

Approved: March 11, 1999
Date

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:14 a.m. on March 10, 1999 in Room 123-S of the Capitol.

All members were present except: Senator Harrington (excused)
Senator Petty (excused)

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Jerry Donaldson, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Representative O'Neal
Paul Davis, Kansas Insurance Department
Ron Smith, Kansas Bar Association
Roger Viola, Security Benefit Group
Ed Schaub, Western Resource, Inc.

Others attending: see attached list

The minutes of the March 9 meeting were approved on a motion by Senator Bond and seconded by Senator Donovan; carried.

SB 2015--concerning civil procedure; relating to service of process upon insurance companies and fraternal benefit societies

Conferee O'Neal testified in support of **SB 2015**, a bill which he introduced. He described how the bill brings into conformity current law with the law relating to service of process on foreign corporations. (attachment 1)

Conferee Davis testified in support of **SB 2015**. He discussed current procedures used by the Kansas Insurance Department in their role as resident agent for service of process when a foreign or domestic insurance company or fraternal benefit society is sued or a garnishment is served upon an insurance company or fraternal benefit society. He described the positive effect of procedural changes in the bill. In addition, he offered a balloon which makes two technical changes in the bill. (attachment 2)

HB 2224--concerning persons required to report abuse, neglect or exploitation of children and certain adults; providing certain exemptions

Conferee Smith testified in support of **HB 2224**. He provided background on why this bill was introduced and stated that the bill states clearly "that if a person has more than one license but is practicing law, the attorney exception to the mandatory reporting law controls." (attachment 3) Brief discussion followed.

HB 2156--concerning corporations; relating to voting rights of stockholders

Conferee Viola testified in support of **HB 2156**. He stated that the bill authorizes the use of electronic voting procedures in corporate elections which is something current law does not address. He described how this would benefit major diversified corporations whose shareholders vote annually by proxy. On inquiry by a Committee member, he described the mechanics of electronic voting. (attachment 4)

Conferee Schaub testified in support of **HB 2156**. He stated that electronic voting, which is currently allowed in over 20 states, allows corporations' shareholders to vote their proxy either by telephone or through the Internet. He discussed the benefits of this in terms of decreasing processing costs for the corporation and facilitating voting for the shareholders. (attachment 5)

The meeting adjourned at 10:38 a.m. The next scheduled meeting is March 11, 1999.

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

MICHAEL R. (MIKE) O'NEAL

104TH DISTRICT
HUTCHINSON/NORTHEAST RENO COUNTY

LEGISLATIVE HOTLINE
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CHAIRMAN:
JUDICIARY COMMITTEE

MEMBER:
FISCAL OVERSIGHT
STATE GAMING COMPACTS
UNIFORM LAW COMMISSION
KANSAS SENTENCING COMMISSION
KANSAS JUDICIAL COUNCIL

H.B. 2015
SERVICE OF PROCESS
UPON INSURANCE COMPANIES
Testimony before Senate Judiciary Committee
March 10, 1999
Rep. Mike O'Neal

Chairman Emert and members of the Committee, thank you for the opportunity to appear on H.B. 2015, relating to the procedure for obtaining service of process on insurance companies. The bill is an effort to conform our current law with the law relating to service of process on foreign corporations (K.S.A. 60-304 (f)).

The current law relating to service of process on insurance companies calls for service upon the Commissioner of Insurance, who is then required to forward the suit papers on to the insurance carrier. Unlike the current procedure for serving foreign corporations through the Secretary of State, the insurance procedure does not contain a requirement for service by the Commissioner by a form of certified mail. The requirement of registered mail under K.S.A. 60-304 (f) serves to provide an effective "paper trail" in the event questions arise regarding dates of service and answer dates.

Unlike most actions, where a defendant's time to answer is measured from the date that defendant was "served" with suit papers, service against a foreign corporation or an insurance carrier is effective upon service on the Secretary of State or the Insurance Commissioner, as the case may be. Requiring that the defendant company be sent the important papers by certified mail, return receipt requested does not extend the answer date but does provide a written record of when the papers were sent and received. Infrequently, papers are mishandled by regular mail and as a result a defendant's time to answer expires before the defendant ever gets notice of suit.

Amendments in the House Committee were friendly and helped clarify the intent of the legislation.

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60-304. Service of process, on whom made.

