Approved: 2/15/94
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:09 a.m. on February 10, 1994 in Room 529-S of the Capitol.

All members were present.

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

Conferees appearing before the committee: Judi Stork, State Banking Department
Richard Brock, State Insurance Department
Sharon Huffman, Commission on Disability Concerns
Brad Smoot, Blue Cross/Blue Shield
Hal Hudson, National Federation of Independent Business
Terry Leatherman, Kansas Chamber Commerce & Industry

Others attending: See attached list

Senator Corbin made a motion to approve the minutes of the meeting of February 9 as submitted. The motion was seconded by Senator Steffes. The motion carried.

Judi Stork, State Banking Department, appeared before the committee to request introduction of legislation to clean up the Savings and Loan statutes and to assist the regulation of the one remaining state-chartered S&L under the authority of the State Bank Commissioner. (Attachment #1.) Senator Lawrence made a motion, seconded by Senator Steffes, to introduce this legislation. The motion carried.

Chairman Bond announced that the subcommittee report on SB 540 will be presented to the committee on February 18 with possible action on the bill to follow.

Hearing on **SB 612** was reopened. Dick Brock, State Insurance Department, appeared as a proponent and advised that the bill will require a technical amendment to expand portability provisions and make guaranteed access available to groups of 50 or fewer employees. Mr. Brock explained that these simple amendments would improve legislation enacted in 1992 by SB 561. (Attachment #2.) In response to Senator Lee's question, Mr. Brock replied that no statistics are available on how many citizens of Kansas do not have individual insurance or insurance through their employer.

Sharon Huffman, Kansas Commission on Disability Concerns, presented testimony prepared by Sharon Joseph, Chairperson. (Attachment #3.) KCDC proposes that all limitations on pre-existing conditions, including the waiting periods, be eliminated.

Brad Smoot, Blue Cross/Blue Shield, appeared in support of **SB 612** and to request amendments to correct technical problems. (Attachment #4.)

Mr. Carman presented proposed amendments drafted by the Revisor's office. (Attachment #5.)

Hal Hudson, National Federation of Independent Business, testified in support of this legislation, stating that NFIB members support the concept of providing universal access to health insurance and implementing insurance reforms that limit pre-existing condition exclusion, guarantee the renewal of policies, and establish fairer rating systems. (Attachment #6.)

There were no other conferees and no further questions; the hearing on **SB 612** was continued pending Dr. Wolff's report on the amendments offered.

The chairman opened the hearing on **SB 622**, relating to alliances for providing health care. Dick Brock, State Insurance Department, testified in support of passage of this legislation and explained the intent of the bill. (Attachment #7.) **SB 622** would add another option for employers to consider as a means of providing health care benefits to their employees; however, Mr. Brock suggested that the committee consider the ability of alliances to self-insure. Chairman Bond explained that the issue is alliances having financial responsibility to protect those covered and suggested inserting language on financial responsibility such as is placed on HMO's or to require that the Insurance Commissioner establish by rules and regulations reasonable financial parameters. Mr. Brock suggested considering language similar to the group fund pool statutes.

In response to Senator Lee's questions, Mr. Brock responded that alliances are comparable to group funded pools, and as this bill is written, funding is not assured to cover costs unless the employer falls under ERISA.

Following lengthy discussion, committee members suggested that language should be considered addressing financial responsibility.

Hal Hudson, National Federation of Independent Business, testified in support of expanding the number of employees. (Attachment #8.)

Terry Leatherman, KCCI, appeared in support of **SB 622**; however, he advised that the language on page 4, line 7 might discourage associations and organizations from forming alliances. (Attachment #9.)

The chairman and Dr. Wolff explained that this bill was originally proposed by Representative Jessie Branson and was extracted from Oregon statutes. In the process, some unnecessary language may have been included.

The hearing on **SB 622** will be continued on Tuesday, February 15, 1994.

The chairman announced that the Conference Committee on SB 393, unclaimed property bill, will meet at 9:00 a.m. Monday, February 14.

The committee adjourned at 10:00 a.m.

The next meeting is scheduled for February 15, 1994.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE DATE: 2/10/94

NAME	ADDRESS	ORGANIZATION
Dick Brock	Topeka	Ins Dept
Lyn M. Cornish	"	American Life Ins.
Andy Draper	Topeka/Lawrence	Sen. Burke
W. Gross	Shawnee Mssn KS	Shawnee Mssn Med Center
Harry Sprous	K.C.	Humana
Roger Guthrie	KC	Health Midwest
Joe Tunyavic	Topeka	KCA
Pat Patton	Topeka	KDHE
Terry Leatherman	Topeka	KCCI
Michael R Todd	Lawrence	consumer of health care
David Ross	Topeka	K. Assn. Life Underwriters
Hal Hudson	Topeka	NFIB/Kansas
Bill Jarrell	Wichita	Boeing
Keith R Landis	Topeka	Christian Science Comm on Publication for KS
Alan Cobb	Wichita	Wichita Hospitals
Christy Hoffer	Topeka	KCA
Jerry Larson	Topeka	Kansas AMI
Charles Knother	Topeka	
William Grant	"	Ks. Banking Dept.
Judi Stork	✓	✓
Ruth Glover	✓	✓
Mike Morris	✓	Corp Plan Mgmt
Gerry Nicholas	KC	Children's Mercy

Article 17.—BANKING CODE; SUPERVISION; COMMISSIONER

9-1703. Annual assessment, banks and trust companies; examinations; disposition of moneys received; bank commissioner fee fund. (a) The expense of every regular examination, together with the expense of administering the banking laws, including salaries, travel expenses, supplies and equipment, shall be paid by the banks of the state, and for this purpose the bank commissioner shall, prior to the beginning of each fiscal year, make an estimate of the expenses to be incurred by the department during such fiscal year. From this total amount the commissioner shall deduct the estimated amount of the anticipated annual income to the fund from all sources other than bank assessments. The commissioner shall allocate and assess the remainder to the banks in the state on the basis of their total assets, as reflected in the last preceding report called for by the commissioner under the provisions of K.S.A. 9-1704, and amendments thereto, except that the annual assessment will not be less than $1,000 for any bank

and savings and loan

and savings and loan associations

and savings and loan association

and savings and loan associations

or K.S.A. 17-5610

or savings and loan association.

