

Approved: January 19, 2000  
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Senator Don Steffes at 9:00 a.m. on January 12, 2000 in Room 529-S of the Capitol.

All members were present except:

Committee staff present: Dr. William Wolff, Legislative Research  
Ken Wilke, Office of Revisor of Statutes  
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Kathleen Sebelius, Commissioner of Insurance

Others attending: *See attached list*

Senator Steffes welcomed members back and gave an update on the work and success of the Committee. (Attachment 1).

Kathleen Sebelius, Commissioner of Insurance, presented her request for introduction of legislation (Attachment 2):

- **Privacy of Medical Records**—The proposed legislation is based on the NAIC Health Insurance Privacy Model Act. The purpose of the carryover bill from 1999 (**SB 259**) is to set standards to protect health information from unauthorized collection, use and disclosure by requiring carriers to establish procedures for the treatment of all health information.
- **Prompt Payment Act**—Health insurers must provide payment within 45 days after receipt of a “clean claim,” which is defined in the bill; interest payments for company failure to comply; and provides for good faith disputes and fraudulent claims.
- **HMO Solvency Issues**—Because the HMO is a unique type of organization, laws were specifically written for their establishment and operation. In 1974, Kansas enacted laws, with amendments following in 1996, so that HMOs could fulfill the function envisioned for them. The proposed legislation establishes language to:
  - Help prevent HMO insolvencies by implementing risk based capital for HMOs, establish net worth requirements (NAIC language), and uncovered expenditure deposit;
  - Add regulatory authority for the Kansas Insurance Department to supervise or liquidate an insolvent HMO;
  - Look at consumer protection through continuation of coverage, open enrollment, and the hold harmless clause;
  - Look at the payment of network and/or non-network claims and provider payments;
  - Establish authority for the commissioner to levy an assessment on HMOs doing business in the state to pay for claims and provide continuation of care not covered in number one above.
- **Codification of SAP (Standard Accounting Procedures)**—This will provide consistency for all state in accounting rules that do not infringe on states rights. Codification of SAP is to be implemented on January 1, 2001. The bill would bring Kansas law regarding SAP for insurance companies into compliance for the implementation date of codification

- **HIPAA**—Removes sunset clause which will expire on January 1, 2001, to allow the high risk pool to act as the state mechanism for HIPAA. Bill also contains technical cleanup amendment to KSA 40-2209 to delete references to the Small Employer Reinsurance Board, which was discontinued in 1998.
- **Reciprocal Statute Updated**—The 1999 legislature made a minor change to the law to allow a company to convert from stock to a reciprocal. The main body of KSA 40-1602 is outdated. The proposed legislation helps accomplish that endeavor. One of the key components of the reciprocal exchange is the attorney-in-fact, a person or entity who runs the whole operation. The proposed legislation will add protection for the members of the exchange from possible abuses.
- **Agent Applicant Statute**—The proposed bill is a technical amendment which spells out the steps to be taken if the applicant is denied licensure. The language clarifies that the applicant can appeal under the Kansas Administrative Procedures Act.
- **Assessment for Fee Fund Salary Compression**—Current law provides that companies are assessed for the fee fund by group. The proposed legislation changes the Department's ability to assess by company, and not by group. The second portion of the proposed legislation would eliminate the salary cap found in KSA 40-110. The problems caused by the salary cap is salary compression for employees of the Kansas Insurance Department, which is apparent by wide gaps in comparative level of pay for the employees and the market rates, leading to retention problems.
- **Risk Based Capital**—Annual bill to update the RBC instruction used by carrier to file data with the insurance department, reflecting that companies should use the RBC instructions effective on December 31, 1999.

Senator Feleciano moved for the requested proposals to be introduced into legislation. Motion was seconded by Senator Praeger. Motion carried.

Commissioner Sebelius reported that 69 new companies have requested licensure in Kansas in 1999. Kansas paid more than \$7 billion in insurance premiums in 1999. Their agency responded to nearly 70,000 phone calls (via live humans) and resolved more than 7,000 complaints regarding insurance companies. More than \$10 million was returned to Kansas customers from the companies in question. The Commissioner is currently serving as Vice-President of the NAIC and serves on a national committee on health insurance issues.

The issue of the reduction in premium taxes being collected was discussed. The Committee was reminded of the increase of tax from one to two percent but that it was possibly offset by offering tax credits for companies who have employees within the state. Some companies have been shifting employees to take advantage of the tax credit situation. The elimination of taxes on annuities is responsible for a \$26 million decrease in revenue. Further study was recommended.

Chairman Steffes requested an update on External Review which was implemented January 1, 2000. The Kansas Medical Foundation for Medical Care has been assigned to handle this procedure for the Kansas Insurance Department.

The meeting was adjourned at 10:00 a.m. The next meeting is scheduled for January 13, 2000.

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

GUEST LIST

DATE: 1-12-00

NAME	REPRESENTING
Doug Lawrence	Federated Rural Electric Ins.
Roch Guthrie	Health Midwest
John C. Satterly	AMVESTORS
Trish Heim	Security Benefit
Mark Myers	Johnson + Johnson
Kathy Olson	Ks Bankers Assn.
Chuck Stone	"
REN GACHES	INTRUST BANK
Tom Bell	Ks. Hosp. Assn.
Pat Morris	KAIA
Sam Sellers	KAIA
JERRY STAUGHTER	KS MEDICAL SOCIETY
Bill Speed	Am. Inv Life
Richard Wilborn	Farmers Alliance
Ken Glendening	OSBC
Judith Stork	✓
Franklin "Lynn" Nelson	✓
Sonya Allen	✓
Jennifer Honas	Steve Montgomery
John Federico	Federico Consulting
Danielle Nee	Governors Office
Linda McCauley	KF Ins. Dept.
Kathleen Sobelias	KF Ins. Dept.
Nicole Bossa	KS Ins. Dept.
George Barbee	Barbee & Assoc's
Yvonne Giesch	KS Assoc. of the Medically Underserved
Daryl Litchman	Ks Assn for the Medically Underserved
Joye Dolant	KS Assoc. Medically Underserved
CarrieAnn Lower	KS Assoc of Health Plans
David Hanson	Ks INSUR Assn's
Matt Goddard	HCBA







REMARKS  
CHAIRMAN DON STEFFES  
FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE  
JANUARY 11, 2000

Four years ago the nine of us met together as the FI & I Committee for the first time. We were Freshmen then. Now, four years later, we are Seniors. It has been a remarkable four years. Our accomplishments have been many and our disagreements few. For me, and I hope for each of you, it has been a very enjoyable experience, one in which we can each take a sense of pride in our accomplishments. Of course, we did not all agree on all of the issues of great importance, but we managed to disagree agreeably.

As I have done on the first day of each of the past three years, it seems appropriate to briefly review the prior year and outline some of the issues which might be coming before us this session. But before I do that, it is again essential to mention that each of you is very important in this process. Some of us tend to see the "big picture", and some are really good at the details. Each of us has our special talents and knowledge. Certainly, without Senator Praeger, this committee would not be nearly as successful nor as productive. Her knowledge of health care issues is of great value to the entire state

Senate Financial Institutions & Insurance

Date 1/12/2000

Attachment # 1

and to all of us. Also with a background in banking, she plays the equivalent of two positions on the team.

It is my opinion that one of the major reasons we have been so successful is because of the great cooperation that has been provided to me by my good friend and ranking Minority member Senator Feleciano. I also truly appreciate the help, understanding and cooperation by Senators Barone and Biggs. Needless to say the other members of the Committee have played essential roles and I have asked each of you to help last year and each of you responded enthusiastically. Thank you everyone.

