

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Dick Bond at 9:10 a.m. on January 31, 1996 in Room 529-S of the Capitol.

All members were present.

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

Conferees appearing before the committee: Kathleen Sebelius, Kansas Commissioner of Insurance  
Sharon Huffman, Commission on Disability Concerns  
William Sneed, AmVestors  
Roger Viola, Security Benefit Group of Companies  
Brad Smoot, Teachers Insurance and Annuity Association

Others attending: See attached list

The chair opened the hearing on **SB 441**, concerning the Uninsurable Health Care Insurance Plan. Dr. William Wolff of the Legislative Research Department, provided a brief history and explanation of this bill, which came from the Health Care Oversight Committee.

Insurance Commissioner Kathleen Sebelius advised the committee that the Kansas Insurance Department had requested introduction of this legislation and that the bill provides that premiums charged to participants in the uninsurable plan can be no more than 150% of premiums charged for similar coverage through private health insurance companies and also makes a change in the tax credit given to health insurance companies and HMO's which are assessed by the Kansas Uninsurable Health Insurance Act. (Attachment #1) Ms. Sebelius also requested that the legislature consider forgiving the \$2 million loan from the Pooled Money Investment Board made to the Kansas Health Insurance Association (KHIA) made by for start-up expenses.

Sharon Huffman, Commission on Disability Concerns, appeared as a proponent of **SB 441**, stating that passage of this legislation would help keep premiums down for the Kansas Uninsurable Health Care Plan. (Attachment #2)

There were no further questions or conferees; the hearing was closed. Senator Petty made a motion to pass SB 441 favorably. Senator Clark seconded the motion. The motion carried.

The hearing was opened on **SB 415**, concerning exemptions from requirement of certificate of authority for insurers. William Sneed, AmVestors, appeared as a proponent of this bill, stating that the present law provides an exemption to the certification requirement for nonprofit life insurance companies operating exclusively for the benefit of those employed by educational institutions, which places certain foreign entities in a position of unfair competitive advantage. (Attachment #3) Mr. Sneed also stated that since TIAA is not required to participate in the guaranty fund, its members do not have guaranty fund protection. Mr. Sneed also presented charts to illustrate how the changes would monetarily affect the TIAA and AmVestors. Senator Steffes requested further clarification of these statistical charts.

Roger Viola, Security Benefit, testified that his company strongly supports this legislation, stating that current law is harmful to Kansas life insurance companies. (Attachment #4)

Bradley Smoot, representing the Teachers Insurance and Annuity Association (TIAA) and the College Retirement Equities Fund (CREF) explained the history of exempting TIAA/CREF from guaranty fund obligations. (Attachment #5) Mr. Smoot suggested that there are other ways of addressing the discrepancy, such as placing some of TIAA products such as non-pension business in the guaranty association. Mr. Smoot also distributed a copy of the annual premium tax statement for the edification of the committee.

Chairman Bond noted that there are many questions that should be answered before further consideration of **SB 415** by this committee.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on January 31, 1996.

Senator Steffes made a motion to approve the minutes of the meeting of January 30 as submitted; Senator Praeger seconded the motion. The motion carried.

The committee adjourned at 10:02 a.m. The next meeting is scheduled for February 1, 1996.

**SENATE FINANCIAL INSTITUTIONS & INSURANCE  
COMMITTEE GUEST LIST**

DATE: 1/31/96

NAME	REPRESENTING
Lynn Hammes	American Investors Life Ins. Co.
Margie Pussigrow	Inter-Hab, Intern
Trish Copeland	Security Benefit Life
TAD KRUMAR	"
ROGER VIOLA	"
JUDY MAYO	SELF
Bill Sneed	Am. Inv Life
Teresa S. Hecauer	Am Inv Life
Sharon Huffman	KCDC
Lee Wright	Farmers Ins. Group
Don Lynn	BC/BS of Ks.
JOHN HOLMGREN	Member, KNIA Board
Maureen Covey	Administrator for KNIA Plan Lathol & Associates.
Carol Ridgway	US Dept Labor / Ins. Dept.
Ruth Bradford	Ks Ins. Dept.
Kelly Kuitala	KTLA
Rich Hunker	Ks. Ins. Dept.
Kathleen Seelins	KID
Byron Miller	Blue Cross Blue Cross of Kansas City





Kathleen Sebelius  
Commissioner of Insurance  
**Kansas Insurance Department**

**MEMORANDUM**

To: Senate Financial Institutions  
and Insurance Committee

From: Kathleen Sebelius, Commissioner  
of Insurance

Re: S.B. 441 (Kansas Uninsurable Health Insurance Plan)

Date: January 31, 1996

The Kansas Department of Insurance supports Senate Bill 441 which amends the provisions of the Kansas Uninsurable Health Insurance Plan Act. The legislation was introduced by the Health Care Reform Legislative Oversight Committee at the request of the Kansas Insurance Department. This law was established by the Kansas Legislature in 1992 to provide health insurance options to consumers who are unable to obtain coverage on the private market. The Kansas Health Insurance Association ("KHIA") first started providing health insurance in May, 1993 and 786 Kansans are currently insured through the plan. The KHIA is similar to health plans offered in twenty-eight states.