(b) The expense of every regular trust examination, together with the expense of administering trust laws, including salaries, travel expenses, supplies and equipment, shall be paid by the trust companies and trust departments of banks of this state, and for this purpose, the bank commissioner, prior to the beginning of each fiscal year, shall make an estimate of the trust expenses to be incurred by the department during such fiscal year. The commissioner shall allocate and assess the trust departments and trust companies in the state on the basis of their total fiduciary assets, as reflected in the last preceding year-end report filed with the commissioner, except that the annual assessment will not be less than $1,000 for any active trust department or trust company. A trust department or a trust company which has no fiduciary assets, as reflected in the last preceding year-end report filed with the commissioner, may be granted inactive status by the commissioner and the annual assessment shall not be more than $100 for an inactive trust department or trust company.

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Attachment #1

(c) A statement of each assessment made under the provisions of subsection (a) or (b) shall be sent by the commissioner to each bank, trust department and trust company on or before July 1. One-half the amount so assessed to each bank, trust department or trust company shall be paid by it to the bank commissioner on or before July 15 and the remainder shall be paid on or before January 15 of the next year. Any expenses incurred or services performed on account of any bank, trust department or trust company or other corporation which are outside of the normal expense of an examination required under the provisions of K.S.A. 9-1701, and amendments thereto, shall be charged to and paid by the corporation for whom they were incurred or performed. The commissioner may impose a penalty upon any bank, trust department or trust company which fails to pay its annual assessment. The penalty shall be assessed in the amount of $50 for each day the assessment is not paid. The counting period for such penalty will begin February 1 or August 1.

The bank commissioner shall remit all moneys received by or for such commissioner from such examination fees to the state treasurer at least monthly. Upon receipt of each remittance, the state treasurer shall deposit the entire amount in the treasury. Twenty percent of each deposit shall be credited to the state general fund and the balance shall be credited to the bank commissioner fee fund. All expenditures from the bank commissioner fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the bank commissioner or by a person or persons designated by the commissioner.

savings and loan association,

savings and loan association,

or K.S.A. 17-5612

savings and loan association,

(d) For purposes of this section, "savings and loan association" shall mean a Kansas state-chartered savings and loan association.

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75-1313. Transfer of all funds. On the effective date of this act, the balances of all funds appropriated or reappropriated for the savings and loan department, are hereby transferred to the state bank commissioner.

The director of accounts and reports is hereby directed to transfer all monies in the savings and loan fee fund to the bank commissioner fee fund. On the effective date of this act, all liabilities of the savings and loan fee fund existing prior to the effective date are hereby imposed on the bank commissioner fee fund. The savings and loan fee fund is hereby abolished.

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17-5609. Annual report; fees; penalty fees; disposition of moneys; savings and loan fee fund. ~~On or before the last day of the month following the close of the fiscal year of an association, every association shall make an annual written report to the commissioner upon a form to be prescribed and furnished by the commissioner, of its affairs and operations, which shall include a complete statement of its financial condition, including a statement of income and expense since its last previous similar report. Every such report shall be verified by the president, treasurer or secretary. A late penalty fee of $5 per day shall be charged for each day the report is not received after the due date, but shall not exceed a maximum of $150. The commissioner shall remit all moneys received by or for the commissioner from fees, charges or penalties to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the savings and loan fee fund.~~

17-5610. Semiannual report, filing; late filing penalty fees; disposition of moneys; savings and loan fee fund. Every association shall ~~semiannually~~ file in the office of the commissioner a statement in such form as the commissioner may prescribe ~~and the statement shall be made upon blanks prepared by the commissioner and furnished by the commissioner to such association~~. Such report ~~shall relate to the period ending on the sixth month of the fiscal year of each association~~ and shall be verified by the president, treasurer or secretary and shall be filed with the commissioner within 30 days. A late penalty fee of $5 per day shall be charged for each day the report is not received after the due date, but shall not exceed a maximum of $150. The commissioner shall remit all moneys received by or for the commissioner from fees, charges or penalties to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance thereof shall be credited to the ~~savings and loan~~ fee fund.

at least 4 time annually

shall show in detail the resources and liabilities of the association at the close of business upon the date determined by the commissioner

An association may comply with this sectic by filing with the commissioner a completed Thrift Financial Report within 30 days of the final day of a reporting period as required by the Office of Thrift Supervision pursuant to 12 C.F.R. section 563.180 and amendments thereto.

bank commissioner

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17-5612. Examinations; use of audit report; reexaminations; report; annual fees, collection and disposition; savings and loan fee fund; expenditures; joint examination and acceptance of federal examinations; examination information available to private insurer of shares or deposits. (a) The commissioner in person or by one or more of the deputies of the commissioner, at times determined by the commissioner or the board but at least once every eighteen (18) months, without previous notice, shall visit and examine into the affairs of every association organized under the laws of this state; on such occasions the commissioner or such deputies shall have full access to all of the books, records, securities, and papers of such association, and may first count the cash and check the bank balances of such association with the proper amount of funds as shown by the books to be on hand at the date and hour of such examination, and shall then examine and verify the personal accounts of each officer, director and employee of such association on its books, and shall thereafter, so far as deemed necessary by the commissioner, examine and verify the books, accounts and securities of such association, and the amount of its shares outstanding, and ascertain the value of all property and investments owned and of all property held as security for moneys loaned, and otherwise ascertain the financial condition of such association, except that in lieu of an examination audit, an audit report resulting from an audit performed by an independent public accountant, may be accepted by the commissioner; acceptance being conditioned on the audit report complying with certain requirements set out by the commissioner and the savings and loan board.