Of course, not only do we have the most productive committee that has the most fun, we have the best staff. I am so pleased that Nikki will be with us again and my intern will again be Joni Koehler from McPherson. Fortunately, we still have the best Research staff member in the capital, Dr. Bill Wolff and we are pleased that Ken Wilke will represent the Revisors office. This is his second year replacing Fred Carman who was a joy for all of us.

In all probability, this will be the last session that we will have the same group of Senators serving together. Therefore, it is my continuing desire, and I will make every effort to achieve it, that this 9:00A.M.meeting is an enjoyable and productive time. Also, it appears that this will be the last session that FI & I will be meeting in this room. Along with the committee members, the staff, the department heads and the lobbyists, everyone worked together to create a certain ambiance. A different room with different players

will create a different committee. It's difficult for me to think that it will be more productive. It will certainly have a different personality. It seems appropriate to paraphrase a quote in reflecting on this change of rooms. Churchill said "We shape our rooms and then our rooms shape us". This crowded room created an informal, productive atmosphere. A larger room would be more comfortable for the attendees but just as more money does not always solve problems, a larger meeting room may not make for better law. However, this is not our problem and whoever is back, returning to Topeka and to the committee, will work with what is available and, hopefully, do a good job.

Before we start reviewing the coming session as it relates to both banking and insurance, I think it would be valuable to look back to last session. Certainly it was busy and, I think, very productive. Last year, there were a total of 366 bills introduced in the Senate. Of these, there were 89 Senate bills that were approved by the House, signed by the Governor and became law. In reviewing information provided by the Research Department, 17 of the 89 bills, or about 20% of all Senate bills passed, and which became law, were bills worked by this committee and affected both banking, insurance and other issues such as unclaimed property. Of course, as you know, several of these bills contained more than one subject and therefore, we really handled a major share of the workload of the Senate.

Several insurance bills stand out as really important. We developed an External Review process anticipating a great deal of discussion on this matter at the national level. It consumed a great amount of energy and required much good will on the part of many



interests to make this happen. It certainly would not have happened if Commissioner Sebelius had not been actively involved. A system of test tracking health insurance mandates was put on the books and we will see how this works. An uninsured motorist's bill was adopted. After a major problem in Wichita, stricter regulation of Title Insurance Agencies was put in force. Compromises were reached on licensing requirement of agents. We amended the tax credit law to encourage small employers to provide health care for their employees. There were many other insurance related issues which were addressed.

Several major issues were addressed in the financial institutions portion of our activities. We provided additional "Sunshine" in regard to the use of the wildcard provisions given to the bank commissioner. The Committee spent a great deal of time and effort in an attempt to address the rapidly changing delivery of financial services. The office of Consumer Credit Commissioner was eliminated and put under the jurisdiction of the Bank Commissioner. We significantly strengthened the oversight of the mortgage industry. The committee spent a great amount of time and utilized a very active sub-committee to re-visit the long and complicated Consumer Credit Code. There was a general re-writing of the unclaimed property law and we were pleased to work with the Treasurers office on this complicated subject. The committee devoted much time and effort to a review of the office of Bank Commissioner and there were major changes in this office.

In all of these activities, it was essential that we had the complete cooperation of the appropriate agencies and I wish to particularly thank Insurance Commissioner Kathleen Sebelius, Deputy Commissioner Judi Stork, Securities Commissioner David Brandt and Credit Union Administrator Jerel Wright. It was a pleasure working with each of them and anything that we have accomplished could not have happened without their cooperation. Since so much of our time is devoted to insurance, I wish to acknowledge that Linda DeCoursey has been very helpful in serving as the liaison between the commissioner and the committee.

As usual, we will have many insurance issues this year and are ready, willing and eager to get started on the bills presented by the Commissioner. Also, as usual, we will not totally agree and, because of the pressure of time, may not get to them all. Since we also must deal with all of the financial institutions, we will have a full plate. With all of the changes that have just taken place in Washington in regard to financial modernization, it is very helpful that leadership of the Senate, many years ago, put banking, insurance and securities under one committee. There are many that believe that the merging of financial services, which has been underway for sometime, will proceed at an even quicker pace. Kansas must not lag behind and I am hopeful that the various regulators will take the lead and not spend time protecting turf and maintaining the status quo.

We will need to review insurance legislation which we have enacted over the past three years and I am sure we will need to do some fine-tuning. I look forward to all of

the interested parties providing input. It is essential that we work with the industry as well as the commissioner, but we must keep in mind that we are the representatives of the people and we should consider their interest first. We certainly cannot help the people of Kansas by damaging the insurance industry, upon which they depend for insurance and risk related products.

One of our first projects will be to review the mental health insurance coverage issue. Over the interim, Senator Praeger and I have spent considerable time reviewing this matter and we think that it is imperative that we move quickly on this issue and use the "test-tracking" mechanism, which the legislature adopted last year. We must discover the benefits and costs of mandates to determine whether we should impose them upon the private sector. There will always be more mandates proposals before us.

In this regard, I believe that our highest priority is the problem of uninsured Kansans lacking health coverage and my overall goal is to significantly reduce that number. During the session, we need to have a report from the Commissioner whether the actions we took last year has had any noticeable impact. It seems to me that we are becoming a land of "haves" and "have-nots" in regard to health insurance coverage. The "haves" have the best health care in the world and sick people from everywhere come to the United States for the best treatment available. And the very poor seem to have a support system that is adequate but extremely costly. However, for many middle Americans and small employers, the system is becoming too expensive and they are becoming uninsured.



Every time we impose another mandate, we make the system better for those that are in it, but we increase the costs and drive more people out of the system compounding the have and have-not problem. It would seem to me that we should attempt to determine the cost of litigation and/or the threat of litigation as it affects the cost of health care. With the globalization of commerce, it should be possible to determine if the American legal system is a major part of the problem. Of course, there are many other costs associated with health care such as pharmaceutical costs, the over-regulation of the industry and many other factors. They all should be considered.

It seems to me that the states are the laboratories for the delivery of health care and insurance coverage. Many years ago, Kansas was the recognized national leader in the mental health field. It is my greatest hope that Kansas would again be a pioneer in an area of even greater importance, and which is probably one of the top concerns of people throughout the nation, the cost and availability of health care. I hope that everyone, Republican and Democrat, regulator and the insurance industry, legislators and health care professionals will work together to develop ideas and plans to narrow the gap between the haves and have-nots. It will not be done by tearing down the haves and it will not be done with rhetoric and political posturing. We can make progress on this issue of such great importance only with the cooperation and good-will of everyone.

And if insurance issues are not enough, we also have before us the issue of financial restructuring. The most massive legislation in regard to banks, insurance and

securities since the Depression, over sixty years ago, is before us. It would be easy to sit back and observe, but in this fast changing financial marketplace, the complacent will be left behind. We must inform ourselves concerning the implications of this act. All of our regulators are deeply involved and in this process, through their trade groups and others to stay informed concerning what is happening throughout the nation. We will be calling upon them to keep us advised and for appropriate legislation.

As you know, last year was very interesting in regard to the Bank Commissioners office and there were some significant changes made. We will be working with a new bank commissioner and wish to compliment Deputy Commissioner Stork for a superb job during all of last year. With her over twenty years of experience in bank regulation, we intend to continue to rely on her for advice and counsel. We are hopeful, and watchful, that the new commissioner will work for the people of Kansas and not, primarily, as an advocate of the industry which he regulates. That job description fit the regulator of the Savings and Loan industry about ten years ago and cost the nation hundreds of billions of dollars in the process.

