

Approved 2/12/92 Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by SENATOR RICHARD L. BOND at
Chairperson

9:15 a.m./~~p.m.~~ on Tuesday, February 11, 1992 in room 529-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~:

Senators Bond, Francisco, Kerr, Moran, Parrish, Salisbury, Strick, Ward.

Committee staff present:

Fred Carman, Revisor
Bill Wolff, Research
June Kossover, Committee Secretary

Conferees appearing before the committee:

Senator August Bogina
Bill Sneed, American Investors
Mick McBride, Wichita Public Schools
Dick Brock, State Insurance Department

The meeting was called to order by Chairman Bond at 9:15 a.m.

The Chairman opened the hearing on SB 491 and SB 492.

Senator Gus Bogina, sponsor of the bills, appeared before the committee to explain the intent of and need for SB 491 and SB 492. (Attachment #1.)

Bill Sneed, American Investors, appeared before the committee in support of SB 491 and SB 492 and to propose an amendment to add specificity to what an insured and insurer can expect. Mr. Sneed explained that the amendment allows for coverage during the interim of underwriting. He stated that the proposed amendment would not affect the end result of the bills and would address the situation and problem raised by Senator Bogina. (Attachment #2.)

Fred Carman noted that the amendment will require some technical rewriting in Section B.

Senator Kerr made a motion, seconded by Senator Moran, to accept the proposed amendment with the technical corrections by Mr. Carman. The motion carried.

Senator Kerr made a motion to move SB 491 favorably as amended. The motion was seconded by Senator Moran. The motion carried. The bill will be carried by Senator Bogina.

Chairman Bond opened the hearings on SB 512, a bill sponsored by Senator Francisco which would allow for the implementation of self-funded life insurance.

Mr. Mick McBride, Wichita Public Schools, appeared before the committee in support of SB 512. Mr. McBride explained that the bill would amend K.S.A. 72-8415a to allow for establishment of a benefit reserve fund, authority for the district to transfer money into the reserve fund, and authority for the district to expend money from the reserve fund. This will allow the Wichita district to proceed with its plans to establish a self-funded life insurance program. (Attachment #3.)

There being no further conferees, the Chairman declared the hearing closed. On a motion by Senator Francisco, seconded by Senator Ward, the bill was passed and recommended to placed on the Consent Calendar.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:15 a.m./~~p.m.~~ on Tuesday, February 11, 1992.

Chairman Bond reopened the hearing on SB 519 an act concerning the purchase of life insurance benefits. Mr. Richard Brock, State Insurance Department, appeared before the committee to explain the amendments which had been requested by the committee and revised by Mr. Carman. (Attachment #4.)

A motion was made by Senator Salisbury and seconded by Senator Kerr to adopt the proposed amendments. The motion carried.

Senator Salisbury made a motion to pass SB 519 favorably as amended. The motion was seconded by Senator Kerr. The motion carried. The bill will be carried by Senator Bond.

Chairman Bond announced that the Financial Institutions and Insurance Committee will meet in the Old Supreme Court Room, 313 S, on Wednesday and Thursday, February 12 and 13, for the hearings on SB 561.

Senator Strick made a motion, seconded by Senator Parrish, to approve the minutes of the meeting of February 10, 1992, as submitted. The motion carried.

The committee adjourned at 9:45 a.m.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE

DATE: 2-11-92

NAME	ADDRESS	ORGANIZATION
Bill Smeal	Topeka	Am Ins Life
Anita Larson	Topeka	SBB, Inc.
Larry Sederstrom	Overland Park	Zurich-American Ins
Wern Wilker	Topeka	KASB
Senator Gus Bogina	Capitol	Legislative
L.A. "Mick" McBride	Wichita	USD No 259
Dave Hanson	Topeka	Ks Life Assoc
Larry Magill	Topeka	IINA
Robin Michael S	Wichita	USD 259


