

## MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Dick Bond at 9:11 a.m. on February 22, 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  
John Grace, Kansas Association of Homes for the Aging

Others attending: See attached list

Senator Clark made a motion to approve the minutes of the meeting of February 21. Senator Steffes seconded the motion. The motion carried.

The hearing was reopened on **SB 656**, relating to long-term care insurance coverage. This bill was originally heard in committee on February 19. Commissioner Sebelius urged the committee to table this bill. She stated that she is aware of no significant problem with long-term care in Kansas and the issue should be studied carefully with all interested parties involved in the ultimate product. (Attachment #1)

Chairman Bond observed that Kansas is the only state that does not price long-term care coverage based on ADL (Activities of Daily Living) criteria and wondered why Kansas would operate differently than the other 49 states. Senator Bond also asked Commissioner Sebelius whether the NAIC has model language dealing with this issue. Commissioner Sebelius replied that she would like to have time to study the NAIC model language.

In response to Senator Praeger's question, it was clarified that the ADL criteria is allowed for use in group policies. Senator Praeger observed that pre-screening is required for everyone entering a nursing home and that this bill would seem to be consistent with existing requirements.

In response to Senator Steffes, Commissioner Sebelius explained that the insurance industry might feel that this was not a priority issue with the Kansas Insurance Department since it was not included in their 1996 bulletin. However, the commissioner stated that this issue was scheduled to be on their 1997 legislative agenda.

Senator Lee voiced her opinion that the legislature must show equal concern for the policyholder and the insurance company and balance the needs of the insurance industry against protection for the public.

In response to Senator Praeger's question, John Grace of Kansas Association of Homes for the Aging stated that ADL criteria is used nationwide to assess the needs of the patient and that rates are charged based on the level of care required. Mr. Grace stated that SRS reimburses the facility based on the patient's level of need rather than by a flat rate per patient.

There were no further conferees; the hearing on **SB 656** was closed.

Senator Hensley made a motion that a resolution be drafted to require the Kansas Insurance Department to review this issue and provide the 1997 session with a proposal. The resolution should also stress the amount of time that has expired since the Insurance Department was first requested to address this issue. Senator Lee seconded the motion; the motion carried.

The chairman called for a vote on **Substitute for SB 529**, which the committee voted to adopt in the meeting of February 20. (Attachment #2) This bill was originally sponsored by Senator Vancrum, who has agreed to the contents of the substitute bill. The substitute bill will require long-term care policyholders to either designate another party to be notified prior to cancellation for lapsed premium or provide a waiver of their right to make such designation. Senator Emert made a motion, seconded by Senator Corbin, to pass Substitute for SB 529. The motion carried. Senator Vancrum will carry this bill in the Senate.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on February 22, 1996.

The chair called for a vote on **SB 569**, which was heard on February 13. This bill would deregulate interest charges on consumer credit purchases. A letter supporting this measure was submitted by Gary Sherrer, Secretary of Commerce. (Attachment #3) Senator Steffes made a motion to pass **SB 569** favorably. Senator Praeger seconded the motion. The motion failed.

The committee adjourned at 9:53 a.m. The next meeting is scheduled for February 23, 1996.





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

To: Senate Financial Institutions and Insurance Committee  
From: Kathleen Sebelius, Insurance Commissioner  
Date: February 22, 1996  
Re: Senate Bill 656

I would strongly urge this Committee to table SB656, which seeks to make some significant changes in long term care insurance policies. This bill presents an "industry-only view", was not discussed with our Department prior to introduction, and would have very detrimental effects on policyholders in Kansas. I have assured the long-term care industry that we will conduct a comprehensive review of our law, which has not been updated since 1988. In spite of that commitment, the industry wants to limit benefits, without careful review.

The bill is based on the false premise that the long term care market is limited in Kansas. That simply is NOT TRUE! In 1992 there were 46 companies which sold \$36,921, 551 in premiums. In 1994, 59 companies sold \$104,361,715 in premiums. Those policyholders are your constituents, who acted in good faith, to purchase insurance coverage. SB 656 would change the benefits in their policies, restrict their access to the care they have purchased, and provide for lower benefits.

I had been assured that your Committee would hold a hearing, and not act on this legislation in 1996, so we did not notify seniors' representative or nursing home representatives about this issue. The bill was heard within a week of the date it was printed, so it is safe to assume that most interested parties, other than the industry sponsors, are not aware that this bill is proposed.

I fully intend to conduct a comprehensive review of our long-term care act in Kansas, similar to the review of the HMO laws before you this year. The issue is complicated, and needs to be discussed with all of the parties at the table, and all of the issues considered. That was not done with SB 656, and I would strongly urge the Committee to table this proposal.