There are some who are of the opinion that we should continue to consider modernizing the regulation of financial services in Kansas and we will give this attention. It is essential that, at the very least, the various Kansas financial service regulators meet on a regular basis to seek efficiencies and work together. In this period of such rapid change, it would seem appropriate for the Administration to require such consultations of the financial service department heads. Proximity of office space should be a first step.

Of course, since, we worked and passed a major overhaul of the Uniform Consumer Credit Code last year, I expect the Deputy Commissioner for Consumer Credit would have some changes which he may suggest. We will be interested in a report from the banking department in regard to Wild Card orders which were issued last year and whether there will be a need for such orders to stay competitive after the adoption of the financial restructuring law at the national level.

As you all will recall, the Wild Card order of several years ago, allowed the banking industry to significantly reduce their privilege tax. The Revenue Department has estimated that if the banking industry were paying at the same percentage as before this development occurred, bank taxes would be in the range of \$45 million rather than \$30 million as they are now expecting. In regard to taxation, the committee should be aware that the insurance premium tax has also gone down from \$90 million to \$60 million after the massive changes in the law of several years ago in an effort to remove the one-half billion dollar contingent liability caused by our discriminatory premium tax structure. Since this committee was deeply involved, we should review this matter to determine the cause and whether changes should be made.

Obviously, these are both issues that will affect the tax committees, but in this year of revenue shortfalls and tremendous demands from all of our constituents for services, there is every reason to believe that we should be concerned with both tax revenues and tax expenditures. Since banking and insurance are both of vital importance to the state, it is important that they be treated fairly. But, since we are all taxpayers and



we represent many constituents who need government services, it is equally as important that both industries pay their fair share of the tax burden. It is our responsibility to help make this judgement.

It will again be a busy year. As I mentioned, we are now in our Senior year and should have gained some wisdom and knowledge. Let us use it for the benefit of the people of Kansas and let us have an enjoyable and productive session.



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

January 12, 2000

TO: Senate Committee on Financial Institutions and Insurance  
FROM: Kathleen Sebelius, Insurance Commissioner  
RE: Bill Introductions

Mr. Chairman and members of the Committee:

I am appearing today to request the introduction of bills by this committee on behalf of the Kansas Insurance Department.

**\*Prompt Payment Act**— Health insurers must provide payment within 45 days after receipt of a “clean claim”, which is defined in the bill; interest payments for company failure to comply; and provides for good faith disputes and fraudulent claims.

**\*HMO Solvency Issues**—Because the HMO is a unique type of organization, laws were specifically written for their establishment and operation. In 1974, Kansas enacted laws, with amendments following in 1996, so that HMOs could fulfill the function envisioned for them. At the same time, the public has a vital interest in the fiscal soundness of the HMOs. The proposed legislation establishes language to: 1) help prevent HMO insolvencies by implementing risk based capital for HMOs, establish net worth requirements (NAIC language), and uncovered expenditure deposit, 2) add regulatory authority for the Kansas Insurance Department to supervise or liquidate an insolvent HMO, 3) look at consumer protection through continuation of coverage, open enrollment, and the hold harmless clause, 4) look at the payment of network and/or non-network claims and provider payments; 5) establish authority for the commissioner to


Senate Financial Institutions & Insurance

Date 1/12/2000

Attachment # 2

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levy an assessment on HMOs doing business in the state to pay for claims and provide continuation of care not covered in number one above.

**Codification of SAP**—SAP stands for Standard Accounting Procedures. Codification for SAP has been an item with the insurance industry and regulatory groups for nearly 10 years. Until the codification process is implemented, 50 different states perform 50 different accounting procedures. Therefore, codification of SAP is the development of an accounting basis with solvency at its base. It is to provide consistency for all states in accounting rules that do not infringe on states rights. Codification of SAP is to be implemented on January 1, 2001. The proposed bill would bring Kansas law regarding SAP for insurance companies into compliance for the implementation date of codification.

**HIPAA**—When the Kansas legislature adopted the implementation of HIPAA in 1997, a sunset clause was included which expires on January 1, 2001. With removal of the sunset provision, the high risk pool will remain the state mechanism for HIPAA. The proposed bill also contains technical clean up amendment to KSA 40-2209 to delete references of the Small Employer Reinsurance Board, which was discontinued in 1998.

**\*Reciprocal Statute Updated**—The 1999 legislature made a minor change to the law to allow a company to convert from stock to a reciprocal. However, it is acknowledged at the time, that the main body of K.S.A. 40-1602 is outdated. The proposed legislation helps accomplish that endeavor. One of the key components of the reciprocal exchange is the attorney-in-fact, a person or entity who runs the whole operation. The proposed legislation will add protections for the members of the exchange from possible abuses.

**Agent Applicant Statute**—The proposed bill is a technical amendment which spells out the steps to be taken if the applicant is denied licensure. The language clarifies that the applicant can appeal under the Kansas Administrative Procedures Act.

**Assessment for fee fund/Salary Compression**—Current law provides that companies are assessed for the fee fund by group. The proposed legislation changes the Department's ability to assess by company, and not by group. The second portion of the proposed bill would eliminate



the salary cap found in K.S.A. 40-110. The problems caused by the salary cap is salary compression for employees of the Kansas Insurance Department, which is apparent by wide gaps in comparative level of pay for the employees and the market rates, and retention problems.

**Risk Based Capital**—Annual bill to update the RBC instructions used by carriers to file data with the insurance department, reflecting that companies should use the RBC instructions effective on December 31, 1999.

*\*- Bills not currently written. Requesting conceptual introduction, and will get copies of bills to the revisor within the week or early next week.*

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**Carryover issues residing in the Senate.**

**Flood Insurance**—SB 73 is a carry over bill from the 1999 session. The bill requires insurers to provide notice on the front page of each new or renewal policy issued that the policy does not cover losses due to floods, requires the applicant to acknowledge in writing that they are familiar with the water damage exclusions, and the applicants must be informed that flood insurance may be available through the National Flood Insurance Program. In Senate Committee on Financial Institutions and Insurance.

**Privacy of Medical Records**—The proposed legislation is based on the NAIC Health Insurance Privacy Model Act. The purpose of the carryover bill from 1999 (SB 259) is to set standards to protect health information from unauthorized collection, use and disclosure by requiring carriers to establish procedures for the treatment of all health information. In Senate Committee on Public Health and Welfare.

## Request for Bill Introductions in the House

- **Women's Issues and Patient Protection Package:**
  - **Providing coverage for secondary consultations in relation to diagnosis and treatment of cancer**—This section of the proposed bill strengthens existing language in the patient protection act with regards to an insured's right to receive specialist care in relation to diagnosis and treatment of cancer by ensuring that full coverage is provided for secondary consultation by specialists in the appropriate medical fields.
  - **Capitation of prescription plans**—Current state law prohibits financial incentives designed to limit medical services to patients. This section of the proposed bill would carry that one step further by prohibiting financial incentives designed to limit prescriptions drugs to patients.
  - **Contraceptive Coverage**— This section of the proposed bill requires all health care insurers that provide coverage for prescription drugs on an outpatient basis to provide coverage for any prescribed drug or device used as a contraceptive, also includes a religious employer exemption.
  - **OB-GYNS and Pediatricians as primary care physicians**—This section of the proposed bill would allow designation of obstetrician or gynecologists as primary care physicians, or if the OB-GYN chooses not to be a primary care physician, the insured woman be permitted to one annual visit with an in-network OB-GYN without requiring the woman to first visit a primary care physician. The proposed legislation would also add pediatricians to be considered as primary care physicians in all health plans.
  - **Osteoporosis**—Requires all health care plans to provide coverage for diagnosis, treatment and appropriate management of osteoporosis when such services are determined to be medically appropriate by the primary care provider.
- **Company Exam Related Expenses**—K.S.A. 40-223 currently provides for fees the insurance department can charge for examinations of companies. The bill would increase the

aggregate amount from \$18,000 to \$75,000 that the insurance department can pro rate each company for the funding of purchasing equipment, maintaining and enhancing examination equipment; and eliminate the \$25,000 collective total for any one company examination with regards to hiring financial experts and data processing fees, and the pro rata amount to fund purchase, maintain and enhance examination equipment and computer software to fully and comprehensively examine companies.

