

Approved: March 6, 1997
Date

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Don Steffes at 9:00 a.m. on February 20, 1997 in Room 529-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Susan Sachs, Secretary of State's Office
Joan Wiley, Kansas Silver-Haired Legislature, Inc.
Wendy McFarland, ACLU
Tom Young, AARP
Chip Wheelen, Kansas Psychiatric Association
Jerry Slaughter, Kansas Medical Society
Tom Bell, Kansas Hospital Association
Steve Kearney, Cigna
Cheryl Dillard, HealthNet
John Peterson, Kaiser Permanente

Others attending: See attached list

Continued Hearing on SB 185 - UCC, Filings, add rules and regulations authority

Susan Sachs, Secretary of State's Office, presented an amendment which would authorize the Secretary of State to carry out the provisions of Article 9 of the Uniform Commercial Code (Attachment 1). This would become effective upon publication in the statutes book.

Senator Feleciano moved that the amended version be adopted by the Committee as Substitute for SB 185 and that the bill be passed as amended. Motion was seconded by Senator Praeger. Motion carried.

Continued Hearing on SB 286 - Patient protection act

Joan Wiley, representing the Silver-Haired Legislature, presented testimony supporting the proposed legislation which would prevent "gag" clauses in order to protect medical communication (Attachment 2).

Wendy McFarland, ACLU, requested the Committee to accept their amendment which would allow examination of the KU Medical Center's records if they contain any contracts, policy statements, guidelines or other written materials that would keep doctors from freely disclosing a diagnosis, treatment option or other information to patients (Attachment 3).

Tom Young, AARP, requested favorably passage of the bill as their organization believes that access to emergency room services can and should be improved by managed care companies (Attachment 4). Gag orders should be prohibited and physicians and patients should be allowed to discuss all possibilities for treatment.

Chip Wheelen, Kansas Psychiatric Association, voiced their concern that many times in managed care programs, the primary care physician is given an incentive to not refer patients for specialty care or only to specified particular physicians (Attachment 5). This can cause lack of continuity of treatment and damage to certain psychiatric patients. They also supported the prohibition of gag clauses and the provision which assures the opportunity for a patient to receive specialty care when the patient is suffering from a chronic condition.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on February 20, 1997.

Jerry Slaughter, Kansas Medical Society, explained their support of the five major elements of the bill (Attachment 6):

1. Payment for certain emergency services
2. Prohibition of "gag" clauses
3. Negative inducements
4. Health plan disclosure requirements
5. Provider network and access to specialty services

In his testimony, Mr. Slaughter informed the Committee that less than 10% of Kansans are covered by a managed care plan. He did not think the proposed legislation would affect the raising costs of medical care on the last six months of life.

Tom Bell, Kansas Hospital Association, reviewed their reasons for concern that the current managed care plans in Kansas may contribute to underserving patients due to lack of quality care, access, and intervening in medical decisions (Attachment 7).

Steve Kearney, CIGNA, proposed two amendments regarding emergency treatment and availability of participating providers (Attachment 8).

Cheryl Dillard, HealthNet, said the amendments would set standards for startup managed care plans in Kansas.

John Peterson, Kaiser Permanente, read testimony prepared by Gerard Grimaldi (Attachment 9). Three amendments were presented to the Committee: emergency treatment up to the point of stabilization; require a hospital emergency facility to contact the health carrier for prior authorization for continuing treatment; impose different cost-sharing on the enrollee for the use of a non-participating emergency department over a participating emergency department unless time restrictions apply.

The meeting was adjourned at 10:00 a.m. The next meeting is scheduled for February 21, 1997.

SENATE FINANCIAL INSTITUTIONS & INSURANCE
COMMITTEE GUEST LIST

DATE: 2/20/97

NAME	REPRESENTING
Cindy Wiklund	KU Student
Jim Schwartz	KS Employer Coalition ^{on Health}
Dudley Havens	SRS--MEDICAL SERVICES
Richard Frei	Lawrence Comm. Health Plan
Philip Andersen	TOPEKA CAPITAL-JOURNAL
Kevin Davis	Am. Family
Danielle Koe	Governors Office
Bill Sneed	HIAA
JACKY SAWYER	KOMS
Tom Howard	AARP
John Federico	Pete McGill & Assoc
Tuck Dillard	Ks. Occupational Therapy Assn.
John Peterson	Raiser Reconnects
STEVE KEARNEY	ALGNA
Cheryl Allard	HealthNet
Tom Bell	Ks. Hosp. Assn.
Jan Ballinger	Principal Health Care
Jennifer Hainey	University of Missouri-KC. ^{grad student}
Chip Wheelen	Ks Psychiatric Society

SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: _____

NAME	REPRESENTING
James Riehm	AIA of
Rich Pittman	Health Midwest
Callie Jill Denton	Prudential
Denise Menauer	State Farm
Susan Baker	Hein + Weir

SUBSTITUTE FOR SENATE BILL NO. 185

By Committee on Financial Institutions and Insurance

AN ACT concerning the uniform commercial code; authorizing rules and regulations.

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

Section 1. The secretary of state may adopt rules and regulations to carry out the provisions of K.S.A. 84-9-401 to 84-9-413, inclusive, and amendments thereto.

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

Senate FWS

Attachment 1

Feb. 20, 1997



Kansas Silver-Haired Legislature, Inc.

02/19/97

TO: Financial Institutions and Insurance Committee

FROM: Joann Wiley, Speaker, KSHL

RE: SB 286 - An ACT enacting the patient protection act;
relating to health care services.

SHL 1308; HB 2196 - An ACT providing consumer choice
of health care provider; enacting the patient
protection act.

SHL 1308 supports the right of consumers to choose the
type of care and the caregiver that best suits their needs.

We oppose regulations that are cumbersome as to pose
barriers to consumers accessing essential care.

However, basic standards of care must be established to
ensure quality and safety for the consumer, the caregiver and
the community.

We oppose a health plan that prohibits or restricts medical
communication. We support Section 4 of SB 286, as prohibiting "gag clauses".
The National Association for Home Care encourages their members to write
Congress in support of legislation to protect medical communication.

We oppose misleading advertising luring the elderly to switch to
a medicare HMO. Rising health care costs demand changes be made in our
health care system. However, they should not be made at the expense of
the elderly and vulnerable segments of our population.

KSHL would like to see the merits of HB 2196 and the testimony of
our professional members incorporated in obtaining a public policy
quote " that will strike a balance between the desire to contain costs
with the need to maintain quality and trust in our health care delivery
system".

Attachment: Testimony of SHL Representative, Dr. Alec Scott, regarding
SHL 1308 and the Managed Care system.

Reference: KSHL Journal (distributed 2/3/97 to every member of the
Kansas Legislature.

SPEAKER

Joann Wiley
218 Summertree Lane
Lawrence, KS 66049

SPEAKER PRO TEM

Wayne Comer
P.O. Box 54
Moscow, KS 67952

FLOOR LEADER

David Stallard
1318 Carolyn
Derby, KS 67037

Senate F&I
Attachment 2
Feb. 20, 1997

835 W. 5th Street
Junction City, KS 66441
(913) 238-3760

MANAGED CARE

The third party payors would allow their policy holders to choose their own care (doctor) so long as it was from the select list that had signed up to provide primary care and refer patients to specialists who were also on a panel and had agreed to a "shopping list" of charges for their services. Blue Cross-Blue Shield called theirs "Blue Select" as an example.

Primary care doctors would provide lots of preventative care which would cut down on the number of referrals and would be paid a capitation fee or "so much a head" for each year of patient care. This went into a pool where it remained to be divided and paid as a bonus at the end of the year. (Provided that you did not exceed the amount set aside. If you failed to provide cost saving care the bonus would be lower. They assured doctors they would be paid a guarantee despite their claims experience.

The panel of specialists would, of course, be paid according to their fee schedule. To make sure that referrals and hospitalization days were minimized review organizations would be set up (as independents) to pass on the need for referral or hospital care. At first this was controlled by oversight committees of physicians, but pretty soon they found that para-professionals--nurses or medical record clerks--could function in the job and controlled costs even better! Emergencies were handled by a phone call to the review agency who approved or disapproved care or triage.

Many doctors, both as primary care physicians who were dubbed "gatekeepers" entered the system if they did not have successful practices, and specialists in the same category and whose incomes very often were lower than more established specialists saw this as an opportunity.

There were objections to the system foreseen by some:

1. Disruption of the traditional physician-patient relationship.
2. A suspicion of any system that pays you for denying care to a patient because it would decrease your income.
3. In the event of a catastrophic year (two or three open heart procedures or a run of terminal cancer patients), your contract might not be reviewed and your panel of patients would have to look elsewhere. These people would need all their records copied and transferred. Who pays for that?
4. Could you really refer your patient to the most qualified specialist?
5. As a gatekeeper, putting yourself at risk for medical liability to protect the income of the third party payers.

Anyone who reviews this partial list of conclusions may add their own. Certainly objections to this system which has largely destroyed or weakened substantially the best system of medical care in the world generates objections that are legion.

HOUSE BILL No. 2196

By Representative Tanner
(By Request)

2-3

10 AN ACT providing consumer choice of health care provider; enacting the
11 patient protection act.

12

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

14 Section 1. This act shall be known and may be cited as the patient
15 protection act.

16 Sec. 2. The legislature finds that a patient should be given the op-
17 portunity to see the health care provider of the patient's choice. In order
18 to assure the residents of the state of Kansas the right to choose the
19 provider of their choice, it is the intent of the legislature to provide the
20 opportunity of providers to participate in health benefit plans.

21 Sec. 3. As used in this act:

22 (a) "Copayment" means a type of cost sharing whereby insured or
23 covered persons pay a specified predetermined amount per unit of service
24 or percentage of health care costs with their health care insurer paying
25 the remainder of the charge. The copayment is incurred at the time the
26 service is rendered. The copayment may be a fixed or variable amount.

27 (b) "Gatekeeper system" means a system of administration used by
28 any health benefit plan in which a primary care provider furnishes basic
29 patient care and coordinates diagnostic testing, indicated treatment and
30 specialty referral for persons covered by the health benefit plan.

31 (c) "Health benefit plan" means any entity or program that provides
32 reimbursement, including capitation, for health care services.

33 (d) "Health care provider" means those persons and entities defined
34 as a health care provider under K.S.A. 65-4915, and amendments thereto.

35 (e) "Health care services" means services and products provided by
36 a health care provider within the scope of the provider's license.

37 (f) "Health care insurer" means any entity, including, but not limited
38 to, insurance companies, hospital and medical service corporations, health
39 maintenance organizations, preferred provider organizations, physician
40 hospital organizations, third-party administrators and prescription benefit
41 management companies authorized to administer, offer or provide health
42 benefit plans.

43 Sec. 4. (a) A health care insurer shall not, directly or indirectly:

1 (1) Impose a monetary advantage or penalty under a health benefit
2 plan that would affect a beneficiary's choice among those health care
3 providers who participate in the health benefit plan according to the
4 terms offered. Monetary advantage or penalty includes higher copayment,
5 a reduction in reimbursement for services or promotion of one health
6 care provider over another by these methods; or

7 (2) impose upon a beneficiary of health care services under a health
8 benefit plan any copayment, fee or condition that is not equally imposed
9 upon all beneficiaries in the same benefit category, class or copayment
10 level under that health benefit plan when the beneficiary is receiving
11 services from a participating health care provider pursuant to that health
12 benefit plan.

13 (3) Prohibit or limit a health care provider that is qualified under
14 subsection (d) of section 3 and is willing to accept the health benefit plan's
15 operating terms and conditions, its schedule of fees, covered expenses,
16 utilization regulations and quality standards, the opportunity to partici-
17 pate in that plan.

18 (b) Nothing in this act shall prevent a health benefit plan from insti-
19 tuting measures designed to maintain quality and to control costs, includ-
20 ing, but not limited to, the utilization of a gatekeeper system, as long as
21 such measures are imposed equally on all providers in the same class.

22 Sec. 5. Nothing in this act shall be construed to require any health
23 care insurer to cover any specific health care service. Provided, however,
24 no condition or measure shall have the effect of excluding any type or
25 class of provider qualified under section 4 to provide that service.

26 Sec. 6. Any person adversely affected by a violation of this act may
27 sue in a court of competent jurisdiction for injunctive relief against the
28 health care insurer and, upon prevailing, in addition to such relief, shall
29 recover damages not less than \$1,000, attorney fees and costs.

30 Sec. 7. To avoid impairment of existing contracts, the patient pro-
31 tection act shall apply only to contracts issued or renewed after the ef-
32 fective date of the act. Any provision in a health benefit plan which is
33 executed, delivered or renewed or otherwise contracts for provision of
34 services in this state that is contrary to this act, to the extent of the conflict,
35 shall be void.

36 Sec. 8. It is a violation of this act for any health care insurer or other
37 person or entity to provide any health benefit plan providing for health
38 care services to residents of this state that does not conform to this act,
39 but nothing in this act shall constitute a violation on the basis of actions
40 taken by the health benefit plan to maintain quality, enforce utilization
41 regulations and to control costs.

42 Sec. 9. This act shall take effect and be in force from and after its
43 publication in the statute book.



JOURNAL

PROCEEDINGS OF THE
14th ANNUAL SESSION
OCTOBER 16, 17, 18, 1996
TOPEKA, KANSAS

ELECTED LEADERSHIP OF THE 1995-1996
SILVER HAired LEGISLATURE

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SPEAKER PRO TEM

Wayne Comer Moscow, Kansas

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The Silver Haired Legislators and the Silver Haired Legislature Board of Directors express grateful appreciation to the contributors and volunteers without whose help this Session would have been impossible.

TABLE OF CONTENTS

Section I: Daily Journal

Proceedings of October 16, 1996 (blue pages)

Proceedings of October 17, 1996 (blue pages)

Proceedings of October 18, 1996 (blue pages)

Section II: Legislation Passed in the 1996 Session

Final Priority Ranking of Legislation (white pages)

Bills and Resolutions (white pages)

Section III: Contributors (blue pages)

For further information about the Silver Haired Legislature,
readers are invited to contact:

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SHL Board of Directors
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Wichita, Kansas 67203-4625

JOURNAL OF THE SILVER HAired LEGISLATURE

FIRST DAY

House of Representatives Chamber
Topeka, KS October 16, 1996

CALL TO ORDER

The 1996 session of the Silver Haired Legislature met in the House Chambers in the State Capitol in Topeka, Kansas with Speaker Joann Wiley in the Chair.

Floor Leader David Stallard called the session to order and welcomed the Silver Haired Legislators.

The invocation was given by The Reverend Fred Hollamon, the Senate Chaplain.

Heavenly Father,

*It seldom ever happens
(Maybe once or twice)
That younger people ask us
If we'd give them some advice.*

*We hear young folks complaining
That their world's a crummy place;
You'd think their elders never had
The problems that they face.*

*Most solutions that they offer
Are the losers we have tried;
We could tell them if they'd ask us,
And swallow all their pride.*

*But now the opportunity
Has been given us
To propose some legislation
Which could stir a lot of dust.*

*Help us, Lord, to show our state
We're not tottering on the brink;
And though we may be getting old,
We still know to think!*

*Help us offer real solutions
That will reflect what we have learned
Through years of toil and trouble
As calendar pages turned.*

*May we contribute something, Lord,
We've discovered on our journeys:
There may be snow upon the rooftop,
But there's still fire down in the furnace!*

I pray in the Name of Christ,

AMEN.

Floor Leader Stallard led the Legislature in the Pledge of Allegiance.

Floor Leader Stallard introduced Joe de la Torre who gave greetings from the Governor's office.

Floor Leader Stallard introduced Thelma Hunter Gordon, Secretary of the Kansas Department on Aging, who addressed the Legislature.

Floor Leader Stallard introduced Ron Thornburgh, Secretary of State, who presided over the swearing in of new representatives.

Floor Leader Stallard introduced Representative Joann Wiley, Speaker.

Speaker Wiley introduced Representative Mary Threlfall Smith, Chairperson of the Silver Haired Executive Board. Representative Smith then acknowledged the Board of Directors.

Roll call was taken by Helen Knetzer with 105 present; Campbell, Davis, Durrant, Ewert, Fiedler, Gudenkauf, Jones, McCluney, Morrison, E.Nelson, L.Nelson, Oszman, Riggs, Ross, E.Scott, Shackelford, Townsend, Vega, and Wells absent.

Representative Wayne Comer, Speaker Pro-Tem, made a motion to adopt SHR 1400, Rules of the House. The motion passed by voice vote.

Marge Zakoura-Vaughan gave the first reading of the bills.

FIRST READING OF THE BILLS

SHL No. 1301

An ACT reforming the juvenile justice system.

SHL No. 1302

An ACT reintroducing HB No. 2277 with amendments providing for up to \$30,000 per tax year during the time that the law is in effect for funding of the Kansas Silver Haired Legislature from the Kansas individual income tax receipts paid on federal social security income.

SHL No. 1303

An ACT to provide adequate funding and staffing of long-term care ombudsman program.

SHL No. 1304

An ACT to address the inequities currently grandparents vis a vis others regarding rights of visitation and the ability to have interactive contact with their minor grandchildren.

SHL No. 1305

An ACT to provide appropriations for Kansas Senior Care Act to replace federal reductions in Older American Act funding.

SHL No. 1306

A RESOLUTION commending the Legislature for enacting 1996 Substitute HB 3047 and the Department of Social and Rehabilitation Services and the Department on Aging for the continuing implementation of the transfer of long-term care programs under that bill and expressing the total support of the SHL for the inter-agency transfer of the aging programs from SRS to Aging.

SHL No. 1307

A RESOLUTION commending the activities of the Department of Social and Rehabilitation Services in obtaining and implementing the federal Medicaid waiver for payment of the cost of the care and services provided to the frail elderly persons in assisted living facilities.

SHL No. 1308

An ACT providing consumer choice of health care provider; enacting the patient protection act.

SHL No. 1309

An ACT removing the "no-fault" ground for divorce in Kansas.

SHL No. 1310

An ACT indexing the state income tax standard deduction to provide a cost-of-living adjustment.

SHL No. 1311

An ACT to provide revenue for school finance, including reduced real property tax rates and prohibitions on future exemptions and abatements of all property tax levied for this purpose.

SHL No. 1312

An ACT requiring mandatory reinstatement of certain life insurance policies.

SHL No. 1313

A RESOLUTION commending the Kansas Legislature for enacting legislation concerning institutional-based long-term care services; division of assets; and frivolous claims by inmates.

SHL No. 1314

A RESOLUTION petitioning the Legislature regarding enactment of certain legislation.