(f) *Foreign corporation or foreign limited partnership resident agent.* Service of process or service of any notice or demand required or permitted by law to be served on a foreign corporation or foreign limited partnership may also be made on the corporation or limited partnership by service thereof on the resident agent of the corporation or limited partnership. Whenever any foreign corporation or foreign limited partnership authorized to transact business or transacting business without authority in this state fails to appoint or maintain in this state a resident agent upon whom service of legal process or service of any such notice or demand may be had, whenever the resident agent of such corporation or limited partnership cannot with reasonable diligence be found at the registered office in this state or whenever the certificate of authority of any foreign corporation or foreign limited partnership is forfeited, the secretary of state shall be irrevocably authorized as the agent and representative of the foreign corporation or foreign limited partnership to accept service of any process or service of any notice or demand required or permitted by law to be served upon the corporation or limited partnership. Service on the secretary of state of any process, notice or demand against the foreign corporation or foreign limited partnership shall be made by delivering to and leaving with the secretary of state, or with any clerk having charge of the corporation department of the secretary of state's office, the original and two copies of the process and two copies of the petition, notice or demand, or the clerk of the court may send the original process and two copies of both the process and the petition, notice or demand directly to the secretary of state by restricted mail. In the event that any process, notice or demand is served on the secretary of state, the secretary shall immediately cause a copy thereof to be forwarded by restricted mail, addressed to the corporation or limited partnership at its principal office as it appears in the records of the secretary of state, or to the registered or principal office of the corporation or limited partnership in the state of its incorporation or formation. The secretary of state shall keep a record of all processes, notices and demands served upon the secretary under this subsection, and shall record in the record the time of the service and the action of the secretary with reference to it. A fee of \$30 shall be paid to the secretary of state by the party requesting the service of process, to cover the cost thereof. That fee shall not be included within or paid from any deposit as security for any costs or docket fee required by K.S.A. 60-2001 or 61-2501, and amendments thereto.

(g) *Insurance companies or associations.* Service of summons or other process may also be made on any insurance company or association, organized under the laws of the state of Kansas by service on the commissioner of insurance in the same manner as that provided for service on foreign insurance companies. All the requirements of law relating to service on foreign insurance companies so far as applicable shall also apply to domestic insurance companies.



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Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

March 10, 1999

TO: Senate Financial Institutions and Insurance Committee

FROM: Paul T. Davis, Assistant Director for Governmental Affairs

RE: House Bill 2015—Service of process

Mr. Chairman and members of the committee:

I am appearing today in support of House Bill 2015 which makes several subtle changes to K.S.A. 40-218. As you are aware, the Kansas Insurance Department acts as the resident agent for service of process when a foreign or domestic insurance company or fraternal benefit society is sued or a garnishment is served upon an insurance company or fraternal benefit society in Kansas.

When a plaintiff brings a lawsuit against an insurance company or fraternal benefit society or a garnishment is directed towards an insurance company or fraternal benefit society, the plaintiff must pay a \$25.00 fee with the Clerk of the District Court where the lawsuit originates. The Clerk of the District Court then forwards the \$25.00 fee plus a copy of the process to the Insurance Department. At the point the process is received by the Insurance Department, service has been made on the insurance company or fraternal benefit society and the time to file an answer to the process begins to run. Additionally, upon receipt of the petition, our legal department forwards the process to the insurance company or fraternal benefit society's registered agent or executive office.

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Our legal department also fills out the return of service portion of another copy the summons and returns it to the Clerk of the District Court where the lawsuit originated.

After this bill was amended by the House Insurance Committee, there are several changes in the current law to be noted. The first change requires the process to be mailed through certified mail with return receipt requested by both the Clerk of the District Court and the Insurance Department. Current law only provides for the process to be sent through regular U.S. mail. We believe this change in the law will help ensure that process arrives at its destination. The second change of significance requires the process be sent from the Insurance Department to the insurance company or fraternal benefit society's general agent, if such agent resides in this state, or to the secretary of the insurance company or fraternal benefit society. This change will help ensure that process arrives in the rights hands at the insurance company or fraternal benefit society.

I have also attached a balloon that makes two technical changes. The first changes the word "address" to "addressed" on line ten (10) of page two (2). The second strikes through "in any state in which it is domesticated" on lines twelve (12) and thirteen (13) on page two (2). An insurance company can only be domesticated in one state.

The Kansas Insurance Department is committed to providing service of process in the most efficient and effective manner possible. We believe this bill will help us meet this goal. Thank you for your consideration of House Bill 2015 and we respectfully ask for favorable passage of the bill.

