

Approved: February 9, 1994
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:10 a.m. on February 8, 1994 in Room 529-S of the Capitol.

Members present: Senators Corbin, Lawrence, Lee, Moran, Petty, Praeger, and Steffes.

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

Conferees appearing before the committee: David A. Ross, Kansas Association of Life Underwriters
Anita Larson, Security Benefit Group
Hoot Gibson, Fund Manager, Builders Association Self-Insurance Fund
Rich McKee, Kansas Livestock Association
Larry Magill, Kansas Association of Insurance Agents
Jim Maag, Kansas Bankers Association

Others attending: See attached list

Senator Lawrence made a motion, seconded by Senator Praeger, to approve the minutes of the meeting of February 4 as submitted. The motion carried.

The hearing on **SB 239** was reopened. **SB 239** was originally heard on February 9, 1993 and was assigned to a subcommittee chaired by Senator Steffes for further consideration. This bill would permit security owners to designate a beneficiary for their securities to affect transfer upon death. Senator Steffes advised that he has met with Mr. Ross, representatives from Security Benefit Group, Kansas Bankers Association, et al, and all are now in agreement with the amendments to the bill. David Ross, Kansas Association of Life Underwriters, appeared before the committee to explain the proposed changes to the original bill and to urge the committee to favorably consider this legislation. (Attachment #1.)

Senator Steffes explained that the purpose of **SB 239** is to provide to owners of mutual funds the same transfer of ownership on death provided by checking and saving accounts, certificates of deposit, etc., and eliminates the necessity of assets going through probate. Also, it would allow the owner to change beneficiaries as desired. Mr. Wolff requested and received clarification of the language in section 3.

Anita Larson, Assistant Counsel to the Security Benefit Group, appeared as a proponent of **SB 239**, stating that the bill is beneficial to both mutual fund owners and their beneficiaries. Ms. Larson also advised that her group supports the amendments proposed by Mr. Ross. (Attachment #2.)

Jim Maag, Kansas Bankers Association, presented written testimony submitted by Bob Swain, Investment Officer of Bank IV. (Attachment #3.)

There being no further questions and no other conferees, the hearing on **SB 239** was closed. Senator Bond advised that a bill may be drafted by Senator Emert that would require banks to pay out no more than 80% of CD's and interest to beneficiaries until a waiver for inheritance tax is furnished by the state.

Senator Steffes made a motion to amend **SB 239** as suggested by Mr. Ross and to correct spelling errors. (See attachment #1.) The motion was seconded by Senator Corbin. The motion carried.

Senator Steffes made a motion, seconded by Senator Corbin, to pass **SB 239** favorably as amended. The motion carried. Senator Steffes will carry this bill.

Hearing was opened on **SB 625**, relating to premium deposit requirements and selection of trustees for group-funded workers compensation pools. Hoot Gibson, Fund Manager for the Builders' Association Self-Insurers' Fund, appeared as a proponent of this legislation and explained that it would allow pools, with regulatory approval, to pay specific aggregate excess insurance costs before the premium is allocated into administrative and claim accounts. (Attachment #4.) Mr. Gibson also explained that the bill would allow trustees to be elected according to the bylaws of the pool.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
Room 529-S Statehouse, at 9:10 a.m. on February 8, 1994.

Rich McKee, Kansas Livestock Association, appeared as a proponent also and advised that **SB 625**, if passed, would allow workers compensation pools to spend more on loss control and safety measures. (Attachment #5.)

Written testimony in support of **SB 625** was submitted by Don L. McNeely, Executive Vice President of the Kansas Motor Car Dealers Association. (Attachment #6.)

Larry Magill, Kansas Association of Insurance Agents, expressed concerns about reducing safeguards contained in the workers compensation pooling act. (Attachment #7.)

Chairman Bond explained to the committee that current law requires that, of all dollars that come in to a group funded workers compensation pool, 70% must be kept available to pay claims and 30% may be used for administrative costs, loss control, etc. This bill attempts to remove the costs of excess insurance prior to the 70-30 split.

In response to Senator Lee's question, Mr. Magill explained that the term "excess" insurance is described as insurance purchased by the pool as a cap to losses.

Mr. Carman questioned whether the bill allows the Insurance Commissioner only to grant or deny authority or whether the Insurance Commissioner could decide the percentage.

Senator Lee asked about the effects on premiums to the consumer. Mr. Gibson replied that the potential exists that there would not be sufficient funds to pay claims, in which case an assessment might be necessary.

Senator Petty asked whether the Insurance Commissioner now has regulatory authority over group funded workers compensation pools. Mr. Brock of the State Insurance Department replied that it is the Attorney General's opinion that the current law might permit this, but the wiser course would be to clarify this authority in the statute.