On motion of Floor Leader Stallard, the House adjourned until 2:30 p.m., Wednesday, October 16, 1996.

CALL TO ORDER

The afternoon session reconvened at 2:30 p.m., Wednesday, October 16, 1996 as Speaker Wiley called the House to order.

REPORT OF THE STANDING COMMITTEES

The Committee on Judiciary recommended that SHL Bill 1301 be passed.

The Committee on Taxation recommended that SHL Bill 1302 be passed with amendments.

The Committee on Health and Welfare A recommended that SHL Bill 1303 be passed.

The Committee on Children and Families recommended that SHL Bill 1304 be passed.

The Committee on Health and Welfare B recommended that SHL Bill 1305 be passed with amendments.

The Committee on Health and Welfare A recommended that SHL Bill 1306 be passed.

The Committee on Health and Welfare A recommended that SHL Bill 1307 be passed.

The Committee on Health and Welfare B recommended that SHL Bill 1308 be passed with amendments.

The Committee on Children and Families recommended that SHL Bill 1309 be replaced with a substitute resolution.

The Committee on Taxation recommended that SHL Bill 1310 not be passed.

The Committee on Education recommended that SHL Bill 1311 be amended and passed as a resolution.

The Committee on Ways and Means recommended that SHL Bill 1312 be passed with amendments.

The Committee on Ways and Means recommended that SHL Bill 1313 be passed.

The Committee on Ways and Means recommended that SHL Bill 1314 be passed.

Speaker Wiley recognized Representative M. Smith for the purpose of making announcements.

Speaker Wiley recognized Representative Tom Sawyer, Kansas House Minority Leader, who addressed the Legislature.

Floor Leader Stallard moved to adjourn until 9:00 a.m., Thursday, October 17, 1996. Motion carried on a voice vote.

Kim Silvernale Wagner, CHIEF CLERK

Barbara Prescott, ASSISTANT CLERK
Arlene Kadel, ASSISTANT CLERK

JOURNAL OF THE SILVER HAired LEGISLATURE

SECOND DAY

House of Representative Chambers
Topeka, KS October 17, 1996

The Silver Haired Legislature met pursuant to the adjournment with Speaker Wiley in the Chair. Speaker Wiley called the session to order.

The invocation was given by The Reverend Fred Hollamon, Senate Chaplain.

*Heavenly Father,
Sometimes I get to wondering
If it's really worth it all
To go against the flow
And keep on standing tall.*

*Sometimes it seems to me
That all the rules have changed
And those who play it straight
Are looked upon as strange.*

*Honesty is ridiculed,
Integrity's naive.
And everyone's expected
To lie and to deceive.*

*If I protest, I quickly find
There's someone to proclaim
That in order to survive
I have to play the game.*

*But something deep within me
Rebels against the thought
That everybody has his price
And can be sold or bought.*

*And though it makes no sense at all
To most folks whom I know,
I find a greater self-respect
When I go against the flow.*

And for that I thank you, O God.

In the Name of Christ, Amen.

The Pledge of Allegiance was led by Representative Whitman.

Roll call was taken by Helen Knetzer with 106 present and Campbell, Davis, Durrant, Fiedler, Gudenkauf, Gustafson, McCluney, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Ross, E.Scott, Townsend, Vega, and Wells absent.

Speaker Wiley recognized Representative Comer for the purpose of recommending introduction of SHL No. 1315, a resolution addressing elder abuse, during the Committee of the Whole. Motion was made by Representative Comer and passed on a voice vote.

Speaker Wiley recognized Floor Leader Stallard who moved that the House resolve itself into the Committee of the Whole for the purpose of considering those matters under the heading of General Orders. Motion carried.

Speaker Wiley appointed Speaker Pro-tem Comer to preside over the Committee of the Whole.

Speaker Pro-tem Comer recognized Representatives for the purpose of considering the committee reports as follows:

Representative Buselt, Committee on Judiciary, moved to adopt the committee report on SHL Bill 1301 and the bill be passed.

Representative Arndt, Committee on Taxation, moved to adopt the committee report on SHL Bill 1302 and the bill be passed as amended.

Be amended: page 2, line 11, by striking "(c) The provision of this section shall expire on", and on page 2, line 12, by striking "January 10, 1999."

Representative Lyon, Committee on Health and Welfare A, moved to adopt the committee report on SHL Bill 1303 and the bill be passed as amended. The motion failed. Representative Lyon moved that SHL Bill 1303 be passed without amendments. Motion carried.

Representative Olson, Committee on Children and Families, moved to adopt the committee report on SHL Bill 1304 and the bill be passed.

Representative Boulanger, Committee on Health and Welfare B, moved to adopt the committee report on SHL Bill 1305 and the bill be passed as amended.

Pages arrived from Jefferson West Intermediate School.

Representative Park, Committee on Health and Welfare A, moved to adopt the committee report on SHL Resolution 1306 and the resolution be passed. Representative Park moved to bulk SHL Resolution 1307 with SHL Resolution 1306. Motion carried.

Representative Knudsen, Committee on Health and Welfare B, moved to adopt the committee report on SHL Bill 1308 and the bill be passed as amended.

Be amended: page 4, line 24, by striking "Sec. 9. The provision of the patient protection act", and on page 4, line 25, by striking "shall not apply to self funded or other health benefit plans", and on page 4, line 26, by striking "that are exempt from state regulation by virtue of the", and on page 5, line 1, by striking "federal employee retirement income security act of 1974, as", and on page 5, line 2, by striking "amended."

Representative Wood, Committee on Families and Children, moved to adopt the committee report on SHL Substitute Resolution 1309, replacing SHL Bill 1309, and the substitute resolution be passed as amended.

Be amended: page 1, line 13, by inserting "all", and on page 1, line 13, by striking "married", and on page 1, line 14, by striking "and not for single persons".

Floor Leader Stallard moved to recess until 1:30 p.m., October 17, 1996. Motion carried.

The House resumed deliberations at 1:30 p.m.

Pages arrived from Jefferson County North Middle School.

Representative Gingles, Committee on Education, moved to adopt the committee report on SHL Substitute Resolution 1311, replacing SHL Bill 1311, and the resolution be passed.

Representative Oshel, Committee on Ways and Means, moved to adopt the committee report on SHL Bill 1312 and the bill be passed as amended.

Be amended: page 1, line 13, by inserting ", which would maintain the contract for one year", and on page 4, line 15, by inserting "of insurance", and on page 4, line 18, by inserting "of insurance".

Representative Minnis, Committee on Ways and Means, moved to adopt the committee report on SHL Resolution 1313 and the resolution be passed.

Representative Albright, Committee on Ways and Means, moved to adopt the committee report on SHL Resolution 1314 and the resolution be passed. Representative Hageman made a motion to amend the resolution. Motion carried. Representative Nikkel made a motion to reconsider the motion and rescind the amendment. Motion carried on a stand count.

Representative Mosier, Committee of the Whole, moved to adopt SHL Resolution 1315 and the resolution be passed.

Representative Arndt, Committee on Taxation, moved to adopt the committee report on SHL Bill 1310 and the bill not be passed.

Floor Leader Stallard made the motion to rise and report.

Marge Zakoura-Vaughan read the bills and resolutions passed and those not passed.

Floor Leader Stallard made the motion to adopt the committee report. Motion carried.

Speaker Wiley recognized Representatives M. Smith and Stallard for the purpose of making announcements about activities to take place after adjournment and the annual reports to be presented by the Kansas Council of Silver Haired Legislature and election of officers; the National Council of Silver Haired Legislators and the National Silver Haired Congress.

Floor Leader Stallard moved to adjourn until 8:30 a.m., Friday, October 18, 1996. Motion carried.

Kim Silvernale Wagner, CHIEF CLERK

Barbara Prescott, ASSISTANT CLERK

Arlene Kadel, ASSISTANT CLERK

JOURNAL OF THE SILVER HAired LEGISLATURE

THIRD DAY

House of Representatives Chambers
Topeka, KS October 18, 1996

The House met pursuant to Adjournment with Speaker Wiley in the chair.

The Pledge of Allegiance was led by Representative Stringer.

Roll call was taken by Helen Knetzer with 100 present; Bottenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans absent.

Speaker Wiley recognized various representatives for the purpose of making announcements.

The Invocation was given by The Reverend Hollamon, Senate Chaplain:

Heavenly Father,

*From time to time we talk about
spending lids and tax lids. Help
us to be receptive to some lids
which only You can impose:*

*Put a lid on arrogance
And a lid on fear;
A lid on ignorance
And a lid on smear.*

*Put a lid on hunger
And a lid on need;
A lid on suffering
And a lid on greed.*

*Put a lid on corruption
And a lid on hate;
And a lid on racism
Would be just great!*

*Put a lid on prejudice
As tight as can be;
And when I talk too much,
Put a lid on me!*

*I pray in the Name of Jesus Christ
whose mercy has no lid. AMEN.*

Pages arrived from Jefferson West Intermediate School.

Speaker Wiley recognized Representative Moses for the purpose of introducing emergency resolution SHL No. 1316 and moving adoption of said resolution. Motion carried.

FINAL READING AND FINAL ACTION ON BILLS AND RESOLUTIONS

SHL 1301, AN ACT reforming the juvenile justice system.

On SHL 1301, on roll call the vote was Yes 96; No 2; Abstain 2; Absent 24.

YES: Albright, Arndt, Atkinson, Barnhart, Baus, Blomberg, Bottiger, Boulanger, Bringle, Brown, Burdett, Buselt, R.Canfield, Coddington, Comer, Cowan, Currie, Daniels, Deiter, Dutoit, Ewert, Flora, Fortmeyer, Freeman, Gallaway, Gaul, Gilstrap, Gingles, Hagemann, Harkins, Harvey, Hasty, Heasty, Henthorne, Homan, Horton, Housman, Johnson, Johnston, Kadel, Keck, Keeton, Keller, Kelsey, Knudson, Leonard, Luckeroth, Lyon, McAtee, McCluney, McGee, Meier, Menzie, Mertens, Minnis, Moses, Mosier, Myers, R.Nelson, V.Nelson, Nikkel, North, Olson, Oshel, Overocker, Park, Parks, Patton, Peitz, Peters, Reed, Rickard, Schmidt, Schroll, A.Scott, Shackelford, Shirley, Skillen, B.Smith, M.Smith, Stallard, Stevens, Stockebrand, Strauss, Stringer, Stuart, Taylor, Walter, Warren, Wedel, Whitaker, Whitman, Wiley, Wilfong, Wohlschlegel, and Wood.

NO: D.Canfield and Potts.

ABSTAIN: Gustafson and Knapp.

ABSENT: Bутtenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

SHL 1302, AN ACT reintroducing HB No. 2277 with amendments providing for up to \$30,000 per tax year during the time that the law is in effect for funding of the Kansas Silver Haired Legislature from the Kansas individual income tax receipts paid on federal social security income.

On SHL 1302, on roll call the vote was Yes 98; No 2; Abstain 0; Absent 24.

YES: Albright, Arndt, Atkinson, Barnhart, Baus, Blomberg, Bottiger, Boulanger, Bringle, Brown, Burdett, Buselt, D.Canfield, R.Canfield, Coddington, Comer, Cowane, Currie, Daniels, Deiter, Dutoit, Ewert, Flora, Fortmeyer, Freeman, Gallaway, Gaul, Gilstrap, Gingles, Gustafson, Hagemann, Harkins, Harvey, Hasty, Heasty, Henthorne,

Homan, Horton, Housman, Johnson, Johnston, Kadel, Keck, Keeton, Keller, Kelsey, Knapp, Knudson, Leonard, Luckeroth, Lyon, McAtee, McCluney, McGee, Meier, Menzie, Mertens, Minnis, Moses, Mosier, Myers, R.Nelson, V.Nelson, Nikkel, North, Olson, Oshel, Overocker, Park, Parks, Patton, Peitz, Peters, Reed, Rickard, Schmidt, Schroll, A.Scott, Shackelford, Shirley, Skillen, B.Smith, M.Smith, Stevens, Stockebrand, Strauss, Stringer, Stuart, Taylor, Walter, Warren, Wedel, Whitaker, Whitman, Wiley, Wilfong, Wohlschlegel, and Wood.

NO: Potts and Stallard.

ABSENT: Buttenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

SHL 1303, AN ACT to provide adequate funding and staffing of long-term care onbudsman program.

On SHL 1303, on roll call the vote was Yes 89; No 10; Abstain 1; Absent 24.

YES: Albright, Arndt, Atkinson, Barnhart, Baus, Blomberg, Bottiger, Boulanger, Bringle, Brown, Burdett, Buselt, D.Canfield, R.Canfield, Coddington, Comer, Cowan, Currie, Daniels, Deiter, Dutoit, Ewert, Flora, Fortmeyer, Freeman, Gallaway, Gaul, Gilstrap, Gingles, Gustafson, Hagemann, Harkins, Harvey, Hasty, Heasty, Henthorne, Homan, Horton, Housman, Johnson, Johnston, Kadel, Keck, Keeton, Keller, Kelsey, Knudson, Leonard, Luckeroth, Lyon, McAtee, McCluney, McGee, Meier, Menzie, Mertens, Minnis, Moses, Mosier, Myers, R.Nelson, V.Nelson, Nikkel, North, Olson, Oshel, Overocker, Park, Parks, Patton, Peters, Potts, Reed, Rickard, Schmidt, Schroll, A.Scott, M.Smith, Stallard, Stevens, Stuart, Taylor, Walter, Warren, Wedel, Whitman, Wiley, Wilfong, and Wood.

NO: Knapp, Shackelford, Shirley, Skillen, B.Smith, Stockebrand, Strauss, Stringer, Whitaker, and Wohlschlegel.

ABSTAIN: Peitz.

ABSENT: Buttenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

Speaker Wiley welcomed Governor Graves who addressed the legislature.

SHL 1304, AN ACT to address the inequities currently grandparents vis a vis others regarding rights of visitation and the ability to have interactive contact with their minor grandchildren.

On SHL 1304, on roll call the vote was Yes 98; No 2; Abstain 0; Absent 24.

YES: Albright, Arndt, Atkinson, Barnhart, Baus, Blomberg, Bottiger, Boulanger, Bringle, Brown, Burdett, Buselt, D.Canfield, R.Canfield, Coddington, Comer, Cowan, Currie, Daniels, Deiter, Dutoit, Flora, Fortmeyer, Freeman, Gallaway, Gaul, Gilstrap, Gingles, Gustafson, Hagemann, Harkins, Harvey, Hasty, Heasty, Henthorne, Homan, Horton, Housman, Johnson, Johnston, Kadel, Keck, Keeton, Keller, Kelsey, Knapp, Knudson, Leonard, Luckerth, Lyon, McAtee, McCluney, McGee, Meier, Menzie, Mertens, Minnis, Moses, Mosier, Myers, R.Nelson, V.Nelson, Nikkel, North, Olson, Oshel, Overocker, Park, Parks, Patton, Peitz, Peters, Potts, Reed, Rickard, Schmidt, Schroll, A.Scott, Shackelford, Shirley, Skillen, B.Smith, M.Smith, Stallard, Stockebrand, Strauss, Stringer, Stuart, Taylor, Walter, Warren, Wedel, Whitaker, Whitman, Wiley, Wilfong, Wohlschlegel, and Wood.

NO: Ewert and Stevens.

ABSENT: Buttenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

SHL 1305, AN ACT to provide appropriations for Kansas Senior Care Act to replace federal reductions in Older American Act funding.

On SHL 1305, on roll call the vote was Yes 99; No 0; Abstain 0; Absent 25.

YES: Albright, Arndt, Atkinson, Barnhart, Baus, Blomberg, Bottiger, Boulanger, Bringle, Brown, Burdett, Buselt, D.Canfield, R.Canfield, Coddington, Comer, Cowan, Currie, Daniels, Deiter, Dutoit, Ewert, Flora, Fortmeyer, Freeman, Gaul, Gilstrap, Gingles, Gustafson, Hagemann, Harkins, Harvey, Hasty, Heasty, Henthorne, Homan, Horton, Housman, Johnson, Johnston, Kadel, Keck, Keeton, Keller, Kelsey, Knapp, Knudson, Leonard, Luckerth, Lyon, McAtee, McCluney, McGee, Meier, Menzie, Mertens, Minnis, Moses, Mosier, Myers, R.Nelson, V.Nelson, Nikkel, North, Olson, Oshel, Overocker, Park, Parks, Patton, Peitz, Peters, Potts, Reed, Rickard, Schmidt, Schroll, A.Scott, Shackelford, Shirley, Skillen, B.Smith, M.Smith, Stallard, Stevens, Stockebrand, Strauss, Stringer, Stuart, Taylor, Walter, Warren, Wedel, Whitaker, Whitman, Wiley, Wilfong, Wohlschlegel, and Wood.

ABSENT: Buttenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gallaway, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

SHL 1306, A RESOLUTION commending the Legislature for enacting 1996 Substitute HB 3047 and the Department of Social and Rehabilitation Services and the Department on Aging for the continuing implementation of the transfer of long-term care programs under that bill and expressing the total support of the SHL for the inter-agency transfer of the aging programs from SRS to Aging.

Representative Moses moved that the votes on SHL 1306 and 1307 be bulked. Motion

2-20
~~2-19~~

was seconded and carried.

On SHL 1306, on roll call the vote was Yes 98; No 0; Abstain 0; Absent 26.

YES: Albright, Arndt, Barnhart, Baus, Blomberg, Bottiger, Boulanger, Bringle, Brown, Burdett, Buselt, D.Canfield, R.Canfield, Coddington, Comer, Cowan, Currie, Daniels, Deiter, Dutoit, Ewert, Flora, Fortmeyer, Freeman, Gaul, Gilstrap, Gingles, Gustafson, Hagemann, Harkins, Harvey, Hasty, Heasty, Henthorne, Homan, Horton, Housman, Johnson, Johnston, Kadel, Keck, Keeton, Keller, Kelsey, Knapp, Knudson, Leonard, Luckereth, Lyon, McAtee, McCluney, McGee, Meier, Menzie, Mertens, Minnis, Moses, Mosier, Myers, R.Nelson, V.Nelson, Nikkel, North, Olson, Oshel, Overocker, Park, Parks, Patton, Peitz, Peters, Potts, Reed, Rickard, Schmidt, Schroll, A.Scott, Shackelford, Shirley, Skillen, B.Smith, M.Smith, Stallard, Stevens, Stockebrand, Strauss, Stringer, Stuart, Taylor, Walter, Warren, Wedel, Whitaker, Whitman, Wiley, Wilfong, Wohlschlegel, and Wood.