AUGUST BOGINA, JR., P.E.
SENATOR, TENTH DISTRICT
JOHNSON COUNTY
5747 RICHARDS CIRCLE
SHAWNEE, KS 66216

STATE OF KANSAS



TOPEKA

SENATE CHAMBER

STATE CAPITOL
TOPEKA, KANSAS 66612

(913) 296-7362

COMMITTEE ASSIGNMENTS
CHAIRMAN: WAYS AND MEANS
VICE CHAIR: GOVERNMENTAL ORGANIZATION
MEMBER: FINANCE COUNCIL
LEGISLATIVE POST AUDIT

February 11, 1992

Discussion SB 491 & SB 492

Mr. Chairman and Members of the Committee, the subject matter of SB 491 and SB 492 is intended to correct a problem that probably does not arise very often, but when it does, the results could be disastrous. In order to explain the problem, I will relate an actual experience.

In March of 1989, a company paid the premium and four partners completed application forms for life insurance on each of the partners. Subsequently, the insurance company requested a physical examination of one of the applicants. After the examination, neither the company who owned the policies or the partners heard anything from either the Agent or the Company. It was assumed the policies were in force. Shortly before the partner who was requested to have the physical examination passed away on November 9, 1989, the Agent attempted to deliver a check from the insurance company for the amount of the premium for that one policy. He stated that the policy had been denied approximately 8 months before his appearance. The check was void because of age and not accepted (printed on the check "Void after 6 months"). Neither the owner of the policy, the company, or the insured, the partner, were informed of the denial prior to that time.

The Insurance Company claimed that they informed the Agent about the denial, therefore they had no responsibility in the matter. Further the Insurance Company contended that the Independent Agent was the responsibility of the policy owner and not the Insurance company. This unknown development caused the fulfillment of the partnership "Buy-Sell" agreement considerable compliance problems. In case it is of interest, the deceased was Charles Fyock of the Company Bogina, Fyock, Hawley & Urkevich.

SB 492 would require that the Insurance Company notify the applicant and insured of the refusal of a policy and return the premium by certified mail. You will note the great difference between the proposed notification and that which occurred in 1989 when the agent notified the applicant and insured eight months after an alleged denial. I believe proper notification is essential.

SB 492 merely states that an Independent Agent is an employee of the Insurance Company and not of the applicant or insured.

FI+I 2/11/92
Attachment #1

These bills seem simplistic and common sense, but I assure you, these issues are currently interpreted by at least one Insurance Company and Independent Agent in a manner as described herein.

Thank you for consideration of these bills. Although not an expert in insurance matters, I am available to answer questions.

Respectfully submitted,

August Bogina Jr., P.E.
Senator, Tenth District

MEMORANDUM

TO: Senator Dick Bond
Chairman, Senate Financial Institutions and Insurance Committee

FROM: William W. Sneed
American Investors Life Insurance Company

DATE: February 11, 1992

RE: Senate Bill 491

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent American Investors Life Insurance Company. In that capacity, I am here as a proponent of S.B. 491.

On behalf of my client, I have worked with various members of the insurance industry, the Kansas Insurance Department, members of this Committee and, of course, the bill's sponsor. With that, I am attaching to my testimony a proposed amendment to be included in S.B. 491.

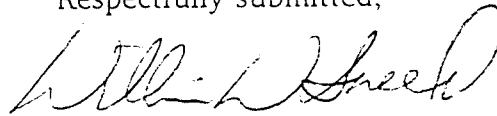
This amendment will place specificity on the general topic that is encompassed in S.B. 491. In an attempt to make certain that all parties, the insurer and the insured, know their exact responsibilities, we have taken the liberty of expanding S.B. 491 to specifically itemize what should be encompassed for a conditional receipt that is commonly issued when a life insurance product is sold. Inasmuch as it benefits both parties to issue these temporary policies during the underwriting process, we believe it is equally important to itemize the specific issues so that hopefully there will be no confusion on behalf of either party when this transaction occurs.