- **Homeowners Storm Loss**—The bill prohibits property and casualty insurance companies from the cancellation or nonrenewal of a homeowners policy based on a single storm loss claim in three-years.
- **Consumer Protection in Certain Home Loans**-- The proposed bill addresses consumer home loans for a person, family, or household that is secured by a mortgage or deed of trust upon real estate which is located the borrower's principal dwelling. It protects consumers from the predatory practice of packing credit insurance into loan contracts. Most often, the premiums for credit insurance are exorbitant, and in certain "bad" cases, lenders have sold credit life insurance covering an amount which constitutes the total of payments over the life of the loan rather than the amount actually borrowed. Payout of claims is extremely low compared to the revenue from the premiums. The bill does not prohibit the sale of credit insurance, it prohibits the financing of credit life, disability, unemployment insurance or any other life or health insurance in a consumer home loan.
- **Deregulation of form filings**—The 1997 legislatively formed Insurance Task Force recommended that the Insurance Department implement "file and use" for rate and form filing approvals. Since that time, incremental steps have been taken to implement file and use approval for rate filings. The Insurance Commissioner is interested in proceeding with deregulation of certain form filings in Kansas which would include deregulation for the form filings for large risk entities.

**PROPOSED BILL NO. \_\_\_\_\_**

AN ACT concerning insurance companies; accounting procedures and investments; amending K.S.A. 40-12a09 and repealing the existing section; and repealing K.S.A. 40-2a15, 40-2b14, 40-2a23 and 40-2b22.

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

Section 1. K.S.A. 1998 Supp. 40-12a09 is hereby amended to read as follows: 40-12a09. Annual statement; accounting procedures. Each company organized pursuant to this act shall file an annual statement each year in accordance with the requirements for domestic insurers writing the same kind of insurance. ~~Any company organized pursuant to this act may state its liabilities for losses and loss adjustment expenses on a present value basis in any statement or report which the company is required to file so long as the company's surplus as reported upon such basis remains above \$1 million, unless the commissioner determines the method used by the company to arrive at the present value of its liabilities for losses and loss adjustment expense is based upon unreasonable assumptions.~~

Sec. 2. K.S.A. 40-2a15 is hereby repealed effective January 1, 2001. ~~**40-2a15. Data processing equipment.** Any insurance company other than life heretofore or hereafter organized under any law of this state may invest with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in the purchase of electric or mechanical machines constituting a data processing system, and thereafter may hold the system as an admitted asset for use in connection with the business of the company if, (1) the system shall have an aggregate cost of not less than twenty five thousand dollars (\$25,000) and~~

~~its aggregate cost shall not exceed five percent (5%) of the admitted assets of the company; (2) the cost of the component machines constituting the system shall be fully amortized over a period of not to exceed ten (10) years. If a data processing system consists of separate component machines which are acquired at different times, then the cost of each component shall be amortized over a period not to exceed ten (10) years commencing with the date of acquisition of each component. Data processing equipment investments are not deemed eligible for deposit with the commissioner of insurance as part of the legal reserve of the company.~~

Sec. 3. K.S.A. 40-2b14 is hereby repealed effective January 1, 2001. ~~40-2b14. Data processing equipment.~~ Any life insurance company heretofore or hereafter organized under any law of this state may invest by loans or otherwise, with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in the purchase of electric or mechanical machines constituting a data processing system, and thereafter may hold the system as an admitted asset for use in connection with the business of the company if, (1) the system shall have an aggregate cost of not less than twenty-five thousand dollars (\$25,000) and its aggregate cost shall not exceed five percent (5%) of the admitted assets of the company; (2) the cost of the component machines constituting the system shall be fully amortized over a period of not to exceed ten (10) years. If a data processing system consists of separate component machines which are acquired at different times, then the cost of each component shall be amortized over a period not to exceed ten (10) years commencing with the date of acquisition of each component. Data processing equipment investments are not deemed eligible for deposit under K.S.A. 40-404.

Sec. 4. K.S.A. 40-2a23 is hereby repealed. ~~40-2a23. Aircraft; word processing system; motor vehicles; detached modular systems.~~ Any insurance company other than life

~~heretofore or hereafter organized under any law of this state may invest with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in the purchase of fixed wing or rotary wing aircraft, electric or mechanical machines constituting a word processing system, motor vehicles and personal property used as a substitute for or in lieu of improvements upon real property such as detached modular systems, and thereafter may hold such assets as admitted assets for use in connection with the business of the company if:~~

~~—(a) The assets or asset system shall have a cost of not less than \$2,500 and such assets aggregate shall not, irrespective of K.S.A. 40-2a16, and amendments thereto, exceed 5% of the admitted assets of the company;~~

~~—(b) the cost of each asset or system shall be fully amortized over the time period utilized for federal income tax purposes. If an asset consists of separate but inter dependent components each component shall be amortized over a reasonable period not to exceed 10 years commencing with the date of acquisition of each component. Personal property investments are not deemed eligible for deposit and shall not be included in the admitted assets for purposes of complying with minimum capital, surplus, or capital and surplus requirements applicable to issuance or continuation of a certificate of authority.~~

Sec. 5. K.S.A. 40-2b22 is hereby repealed. **40-2b22. Aircraft; word processing system; motor vehicles; detached modular partition systems.** Any life insurance company heretofore or hereafter organized under any law of this state may invest with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in the purchase of fixed wing or rotary wing aircraft, electric or mechanical machines



~~constituting a word processing system, motor vehicles and detached modular partition systems, and thereafter may hold such assets as admitted assets for use in connection with the business of the company if:~~

~~—(a) The asset or asset system shall have a cost of not less than \$2,500 and such assets aggregate shall not, irrespective of K.S.A. 40-2b13, and amendments thereto, exceed 5% of the admitted assets of the company;~~

~~—(b) the cost of each asset or system shall be fully amortized over the time period utilized for federal income tax purposes. If an asset consists of separate but inter-dependent components each component shall be amortized over a reasonable period not to exceed 10 years commencing with the date of acquisition of each component. Personal property investments are not deemed eligible for deposit and shall not be included in the admitted assets for purposes of complying with minimum capital, surplus or capital and surplus requirements applicable to issuance or continuation of a certificate of authority.~~

Sec. 6. K.S.A. 40-12a09; 40-2a15; 40-2b14; 40-2a23 and 40-2b22 are hereby repealed.

Sec. 7. This act shall take effect and be in force after its publication in the statute book.

**PROPOSED BILL NO. \_\_\_\_\_**

AN ACT concerning insurance; relating to health care; relating to Kansas health insurance association plan; deleting reference to Small Employer Reinsurance Board; amending K.S.A. 1999 Supp. 40-2121; 40-2209f; and 40-2209m; and repealing existing sections.

