Approved: 2-23-94
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:08 a.m. on February 22, 1994 in Room 529-S of the Capitol.

Members present: Senators Corbin, Lawrence, Lee, Moran, 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: Judi Stork, Kansas Bank Department
Senator Pat Ranson

Others attending: See attached list

Senator Steffes moved to approve the minutes of the meeting of February 21 as submitted. Senator Moran seconded the motion; the motion carried.

The hearing was opened on **SB 757**, a bill to abolish the savings and loan fee fund and to revise other statutes relating to savings and loan associations. Judi Stork, Kansas Bank Department, appeared before the committee as a proponent and explained the changes to each of the five statutes incorporated in this legislation. (Attachment #1.) Ms. Stork also requested an amendment to KSA 17-5701, pertaining to fees paid at the time application for incorporation is filed; this amendment would require that money received be credited to the Bank Commissioner's fee fund instead of the savings and loan fee fund. In response to Senator Moran's question, Ms. Stork advised that there is currently only one state chartered savings and loan association in Kansas and that this one is insufficient to support the savings and loan fee fund. There being no further questions and no other conferees, the hearing on **SB 757** was closed.

Senator Steffes made a motion to amend **SB 757** as requested by the Bank Commissioner's office, and to pass the bill favorably. The motion was seconded by Senator Praeger and the motion carried.

Senator Pat Ranson presented an amendment to **SB 640**, relating to insurance reimbursements for mammograms performed by mobile vans. (Attachment #2.) Senator Ranson advised the committee that the proposed amendment has been worked out with the Insurance Department and representatives from insurance companies. Dr. Wolff pointed out that this bill contains more stringent requirements for certification than any other facilities performing mammography. Senator Corbin observed that the mobile van which operates in the Wichita area provides needed services and the bill is necessary to assure that all such vans meet proper standards. Senator Praeger moved to conceptually amend **SB 640** by striking language beginning on line 20 "...and (2) reimbursement and insurance provider status shall not be denied," and inserting "..including services performed at a mobile facility certified by the..."; by striking "certified provider" on line 23 and inserting the word "and"; and striking the reference to "prostate specific antigen" on line 24, and inserting the language "pursuant to.."; and to delete the reference to certification by the Department of Health and Environment, and to pass the bill favorably as amended. Senator Moran seconded the motion; the motion carried. Senator Ranson will carry this bill.

Written testimony on **SB 640** was submitted by Brad Smoot, Blue Cross/Blue Shield. (Attachment #3.)

Discussion was resumed on **SB 677**, dealing with insurance fraud, which was heard in committee on February 16. Senator Steffes informed the committee that 22 states have now enacted legislation to deal with the crime of insurance fraud and this bill will encourage honesty in filing for insurance benefits. Senator Lee had raised the question of whether this bill was a duplication of existing statutes and Mr. Carman advised that it is not unusual to have duplicative statutes. There are more than 900 sections in the Criminal Code, Chapter 22 and Chapter 21 that provide for penalties for misdemeanors or felonies, and there is no reason this bill should not be passed because it duplicates other statutes. In response to Senator Lee's question, Senator Steffes advised that **SB 677** has no requirement that would call for additional information to be provided when filing an insurance claim. Senator Praeger noted that although fraud statutes are on the books, they have no teeth in them and this bill will add criminal penalties for filing fraudulent claims.

Senator Steffes made a motion, seconded by Senator Praeger to favorably pass **SB 677** as amended on February 16 (please refer to minutes of that meeting). The motion carried. Senator Steffes will carry this bill.

The committee then turned its attention to **SB 612**, concerning small employer group health plans. This bill was heard in committee on February 9. Dr. Wolff explained the amendments to this bill (Attachment #4) , and Mr. Richard Brock of the Insurance Commissioner's office stated that the amendments accomplish the changes recommended by the committee. Senator Praeger made a motion to adopt the proposed amendments. Senator Steffes seconded the motion; the motion carried. Senator Praeger moved to pass **SB 612** favorably as amended. The motion was seconded by Senator Lawrence. The motion carried. Senator Praeger will carry this bill.

The committee adjourned at 9:55 a.m.