FI+I 2/11/92
Attachment #2

It is our intent not to water down S.B. 491, but to add specificity to it. Thus, I will be happy to discuss the specific items during my testimony, but generally speaking, they are items that are commonly utilized during temporary insurance while underwriting occurs. Further, we have tied this bill into current law, K.S.A. 40-2,111, which is commonly referred to as the "adverse underwriting statute." By utilizing the current law, we will effectually establish the procedure companies will have to utilize during the underwriting process, and at the same time guarantee the insured the protection that he or she may believe has been currently purchased.

I appreciate the opportunity to present this to the Committee and respectfully request that the balloon amendment be favorably acted upon by this Committee, and that S.B. 491 be favorably passed as amended. If you have any questions in the interim, please feel free to contact me.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "William W. Sneed".

William W. Sneed

SENATE BILL No. 491

By Senator Bogina

1-15

8 AN ACT relating to life insurance and declination thereof.

9
10 *Be it enacted by the Legislature of the State of Kansas:*

11 Section 1. Whenever an application for a life insurance policy
12 and an initial premium therefor has been received by an insurance
13 company or agent acting on behalf of such company, ~~such policy~~
14 ~~shall be deemed to be in effect notwithstanding any provision in the~~
15 ~~application affording the insurance company or agent an opportunity~~
16 ~~for a declination of coverage until the insurance company or agent~~
17 ~~has notified the applicant and insured if other than the applicant of~~
18 ~~such declination and returned such premium by certified mail.~~

19 Sec. 2. This act shall take effect and be in force from and after
20 its publication in the statute book.

an individual

the coverage for which application is made shall, subject to the limitations in subsection (b) of this section, be deemed to be temporarily in effect until the insurance company or agent has, in the event of an adverse underwriting decision, as defined in K.S.A. 40-2,111, notified in writing the applicant of such adverse underwriting decision and returned any unearned premium in accordance with K.S.A. 1991 Supp. 40-2,111.

(b) Whenever an application for an individual life insurance policy and an initial premium therefor has been received, the receipt for the premium may, in writing:

- (1) Exclude coverage if the proposed insured commits suicide.
- (2) Void coverage if the application contains material misrepresentation or is fraudulently completed.
- (3) Limit the coverage otherwise provided by subsection (a) by specifying for each proposed insured the amount and type of temporary coverage granted.
- (4) Void coverage if a check or draft received in payment of the premium is not honored for payment when presented.
- (5) Provide for a refund of any unearned premium pursuant to K.S.A. 1991 Supp. 40-2,112.



Risk Management Department

February 11, 1992

Testimony of L. A. "Mick" McBride, Risk Manager, before the Senate Financial Institutions and Insurance Committee in support of Senate Bill No. 512

Mr. Chairman and Members of the Committee:

My name is L. A. "Mick" McBride. I am Risk Manager for the Wichita public school system. Thank you for allowing me to speak to you today regarding Senate Bill No. 512. In 1990 the Wichita School District supported an amendment to K.S.A. 72-8414 to allow school districts in Kansas to self fund life insurance benefits. I have attached a copy of the testimony which was presented in 1990 to support that amendment. The amendment was accepted and passed into law July 1, 1990.

Due to an oversight in 1990, a sister amendment for K.S.A. 72-8415a was not introduced. Our attorney and our treasurer have advised that a self funded program cannot be implemented unless authorized by both K.S.A. 72-8414 and K.S.A. 72-8415a. Therefore, K.S.A. 72-8415a must be amended to allow for establishment of a benefit reserve fund, authority for the district to transfer money into the reserve fund, and authority for the district to expend money from the reserve fund.

Senate Bill No. 512 amends K.S.A. 72-8415a to allow for these changes. We support Senate Bill No. 512 and ask that the amendments be accepted as written. This will allow the Wichita district to proceed with its plans to establish a self funded life insurance program.

Thank you again for allowing me to speak to you. I will answer any questions you may have.

FI&I 2/11/92
Attachment #3



*Legal, Intergovernmental and
Employment Relations*

Testimony of Kathryn Dysart, Supervisor of Intergovernmental Affairs, before the Senate Financial Institutions and Insurance Committee on April 4, 1990.