In order to be eligible for participation in the plan, an applicant must have resided in Kansas for six months and either have been involuntarily terminated by a health insurer for any reason other than the failure to pay premiums or have been refused coverage by two insurance companies due to health conditions. The KHIA offers a "High Option" and "Low Option" coverage plan. The High Option plan provides greater benefits to the policyholder. A chart which shows the benefit schedule for the two plans is attached to my testimony along with information on the current premium structure for the two plans. It is important to note that these plans offer only very basic health insurance coverage and have high deductible amounts together with a lifetime cap on benefits.

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Senate 7/41  
1/31/96  
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Attachment #1

There are three sources of funding for the Kansas Health Insurance Association. In order to provide start-up funding for the KHIA, the Kansas Legislature approved a \$2.0 million loan to the plan from the Pooled Money Investment Board. These funds are a non-interest bearing loan which must be repaid by the KHIA within 10 years. The fund also receives premium income from the plan participants. In 1995 the plan took in \$1.1 million in premiums from its members. Finally, the KHIA is authorized to assess the health insurance companies and health maintenance organizations which do business in Kansas in order to make up any shortfall between the anticipated losses of the plan and premium income. In 1995 the Governing Board of the KHIA approved an assessment of \$500,000 from health insurers and health maintenance organizations.

Senate Bill 441 makes two changes to the statutes governing the operations of the Kansas Health Insurance Association. The bill provides that premiums charged to participants in the plan can be no more than 150% of premiums charged for similar coverage through private market health insurance. The bill also makes a change in the tax credit given to health insurance companies and health maintenance organizations which are assessed by the KHIA. Under the current statute, the companies are allowed a 80% credit against their premium or privilege taxes, however, this credit is not authorized for assessments made during the first four years of operation of the plan. Senate Bill 411 states the 80% tax credit will be available for assessments made during tax years after December 31, 1995. In effect, the start date of the tax credits is moved up one year from tax year 1997 to tax year 1996.

The Kansas Insurance Department suggests one additional change should be made to the Kansas Uninsurable Health Insurance Plan Act. The KHIA was initially funded by a \$2.0 million loan from the Pooled Money Investment Board. As noted, this loan must be paid back by the KHIA prior to 2003. The loan is carried by the plan as a liability which impacts the financial viability of the Kansas Health Insurance Association. This Committee should consider an amendment to K.S.A. 40-2125 which would forgive the loan made to the KHIA.

The Kansas Health Insurance Association has provided valuable assistance to those Kansas consumers who otherwise would not be able to afford health insurance. I

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believe the Kansas Legislature should seriously consider how the fiscal integrity of the KHIA can be maintained in the future in a manner which assures the participants in the association will continue to have health insurance coverage at a price which is within their reach. I urge this Committee to approve S.B. 441. I also ask the Committee to amend the bill to forgive the \$2.0 million start-up loan made to the Kansas Health Insurance Association by the Pooled Money Investment Board.

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# LaHood & Associates, Inc.

Integrated Health Care Administration

Dear Kansas Resident:

Enclosed you will find information about health care coverage available through the Kansas Health Insurance Association (KHIA) Plan. The KHIA Plan is designed for Kansans who:

- have had health insurance involuntarily terminated for reasons other than non-payment of premium.
- have been rejected for health care coverage by at least two insurance carriers.
- are being charged more than 150 percent of this plan's standard premiums for health care coverage.
- have been accepted for health insurance coverage but are subject to a permanent exclusion of a pre-existing condition or disease.

If you are in a situation described above, please take a close look at the enclosed plan brochure and enrollment materials. There are two plans available: a High Option Plan and a Low Option Plan. Both plans cover hospital care, outpatient care, physician care and other medical services. The plans encourage you to receive care from providers in two networks – Preferred Care and CAP – by paying higher benefits when network providers are used.

### KHIA Plan rates for individuals

AGE	0-18	19-29	30-39	40-49	50-59	60-64	65+
HIGH OPTION	\$120.50	\$161.44	\$172.29	\$183.64	\$217.51	\$259.92	\$311.90
LOW OPTION	\$ 71.27	\$ 95.48	\$101.91	\$108.65	\$128.65	\$153.73	\$184.48

The KHIA Plan is designed for individual membership only. Each family member interested in this coverage must apply for his or her own coverage.

If you wish to apply for the KHIA Plan, follow the "How to Apply" instructions in the brochure. Attach all pertinent documentation as requested, and include the application, health statement and affirmation form. The affirmation form requires a witness signature in addition to your own. Be sure sure to sign and date the forms.



Do not send any payment at this time. You will receive notification of your acceptance or rejection within approximately 30 days of receipt of your application. Upon acceptance, you will received premium notice, policy, ID card and other information about the Plan.

The KHIA Plan is administered by LaHood & Associates. If you have any questions about the plan or the enclosed materials, please call me at (913) 362-0040 or at 1-800-255-6065.

Sincerely,

*Maureen Coveney*

Maureen Coveney  
LaHood & Associates, Inc.