ABSENT: Atkinson, Bутtenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gallaway, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

SHL 1307, A RESOLUTION commending the activities of the Department of Social and Rehabilitation Services in obtaining and implementing the federal Medicaid waiver for payment of the cost of the care and services provided to the frail elderly persons in assisted living facilities.

On SHL 1307, on roll call the vote was Yes 97; No 1; Abstain 0; Absent 26.

YES: Arndt, Barnhart, Baus, Blomberg, Bottiger, Boulanger, Bringle, Brown, Burdett, Buselt, D.Canfield, R.Canfield, Coddington, Comer, Cowan, Currie, Daniels, Deiter, Dutoit, Ewert, Flora, Fortmeyer, Freeman, Gaul, Gilstrap, Gingles, Gustafson, Hagemann, Harkins, Harvey, Hasty, Heasty, Henthorne, Homan, Horton, Housman, Johnson, Johnston, Kadel, Keck, Keeton, Keller, Kelsey, Knapp, Knudson, Leonard, Luckereth, Lyon, McAtee, McCluney, McGee, Meier, Menzie, Mertens, Minnis, Moses, Mosier, Myers, R.Nelson, V.Nelson, Nikkel, North, Olson, Oshel, Overocker, Park, Parks, Patton, Peitz, Peters, Potts, Reed, Rickard, Schmidt, Schroll, A.Scott, Shackelford, Shirley, Skillen, B.Smith, M.Smith, Stallard, Stevens, Stockebrand, Strauss, Stringer, Stuart, Taylor, Walter, Warren, Wedel, Whitaker, Whitman, Wiley, Wilfong, Wohlschlegel, and Wood.

NO: Albright.

ABSENT: Atkinson, Bутtenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gallaway, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

SHL 1308, AN ACT providing health care for all Kansas residents with portability,

continued insurability (i.e. covering pre-existing conditions and not imposing inordinate exclusions) and affordability.

On SHL 1308, on roll call the vote was Yes 98; No 0; Abstain 0; Absent 26.

YES: Albright, Arndt, Barnhart, Baus, Blomberg, Bottiger, Boulanger, Bringle, Brown, Burdett, Buselt, D.Canfield, R.Canfield, Coddington, Comer, Cowan, Currie, Daniels, Deiter, Dutoit, Ewert, Flora, Fortmeyer, Freeman, Gaul, Gilstrap, Gingles, Gustafson, Hagemann, Harkins, Harvey, Hasty, Heasty, Henthorne, Homan, Horton, Housman, Johnson, Johnston, Kadel, Keck, Keeton, Keller, Kelsey, Knapp, Knudson, Leonard, Luckerth, Lyon, McAtee, McCluney, McGee, Meier, Menzie, Mertens, Minnis, Moses, Mosier, Myers, R.Nelson, V.Nelson, Nikkel, North, Olson, Oshel, Overocker, Park, Parks, Patton, Peitz, Peters, Potts, Reed, Rickard, Schmidt, Schroll, A.Scott, Shackelford, Shirley, Skillen, B.Smith, M.Smith, Stallard, Stevens, Stockebrand, Strauss, Stringer, Stuart, Taylor, Walter, Warren, Wedel, Whitaker, Whitman, Wiley, Wilfong, Wohlschlegel, and Wood.

ABSENT: Atkinson, Buttenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gallaway, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

Substitute Resolution for SHL 1309, be it resolved that the Kansas Legislature provide incentives to strengthen family ties and to review and focus on strong families and the recognition of stable marriages of extended duration.; including restructuring taxes to give advantages to all, and studying the Kansas governmental system to identify other areas in which government can encourage stability of the family and the sanctity of marriage.

Representative Stringer made a motion to table Substitute Resolution 1309 until next session. Motion failed.

On SHL 1309, on roll call the vote was Yes 36; No 46; Abstain 16; Absent 26.

YES: Arndt, Barnhart, Blomberg, Bottiger, Brown, Burdett, Buselt, R.Canfield, Comer, Currie, Dutoit, Fortmeyer, Freeman, Harkins, Heasty, Henthorne, Homan, Horton, Kadel, Keck, Keeton, Luckerth, McCluney, Menzie, Mertens, R.Nelson, V.Nelson, Nikkel, Peitz, Peters, Reed, Stockebrand, Strauss, Warren, Whitman, and Wood.

NO: Albright, Baus, Coddington, Cowan, Ewert, Gilstrap, Gingles, Gustafson, Hagemann, Harvey, Hasty, Housman, Johnson, Keller, Kelsey, Knapp, Knudson, Lyon, McAtee, McGee, Moses, Mosier, Myers, North, Olson, Park, Parks, Patton, Potts, Rickard, Schmidt, Schroll, A.Scott, Shackelford, Shirley, Skillen, B.Smith, M.Smith, Stevens, Stringer, Stuart, Taylor, Walter, Whitaker, Wilfong, and Wohlschlegel.

ABSTAIN: Boulanger, Bringle, D.Canfield, Daniels, Deiter, Flora, Gaul, Johnston, Leonard, Meier, Minnis, Oshel, Overocker, Stallard, Wedel, and Wiley.

ABSENT: Atkinson, Buthenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gallaway, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

SHL 1311, A RESOLUTION to provide revenue for school finance, including reduced real property tax rates and prohibitions on future exemptions and abatements of all property tax levied for this purpose.

On SHL 1311, on roll call the vote was Yes 81; No 11; Abstain 6; Absent 26.

YES: Arndt, Barnhart, Baus, Blomberg, Bottiger, Boulanger, Bringle, Brown, Burdett, Buselt, R.Canfield, Coddington, Comer, Cowan, Currie, Daniels, Deiter, Dutoit, Ewert, Flora, Fortmeyer, Freeman, Gaul, Gilstrap, Gingles, Gustafson, Hagemann, Harkins, Harvey, Hasty, Heasty, Henthorne, Homan, Horton, Housman, Johnston, Kadel, Keck, Keeton, Keller, Kelsey, Knapp, Knudson, Luckeroth, Lyon, McAtee, McCluney, McGee, Meier, Mertens, Minnis, Moses, Mosier, V.Nelson, North, Olson, Oshel, Overocker, Park, Parks, Patton, Peitz, Peters, Potts, Reed, Rickard, Schmidt, Schroll, Shackelford, Skillen, B.Smith, M.Smith, Stevens, Stockebrand, Strauss, Taylor, Walter, Warren, Wilfong, Wohlschlegel, and Wood.

NO: Johnson, Leonard, Menzie, R.Nelson, A.Scott, Stallard, Stringer, Stuart, Wedel, Whitaker, and Whitman.

ABSTAIN: Albright, D.Canfield, Myers, Nikkel, Shirley, and Wiley.

ABSENT: Atkinson, Buthenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gallaway, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

SHL 1312, AN ACT requirement mandatory reinstatement of certain life insurance policies.

On SHL 1312, on roll call the vote was Yes 96; No 0; Abstain 2; Absent 26.

YES: Albright, Arndt, Barnhart, Baus, Blomberg, Bottiger, Boulanger, Bringle, Brown, Burdett, Buselt, D.Canfield, R.Canfield, Coddington, Comer, Cowan, Currie, Daniels, Deiter, Dutoit, Ewert, Flora, Fortmeyer, Freeman, Gaul, Gilstrap, Gingles, Gustafson, Hagemann, Harkins, Harvey, Hasty, Heasty, Henthorne, Homan, Horton, Housman, Johnson, Johnston, Kadel, Keck, Keller, Kelsey, Knapp, Knudson, Leonard, Luckeroth, Lyon, McAtee, McCluney, McGee, Meier, Menzie, Mertens, Minnis, Moses, Mosier, Myers, R.Nelson, V.Nelson, Nikkel, North, Olson, Oshel, Overocker, Park, Parks, Patton, Peitz, Peters, Potts, Reed, Rickard, Schroll, A.Scott, Shackelford, Shirley, Skillen, B.Smith, M.Smith, Stallard, Stevens, Stockebrand, Strauss, Stringer, Stuart, Taylor, Walter, Warren, Wedel, Whitaker, Whitman, Wiley, Wilfong, Wohlschlegel, and Wood.

ABSTAIN: Keeton and Schmidt.

ABSENT: Atkinson, Buttenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gallaway, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

SHL 1313, A RESOLUTION commending and supporting the Legislature regarding certain legislation.

Representative Moses made a motion to bulk SHL Resolutions 1313, 1314, and 1316. Representative Stringer made a motion to cast a unanimous ballot. Motion failed.

On SHL 1313, on roll call the vote was Yes 97; No 0; Abstain 1; Absent 26.

YES: Albright, Arndt, Barnhart, Baus, Blomberg, Bottiger, Boulanger, Bringle, Brown, Burdett, Buselt, D.Canfield, R.Canfield, Coddington, Comer, Cowan, Currie, Daniels, Deiter, Dutoit, Ewert, Flora, Fortmeyer, Freeman, Gaul, Gilstrap, Gingles, Gustafson, Hagemann, Harkins, Harvey, Hasty, Heasty, Henthorne, Homan, Horton, Housman, Johnson, Johnston, Kadel, Keck, Keller, Kelsey, Knudson, Leonard, Luckeroth, Lyon, McAtee, McCluney, McGee, Meier, Menzie, Mertens, Minnis, Moses, Mosier, Myers, R.Nelson, V.Nelson, Nikkel, North, Olson, Oshel, Overocker, Park, Parks, Patton, Peitz, Peters, Potts, Reed, Rickard, Schroll, A.Scott, Shackelford, Shirley, Skillen, B.Smith, M.Smith, Stallard, Stevens, Stockebrand, Strauss, Stringer, Stuart, Taylor, Walter, Warren, Wedel, Whitaker, Whitman, Wiley, Wilfong, Wohlschlegel, and Wood.

ABSTAIN: Knapp.

ABSENT: Atkinson, Buttenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gallaway, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

SHL 1314, A RESOLUTION petitioning the Legislature regarding certain legislation.

On SHL 1314, on roll call the vote was Yes 89; No 8; Abstain 1; Absent 26.

YES: Albright, Arndt, Barnhart, Baus, Blomberg, Boulanger, Bringle, Brown, Burdett, Buselt, D.Canfield, R.Canfield, Coddington, Comer, Cowan, Currie, Daniels, Deiter, Dutoit, Ewert, Flora, Fortmeyer, Freeman, Gaul, Gilstrap, Gingles, Gustafson, Hagemann, Harkins, Harvey, Hasty, Heasty, Henthorne, Horton, Housman, Johnson, Kadel, Keck, Kelsey, Knudson, Leonard, Luckeroth, Lyon, McAtee, McCluney, McGee, Meier, Menzie, Mertens, Minnis, Moses, Mosier, Myers, R.Nelson, V.Nelson, Nikkel, North, Olson, Oshel, Overocker, Park, Parks, Patton, Peitz, Peters, Reed, Rickard, Schroll, A.Scott, Shackelford, Skillen, B.Smith, M.Smith, Stevens, Stockebrand, Strauss, Stringer, Stuart, Taylor, Walter, Warren, Wedel, Whitaker, Whitman, Wiley, Wohlschlegel, and Wood.

NO: Bottiger, Homan, Johnson, Keller, Knapp, Shirley, Stallard, and Wilfong.

ABSTAIN: Potts.

ABSENT: Atkinson, Bутtenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gallaway, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

SHL 1315, A RESOLUTION requesting the Kansas Legislature to enact legislation to prescribe more severe penalties for violations of laws in circumstances relating to abuse, neglect or exploitation of adults.

Representative Stallard made a motion to cast a unanimous ballot. Motion carried.

SHL 1316, A RESOLUTION commending the leadership of the 1995-1996 Kansas Silver Haired Legislature.

On SHL 1316, on roll call the vote was Yes 97; No 1; Abstain 0; Absent 26.

YES: Albright, Arndt, Barnhart, Baus, Blomberg, Bottiger, Boulanger, Bringle, Brown, Burdett, Buselt, D.Canfield, R.Canfield, Coddington, Comer, Cowan, Currie, Daniels, Deiter, Dutoit, Ewert, Flora, Fortmeyer, Freeman, Gaul, Gilstrap, Gingles, Gustafson, Hagemann, Harkins, Harvey, Hasty, Heasty, Henthorne, Homan, Horton, Housman, Johnson, Johnston, Kadel, Keck, Keller, Kelsey, Knudson, Leonard, Luckeroth, Lyon, McAtee, McCluney, McGee, Meier, Menzie, Mertens, Minnis, Moses, Mosier, Myers, R.Nelson, V.Nelson, Nikkel, North, Olson, Oshel, Overocker, Park, Parks, Patton, Peitz, Peters, Potts, Reed, Rickard, Schroll, A.Scott, Shackelford, Shirley, Skillen, B.Smith, M.Smith, Stallard, Stevens, Stockebrand, Strauss, Stringer, Stuart, Taylor, Walter, Warren, Wedel, Whitaker, Whitman, Wiley, Wilfong, Wohlschlegel, and Wood.

NO: Knapp.

ABSENT: Atkinson, Bутtenhoff, Campbell, Coe, Davis, Durrant, Fiedler, Gallaway, Gudenkauf, Jones, Morrison, E.Nelson, L.Nelson, Oszman, Peterson, Riggs, Root, Ross, Schaefer, E.Scott, Townsend, Turner, Unruh, Vega, Wells, and Youmans.

Floor Leader Stallard moved to adjourn the SHL until the 1997 session. Motion carried.

The 1996 SHL adjourned Friday, October 18, 1996, at 11:30 a.m.

Kim Silvernale Wagner, CHIEF CLERK

Barbara Prescott, ASSISTANT CLERK
Arlene Kadel, ASSISTANT CLERK

PRIORITY ORDER OF LEGISLATION

Kansas Silver Haired Legislators selected as the highest priority area of Legislation SHL Bill No. 1301 - AN ACT - reforming the Juvenile Justice System. During the Fourteenth Annual Legislative Session Representatives from Across the State were in attendance at the House of Representatives in the State Capitol Building where they considered Bills and Resolutions of interest to elderly Kansans. In a survey conducted at the close of the session members voted on the priority of the Issues and Resolutions passed. Results, listed in order, follows:

1. SHL No. 1301 AN ACT concerning crimes and punishment; relating to juvenile offenders.
2. SHL No. 1305 AN ACT concerning the Department on Aging; relating to certain programs and activities thereof and funding therefor.
3. SHL No. 1312 AN ACT relating to insurance; concerning the mandatory reinstatement of certain life insurance policies.
4. SHL No. 1308 AN ACT providing consumer choice of health care provider; enacting the patient protection act.
5. SHL No. 1303 AN ACT concerning public health and welfare.
6. SHL No. 1311 A RESOLUTION concerning public school finance.
7. SHL No. 1304 AN ACT concerning children and minors; relating to visitation rights of grandparents.
8. SHL No. 1302 AN ACT providing for funding of the Kansas Silver Haired Legislature from income tax paid on Social Security income.
9. SHL No. 1306 A RESOLUTION commending the transfer of long-term care programs for the elderly from the Department of Social and Rehabilitation Services to the Department on Aging.
10. SHL No. 1315 A RESOLUTION requesting the Kansas Legislature to enact legislation to prescribe more severe penalties for violations of laws in circumstances relating to abuse, neglect or exploitation of adults.
11. SHL No. 1307 A RESOLUTION commending the Department of Social and Rehabilitation Services on obtaining and implementing the Home and Community Based Services/Frail Elderly Waiver.
12. SHL No. 1314 A RESOLUTION petitioning the Legislature to enact legislation relating to nonprobate transfer of property; better management of KDERs; and full disclosure in real estate property transactions.
13. SHL No. 1313 A RESOLUTION commending the Kansas Legislature for enacting legislation concerning institutional-based long-term care services; division of assets; and frivolous claims by inmates.

SILVER HAired LEGISLATURE BILL NO. 1301

By PSA 2, 5, 6, 8 and 11

1 AN ACT concerning crimes and punishment; relating to juvenile
 2 offenders; amending K.S.A. 1995 Supp. 38-1607, as amended by
 3 section 46 of chapter 229 of the 1996 Session Laws of
 4 Kansas, and 38-1663, as amended by section 81 of chapter 229
 5 of the 1996 Session Laws of Kansas and K.S.A. 1996 Supp.
 6 21-3443 and 38-120 and repealing the existing sections.

7 Be it enacted by the Silver Haired Legislature of the State of
 8 Kansas:

9 Section 1. K.S.A. 1996 Supp. 21-3443 is hereby amended to
 10 read as follows: 21-3443. (a) Battery against a ~~school-employee~~
 11 person on school property is a battery, as defined in K.S.A.
 12 21-3412, and amendments thereto, committed against a ~~school~~
 13 employee person in or on any school property or grounds upon
 14 which is located a building or structure used by a unified school
 15 district or an accredited nonpublic school for student
 16 instruction or attendance or extracurricular activities of pupils
 17 enrolled in kindergarten or any of the grades one through 12 or
 18 at any regularly scheduled school sponsored activity or event,
 19 ~~while such employee is engaged in the performance of such~~
 20 employee's duty.

21 (b) Battery against a ~~school-employee~~ person on school
 22 property is a class A, person misdemeanor.

23 (c) ~~As used in this section, "school-employee" means any~~
 24 ~~employee of a unified school district or an accredited nonpublic~~
 25 ~~school for student instruction or attendance or extracurricular~~
 26 ~~activities of pupils enrolled in kindergarten or any of the~~
 27 ~~grades one through 12.~~

28 (d) This section shall be part of and supplemental to the
 29 Kansas criminal code.

30 Sec. 2. K.S.A. 1996 Supp. 38-120 is hereby amended to read
 31 as follows: 38-120. Any person receiving bodily injury or any
 32 person, partnership, corporation, political subdivision or other
 33 entity whose property has been damaged or destroyed shall be
 34 entitled to recover damages in an appropriate action at law in a
 35 court of competent jurisdiction from the parents of any child,
 36 living with the parents, who maliciously or willfully injured
 37 such person or damaged or destroyed such property while under the
 38 age of 18 years. Such recovery shall be limited to the actual
 39 damages ~~in an amount not to exceed \$5,000, in addition to taxable~~
 40 ~~court costs, unless the court or jury finds that the malicious or~~
 41 ~~willful act of such minor causing such injury, damage or~~
 42 ~~destruction is the result of parental neglect, in which event the~~

1 ~~\$5,000-limitation-does-not-apply~~. Recovery under this section for
2 bodily injury shall be limited to actual medical expenses.