The Wichita public school system requested House Bill No. 3068. Our district offers a non-contributory group term life insurance benefit for eligible employees. The specific amount of benefit received by the various employee groups is established via the negotiations process.

Since 1981, the Wichita district has gained considerable experience in establishing and administering self funded programs. Current plans are that self funded include health/dental, school board liability, short term disability, and workers' compensation. Experiences gained from administering these plans have taught us that the cost of insurance company administration of benefits is very high and in each case could be done by the district much more economically.

For example, the annual retention (cost of plan administration over and above claim expense actually paid to the insurance company) for the district's non-contributory group term life insurance plan since July 1, 1988, is as follows:

Actual	1988/89	\$35,222
Estimated	1989/90	\$48,350
Estimated	1990/91	\$51,730

As a part of offering and purchasing this benefit, our district processes payroll deduction requests, prepares a monthly premium statement, remits the monthly premium statement and premium check to the insurance company, processes all enrollments and terminations, processes and maintains beneficiary forms, distributes benefit information to employees, reads the obituary daily, receives notice of all death claims, communicates with beneficiaries, processes death claim forms and remits to the insurance company, and receives the claim check and delivers the check to the beneficiary. As this illustrates, our district is currently providing almost all administration service for this benefit now except writing the actual claim check. It is our opinion that we can pay the \$300,000 plus of annual premiums into a fund and write checks for significantly less than \$35,000 per year. The savings and the excess premiums would remain in the fund as accumulated reserves.

Since it would take some time to accumulate an actuarially adequate reserve for a self funded life plan and to protect against a catastrophe, the district will purchase aggregate stop loss insurance. As you can see on the attached loss history report, the district's claim experience has been fairly stable over the past seven years. If the current year's experience continues, the 1989/90 school year will be a very light year for claims. I cannot explain the low claim experience from 1977 through 1982 versus the much higher claim experience from 1982 through 1990.

3-2



Risk Management Department

Revised February 11, 1992

USD NO. 259 LIFE INSURANCE EXPERIENCE

School Year	Deaths	Amount Paid
8/1/71 - 7/31/72	3	\$ 9,000
8/1/72 - 7/31/73	0	\$ 0
8/1/73 - 7/31/74	12	\$ 60,000
8/1/74 - 7/31/75	12	\$ 60,000
8/1/75 - 7/31/76	8	\$ 80,000
8/1/76 - 7/31/77	14	\$ 295,000
8/1/77 - 7/31/78	2	\$ 50,000
8/1/78 - 7/31/79	6	\$ 125,000
8/1/79 - 7/31/80	6	\$ 145,000
8/1/80 - 7/31/81	5	\$ 100,000
8/1/81 - 7/31/82	7	\$ 190,000
8/1/82 - 7/31/83	15	\$ 310,000
8/1/83 - 7/31/84	11	\$ 201,000
8/1/84 - 7/31/85	12	\$ 180,000
8/1/85 - 7/31/86	14	\$ 180,000
8/1/86 - 7/31/87	12	\$ 270,000
8/1/87 - 7/31/88	11	\$ 240,000
8/1/88 - 7/31/89	12	\$ 250,000
8/1/89 - 6/30/90	10	\$ 270,000
7/1/90 - 6/30/91	7	\$ 190,000
7/1/91 - 1/31/92	8	\$ 225,000

SENATE BILL No. 519

By Committee on Financial Institutions and Insurance

1-22

FI&I 2-11-92
Attachment #4

8 AN ACT concerning life insurance; purchase of policy benefits; notice
9 to beneficiary; cancellation of transaction.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. As used in this act "person" means an individual,
13 partnership, corporation or other entity that purchases life insurance
14 policies or becomes a beneficiary under life insurance policies by _____, any rights thereunder
15 paying the policyowner a percentage of the expected policy benefits.