MC:jd

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# KANSAS HEALTH INSURANCE ASSOCIATION PLAN

## SCHEDULE OF BENEFITS

BENEFIT CATEGORY	LOW OPTION PLAN		HIGH OPTION PLAN	
	THE PLAN PAYS	YOU PAY	THE PLAN PAYS	YOU PAY
Overall Deductible	None of the first \$5,000	The first \$5,000 of eligible expenses	None of the first \$1,000	The first \$1,000 of eligible expenses
Coinsurance Percentage* * see note below	70% of the next \$5,000 of eligible expenses; 90% thereafter	30% of the next \$5,000 of eligible expenses; 10% thereafter	70% of the next \$5,000 of eligible expenses; 90% thereafter	30% of the next \$5,000 of eligible expenses; 10% thereafter
Out-of-Pocket Expense Amount *see note below	For eligible expenses over \$10,000, the Plan pays 90%	\$6,500 +10% of eligible expenses over \$10,000	For eligible expenses over \$6,000, the Plan pays 90%	\$2,500 +10% of eligible expenses over \$6,000
Annual Benefit Maximum	\$50,000 for the first calendar year; \$75,000 for the second calendar year; and \$100,000 for each calendar year thereafter.	All eligible expenses once KHIA has paid the Annual Benefit Maximum to you in the year	\$50,000 for the first calendar year; \$75,000 for the second calendar year; and \$100,000 for each calendar year thereafter.	All eligible expenses once KHIA has paid the Annual Benefit Maximum to you in the year
Lifetime Benefit Maximum	\$500,000	All eligible expenses once KHIA has paid \$500,000 in benefits to you in your lifetime	\$500,000	All eligible expenses once KHIA has paid \$500,000 in benefits to you in your lifetime

BENEFIT CATEGORY	SPECIAL BENEFIT LIMITS OR RESTRICTIONS	Does the deductible apply before this benefit is payable?	Does the regular coinsurance apply to this benefit?	Do your copayments help satisfy the Out of Pocket Expense Amount?
Outpatient Prescription Drugs	All prescriptions paid at 50%	Yes	No	No
Maternity Coverage (includes pre-natal and well baby care)	Same as other conditions	Yes	Yes	Yes
Mental disorders – inpatient	48 hours emergency inpatient care. Additional days of hospitalization.	Yes Yes	Yes Yes	No Copayments Yes
Substance Abuse – Inpatient	Maximum of 5 days/admission up to 15 days per lifetime.	Yes	Yes	Yes
<b>All inpatient benefits for mental disorders and substance abuse are subject to an annual maximum benefit of the lesser of 30 inpatient days or \$5,000 in benefits (\$10,000 for High option). One inpatient day may be exchanged for two partial hospitalization days.</b>				
Mental Health & Substance Abuse – Outpatient	First visit paid in full \$25 copayment for visits 2-20; Maximum of 20 visits per year	Low option - No High option - Yes	No	No
Nonsurgical Spinal Treatment	Maximum of 20 visits per year Benefit limited to \$20 per visit	Yes	No	No
Preventive Care Services – medically accepted Immunizations, pap smears and mammograms. (See age criteria in policy)	Low option - Not covered High option - \$25 copayment per visit, maximum benefit of \$250 per year			

**ALL SURGERY AND HOSPITAL SERVICES (EXCEPT EMERGENCIES) NEED TO BE PRE-CERTIFIED FOR BENEFITS**

\*Benefits are payable at the 70% and 90% levels outside the state of Kansas only for:

- (1) Services provided by network providers.
- (2) Emergency services

Other services and care from non-network providers are payable at 50% and do not contribute toward reaching the 90% benefit level.

Benefits are payable at the 70% and 90% levels within the state of Kansas as follows:

- (1) For services performed in counties with no network providers.
- (2) For services performed in counties with network providers only if provided by network providers.

Services performed by non-network providers in the network area are payable at 50% and do not contribute toward reaching the 90% benefit level.

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## Senate Committee on Financial Institutions and Insurance January 31, 1996

Mr. Chair, members of the Committee, thank you for this opportunity to speak to you today in support of Senate Bill 441.

I represent the Kansas Commission on Disability concerns, a State agency established by law to carry on a continuing program to promote a higher quality of life for people with disabilities. One of our responsibilities is to submit recommendations to the legislature believed necessary to promote the independence of people with disabilities.

SB 441 would help to keep premium rates down for the Kansas Uninsurable Health Insurance Plan. Many of the individuals qualifying for this Plan are people with medical conditions that make it very difficult, if not impossible, to obtain health insurance in the private insurance market. The ability to obtain adequate, affordable health insurance coverage is vital to the independence of people with disabilities. Without health insurance, many individuals are forced to apply for a State Medical Card in order to get health care.

The Commission urges your support of SB 441. Thank you.

*Senate 7141  
1/31/96  
Attachment #2*

## MEMORANDUM

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

FROM: William W. Sneed, Legislative Counsel  
AmVestors Financial Corporation  
American Investors Life Insurance Company

DATE: January 31, 1996

RE: S.B. 415

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Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent AmVestors Financial Corporation and its wholly-owned subsidiary, American Investors Life Insurance Company. S.B. 415 amends K.S.A. 40-2702, which requires those entities engaged in the business of insurance within this state to obtain a certificate of authority from the Commissioner of Insurance. In its present form, K.S.A. 40-2702 provides an exemption to the certification requirement for nonprofit life insurance companies operating exclusively for the benefit of those employed by educational institutions. Our amendment would eliminate this exemption--an exemption we contend places certain foreign entities in a position of unfair competitive advantage.