Following continued discussion regarding the Insurance Commissioner's discretion to determine percentage, Senator Praeger made a motion to conceptually amend SB 625, to allow the Insurance Commissioner discretion to decide whether all, or a percentage, of the cost of excess insurance can be deducted prior to the 70-30 split. Senator Lee seconded the motion, and the motion carried.

Senator Praeger made a motion to move SB 625 favorably as amended. The motion was seconded by Senator Lawrence. The motion carried. Senator Praeger will carry this bill.

The committee adjourned at 10:04 a.m.

The next meeting is scheduled for February 9, 1994.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE

DATE: 2/8/94

NAME	ADDRESS	ORGANIZATION
Bill Syged	Topeka	State Farm
Loft Gibson	Kansas C.t., Mo	Builders Assn. Self Ins. Fund
John Spain	Topeka	Ks. Ins. Dept.
Dick Brock	"	" " "
Larry Shaffer	Topeka	KHA
George PUCKETT	TOPEKA / WICHITA	KRIA
Tom Matton	Topeka	AGC of Ks
DAN MORGAN	Kansas City	Builders' Assn/AGC
DAVID ROSS	Topeka	K. Assn. Life Under.
Anita Larson	Topeka	S.B.G. Inc
Chris Swickard	Topeka	SRG Inc
Roger Franze	"	RGC
Jim Mass	"	KBA
LARRY MCGILL	"	KAIA
Bill Curtis	Topeka	Ks Assoc of School BAs
Rich McKee	Topeka	Ks Livestock Assoc
BUD CRAND	"	KCCI
BERT DOANE	Wichita	KATB
JANET STUBBS	Topeka	KBIA

SENATE BILL 239
UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT
COMMITTEE ON FINANCIAL INSTITUTIONS
AND INSURANCE

FEBRUARY 8, 1994

TESTIMONY PREPARED BY
DAVID A. ROSS

REPRESENTING
THE KANSAS ASSOCIATION OF LIFE UNDERWRITERS

Mr. Chairman and Members of the Committee,

I am David A. Ross representing the Kansas Association of Life Underwriters. I appear before you in support of SB239, as amended, the Uniform Transfer on Death Security Registration Act.

Presently, owners of securities that are not considered tax qualified are not permitted a beneficiary designation to transfer the security upon their death to a named beneficiary. Therefore, to accomplish transfer of the security upon their death, the security owner must be a joint tenant with the person they desire to receive the security prior to their death. This creates considerable problems. The security owner no longer has control over decisions in regard to the security should their needs change, should the joint tenants live in different states changes are difficult to make because all must sign, charitable gifts become impractical because the institution becomes a business partner prior to death, and inclusion of joint tenants can create complications in regards to gifts and the taxes associated with gifts.

Enactment of SB239 will permit security owners to designate a beneficiary for their securities to effect transfer upon their death. It will allow the security owner to maintain control over decisions regarding the security and how it is to be disposed upon their death.

The Kansas Association of Life Underwriters is an association comprised of over 2000 insurance agents across Kansas. Most are licensed to sell mutual funds which will be impacted by enactment of this legislation and many are active in estate planning. SB239 will provide citizens of Kansas a better way to transfer assets to their heirs. I urge your support for SB239.

Senate 7/41
2/8/94

Attachment #1

SENATE BILL 239
UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT
COMMITTEE ON FINANCIAL INSTITUTIONS
AND INSURANCE

- SECTION 1. DEFINITION IDENTIFIED FOR BENEFICIARY FORM. DEFINITIONS HAVE BEEN REMOVED FOR THE WORDS DEVISEE, HEIRS, PERSON, PERSONAL REPRESENTATIVE, AND PROPERTY.
- THE DEFINITION FOR THE WORD "SECURITY" HAS BEEN CHANGED TO COINCIDE WITH THE DEFINITIONS CURRENTLY DEFINED BY STATUTE.
- SECTION 2. SECURITIES OWNED BY TENNANTS IN COMMON ARE EXCLUDED FROM REGISTRATION IN BENEFICIARY FORM BECAUSE ADMINISTRATION CAN BE VERY COMPLICATED.
- SECTION 3. AUTHORIZATION FOR REGISTERING SECURITIES IN BENEFICIARY FORM CAN BE BY STATUTE OF CHOICE.
- SECTION 4. CLARIFIES WHEN A SECURITY IS REGISTERED IN BENEFICIARY FORM.
- SECTION 5. PERMITS THE TERMS TRANSFER ON DEATH AND PAY ON DEATH OR THEIR ABBREVIATIONS TO BE USED WHEN REGISTERING SECURITIES IN BENEFICIARY FORM.
- SECTION 6. LIMITS THE EFFECT OF REGISTRATION IN BENEFICIARY FORM UNTIL THE DEATH OF THE SECURITY OWNER OR OWNERS. LINE 34 NEEDS TO BE AMENDED TO INSERT "OR POD" FOLLOWING TOD. PERMITS CANCELLATION OR CHANGE AT ANY TIME BY THE SECURITY OWNER OR OWNERS.
- SECTION 7. DEFINES THE RIGHTS OF BENEFICIARIES UPON DEATH OF THE OWNER OR OWNERS OF THE SECURITY.
- SECTION 8. DEFINES PROTECTIONS FOR THE REGISTERING ENTITY THAT OFFERS REGISTRATION IN BENEFICIARY FORM.
- SECTION 9. A REGISTRATION IN BENEFICIARY FORM IS NOT TESTAMENTARY NOR DOES IT LIMIT CREDITORS RIGHTS AGAINST BENEFICIARIES OR OTHER TRANSFEREES.