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

Section 1. K.S.A. 1999 Supp. 40-2121 is hereby amended to read as follows: 40-2121. (a) Following the close of each fiscal year, the administering carrier shall determine the net premiums, the plan expenses of administration and the incurred losses for the year. Any net loss of the plan determined after taking into account amounts transferred pursuant to subsection (h) of K.S.A. 79-4804, and amendments thereto, investment income and other appropriate gains and losses shall be assessed by the board to all members of the association in proportion to their respective shares of total health insurance premiums received in this state during the calendar year coinciding with or ending during the fiscal year of the association or any other equitable basis as may be provided in the plan of operation. For health maintenance organization members and insurance arrangements, the proportionate share of losses shall be determined through application of an equitable formula based upon claims paid on the value of services provided. In sharing losses, the board may abate or defer in whole or in part the assessment of a member if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. Health insurance benefits paid by an insurance arrangement that are less than an amount determined by the board to justify the cost of collection shall not be considered for purposes of determining assessments. Net gains, if any, shall be held at interest to offset future losses or allocated to reduce future premiums. In addition to any annual assessment at the close of the fiscal year of the plan authorized by this subsection, the board may provide for interim assessments of the members of the association, subject to the approval of the commissioner, as may be necessary to assure the financial capability of the association in meeting the incurred or estimated claims expenses of the plan and the operating and administrative expenses of the plan.

(b) In addition to any assessment authorized by subsection (a), the board may assess the members of the association for any initial costs associated with developing and implementing the plan to the extent such costs exceed the funds transferred to the uninsurable health insurance plan fund pursuant to K.S.A. 40-2125 and amendments thereto. Such assessment shall be allocated among the members of the association in the manner prescribed by subsection (a) of this section or any other equitable formula established by the board. Assessments under this subsection shall not be subject to the credit against premium tax under subsection (c).

(c) For taxable years commencing after December 31, 1995, and prior to January 1, 1998, 80% of any assessment made against a member of the association pursuant to subsection (a) of this section may be claimed by such member as a credit against such member's premium or privilege tax liability imposed by K.S.A. 12-2624, 40-252 or 40-3213 and amendments thereto, for the taxable year in which such assessment is paid. For the tax year commencing after December 31, 1997, 70% of any assessment made

against a member of the association pursuant to subsection (a) of this section may be claimed by such member as a credit against such member's premium tax liability imposed by K.S.A. 12-2624, 40-252 or 40-3213 and amendments thereto, for the taxable year in which such assessment is paid.

For the tax year commencing after December 31, 1998, 65% of any assessment made against a member of the association pursuant to subsection (a) of this section may be claimed by such member as a credit against such member's premium tax liability imposed by K.S.A. 12-2624, 40-252 or 40-3213 and amendments thereto, for the taxable year in which such assessment is paid.

For the tax year commencing after December 31, 1999, 60% of any assessment made against a member of the association pursuant to subsection (a) of this section may be claimed by such member as a credit against such member's premium tax liability imposed by K.S.A. 12-2624, 40-252 or 40-3213 and amendments thereto, for the taxable year in which such assessment is paid.

~~The amendments made to the Kansas uninsurable health insurance plan act by chapter 190 of the 1997 Session Laws of Kansas shall expire on January 1, 2001.~~

(d) In addition to the assessments otherwise authorized herein, the board shall assess all issuers of medicare supplement policies covering persons within this state to the extent necessary to assure that the excess losses, if any, are distributed among such issuers of medicare supplement policies in a ratio equal to the percentage market share in Kansas of each such issuer for medicare supplement policies covering persons eligible for medicare by reason of age. The association shall also assess to such issuers of medicare supplement policies the costs the association incurs in operating the reinsurance program, making assessments, and collecting and distributing moneys, which shall be assessed pro rata to such issuers based on the market share of such issuers of medicare supplement policies covering persons eligible for medicare by reason of age. Such assessment shall occur not later than July 1 of each year, based on such excess losses and such market shares for the immediately preceding calendar year. Issuers of medicare supplement policies shall remit the amount so assessed to the association within the time frames established by the board for payment of assessment otherwise authorized herein. The association shall pay to any issuer of medicare supplement policies entitled thereto such amount as is necessary to result in the equalization among all issuers of medicare supplement policies in Kansas of excess losses in a proportion equivalent to the percentage market share in Kansas of each issuer of medicare supplement policies covering persons eligible for medicare by reason of age. The amount of such assessments received by an insurer shall not be accounted for as premium income nor shall such amounts be subject to premium tax. The amount of such assessments shall not be available for use in premium tax credits provided for under subsection (c) of K.S.A. 1998 Supp. 40-2122, and amendments thereto. The association shall have the ability to enforce assessments through its board.

Sec. 2. K.S.A. 1999 Supp. 40-2209f is hereby amended to read as follows: 40-2209f. Small employer health care plans; preexisting conditions; exclusion; waiting periods; excluding late enrollee, when; rescission, limitation or exclusion of coverage for specific individuals prohibited; underwriting and rating authority of carrier; service waiting periods; change of benefit structure; uniform application; carrier marketing determinations required; minimum participation requirements. Health benefit plans covering small employers that are issued or renewed within this state or outside this state covering persons residing in this state shall be subject to the following provisions, as applicable:

(a) Such policy may impose a preexisting conditions exclusion, not to exceed 90 days following the date of enrollment, for conditions whether physical or mental, regardless of the cause of the condition for which medical advice, diagnosis, care or treatment was recommended or received in the six months prior

to the effective date of enrollment. Any preexisting conditions exclusion shall run concurrently with any waiting period.

(b) Such policy shall waive such a preexisting conditions exclusion to the extent the employee or member or individual dependent or family member was covered by (1) a group or individual sickness and accident policy, (2) coverage under section 607(1) of the employees retirement income security act of 1974 (ERISA), (3) a group specified in K.S.A. 40-2222 and amendments thereto (4) part A or part B of title XVIII of the social security act, (5) title XIX of the social security act, other than coverage consisting solely of benefits under section 1928, (6) chapter 55 of title 10 United States code, (7) a state children's health insurance program established pursuant to title XXI of the social security act, (8) medical care program of the indian health service or of a tribal organization, (9) the Kansas uninsurable health plan act pursuant to K.S.A. 40-2217 *et seq.* and amendments thereto or similar health benefits risk pool of another state, (10) a health plan offered under chapter 89 of title 5, United States code, (11) a health benefit plan under section 5(e) of the peace corps act (22 U.S.C. 2504 (e) or (12) a group subject to K.S.A. 12-2616 *et seq.* and amendments thereto which provided hospital, medical and surgical expense benefits within 63 days prior to the effective date of coverage under a health benefit plan with no gap in coverage. A group policy shall credit the periods of prior coverage specified in this subsection without regard to the specific benefits covered during the period of prior coverage. Any period that the employee or member is in a waiting period for any coverage under a group health plan or is in an affiliation period shall be taken into account in determining the continuous period under this subsection.

(c) A carrier may exclude a late enrollee except during an open enrollment period.

(d) Except as expressly provided by this act, every carrier doing business in the small employer market retains the authority to underwrite and rate individual accident and sickness insurance policies, and to rate small employer groups using generally accepted actuarial practices.

(e) No health benefit plan issued by a carrier may limit or exclude, by use of a rider or amendment applicable to a specific individual, coverage by type of illness, treatment, medical condition or accident, except for preexisting conditions as permitted under subsection (a).

(f) In the absence of the small employer's decision to the contrary, all health benefit plans shall make coverage available to all the eligible employees of a small employer without a waiting period. The decision of whether to impose a waiting period for eligible employees of a small employer shall be made by the small employer, who may only choose from the waiting periods offered by the carrier. No waiting period shall be greater than 90 days and shall permit coverage to become effective no later than the first day of the month immediately following completion of the waiting period.