3 Sec. 3. K.S.A. 1995 Supp. 38-1607, as amended by section 46
4 of chapter 229 of the 1996 Session Laws of Kansas, is hereby
5 amended to read as follows: 38-1607. (a) Official file. The
6 official file of proceedings pursuant to this code shall consist
7 of the complaint, process, service of process, orders, writs and
8 journal entries reflecting hearings held and judgments and
9 decrees entered by the court. The official file shall be kept
10 separate from other records of the court.

11 (b) The official file shall be open for public inspection as
12 to any juvenile 14 or more years of age at the time any act is
13 alleged to have been committed; as to any juvenile less than 14
14 years of age at the time the act which would constitute a felony
15 if committed by an adult is alleged to have been committed; or as
16 to any juvenile less than 14 years of age at the time any other
17 act is alleged to have been committed except if the judge
18 determines that opening the official file for public inspection
19 is not in the best interest of such juvenile who is less than 14
20 years of age. Information identifying victims and alleged
21 victims of sex offenses, as defined in K.S.A. chapter 21, article
22 35, shall not be disclosed or open to public inspection under any
23 circumstances. Nothing in this section shall prohibit the victim
24 or alleged victim of any sex offense from voluntarily disclosing
25 their identity. If the judge determines that a juvenile file, for
26 a juvenile who is less than 14 years of age, shall not be open
27 for public inspection, the official file and information
28 identifying the victim or alleged victim of any sex offense shall
29 be disclosed only to the following parties:

30 (1) A judge of the district court and members of the staff
31 of the court designated by the judge;

32 (2) parties to the proceedings and their attorneys;

33 (3) any individual, or any public or private agency or
34 institution, having custody of the juvenile under court order or
35 providing educational, medical or mental health services to the
36 juvenile or a court-approved advocate for the juvenile or any
37 placement provider or potential placement provider as determined
38 by the commissioner or court services officer;

39 (4) law enforcement officers or county or district attorneys
40 or their staff when necessary for the discharge of their official
41 duties;

42 (5) the Kansas racing commission, upon written request of
43 the commission chairperson, for the purpose provided by K.S.A.
44 74-8804, and amendments thereto;

45 (6) the juvenile intake and assessment workers;

46 (7) the commissioner of juvenile justice; and

47 (8) any other person when authorized by a court order,
48 subject to any conditions imposed by the order.

49 (c) Social file. Reports and information received by the
50 court other than the official file shall be privileged and open
51 to inspection only by attorneys for the parties, juvenile intake
52 and assessment workers or upon order of a judge of the district

1 court or an appellate court. The reports shall not be further
2 disclosed by the attorney without approval of the court or by
3 being presented as admissible evidence.

4 (d) Preservation of records. The Kansas state historical
5 society shall be allowed to take possession for preservation in
6 the state archives of any court records related to proceedings
7 under the Kansas juvenile justice code whenever such records
8 otherwise would be destroyed. The Kansas state historical society
9 shall make available for public inspection any unexpunged docket
10 entry or official file in its custody concerning any juvenile 16
11 or more years of age at the time an offense is alleged to have
12 been committed by the juvenile. No other such records in the
13 custody of the Kansas state historical society shall be disclosed
14 directly or indirectly to anyone for 80 years after creation of
15 the records, except as provided in subsections (b) and (c).
16 Pursuant to subsections (b)(7) and (c), a judge of the district
17 court may allow inspection for research purposes of any court
18 records in the custody of the Kansas state historical society
19 related to proceedings under the Kansas juvenile justice code.

20 (e) Relevant information, reports and records shall be made
21 available to the department of corrections upon request and a
22 showing that the former juvenile has been convicted of a crime
23 and placed in the custody of the secretary of the department of
24 corrections.

25 Sec. 4. K.S.A. 1995 Supp. 38-1663, as amended by section 81
26 of chapter 229 of the 1996 Session Laws of Kansas, is hereby
27 amended to read as follows: 38-1663. (a) When a respondent has
28 been adjudged to be a juvenile offender, the judge may select
29 from the following alternatives:

30 (1) Place the juvenile offender on probation for a fixed
31 period, subject to the terms and conditions the court deems
32 appropriate, including a requirement of making restitution as
33 required by subsection (d).

34 (2) Place the juvenile offender in the custody of a parent
35 or other suitable person, subject to the terms and conditions the
36 court orders, including a requirement of making restitution as
37 required by subsection (d).

38 (3) Place the juvenile offender in the custody of a youth
39 residential facility, subject to the terms and conditions the
40 court orders.

41 (4) Place the juvenile offender in the custody of the
42 commissioner.

43 (5) Impose any appropriate combination of subsections (a)(1)
44 and (2), subsection (a)(3) or subsection (a)(4) and make other
45 orders directed to the juvenile offender as the court deems
46 appropriate.

47 (6) Commit the juvenile offender, if 13 years of age or
48 older, to a juvenile correctional facility if the juvenile
49 offender:

50 (A) Has previously been adjudged as a juvenile offender
51 under this code or as a delinquent or miscreant under the Kansas
52 juvenile code; or

1 (B) has been adjudicated a juvenile offender as a result of
2 having committed an act which, if done by a person 18 years of
3 age or over, would constitute a class A, B or C felony as defined
4 by the Kansas criminal code or, if done on or after July 1, 1993,
5 would constitute an off-grid crime or a nondrug crime ranked in
6 severity level 1 through 5 or a drug crime ranked in severity
7 level 1 through 3.

8 (7) Place the juvenile offender under a house arrest program
9 administered by the court pursuant to K.S.A. 21-4603b and
10 amendments thereto.

11 (b) (1) In addition to any other order authorized by this
12 section, the court may order the: (A) Juvenile offender and the
13 parents of the juvenile offender to:

14 (i) Attend counseling sessions as the court directs; or

15 (ii) participate in mediation as the court directs.
16 Participants in such mediation may include, but shall not be
17 limited to, the victim, the juvenile offender and the juvenile
18 offender's parents. Mediation shall not be mandatory for the
19 victim; or

20 ~~(B) parents--of--the--juvenile--offender--to--participate--in~~
21 ~~parenting--classes;--or~~

22 ~~(C) juvenile offender to successfully participate in a~~
23 ~~program of education offered by a local board of education~~
24 ~~including placement in an alternative educational program~~
25 ~~approved by a local board of education.~~

26 (2) Upon entering an order requiring a juvenile offender's
27 parent to attend counseling sessions or mediation, the court
28 shall give the parent notice of the order. The notice shall
29 inform the parent of the parent's right to request a hearing
30 within 10 days after entry of the order and the parent's right to
31 employ an attorney to represent the parent at the hearing or, if
32 the parent is financially unable to employ an attorney, the
33 parent's right to request the court to appoint an attorney to
34 represent the parent. If the parent does not request a hearing
35 within 10 days after entry of the order, the order shall take
36 effect at that time. If the parent requests a hearing, the court
37 shall set the matter for hearing and, if requested, shall appoint
38 an attorney to represent the parent. The expense and fees of the
39 appointed attorney may be allowed and assessed as provided by
40 K.S.A. 38-1606 and amendments thereto.

41 (3) The costs of any counseling or mediation may be assessed
42 as expenses in the case. No mental health center shall charge a
43 fee for court-ordered counseling greater than that the center
44 would have charged the person receiving the counseling if the
45 person had requested counseling on the person's own initiative.
46 No mediator shall charge a fee for court-ordered mediation
47 greater than that the mediator would have charged the person
48 participating in the mediation if the person had requested
49 mediation on the person's own initiative.

50 (c) (1) If a respondent has been adjudged to be a juvenile
51 offender, the court, in addition to any other order authorized by
52 this section, may suspend the juvenile offender's driver's

1 license or privilege to operate a motor vehicle on the streets
2 and highways of this state. The duration of the suspension
3 ordered by the court shall be for a definite time period to be
4 determined by the court. Upon suspension of a license pursuant to
5 this subsection, the court shall require the juvenile offender to
6 surrender the license to the court, which shall transmit the
7 license to the division of motor vehicles of the department of
8 revenue, to be retained until the period of suspension expires.
9 At that time, the licensee may apply to the division for return
10 of the license. If the license has expired, the juvenile offender
11 may apply for a new license, which shall be issued promptly upon
12 payment of the proper fee and satisfaction of other conditions
13 established by law for obtaining a license unless another
14 suspension or revocation of the juvenile offender's privilege to
15 operate a motor vehicle is in effect. As used in this subsection,
16 "highway" and "street" have the meanings provided by K.S.A.
17 8-1424 and 8-1473, and amendments thereto. Any respondent who is
18 adjudged to be a juvenile offender who does not have a driver's
19 license may have such juvenile offender's driving privileges
20 revoked. No Kansas driver's license shall be issued to a juvenile
21 offender whose driving privileges have been revoked pursuant to
22 this section for a definite time period to be determined by the
23 court.

24 (2) In lieu of suspending the driver's license or privilege
25 to operate a motor vehicle on the highways of this state of any
26 respondent adjudged to be a juvenile offender, as provided in
27 subsection (c)(1), the court in which such juvenile offender was
28 adjudged to be a juvenile offender may enter an order which
29 places conditions on such juvenile offender's privilege of
30 operating a motor vehicle on the highways of this state, a
31 certified copy of which such juvenile offender shall be required
32 to carry any time such juvenile offender is operating a motor
33 vehicle on the highways of this state. Any such order shall
34 prescribe the duration of the conditions imposed and shall
35 specify that such duration shall be for a definite time period to
36 be determined by the court. Upon entering an order restricting a
37 juvenile offender's license hereunder, the court shall require
38 such juvenile offender to surrender such juvenile offender's
39 driver's license to the court who shall cause it to be
40 transmitted to the division of vehicles, together with a copy of
41 the order. Upon receipt thereof, the division of vehicles shall
42 issue without charge a driver's license which shall indicate on
43 its face that conditions have been imposed on such juvenile
44 offender's privilege of operating a motor vehicle and that a
45 certified copy of the order imposing such conditions is required
46 to be carried by the juvenile offender for whom the license was
47 issued any time such juvenile offender is operating a motor
48 vehicle on the highways of this state. If the juvenile offender
49 convicted is a nonresident, the court shall cause a copy of the
50 order to be transmitted to the division and the division shall
51 forward a copy of it to the motor vehicle administrator of such
52 juvenile offender's state of residence. Such court shall furnish

1 to any juvenile offender whose driver's license has had
2 conditions imposed on it under this section a copy of the order,
3 which shall be recognized as a valid Kansas driver's license
4 until such time as the division shall issue the restricted
5 license provided for in this subsection. Upon expiration of the
6 period of time for which conditions are imposed pursuant to this
7 subsection, the licensee may apply to the division for the return
8 of the license previously surrendered by such licensee. In the
9 event such license has expired, such juvenile offender may apply
10 to the division for a new license, which shall be issued
11 immediately by the division upon payment of the proper fee and
12 satisfaction of the other conditions established by law, unless
13 such juvenile offender's privilege to operate a motor vehicle on
14 the highways of this state has been suspended or revoked prior
15 thereto. If any juvenile offender shall violate any of the
16 conditions imposed under this subsection, such juvenile
17 offender's driver's license or privilege to operate a motor
18 vehicle on the highways of this state shall be revoked for a
19 period as determined by the court in which such juvenile offender
20 is convicted of violating such conditions.

21 (d) Whenever a juvenile offender is placed pursuant to
22 subsection (a)(1) or (2), the court, unless it finds compelling
23 circumstances which would render a plan of restitution
24 unworkable, shall order the juvenile offender to make restitution
25 to persons who sustained loss by reason of the offense. The
26 restitution shall be made either by payment of an amount fixed by
27 the court or by working for the persons in order to compensate
28 for the loss. ~~If the court finds compelling circumstances which~~
29 ~~would render a plan of restitution unworkable, the court may~~
30 ~~order the juvenile offender to perform charitable or social~~
31 ~~service for organizations performing services for the community.~~

32 Nothing in this subsection shall be construed to limit a
33 court's authority to order a juvenile offender to make
34 restitution ~~or perform charitable or social service~~ under
35 circumstances other than those specified by this subsection or
36 when placement is made pursuant to subsection (a)(3) or (4).

37 (e) In addition to or in lieu of any other order authorized
38 by this section, the court may order a juvenile offender to pay a
39 fine not exceeding \$250 for each offense. In determining whether
40 to impose a fine and the amount to be imposed, the court shall
41 consider the following:

42 (1) Imposition of a fine is most appropriate in cases where
43 the juvenile offender has derived pecuniary gain from the
44 offense.

45 (2) The amount of the fine should be directly related to the
46 seriousness of the juvenile offender's offense and the juvenile
47 offender's ability to pay.

48 (3) Payment of a fine may be required in a lump sum or
49 installments.

50 (4) Imposition of a restitution order is preferable to
51 imposition of a fine.

52 (5) The juvenile offender's duty of payment should be

1 limited in duration and in no event should the time necessary for
2 payment exceed the maximum term which would be authorized if the
3 offense had been committed by an adult.

4 (f) In addition to or in lieu of any other order authorized
5 by this section, if a juvenile is adjudged to be a juvenile
6 offender by reason of a violation of the uniform controlled
7 substances act (K.S.A. 65-4101 et seq. and amendments thereto) or
8 K.S.A. 41-719, 41-727, 65-4152, 65-4153, 65-4154 or 65-4155 or
9 K.S.A. 1995 Supp. 8-1599, and amendments thereto, the court shall
10 order the juvenile offender to submit to and complete an alcohol
11 and drug evaluation by a community-based alcohol and drug safety
12 action program certified pursuant to K.S.A. 8-1008 and amendments
13 thereto and to pay a fee not to exceed the fee established by
14 that statute for such evaluation, except that such evaluation may
15 be waived by the court if the court finds that the juvenile
16 offender has successfully completed an alcohol and drug
17 evaluation, approved by the community-based alcohol and drug
18 safety action program, within 12 months of the offender's arrest
19 on this offense. If such evaluation occurred more than 12 months
20 after the offender's arrest on this offense, the court shall
21 order the juvenile offender to resubmit to and complete such
22 evaluation and program as provided herein. If the court finds
23 that the juvenile offender and those legally liable for the
24 offender's support are indigent, the fee may be waived. In no
25 event shall the fee be assessed against the commissioner or the
26 juvenile justice authority. The court may require the parent or
27 guardian of the juvenile offender to attend such program with the
28 juvenile offender.

29 (g) The board of county commissioners of a county may
30 provide by resolution that the parents or guardians of any
31 juvenile offender placed under a house arrest program pursuant to
32 subsection (a)(7) shall be required to pay to the county the cost
33 of such house arrest program. The board of county commissioners
34 shall further prepare a sliding financial scale based on the
35 ability of the parents to pay for such a program.

36 (h) In addition to any other order authorized by this
37 section, if child support has been requested and the parent or
38 parents have a duty to support the respondent the court may, and
39 when custody is placed with the commissioner shall, order one or
40 both parents to pay child support. The court shall determine, for
41 each parent separately, whether the parent is already subject to
42 an order to pay support for the respondent. If the parent is not
43 presently ordered to pay support for the respondent and the court
44 has personal jurisdiction over the parent, the court shall order
45 the parent to pay child support in an amount determined under
46 K.S.A. 38-16,117 and amendments thereto. Except for good cause
47 shown, the court shall issue an immediate income withholding
48 order pursuant to K.S.A. 23-4,105 et seq. and amendments thereto
49 for each parent ordered to pay support under this subsection,
50 regardless of whether a payor has been identified for the parent.
51 A parent ordered to pay child support under this subsection shall
52 be notified, at the hearing or otherwise, that the child support

1 order may be registered pursuant to K.S.A. 38-16,119 and
2 amendments thereto. The parent shall also be informed that, after
3 registration, the income withholding order may be served on the
4 parent's employer without further notice to the parent and the
5 child support order may be enforced by any method allowed by law.
6 Failure to provide this notice shall not affect the validity of
7 the child support order.

8 (i) Any order issued by the judge pursuant to this section
9 shall be in effect immediately upon entry into the judge's
10 minutes.

11 (j) In addition to any other order authorized by this
12 section, the court shall order the: (1) juvenile offender to
13 perform charitable or social service for organizations performing
14 services for the community; and

15 (2) parents of the juvenile offender to participate in the
16 parenting classes.

17 Sec. 5. K.S.A. 1995 Supp. 38-1607, as amended by section 46
18 of Chapter 229 of the 1996 Session Laws of Kansas, and 38-1663,
19 as amended by section 81 of Chapter 229 of the 1996 Session Laws
20 of Kansas, and K.S.A. 1996 Supp. 21-3443 and 38-120 are hereby
21 repealed.

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

SILVER HAIRED LEGISLATURE BILL NO. 1302

By PSA 1, 3 and 6

1 AN ACT providing for funding of the Kansas silver haired
2 legislature from income tax paid on social security income.

3 Be it enacted by the Silver Haired Legislature of the State of
4 Kansas:

5 Section 1. (a) The director of taxation of the department of
6 revenue shall determine annually the total amount of revenue
7 collected from state income tax on federal social security income
8 for each tax year commencing with tax year 1996, and shall report
9 such amount to the state treasurer. Upon receipt of each such
10 report, the state treasurer shall transfer an amount equal to the
11 amount reported from the state general fund to the Kansas silver
12 haired legislature trust fund, except that not more than an
13 aggregate of \$30,000 shall be transferred in any fiscal year.

14 (b) There is hereby established in the state treasury the
15 Kansas silver haired legislature trust fund. All moneys
16 deposited in such fund shall be used solely for the purpose of
17 financing the Kansas silver haired legislature. Except as
18 otherwise provided in this section, all expenditures from such
19 fund shall be made in accordance with appropriations acts upon
20 warrants of the director of accounts and reports issued pursuant
21 to vouchers approved by the secretary of aging. Upon the
22 transfer of each amount to the Kansas silver haired legislature
23 trust fund pursuant to subsection (a), but not more often than
24 monthly, the secretary of aging shall pay the amount in the
25 Kansas silver haired trust fund to the Kansas silver haired
26 legislature.

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

SILVER HAired LEGISLATURE BILL NO. 1303

By PSA 5, 6, 8 and 11

1 AN ACT concerning public health and welfare; relating to the
2 funding of services and regulatory activities of the
3 department on aging, department of social and rehabilitation
4 services and department of health and environment; amending
5 K.S.A. 1996 Supp. 75-3717 and repealing the existing
6 section.

