurance, including the development of policy forms, rates, premiums, and related services for monoline and multiple line coverages.

**Insurance Value Added Network Services** ■ Robert Barham, president, 777 West Putnam Ave., Greenwich, CT 06830-5102. Tel. 203-531-5200. Fax. 203-532-2199. An industry-sponsored organization offering data communications network linking agencies, companies and providers of data to the insurance industry.

**\*International Association of Special Investigation Units** ■ Scott M. Conley of Aetna Life & Casualty is president of IASIU. For information write to IASIU, c/o I.I.I., 110 William Street, New York, NY 10038. Tel. 212-669-9274. Fax. 212-791-1807. An association of more than 870 insurance company SIU professionals representing the largest property and casualty insurance companies in the country. The organization acts as an education and communications resource in the industry's fight against fraud.

**\*International Insurance Council** ■ Gordon Cloney, president, 1212 New York Ave., NW, Suite 250, Washington, DC 20005. Tel. 202-682-2345. Fax. 202-682-4187. Speaks for and coordinates the international noncommercial activities of U.S. insurance and reinsurance companies.

**\*International Insurance Society, Inc.** ■ Mary Silberberg, executive director, Box 870223, Tuscaloosa, AL 35487-0223. Tel. 205-348-8974. Fax. 205-348-8973. A nonprofit membership organization whose mission is to facilitate international understanding, the transfer of ideas and innovations and the development of personal networks across insurance markets through a joint effort of leading executives and academics throughout the world.

**ISO Commercial Risk Services Inc.** ■ B. Joseph Shelley, president, 2 Sylvan Way, Parsippany, NJ 07054. Tel. 201-267-0359. Fax. 201-267-5280. A wholly-owned subsidiary of Insurance Services Office, Inc., providing individual property survey and rating information to the property/casualty insurance industry.

**ISO Telecommunications, Inc.** ■ Sandy Steinmetz, president, 7 World Trade Center, New York, NY 10048. Tel. 212-898-6000. Fax. 212-898-6729. A wholly-owned subsidiary of Insurance Services Office, Inc., established to telecommunicate ISO products and services to ISO-participating insurers.

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**Kansas Association of Property and Casualty Insurance**

**Companies** ■ L.M. Cornish, secretary-treasurer, 900 Mercantile Tower, 8th and Jackson Streets, Topeka, KS 66612. Tel. 913-232-0545. Fax. 913-232-0005. Represents 17 domestic insurers in Kansas.

**Kansas Insurance Education Foundation** ■ L.M. Cornish, secretary-treasurer, P.O. Box 1280, Topeka, KS 66601. Tel. 913-232-0545. Fax. 913-232-0005. Nonprofit organization devoted to promotion and encouragement of insurance education in Kansas. Develops teaching aids, supports insurance education at the university level, and prepares and distributes consumer information.

**Life Insurance Marketing and Research Association, Inc.** ■ John C. Scully, president, 8 Farm Springs, Farmington, CT 06032. Tel. 203-677-0033. Fax. 203-678-0187. Principal source of life insurance industry sales and marketing statistics.

**LOMA (Life Office Management Association)** ■ Lynn Merritt, president, 5770 Powers Ferry Rd., Atlanta, GA 30327. Tel. 404-951-1770. Fax. 404-984-0441. Worldwide association of insurance companies specializing in research and education, with a primary focus on home office management.

**Loss Executives Association** ■ Gayle Nordstrom, president, c/o Industrial Risk Insurers, 85 Woodland St., Hartford, CT 06105. Tel. 203-520-7300. Fax. 203-549-5780. A professional association of property loss executives providing education to the industry.

**Moody's Investors Service** ■ John Bohn, president, 99 Church St., New York, NY 10007. Tel. 212-553-1658. Fax. 212-553-4062. Global credit analysis and financial information firm.

**National Association of Casualty and Surety Executives** ■ Michael Lovendusky, senior counsel, 1130 Connecticut Ave., NW, Washington, DC 20036. Tel. 202-828-7100. Fax. 202-293-1219. Organization to provide insurance companies and agents with a forum for discussion of industry problems relating to the public interest.