(b) The commissioner and the deputies of the commissioner shall have the power to administer oaths and examine under oath any director, officer, employee, or agent of any association concerning the business and affairs thereof. Whenever in the judgment of the board the condition of an association renders it necessary to reexamine an association to ascertain its financial condition or to enforce requirements made by the commissioner and the deputies of the commissioner in regular examination, or for the purpose of correcting unlawful practices or violations of the savings and loan laws or of the bylaws of the association, such association shall pay for such examination at the rates established. The commissioner shall as soon as practicable after each examination forward a report of such examination.

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together with the requirements of the commissioner for the correction of any unlawful practices, to the president of the association. ~~Prior to June 1, each year, the commissioner shall, with the approval of the savings and loan board, establish such annual fees and/or assessments as the commissioner may determine to be sufficient to meet the budget requirements of the savings and loan department for each fiscal year beginning July 1. Such fees and/or assessments are to be due and payable thirty (30) days after receipt of billing from the savings and loan department. Said fees shall be paid to the commissioner. The commissioner shall remit all moneys received by or for the commissioner from fees, charges or penalties to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent (20%) of each such deposit shall be credited to the state general fund and the balance shall be credited to the savings and loan fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner or by a person or persons designated by the commissioner.~~

The expense of every regular examination together with the expenses of administering the laws governing the associations shall be paid pursuant to K.S.A. 9-1703 and amendments thereto.

(c) The commissioner is authorized to expend the moneys in ~~such~~ fund in the administration and enforcement of the provisions of this act and the act to which this act is amendatory and supplemental. The commissioner may accept any examination of a savings and loan association organized under the laws of the state of Kansas made by a federal home loan bank or the federal savings and loan insurance corporation or may examine such association jointly with the federal home loan bank or federal savings and loan insurance corporation. In the case of a joint examination the commissioner shall make available to the federal home loan bank or the federal savings and loan insurance corporation any information furnished to or obtained by the commissioner in such examination. The commissioner shall make available to any private insurer of the shares or deposits of any association any information furnished to or obtained by the commissioner in the examination of the association insured by such insurer.

the bank commissioner fee

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Testimony on
Senate Bill No. 612
by
Dick Brock
Kansas Insurance Department

Senate Bill No. 612 when properly amended would amend the group health insurance reforms incorporated in 1991 House Bill No. 2001 and 1992 Senate Bill No. 561 by expanding the "portability" provisions and by making the guaranteed access provisions and rating restrictions applicable to small employer groups with 50 or fewer employees as opposed to the current 25 or fewer.

The change from 25 to 50 in the definition of small employer group will, of course, make the guaranteed access provisions of Senate Bill 561 available to more groups. It will also make the rating restrictions contained in that legislation applicable to more groups. In some cases, this is not a desirable experience but it does move the concept of rate compression to an expanded population of insureds and the waiver provision is still available if a particular group is uniquely and adversely affected.

With regard to portability, Senate Bill No. 612 would require that credit be given for waiting periods served under not only a group policy in effect prior to the effective date of coverage under a new group contract but would also require that credit be given for prior coverage under a prior individual policy, self-insured plan or multiple employer welfare association (MEWA) specifically authorized by Kansas law.

In addition, Senate Bill No. 612 would require such credit to be given if the "new" group coverage becomes effective within 31 days of the termination of coverage under a prior group, individual, self-insured or MEWA plan.

These refinements to the group health insurance reforms enacted in 1991 and 1992 represent practical changes that probably should have been incorporated in the original legislation. They are not substantive policy changes but simply reveal once again the benefit of hindsight.

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Attachment # 2

KANSAS COMMISSION ON DISABILITY CONCERNS
1430 SW Topeka Blvd
Topeka, KS 66612-1877
(913)296-1722 (V) 296-5044 (TTY) 296-1984 (Fax)

TESTIMONY PRESENTED TO SENATE FINANCIAL INSTITUTIONS AND INSURANCE

by

Sharon Joseph, Chairperson
February 9, 1994

Senate Bill 612

Mr. Chair, members of the committee, thank you for this opportunity to testify in support of Senate Bill 612.

Kansas Commission on Disability Concerns advocates for the rights of people with disabilities. One right that traditionally has been denied individuals with chronic health conditions is the right to change jobs without the fear of losing health insurance benefits. The current "portability" law prohibits exclusion of preexisting conditions or the imposition of a waiting period for those individuals who were covered by another group sickness or accident policy with no gap in coverage. This is good because it allows persons with health conditions that traditionally have been subject to lengthy waiting periods the opportunity to choose a career path based on their abilities rather than on the type of insurance coverage available.

KCDC supports your proposed amendment to Section 1(A) that would expand the applicability of this law to groups not previously covered.

KCDC proposes that all limitations on preexisting conditions, including the waiting periods allowed by law, be eliminated. A portability law would not be necessary if all insurance carriers were required to provide immediate and comprehensive coverage from the first day of enrollment.

Thank you very much for allowing me to speak before you today.

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Attachment #3

BRAD SMOOT
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STATEMENT OF BRAD SMOOT, LEGISLATIVE COUNSEL FOR BLUE CROSS BLUE SHIELD OF KANSAS

PRESENTED TO THE KANSAS SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE REGARDING 1994 SENATE BILL 612, FEBRUARY 9, 1994

Mr. Chairman and Members of the Committee:

I am Brad Smoot, Legislative Counsel for Blue Cross and Blue Shield of Kansas, a not-for-profit domestic mutual insurance company serving thousands of Kansans.