7 Be it enacted by the Silver Haired Legislature of the State of
8 Kansas:

9 New Section 1. (a) For the fiscal year ending June 30, 1998,
10 and for each fiscal year thereafter, the secretary of aging shall
11 prepare and submit a budget estimate to the division of the
12 budget pursuant to K.S.A. 75-3717 and amendments thereto for the
13 department on aging which includes adequate funding for the
14 activities of the statewide long-term care ombudsman program,
15 including a regional long-term care ombudsman for each region of
16 Kansas and a sufficient number of officers and employees for the
17 office of the long-term care ombudsman, to provide the services
18 of the statewide long-term care ombudsman program under the
19 long-term care ombudsman act for all residents of facilities in
20 Kansas and to investigate all complaints involving residents of
21 facilities in Kansas pursuant to the long-term care ombudsman
22 act.

23 (b) The words and phrases used in this section have the
24 meanings ascribed thereto by K.S.A. 75-5916 and amendments
25 thereto. This section shall be construed as part of the
26 long-term care ombudsman act.

27 New Sec. 2. For the fiscal year ending June 30, 1998, and
28 for each fiscal year thereafter, the secretary of aging,
29 secretary of social and rehabilitation services and secretary of
30 health and environment shall prepare and submit budget estimates
31 to the division of the budget pursuant to K.S.A. 75-3717 and
32 amendments thereto for the department on aging, department of
33 social and rehabilitation services and department of health and
34 environment, respectively, which include adequate funding for the
35 department on aging, department of social and rehabilitation
36 services and department of health and environment for the
37 department's programs that regulate, monitor or audit the
38 programs and activities of hospitals, adult care homes, long-term
39 care facilities or other facilities in Kansas that are regulated,
40 monitored or audited by such department, specifically including
41 such department's programs that provide for the state enforcement
42 or protection of patient and client rights with respect to any
43 patient or other client of any such facility.

1 Sec. 3. K.S.A. 1996 Supp. 75-3717 is hereby amended to read
2 as follows: 75-3717. (a) As provided in this section, each state
3 agency, not later than October 1 of each year, shall file with
4 the division of the budget its budget estimates for the next
5 fiscal year, and all amendments and revisions thereof, except
6 that, in lieu of such annual filing, each agency listed in
7 subsection (g), not later than October 1, ~~1994, and every two~~
8 years thereafter of each even-numbered year, shall file budget
9 estimates for the next fiscal year and for the ensuing fiscal
10 year thereafter. Each agency listed in subsection (g) may file
11 adjustments to such agency's budget that was approved by the
12 legislature during a prior fiscal year. Subject to the
13 provisions of sections 1 and 2 and amendments thereto, all such
14 budget estimates shall be in the form provided by the director of
15 the budget. Each agency's budget estimates shall include:

16 (1) A full explanation of the agency's request for any
17 appropriations for the expansion of present services or the
18 addition of new activities, including an estimate of the
19 anticipated expenditures for the next fiscal year and for each of
20 the three ensuing fiscal years which would be required to support
21 each expansion of present services or addition of new services as
22 requested by the state agency; and

23 (2) a listing of all programs of the agency that provide
24 services for children and their families and the following
25 information regarding each such program: Of the amount of the
26 agency's request for appropriations to fund the program, that
27 amount which will be spent on services for children or families
28 with children and the number of children or families with
29 children who are served by the program.

30 (b) At the same time as each state agency submits to the
31 division of the budget a copy of its budget estimate, and all
32 amendments and revisions thereof, each such state agency shall
33 submit a copy of such estimate, and all amendments and revisions
34 thereof, directly to the legislative research department for
35 legislative use.

36 (c) The director of the budget shall require the agencies to
37 submit a sufficient number of copies of their budget estimates,
38 and all amendments and revisions thereof, to the director's
39 office to satisfy the requirements of such office and one
40 additional copy for legislative use which shall be retained in
41 the division of the budget until the budget of the governor is
42 submitted to the legislature. On or before the day that such
43 budget is submitted to the legislature such legislative use copy,
44 posted to reflect the governor's budget recommendations, shall be
45 submitted to the legislative research department for use by the
46 ways and means committee of the senate and the committee on
47 appropriations of the house of representatives. Following
48 presentation of the governor's budget report to the legislature,
49 the legislative research department may request and shall receive
50 detailed information from the division of the budget on the
51 governor's budget recommendations.

52 (d) The director of the budget may prepare budget estimates

1 for any state agency failing to file a request.

2 (e) As used in this section, "services for children and
3 their families" includes but is not limited to any of the
4 following services, whether provided directly or made accessible
5 through subsidies or other payments:

6 (1) Financial support for children and families with
7 children or enforcement of the obligation to support a child or a
8 family with one or more children;

9 (2) prenatal care, health care for children or immunizations
10 for children;

11 (3) mental health or retardation services for children;

12 (4) nutrition for children or families with children or
13 nutritional counseling or supplements for pregnant or nursing
14 women;

15 (5) child care, early childhood education or parenting
16 education;

17 (6) licensure or regulation of child care or early childhood
18 education programs;

19 (7) treatment, counseling or other services to preserve
20 families;

21 (8) care, treatment, placement or adoption of children
22 without functioning families;

23 (9) services to prevent child abuse and to treat and protect
24 child abuse victims;

25 (10) services for children who are pregnant, substance
26 abusers or otherwise involved in high risk behavior;

27 (11) services related to court proceedings involving
28 children; and

29 (12) youth employment services.

30 (f) On a biennial basis, the following state agencies shall
31 file budget estimates under the provisions of subsection (a):
32 Abstracters' board of examiners, behavioral sciences regulatory
33 board, board of accountancy, board of examiners in optometry,
34 board of nursing, consumer credit commissioner, Kansas board of
35 barbering, Kansas board of examiners in fitting and dispensing of
36 hearing aids, Kansas dental board, Kansas real estate commission,
37 Kansas state board of cosmetology, office of the securities
38 commissioner of Kansas, real estate appraisal board, state bank
39 commissioner, state board of healing arts, state board of
40 mortuary arts, state board of pharmacy, state board of technical
41 professions, state board of veterinary examiners and state
42 department of credit unions.

43 Sec. 4. K.S.A. 1996 Supp. 75-3717 is hereby repealed.

44 Sec. 5. This act shall take effect and be in force from and
45 after its publication in the statute book.

SILVER HAired LEGISLATURE BILL NO. 1304

By PSA 5 and 6

1 AN ACT concerning children and minors; relating to visitation
 2 rights of grandparents; amending K.S.A. 38-129 and K.S.A.
 3 1996 Supp. 60-1616 and repealing the existing sections.

4 Be it enacted by the Silver Haired Legislature of the State of
 5 Kansas:

6 Section 1. K.S.A. 38-129 is hereby amended to read as
 7 follows: 38-129. (a) The district court ~~may~~ shall grant the
 8 grandparents of an unmarried minor child reasonable visitation
 9 rights to the child during the child's minority upon a finding
 10 that the visitation rights would be in the child's best interests
 11 and when a substantial relationship between the child and the
 12 grandparent has been established.

13 (b) The district court may grant the parents of a deceased
 14 person visitation rights, or may enforce visitation rights
 15 previously granted, pursuant to this section, even if the
 16 surviving parent has remarried and the surviving parent's spouse
 17 has adopted the child. Visitation rights may be granted pursuant
 18 to this subsection without regard to whether the adoption of the
 19 child occurred before or after the effective date of this act.

20 (c) The district court shall grant grandparents reasonable
 21 visitation rights unless the court, after a hearing, finds that
 22 visitation would seriously endanger the child's physical, mental,
 23 moral or emotional health.

24 Sec. 2. K.S.A. 1996 Supp. 60-1616 is hereby amended to read
 25 as follows: 60-1616. (a) Parents. A parent not granted custody or
 26 residency of the child is entitled to reasonable visitation
 27 rights unless the court finds, after a hearing, that visitation
 28 would seriously endanger ~~seriously~~ the child's physical, mental,
 29 moral or emotional health.

30 (b) Grandparents and----stepparents. Grandparents and
 31 ~~stepparents may be granted~~ are entitled to reasonable visitation
 32 rights unless the court, after a hearing, finds that visitation
 33 would seriously endanger the child's physical, mental, moral or
 34 emotional health.

35 (c) Stepparents. Stepparents may be granted visitation
 36 rights.

37 (d) Modification. The court may modify an order granting or
 38 denying visitation rights whenever modification would serve the
 39 best interests of the child.

40 (e) Enforcement of rights. An order granting visitation
 41 rights to a parent pursuant to this section may be enforced in
 42 accordance with K.S.A. 23-701, and amendments thereto.

43 (f) Repeated denial of rights, effect. Repeated

1 unreasonable denial of or interference with visitation rights
2 granted to a parent pursuant to this section may be considered a
3 material change of circumstances which justifies modification of
4 a prior order of child custody.

5 ~~(f)~~ (g) Repeated child support misuse, effect. Repeated
6 child support misuse may be considered a material change of
7 circumstances which justifies modification of a prior order of
8 child custody.

9 ~~(g)~~ (h) Court ordered exchange or visitation at a child
10 exchange and visitation center. (1) The court may order exchange
11 or visitation to take place at a child exchange and visitation
12 center, as established in K.S.A. 1996 Supp. 75-720 and amendments
13 thereto.

14 (2) A parent may petition the court to modify an order
15 granting visitation rights to require that the exchange or
16 transfer of children for visitation or visitation take place at a
17 child exchange and visitation center, as established in K.S.A.
18 1996 Supp. 75-720 and amendments thereto. The court may modify
19 an order granting visitation rights whenever modification would
20 serve the best interests of the child.

21 Sec. 3. K.S.A. 38-129 and K.S.A. 1996 Supp. 60-1616 are
22 hereby repealed.

23 Sec. 4. This act shall take effect and be in force from and
24 after its publication in the statute book.

SILVER HAIRED LEGISLATURE BILL NO. 1305

By PSA 3, 4, 7, 8, 9 and 10

1 AN ACT concerning the department on aging; relating to certain
2 programs and activities thereof and funding therefor; making
3 appropriations for the fiscal year ending June 30, 1998.

4 WHEREAS, The level of funding provided by the federal
5 government for programs of the Department on Aging has been
6 reduced for the current and prior fiscal years; and

7 WHEREAS, This shortfall in federal funds, together with the
8 corresponding amount of state funds which were not appropriated
9 for the Department on Aging, have resulted in program reductions
10 in Senior Care Act programs and other programs financed in whole
11 or in part under the Federal Medicaid Program, the Federal Older
12 Americans Act and other federal programs; and

13 WHEREAS, Appropriations should be made from the State General
14 Fund to replace this shortfall so that Senior Care Act programs,
15 including nutrition, transition assistance, in-home care, and
16 other programs and services in which there has been federal
17 medicaid participation, can be continued at the level of funding
18 provided for the fiscal year that ended July 1, 1996; and

19 WHEREAS, Appropriations should be made from the State General
20 Fund to provide additional case management: Now, therefore,

21 Be it enacted by the Silver Haired Legislature of the State of
22 Kansas:

23 Section 1. For the fiscal year ending June 30, 1998,
24 appropriations are hereby made, restrictions and limitations are
25 hereby imposed and transfers, fees, receipts, disbursements and
26 acts incidental to the foregoing are hereby directed or
27 authorized as provided in section 2.

28 Sec. 2.

29 DEPARTMENT ON AGING

30 (a) There is appropriated for the above agency from the
31 state general fund the following:

32 Administration..... \$230,046
33 Program grants..... \$2,306,332

34 Provided, That expenditures may be made from the program grants
35 account for case management services which do not duplicate
36 services provided under federal medicaid or other federal
37 programs.

38 Sec. 3. This act shall take effect and be in force from and
39 after July 1, 1997, and its publication in the statute book.

SILVER HAired LEGISLATURE Resolution No. 1306

By PSA 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11

1 A RESOLUTION commending the transfer of long-term care programs
2 for the elderly from the department of social and
3 rehabilitation services to the department on aging.

4 WHEREAS, During the 1996 regular session, the Kansas
5 Legislature enacted 1996 Substitute for House Bill No. 3047,
6 which was published in Chapter 271 of the 1996 Session Laws of
7 Kansas and which transfers the responsibility for the
8 administration of long-term care programs for persons aged 65
9 years and older from the Department of Social and Rehabilitation
10 Services to the Department on Aging;

11 WHEREAS, The long-term care programs transferred include the
12 nursing facility services payment program, the home and
13 community-based nursing facility waiver program and the income
14 eligible (home care) program; and

15 WHEREAS, The program transfers are to be made pursuant to a
16 transfer plan jointly developed by the Secretary of Social and
17 Rehabilitation Services and the Secretary of Aging and the
18 transfers are to be effective on or before July 1, 1997: Now,
19 therefore,

20 Be it resolved by the Silver Haired Legislature of the State
21 of Kansas: That the Silver Haired Legislature hereby commends
22 the Kansas Legislature for enacting 1996 Substitute for House
23 Bill No. 3047, Chapter 271 of the 1996 Session Laws of Kansas,
24 which provides for the transfer of long-term care programs for
25 elderly Kansans from the Department of Social and Rehabilitation
26 Services to the Department on Aging; and

27 Be it further resolved: That the Silver Haired Legislature
28 is totally supportive of this transfer of the long-term care
29 programs as provided by this legislation; and

30 Be it further resolved: That the Department of Social and
31 Rehabilitation Services and the Department on Aging are hereby
32 commended for the effective manner in which the officers and
33 employees of both departments have initiated and are implementing
34 this transfer of the long-term care programs.

SILVER HAired LEGISLATURE RESOLUTION NO. 1307

By PSA 4, 9 and 10

1 A RESOLUTION commending the Department of Social and
2 Rehabilitation Services on obtaining and implementing the
3 federal medicaid waiver for payment of costs of care and
4 services provided to frail elderly persons in assisted
5 living facilities.

6 WHEREAS, In March, 1996, the Department of Social and
7 Rehabilitation Services submitted to the Health Care Financing
8 Administration for approval a Home and Community Based
9 Services/Frail Elderly Waiver that would allow payment of
10 operations of assisted living facilities under the medicaid plan
11 for costs incurred for care and services provided to frail
12 elderly; and

13 WHEREAS, The Department worked with the Health Care Financing
14 Administration to make necessary revisions to obtain approval of
15 the waiver in an unusually short time, by June, 1996; and

16 WHEREAS, The Department is preparing to implement the waiver
17 January 1, 1997: Now, Therefore,

18 Be it resolved by the Silver Haired Legislature of the State
19 of Kansas: That the Silver Haired Legislature commends the
20 Department of Social and Rehabilitation Services on obtaining and
21 implementing the Home and Community Based Services/Frail Elderly
22 Waiver.

SILVER HAired LEGISLATURE BILL NO. 1308

By PSA 4, 5 and 9

1 AN ACT providing consumer choice of health care provider;
2 enacting the patient protection act.

3 Be it enacted by the Silver Haired Legislature of the State of
4 Kansas:

5 Section 1. This act shall be known and may be cited as the
6 patient protection act.

7 Sec. 2. The legislature finds that a patient should be given
8 the opportunity to see the health care provider of the patient's
9 choice. In order to assure the residents of the state of Kansas
10 the right to choose the provider of their choice, it is the
11 intent of the legislature to provide the opportunity of providers
12 to participate in health benefit plans.

13 Sec. 3. As used in this act:

14 (a) "Copayment" means a type of cost sharing whereby insured
15 or covered persons pay a specified predetermined amount per unit
16 of service or percentage of health care costs with their health
17 care insurer paying the remainder of the charge. The copayment
18 is incurred at the time the service is rendered. The copayment
19 may be a fixed or variable amount.

20 (b) "Gatekeeper system" means a system of administration
21 used by any health benefit plan in which a primary care provider
22 furnishes basic patient care and coordinates diagnostic testing,
23 indicated treatment, and specialty referral for persons covered
24 by the health benefit plan.

25 (c) "Health benefit plan" means any entity or program that
26 provides reimbursement, including capitation, for health care
27 services.

28 (d) "Health care provider" means those persons and entities
29 defined as a health care provider under K.S.A. 65-4915, and
30 amendments thereto.

31 (e) "Health care services" means services and products
32 provided by a health care provider within the scope of the
33 provider's license.

34 (f) "Health care insurer" means any entity, including but
35 not limited to, insurance companies, hospital and medical service
36 corporations, health maintenance organizations, preferred
37 provider organizations, physician hospital organizations,
38 third-party administrators and prescription benefit management
39 companies authorized to administer, offer or provide health
40 benefit plans.

41 Sec. 4. (a) A health care insurer shall not, directly or
42 indirectly:

43 (1) Impose a monetary advantage or penalty under a health

1 benefit plan that would affect a beneficiary's choice among those
2 health care providers who participate in the health benefit plan
3 according to the terms offered. Monetary advantage or penalty
4 includes higher copayment, a reduction in reimbursement for
5 services or promotion of one health care provider over another by
6 these methods; or

7 (2) impose upon a beneficiary of health care services under
8 a health benefit plan any copayment, fee or condition that is not
9 equally imposed upon all beneficiaries in the same benefit
10 category, class or copayment level under that health benefit plan
11 when the beneficiary is receiving services from a participating
12 health care provider pursuant to that health benefit plan.

13 (3) Prohibit or limit a health care provider that is
14 qualified under subsection (d) of section 3 and is willing to
15 accept the health benefit plan's operating terms and conditions,
16 its schedule of fees, covered expenses, utilization regulations
17 and quality standards, the opportunity to participate in that
18 plan.

19 (b) Nothing in this act shall prevent a health benefit plan
20 from instituting measures designed to maintain quality and to
21 control costs, including but not limited to, the utilization of a
22 gatekeeper system, as long as such measures are imposed equally
23 on all providers in the same class.

24 Sec. 5. Nothing in this act shall be construed to require
25 any health care insurer to cover any specific health care
26 service. Provided, however, no condition or measure shall have
27 the effect of excluding any type or class of provider qualified
28 under section 4 to provide that service.

29 Sec. 6. Any person adversely affected by a violation of this
30 act may sue in a court of competent jurisdiction for injunctive
31 relief against the health care insurer and, upon prevailing, in
32 addition to such relief, shall recover damages not less than
33 \$1,000, attorney fees and costs.

34 Sec. 7. To avoid impairment of existing contracts, the
35 patient protection act shall apply only to contracts issued or
36 renewed after the effective date of the act. Any provision in a
37 health benefit plan which is executed, delivered or renewed or
38 otherwise contracts for provision of services in this state that
39 is contrary to this act, to the extent of the conflict, shall be
40 void.

41 Sec. 8. It is a violation of this act for any health care
42 insurer or other person or entity to provide any health benefit
43 plan providing for health care services to residents of this
44 state that does not conform to this act, but nothing in this act
45 shall constitute a violation on the basis of actions taken by the
46 health benefit plan to maintain quality, enforce utilization
47 regulations and to control costs.