**National Association of Health Underwriters** ■ Mark W. Lappen, executive director, 1000 Connecticut Ave., NW, Suite 810, Washington, DC 20036. Tel. 202-223-5533. Fax. 202-785-2274. Professional association of persons who sell and service disability income and hospitalization and major medical health insurance.

**National Association of Independent Insurance Adjusters** ■ Charles J. Umbach, president, 300 W. Washington St., Suite 805, Chicago, IL 60606-2001. Tel. 312-853-0808. Fax. 312-853-3225. Association of claims adjusters and firms operating independently on a fee basis for all insurance companies.

**National Association of Independent Insurers** ■ Lowell R. Beck, president, 2600 River Rd., Des Plaines, IL 60018. Tel. 708-297-7800.

## **Michael A. Schlatman**

Mr. Schlatman is the President of Consolidated Forensic Investigations, Inc., which was formed in June of 1996. He is the former President of Independent Insurance Investigations, Inc. He has numerous years of experience in insurance investigations including: fire, fraud and related claims.

He has a masters degree in Criminal Justice and has taught extensively in the insurance investigations field. He was elected as a Director of the International Association of Arson Investigators in April of 1996.

He is also a Director of the Kansas Chapter of the International Association of Arson Investigators. He is a prior Police Detective and member of the St. Louis County Major Case Squad.

# OFFICE OF DISTRICT ATTORNEY

PAUL J. MORRISON, DISTRICT ATTORNEY

March 17, 1997

Senate Judiciary Committee  
State Capitol Bldg.  
300 SW 10th Ave.  
Topeka, KS 66612

RE: Senate Bill 378, Insurance Fraud Legislation

Mr. Chairman and Members of the Committee:

This office has reviewed Senate Bill 378 concerning insurance fraud which is being proposed through the Insurance Commissioner's Office with input from the insurance industry, local law enforcement, county and district attorneys, and the Coalition Against Insurance Fraud centered in Washington, D.C.

In our opinion, this legislation is long overdue for two very important reasons. The first reason is due to considerable case loads being placed upon prosecutor's offices around the state. The insurance fraud category of crime is many times overlooked. The cases are typically more complicated than the normal theft case. Many times, there exists a paper trail of documents generated by the insurance community in determining whether to pay out on a claim or instead deny it due to fraud. The volumes of documents that are sometimes generated are extremely time consuming to review and difficult to interpret for an investigator or prosecutor who is not well acquainted with the insurance industry. Unless the case is presented to the prosecutor or investigator in a fashion where it is understandable and easy to present to a court, the case will typically never get filed.

This bill would allow for the Insurance Commissioner's Office who has the most expertise in the state in the area of insurance to be able to help put these cases together in an understandable fashion for both investigators and prosecutors. The bill gives the Commissioner's Office subpoena powers to obtain documents and statements under oath from reluctant witnesses. This sort of power is essential to the Insurance Commissioner's Office being able to assist local law enforcement and prosecutors with putting these cases together.

The Johnson County DA's Office has worked closely with the Insurance Commissioner's Office on several cases which have surfaced in Johnson County. The attorneys and investigators with the Office are capable, competent experts in the area of insurance fraud. They have been very helpful in putting together cases for our office. Their efforts, however, could be much better utilized by the proposed legislation. Under the present

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law, if an insurance company or witness refuses to turn over information, the Commissioner's Office has no way to compel the turning over of the information.

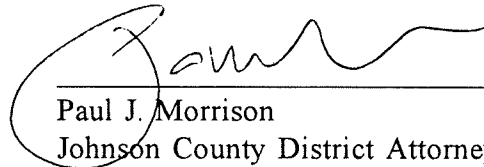
This State needs another office who is willing and able to provide assistance in the insurance fraud area in order to combat the ever increasing problem. The citizens of this State suffer because of increased rates which are passed on to the consumer due to the extent of the fraud problem. This is a consumer friendly piece of legislation as well as an insurance company friendly piece of legislation. Everybody stands to gain by this legislation.