As Amended by House Committee

Session of 1999

HOUSE BILL No. 2015
By Representative O'Neal
12-30

10 AN ACT concerning civil procedure; relating to service of process upon
11 insurance companies and fraternal benefit societies; amending K.S.A.
12 40-218 and repealing the existing section.

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

15 Section 1. K.S.A. 40-218 is hereby amended to read as follows: 40-
16 218. Every insurance company, or fraternal benefit society, on applying
17 for authority to transact business in this state, and as a condition prece-
18 dent to obtaining such authority, shall file in the insurance department
19 its written consent, irrevocable, that any action or garnishment proceed-
20 ing may be commenced against such company or fraternal benefit society
21 in the proper court of any county in this state in which the cause of action
22 shall arise or in which the plaintiff may reside by the service of process
23 on the commissioner of insurance of this state, and stipulating and agree-
24 ing that such service shall be taken and held in all courts to be as valid
25 and binding as if due service had been made upon the president or chief
26 officer of such corporation. Such consent shall be executed by the pres-
27 ident and secretary of the company, authenticated by the seal of the cor-
28 poration, and shall be accompanied by a duly certified copy of the order
29 or resolution of the board of directors, trustees or managers authorizing
30 the president and secretary to execute the same. The summons, accom-
31 panied by a fee of \$25, shall be directed to the commissioner of insurance
32 **and shall require the defendant to answer by a certain day, not**
33 **less than 40 days from its date.** ~~, and shall require the defendant to~~
34 ~~answer by a certain day, not less than 40 days from its date.~~
35 ~~Such summons, and a certified copy of the petition shall be forthwith~~
36 ~~forwarded by the clerk of the court to the commissioner of insurance,~~
37 ~~who shall immediately forward a copy of the summons and the certified~~
38 ~~copy of the petition, to the secretary of the company or fraternal benefit~~
39 ~~society sued, and a copy of the summons to the general agent of the~~
40 ~~company or fraternal benefit society if any such agent resides in this state;~~
41 ~~and thereupon the~~

42 *Service on the commissioner of insurance of any process, notice or de-*
43 *mand against an insurance company or fraternal benefit society shall be*

1 made by delivering to and leaving with the commissioner or the commis-
2 sioner's designee, the original of the process and two copies of the pro-
3 cess and the petition, notice of demand, or the clerk of the court may
4 ~~send~~ send the original process and two copies of both the process and
5 petition, notice or demand directly to the commissioner by ~~restricted mail~~
6 certified mail with return receipt requested. In the event that any process,
7 notice or demand is served on the commissioner, the commissioner shall
8 immediately cause a copy thereof to be forwarded by ~~restricted mail cer-~~
9 tified mail with return receipt requested ~~to the insurance company or~~
10 fraternal benefit society ~~address~~ to its general agent if such agent resides
11 in this state or to ~~its~~ the secretary of the insurance company or fra-
12 ternal benefit society sued at its registered or principal office. ~~in any~~
13 ~~state in which it is domesticated.~~ The commissioner of insurance shall
14 make return of the summons to the court from whence it issued, showing
15 the date of its receipt by him, the date of forwarding such copies, and
16 the name and address of each person to whom he forwarded a copy was
17 forwarded. Such return shall be under his the hand and seal of office,
18 and shall have the same force and effect as a due and sufficient return
19 made ~~by the~~ on process directed to a sheriff ~~on process directed to him.~~
20 The said commissioner of insurance shall keep a suitable record in which
21 he shall ~~docket~~ be docketed every action commenced against an insurance
22 company, the time when commenced, the date and manner of service;
23 also the date of the judgment, its amount and costs, and the date of
24 payment thereof, which shall be certified from time to time by the clerk
25 of the court.
26 Sec. 2. K.S.A. 40-218 is hereby repealed.
27 Sec. 3. This act shall take effect and be in force from and after its
28 publication in the statute book.

addressed



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Legislative Testimony
by the
Kansas Bar Association

TO: Members, Senate Judiciary Committee

**FROM: Ron Smith, General Counsel
Kansas Bar Association**

SUBJ: HB 2224

DATE: March 9, 1999

Trish Morrical of the Hampton-Royce firm in Salina is the chief proponent of this bill. She is starting a jury trial today and can't be with us, and she asked that I bring this information to your attention. Her testimony follows.