48 Sec. 9. This act shall take effect and be in force from and
49 after its publication in the statute book.

Substitute RESOLUTION FOR SILVER HAired LEGISLATURE BILL NO. 1311

By SHL Committee on Education

1 A RESOLUTION concerning public school finance.

2 WHEREAS, The SHL Committee on Education was charged with the
3 responsibility of considering SHL Bill No. 1311, concerning
4 public school finance; and

5 WHEREAS, The SHL Committee on Education heard extensive
6 testimony on the issue of public school finance from
7 Representative Ralph Tanner, Deputy Commissioner of Education
8 Dale Dennis, and Research Analyst Chris Courtwright; and

9 WHEREAS, The SHL Committee on Education has concluded that
10 the Kansas Legislature should be encouraged in the performance of
11 the Legislature's constitutional duty to provide for a suitable
12 education for all school-aged Kansas children; and

13 WHEREAS, The SHL Committee on Education also has concluded
14 that guidelines for provision of a suitable education in Kansas
15 should be such that all Kansas children, upon graduation from
16 high school, will be prepared to enter an institution of higher
17 education of their choice and maintain their status as students
18 or, in the alternative, will be prepared to enter the work force
19 of their choice, and in either circumstance, will be enabled to
20 achieve success in their choice of vocation: Now, therefore,

21 Be it resolved by the Silver Haired Legislature of the
22 State of Kansas: That, in recognition of the efforts of the SHL
23 Committee on Education, the Silver Haired Legislature hereby
24 adopts the conclusions of the committee and determines that there
25 is a need for all school-aged Kansas children to be provided with
26 a suitable education and that the provision of a suitable
27 education requires suitable funding; and

28 Be it further resolved: That the Silver Haired Legislature
29 hereby urges the Kansas Legislature to further study the issue of
30 public school finance, to consider carefully the financial
31 resources of Kansas citizens, and to provide suitable funding for
32 the education of Kansas children in an adequate, equitable and
33 fair manner.

SILVER HAired LEGISLATURE BILL NO. 1312

By PSA 11

1 AN ACT relating to insurance; concerning the mandatory
2 reinstatement of certain life insurance policies in case of
3 mental incapacity of an insured.

4 Be it enacted by the Silver Haired Legislature of the State of
5 Kansas:

6 Section 1. (a) The provisions of sections 1 through 8 shall
7 apply to all individual life insurance policies issued to
8 residents of this state that are subject to lapsing on and after
9 the effective date of this act, issued by an insurer authorized
10 to do business in this state.

11 (b) The provisions of sections 1 through 8 shall not apply
12 to a life insurance policy that provides nonforfeiture benefits,
13 which would maintain the contract for one year.

14 (c) As used in sections 1 through 8, "policy" means an
15 individual life insurance policy.

16 Sec. 2. (a) A policy shall be entitled to reinstatement
17 under this act if:

18 (1) Such policy has been in effect continuously for at least
19 five years immediately preceding the lapse;

20 (2) such policy has been without default in the payment of
21 premiums during such period; and

22 (3) there is a subsequent unintentional default in premium
23 payments caused by mental incapacity of the insured.

24 (b) A policy shall be reinstated within one year from the
25 date of lapse if such policy meets the requirements of subsection
26 (a), on payment of arrears of premiums with interest. The rate
27 of interest may not exceed 6% per annum.

28 Sec. 3. (a) For purposes of this act, "mental incapacity"
29 means lacking the ability, based on reasonable medical judgment,
30 to understand and appreciate the nature and consequences of a
31 decision regarding failure to pay a premium when due and the
32 ability to reach an informed decision in the matter.

33 (b) Mental incapacity must be established by the clinical
34 diagnosis of a physician licensed in this state and qualified to
35 make the diagnosis.

36 Sec. 4. (a) A request for reinstatement of coverage under
37 this act and proof of mental incapacity may be filed with the
38 insurer by:

39 (1) The insured;

40 (2) the legal guardian of the insured;

41 (3) other legal representative of the insured; or

42 (4) the legal representative of the estate of the insured.

43 (b) Proof of mental incapacity and an accompanying request

1 for reinstatement must be made not later than the first
2 anniversary date after the lapse of a policy eligible for
3 reinstatement.

4 Sec. 5. (a) After the requirements of section 4 have been
5 satisfied, an insurer subject to this act shall reinstate,
6 without evidence of insurability, coverage that has lapsed under
7 the circumstances described by section 2.

8 (b) An insurer may require, as a condition of reinstatement,
9 payment of premiums plus interest owed for the period from the
10 date of initial lapse to the date of reinstatement.

11 (c) On reinstatement of the coverage, the initial
12 contractual provisions apply as if coverage had been continuous
13 and without interruption.

14 Sec. 6. An insurer shall pay the amount of benefits owed
15 under a policy that is eligible for reinstatement under this act,
16 reduced by the amount of premiums and interest owed and unpaid on
17 the date on which the benefits are paid, if there is an
18 uncontroverted claim for benefits that exceed the amount of
19 premiums and interest owed.

20 Sec. 7. An insurer is not required to reinstate coverage or
21 pay benefits under this act if the insured first became mentally
22 incapacitated after the expiration of an applicable grace period
23 contained in the policy.

24 Sec. 8. (a) Each insurer shall disclose fully to each of its
25 policyholders, contract holders or covered persons the
26 requirements of this act.

27 (b) The disclosure shall be forwarded to applicable
28 policyholders, contract holders or covered persons either:

29 (1) Within 90 days following a lapse of a policy regulated
30 by this act; or

31 (2) within 90 days after the effective date of this act to
32 each existing policyholder whose policy is regulated by this act.
33 Disclosure thereafter on policies issued after the effective date
34 of this act may be made by including the disclosure information
35 in the policy or in an endorsement attached to the policy.

36 (c) Notice will be deemed to be in compliance with this act
37 if mailed by first-class mail to the last known address of the
38 policyholder or if contained in the policy form or as an
39 endorsement thereto.

40 (d) The commissioner of insurance may adopt reasonable rules
41 and regulations to implement the provisions of this act. Such
42 disclosure shall be made in the form and manner prescribed by the
43 commissioner of insurance.

44 Sec. 9. This act shall take effect and be in force from and
45 after its publication in the statute book.

SILVER HAired LEGISLATURE RESOLUTION NO. 1313

By PSA 1, 2, 3, 4, 5, 6,
7, 8, 9, 10 and 11

1 A RESOLUTION commending the Kansas Legislature for enacting
2 legislation concerning institutional-based long-term care
3 services; division of assets; and frivolous claims by
4 inmates.

5 WHEREAS, In 1989, the Kansas Legislature enacted K.S.A.
6 39-791 which amends the statutes imposing the division of assets
7 requirements for eligibility for certain social welfare benefits
8 with federal medicaid participation; and

9 WHEREAS, During the 1995 and 1996 sessions, the Kansas
10 Legislature has enacted legislation which discourages inmates
11 incarcerated in state correctional facilities from filing court
12 actions or claims by imposing nonwaivable filing fees and
13 prescribing the loss of good time credits for filing frivolous,
14 false or malicious actions or claims, submitting false testimony
15 or evidence or otherwise abusing civil process; and

16 WHEREAS, In the 1996 session, the Kansas Legislature has
17 enacted legislation that removes the eligibility requirement that
18 applicants for institutional-based long-term care services shall
19 not have income in excess of a maximum amount equal to 300% of
20 federal supplemental security income: Now, therefore,

21 Be it resolved by the Silver Haired Legislature of the State
22 of Kansas: That the Silver Haired Legislature hereby commends
23 the Kansas Legislature for enacting the above stated legislation.

SILVER HAIRED LEGISLATURE RESOLUTION NO. 1314

By PSA 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11

1 A RESOLUTION requesting the Kansas Legislature to enact
2 legislation relating to nonprobate transfer of property;
3 better management of KPERS; cost-of-living adjustment for
4 KPERS members; and full disclosure in real property
5 transactions.

6 Be it resolved by the Silver Haired Legislature of the State
7 of Kansas: That the Silver Haired Legislature requests the
8 Kansas Legislature to:

9 (a) Study and enact legislation authorizing nonprobate
10 transfer of property which would provide for transfer of real and
11 personal property, which is titled or registered or otherwise has
12 official documentation evidencing ownership, through the
13 mechanism of naming beneficiaries in the documents of ownership
14 or registration without requiring other methods of testamentary
15 disposition such as wills, trusts or joint ownership with right
16 of survivorship;

17 (b) enact legislation which will result in better management
18 of retirement systems under the Kansas Public Employees
19 Retirement System;

20 (c) enact a cost-of-living benefit adjustment (COLA) to
21 provide for appropriate postretirement benefit increases for
22 members of the retirement systems under the Kansas Public
23 Employees Retirement System; and

24 (d) enact legislation that requires the full disclosure to
25 purchasers of real property located in Kansas of all covenants,
26 restrictions and other limitations on the use of the real
27 property prior to entering into any sale of such property or any
28 contract to sell such property.

SILVER HAired LEGISLATURE RESOLUTION NO. 1315

By PSA 6

1 A RESOLUTION requesting the Kansas Legislature to enact
2 legislation to prescribe more severe penalties for violations
3 of laws in circumstances relating to abuse, neglect or
4 exploitation of adults.

5 WHEREAS, The Legislature enacted K.S.A. 39-1402, and
6 amendments thereto, which prescribes that any person who is
7 required to report information or to cause a report to be made of
8 information regarding instances of a person who is a resident of
9 an adult care home, adult family home, medical care facility or
10 who is receiving services from a community mental retardation
11 facility or a facility licensed under K.S.A. 75-3307b, and
12 amendments thereto, or care or treatment from a state psychiatric
13 hospital or a state institution for the mentally retarded, being
14 abused, neglected or exploited or of any such person in need of
15 protective services and who knowingly fails to make such report
16 or cause such report not to be made, shall be guilty of a class B
17 misdemeanor; and

18 WHEREAS, The Legislature has enacted K.S.A. 39-1431, and
19 amendments thereto, which prescribes that any person who is
20 required to report information or to cause a report to be made of
21 information regarding instances of an adult being abused,
22 neglected or exploited or of an adult in need of protective
23 services and who knowingly fails to make such report or cause
24 such report not to be made, shall be guilty of a class B
25 misdemeanor; and

26 WHEREAS, During the 1996 regular session, the Kansas
27 Legislature enacted 1996 Senate Bill No. 297, which is published
28 in Chapter 121 of the 1996 Session Laws of Kansas and which
29 provides for enhanced civil penalties under the Kansas consumer
30 protection act when elder or disabled persons are victims of
31 violations of the Kansas consumer protection act: Now, therefore,

32 Be it resolved by the Silver Haired Legislature of the State
33 of Kansas: That the Silver Haired Legislature hereby requests the
34 Kansas Legislature to enact more severe penalties for violations
35 of statutes requiring the reporting of instances of adults who
36 are being abused, neglected or exploited or who are in need of
37 protective services and for acts or omissions which are
38 violations of statutes and which result in abuse, neglect or
39 exploitation of adults.

SILVER HAired LEGISLATURE RESOLUTION NO. 1316

By PSA 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11

*A RESOLUTION commending the Leadership of the 1995-1996 Kansas
Silver Haired Legislature*

WHEREAS, Mary Threlfall Smith, Chairperson of PSA 2 and Chairperson of the Executive Board of the Silver Haired Legislature, has devoted many hours of Leadership and has used her talents to make and donate special decorations and gifts on behalf of the Silver Haired Legislature; and

WHEREAS, Oleta Peters, Delegate from Seward County, willingly assumed Leadership of the Executive Board of the Silver Haired Legislature at a critical time of transition prior to the 1995 Election and has donated hand-crafted articles for funding toward the continuation of the work of the Silver Haired Legislature; and

WHEREAS, during the 1995-1996 Silver Haired Legislative Sessions, Joann Wiley, Speaker of the House, Wayne Comer, Speaker Pro Tem, and David Stallard, Floor Leader, have provided exemplary Leadership and enthusiasm and have encouraged a spirit of cooperation throughout their terms of office; Now, therefore,

Be it resolved by the Silver Haired Legislature of the State of Kansas:
That, in recognition of the exemplary Leadership of these Delegates the Kansas Silver Haired Legislature hereby expresses its appreciation and commendation for their outstanding dedication at the Fourteenth Annual Session held in Topeka on October 16, 17 and 18, 1996.

1996 GIFTS AND DONATIONS TO KANSAS SILVER HAired LEGISLATURE

\$1,500.00
SOUTHWESTERN BELL, INC.

\$1,000.00
KANSAS COUNCIL OF SILVER HAired LEGISLATURE

\$300.00 - \$500.00

BLUE CROSS/BLUE SHIELD OF KS	GRANT COUNTY BOARD ON AGING
HAMILTON COUNTY V.I.P.'s	MEADE COUNTY COUNCIL ON AGING
STEVENS COUNTY COUNCIL ON AGING	WICHITA COUNTY SENIOR CITIZENS

\$100.00 - \$299.00

BARBER COUNTY COMMISSION	KEARNY COUNTY SENIOR CITIZENS
BARTON COUNTY COMMISSION	KINGMAN COUNTY COMMISSION
BURDETT SENIORCITIZENS	KEITH KNUDSON
BURLINGTON SENIOR CENTER	LINN COUNTY COMMISSION
BUTLER COUNTY COMMISSION	LOGAN COUNTY COMMISSION
CHASE COUNTY COMMISSION	MARION COUNTY SENIOR CITIZENS
COFFEY COUNTY COMMISSION	MOSCOW SENIOR CENTER
WAYNE COMER	MOUND VALLEY SENIOR SITIZENS
CRAWFORD COUNTY COMMISSION	MARY OVEROCKER
DECATUR COUNTY COMMISSION	PHILLIPS COUNTY COMMISSION
EDWARDS COUNTY COMMISSION	DRAIT COUNTY COMMISSION
FOWLER SENIOR CENTER	SEWARD COUNTY COUNCIL ON AGING
FRANKLIN COUNTY COMMISSION	MARY THRELFALL SMITH
GRAHAM COUNTY COMMISSION	STANTON COUNTY COMMISSION
JANE GINGLES	ST. JOHN SUNFLOWERS
GRAY COUNTY COUNCIL ON AGING	ST. FRANCIS SENIOR CENTER
GRANT COUNTY COMMISSION	TREGO COUNTY COMMISSION
HASKELL COUNTY ON AGING	TURON SENIOR CITIZENS CENTER
HASKELL COUNTY COMMISSIN	WALLACE SENIOR CITIZENS
JACKSON COUNTY COMMISSION	WALLACE COUNTY COMMISSION
JETMORE SENIOR CENTER	WELCOME INN, LARNED
JEWELL COUNTY COMMISSION	WICHITA COUNTY COMMISSION

\$26.00 - \$99.00

ALTAMONT SENIOR CITIZENS	EMDORIA SENIOR CENTER
ATTICA SENIOR CITIZENS	FORMOSO SENIOR CENTER
BAZINE SENIOR CITIZENS	FRANKLIN COUNTY AARD
BURR OAK HADY TUESDAY	GEARY COUNTY ENIOR CITIZENS
COFFEYVILLE AARD	HANSTON AREA COUNCIL ON AGING
RICHARD D. CANFIELD	HARDTNER SENIOR CENTER
CAMBRIDGE SENIOR CITIZENS	HIGHLAND SENIOR CENTER
CLAY CENTER LEISURE CLUB	HUDSON SENIOR CENTER
CONCORDIA SENIOR CENTER	HUNTER COMMISSION SITE
COUNCIL GROVE SENIOR CITIZENS	JEWELL SENIOR CITIZENS
DERBY ACTIVITIES CENTER	KENNETH CURRIE
DIGHTON SENIOR CENTER	BEULAH KELLOGG
DEXTER SENIOR CITIZENS	ROY KELLER
ELLSWORTH CO. COUNCIL ON AGING	JOANN WILEY
KIOWA SENIOR CENTER	RANDALL SENIOR CITIZENS
LEBANON OVER 60 CLUB	RICE CO. RET. TEACHERS ASSOCIATION

MOUNTEZUMA COUNCIL ON AGING
MORRIS COUNTY SENIOR CITIZENS
MOUNDRIDGE SENIOR CITIZENS
NORTON SENIOR CITIZENS
NESS CITY LEISURE YEARS
ONAGA SENIOR CITIZENS CLUB
OTTAWA SENIOR CITIZENS
OVERLAND PARK AARD
PERRY SENIOR CENTER
PRETTY PRAIRIE SENIOR CENTER

STANTON COUNTY SENIOR CENTER
SEDAN SENIOR CENTER
SHARON SENIOR CENTER
STANLEY PRESBYTERIAN JOY GROUND
ST. JOHN SHEPHERD'S CENTER
SMITH CO. AREA RETIRED TEACHERS
SMITH CENTER 60 +
TIDTON SENIOR CENTER
HOWARD WANAMAKER
WAKEFIELD RETIREES

\$5.00 - \$25.00

ARMA'S GOLDEN CENTER
ASSARIA XYZ
ATTICA SENIOR CITIZENS
AMERICUS SENIOR CENTER
ALTA VISTA SENIOR CENTER
ROGER BARR
BISON SENIOR CITIZENS
BLAINE SENIOR CITIZENS
BUFFALO SENIOR CITIZENS
CALDWELL SENIOR CENTER
CARLTON SENIOR CENTER
CHADMAN SENIOR CENTER
CAWKER CITY SENIOR CENTER
CHETOPA SENIOR CITIZENS
CHEROKEE SENIOR CENTER
CITY OF ARKANSAS CITY
CHADMAN AARD
COTTONWOD FALLS SENIOR CENTER
CLYDE SENIOR CENTER
CUBA SENIOR CITIZENS
BELDRE KEEN AGERS
BELLE PLAINE SENIOR CENTER
DOROTHY DAMME
ELK CITY SENIOR CITIZENS
ELK FALLS SENIOR CITIZENS
ELLINWOOD HERITAGE
ESBON SENIORETTE
GALVA SENIOR CITIZENS
GOLDEN AGERS, McCRAKEN
GOLDEN CHAIN, CLEARWATER
GRENOLA SENIOR CITIZENS
HAMILTON SENIOR CITIZENS
HAPPY HOUR, FALL RIVER
HARDER SENIOR MEALS
HAYS SENIOR CENTER
HOWARD SENIOR CENTER
HUDSON SENIOR CENTER
INMAN SENIOR CENTER
JAMESTOWN 4-CORNERS CENTER
KISMET SENIOR CENTER
LA HARDE SENIOR CITIZENS

LEBO SENIOR CITIZENS
LINCOLNVILLE SENIOR CENTER
LITTLE RIVER SENIOR CENTER
LEONARDVILLE SEIOR CITIZENS
W. E. LEE
LANE SENIOR CITIZENS FUND
LOGAN SENIOR CENTER
LEROY SENIOR CENTER
LONGTON SENIOR CENTER
MAHASKA MEAL SITE
MADLE LEAF SENIOR CENTER
MAYFIELD SENIOR CITIZENS
MOUND CITY SENIOR CENTER
McPHERSON RETIRED TEACHERS
NATOMA SENIOR CITIZENS
NIOTAZE SENIOR CITIZENS
NORTH LYON SENIOR CENTER
NEOSHO RAPIDS SENIOR CENTER
OTIS HAPPY AGERS CLUB
OXFORD SENIOR CENTER
OLDSBURG SENIOR CITIZENS
PERU SENIOR CITIZENS
PEABODY SENIOR CITIZENS
MELVIN POTTS
PAOLA SENIOR CENTER
NILES SENIOR CENTER
RANDOLPH VALLEY SENIOR CENTER
ROSE HILL SENIOR CENTER
DOWNS SENIOR CENTER
GOLDA RUSS
ROSSVILLE SENIOR CITIZENS
SELDON SENIOR CENTER
SEVERY SENIOR CENTER
SIMPSON COMMISSION SITE
SPRING HILL NUTRITION SITE
SUNFLOWER CENTER, JENNINGS
WAVERLY SENIOR CENTER
WHITE DRAIRIE WHITE CITY CENTER
WEIR SENIOR CENTER
WOODBINE GOLDEN AGERS
CHISHOLM TRAIL SRS., INC.