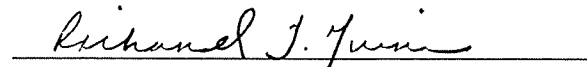
The bill is patterned very similarly to the Arson Immunity Act which gives subpoena powers to the State Fire Marshall's Office to conduct investigations in concert with law enforcement. This bill simply allows for the Insurance Commissioner's Office to use its expertise in the insurance area to then work in concert with law enforcement in putting together these cases.

The second very important reason for this legislation is the immunity which is afforded to agencies which are authorized under this bill to exchange information. Without this immunity, insurance companies are fearful of being sued for disclosure of information. The law already provides immunity to insurance companies in arson cases under the Arson Immunity Act. This bill would simply provide the same immunity for insurance fraud cases.

This Office strongly urges your favorable consideration of this bill. Should you have any questions, I can be reached at (913)764-8484 ext. 5301.

Sincerely,

  
\_\_\_\_\_  
Paul J. Morrison  
Johnson County District Attorney

  
\_\_\_\_\_  
Richard G. Guinn  
Assistant District Attorney

PJM/sem





S.B. 378/20/97 (Sebelius)

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

**MEMORANDUM**

To: Senate Judiciary Committee

From: Tom Wilder

Re: S.B. 378 (Insurance Fraud)

Date: March 20, 1997

I am appearing today to ask for your support for Senate Bill 378 which will strengthen the ability of the Kansas Insurance Department to combat insurance fraud. Insurance is big business in this state--Kansans spend over \$6 billion each year on insurance premiums. Unfortunately, as with any business activity, there is ample opportunity for fraud and other criminal acts by those who file insurance claims, by insurance agents and by insurers and their employees. This legislation will help give the Insurance Department, insurance companies and law enforcement agencies the tools needed to prosecute insurance related crimes.

When Commissioner Sebelius assumed office in 1995, she created the first Fraud Unit within the Insurance Department. The unit, which is staffed by an attorney and two investigators, has opened 256 cases in the past two years. It is currently working on a number of cases involving over one-half million dollars in insurance fraud and other crimes.

Combating insurance fraud is an effort that involves a number of government agencies along with the insurance industry. The Insurance Department has worked with the Kansas Attorney General's office and the Kansas Bureau of Investigation as well as with local law enforcement officials in Comanche, Ellis, Finney, Harvey, Johnson, Leavenworth, Marshall, Montgomery, Sedgwick, Shawnee and Wyandotte Counties. The Fraud Unit has also referred cases to the Internal Revenue Service, FBI, Social Security Administration and the Topeka Police Department.

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420 SW 9th Street  
Topeka, Kansas 66612-1678  
ksebelius@ins.wpo.state.ks.us

913 296-3071  
Fax 913 296-2283

**Consumer Assistance Hotline**  
1 800 432-2484 (Toll Free)  
Printed on Recycled Paper

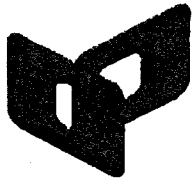
The following is an outline of the key features of the act:

- Formerly creates a fraud unit within the Department of Insurance with the authority to serve subpoenas and cooperate with federal and state law enforcement agencies in the investigation of insurance crime.
- Incorporates the definition of a “fraudulent insurance act” currently found in K.S.A. 40-2,118 and repeals that statute.
- Allows the Commissioner to issue subpoenas to obtain documents or testimony as part of an investigation of a fraudulent insurance act. Anyone subject to a subpoena would have the right to file a court challenge to the request.
- Information gathered by the Fraud Unit could be referred to the appropriate federal or state prosecuting agency. The bill also allows a staff attorney from the Insurance Department to assist in the prosecution at the request and direction from the law enforcement agency.
- Allows the Commissioner to notify any appropriate professional licensing boards or disciplinary bodies of insurance fraud. The Fraud Unit has referred matters to the Kansas Board of Healing Arts, SRS and ADAS which licenses alcohol treatment facilities.
- Permits “authorized agencies,” as listed in the bill, to request relevant information from an insurance company to help further the investigation of insurance fraud.
- Requires mandatory reporting to an authorized agency by an insurance company who has a “good faith belief” that insurance fraud has been or is being committed. Companies would have immunity from civil liability for reporting provided the report was made pursuant to a “good faith belief.”
- Allows insurers to disclose information to other insurance companies and to the National Insurance Crime Board for the purpose of detecting prosecuting or preventing insurance fraud.
- Extends the statute of limitations for the prosecution of insurance fraud from three years to five years which is the same limitation period found in the Kansas Medicaid fraud act. Insurance fraud cases can be complex and it requires time to gather information. The Fraud Unit has declined action in four cases over the past two years because of the three year statute of limitations.
- Repeals K.S.A. 40-417 which conflicts with the existing K.S.A. 40-2,118. The former statute states that making a fraudulent application for life insurance is a misdemeanor. The other provision in K.S.A. 40-2,118 states that insurance fraud is a felony depending on the amount involved.