FTH 2/8/94

SECTION 10. GRANTS THE REGISTERING ENTITY RIGHT TO ESTABLISH TERMS AND CONDITIONS FOR ADMINISTERING THE REGISTRATION OF THE SECURITY IN BENEFICIARY FORM AND DISTRIBUTING THE SECURITY TO BENEFICIARIES UPON DEATH OF THE OWNER OR OWNERS.

SECTION 11. IDENTIFIES THE NAME OF THE ACT.

SECTION 12. DEFINES THE APPLICATION OF THE ACT TO SECURITIES REGISTERED IN BENEFICIARY FORM MADE BEFORE OR AFTER THE EFFECTIVE DATE OF THE ACT FOR PERSONS THAT DIE AFTER THE EFFECTIVE DATE OF THE ACT.

SECTION 13. IDENTIFIES THE EFFECTIVE DATE TO BE UPON PUBLICATION IN THE STATUTE BOOK.

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SENATE BILL No. 239

By Committee on Financial Institutions and Insurance

2-8

8 AN ACT enacting the uniform transfer on death security registration
9 act.

10

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

12 Section 1. As used in this act:

13 (a) "Beneficiary form" means a registration of a security which
14 ~~indicates~~ the present owner of the security and the intention of the
15 owner regarding the person who will become the owner of the
16 security upon the death of the owner.

17 ~~(b) "Devisee" means any person designated in a will to receive~~
18 ~~a disposition of real or personal property.~~

19 ~~(c) "Heirs" means those persons, including the surviving spouse,~~
20 ~~who are entitled under the statutes of intestate succession to the~~
21 ~~property of a decedent.~~

22 ~~(d) "Person" means an individual, a corporation, an organization~~
23 ~~or other legal entity.~~

24 ~~(e) "Personal representative" includes executor, administrator,~~
25 ~~successor personal representative, special administrator, and persons~~
26 ~~who perform substantially the same function under the law governing~~
27 ~~their status.~~

28 ~~(f) "Property" includes both real and personal property or any~~
29 ~~interest therein and means anything that may be the subject of~~
30 ~~ownership.~~

31 ~~(b)-(e)~~ "Register" including its derivatives, means to issue a certif-
32 icate showing the ownership of a certificated security or, in the case
33 of an uncertificated security, to initiate or transfer an account showing
34 ownership of securities.

35 ~~(c)-(h)~~ "Registering entity" means a person who originates or trans-
36 fers a security title by registration, and includes a broker maintaining
37 security accounts for customers and a transfer agent or other person
38 acting for or as an issuer of securities.

39 ~~(d)-(i)~~ "Security" means a share, participation or other interest in
40 property, in a business, or in an obligation of an enterprise or other
41 issuer, and includes a certificated security, an uncertificated security
42 and a security account.

43 ~~(e)-(j)~~ "Security account" means (1) a reinvestment account associated

LINE 14 BY STRIKING "INDICATES" AND INSERTING
"IDENTIFIES"

(d) "SECURITY" MEANS A CERTIFICATED OR
UNCERTIFICATED SECURITY AS DEFINED
IN KSA 84-8-102 OR AS DEFINED IN
KSA 17-1252.

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1 with a security, a securities account with a broker, a cash balance
2 in a brokerage account, cash, interest, earnings or dividends earned
3 or declared on a security in an account, a reinvestment account or
4 a brokerage account, whether or not credited to the account before
5 the owner's death, or (2) a cash balance or other property held for
6 or due to the owner of a security as a replacement for or product
7 of an account security, whether or not credited to the account before
8 the owner's death.

9 (f) (4) "State" includes any state of the United States, the District
10 of Columbia, the Commonwealth of Puerto Rico and any territory
11 or possession subject to the legislative authority of the United States.

12 Sec. 2. Only individuals whose registration of a security shows
13 sole ownership by one individual or multiple ownership by two or
14 more with right of survivorship, rather than as tenants in common,
15 may obtain registration in beneficiary form. Multiple owners of a
16 security registered in beneficiary form ~~held~~ as joint tenants with
17 right of survivorship, as tenants by the entireties, or as owners of
18 community property held in survivorship form, and not as tenants
19 in common.