Managed care often puts profit before care

Physicians have throughout the history of modern medicine lived by the fiduciary ethic that "under no circumstances may physicians place their own financial interests above the welfare of their patients."



Dr. Bill Roy

Seeking the center

Today many physicians are employees of managed care companies, which have no such fiduciary ethic. Rather, managed care companies have contracts with the employers and governments that pay for your medical care.

Bradford Gray emphasizes in a recent article on "Trust and Managed Care" in "Health Affairs," a policy journal, that ethical statements "by managed care companies are framed in terms of patients' rights rather than

caregivers' obligations. Economic conflicts of interest are not addressed or even acknowledged."

The failure to address economic conflicts of interest in managed care is shocking when one recognizes that most managed care companies recognize only one overwhelming obligation, that of maximizing profit for investors.

Gray recognizes the loss of power of physicians. In many communities physicians are dependent on managed care companies for referral of patients. Other physicians are employees of managed care companies.

Physicians' practices are monitored by managed care companies. Those who are "most efficient," which means provide care at the least cost, continue to get referrals, or are continued as employees. Those who spend too much are off the list or fired. Or just "retrained."

In many instances, physicians share in the dollars that come from their economies, or sacrifice dollars if they exceed cost goals. In areas where most people receive care via

a managed care company, physicians' livelihoods depend on their relationship to managed care companies.

And now three-quarters of employees have been placed in managed care by their employers in a successful effort to cut the cost of health care benefits. Medicaid programs for the poor are moving rapidly to managed care and the federal government is hatching schemes to entice Medicare recipients into managed care — in all instances to control costs.

Gray puts it succinctly: "Managed care is a response of purchasers to problems in the doctor/payer/payer nexus. Managed care does not, however, eliminate patients' vulnerability or their need for trustworthy care."

Gray lists four sources that may interfere with any effort to improve trust in managed care. First are perverse incentives, such as those managed care companies impose on physicians and other providers, and the second, the limited ability to collect performance data.

Experts have observed for a couple of decades that no one is very good at ascertaining quality and outcomes of care, but nearly everyone can determine to the last penny the cost of care. In addition, for-profit companies are not much interested in investing a lot of money in quality and outcomes research.

Thirdly, Gray notes, "Many employers are interested primarily in price, and their influence may exacerbate some of the dangers of managed care." There are exceptions, such as Xerox, but small companies are hard put to evaluate the quality of the managed-care companies they choose for their employees — even if they are willing to pay a bit more for quality.

The fourth "doubt" Gray has about restoring trust to managed care is one about patients as consumers. Exacerbating this doubt are road-blocks to patients changing physicians, and the incomplete and often confusing data with which they are presented when they do have a choice.

A physician-executive of United Health Care Corporation, a for-profit managed care company responded to Gray's paper, "I was my physician to place more emphasis on competence and outcomes than on the fiduciary ethic." Either/or? And when?

Gray writes, "For the foreseeable future, the new methods of accountability should be viewed as supplements, not alternatives to trustworthy physicians who adhere to the fiduciary ethic. The ethical obligations of physicians are more closely defined than the obligation of institutions."

For now, I can only advise that, in doubt, you ask your physician he/she is paid, whether his income and/or job are dependent on meeting given financial goals, and how you and he/she can cope with financial restraints and incentives which may affect his medical decisions.

Dr. Bill Roy is a retired Topeka physician and former Democratic member of Congress.

*Senete 7/20/97
Attachment 3
2-20-97*

American Civil Liberties Union
of Kansas and Western Missouri

Lobbyist/Wendy McFarland (913) 575-5749

TESTIMONY IN SUPPORT OF THE PATIENT PROTECTION ACT
SENATE BILL 286
DELIVERED 2/19/97

TO MEMBERS OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE:

THE FOLLOWING TESTIMONY WAS PRESENTED TO THE SENATE JUDICIARY
COMMITTEE ON JANUARY 29, 1997 AND CONCERNED THE ISSUES
ADDRESSED IN SB 286. I THEREFORE AM SUBMITTING IT ALONG WITH MY
COMMENTS TODAY IN SUPPORT OF THE 'PATIENT PROTECTION ACT'.

TESTIMONY ON SB 72 DELIVERED JANUARY 29, 1997
TO THE SENATE JUDICIARY COMMITTEE

MY NAME IS WENDY MCFARLAND AND I REPRESENT THE ACLU. I HAVE BEEN A PROUD
MEMBER OF THIS ORGANIZATION FOR 24 YEARS SO THE POSITION I TAKE WITH YOU
TODAY IS NOT ONLY ONE SANCTIONED BY THE ACLU BUT ALSO ONE I STRONGLY BELIEVE
IN.

A THANK YOU IS IN ORDER FOR THE BELATED OPPORTUNITY TO TESTIFY AND OFFER AN
AMENDMENT TO A LAW THAT WAS PASSED DURING THE 1996 SESSION.

I REFER TO THE PORTION OF SB 72 ON PAGE 5, LINE 39, THAT SEALS CERTAIN RECORDS OF
THE UNIVERSITY OF KANSAS MEDICAL CENTER. THE REQUEST FOR CLOSURE OF THESE
RECORDS WAS MADE LAST YEAR IN THIS COMMITTEE DURING THE 11TH HOUR AND WAS
IMMEDIATELY SENT INTO CONFERENCE COMMITTEE WHICH PRECLUDED ANY
OPPORTUNITY TO OPPOSE IT WITH TESTIMONY.

THE MEASURE WAS AMENDED INTO ANOTHER BILL AND WAS EVENTUALLY TO BE
SIGNED INTO LAW BY THE GOVERNOR.

I ECHO THE SENTIMENTS OF MANY WHEN I EXPRESS TO YOU MY SURPRISE AT SEEING ITS
REAPPEARANCE IN THIS BILL. WHAT MANY OF YOU MAY STILL NOT KNOW IS THAT TWO
VERSIONS OF THE STATUTE THIS BILL SEEKS TO AMEND, KSA 45-221 AND 45-221 D, WERE
PASSED LAST YEAR. THEREFORE THE REAPPEARANCE OF THIS PROVISION WAS
NECESSITATED TO RECONCILE THE CONFLICT CREATED BY THE PASSAGE OF TWO SLIGHTLY
DIFFERENT VERSIONS OF THE SAME BILL.

A LITTLE BACKGROUND ON THE HISTORY OF THIS PORTION OF SB72 IS IN ORDER.
ACCORDING TO AN ASSOCIATED PRESS STORY DATED 4/13/96 THE UNIVERSITY OF
KANSAS MEDICAL CENTER LOBBYIST APPEARED BEFORE THIS COMMITTEE AND ASKED

FOR AN EXEMPTION TO THE STATES OPEN RECORD ACT.

HE WAS QUOTED IN EXPLAINING HIS REASON FOR THE REQUEST AS SAYING "HE DIDN'T WANT TO KICK A SLEEPING DOG SO THAT THOSE WHO COULD GET ACCESS TO THE RECORDS WOULD NOT KNOW THEY COULD BEFORE THE LEGISLATURE CLOSED THEM."

FORMER SEN. BILL BRADY OF THIS COMMITTEE, IN DESCRIBING THE REQUEST, SAID "BASICALLY WE HAD A FIVE MINUTE HEARING AND THEY SAID THEY COULDN'T TALK ABOUT IT BECAUSE IT WOULD DRAW TOO MUCH ATTENTION TO IT."

ACCORDING TO THE STORY, WHEN THE REPORTER BEGAN TO ASK THE LOBBYIST QUESTIONS AFTER THE HEARING, HE ASKED THAT A STORY NOT BE PRINTED.

THE ASSOCIATED PRESS THEN FILED A REQUEST UNDER THE OPEN RECORDS ACT FOR ACCESS TO THE RECORDS. THE OFFICIALS AT THE KU MEDICAL CENTER DENIED THE REQUEST WITH THE REJOINER THAT THEY WOULD TAKE THE MATTER TO COURT IF THEY NEEDED TO.

THEIR DEFENSE IN NOT PRODUCING THE RECORDS THEN, AS IT IS SURE TO BE NOW, STATED THAT THE RECORDS CONTAIN CONTRACTS WITH MANAGED CARE COMPANIES AND IN THEM ARE CONFIDENTIALITY CLAUSES PROHIBITING EITHER SIDE FROM DISCLOSING THE AGREEMENTS.

LEGAL OPINIONS SOUGHT BY THE ACLU CONCERNING THESE CLAUSES SAY THAT EITHER PARTY TO THE CONTRACT IS PROTECTED WHEN THE PARTY IS LEGALLY COMPELLED TO OPEN THEM.

IT IS NOT THE INTENT OF THE ACLU TO QUESTION THE CENTER'S INTEREST IN DOING WHAT THEY CAN TO REMAIN COMPETITIVE WITH PRIVATE HOSPITALS EVEN IF THAT MEANS KEEPING CERTAIN MARKETING INFORMATION PRIVATE. WE DO, AFTER ALL, AS RESIDENTS OF THE STATE OF KANSAS, SUPPORT THE MEDICAL CENTER WITH OUR TAX DOLLARS .

OUR SOLE CONCERN HERE IS THIS. WE BELIEVE THAT THE MEDICAL CENTER'S RECORDS THAT ARE NOW CLOSED TO PUBLIC SCRUTINY MAY VERY WELL CONTAIN CONTRACTS WITH MANAGED CARE ORGANIZATIONS THAT CONTAIN CLAUSES MORE COMMONLY REFERRED TO AS "GAG ORDERS" WHICH RESTRICT DOCTORS FROM OFFERING ALL AVAILABLE TREATMENT OPTIONS TO THEIR PATIENTS IN AN EFFORT TO KEEP COSTS DOWN.

THE KU MEDICAL CENTER MAY DENY THE EXISTENCE OF SUCH GAG ORDERS. WE WERE UNABLE TO LOCATE EVEN ONE CONTRACTING HEALTH CARE PROVIDER WHO WOULD ADMIT TO SUCH CLAUSES BUT THE UNITED STATES CONGRESS HAD LITTLE TROUBLE LAST YEAR IN LOCATING DOCTORS WILLING TO TESTIFY IN HEARINGS ON THE PATIENT'S RIGHT TO KNOW ACT WHO STATED THEY WERE INSTRUCTED TO OFFER ONLY CERTAIN COST- EFFECTIVE MEDICAL PROCEDURES THAT HAD BEEN OKAYED BY THE RESPECTIVE HMOs.

REFER TO THE PRINT- OUT OF CONGRESSIONAL TESTIMONY

IF THE UNIVERSITY OF KANSAS MEDICAL CENTER IS NOT HARBORING THE TYPE OF GAG ORDERS I HAVE REFERRED TO TODAY IN THEIR CLOSED RECORDS, THEN I WOULD HOPE THAT THEY WOULD SUPPORT OUR AMENDMENT THAT WILL SIMPLY PUT INTO LAW

WHAT THEY CONTEND TO BE THE CASE.

THE ACLU'S POSITION TODAY IS PREDICATED UPON TWO SOLID PROTECTIONS PROVIDED IN THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION.

THE SUPREME COURT HAS TREATED PROVISIONS OF THE FIRST AMENDMENT AS MORE FUNDAMENTAL THAN ANY OTHER PART OF THE CONSTITUTION. GAG ORDERS CLEARLY VIOLATE A DOCTOR'S ABILITY TO EXERCISE HIS RIGHT TO FREE SPEECH.

THE COURTS INTERPRETATION HAS TIME AND TIME AGAIN GIVEN SPECIAL PROTECTION TO THE FREE SPEECH RIGHTS OF THE PRESS BECAUSE OF THE IMPORTANT ROLE OUR FOUNDING FATHERS EXPECTED THE PRESS TO SERVE IN THE DEMOCRATIC PROCESS.

JUSTICE HUGO BLACK STATED IN HIS DECISION TO OVERRULE THE GOVERNMENT'S ATTEMPT TO SUPPRESS THE PUBLICATION OF THE PENTAGON PAPERS, THAT THE FOUNDING FATHERS IN THE FIRST AMENDMENT GAVE THE PRESS THE PROTECTION IT MUST HAVE TO FULFILL ITS ESSENTIAL ROLE IN OUR DEMOCRACY. THE PRESS WAS TO SERVE THOSE BEING GOVERNED, NOT THOSE WHO GOVERN. HE WENT ON TO SAY THAT THE GOVERNMENT'S POWER TO CENSOR THE PRESS WAS ABOLISHED SO THAT THE PRESS WOULD REMAIN FOREVER FREE TO CENSURE THE GOVERNMENT. THE PRESS WAS PROTECTED SO THAT IT COULD BARE THE SECRETS OF GOVERNMENT AND INFORM THE PEOPLE.

THE PRESS ATTEMPTED TO INFORM THE PEOPLE LAST YEAR WHEN THEY WROTE ABOUT THE POTENTIAL FOR GAG CLAUSES IN THE NOW SEALED RECORDS OF THE UNIVERSITY OF KANSAS MEDICAL CENTER. THEY WERE DENIED ACCESS TO THESE RECORDS AT A TIME WHEN THEY WERE STILL OPEN.

YOU HAVE A COPY OF THE AMENDMENT WE ARE PROPOSING. IT READS SIMPLY THAT THE EXEMPTION OFFERED TO THE RECORDS OF THE UNIVERSITY OF KANSAS MEDICAL CENTER WILL NOT APPLY WHEN THOSE RECORDS CONTAIN:

CONTRACTS, POLICY STATEMENTS, GUIDELINES OR OTHER WRITTEN MATERIALS THAT WOULD KEEP DOCTORS FROM FREELY DISCLOSING A DIAGNOSIS, TREATMENT OPTION OR OTHER INFORMATION TO PATIENTS.

BY ADDING THIS AMENDMENT YOU CAN SEND THREE STRONG MESSAGES. ¹FIRST, TO ALL KANSANS WHO THEMSELVES WILL ONE DAY BE A PATIENT, A REASSURING MESSAGE THAT THEIR RIGHT TO KNOW WILL BE PROTECTED BY YOU.

²SECOND, LET THE DOCTORS OF THIS STATE KNOW THAT YOU VALUE THEIR RIGHT TO EXERCISE FREE SPEECH IN COMMUNICATING WITH THEIR PATIENTS ,

³AND LAST, SEND A LOUD MESSAGE TO ALL KANSANS THAT YOU WILL PROTECT THEIR RIGHT TO UNFETTERED INFORMATION ABOUT THE ACTIONS OF THEIR GOVERNMENT BY KEEPING GOVERNMENT INFORMATION ACCESSIBLE TO THE PRESS.

**SB 286 MANAGED CARE (GAG ORDERS, REVERSE INCENTIVES,
ACCESS TO SPECIALIST AND EMERGENCY ROOM SERVICE)
TOM YOUNG AARP**

I WANT TO THANK SENATOR PRAEGER FOR HER EXPLINATION
YESTERDAY OF SB 286. IT WAS AN EXCELENT EXPLINATION OF THE
CONTENTS OF THE BILL. AARP AGREES THAT THIS BILL SHOULD BE
PASSED.

AS SENATOR PRAEGER SAID YESTERDAY WE ARE SURE NO
INSURANCE COMPANY IN KANSAS WOULD USE GAG ORDERS,
REVERSE FINANCIAL INCENTIVES OR NOT GIVE REASONABLE
ACCESS TO SPECIALIST. WE DO HOWEVER BELIEVE THAT ACCESS TO
EMERGENCY ROOM SERVICE CAN AND SHOULD BE IMPROVED BY
MANAGED CARE COMPANIES.

60% OF THE PEOPLE WHO HAVE MANAGED CARE WILL TELL YOU
THEY ARE PERFECTLY HAPPY WITH THEIR MANAGED CARE. THESE
ARE THE PEOPLE WHO GO ONCE A YEAR FOR THEIR ANNUAL CHECK
UP, GET THEIR FLU SHOTS AND OTHER ROUTINE MEDICAL CARE.
THEY HAVE HAD NO NEED FOR MAJOR MEDICAL OR EMERGENCY
ROOM SERVICE.

THE OTHER 40% HAVE HAD SOME KIND OF PROBLEM WITH THEIR
MANAGED CARE COMPANY. EVERYTHING FROM HAVING TO WAIT
ON THE TELEPHONE LINE FOR SEVERAL HOURS ON HOLD TO SOLVE
A MINOR ENROLLMENT PROBLEM TO GETTING PRIOR APPROVAL
FOR TREATMENT IN THE EMERGENCY ROOM.