In summary, this bill is about the attorney-client privilege and the confidentiality needed for Attorneys to do their job in our society. A few attorneys -- because they possess dual medical related or teaching licenses -- face a Catch-22. If as attorneys for their client they follow the mandatory reporting law and report suspected abuse, they subject themselves to an ethics complaint and possible malpractice and disbarment.

Generally, while our statutes required everyone to be a witness in a trial if they know something about the subject of the trial, few statutes require people to report crimes or suspicions of crimes under penalty of violating a criminal statute themselves. Mandatory child and adult abuse laws are the exception. And one of the exceptions to the mandatory child abuse reporting has been attorneys practicing law. This is a good exception because without it, the attorney would become the first witness for the state in the prosecution of the attorney's own client.

Under the child abuse reporting law, when a person gets a certain type of degree, they are mandated by law *solely by virtue of having that degree* to report actual or suspected abuse of children to SRS. *They do not have to be practicing the discipline itself.* If they also have a law degree and are licensed to practice law AND are actually practicing law, not their other discipline, then the attorney exception already in the law should apply.

All that HB 2224 does is state clearly that if a person has more than once license BUT is practicing law, the attorney exception to the mandatory reporting law controls. That's all this bill does, and that is all this bill is intended to do.

There was concern on the House floor that perhaps the doctor-patient privilege should also be strengthened. That's fine, but strengthening the doctor-patient privilege is another issue that is not in this bill. If a person who is an MD is also a licensed lawyer and is practicing law -- not medicine -- under HB 2224, the doctor-lawyer would be exempt from mandatory reporting under the child abuse reporting act. If the doctor has a law degree and is practicing medicine, the mandatory reporting still applies.

Trish Morrical's testimony is as follows:

Over, Please.

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I am here today to testify in support of HB 2224. HB 2224 proposed to amend the mandatory reporting statutes located at K.S.A. 38-1522, 39-1402, and 39-1431, for licensed professionals within the state of Kansas who are so-called dually licensed as attorneys.

K.S.A. 38-1522, 39-1402, and 39-1431 provide that certain licensed professionals are mandated to report any suspicion of abuse, neglect or exploitation of a child, a care facility resident, or a vulnerable adult. A violation of these statutes are punishable by a criminal sanction of a class B misdemeanor.

To give you some background on this bill, it has only been within the past several years that the University of Kansas has developed dual-degree programs between the Law School and several other branches of the university, including the School of Social Welfare. In the early 1990's, I was attending the School of Social Welfare working part-time on my Master's degree, when I was approached by professors of the School of Social Welfare regarding the new dual degree program with the law school. At that time, there had been no graduates of the program, they were looking for someone to start, and thought that I would be a good candidate. The dual degree program would stretch my 2 year Master's program into a 4 year dual degree with the Law School.

In 1993, myself and two other students entered the program. One student, Dawn Puterbaugh, started at the Law School and Gennie McElhaney and myself started in the School of Social Welfare. This first class of 3 graduated in 1996. Dawn went on to practice law in a juvenile court in South Carolina. Gennie went into private practice as an attorney in Colorado. I began in private practice here in Kansas. Of those three graduates, I was the only one to take the Master's licensing test as I was the only one who was planning to remain in Kansas. I passed both the MSW exam and the bar in the summer of 1996.

In my first year of private practice, I was working on a nursing home malpractice case with a senior attorney in my firm, Clancy King, when I came upon the text of the mandatory reporting laws. Under these statutes, as a licensed social worker, if I received any information regarding a client of the firm regarding a potential of abuse, neglect or exploitation of specific types of individuals, I was mandated under the threat of a criminal conviction to make a report to the authorities. However, as an attorney, such a report would be malpractice and in some cases, a violation of my ethical duties, and would subject me and the firm to a potential ethics proceeding and/or a potential malpractice suit.

Clancy King and I immediately began writing to the Law School, School of Social Welfare, Behavioral Sciences Regulatory Board and the Kansas Bar Association regarding this problem. At first, little progress was made and I was forced to make a decision regarding my status. Because of the potential criminal and civil liability involved, I relinquished my Masters of Social Work license to the Behavioral Sciences Regulatory Board on April 14, 1998.