~~(g) The benefit structure of any health benefit plan subject to this act may be changed by the carrier to make it consistent with the benefit structure contained in health benefit plans developed by the board for marketing to new groups but this shall not preclude the development and marketing of other health benefit plans to small employers.~~

~~(h)~~ (g)(1) Except as provided in subsection (f), requirements used by a small employer carrier in determining whether to provide coverage to a small employer, including requirements for minimum participation of eligible employees and minimum employer contributions, shall be applied uniformly among all small employers with the same number of eligible employees applying for coverage or receiving coverage from the small employer carrier.

(2) A small employer carrier may vary application of minimum participation requirements and minimum employer contribution requirements only by the size of the small employer group.

(3) (A) Except as provided in provision (B), in applying minimum participation requirements with respect to a small employer, a small employer carrier shall not consider employees or dependents who have qualifying existing coverage in a health benefit plan sponsored by another employer in determining whether the applicable percentage of participation is met.

(B) With respect to a small employer, a small employer carrier may consider employees or dependents who have coverage under another health benefit plan sponsored by such small employer in applying minimum participation requirements.

~~(i)~~ (h) For the purposes of this section, the term "preexisting conditions exclusion" shall mean, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage whether or not any medical advice, diagnosis, care or treatment was recommended or received before such date.

~~(j)~~ (i) For the purposes of this section, the term "date of enrollment" means the date the individual is enrolled under the group policy or, if earlier, the first day of the waiting period for such enrollment.

~~(k)~~ (j) For the purposes of this section, the term "waiting period" means with respect to a group policy the period which must pass before the individual is eligible to be covered for benefits under the terms of the policy.

Sec. 3. K.S.A. 1999 Supp. 40-2209m is hereby amended to read as follows: 40-2209m. Same; marketing of coverage; prohibited activities; agents and brokers; written denial of coverage; third-party administrators; treatment of affiliated carriers. (a) Each small employer carrier shall actively market health benefit plan coverage to eligible small employers in the state.

(b) (1) Except as provided in paragraph (2), no small employer carrier, agent or broker shall, directly or indirectly, engage in the following activities:

(A) Encouraging or directing small employers to refrain from filing an application for coverage with the small employer carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer;

(B) encouraging or directing small employers to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(2) The provisions of paragraph (1) shall not apply with respect to information provided by a small employer carrier or producer to a small employer regarding the established geographic service area or a restricted network provision of a small employer carrier.

(c) (1) Except as provided in paragraph (2), no small employer carrier shall, directly or indirectly, enter into any contract, agreement or arrangement with an agent or broker that provides for or results in the compensation paid to such person for the sale of a health benefit plan to be varied because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(2) Paragraph (1) shall not apply with respect to a compensation arrangement that provides compensation to an agent or broker on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation or geographic area of the small employer.



(d) No small employer carrier shall terminate, fail to renew or limit its contract or agreement of representation with an agent or broker for any reason related to the health status, claims experience, occupation, or geographic location of the small employers placed by the agent or broker with the small employer carrier.

(e) No small employer carrier, agent or broker shall induce or otherwise encourage a small employer to separate or otherwise exclude an employee from health coverage or benefits provided in connection with the employee's employment.

(f) Denial by a small employer carrier of an application for coverage from a small employer shall be in writing and shall state the reason or reasons for the denial.

(g) The commissioner may adopt rules and regulations setting forth additional standards to provide for the fair marketing and broad availability of health benefit plans to small employers in this state.

(h) If a small employer carrier enters into a contract, agreement or other arrangement with a third-party administrator to provide administrative, marketing or other services related to the offering of health benefit plans to small employers in this state, the third-party administrator shall be subject to this section as if it were a small employer carrier.

~~(i) The board shall make available a broadly publicized toll free telephone number for access by small employers to information concerning this act and the health benefit plans developed pursuant to K.S.A. 40-2209.~~

~~(j)~~ (i) Except as provided in paragraph (l), for the purposes of this act, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier and any restrictions or limitations imposed by this act shall apply as if all health benefit plans issued to small employers in this state by such affiliated carriers were issued by one carrier.

~~(k)~~ (j) An affiliated carrier that is a health maintenance organization having a certificate of authority under K.S.A. 40-3201 *et seq.* and amendments thereto, may be considered to be a separate carrier for the purpose of this act.

Sec. 4. K.S.A. 1999 Supp. 40-2121, 40-2209f and 40-2209m are hereby repealed.

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



**PROPOSED BILL NO. \_\_\_\_\_**

AN ACT concerning insurance; relating to agents license; amending K.S.A. 1999 Supp. 40-240 and repealing existing section.

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

Section 1. K.S.A. 1999 Supp. 40-240 is hereby amended to read as follows: 40-240. (a) Any person desiring as agent to engage in the insurance business, as herein set out, shall apply to the commissioner of insurance of this state, in the manner hereinafter prescribed, for an insurance agent's license, authorizing such agent to engage in and transact such business. The applicant for such license shall file with the commissioner of insurance such applicant's written application for a license authorizing the applicant to engage in the insurance business and the applicant shall make sworn answers to such interrogatories as the commissioner of insurance may require on uniform forms and supplements prepared by the commissioner. A nonrefundable fee in the amount of \$30 shall accompany such application. Such applicant, if an individual, shall establish:

(1) That the applicant certifies, by evidence satisfactory to the commissioner, that the applicant is a graduate of an accredited four-year high school or its equivalent. This requirement shall not apply to any person holding a valid agent's license as of July 1, 1971, or a full-time student enrolled in an accredited high school in this state while and to the extent such student is participating in an insurance project sponsored by a bona fide junior achievement program; and

(2) that the applicant is of good business reputation and is worthy of a license.

(b) Corporations, associations, partnerships, sole proprietorships and other legal entities acting as insurance agents and holding a direct agency appointment from an insurance company or companies or health maintenance organization are required to obtain an insurance agent's license. Application for such license shall be made to the commissioner on a form prescribed by such commissioner. Before granting the license, the commissioner shall determine that:

(1) Each officer, director, partner and employee of the applicant who is acting as an insurance agent is licensed as an insurance agent;

(2) the applicant has disclosed to the insurance department all officers, directors and partners whether or not they are licensed as insurance agents;

(3) the applicant has disclosed to the insurance department all officers, directors, partners and employees who are licensed as insurance agents; and

(4) the applicant has designated a licensed officer, employee, partner or other person to be responsible for the organization's compliance with the insurance laws and rules and regulations of this state.

(c) The insurance department may require any documents reasonably necessary to verify the information contained in the application.

(d) (1) Agents licensed pursuant to subsection (b) shall advise the commissioner of any officers, directors, partners or employees who are licensed as individual insurance agents and are not disclosed at the time application is made for a license within 30 working days of their affiliation with the licensee. Failure to provide the commissioner with such information shall subject the licensee to a monetary penalty of \$10 per day for each working day the required information is late subject to a maximum of \$50 per person per licensing year.

(2) Officers, directors, partners or employees disclosed at the time of the original application or reported thereafter whose affiliation with the licensee is terminated shall be reported to the commissioner within 30 days of the effective date of termination. Failure to report such termination shall subject the licensee to the penalty prescribed in paragraph (1) of this subsection.40-240.

*(e) Any applicant may request a hearing on the question of approving or denying a license. Upon such request, the commissioner of insurance shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act.*

Sec. 2. K.S.A. 1999 Supp. 40-240 is hereby repealed.

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

Proposed Bill No. \_\_\_\_\_

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AN ACT concerning the insurance department; insurance department service regulation fund; concerning employees of the department of insurance; salaries; amending K.S.A. 1999 Supp. 40-112 and repealing existing section; amending K.S.A. 1999 Supp. 40-110 and repealing the existing section.