The Kansas Insurance Department's Fraud Unit is actively working with a number of local, state and federal law enforcement agencies and with insurance companies to investigate and prosecute insurance fraud. Senate Bill 378 will help with these efforts to combat insurance crimes. The proposed legislation is based on a Model Insurance Fraud Act that is in place in a number of states. I would ask that the Committee approve S.B. 378.

**STATE AGENCIES WITH SUBPOENA POWER**  
**All statutory references are to specific enabling provisions**

Board of Accountancy	75-1119	
Board of Aging (after July 1, 1997)	75-5945(j)(i) and (ii)	
Board of Abstracters	74-3902	
Board of Barbering	65-1824	
Dept. of Health and Environment	65-2305	
Civil Service Board	75-2929(d)	
Corporation Commission	66-150	
Any County of District Attorney	19-713	
Dairy Commissioner	65-702	
Clerk of the Court	60-245	
Dental Board	65-1452	
Board of Supervisors	24-615	
DMV	8-255	
County Election Officers	25-4158	
Dept. of Human Resources	44-714	
Committee on Governmental Standards	46-257	
Board of Healing Arts	65-2839(a)	
Board of Tax Assessors	79-3233	
Insurance Department	40-281	
State Levee Districts	24-1102	
Metropolitan Transit Board	12-2837	
Mined-Land Conservation & Reclamation Board	49-405	
Attorney General		
Board of Mortuary Arts	74-1704	
Board of Nursing	65-1120	
Optometry Board	74-1504	
Parole Board	22-3720	
Dept. of Agriculture	2-2463	
Dept. of Education	72-5428	
Water Office	66-133	
SRS	75-3306	
Workers Comp	44-549	
Dept. of Administration		
Office of the State Banking Commissioner	9-1716	
Behavioral Sciences Regulatory Board	74-7508	
State Lottery Board	74-8704	
Board of Optometry Examiners	74-1504	
Racing & Gaming Commission	74-8804	
Securities Commission	17-1265	



# COALITION AGAINST INSURANCE FRAUD

## Member Organizations

- American Insurance Association
- American International Group
- CNA Insurance Companies
- Consumer Action
- Consumer Federation of America
- Consumer Fraud Watch
- Fireman's Fund Insurance
- General Accident
- General Reinsurance Corporation
- International Association of Insurance Fraud Agencies
- ITT Hartford Insurance
- National Association of Consumer Agency Administrators
- National Association of Insurance Commissioners
- National Conference of Insurance Legislators
- National District Attorneys Association
- National Insurance Crime Bureau
- National Urban League
- Nationwide Insurance
- Office of Attorney General, Minnesota
- State Farm Insurance Companies
- Travelers/Aetna Property Casualty
- USF&G
- .....
- DENNIS JAY**  
Executive Director

*A national coalition of consumers, government agencies and insurers dedicated to combating all forms of insurance fraud through public information and advocacy.*

March 19, 1997

1511 K St., N.W. • Suite 622  
Washington, D.C. 20005  
202-393-7330  
202-393-7329 fax

Senator Tim Emert  
Chair - Senate Judiciary Committee  
Kansas State Senate  
Topeka, KS 66612

Dear Senator Emert:

On behalf of the Coalition Against Insurance Fraud, I am writing in support of SB 378, the insurance fraud legislation, that will be considered by your committee on March 20.