The history of this exemption reaches several decades into the past and is inextricably bound to the history of one company -- the Teachers Insurance and Annuity Association ("TIAA"). To fully understand the exemption in our Kansas statute, the Committee must consider the nature and history of TIAA.

*Senate 4141  
1/31/96  
attachment #3*

## **The History of TIAA**

Early in this century, when retirement plans were a relatively new concept, Andrew Carnegie, then a trustee of Cornell University, founded a pension program for college faculty. Although started as a charity, it was restructured shortly thereafter as a legal reserve life insurance company licensed by the New York Insurance Department and run on a business-like basis.

In 1952, TIAA invented the variable annuity, a revolutionary concept in the insurance and pension arenas. TIAA isolated its variable product from its general account by creating a separate company -- under identical management -- called the College Retirement Equities Fund ("CREF"). CREF is not structured as an insurance company, but is licensed as such in a number of states.

Prior to the widespread enactment of the Model Unauthorized Insurers law in the 1960s and 1970s, an insurer could do business in a state without a license if it did not maintain a physical presence within the state. At that time, TIAA conducted what was essentially a mail-order business from one office in New York City, seldom sending sales personnel to visit their accounts. The Model Law granted states jurisdiction over these "direct response" insurers for the first time. It also contained exemptions for certain lines of insurance, including an optional "TIAA exemption." Some states enacted the Model Law with the TIAA exemption, some did not. Kansas adopted the Model Law, with the TIAA exemption, in 1969. In states without the exemption, TIAA is licensed as an insurer without any disruption to its business operations.

## **TIAA Today**

During the first four decades of its existence, TIAA confined its activities to providing annuities and individual life insurance policies to college faculties. In the 1950s, TIAA expanded its product line to include group life, medical and disability income insurances. (The medical line was later dropped.) In the 1970s, the company began issuing "supplemental" 403(b) annuities that

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were not part of an employer's pension plan. In the 1980s, TIAA added a long-term care plan. Today, TIAA sells non-qualified annuities as well as its other insurance products.

A few years ago, TIAA registered CREF with the Securities and Exchange Commission so that it could compete head-on with other investment enterprises. While it still uses direct-mail marketing, most of TIAA-CREF's sales efforts are conducted by marketing personnel from its home office, two regional offices, and eleven branch offices nationwide. Today, TIAA-CREF has approximately 1.5 million annuitants, hundreds of thousands of insureds, and \$135 billion of assets under its management. It is the third largest life insurer in the United States. TIAA-CREF claims without dispute that it is the largest pension fund in the world.

### **What the TIAA Exemption Does**

K.S.A. 40-2702(a)(8), the Kansas TIAA exemption, frees TIAA from all licensing, regulation, taxation, and guaranty fund participation in this state. TIAA's freedom saves the company millions of dollars per year in premium taxes and guaranty fund assessments alone. This obviously puts TIAA at a huge competitive advantage over other providers of similar products who can only attempt to compete in this atmosphere of special treatment.

Most importantly, TIAA-CREF shifts its fair share of the guaranty fund assessment burden onto other Kansas insurance companies. Not only does TIAA not contribute its share when an insurer becomes insolvent, TIAA forces all other Kansas-domiciled and licensed companies to pay more than their true share to cover TIAA's failure to participate. I have attached a chart showing the guaranty fund assessments made since 1993. The chart shows the total assessment for each insolvency, what American Investors Life Insurance Company paid in assessments, and what TIAA/CREF would have paid had it been required to participate in the guaranty fund. As you can see, TIAA/CREF has escaped more than \$1.6 million in guaranty fund assessments since 1993 alone.

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Further, TIAA/CREF, in the same amount of time, has shifted this \$1.6 million into the backs of other Kansas insurance companies. Notwithstanding that guaranty fund assessments may be credited against the Kansas premium tax due, requiring Kansas domestic insurers to front the cost of assessments continues to place Kansas companies in a potentially noncompetitive position.

The most alarming aspect of TIAA-CREF's exemption is that plan participants do not have guaranty fund protection when they choose TIAA products. Potential purchasers may be totally unaware that they are giving up the protection of the guaranty fund when they select TIAA products. This sort of consumer exposure -- especially unknowing exposure -- is completely unacceptable and puts TIAA customers in this state at huge financial risk.

American Investors Life Insurance Company does not compete directly with TIAA. However, Kansas-domiciled and licensed insurers vying against TIAA for market share must provide competitive returns while shouldering regulatory, tax and guaranty fund obligations that TIAA avoids.

### **Eliminating the TIAA Exemption**

TIAA is licensed in 33 jurisdictions. (See Exhibit A.) In a few states where TIAA enjoys the privilege of the TIAA exemption, it is still required to participate in the guaranty association. This is not the case in Kansas. TIAA is seeking to perpetuate privileges in Kansas that more than half the states will not grant or have removed. Note that TIAA is subject to regulation even in its home state of New York.