Blue Cross and Blue Shield of Kansas strongly supports the concept of community rating. Our company continued to community rate small groups until less than six years ago, and was driven to experience rating only as a last resort in the face of intense competitive pressure.

That pressure, familiar to most by now, caused insurers to cease to compete based upon service and to compete based largely on who could avoid insuring those groups needing insurance the most.

The Kansas Legislature took a big step toward restoring equity in health insurance rates and access for small employers in its passage of SB 561 in 1992, providing for rate compression among small groups of from 3 to 25 employees. We supported that bill, although we also pointed out that for every employer whose rates go down because of rate compression, another employer's rates would go up - that is, that we could not restore good public policy without causing some dissatisfaction.

We support SB 612 as well. We believe, however, that it has some technical problems which require attention.

We suggest striking Section 1. The purpose of this Section seems to be to make certain that the insurance reforms we passed in 1991 and 1992, including portability of coverage, extend to persons

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attachment #4

coming from nongroup or self-insured coverage into group insurance. However, by amending the introductory paragraph of K.S.A. 40-2209 (the statute which generally governs group insurance as a whole), the bill introduces a host of problems. The amendment suggests (through its placement in this section) that nongroup coverage in general can be treated the same as employer group coverage, that insurers may not underwrite nongroup coverage, and that self-insured programs could now be regulated by the Legislature, an act which is impossible because of the federal ERISA preemption.

The objective of assuring that persons coming into a group program from a nongroup contract or a self-insured contract is accomplished in its entirety by the bill's amendment of K.S.A. 40-2209f(b) in Section 3, so Section 1 is unnecessary to achieve this goal.

We suggest adding a new Section 1, amending K.S.A. 40-2209d to change the definition of a small employer subject to rate compression to encompass employers of up to 50 employees. Incidentally, our research tells us that 98% of Kansas businesses have 50 or fewer employees, involving about 36% of the population.

This amendment is necessary since the bill, in Section 2, currently makes rate compression applicable to employers of 50 or fewer employees only when those employers have secured coverage through an association or trust. That is, as drafted, the bill would not extend rate compression to the hundreds of employers of 50 or fewer employees who currently obtain coverage directly from an insurer rather than through an association or multiple employer trust. By amending the definition of "small employer," we are certain to cover all employers in this category.

Our second amendment would help employers newly subject to rate compression avoid "rate shock". This requires some explanation. When SB 561 passed, we allowed insurers a three-year phase in, a period of time over which to bring groups within the rate bands to lessen the impact of rate increases, as would have occurred if the rate compression happened overnight. That three-year period runs from January 1, 1993 until December 31, 1995.

If we merely dump employers of from 26 to 50 employees into the pool subject to rate compression, and require insurers to bring all of them into line by December 31, 1995, this would mean that an employer with a January 1, 1995, plan anniversary would have its

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rates increased to the maximum extent necessary to bring it within the pool on its very next renewal.

We doubt that the Legislature would want to give employers of 26 to 50 employees a separate three-year phase in, for to do so would essentially result in insurers having two community rates, one for the groups of 3-25 and another for groups of 26 to 50.

Our suggestion would be to add a new Section 4, amending K.S.A. 40-2209h(a)(5) & (6), by adding the phrase until the earlier of the first acquisition of coverage from a small employer carrier which did not previously provide coverage to that small employer or the first renewal date on or after June 30 1996. This would extend the ultimate compliance date for all groups size 3 to 50 to the first renewal of coverage on or after July 1, 1996. Of course, if an employer changed carriers before then, the amendment provides that the employer would come under these new rules immediately, just as a new business would.

We appreciate your consideration of these proposed changes to SB 612.

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Sen. Praeger

Proposed Amendment to SB 612

On page 1, in line 17, by striking all after the period and by striking all of lines 18, 19, 20 and 21; in line 22, by striking all before "Except";

On page 2, in line 1, after "group" by inserting "or individual"; also in line 1, after "policy" by inserting the following: ", coverage under section 607(1) of the employees retirement income act of 1974 (ERISA), a group specified in K.S.A. 40-2222 and amendments thereto and a group subject to K.S.A. 12-2616 et seq. and amendments thereto which provided hospital, medical and surgical expense benefits within 31 days";

On page 15, following line 32 by inserting a section as follows:

"Sec. 4. K.S.A. 40-2209d is hereby amended to read as follows: 40-2209d. As used in this act:

(a) "Actuarial certification" means a written statement by a member of the American academy of actuaries or other individual acceptable to the commissioner that a small employer carrier is in compliance with the provisions of K.S.A. 40-2209h, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans.

(b) "Approved service area" means a geographical area, as approved by the commissioner to transact insurance in this state, within which the carrier is authorized to provide coverage.

(c) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business, by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage.

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Attachment #5

(d) "Basic small employer health care plan" means a health benefit plan developed by the board pursuant to K.S.A. 40-2209k.

(e) "Board" means the board of directors of the program.

(f) "Carrier" or "small employer carrier" means any insurance company, nonprofit medical and hospital service corporation, nonprofit optometric, dental, and pharmacy service corporations, municipal group-funded pool, fraternal benefit society or health maintenance organization, as these terms are defined by the Kansas Statutes Annotated, that offers health benefit plans covering eligible employees of one or more small employers in this state.

(g) "Case characteristics" means, with respect to a small employer, the geographic area in which the employees reside; the age and sex of the individual employees and their dependents; the appropriate industry classification as determined by the carrier, and the number of employees and dependents and such other objective criteria as may be approved family composition by the commissioner. "Case characteristics" shall not include claim experience, health status and duration of coverage since issue.

(h) "Class of business" means all or a separate grouping of small employers established pursuant to K.S.A. 40-2209g.

(i) "Commissioner" means the commissioner of insurance.

(j) "Department" means the insurance department.

(k) "Dependent" means the spouse or child of an eligible employee, subject to applicable terms of the health benefits plan covering such employee and the dependent eligibility standards established by the board.