The Coalition Against Insurance Fraud is a national broad-based organization of consumer groups, government organizations and insurance companies dedicated to combating all forms of insurance fraud. Our membership of 25 national organizations include the Consumer Federation of America, Consumer Action, American Insurance Association, State Farm, Fireman's Fund and Nationwide Insurance.

As a national organization, the coalition has worked closely with legislators and regulators on an anti-fraud agenda in many states. We view the problems facing individual states, such as Kansas, in a global fashion. What you are working on in Topeka may have immediate importance to the consumers of Kansas, but it also reflects on the trends that we have seen over the last several years nationwide.

This activity in Kansas and nationwide is no accident. There is a genuine belief that stronger laws are necessary to combat the effect of insurance fraud on the cost of insurance to consumers and businesses.

The coalition estimates insurance fraud costs the nation \$80 billion a year — and the effect on the citizens of Kansas is felt daily.

You have the opportunity in this session of the legislature to add Kansas to the long list of states that have strengthened their anti-fraud laws in the past several years -- states such as Washington, California, Nevada, Idaho, Utah, Colorado, Arizona, Nebraska, Arkansas, Texas, Florida, New York, Pennsylvania and Delaware. The list continues to grow from every region in the nation.

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But, the true winners in this effort will be the citizens of Kansas. Strict insurance fraud laws will help to hold down insurance premiums for consumers and businesses.

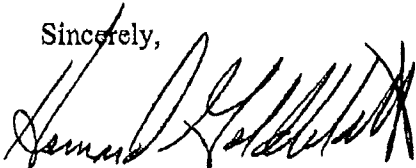
The coalition believes there are several elements essential for an effective anti-fraud effort — all present in SB 378.

- 1) Insurance fraud should be defined as a crime and, depending upon the severity of the fraud, a felony;
- 2) A creation of a fraud bureau with strong authority to investigate suspected insurance fraud cases is a key ingredient in the partnership of government, industry and consumers in the fight against insurance fraud.
- 3) Strong immunity should be enacted to allow for the exchange of information among insurers and law enforcement for the purpose of investigating suspected insurance fraud, if the exchange of information is made without actual malice. This will help protect any person from lawsuits for the honest reporting of suspected fraud; and
- 4) Mandatory restitution for victims should be codified both for the purpose of providing justice and as a way to seize perpetrators' ill-gotten gains.

By enacting this legislation, Kansas has an excellent opportunity to take a stand against those who commit fraud. It is good for the citizens of Kansas and good for the nation. We strongly endorse SB 378 and hope you will expeditiously enact it this year.

Please let me know if there is anything else the coalition can do to assist you in your deliberations.

Sincerely,



Howard Goldblatt  
Director of Government Affairs

35 3/20/97 att#5



State of Kansas  
**Office of the Attorney General**

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

**CARLA J. STOVALL**  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
FAX: 296-6296

BEFORE THE KANSAS STATE SENATE  
TESTIMONY OF ASSISTANT ATTORNEY GENERAL WM. SCOTT HESSE  
MARCH 20, 1997

I come before the Committee today to oppose S.B. 378 on behalf of the Office of the Attorney General. As Chief Law Enforcement Officer of Kansas, Attorney General Stovall is working hard to eradicate insurance fraud. However, the Attorney General opposes S.B. 378 for the following reasons.

Senate Bill 378 duplicates current law enforcement efforts by certified law enforcement agencies. Insurance fraud is a form of white collar crime which the Kansas Bureau of Investigation routinely investigates many times at the request of the Kansas Insurance Department. These cases involved more than insurance fraud schemes, including the impairment of security interests, theft by deception, securities fraud and other white collar crimes in areas which are not within the jurisdiction of the Kansas Insurance Department and S.B. 378. These criminal schemes encompass the entire gamut of criminal activity including crimes against persons. To fight white collar crime, including insurance fraud, a law enforcement agency must have the full compliment of crime fighting jurisdiction and expertise.