This begs the question: why does Kansas continue to allow TIAA to escape licensing, regulation, taxation, and guaranty fund participation in our state? We submit that the TIAA exemption must be eliminated to abolish the disparate treatment of TIAA-CREF in relation to

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similarly situated insurance companies, and to protect TIAA's Kansas customers. Thus, we respectfully request your favorable action on S.B. 415.

We appreciate the opportunity to present our testimony. Please feel free to contact me if you have any questions.

Respectfully submitted,

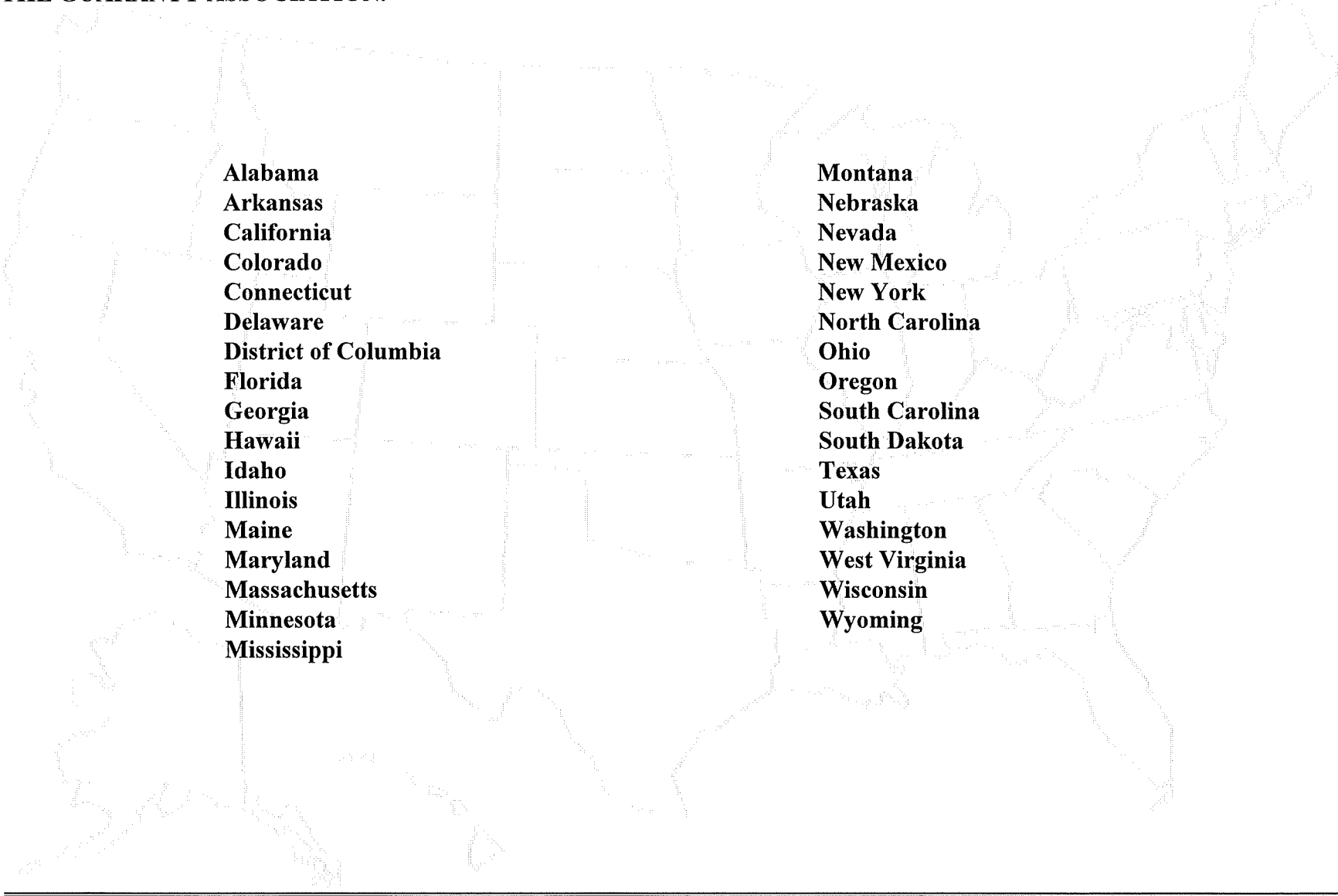


William W. Sneed

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**TIAA IS LICENSED IN THE FOLLOWING 33 JURISDICTIONS. IN ALL OF THESE JURISDICTIONS, IT PAYS PREMIUM TAXES ON ITS INSURANCE BUSINESS. IN ALMOST ALL OF THESE JURISDICTIONS, IT FULLY PARTICIPATES IN THE GUARANTY ASSOCIATION.**