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

Section 1. K.S.A. 1999 Supp. 40-112 is hereby amended to read as follows: 40-112. (a) For the purpose of maintaining the insurance department and the payment of expenses incident thereto, there is hereby established the insurance department service regulation fund in the state treasury which shall be administered by the commissioner of insurance. All expenditures from the insurance department service regulation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner of insurance or by a person or persons designated by the commissioner.

(b) On and after the effective date of this act, all fees received by the commissioner of insurance pursuant to any statute and 1% of taxes received pursuant to K.S.A. 40-252 and amendments thereto shall be remitted to the state treasurer for deposit in the state treasury and credited to the insurance department service regulation fund.

(c) For the fiscal year ending June 30, 2001, and for each fiscal year thereafter, ~~E~~except as otherwise provided by this section, the commissioner of insurance shall make an annual assessment on each ~~group of affiliated~~ insurer s whose certificate s of authority to do business in this state ~~are~~ *is* in good standing at the time of the assessment. The total amount of all such assessments for a fiscal year shall be equal to the amount sufficient which, when combined with the total amount to be credited to the insurance department service regulation fund pursuant to subsection (b) is equal to the amount approved by the legislature to fund the insurance company regulation program. With respect to each ~~group of affiliated~~ insurer s, such assessment shall be in proportion to the amount of total assets of the ~~group of affiliated~~ insurers as reported to the commissioner of insurance pursuant to K.S.A. 40-225 and amendments thereto for the immediately preceding calendar year, shall not be less than \$500 and shall not be more than the amount equal to .0000015 of the amount of total assets of the ~~group of affiliated~~ insurers or \$25,000, whichever is less. The total assessment for any fiscal year shall not increase by any amount greater than 15% of the total budget approved by the legislature to fund the insurance company regulation program for the fiscal year immediately preceding the fiscal year for which the assessment is made. In the event the total amount of the assessment would be less than the aggregate amount resulting by assessing the \$500 minimum on each insurer, the commissioner may establish a lower minimum to be assessed equally on each insurer.

(d) If, by the laws of any state other than Kansas or by the retaliatory laws of any state other than Kansas, any insurer domiciled in Kansas shall be required to pay any fee or tax in such other state of licensure, and the fee or tax is due and payable either because the insurance

department service regulation fee imposed by this section on insurers licensed in Kansas and organized or domiciled in such other state is greater than the comparable fee or tax assessed in such other state, or such other state has no comparable fee or tax but requires payment on a retaliatory basis, then to the extent such fee or tax amounts are legally due and are paid in such other state, any insurer domiciled in Kansas may claim a dollar-for-dollar credit for such fees paid against insurer's annual premium taxes due the state of Kansas under K.S.A. 40-252 and amendments thereto or privilege fee due the state of Kansas under K.S.A. 40-3213 and amendments thereto, but such credit shall only be calculated on the amount which would not have been required to be paid in such other state of licensure in the absence of the existence of the insurance department service regulation fee imposed by this section, and in no event shall the credit permitted by this section exceed 90% of the insurer's annual premium tax or privilege fee due the state of Kansas. The insurance commissioner shall prescribe the forms for reporting such credits.

(e) Assessments payable under this section shall be past due if not paid to the insurance department within 45 days of the billing date of such assessment. A penalty equal to 10% of the amount assessed shall be imposed upon any past due payment and the total amount of the assessment and penalty shall bear interest at the rate of 1.5% per month or any portion thereof.

(f) When there exists in the insurance department service regulation fund a deficiency which would render such fund temporarily insufficient during any fiscal year to meet the insurance department's funding requirements, the commissioner of insurance shall certify the amount of the insufficiency. Upon receipt of any such certification, the director of accounts and reports shall transfer an amount of moneys equal to the amount so certified from the state general fund to the

insurance department service regulation fund. On June 30 of any fiscal year during which an amount or amounts are certified and transferred under this subsection, the director of accounts and reports shall provide for the repayment of the amounts so transferred and shall transfer the amount equal to the total of all such amounts transferred during the fiscal year from the insurance department service regulation fund to the state general fund.

(g) Any unexpended balance in the insurance department service regulation fund at the close of a fiscal year shall remain credited to the insurance department service regulation fund for use in the succeeding fiscal year and shall be used to reduce future assessments or to accommodate cash flow demands on the fund.

(h) The commissioner of insurance shall exempt the assessment of any insurer which, as of December 31 of the calendar year preceding the assessment, has a surplus of less than two times the minimum amount of surplus required for a certificate of authority on and after May 1, 1994, and which is subject to the premium tax or privilege fee liability imposed on insurers organized under the laws of this state. The commissioner of insurance may also exempt or defer, in whole or in part, the assessment of any other insurer if, in the opinion of the commissioner of insurance, immediate payment of the total assessment would be detrimental to the solvency of the insurer.

(i) As used in this section:

~~(1) "Affiliates" or "affiliated" has the meaning ascribed by K.S.A. 40-3302 and amendments thereto;~~

—(2) "group" or "group of affiliated insurers" means the affiliated insurers of a group and also includes an individual, unaffiliated insurer; and

—(3) "insurer" means any insurance company, as defined by K.S.A. 40- 201 and amendments thereto, any fraternal benefit society, as defined by K.S.A. 40-738 and amendments thereto, any reciprocal or interinsurance exchange under K.S.A. 40-1601 through 40-1614 and amendments thereto, any mutual insurance company organized to provide health care provider liability insurance under K.S.A. 40-12a01 through 40-12a09 and amendments thereto, any nonprofit dental service corporation under K.S.A. 40-19a01 through 40-19a14 and amendments thereto, any non-profit medical and hospital service corporation under K.S.A. 40-19c01 through 40-19c11 and amendments thereto, any health maintenance organization, as defined by K.S.A. 40-3202 and amendments thereto, or any captive insurance company, as defined by K.S.A. 40-4301 and amendments thereto, which is authorized to do business in Kansas.

Sec. 2. K.S.A. 1999 Supp. 40-110 is hereby amended to read as follows: 40-110. The commissioner of insurance is hereby authorized to appoint an assistant commissioner of insurance, actuaries *who are members in good standing of either the American Academy of Actuaries or the Casualty Actuarial Society*, two special attorneys who shall have been regularly admitted to practice, an executive secretary, policy examiners, two field representatives, and a secretary to the commissioner. Such appointees shall each receive an annual salary to be determined by the commissioner of insurance, within the limits of available appropriations. ~~but in no case shall any such annual salary exceed the salary of the commissioner of insurance as established by law, except that the commissioner of insurance may appoint two actuaries who are members in good standing of either the American Academy of Actuaries or the Casualty Actuarial Society or the Society of Actuaries, whose annual salaries may exceed the annual~~



~~salary of the commissioner.~~ The commissioner is also authorized to appoint, within the provisions of the civil service law, and available appropriations, other employees as necessary to administer the provisions of this act. The field representatives authorized by this section may be empowered to conduct inquiries, investigations, or to receive complaints. Such field representatives shall not be empowered to make, or direct to be made, an examination of the affairs and financial condition of any insurance company in the process of organization, or applying for admission or doing business in this state. The appointees authorized by this section shall take the proper official oath and shall be in no way interested, except as policyholders, in any insurance company. In the absence of the commissioner of insurance the assistant commissioner shall perform the duties of the commissioner of insurance, but shall in all cases execute papers in the name of the commissioner of insurance, as assistant. The commissioner of insurance shall be responsible for all acts of an official nature done and performed by the commissioner's assistant or any person employed in such office. All the appointees authorized by this section shall hold their office at the will and pleasure of the commissioner of insurance.

Sec. 3. K.S.A. 40-112 and K.S.A. 40-110 are hereby repealed.