White collar crime, including insurance fraud, can be a complicated criminal endeavor

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which may include organized crime. The small size and limited scope of the Insurance Fraud unit in S.B. 378 would not have the support of a major state law enforcement agency such as the KBI or Kansas Highway Patrol. The members of the Insurance Fraud unit would likely find themselves engulfed in a complicated criminal scheme where the perpetrator would commit any crime, including crimes against persons, to prevent their scheme from being detected.

Senate Bill 378 gives the Insurance Commissioner the power to conduct inquisitions. The power to conduct an inquisition is a powerful law enforcement tool reserved to the Attorney General and District and County Attorneys. Inquisitorial power can be very intrusive into the rights of Kansans and must only be used sparingly.

Under Senate Bill 378, the Commissioner would only have the authority to cooperate with prosecutors, however, the Commissioner would not have the authority to actually prosecute an insurance fraud case. Prosecutors already cooperate with the Insurance Department and have the power to prosecute criminals, including those that commit insurance fraud. The proposed legislation allows the Insurance Commissioner the power to review insurance fraud without the prosecutorial power to crack down on it.

The bill before the committee gives members of the Insurance Fraud unit the power to cooperate with law enforcement officers, however, the KID is currently cooperating with the KBI and other agencies. Finally, the bill only gives members of the Insurance Fraud unit a limited number of the powers that commissioned law enforcement officers hold. S.B.378 creates a weak law enforcement agency which would duplicate current law enforcement efforts and would not be as effective as the KBI or other existing law enforcement agencies.

Kansas currently has the adequate law enforcement infrastructure for fighting white collar crime. The KBI devotes trained detectives, accountants, attorneys, criminologists and



pathologists in the pursuit of white collar criminals. Numerous local law enforcement agencies do the same. Prosecutors across the state charge and convict persons who commit insurance fraud. The problem of ferreting out white collar crime, specifically insurance fraud, does not lie with the creation of additional government agencies, such as the insurance fraud unit, the solution to the problem of insurance fraud is sufficient funding of law enforcement we already have.

SS 3/20/97 att#6

Kansas State Fire Marshal  
Suite 600; 700 S.W. Jackson  
Topeka, KS 66603-3714



Telephone: 913-296-1111  
FAX: (913)-296-0151

State Fire Marshal Gale Haag

Governor Bill Graves

*"Where Fire Safety is a way of life"*

BEFORE THE KANSAS STATE SENATE  
TESTIMONY OF ELENA NUSS, ASSISTANT STATE FIRE MARSHAL  
MARCH 20, 1997

TESTIMONY IN OPPOSITION TO SB 378

Mr. Chairman and members of the Committee, thank you very much for allowing me to appear this morning. The State Fire Marshal, while committed to the issue of combating insurance fraud in Kansas, nonetheless joins the Kansas Attorney General in opposing Senate Bill 378.

The Fire Marshal wishes to express his respect for many of those testifying in support of this bill and for many of the ideas contained in the bill, but feels that the bill unnecessarily duplicates services currently being provided by other state agencies. Many of the ideas contained in this bill are worthy of serious discussion and are potentially worthy of future legislative action, such as establishment of a central repository of information pertaining to insurance fraud in the state, mandatory reporting by insurance companies, and strengthening of the immunity laws allowing cooperation between law enforcement and the industry.

The drawbacks of this bill outweigh the benefits, however. The state does not need another police agency, but to adequately fund the police agencies which presently exist. The state does not need to expand the duties of KID investigators and to make them law enforcement officers, but to expand the tools and resources available to our current law enforcement officers. Rather than creating an additional (but weak) law enforcement agency, the Fire Marshal requests that the legislature increase the resources available to state agencies already working diligently to eradicate insurance-related crimes in Kansas, such as the State Fire Marshal's Office and the KBI.

The Fire Marshal wishes to encourage the legislature to explore some of the ideas contained in this bill. At the same time, though, you need not create an additional police agency in order to adopt these other, good aspects of this legislation.

I will not waste your time with additional testimony because Mr. Hesse has already summarized very eloquently many of the concerns our office has with this legislation. I would simply ask you to remember that you already have state agencies working very hard in this arena. Although those agencies desperately need additional funding and resources to combat these very problems, we do not feel the state needs an additional agency performing the same functions.

Thank you for your time and attention.

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