C:\123R3\TIAACREF\GUARFUND.WK4

Insolvency	Base Years	Assessment Date	Kansas Premium	AILI Premium	TIAA Premium	Total Assessment	Actual AILI Assessment	Adjusted AILI Assessment	TIAA Assessment
Executive Life - Annuity	88 - 90	10/29/93	450,635,878	10,947,251	76,290,582	4,000,000	97,168	83,103	579,136
	88 - 90	11/02/94	434,886,917	10,947,251	76,290,582	1,000,000	25,172	21,416	149,245
Guarantee Security - Annuity	89 - 91	12/27/93	458,688,148	8,913,098	81,513,648	1,000,000	19,431	16,500	150,895
	89 - 91	04/22/94	458,663,616	8,913,098	81,513,648	800,000	15,546	13,200	120,721
	89 - 91	11/02/94	457,897,878	8,913,098	81,513,648	1,150,000	22,385	19,002	173,783
Inter-American - Annuity	88 - 90	11/12/93	450,447,815	10,947,251	76,290,582	300,000	7,291	6,235	43,451
Mutual Benefit - Annuity	88 - 90	11/08/94	433,589,239	10,947,251	76,290,582	50,000	1,262	1,074	7,481
Mutual Security - Annuity	88 - 90	11/17/93	450,600,618	10,947,251	76,290,582	1,000,000	24,294	20,777	144,794
Unison Internat'l - Annuity	89 - 91	12/27/93	458,698,272	8,913,098	81,513,648	1,500,000	29,147	24,749	226,338
American Woodman's - Life	90 - 92	10/27/94	677,746,943	273,067	3,391,515	575,000	231	231	2,863
	88 - 90	11/02/94	606,512,288	841,008	2,765,290	4,000,000	5,544	5,521	18,155
88 - 90	12/18/95	607,186,899	841,008	2,765,290	4,000,000	5,540	5,515	18,134	
Guarantee Security - Life	89 - 91	12/29/93	625,794,938	345,542	3,041,794	225,000	124	124	1,088
	89 - 91	04/19/94	625,750,637	345,542	3,041,794	200,000	110	110	968
	89 - 91	11/08/94	622,749,639	345,542	3,041,794	250,000	139	138	1,215
Inter-American - Life	88 - 90	11/01/93	633,000,612	841,008	2,765,290	450,000	598	595	1,957
Missouri Nat'l - Life	86 - 88	04/12/94	643,470,041	3,523,541	2,262,652	495,000	2,710	2,701	1,734
Mutual Benefit - Life	88 - 90	11/08/94	606,062,184	841,008	2,765,290	184,000	255	254	836
New Jersey Life - Life	90 - 92	10/14/94	677,665,857	273,067	3,391,515	442,000	178	177	2,201
Unison Internat'l - Life	89 - 91	12/27/93	626,098,545	345,542	3,041,794	500,000	276	275	2,417
						<u>22,121,000</u>	<u>257,401</u>	<u>221,696</u>	<u>1,647,414</u>
								<u>(35,705)</u>	

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Teachers Insurance and Annuity Association of America  
 Premiums and Annuity Considerations  
 State of Kansas  
 1986 - 1993

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	<u>Life Insurance</u>	<u>Annuity Considerations</u>	<u>Accident &amp; Health</u>	<u>Deposit - Type Funds</u>	<u>Totals</u>
1993	1,278,137	26,191,934	187,636	945,279	28,602,986
1992	1,279,964	25,468,563	174,826	0	26,923,353
1991	1,103,931	27,453,045	167,519	0	28,724,495
1990	1,007,620	26,016,384	174,410	0	27,198,414
1989	930,243	28,044,219	130,999	0	29,105,461
1988	827,427	22,229,979	109,865	0	23,167,271
1987	750,890	28,417,761	78,571	0	29,247,222
1986	684,335	25,700,784	111,847	0	26,496,966
	<u>7,862,547</u>	<u>209,522,669</u>	<u>1,135,673</u>	<u>945,279</u>	<u>218,520,889</u>

<u>Base Years</u>	<u>Life Insurance</u>	<u>Annuity Considerations</u>	<u>Accident &amp; Health</u>	<u>Deposit - Type Funds</u>	<u>Totals</u>
91 - 93	3,662,032	79,113,542	529,981	945,279	84,250,834
90 - 92	3,391,515	78,937,992	516,755	0	82,846,262
89 - 91	3,041,794	81,513,648	472,928	0	85,028,370
88 - 90	2,765,290	76,290,582	415,274	0	79,471,146
87 - 89	2,508,560	78,691,959	319,435	0	81,519,954
86 - 88	2,262,652	76,348,524	300,283	0	78,911,459



**The Security Benefit  
Group of Companies**

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

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January 31, 1996

To the Senate Committee on Financial Institutions and Insurance

Re: Senate Bill No. 415

Dear Chairman and Committee Members:

The Security Benefit Group of Companies is a financial services organization specializing in the sale and service of annuity, mutual fund and life insurance products. The parent company, Security Benefit Life Insurance Company, has been in business for over 100 years. The Security Benefit Group of Companies has over \$5 billion in assets under management and employs approximately 550 Kansans. Our home office is in Topeka.

Annuity products constitute approximately 90 percent of our sales. About 40 percent of our annuity sales are tax-sheltered annuities for employees of schools, hospitals, and charitable organizations. We also provide deferred compensation plans, mutual funds, flexible spending accounts, and other insurance and annuity products to employees of many of these organizations.