After I relinquished my license, I had the situation come up which would have thrown me into the middle of the conflict. The firm represented an elderly woman in her 90's who lived alone and whose health was beginning to fail. In the course of working with her, I visited her in her home. It became apparent that this woman was neglecting herself physically and medically and that she was losing the ability to care for herself. However, she made it very clear that she did not want anyone informed of her failing health due to her determination to remain in her own home as long as possible. As an attorney, this information and direction given to me by this woman was covered under the attorney-client privilege and we are able to work with her to meet her needs. However, if I still had had my social work license, I would have been required to make a report to SRS regarding this woman's decreasing ability to care for herself and subjected myself and the firm to a potential ethics complaint and malpractice suit.

The benefits of the dual degree programs have yet to be realized. Attorneys with social work experience are a benefit to the legal and social service professions for their professional mediation, guardians ad litem abilities, and knowledge about social service agencies. In my opinion, they are more adept at representing families and juveniles and perhaps have an ability to provide services, other than just legal services to these clients. Thank you.

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Date: March 10, 1999

To: Members of the Senate Judiciary Committee

From: Roger K. Viola
Senior Vice President,
General Counsel and Secretary
Security Benefit Group of Companies

Subj: House Bill 2156

House Bill 2156 specifically authorizes the use of electronic voting procedures in corporate elections and is sponsored by the affiliated companies of Security Benefit Life Insurance Company. Security Benefit is of the opinion that this will bring our State's stockholder voting statute, K.S.A. 17-6502, into the electronic age.

Security Benefit is a diversified financial services organization which with its subsidiaries manages assets in excess of \$8 billion dollars for its customers in all 50 states. It is domiciled in Topeka and employs approximately 550 Kansans.

Security Benefit's primary products are publicly traded mutual funds and variable annuities. Variable annuities are security/insurance products that are funded with underlying mutual funds dedicated solely to the owners of the variable annuity contracts. Security Benefit, through its subsidiary Security Management Company, LLC ("SMC"), currently manages six publicly traded mutual funds that offer twenty series of stock. It also manages the SBL Fund which is dedicated to the owners of SBL's variable annuity contracts. The publicly traded funds and the SBL Fund each have over 100,000 shareholders in the aggregate. Each fund conducts annual meetings and from time to time conducts special meetings of shareholders. As a result of our geographically diverse shareholder base, it is necessary for our Company to rely on proxy voting at the numerous meetings we hold each year.

Like the rest of our lives, corporate voting has been taken over by electronic commerce. Many corporations throughout the country have resorted to telephonic and Internet voting during their corporate elections. A copy of a

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recent article from the Topeka Capital Journal on this subject is attached. The article emphasizes the prevalence of electronic voting throughout the country.

Twenty-two states have now adopted statutes similar to the one proposed by H.B. 2156 and the trend is accelerating. While an argument could be made that the current Kansas law does not prohibit electronic voting, it certainly does not expressly permit it either. H.B. 2156 is an effort to specifically authorize the type of voting which has now become customary for many corporations

H.B. 2156 is patterned after the Delaware statute. It expressly permits stockholders to authorize the appointment of a proxy by telephone or via the Internet. The proposal also recognizes photocopies and facsimile transmissions of the proxy appointment. Electronic voting can be more convenient for stockholders, and thus facilitate a corporation's efforts to establish a quorum for the conduct of business at stockholder meetings. Electronic voting should also result in a cost savings for corporations which would otherwise pay the postage on returned proxy cards.

Paragraph (b)(3) provides that a stockholder may appoint a proxy "by transmitting, or authorizing the transmission of a telegram, cablegram, or other means of electronic transmission, including telephonic transmission provided that any such electronic transmission must either contain or be accompanied by information from which it can be determined that the stockholder authorized the transmission." Companies that permit telephonic or electronic voting typically assign control numbers to stockholders in order to verify the stockholder's identity. Stockholders receive the control numbers with their proxy cards and are prompted to enter the control numbers when they vote. Companies use the last vote received in the case of stockholders who vote more than once, and, as is the case when mail-in proxy cards are used, a stockholder is always free to attend the stockholder meeting and change his or her vote.

Security Benefit believes that H.B. 2156 will allow Kansas to keep pace with the rest of the country when it comes to shareholder proxy voting and encourages you to vote favorably on this bill.

Electronic proxy voting catching on with investors

By DOUGLAS ARMSTRONG
Milwaukee Journal Sentinel

At Ameritech's annual meeting, a portion of the 1 million share owners participated through cyberspace — right down to voting their shares via the Internet.