20 Sec. 3. A security may be registered in beneficiary form if the
21 form is authorized by this or a similar statute of the state of organ-
22 ization of the issuer or registering entity, the location of the reg-
23 istering entity's principal office, the office of its transfer agent or its
24 office making the registration, or by this or a similar statute of the
25 law of the state listed as the owner's address at the time of regis-
26 tration. A registration governed by the law of a jurisdiction in which
27 this or similar legislation is not in force or was not in force when a
28 registration in beneficiary form was made is nevertheless presumed
29 to be valid and authorized as a matter of contract law.

30 Sec. 4. A security, whether evidenced by certificate or account,
31 is registered in beneficiary form when the registration includes a
32 designation of a beneficiary to take the ownership at the death of
33 the owner or the deaths of all multiple owners.

34 Sec. 5. Registration in beneficiary form may be shown by the
35 words "transfer on death" or the abbreviation "TOD," or by the
36 words "pay on death" or the abbreviation "POD," after the name
37 of the registered owner and before the name of a beneficiary.

38 Sec. 6. The designation of a TOD beneficiary on a registration
39 in beneficiary form has no effect on ownership until the owner's
40 death. A registration of a security in beneficiary form may be can-
41 celed or changed at any time by the sole owner or all then surviving
42 owners without the consent of the beneficiary.

43 Sec. 7. On death of a sole owner or the last to die of all multiple

LINE 16 BY STRIKING "HELD" AND INSERTING "HOLD"

1 owners, ownership of securities registered in beneficiary form passes
2 to the beneficiary or beneficiaries who survive all owners. On proof
3 of death of all owners and compliance with any applicable require-
4 ments of the registering entity, a security registered in beneficiary
5 form may be reregistered in the name of the beneficiary or bene-
6 ficiaries who survived the death of all owners. Until division of the
7 security after the death of all owners, multiple beneficiaries surviving
8 the death of all owners hold their interests as tenants in common.
9 If no beneficiary survives the death of all owners, the security belongs
10 to the estate of the deceased sole owner or the estate of the last to
11 die of all multiple owners.

12 Sec. 8. (a) A registering entity is not required to offer or to
13 accept a request for security registration in beneficiary form. If a
14 registration in beneficiary form is offered by a registering entity, the
15 owner requesting registration in beneficiary form assents to the pro-
16 tections given to the registering entity by this act.

17 (b) By accepting a request for registration of a security in ben-
18 eficiary form, the registering entity agrees that the registration will
19 be implemented on death of the deceased owner as provided in this
20 act.

21 (c) A registering entity is discharged from all claims to a security
22 by the estate, creditors, heirs or devisees of a deceased owner if it
23 registers a transfer of the security in accordance with section 7 and
24 does so in good faith reliance (1) on the registration, (2) on this act,
25 and (3) on information provided to it by affidavit of the personal
26 representative of the deceased owner, or by the surviving beneficiary
27 or by the surviving beneficiary's representatives, or other information
28 available to the registering entity. The protections of this act do not
29 extend to a reregistration or payment made after a registering entity
30 has received written notice from any claimant to any interest in the
31 security objecting to implementation of a registration in beneficiary
32 form. No other notice or other information available to the registering
33 entity affects its right to protection under this act.

34 (d) The protection provided by this act to the registering entity
35 of a security does not affect the rights of beneficiaries in disputes
36 between themselves and other claimants to ownership of the security
37 transferred or its value or proceeds.

38 Sec. 9. (a) A transfer on death resulting from a registration in
39 beneficiary form is effective by reason of the contract regarding the
40 registration between the owner and the registering entity and this
41 act and is not testamentary.

42 (b) This act does not limit the right of creditors of security owners
43 against beneficiaries and other transferees under other laws of this

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1 state.

2 Sec. 10. (a) A registering entity offering to accept registrations
3 in beneficiary form may establish the terms and conditions under
4 which it will receive requests (1) for registrations in beneficiary form,
5 and (2) for implementation of registrations in beneficiary form, in-
6 cluding requests for cancellation of previously registered TOD ben-
7 eficiary designations and requests for reregistration to effect a change
8 of beneficiary. The terms and conditions so established may provide
9 for proving death, avoiding or resolving any problems concerning
10 fractional shares, designating primary and contingent beneficiaries
11 and substituting a named beneficiary's descendants to take in the
12 place of the named beneficiary in the event of the beneficiary's death.
13 Substitution may be indicated by appending to the name of the
14 primary beneficiary the letters LDPS, standing for "lineal descen-
15 dants per stirpes." This designation substitutes a deceased benefi-
16 ciary's descendants who survive the owner for a beneficiary who fails
17 to so survive, the descendants to be identified and to share in
18 accordance with the law of the beneficiary's domicile at the owner's
19 death governing inheritance by descendants of an intestate. Other
20 forms of identifying beneficiaries who are to take on one or more
21 contingencies, and rules for providing proofs and assurances needed
22 to satisfy reasonable concerns by registering entities regarding con-
23 ditions and identities relevant to accurate implementation of regis-
24 trations in beneficiary form, may be contained in a registering entity's
25 terms and conditions.