We strongly support Senate Bill No. 415. Passage of this bill is essential to restore a level playing field to the annuity business in Kansas by eliminating the unfair and discriminatory privileges currently enjoyed by Teachers Insurance and Annuity Association of America ("TIAA").

TIAA is a nonprofit New York stock life insurance company with its home office in New York City. Its companion organization, the College Retirement Equities Fund ("CREF"), is a nonprofit New York membership corporation with its headquarters at the same New York location. CREF is also an open-end investment company, or mutual fund. Both companies are controlled by the TIAA Board of Overseers, a nonprofit New York membership corporation.

TIAA and CREF provide annuity and life insurance products and dominate the market for retirement plans at educational and research organizations throughout the United States. They have combined assets of approximately \$148 billion.

Under current law, TIAA qualifies for the exemption found in K.S.A. 40-2702(a)(8), which allows it to transact insurance business in Kansas without obtaining a certificate of authority. Since CREF is not an insurance company, it is also exempt from obtaining a

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certificate of authority. As a result, TIAA is not required to pay any privilege or premium taxes to the State of Kansas or pay any assessments to the Kansas Life and Health Insurance Guaranty Association.

The Guaranty Association determines the aggregate assessment needed to cover claims of policyholders of insolvent insurance companies, and all insurance companies doing business in Kansas pay their fair share except TIAA, which pays nothing. Consequently, the special privileges accorded TIAA injure Kansas life insurance companies in at least two ways: First, we must compete with a company that does not have to incur the cost of taxes and Guaranty Association assessments. Second, we have to pay a larger share of the aggregate assessment because TIAA is exempt. We have estimated that if TIAA were not exempt, it would currently be assessed over \$1,200,000, most of which would be payable over the next three years.

The result of the current law is that a gigantic New York insurance company benefits from special privileges at the expense of Kansas life insurance companies. There is simply no reason for TIAA to continue to enjoy such unjust and discriminatory privileges.

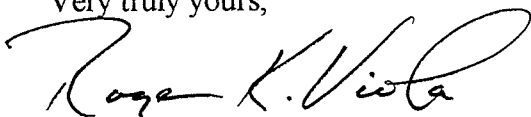
In addition, TIAA's Kansas policyholders are not covered by the Guaranty Association. In the event of TIAA's insolvency, TIAA's Kansas policyholders would have no coverage for their claims. Although TIAA's assets are very substantial, approximately 37 percent of TIAA's assets are invested in mortgages and real estate, according to the most recent audited financial information publicly available. This contrasts sharply with the life insurance industry average of less than 14 percent. There is no reason for TIAA's Kansas policyholders to continue to be without Guaranty Fund coverage.

Even worse is the fact that most of TIAA's policyholders are probably not even aware of the risk they are taking. Kansas law prohibits any discussion of Guaranty Fund coverage in connection with the sales process. TIAA is not required to disclose the lack of coverage, and its competitors are not allowed to make TIAA policyholders and prospective policyholders aware of this risk.

The current law is harmful to Kansas life insurance companies and TIAA policyholders. It is time for the Kansas Legislature to correct this situation by passing Senate Bill No. 415.

Thank you for your time and consideration. I would be happy to address any questions you may have.

Very truly yours,



ROGER K. VIOLA

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Statement of Brad Smoot, Legislative Counsel  
Teachers Insurance and Annuity Association (TIAA)  
Before the  
Senate Committee on Financial Institutions & Insurance  
January 31, 1996  
Regarding 1996 Senate Bill 415

Teachers Insurance and Annuity Association ("TIAA") is a non-profit life insurer which has provided low cost pension annuities for college faculty and administrators in Kansas for decades. Close to 10,000 Kansans from various institutions of higher education are TIAA participants. We are pleased to have this opportunity to confer with the Committee and express our concern and opposition to Senate Bill 415.

The Uniform Unauthorized Insurers Act, hereinafter "the Act" regulates out-of-state insurers doing business in Kansas who are not otherwise authorized to do business in this state. When the law was enacted in 1969, nonprofit insurers providing only annuity and insurance contracts for employees of educational institutions were excluded by the language of K.S.A. 40-2702, now being stricken by S 415. This language "grandfathered" out of the Act TIAA/CREF which had been providing pension plans to higher educational institutions for decades.

TIAA/CREF was still required by the Act to register, pay a fee and file policy forms with the Kansas Insurance Department. This "compromise" (register with KID but otherwise exempt from regulation) was agreed to by the Insurance Department at the urging of educational institutions who felt strongly that the university pension plan should not be saddled with the obligations and costs associated with the Act. The Act (S 126) passed the legislature unanimously. This language of the Act exempting nonprofit educational pension plans was taken from the 1961 KPERS law which also recognized the unique status of the Regents pension system.

While many of the regulatory obligations of this Act are not onerous, insurers covered by the law are required by another law to participate in the state's life and health insurance guaranty

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association. See K.S.A. 40-3001 et seq. This law establishes a mechanism to pay claims for failed life, annuity and health insurers. The guaranty association is a private non-profit corporation which assesses its member companies (based on premium volume) when a member company fails. Association members are, in most instances, reimbursed by the State of Kansas through an offset against premium taxes. K.S.A. 40-3016. By forcing TIAA/CREF into the guaranty association, proponents of S 415 hope that assessments of current members will be reduced somewhat as the costs are spread across a larger membership. S 415 would accomplish this objective by striking the statutory exemption currently contained in the Act.