(l) "Eligible employee" means an employee who works on a full-time basis, with a normal work week of 30 or more hours, and includes a sole proprietor, a partner of a partnership or an independent contractor, provided such sole proprietor, partner or independent contractor is included as an employee under a health benefit plan of a small employer but does not include an employee who works on a part-time, temporary or substitute basis.

(m) "Financially impaired" means a member which, after the

effective date of this act, is not insolvent but is:

(1) Deemed by the commissioner to be in a hazardous financial condition pursuant to K.S.A. 40-222d and amendments thereto; or

(2) placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(n) "Health benefit plan" means any hospital or medical expense policy, health, hospital or medical service corporation contract, and a plan provided by a municipal group-funded pool, or a health maintenance organization contract offered by an employer or any certificate issued under any such policies, contracts or plans. "Health benefit plan" does not include policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(o) "Index rate" means, for each class of business as to a rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(p) "Initial enrollment period" means the period of time specified in the health benefit plan during which an individual is first eligible to enroll in a small employer health benefit plan. Such period shall be no less favorable than a period beginning on the employee's or member's date of initial eligibility and ending 31 days thereafter.

(q) "Late enrollee" means an eligible employee or dependent who requests enrollment in a small employer's health benefit plan following the initial enrollment period provided under the terms of the first plan for which such employee or dependent was

eligible through such small employer, however an eligible employee or dependent shall not be considered a late enrollee if:

(1) the individual:

(A) Was covered under another employer-provided health benefit plan at the time the individual was eligible to enroll;

(B) states, at the time of the initial eligibility, that coverage under another employer health benefit plan was the reason for declining enrollment;

(C) has lost coverage under another employer health benefit plan as a result of the termination of employment, the termination of the other plan's coverage, death of a spouse, or divorce; and

(D) requests enrollment within 31 days after the termination of coverage under another employer health benefit plan; or

(2) the individual is employed by an employer who offers multiple health benefit plans and the individual elects a different health benefit plan during an open enrollment period; or

(3) a court has ordered coverage to be provided for a spouse or minor child under a covered employee's plan and request for enrollment is made within 31 days after issuance of such court order.

(r) "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered, or which could have been charged or offered, by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(s) "Plan of operation" means the articles, bylaws and operating rules of the program adopted by the board pursuant to K.S.A. 40-22091.

(t) "Preexisting conditions provision" means a policy provision which excludes or limits coverage for charges or expenses incurred during a specified period not to exceed one year following the insured's effective date of coverage as to a

condition or related conditions for which diagnosis, treatment or advice was sought or received in the six months immediately preceding the effective date of coverage.

(u) "Premium" means moneys paid by a small employer or eligible employees or both as a condition of receiving coverage from a small employer carrier, including any fees or other contributions associated with the health benefit plan.

(v) "Program" means the Kansas small employer health reinsurance program, established under K.S.A. 40-22091.

(w) "Rating period" means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect but any period of less than one year shall be considered as a full year.

(x) "SEHC plan" means the Kansas small employer health care plan which shall be a health benefit plan for small employers established by the board in accordance with K.S.A. 40-2209k.

(y) "Service waiting period" means a period of time after full-time employment begins before an employee is first eligible to enroll in any applicable health benefit plan offered by the small employer.

(z) "Small employer" means any person, firm, corporation, partnership or association eligible for group sickness and accident insurance pursuant to subsection (A) of K.S.A. 40-2209 and amendments thereto actively engaged in business whose total employed work force consisted of, on at least 50 percent of its working days during the preceding year, no more than ~~25~~ 50 eligible employees, the majority of whom were employed within the state. In determining the number of eligible employees, companies which are affiliated companies or which are eligible to file a combined tax return for purposes of state taxation, shall be considered one employer. Except as otherwise specifically provided, provisions of this act which apply to a small employer which has a health benefit plan shall continue to apply until the plan anniversary following the date the employer no longer meets the requirements of this definition.

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(aa) "Standard small employer health care plan" means a basic SEHC plan with specified benefit enhancements and such deductible and coinsurance provisions as may be developed by the board pursuant to K.S.A. 40-2209k.

(bb) "Affiliate" or "affiliated" means an entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.";

Also on page 15, in line 33, by strikign "4" and inserting "5"; also in line 33, after "40-2209," by inserting "40-2209d,"; in line 35, by striking "5" and inserting "6";

On page 1, in the title, in line 9, after "40-2209," by inserting "40-2209d,"

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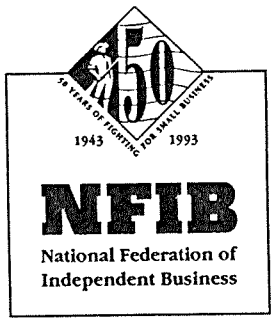
5-6



Testimony of
Hal Hudson, State Director
National Federation of Independent Business

Before the
Kansas Senate Financial Institutions and Insurance Committee

on Senate Bill 612

Wednesday, February 9, 1994

Mr. Chairman and members of the Committee: Thank you for this opportunity to appear before your committee. My name is Hal Hudson, and I am the State Director for the Kansas Chapter of National Federation of Independent Business. NFIB is the State's largest small-business advocacy group, with over 8,000 members who employ nearly 100,000 Kansans.

As most of you know, NFIB's position on legislative issues is determined by ballots, surveys and questionnaires, through which we ask our members for their opinion. We do not have a Kansas board of directors who set legislative policy.

I am here today to support enactment of S.B. 612, because the principles embodied in this bill support general goals NFIB members have said need to be met. Specifically, NFIB members support the concept of providing universal access to health insurance and implementing insurance reforms that limit preexisting condition exclusion, guarantee the renewal of policies, and establish fairer rating systems.