26 ~~(b) The following are illustrations of registrations in beneficiary~~
27 ~~form which a registering entity may authorize:~~

28 ~~(1) Sole owner-sole beneficiary: John S Brown TOD (or POD)~~
29 ~~John S Brown Jr.~~

30 ~~(2) Multiple owners-sole beneficiary: John S Brown Mary B~~
31 ~~Brown JT TEN TOD John S Brown Jr.~~

32 ~~(3) Multiple owners primary and secondary (substituted) benefi-~~
33 ~~ciaries: John S Brown Mary B Brown JT TEN TOD John S Brown~~
34 ~~Jr SUB BENE Peter Q Brown or John S Brown Mary B Brown JT~~
35 ~~TEN TOD John S Brown Jr LDPS.~~

36 Sec. 11. (a) This act shall be known and may be cited as the
37 uniform TOD security registration act.

38 ~~(b) This act shall be liberally construed and applied to promote~~
39 ~~its underlying purposes and policy and to make uniform the laws~~
40 ~~with respect to the subject of this act among states enacting it.~~

41 ~~(c) Unless displaced by the particular provisions of this act, the~~
42 ~~principles of law and equity supplement its provisions.~~

43 Sec. 12. This act applies to registrations of securities in bene-

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- 1 ficiary form made before or after the effective date of this act, by
- 2 decedents dying on or after the effective date of this act.
- 3 Sec. 13. This act shall take effect and be in force from and after
- 4 its publication in the statute book.

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The Security Benefit
Group of Companies

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

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

February 8, 1994

Subj: Senate Bill 239
Transfer on Death Beneficiary Designations

Dear Chairman and Committee Members:

The Security Benefit Group of Companies is a diversified financial services organization offering life insurance, mutual funds, annuities and retirement plans. The parent company, Security Benefit Life Insurance Company, has been in business for over 100 years. The Security Benefit Group of Companies has nearly \$4 billion in assets under management and employs approximately 570 Kansans. We support Senate Bill 239.

Security Management Company, a member of the Security Benefit Group of Companies, is an investment adviser registered with the Securities and Exchange Commission. Security Management Company provides investment advisory and transfer agency services to seven open-end management investment companies, more commonly called mutual funds.

Senate Bill 239 would allow the owner or owners of a mutual fund account to designate a beneficiary to which the account would be transferred upon the death of the owner or owners. It is our belief that transfer on death ("TOD") beneficiary designations are beneficial to owners of securities, their beneficiaries, and registering entities.

Currently, if an owner wishes to transfer a security on death without going through probate, he or she must register the security in joint tenancy with the intended beneficiary or establish a trust. In either case, the owner must relinquish rights during the owner's lifetime. If the security is registered in joint tenancy, both owners have to join in the transfer or exercise of any ownership right. Often times, an owner does not wish to relinquish sole control during his or her lifetime. A transfer on death beneficiary designation will alleviate this problem.

A TOD beneficiary designation is revocable unless expressly made irrevocable. If an owner of a security utilizes a TOD beneficiary designation, the owner retains the right to enjoy the asset and to dispose of it during his or her lifetime. Under such a designation, the beneficiary has no rights until the death of the owner.

Senate 7141
2/8/94

Attachment # 2

In addition, the proposed legislation will reduce the number of requirements with which a person must comply in order to transfer the security after the owner's death. Also, it reduces the time and administrative efforts that a registering entity must expend in making the transfer.

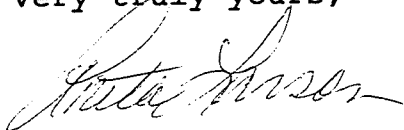
Presently, if an owner of mutual fund shares dies, the owner's intended successor must provide the following information: a certified copy of the death certificate; any outstanding stock certificates representing an interest in a fund; evidence of the appointment of an executor or administrator; inheritance tax waiver and/or affidavit of domicile; and a liquidation request from the executor or administrator with a guaranteed signature.

If transfer on death beneficiary designations were allowed, the beneficiary would need to complete a liquidation request with a guaranteed signature and provide a certified death certificate.

We believe that this legislation is beneficial to our mutual fund clients and their intended beneficiaries. Because it makes our mutual funds a more attractive investment alternative, it is beneficial to Security Benefit.

Please let me know if you have any questions. Thank you for your time and consideration.

Very truly yours,



Anita Larson
Assistant Counsel
Security Benefit Group, Inc.