AARP BELIEVES THAT GAG ORDERS SHOULD BE PROHIBITED AND
THAT THE PHYSICIAN AND PATIENT SHOULD BE ALLOWED TO
DISCUSS ALL POSSIBILITIES FOR TREATMENT AND MAKE A
DECISION TOGETHER ABOUT THE BEST TREATMENT FOR EACH
PATIENT. WE DO NOT WANT ANY KIND OF INCENTIVES WHICH
WOULD CAUSE THE DOCTOR TO UNDER TREAT A PATIENT. WE ALSO
WANT TO HAVE A SPECIALIST ASSIGNED AS THE PRIMARY CARE
PHYSICIAN WHEN THAT IS LOGICAL. AND WE CERTAINLY WANT
ACCESS TO EMERGENCY ROOM SERVICE WHEN IT IS NECESSARY TO
HAVE THAT SERVICE.

**WE SUPPORT SENATE BILL 286 AND WOULD ASK THAT YOU
SUPPORT IT ALSO.**

*Senate Filed
Attachment 4
2-20-97*



Kansas Psychiatric Society

a district branch of the American Psychiatric Association
623 SW 10th Ave, Topeka, Kansas 66612-1627
(913)235-2383 • (800)332-0156 • fax(913)235-5114

Testimony

Senate Financial Institutions and Insurance Committee
by Charles Wheelen, Executive Director *ChW*
February 20, 1997

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We appreciate this opportunity to express our support for the provisions of SB286. The Kansas Psychiatric Society believes that patients are entitled to certain rights which guarantee the opportunity to receive quality medical and other health care services. Senate Bill 286 would enact patient protections which reflect some of these important principles regarding patient rights.

Many psychiatrists practicing medicine in Kansas are now confronted with problems that can occur when an employer changes from traditional indemnity insurance to some variation of managed care. Even when the psychiatrist has made the effort to become a participating provider, sometimes the primary care physician is given an incentive to not refer patients for specialty care, or may be compelled to refer the patient to a particular physician or clinic when specialty care is medically necessary. If the patient already has an established medical relationship with a specialist, the lack of continuity can be damaging to the progress of a treatment program; particularly when the patient is being treated for a mental illness. The patient is the one who truly suffers the consequences, but the psychiatrist cannot help feeling frustrated and disappointed.

We are particularly supportive of the provisions in section 4 which prohibit "gag clauses." This would assure that the patient can be informed of treatment options and would allow the physician to advocate on behalf of the patient. When a patient is ill, he or she oftentimes is in no condition to advocate on their own behalf.

In addition, we are very supportive of section 5 which prohibits financial inducements to limit the provision of medically necessary services. We believe that quality of care can be jeopardized if clinical judgment is biased by financial disincentives.

We also support strongly the provisions of subsection (b) in section 7 which assures the opportunity for a patient to receive specialty care when the patient is suffering from a chronic condition or other illness which requires long-term specialized medical care. This would be particularly meaningful when the patient is mentally ill. It would allow the primary care physician to refer the patient to a participating psychiatrist for appropriate medical management.

We urge you to recommend SB286 for passage. Thank you.

*Senate F.D.D
Attachment 5
2-20-97*



KANSAS MEDICAL SOCIETY

February 19, 1997

TO: Senate Financial Institutions & Insurance Committee

FROM: Jerry Slaughter
Executive Director

SUBJECT: SB 286; concerning the Patient Protection Act

The Kansas Medical Society appreciates the opportunity to appear today in support of SB 286. This bill consists of five main provisions designed to assure that patients receive necessary care and information from health insurers as the pressures of managed care force changes on the health care system. The five elements of the bill are:

- 1) **payment for certain emergency services**; commonly known as the COBRA exam, this provision requires health insurers to pay for the medical examination and stabilizing treatment hospitals and physicians must provide to any patient who presents at an emergency department (section 3 of the bill);
- 2) **“gag” clauses**; this provision prohibits health insurers from restricting health care providers from discussing treatment options, the process the insurer uses to approve or deny health services, the availability of alternate therapies and any other information the provider deems appropriate (section 4);
- 3) **negative inducements**; this part of the bill prohibits health insurers from entering into compensation arrangements with participating providers which serve as an inducement to provide less care than is medically necessary and appropriate for the patient. (section 5);
- 4) **health plan disclosure requirements**; this provision requires health insurers to make available upon request comprehensive information regarding benefits, prior authorization policies, provider directories, notice of changes in the benefit plan, and a description of the insurer’s grievance procedures (section 6);
- 5) **provider network and access to specialty services**; this part of the bill does two things: (a) it requires that health insurers maintain an adequate provider network to serve its covered population; and (b) it requires health insurers to have a plan in which patients with life-threatening, chronic or disabling diseases may receive referral to a specialty provider who can coordinate the patient’s care, presumably without having to be referred by a primary care provider each time a visit or service is necessary (section 7).

*Senate F.D.D.
Attachment 6*

2-20-97

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Senate FI & I Committee

Testimony on SB 286

February 19, 1997

Page 2

It is important to point out that thus far we have been fortunate that not much of the behavior that is driving legislation such as SB 286 in other states has occurred in Kansas. However, as the pressures of competition and managed care increase, legislation such as this will serve as good preventive medicine that will benefit our citizens.

We are particularly supportive of the provisions of section 3 which require health insurers to pay for the medical examination and stabilizing treatment required under federal law. Experience from other states which have taken similar action suggest that ED costs do not go up appreciably because of the change.

We would like to offer one amendment to the legislation, which is in the attached balloon. This provision would prohibit health insurers from assigning or leasing its contracting provider network to other insurers under different terms than the provider had agreed to, without first giving notice to the affected providers. We are aware that this is happening, and it is very unfair to providers because of the market power that some insurers possess. There just simply isn't a level playing field in these instances, and at a minimum, providers should be given notice and an opportunity to cancel their contract prior to any such assignment.

The provisions in this legislation represent a strong statement on behalf of the legislature that health insurers must be fair and open in the emerging managed care marketplace. None of the provisions go too far or will create a hardship on insurers. The financial impact will be minimal, and patients will benefit. We urge your support of the bill. Thank you for considering our comments.

1 (b) A health insurer shall have a plan by which a covered person with
2 a life-threatening, chronic, degenerative or disabling condition or disease,
3 which requires specialized medical care over a prolonged period of time,
4 may receive a referral to a specialist with expertise in treating such disease
5 or condition who shall be responsible for and capable of providing and
6 coordinating the covered person's specialty care.

7 (c) Nothing in this section shall require a health insurer to provide
8 benefits not otherwise covered by the terms of the health benefits plan.

9 Sec. 8. This act shall take effect and be in force from and after its
10 publication in the statute book.

6-3

Sec. 8 No health insurer may commit a participating provider to contractual terms, including compensation arrangements which are contrary to or inconsistent with such provider's contract or agreement with such health insurer, when such health insurer assigns, leases or otherwise makes available a portion or all of its provider network, contracts or agreements to another health insurer, without first giving participating providers adequate written notice and an opportunity to cancel such contract or agreement. For the purposes of this section, adequate notice shall constitute 30 days.



Donald A. Wilson
President

To: Senate Committee on Financial Institutions and Insurance
From: Kansas Hospital Association
Tom Bell, Senior Vice President/Legal Counsel
Re: Senate Bill 286
Date: February 18, 1997

The Kansas Hospital Association appreciates the opportunity to comment in support of Senate Bill 286. This bill would make several changes to Kansas law regarding managed health care plans.

Managed care is a growing phenomenon in Kansas and other states. Companies involved in managed care employ various methods to oversee and control the care received, the amount providers are reimbursed for care, and the amount consumers pay for basic and supplemental care. In theory, managed care should help control costs, while maintaining quality. In practice, however, numerous criticisms have surfaced as this rapidly changing system continues to evolve. Because health care provider incomes are linked to keeping down cost, some are concerned that managed care encourages providers to underserve patients, raising quality concerns. Health care consumers are concerned about access to health care services caused by limits placed on their choice of providers. Providers have in turn warned about managed care intervening too much in medical decisions related to the care and treatment of patients.

We think SB 286 strikes an appropriate balance among these competing concerns. With regard to the emergency services issue, for example, it recognizes the constraints under which providers must operate, while at the same time acknowledging the health plan's need to manage care within fixed resources. (For the committee's information we have included on the reversed side federal and state legal requirements for hospitals regarding patients seeking emergency care.)

We urge the committee to recommend passage of SB 286. Thank you for your consideration of our comments.

*Senate File D
Attachment 7
2/20/97*

EMERGENCY SERVICE REQUIREMENTS

§ 1395dd. Examination and treatment for emergency medical conditions and women in labor

(a) Medical screening requirement

In the case of a hospital that has a hospital emergency department, if any individual (whether or not eligible for benefits under this subchapter) comes to the emergency department and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital must provide for an appropriate medical screening examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition (within the meaning of subsection (e)(1) of this section) exists.

(b) Necessary stabilizing treatment for emergency medical conditions and labor

(1) In general

If any individual (whether or not eligible for benefits under this subchapter) comes to a hospital and the hospital determines that the individual has an emergency medical condition, the hospital must provide either —

(A) within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition, or

(B) for transfer of the individual to another medical facility in accordance with subsection (c) of this section.

(U.S. Code)

28-34-16a. Emergency services. (a) Emergency services plans. Each hospital shall maintain a comprehensive, written emergency services plan based on community need and on the capability of the hospital. This plan shall include procedures whereby an ill or injured person can be addressed and either treated, referred to an appropriate facility or discharged. Regardless of the scope of its services, each hospital shall provide and maintain equipment necessary to institute essential life-saving measures for inpatients and, when referral is indicated, shall arrange for necessary transportation.

(b) Organized emergency services. In hospitals with organized emergency services, the following shall apply.

(1) Emergency services shall be available 24 hours a day, and medical staff coverage shall be adequate so that the patient will be seen within a period of time which is reasonable relative to the severity of the patient's illness or injury.

(2) No patient shall be transferred until the patient has been stabilized. A written statement of the patient's immediate medical problem shall accompany the patient when transferred. Every patient seeking medical care from the emergency services who is not in need of immediate medical care or for whom services cannot be provided by the hospital shall be given information about obtaining medical care.

(3) The emergency service, regardless of its scope, shall be organized and integrated with other departments of the hospital.

(4) The service shall be directed by a physician. The governing body shall adopt a written statement defining the qualifications, duties, and authority of the director. In the absence of a single physician, the direction of emergency medical services may be provided through a multidisciplinary medical staff committee, including at least one physician. The chairperson of this committee shall serve as director.

(5) The emergency nursing service shall be directed and supervised by a registered nurse with training in cardiopulmonary resuscitation. At least one registered nurse with this training shall be available at all times.

(6) The emergency service area shall be located near an outside entrance to the hospital and shall be easily accessible from within the hospital. Suction and oxygen equipment and cardiopulmonary resuscitation units shall be available and ready for use. This equipment shall include equipment used for tracheal intubation, tracheotomy, ventilating bronchoscopy, intra-pleural decompression and intravenous fluid administration. Standard drugs, parental fluids, plasma substitutes and surgical supplies shall be on hand for immediate use in treating life-threatening conditions.

(7) Written policies and procedures which delineate the proper administrative and medical procedures and methods to be followed in providing emergency care shall be established. A medical record shall be kept for each patient receiving emergency services and it shall be made a part of any other patient medical record maintained in accordance with K.A.R. 28-34-9a and amendments thereto.

(Kansas Administrative Regulations)



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Senate Bill 286
Senate Financial Institutions and Insurance

Chairman Steffes and members of the Financial Institutions and Insurance Committee:

I am Steve Kearney, appearing on behalf of CIGNA Corporation which includes CIGNA Healthcare of Kansas City. We appreciate your willingness to work with managed care in addressing many of the concerns that have been raised by this measure. With the addition of two amendments, CIGNA will be able to support SB 286.

Amendment #1: On page two, Sec. 3(a), lines 15 through 17, strike the following: "including emergency medical services necessary to provide the medical examination and stabilizing treatment required pursuant to section 1867 of the Social Security Act".

It is not necessary to cite the federal COBRA requirements, as long as the coverage decision in this section is based on presenting symptoms, is tied to the definition of "emergency medical condition" (page 1, Sec. 2 (a), lines 16-20) and does not require prior authorization.

Amendment #2: On page 2, Sec. 3 (e), lines 36-39, amend this section to require only that a plans "participating providers" are available 24 hours a day, 7 days a week.

Several small plans have shared their concerns with us concerning this section. They do not currently staff their office 24 hours per day, 7 days a week, and this section unamended would significantly drive up their costs. Their providers are of course available all the time.

Thank you for your consideration of these amendments.

*Senate F.I.S.I.
Attachment 8
2/20/97*



Statement of Kaiser Permanente re: SB 286

Thank you. My name is Gerard Grimaldi, and I am here on behalf of Kaiser Permanente, a not-for-profit HMO which provides health care to nearly 60,000 members in the Kansas City area. Kaiser Permanente is a group practice HMO. As such, the physicians of Kaiser Permanente provide health care exclusively and directly to our members in Kaiser Permanente medical offices, and our members choose a Kaiser Permanente physician as a primary care physician. Kaiser Permanente is a direct provider of health care, not an insurer which pays claims or contracts with a widely scattered network of providers.

Kaiser Permanente was the first HMO in Kansas to receive full accreditation status from the National Committee for Quality Assurance, the nation's premier quality monitoring organization for HMOs.

I appreciate the opportunity today to discuss emergency care and offer suggested amendments to Senate Bill No. 286 in this regard. Kaiser Permanente and the American College of Emergency Physicians (ACEP) have reached a landmark agreement on federal legislation regarding health plan coverage of emergency medical services. ACEP and Kaiser Permanente support legislation that would assure appropriate access to emergency medical services; protect the patient from incurring unexpected costs from the provision of emergency medical services; ensure greater continuity of care by involving the patient's health plan in the treatment plan; and reduce administrative costs from coverage disputes for hospitals, emergency physicians, and health plans.

The Kaiser Permanente/ACEP proposal can help to ensure that emergency care coverage rules are predictable for consumers so that they are not subject to unexpected medical costs and can help to promote quality health care by requiring health plans and emergency physicians to work together to coordinate any necessary follow-up care after an emergency situation has been stabilized. We would encourage any state legislation regarding emergency care to be consistent with the landmark national agreement that Kaiser Permanente has reached with the American College of Emergency Physicians.

The suggested amendments which I present today would make this legislation consistent with the agreement Kaiser Permanente has reached with ACEP. We appreciate your favorable consideration of these amendments. Thank you.

Senate File D
Attachment 9
2-20-97



February 19, 1997

PROPOSED AMENDMENTS TO SB 286

Session of 1997
SENATE BILL No. 286
By Committee on Financial Institutions and Insurance
2-12

9 AN ACT enacting the patient protection act; relating to health care
10 services.

11

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

13 Section 1. This act shall be known and may be cited as the patient
14 protection act.

15 Sec. 2. As used in this act:

16 (a) "Emergency medical condition" means the sudden and, at the
17 time, unexpected onset of a health condition that requires immediate
18 medical attention, where failure to provide medical attention would result
19 in serious impairment to bodily functions or serious dysfunction of a bod-
20 ily organ or part, or would place the person's health in serious jeopardy.

21 (b) "Emergency services" means health care items and services fur-
22 nished or required to evaluate and treat an emergency medical condition up to the
23 point of stabilization.

23 as directed or ordered by a physician.

24 (c) "Health benefit plan" means any hospital or medical expense pol-
25 icy, health, hospital or medical service corporation contract, a plan pro-
26 vided by a municipal group-funded pool, a policy or agreement entered
27 into by a health insurer or a health maintenance organization contract
28 offered by an employer or any certificate issued under any such policies,
29 contracts or plans. "Health benefit plan" does not include policies or
30 certificates covering only accident, credit, dental, disability income, long-
31 term care, hospital indemnity, medicare supplement, specified disease,
32 vision care, coverage issued as a supplement to liability insurance, insur-
33 ance arising out of a workers compensation or similar law, automobile
34 medical-payment insurance, or insurance under which benefits are pay-
35 able with or without regard to fault and which is statutorily required to
36 be contained in any liability insurance policy or equivalent self-insurance.

37 (d) "Health insurer" means any insurance company, nonprofit med-
38 ical and hospital service corporation, municipal group-funded pool, fra-
39 ternal benefit society, health maintenance organization, or any other
40 entity which offers a health benefit plan subject to the Kansas Statutes
41 Annotated.

42 (e) "Participating provider" means a provider who, under a contract
43 with the health insurer or with its contractor or subcontractor, has agreed
SB 286

2

1 to provide one or more health care services to covered persons with an
2 expectation of receiving payment, other than coinsurance, copayments or
3 deductibles, directly or indirectly from the health insurer.

4 (f) "Provider" means a physician, hospital or other person which is
5 licensed, accredited or certified to perform specified health care services.

6 (g) "Provider network" means those participating providers who have
7 entered into a contract or agreement with a health insurer to provide
8 items or health care services to individuals covered by a health benefit
9 plan offered by such health insurer.

10 (h) "Physician" means a person licensed by the state board of healing
11 arts to practice medicine and surgery.

12 Sec. 3. (a) A health benefit plan shall not deny coverage for emer-
13 gency services if the symptoms presented by a covered patient and re-
14 corded by the attending provider indicate that an emergency medical
15 condition exists, including emergency services necessary to provide the
16 medical examination and stabilizing treatment required pursuant to sec-
17 tion 1867 of the Social Security Act, regardless of whether prior author-
18 ization was obtained to provide those services.

19 (b) If a participating provider or other authorized representative of a
20 health carrier authorizes emergency services, the health carrier shall not
21 subsequently rescind or modify that authorization after the provider ren-
22 ders the authorized care in good faith and pursuant to the authorization
23 except for:

24 (1) Payments made as a result of misrepresentation, fraud, omission
25 or clerical error; and

26 (2) copayment, coinsurance or deductible amounts that are the re-
27 sponsibility of the covered person.

28 (c) Once an enrollee is stabilized pursuant to subsection (a), ~~{a health
29 benefit plan may require as a condition of further coverage that}~~ a hospital
30 emergency facility shall promptly contact the health carrier for prior au-
31 thorization for continuing treatment, specialty consultations, transfer ar-
32 rangements or other medically necessary and appropriate care for an en-
33 rollee.

34 (d) Coverage of emergency services shall be subject to applicable
35 copayments, coinsurance and deductibles. **A health benefit plan may impose
different cost-sharing on the enrollee for the use of a non-participating emergency
department over a participating emergency department unless the time required to
go to a participating emergency department could result in serious impairment to
bodily functions or serious dysfunction of a bodily organ or part, or would place the
person's health in serious jeopardy.**

36 (e) For required post evaluation or post stabilization services imme-
37 diately following treatment of an emergency medical condition, a health
38 insurer shall provide access to an authorized representative 24 hours a
39 day, seven days a week.