*Senate 7/41  
2/22/96  
Attachment #1*

MEMORANDUM

*Long-Term Care Experience for the State of Kansas*

TO: Kathleen Sebelius

FROM: Martha Gannon

RL

RE: Kansas Long-term Care Statistics

DATE: February 5, 1996

LONG-TERM CARE INSURANCE EXPERIENCE REPORTS\*

<u>YEAR</u>	<u>NUMBER EARNED PREMIUMS</u>	<u>ACTUAL INCURRED CLAIMS</u>	<u>ACTUAL LOSS INC TO PREM EARN %</u>	<u>NUMBER OF COVERED LIVES</u>
1992	36,921,551	14,707,389	39.8	20,776
1993	79,397,990	34,481,830	43.4	59,397
1994	104,361,715	44,601,719	42.7	70,697

\*The NAIC has not yet compiled experience reports for 1995. The 1993 figures cited are preliminary ones but were confirmed by the NAIC as accurate. They requested that they be for your use only. The 1992 figures are suspect due to the fact that 1992 was only the second year that the Long-Term Care Reporting Forms were required to be filed. Given both the newness of the form and the level of detail which was requested, there was a great deal of misunderstanding among the companies regarding how the form was to be completed. Thus the reported figures should be viewed as general indicators of the experience.

7/21  
2/22/96  
1-2

## SUBSTITUTE for SENATE BILL NO. 529

By Committee on Financial Institutions and Insurance

AN ACT relating to insurance; concerning long-term care insurance policies; lapse notice; reinstatement.

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

Section 1. The provisions of this act shall apply to all individual long-term care policies that are subject to lapsing issued to residents of this state on and after the effective date of this act.

Sec. 2. (a) No individual long-term care policy or certificate shall be issued until the insurer has received from the applicant either a written designation of at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive such notice.

(b) The applicant has the right to designate at least one person who is to receive the notice of termination, in addition to the insured. Designation of an additional person to receive notice of lapse or termination shall not constitute acceptance of any liability by such person for services provided to the insured. The designation shall include the full name and home address of such additional person.

(c) The policy shall include a waiver stated in clear terms in the case of an applicant who elects not to designate an additional person. The waiver shall state that the applicant has the right to designate at least one person other than the applicant who will receive notice of any lapse or termination of the long-term care policy and that the applicant elects not to designate an additional person to receive such notice.

(d) The insurer shall notify the insured of the right to

*Senate 7/4  
2/22/96  
Attachment #2*

change this written designation, no less often than once every two years.

Sec. 3. When the policyholder or certificateholder pays premiums for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in section 2 need not be met until 60 days after the policyholder or certificateholder is no longer on such a payment plan. The application or enrollment form for such policies or certificates shall clearly indicate the payment plan selected by the applicant.

Sec. 4. No individual long-term care policy or certificate shall lapse or be terminated for nonpayment of premium unless the insurer, at least 30 days before the effective date of the lapse or termination, has given notice by first-class mail to the insured at the insured's last known address and to any person designated by the insured pursuant to section 2 to receive notice of lapse or termination. Notice shall not be given until 30 days after a premium is due and unpaid and will be deemed to have been given five days after the date of mailing.

Sec. 5. Long-term care insurance policies or certificates shall include a provision which provides for reinstatement of coverage, in the event of lapse if the insurer is provided proof of cognitive impairment or the loss of functional capacity. This option shall be available to the insured if requested within five months after termination and shall allow for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria for cognitive impairment or the loss of functional capacity contained in the policy or certificate.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

KANSAS  
DEPARTMENT OF COMMERCE } HOUSING

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February 14, 1996

Bill Graves, Governor  
Gary Sherrer, Secretary

The Honorable Richard Bond, Chairman  
Committee on Financial Institutions and Insurance  
State Capitol Building  
Topeka, Kansas 66612

Dear Senator Bond:

A recent study prepared by DRI/McGraw-Hill (April 1995) shows that Kansas ranks as the least attractive state location for credit card issuing institutions. The study considers three major criteria to determine attractiveness and these criteria are: the costs of doing business in each state, the quality of life and the legal and regulatory environment for financial institutions.

Because of current credit regulations, we missed the opportunity to add an additional 600 job positions for a new credit center. Instead, those 600 jobs went to Nevada. In the words of GE Capital, Kansas is "at a competitive disadvantage."

In the category of legal and regulatory environment, Kansas is ranked 49th. To improve Kansas' ranking in this category, our current stringent credit regulations should be eliminated or restructured to encourage credit card issuing institutions to come to Kansas.

Your support of S.B. 569 is the first step towards making Kansas more competitive and I urge your consideration of this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Sherrer".

Gary Sherrer  
Secretary

Senate 714  
2/22/96  
Attachment #3