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February 7, 1994

Chairman/Senate Financial Institutions Committee
Kansas State Capitol Building
Topeka, KS

Dear Mr. Chairman,

Enclosed with this note is a photocopy of Senate Bill #239 which will be considered by our legislature sometime this spring. My understanding is that over 40 other states have adopted similar legislation which makes the process of transferring securities upon death much less burdensome for stockholders (i.e. my customers).

Shown below is a listing of the documentation currently needed to transfer a security that is registered to a deceased owner.

- 1) Stock certificate
- 2) Signature guaranteed stock power signed by executor of administrator of estate
- 3) Court appointment papers for executor or administrator
- 4) Inheritance tax waiver from state
- 5) Notarized affidavit of domicile
- 6) and sometimes a certified death certificate.

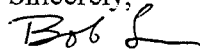
All of these documents must have original signatures and be dated or certified within 60 days.

The chore of gathering these documents is generally thrust upon a grieving family member. Unfortunately, that family member many times is a widow that has not been involved in any of the investment decisions in the past. This difficult process only adds to her grief. On top of everything else, transfer agents are many times so burdened with paperwork that they seem to be looking for an excuse (however trivial) to reject the transfer and send everything back altogether. The bottom line is that a new system would be a benefit to all parties involved.

Certainly a "transfer on death" process similar to the "POD" arrangement currently in use with bank deposits would be a tremendous help.

I hope you can help us in seeing that our state legislators give Senate Bill #239 a good look.

Sincerely,



Bob Swain

Investment Officer/BANK IV
(913) 295-3561

Senate 7141
2/8/94

attachment #3



Builders' Association Self-Insurers' Fund

3801 S.W. TRAFFICWAY • P.O. BOX 32246 • KANSAS CITY, MO 64111
PHONE 816/531-2642 • FAX 816/531-2335



TESTIMONY - KANSAS SENATE BILL #625 - FEBRUARY 8, 1994

TIME: 09:00 AM

PLACE: Capital Building
Topeka, Kansas

Ladies and gentlemen of the committee:

My name is Hoot Gibson. I am the Fund Manager of the Builders' Association Self Insurers Fund of Kansas, a group funded workers' compensation pool operating with an approved certificate of authority.

I appear today on behalf of a number of the Kansas group self funded workers' compensation pools that contribute approximately \$40 million annually in workers' compensation premiums to the state of Kansas. Group funded workers' compensation pools have proven to be a sound alternative to the traditional workers' compensation marketplace and have helped employers control their workers' compensation costs. Group self funded pools have also helped depopulate the state assigned risk plan.

Senate Bill 625 would assist the pools in operating more effectively. The Kansas workers' compensation pooling statutes require that a minimum of 70% of the collected workers' compensation premium be placed in a claims account and must be used exclusively for the payment of workers' compensation losses. The remaining 30% is designated for paying administrative expenses for the pool. In recent years, the pools have experienced a great deal of difficulty operating within this 30% allocation. The increase in state assessments such as the Second Injury

*Senate 7141 2/8/94
Attachment #4*

Fund and the rising cost of workers' compensation excess insurance have squeezed a number of the pools.

This proposed legislation would allow pools, with regulatory approval, to pay for specific aggregate excess insurance costs before the premium is allocated into the administrative and claim accounts. In other words, the annual premium would be determined to be the net amount of premium after specific and aggregate excess insurance premium costs have been paid.

Senate Bill 625 allows for the Commissioner of Insurance to look at pools on a "case by case" basis to determine if the pool's loss history, types of risks, participating and financial position would lend to a decision to allow the pool to pay for excess insurance net of annual premium. The pools have discussed this issue with the Kansas Insurance Department and they have no opposition to this legislation.

Despite a sweeping workers' compensation reform bill last year, the cost and availability of workers' compensation continues to be a problem in our state. As the problems with medical care and our country's ageing work force persist, group self-funded workers' compensation pooling will continue to be a sound alternative to the traditional workers' compensation marketplace. We respectfully request the committee to give due consideration to this bill.

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Builders' Association Self-Insurers' Fund

3801 S.W. TRAFFICWAY • P.O. BOX 32246 • KANSAS CITY, MO 64111
PHONE 816/531-2642 • FAX 816/531-2335



TYPICAL KANSAS GROUP WORK COMP POOL BUDGET

CLAIMS FUND: 70%

ADMINISTRATION:

Claims Management/Loss Prevention	8%
Taxes and Assessments	7%
Excess Insurance	12%
Brokers Commissions	5%
Misc. (Directors & Officers Coverage, Payroll Audits, etc.)	2%

TOTAL 34%

SHORTFALL: 4%

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6031 S.W. 37th Street • Topeka, Kansas 66614-5128 • Telephone: (913) 273-5115
FAX: (913) 273-3399

Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

February 8, 1994

STATEMENT OF THE
KANSAS LIVESTOCK ASSOCIATION
TO THE COMMITTEE OF
FINANCIAL INSTITUTIONS AND INSURANCE
SENATOR RICHARD L. BOND, CHAIRMAN
SENATOR DON STEFFES, VICE-CHAIRMAN
WITH RESPECT TO SENATE BILL 625

Presented by

Rich McKee

Executive Secretary, Feedlot Division

Mr. Chairman and members of the committee, I am Rich McKee, representing the Kansas Livestock Association. KLA speaks for a broad range of approximately 7,000 livestock producers. Their businesses can be found in virtually every geographic area of the state.