The next meeting is scheduled for February 23, 1994.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE DATE: 2/22/94

NAME	ADDRESS	ORGANIZATION
Dick Brock	Topeka	Ins Dept
Judi Stork	✓	Ks Bkg Dept
William Grant Jr	✓	"
Ruth Glover	✓	✓
Larry Slaughter	Topeka	[illegible]
Jim Maag	"	KBA
Roger Franzke	"	Ks Gov Consulting
Alice Stuckey	Junction City	Chamber of Commerce

KANSAS

JOAN FINNEY
GOVERNOR

Frank D. Dunnick
Bank Commissioner

Judi M. Stork
Deputy Commissioner

Kevin C. Glendening
Assistant Deputy Commissioner

William D. Grant, Jr.
Staff Attorney

Ruth E. Glover
Administrative Officer

OFFICE OF THE
STATE BANK COMMISSIONER

TO: Senate Committee on Financial Institutions and Insurance
RE: Senate Bill 757
DATE: February 22, 1994

Mr. Chairman and Members of the Committee:

I am here today on behalf of Commissioner Frank Dunnick and the Office of the State Bank Commissioner. We are asking the committee to favorably consider Senate Bill 757 which amends four sections of the Kansas Statutes and repeals one other.

First, we are asking you to amend K.S.A. 9-1703. This section sets out the assessments that are paid by banks and trust companies on a semi-annual basis. We are requesting this section be changed to include the savings and loan associations (S&L) and would charge them on the same basis as we charge banks and trust companies.

Secondly, we are asking you to amend K.S.A. 17-5610. This change allows our department to collect "call reports" from the S&Ls on a quarterly basis. Previously they were only required to report on a semi-annual basis. Currently the S&Ls are required to report to the Office of Thrift Supervision (OTS) quarterly. This would allow the department to keep more up-to-date information on the thrifts we regulate. The S&Ls are given the option of filing with us the same report they provide to the OTS.

Next, we are asking you to amend K.S.A. 17-5612 by deleting language that sets out the current assessments for S&Ls and the statute refers the reader to K.S.A. 9-1703. Currently the statute says that the Commissioner has to determine, prior to June 1 of each year, the expenses of the savings and loan department for the coming year and then assess the S&Ls for those expenses. Since there is only one S&L, and the cost associated with the regulation of it is very difficult to segregate, we are asking, by this amendment, to be able to keep the costs associated with the S&L with the expense of the banks and trust companies. If the department regulated numerous S&Ls, it would be appropriate to keep the income and expenses associated with such as separate budgets. With the regulation of only one S&L, it is not effective or efficient for us to do so. These amendments would allow the department to calculate our budget for the regulation of all institutions under our purview, and to assess such institutions on an equal basis.

Senate FI+I
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Attachment #1

700 Jackson, Suite 300 • Topeka, Kansas • 66603-3714 • 913-296-2266 • Fax: 913-296-0168

We are also asking under an amendment to K.S.A. 75-1313, to abolish the savings and loan fee fund. This was attempted last year; however, it was not appropriately accomplished. We are offering the language on page five to make it very clear that the S&L fee fund is abolished.

Finally, we are asking you to repeal K.S.A. 17-5609 which requires the S&Ls to file an annual report with the Commissioner. We feel the reports required pursuant to K.S.A. 17-5610 are adequate to keep the department informed of any S&L's condition.

I would be happy to answer any questions.

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Attachment #2

Session of 1994

SENATE BILL No. 640

By Senators Ranson, Downey, Emert, Lawrence, Reynolds, Salisbury, Steffes, Tillotson and Vidricksen

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AN ACT relating to insurance; concerning mammogram coverage; amending K.S.A. 40-2230 and repealing the existing section.

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

Section 1. K.S.A. 40-2230 is hereby amended to read as follows: 40-2230. Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this act applies, whenever reimbursement or indemnity for laboratory or x-ray services are covered, ~~*(1)*~~ Reimbursement, or indemnification shall not be denied for mammograms or pap smears when performed at the direction of a person licensed to practice medicine and surgery by the board of healing arts within the lawful scope of such person's license, ~~*and (2) reimbursement and insurance provider status shall not be denied any*~~ *federal health care financing administration* ~~*and department of health and environment certified provider*~~ *performing mammography and* ~~*prostate specific antigen*~~ *testing* ~~*by*~~ *American cancer society guidelines*. A policy, provision, contract, plan or agreement may apply to mammograms or pap smears the same deductibles, coinsurance and other limitations as apply to other covered services.

Sec. 2. K.S.A. 40-2230 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

, reimbursement

, including services performed ~~at such direction by any provider, whether~~ at a mobile facility ~~or not~~, certified by the

and

pursuant to

BRAD SMOOT
ATTORNEY AT LAW

EIGHTH & JACKSON STREET
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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 640, FEBRUARY 15, 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.

Thank you for the opportunity to express our concerns regarding 1994 Senate Bill 640. This bill appears to expand the current insurance mandate for mammography to include prostate testing and require payment to testing services even without a physician referral.