16 Sec. 2. Any person purchasing a life insurance policy already in _____ any interest in
17 force or beneficiary rights under any such life insurance policy from
18 an existing policyowner for less than 90% of the expected policy _____ (See attached)

19 benefits at maturity shall provide notice of the transaction to the
20 last known address of the first beneficiary named on the life insurance
21 policy that is the subject of the transaction. The notice must be sent
22 by certified mail to such address no later than midnight of the day
23 the policyowner receives payment, and the policyowner shall have
24 until midnight of the third business day after the day on which the
25 policyowner signs the agreement, to cancel the transaction.

26 Sec. 3. This act shall not apply to an insurance company in the _____ 13
27 course of exercising existing contractual provisions which permit the _____ under a life insurance policy
28 acceleration of life or annuity benefits in advance of the time they Delete
29 would otherwise be payable or to any assignee of a life insurance
30 policy that has been used to collateralize a loan.

31 Sec. 4. This act shall take effect and be in force from and after _____ 14
32 its publication in the Kansas register.

shall, at least 90 days prior to doing any act toward the transaction of such business in this state, file an application for a license in the form prescribed by the commissioner of insurance. Such application shall be accompanied by a nonrefundable fee of \$1,000 and the applicant shall provide any information the commissioner may require including a copy of any discount rates, contracts or other forms used in the transactions described in section 1.

Sec. 3. When it appears to the commissioner that it is contrary to the interests of the public for a person licensed pursuant to this act to transact or continue to transact the business in this state, the commissioner may deny the issuance or continuation of a license. If, after a hearing conducted in accordance with the Kansas administrative procedure act, the commissioner concludes that it is contrary to the interests of the public for the person to continue to transact such business, the commissioner may revoke the person's license, or issue an order suspending the license for a period determined by the commissioner.

Sec. 4. Any license issued pursuant to section 2 shall continue in force until revoked, suspended or otherwise terminated by the commissioner upon payment of an annual continuation fee of \$500 on or before May 1 of each year.

Sec. 5. Any person who intends to discontinue transacting business in this state shall so notify the commissioner, and shall surrender such person's license.

Sec. 6. All persons shall disclose or advise any policyowner at the time of solicitation of all of the following:

(a) For policyowners with catastrophic or life threatening illness, possible alternatives to the sale of their life insurance policy or any interest therein, including, but not limited to, accelerated benefits options that may be offered by the life insurer;

(b) tax consequences that may result from entering into a contract described in section 2;

(c) consequences for interruption of public assistance as provided by medicaid or other public assistance programs;

(d) the policyowner has an absolute right to rescind a contract described in section 2 within 15 days of its execution.

Sec. 7. The commissioner may, when the commissioner deems it reasonably necessary to protect the interests of the public, examine the business and affairs of any licensee or applicant for a license. The commissioner shall have the authority to order any licensee or applicant to produce any records, books, files, or other information reasonably necessary to ascertain whether or not the licensee or applicant is acting or has acted in violation of the law or otherwise contrary to the interests of the public. The expenses incurred in conducting any examination shall be paid by the licensee or applicant.

Sec. 8. The commissioner may investigate the conduct of any person when the commissioner has reason to believe the person may have acted, or may be acting, in violation of law, or otherwise contrary to the interests of the public. The commissioner may initiate an investigation on the commissioner's own, or upon a complaint filed by any other individual.

Sec. 9. No person who is not a resident of Kansas may receive or maintain a license unless a written designation of an agent for service of process is filed and maintained with the commissioner or has filed in the insurance department, such person's written, irrevocable consent that any action may be commenced against such person by the service of process on the commissioner of insurance.

Sec. 10. Any policyowner who enters into a contract with a person shall have the absolute right to rescind the contract within 15 days of execution of the contract, and any waiver or contract language contrary to this section shall be void.

Sec. 11. All medical information solicited or obtained by any person shall be subject to the applicable provisions of Kansas law relating to the confidentiality of medical information.

Sec. 12. The commissioner may adopt rules and regulations reasonably necessary to administer the provisions of this act. This authority includes, but is not limited to, regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise or bequest of a benefit under a life insurance policy.