TIAA is not unsympathetic to the plea for relief being advanced by AmVestors. We think guaranty fund rules which allow most insurers to offset assessments against premium taxes while a few companies with limited products may absorb thousands of dollars in assessments is unfair. But we believe Senate Bill 415 creates neither a complete remedy for AmVestors nor a fair solution for TIAA pensioners.

Currently, twenty one (21) states exempt TIAA from their guaranty funds and eleven (11) states exempt 403(b) pension annuities (the type of products we provide) from the premium base in calculating guaranty association assessments.

If enacted, Senate Bill 415 would subject to assessment not only TIAA's limited premium attributable to life insurance and non-pension annuities but also the premiums generated to fund tax qualified pension plans of Kansas teachers. This places an unfair burden on thousands of TIAA's participants. It also upsets the symmetry that now exists in the guaranty fund law. Pension plans of Kansans who work in private industry would not be similarly burdened, since 401(k) and 401(a) trust annuities are currently unallocated and thus not included in the fund assessment base. See K.S.A. 40-3005(j).

Most importantly, large assessments made by the guaranty fund will become costs to university and college pension plans. Since qualified pension plans are not subject to premium taxes, it would be impossible for TIAA/CREF to recover such assessments through the premium tax offset mechanism like other diversified life insurers are able to do.

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We suggest that rather than try to pick off this one historic exemption, proponents of S 415 consider attacking the problem directly by changing the law to treat more fairly those carriers who cannot off-set assessments against premium taxes. We would be pleased to assist the proponents pursue these options.

TIAA is also willing to be assessed on our non-pension business which would add somewhat to the guaranty association premium base. This change alone would add over \$3 million. But we must adamantly oppose forcing TIAA pensioners to absorb guaranty association costs.

As you can see, this is a complicated and confusing matter which I believe deserves more time and attention than it is likely to get in a half-hour legislative committee hearing. Since the exemption has been in the law for more than a quarter of a century, I see no reason why the Legislature should rush into a reversal of policy, particularly without consulting with those institutions and faculty most affected.

I would be pleased to respond to questions.

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The following is a full and complete statement of all premiums received, whether in cash or notes,

by \_\_\_\_\_ of \_\_\_\_\_, on risks located in the State of Kansas, during the year ending December 31, 1995. This statement is required by K.S.A. 40-252.

	Life Insurance	Annuity	Accident & Health
1. Direct premiums (Schedule T-Col. 3, Col. 4, Col. 5) . . . . .	\$ _____	\$ _____	\$ _____
2. Funds, including any interest or other gain that has accrued thereon, actually applied to purchase taxable annuities. . . . .	_____	_____	_____
3. All other premiums, assessments and charges received whether in cash or notes. . . . .	_____	_____	_____
4. Total (Lines 1, 2 and 3) . . . . .	\$ _____	\$ _____	\$ _____
5. Dividends returned to policyholders. \$ _____	\$ _____	\$ _____	\$ _____
6. Premiums received for group medical, surgical, hospital or any other remedial care from a certified small employer health benefit plan pursuant to K.S.A. 40-2247 . . . . .	_____	_____	_____
7. Premiums returned on account of cancellations. . . . .	_____	_____	_____
8. Premiums received for reinsurance from any other company authorized to do business in this state. . . . .	_____	_____	_____
9. Premiums received in connection with the funding of a pension, deferred compensation, annuity or profit-sharing plan qualified or exempt under Sections 401, 403, 404, 408, 457, or 501 of the U.S. Internal Revenue Code . . . . .	_____	_____	_____
10. Funds accepted under an agreement which provides for an accumulation of funds to purchase taxable annuities at later dates . . . . .	_____	_____	_____
11. Funds included in Line 1, upon which premium taxes had previously been paid . . . . .	_____	_____	_____
12. Total (Lines 5, 6, 7, 8, 9, 10 and 11). . . . .	\$ _____	\$ _____	\$ _____
13. Taxable premiums (Line 4 less 12) . . . . .	\$ _____	\$ _____	\$ _____
14. Tax (2% of Line 13) (Domestic Companies See Note 1). . . . .	\$ _____	\$ _____	\$ _____
15. Combined Total (Total of three columns, but not less than zero) (See Note 2) . . . . .	\$ _____	\$ _____	\$ _____
16. Investment credit (If applicable, 25% of Line 15) (See Note 3) . . . . .	_____	_____	_____
17. Tax less investment credit (Line 15 less line 16, but not less than zero) . . . . .	\$ _____	\$ _____	\$ _____
18. Guaranty Association offset . . . . .	_____	_____	_____
19. Tax less Guaranty Association offset (Line 17 less line 18, but not less than zero) . . . . .	\$ _____	\$ _____	\$ _____
20. Venture capital and/or local seed capital pool credit (See Note 4) . . . . .	_____	_____	_____
21. Premium Tax Due (Line 19 less line 20, but not less than zero) (See Note 5) . . . . .	\$ _____	\$ _____	\$ _____

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