We view S.B. 612 as enabling legislation, which will help meet these goals without imposition of onerous mandates on employers that would threaten the livelihood of employees in small businesses. Therefore, we would encourage you to support of enactment of S.B. 612.

I will be available for questions at the pleasure of the Chair. Thank you.

Senate FI&I 2/10/94
Attachment #6

NFIB AND HEALTH CARE REFORM

Small business owners continue to be the nation's job creators. Between 1988 and 1990, small firms with fewer than 20 employees created 4.1 million new jobs while larger businesses employing more than 500 employees had a loss of 500,000 jobs. While NFIB members support a health care proposal which will make access to health insurance cheaper and easier to obtain, they believe that health care reform must not destroy jobs.

Below are steps that a majority of our 600,000 members believe will help improve access to health care for small business without destroying jobs:

⊕ NFIB MEMBERS SUPPORT

- Creating health insurance purchasing groups
- Enacting medical malpractice reforms to reduce lawsuits and the number of needless tests
- Increasing personal responsibility for health insurance and health care
- Repealing costly state health insurance benefit mandates
- Providing universal access to health insurance
- Reducing the paperwork burden for small business owners
- Implementing insurance reforms that limit the preexisting condition exclusion, guarantee the renewal of policies and establish fairer rating systems
- Enacting legislation that gives self-employed business owners a 100% deduction for health insurance premiums

⊖ NFIB MEMBERS OPPOSE

- Mandating all employers to pay for health insurance for all their employees including part-time workers
- Increasing payroll taxes
- Setting government caps on private and public spending for health care
- Enacting a government-based health care plan

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Testimony on
Senate Bill No. 622
by
Dick Brock
Kansas Insurance Department

Senate Bill No. 622 amends a body of law enacted in 1990 that was designed to facilitate access to, and encourage the purchase of, group health insurance by small employers. The legislation paralleled a similar initiative earlier implemented in Oregon and was recommended by the Kansas Commission on Access to Services for the Medically Indigent which was active in 1988 and 1989.

The legislation became effective July 1, 1990 and there have been no Small Employer Health Benefit Plans created under its provisions. While the legislation contains some state income tax credits and other incentives to attract small employer participation, it also contains certain eligibility requirements. One of these is a requirement that a participating small employer may not have contributed to the purchase of health insurance coverage for his or her employees during the immediate past two years. Since one of the objectives of the legislation was to increase the number of Kansas workers covered by health insurance, this kind of limitation was necessary. Otherwise, if only employers who already provided health insurance did so there would be no return on the tax incentive. Yet, it was only employers who already offer or provide insurance that even inquired about the plan. Thus, what seemed to be a sound idea which had at least some success in Oregon, has not fared well in Kansas.

Nevertheless, the basic concept of establishing a mechanism that will strengthen the purchasing power of employers by drawing them into larger units is a key feature of almost all health care reform initiatives. Beyond that, however, it has long been evident that a group mechanism is generally the best way an employer can accommodate the health care needs of his or her employees. Therefore, Senate Bill No. 622 simply builds on this fact by providing a means for employers to come together, form a purchasing unit

Senate H&A 2/10/94
Attachment #1

they collectively control and give them wide latitude to negotiate a health care plan that best conforms to their needs and circumstances.

Kansas insurance law has long recognized what are called multiple employer trust arrangements which were originally conceived for the same purpose as Senate Bill No. 622 i.e. allow small employers to join together for purposes of creating a larger health insurance group. In practice, however, it is not participating employers that form and manage the trust arrangement. Rather, it is usually an entrepreneur that creates the trust and then brings various employer groups under the trust umbrella. Once in the trust each employer group is essentially treated as a separate, individual unit or small group so the full advantage of the group size and demographics is not realized. Senate Bill No. 622 should not have this problem because the alliance is formed by its participating members, the members develop the plan of operation, the alliance has its own board of directors, and the alliance is not burdened with unnecessary, unreasonable or complicated regulatory requirements. Therefore, member employers should always control the program. It is possible that some third party or organization could put together a plan, enlist the support of a number of employers and direct or be an instrumental part of developing the operational aspects of the plan but the members and the board of directors would still be the controlling authority.

Section 3 of the bill gives the alliance the authority to contract for an insured health benefit plan with any insurance company, health maintenance organization and/or a medical and hospital service corporation. Section 3 also authorizes the alliance to contract directly with health care providers. By doing so, the alliance could create its own preferred provider network, make its own arrangements with participating providers, then negotiate with an insurance company to assume the risk and administer the health benefit plan.

In addition to an insured arrangement, the alliance may also contract with health care providers and assume the responsibility of paying for the contracted health care services itself. To do this, the alliance would have to have a participation level that would produce at least $1 million annual

gross premium and purchase and maintain specific and aggregate excess insurance. These are the same financial safeguards that apply to municipal group funded pools that provide health care benefits. Aside from these statutory requirements, alliances would be self-regulating as well as self-governing. For example, they would not be required to file periodic financial statements with any governmental agency. They would not be subject to audit or examination of their financial affairs or business practices. They would not be subject to premium taxes. They would not be required to procure any sort of certificate or permission from the Commissioner or other state agency and so forth.

In ordinary times, the Insurance Department would have deep concerns about arrangements of this kind. If an alliance that assumes its own risk cannot fulfill its obligations, there would be no statutory recourse. On the other hand, if many of the more customary restrictions and regulatory requirements are imposed, the alliance will lose a great deal of flexibility with regard to plan design and operating features. So, in today's environment and during the course of the on-going discussion and debate about health care and/or health insurance reform, perhaps we need to be more adventuresome and more visionary than we have been in the past. This self-funding concept is a policy decision within the bill itself that needs to be made but Senate Bill No. 622 itself would add another option for employers to consider as a way of providing health care benefits to their employees.