The Kansas Livestock Association supports Senate Bill SB 625.

In 1993 the Kansas Livestock Association formed a group-funded work comp pool and began providing coverage July 1, 1993. There are currently 36 entities in the pool, generating an annual premium of approximately \$1.1 million.

In short, the proposed amendment on lines 22 - 26 of page one would allow us to spend more on loss control services. Many of the expenses that must be paid from the "administrative fund" are required by statute. These expenses include: excess insurance, various taxes and assessments, fidelity bond, etc. The cost of the excess insurance is by far the largest of these expenses. Meanwhile, loss control is one major budget item with some flexibility in regard to how much is spent. If we had more funds available in the "administrative fund", we would likely spend more in loss control efforts. Conversely, as we approach the last quarter of the pool's fiscal year, loss control is one of the few major budget items available to cut in order to stay within the 30% "administrative fund" expenditures.

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Attachment #5*

The proposed amendment on lines 2 and 3 of page two is identical to the language found in K.S.A. 12-2627, which is the statute governing the board selection of pools operated by municipalities, counties and school districts. The amendment would allow pools some flexibility in the selection process of the board of trustees. In addition, it is highly impractical if not impossible for a new pool to meet the technical requirements of current law. It is our experience that a board of trustees must first be assembled to draft the pool's operating guidelines before there is a pool membership.

Thank you for considering the position of the Kansas Livestock Association.

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kansas automobile dealers association

800 Jackson, Suite. 1110 • Topeka, Kansas 66612-1216 • (913) 233-6456 • FAX (913) 233-1462

February 8, 1994

To: The Honorable Dick Bond, Chairman of the Senate Committee on Financial Institutions and Insurance

From: Don L. McNeely, Executive Vice President of the Kansas Motor Car Dealers Association

Re: Senate Bill 625

The Kansas-Automobile Dealers Association represents over 300 franchised new car and truck dealers in the Kansas. In addition, KADA operates and administrates the Kansas Automobile Dealers Workers' Compensation Fund for the benefit of our members.

The Kansas Automobile Dealers Association supports the amendments to K.S.A. 44-585 and 44-591 as contained in Senate Bill 625.

The Kansas Automobile Dealers Workers' Compensation Fund has been involved in and has provided input in all of the discussions regarding the proposed amendments. We respectfully request your support of the amendments as written.

*Senate 7141
2/8/94
Attachment #6*

Testimony on SB 625
Before the Senate Financial Institutions and Insurance Committee
By: Larry W. Magill, Jr., Executive Vice President
Kansas Association of Insurance Agents
February 8, 1994

Thank you, Mr. Chairman, and members of the committee for the opportunity to appear today and offer comments on SB 625. While we listed ourselves as opponents, our Government Affairs Committee and board have not had a chance to consider this specific proposal and take a position. They will meet next week.

We are particularly concerned about the provision in SB 625 which would allow the excess insurance premium to be split between the 70% claims fund and the 30% administration fund. We consider the requirement in present law that 70% of all premiums received be set aside to pay claims as the single most important safeguard in the pool act for participants.

We have the following concerns with this proposed change:

1. By allowing the pools to pay for the excess insurance with "dollars off the top" it effectively reduces the claims fund from 70% to some lower amount.
2. It increases the unfunded gap between the claims fund and the attachment point of the aggregate excess.
3. It increases the size of potential assessment for plan participants because of this larger gap between the claims fund and the attachment point.
4. It increases the chances of an assessment having to be made because the breakeven loss ratio for the pool has been reduced.

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Attachment # 7

5. It reduces the likelihood or the size of a dividend by reducing the size of the claims fund.

6. The 70% claims fund belongs to participants. This is their money.

Attached to our testimony is a diagram showing how the claims fund and the aggregate excess insurance work. For example, if the aggregate excess insurance cost 10% of premiums collected (which is low if anything) and if 70% of that is paid with loss fund dollars, then the loss fund has been reduced by 7% from 70% to 63% under this bill. In other words, the breakeven loss ratio for the fund has been reduced from 70% to 63% (for comparison purposes, NCCI uses a 72% assumed loss ratio in its rate filings).

We are concerned about the potential for abuse by out-of-state administrators and out-of-state associations who may or may not have association members in Kansas before they start organizing a pool here.