Blue Cross Blue Shield is always concerned about statutory mandates as such rules tend to decrease flexibility for insureds and employers to structure their own plans. Likewise, such mandates ordinarily tend to increase insurance costs as more and more services are used and paid for. This is particularly true where the mandate is for payment of self-referred services and the requirement of medical necessity is abandoned.

Blue Cross Blue Shield currently pays for mammography services and PSA tests when ordered by a physician. Thus, this bill would only expand coverage for self-referred services. In addition, the mandate would not effect self-insured ERISA groups.

Finally, the Committee will want to note that this mandate and others would be avoided with the passage of the "alliance" bill, Senate Bill 622, also being heard by this Committee.

I would be pleased to respond to any questions.

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Attachment #3

PAS612bl
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 two sections as follow:

"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 and amendments thereto, 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

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Attachment #4

same or similar coverage.

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

(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 and amendments thereto.

(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

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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 and amendments thereto.

(t) "Preexisting conditions provision" means a policy

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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 and amendments thereto.

(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 and amendments thereto.

(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~~ 50% 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

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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.

(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 and amendments thereto.

(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.

Sec. 5. K.S.A. 40-2209h is hereby amended to read as follows: 40-2209h. From and after January 1, 1993: (a) Premium rates applicable to Kansas residents for health benefit plans subject to this act shall be subject to the following provisions:

(1) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than ~~20 percent~~ 20%.

(2) For a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than ~~25 percent~~ 25% of the index rate.

(3) The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(A) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, if such

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change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(B) any adjustment, not to exceed ~~15--percent~~ 15% annually and adjusted pro rata for rating periods of less than one year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business; and

(C) any adjustment due to change in coverage or change in the case characteristics of the small employer, as determined from the small employer carrier's rate manual for the class of business.

(4) Adjustments in rates for claim experience, health status and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

(5) A small employer carrier may utilize industry as a case characteristic in establishing premium rates, if the highest rate factor associated with any industry classification does not exceed the lowest rate factor associated with any industry classification by more than ~~30-percent~~ 30% for each year ~~of--the first--three--years--immediately--following--the-date-the-program becomes-operational~~ 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 December 31, 1996, and ~~15-percent~~ 15% each year thereafter.

(6) ~~In-the-case-of-health-benefit-plans-issued-prior-to--the effective--date--of--this-act,~~ A premium rate for a rating period may exceed the ranges set forth in paragraphs (1) and (2) ~~for--a period--of--three--years-following-the-effective-date-of-this-act~~ until the earlier of the first acquisition of coverage from a

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small employer carrier which did not previously provide coverage to that small employer or the first renewal date on or after December 31, 1996. In such case, the percentage increase in the premium rate charged to a small employer for a new rating period shall not exceed the sum of the following:

(A) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, if such change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers.

(B) Any adjustment due to change in coverage or change in the case characteristics of the small employer, as determined from the carrier's rate manual for the class of business.

(7) (A) Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans.

(B) A small employer carrier shall treat all health benefit plans issued or renewed in a class of business in the same calendar month as having the same rating period.

(8) For the purposes of this subsection, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize such a network, if utilization of the restricted provider network results in substantial differences in claims costs.

(9) A small employer carrier shall not use case

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characteristics, other than age, gender, industry, geographic area, family composition, and group size without prior approval of the commissioner.

(10) The commissioner may establish regulations to implement the provisions of this section and to assure that rating practices used by small employer carriers are consistent with the purposes of this act, including:

(A) Assuring that differences in rates charged for health benefit plans by small employer carriers are reasonable and reflect objective differences in plan design, not including differences due to the nature of the groups assumed to select particular health benefit plans; and

(B) prescribing the manner in which case characteristics may be used by small employer carriers.

(b) A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage.

(c) The commissioner may suspend for a specified period the application of subsection (a)(1) as to the premium rates applicable to one or more small employers included within a class of business of a small employer carrier for one or more rating periods upon a filing by the small employer carrier and a finding by the commissioner either that the suspension is reasonable in light of the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

(d) Upon written application of the group policyholders, the commissioner may suspend the application of K.S.A. 40-2209g and 40-2209h and amendments thereto to any group whose fundamental structure or composition would otherwise be adversely affected.";

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Also on page 15, in line 33, by striking "4" and inserting "6"; also in line 33, after "40-2209," by inserting "40-2209d,"; also in line 33, by striking "and" and inserting a comma; also in line 33, after "40-2209f" by inserting "and 40-2209h"; in line 35, by striking "5" and inserting "7";

On page 1, in the title, in line 9, after "40-2209," by inserting "40-2209d,"; in line 10, by striking "and" where it first appears and inserting a comma; also in line 10, after "40-2209f" by inserting "and 40-2209h";

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