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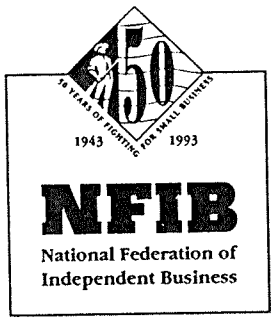
7-3



Testimony of
Hal Hudson, State Director
National Federation of Independent Business

Before the
Kansas Senate Financial Institutions and Insurance Committee

on Senate Bill 622

Thursday, February 10, 1994

Mr. Chairman and members of the Committee: Thank you for this opportunity to appear before your committee. My name is Hal Hudson, and I am the State Director for the Kansas Chapter of National Federation of Independent Business, the State's largest small-business advocacy group, with over 8,000 members who employ nearly 100,000 Kansans.

As most of you know, we do not have a board of directors who set Kansas legislative policy. NFIB's position on legislative issues is determined by ballots, surveys and questionnaires, through which we ask our members for their opinion.

I am here today to support enactment of S.B. 622, because the principles embodied in this bill support one of the general goals NFIB members have said need to be met. Specifically, NFIB members support the concept of creating health insurance purchasing groups or alliances. NFIB members also support providing universal access to health insurance and implementing insurance reforms that limit preexisting condition exclusion, guarantee the renewal of policies, and establish fairer rating systems.

We view S.B. 622 as enabling legislation, which would allow small business owners to voluntarily form alliances, without imposition of onerous mandates on employers that would threaten the jobs and livelihood of their employees. Therefore, we would encourage you to support of enactment of S.B. 622.

I will be available for questions at the pleasure of the Chair. Thank you.

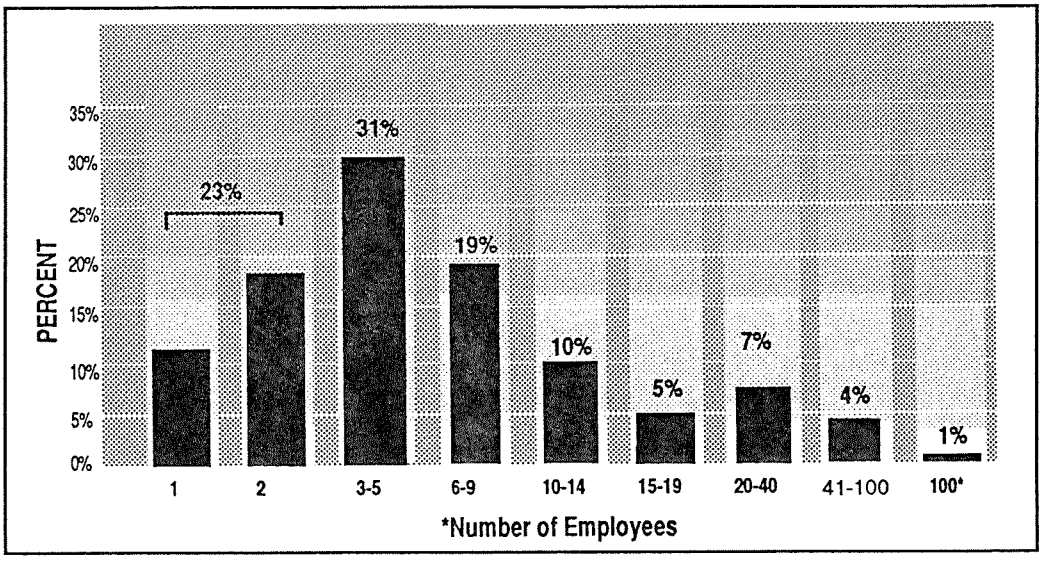
Senate 441
2/10/94
Attachment #8

NFIB/Kansas Membership Profile

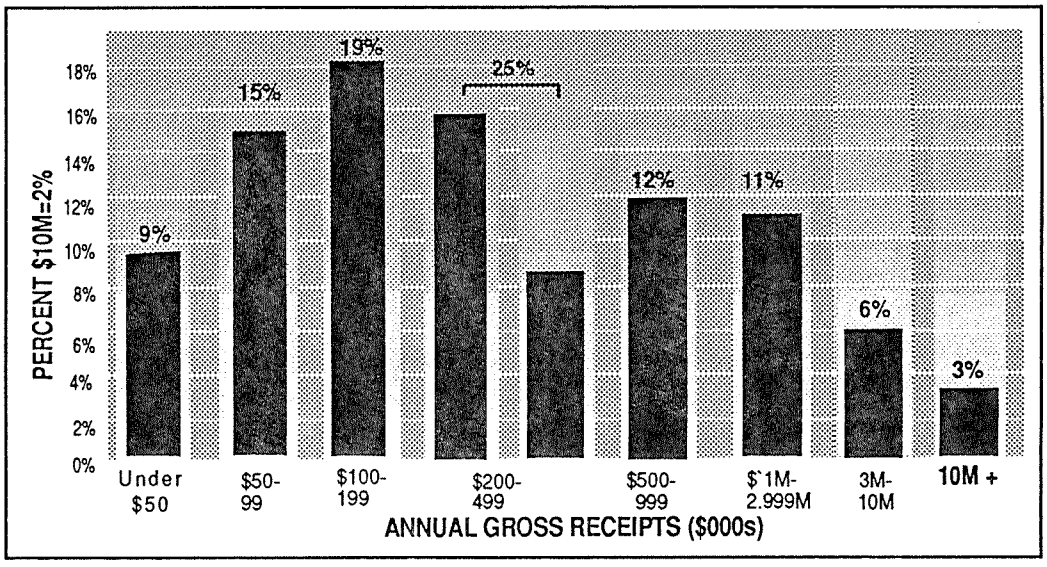
NFIB/Kansas represents the entire spectrum of independent business, from one-person "cottage" operations to quite substantial enterprises.

The typical NFIB/Kansas member employs five workers and rings up gross sales of about $270,000 per year. In aggregate, the organization's members employ nearly 92,000 workers.