As we said before, the 70/30 split is the single most important safeguard in our pooling law. There are already a number of gaps or loopholes in the group workers compensation self-insurance law; the law lacks specific requirements for the excess insurance and no requirement for use of independent actuaries, to name two. This proposal seems to be moving the act the wrong direction.

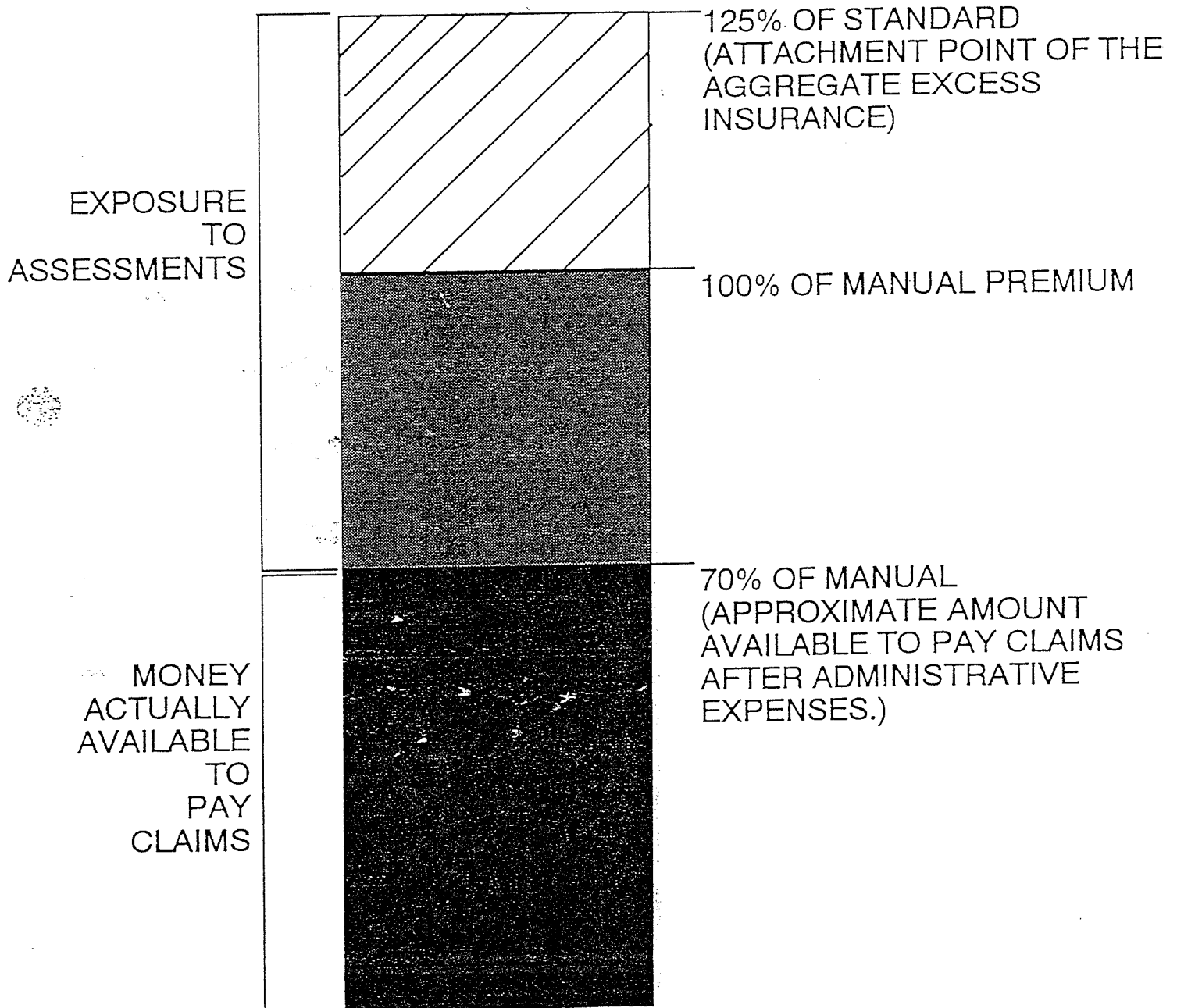
The legislation could be improved by requiring that the cost of the excess insurance apply towards the aggregate excess attachment point. This, in effect, would not increase the gap between the claims fund and the attachment point of the excess.

We are also concerned about the second change which could be abused

by an out-of-state pool sponsor. While I'm sure the proponents would not do this, the provision could allow a sponsor to stack a pool board with directors who owed their support to someone other than the pool participants. Currently, the law only requires a majority of pool directors need be pool participants - not all of them.

We appreciate the chance to voice our concerns to the committee. We would be happy to provide additional information or answer questions.

UNFUNDED GAP IN MOST WORKERS COMPENSATION GROUP SELF-INSURANCE POOLS



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