"It offers more convenience for our share owners," said Ameritech spokesman Jerrell Ross. "Many are already using the Internet to keep track of their investments."

Not only tracking. Investors also have been buying and selling stocks on line, before they could vote their shares the same way.

"A lot of companies have their annual reports and proxy statements on the Web, said Ross. "We were the first to offer all three — report, proxy statement and ballot to vote."

Electronic proxy voting is suddenly catching on big time. Major firms around the country, including Coca Cola, Ford, IBM and Intel, are offering Internet ballots to shareholders for the first time this year.

"It's a pretty hot topic," says Eugene Lee, of Firststar Corporate Trust, who supervises and tallies proxy votes at dozens of Wisconsin annual meetings each year.

First Chicago Trust Co. is the agent handling Internet proxy voting for 25 companies, according to Tom Newton, vice president and Internet coordinator

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If you get 10,000 to 20,000 to sign up to not get that paper anymore, you're obviously talking about some pretty big savings.

— TOM NEWTON, VICE PRESIDENT AND
INTERNET COORDINATOR AT FIRST
CHICAGO

”

at First Chicago.

They handle shareholders whose stock certificates are registered in their own names, rather than held in a "street name" in an account with a broker.

Internet proxy voting has the potential to greatly reduce expensive paper handling. "The cost savings can be compelling," Newton said.

If a company couples Internet voting with a plan to reduce the number of paper sets of material they send out to shareholders, they can save up to \$5 in postage and printing per shareholder, according to Newton.

"If you get 10,000 to 20,000 to sign up to not get

that paper anymore," says Newton, "you're obviously talking about some pretty big savings."

Voting shares over the Internet involves the use of a control number, which identifies the shareholder, and a PIN number that acts as the password. You go to a Web site to vote.

Is anyone worried about potential tampering with proxy voting?

"It's the best security available on the Internet right now," says Newton of First Chicago's precautions. "An impersonator would have to have your proxy card and your Social Security number, the same with a paper ballot.

"We go to great lengths to assure the server is secure. A lot of big companies have sent their Web masters to come and check on us. The process is as bulletproof as possible."

A specific check number is built into each control number, and Social Security numbers are checked for match.

"Your vote doesn't hit the file and count instantly," says Newton. "The votes are held in a staging server overnight and the data is scrubbed, looking a check numbers and Social Security numbers."

Companies are turning to Internet proxy voting to save money and shape image.

"It gives you a progressive image," says Newton. "It has environmental overtones. It just makes sense. This is a simple, low-cost way for corporations to communicate with their shareholders."

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TESTIMONY BEFORE THE
SENATE JUDICIARY COMMITTEE

by Ed Schaub

WESTERN RESOURCES, INC.

March 10, 1999

Chairman Emert and members of the Committee:

Western Resources supports HB 2156. Implementation of electronic shareholder voting, as allowed by this bill, would be beneficial to our shareholders and to shareholders of other publicly traded companies. Electronic voting means allowing shareholders to vote their proxy either by telephone or through the Internet. This bill is very similar to the Delaware law on electronic voting. This bill would bring Kansas into line with a significant and growing number of states. Over 20 states allow electronic voting.

Shareholders benefit by being able to register their vote at their convenience and eliminate reliance on the postal service to deliver their vote in a timely manner. The option for a shareholder to vote much closer to a meeting date, with assurance the vote will be received prior to the meeting time, may encourage shareholders to vote in instances where they would not have otherwise voted because of mail delivery times.

Companies benefit by reducing their processing costs. Initially the savings is from postage and tabulating the votes, but additional future savings would be through the electronic delivery of proxy materials. Telephone voting generally costs 47 percent less per item compared to business reply postage. Voting via the Internet generally costs 85 percent less per item when compared to business reply postage.

A company's savings will depend on the level of shareholder participation, but the average participation is 15 percent of registered shareholders. The participation rate among registered shareholders is growing as more companies offer the option, and as shareholders become more comfortable with the technology. In a typical proxy vote, Western Resources has about 55,000 shareholders eligible to vote. As shareholders become accustomed to electronic voting and to receiving proxy information electronically, savings will grow.

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Shareholders who own shares through a brokerage account may vote today either by phone or the Internet, because these owners are not directly voting the proxy, but rather are providing instructions to their brokerage firm which will complete and submit the proxy. HB 2156 would allow Kansas companies to catch up with conventional practice.

Western Resources urges the committee to advance HB 2156.