NFIB/Kansas Membership by Number of Employees



NFIB/Kansas Membership by Annual Gross Receipts



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ABOUT NFIB/KANSAS

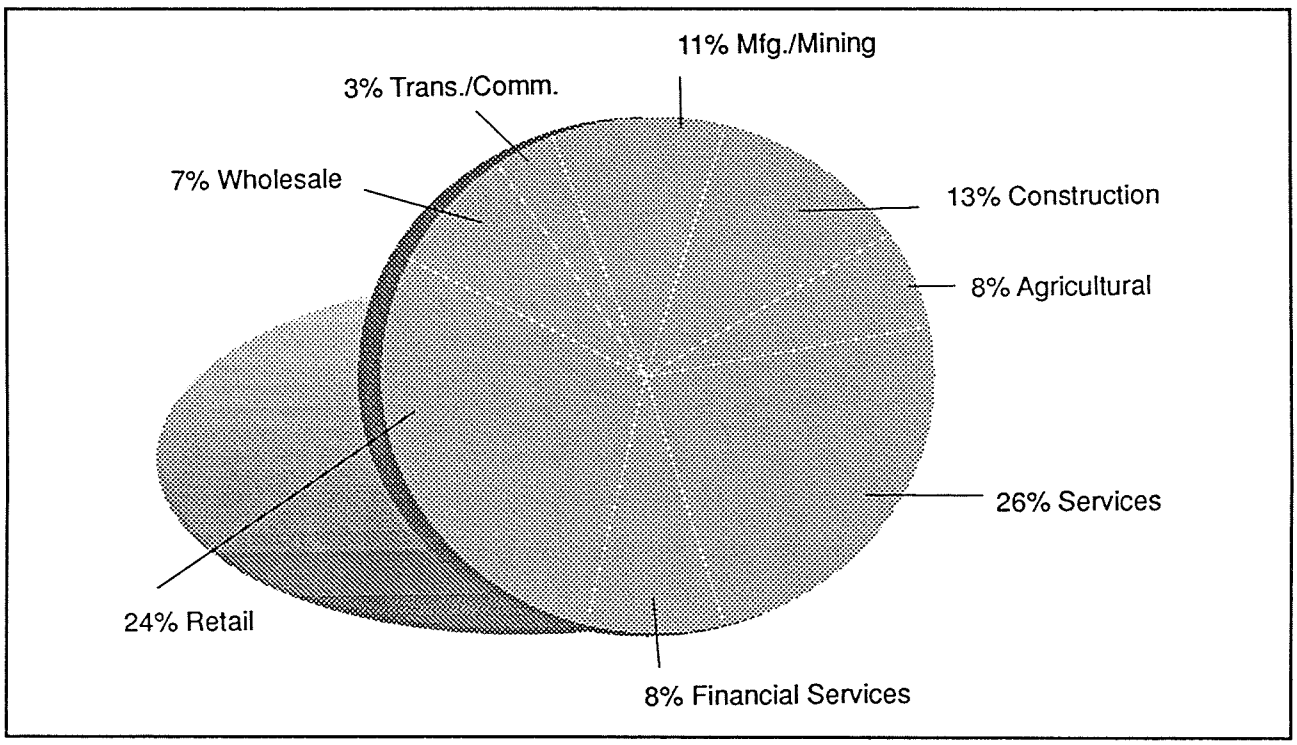
With nearly 8,000 members, the Topeka-based National Federation of Independent Business/Kansas is the state's largest small-business advocacy organization. Independent-business owners join the federation to have a greater say in the crafting of legislation and regulations that affect their lives and livelihoods.

NFIB/Kansas draws its members from all walks of commercial life: from family farmers to neighborhood retailers, from independent manufacturers to doctors and lawers, from wholesalers to janitorial service firms.

Each year NFIB/Kansas polls its diverse membership on a variety of issues. The federation uses the poll results to form its legislative agenda, aggressively lobbying in support of positions approved by majority vote.

Because policy is determined by direct vote of the membership rather than by a steering committee or board of directors, NFIB/Kansas lobbyists have exceptional credibility as spokespersons for the entire small-business community. Rather than represent the narrow interests of any particular industry or trade group, NFIB/Kansas promotes the consensus view of small-and independent-business owners from throughout the state.

NFIB/KANSAS MEMBERSHIP
by Industry Classification



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NFIB
National Federation of Independent Business

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LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732

SB 622 February 11, 1994

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Committee on Financial Institutions and Insurance

by

Terry Leatherman
Executive Director
Kansas Industrial Council

Mr. Chairman and members of the Committee:

My name is Terry Leatherman. I am the Executive Director of the Kansas Industrial Council, a division of the Kansas Chamber of Commerce and Industry. Thank you for the opportunity to express KCCI's support for SB 622.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

Senate 401
2/10/94
Attachment #9

Health care reform has become such a confusing maze of systemic problems and intricate solutions that it is easy to lose sight of the basics. The health care reform effort is driven by the fact that many Americans, and Kansans, have no health insurance. Many of the uninsured work for a living, or are family members of the employed. Often, they work for an employer who has a business which is not large enough to attract a private insurance program at an affordable price.

SB 622 expands the opportunity for employers with less than 100 employees, the employer group most likely to not provide a health insurance program for employees, to forge health insurance arrangements in private alliances. Success for this alternative to traditional health insurance should be improved by several features in SB 622 which encourage innovative programs.

In supporting SB 622, KCCI would call to the Committee's attention the current law provision on page 4 - line 17 which requires that membership in a sponsoring organization not be a prerequisite for business participation. This provision is apparently intended to expand a business' opportunity to join an alliance. However, it may create an opposite effect by discouraging associations and organizations from forming alliances.

Thank you for the chance to lend KCCI's support for SB 622. I would be happy to answer any questions.

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