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

**PROPOSED BILL NO. \_\_\_\_\_**

AN ACT concerning insurance; relating to risk-based capital requirements; amending K.S.A. 1999 Supp. 40-2c01 and repealing existing section.

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

Section 1. K.S.A. 1999 Supp. 40-2c01 is hereby amended to read as follows: 40-2c01. As used in this act:

- (a) "Adjusted RBC report" means an RBC report which has been adjusted by the commissioner in accordance with K.S.A. 1999 Supp. 40-2c04, and amendments thereto.
- (b) "Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required to address a RBC level event.
- (c) "Domestic insurer" means any insurance company or risk retention group which is licensed and organized in this state.
- (d) "Foreign insurer" means any insurance company or risk retention group not domiciled in this state which is licensed or registered to do business in this state pursuant to article 41 of chapter 40 of the Kansas Statutes Annotated or K.S.A. 40-209, and amendments thereto.
- (e) "NAIC" means the national association of insurance commissioners.
- (f) "Life and health insurer" means any insurance company licensed under article 4 or 5 of chapter 40 of the Kansas Statutes Annotated or a licensed property and casualty insurer writing only accident and health insurance.
- (g) "Property and casualty insurer" means any insurance company licensed under articles 9, 10, 11, 12, 12a, 15 or 16 of chapter 40 of the Kansas Statutes Annotated, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers.
- (h) "Negative trend" means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the "trend test calculation" included in the RBC instructions defined in subsection (j).
- (i) "RBC" means risk-based capital.

(j) "RBC instructions" mean the risk-based capital instructions promulgated by the NAIC, which are in effect on ~~December 31, 1998~~ December 31, 1999, ~~and adopted as rules and regulations by the commissioner.~~

(k) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(1) "Company action level RBC" means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

(2) "regulatory action level RBC" means the product of 1.5 and its authorized control level RBC;

(3) "authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions; and

(4) "mandatory control level RBC" means the product of .70 and the authorized control level RBC.

(l) "RBC plan" means a comprehensive financial plan containing the elements specified in K.S.A. 1999 Supp. 40-2c06, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

(m) "RBC report" means the report required by K.S.A. 1999 Supp. 40-2c02, and amendments thereto.

(n) "Total adjusted capital" means the sum of:

(1) An insurer's capital and surplus or surplus only if a mutual insurer; and

(2) such other items, if any, as the RBC instructions may provide.

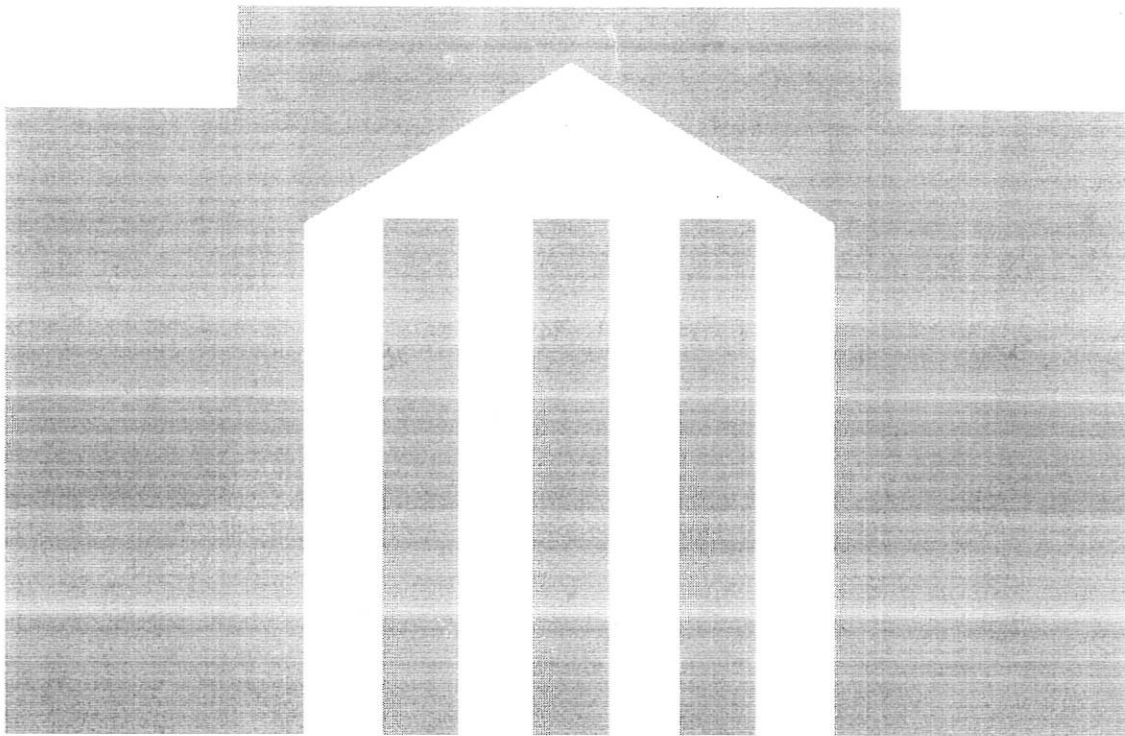
(o) "Commissioner" means the commissioner of insurance.

Sec. 2. K.S.A. 1999 Supp. 40-2c01 is hereby repealed.

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

# Kansas Insurance Department

*1998 Annual Report*



Katheen Sebelius  
Insurance Commissioner

*The Honorable Bill Graves  
Governor of Kansas  
Statehouse  
Topeka, KS 66612*

*Dear Governor Graves:*

*I am very pleased to present to you the One Hundred and Twenty-ninth Annual Report of the Kansas Insurance Department.*

*This report is established by the provisions of K.S.A. 40-108. The report summarizes the activities of the Department through the period ending December 31, 1998.*

*Sincerely yours,*



*KATHLEEN SEBELIUS  
Insurance Commissioner*

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The Kansas Insurance Department is accredited by the National Association of Insurance Commissioners (NAIC). To achieve this accreditation, the Department must meet stringent national standards which demonstrate that it effectively monitors insurance company solvency.

The Kansas Insurance Department views accreditation by the NAIC as a commitment to Kansas consumers to institute and maintain the highest standards in financial regulation. The accreditation review is repeated every five years to confirm that the Kansas Insurance Department continues to meet all requirements. The Department was last accredited in December 1996.

# Kansas Insurance Department Services Provided During 1998

## Examinations

Domestic Companies	19
Foreign Companies	0
Other Organizations	0

## Market Conduct Examinations

Domestic Companies	2
Foreign Companies	0
Other Organizations	0

## Licenses Issued

Agents	New	7,861
	Total on file	33,000
Agencies	New	623
	Total on file	6,700

## Consumer Assistance

Closed Complaints & Inquiries	6,772
Phone Inquiries –1) Topeka Toll-free hotline	57,542
2)Senior Health Insurance Counseling of Kansas	9,562
Total	67,104

Amount Recovered on Behalf of Kansas Consumers	\$10,309,904
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<b>New Companies Admitted to do Business</b>	<b>69</b>
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## Excess Lines

Non-admitted Insurers	191
Excess Lines Agents	318

**Kansas Insurance Department**  
**Fiscal year 1998 Deposits**  
**July 1, 1997 to June 30, 1998**

**TO STATE GENERAL FUND:****TAXES:**

Privilege Tax	2,112,534.73	
Premium Tax—Foreign	74,485,227.22	
Fire Marshal Tax	200,000.00	
Premium Tax—Domestic	10,424,597.66	
Retaliatory Tax	2,996,666.62	
Fines and Penalties	440,514.91	
Reimburse Imprest Fund Advance	-	
Total Taxes		90,659,541.14

TOTAL TAXES TO THE STATE GENERAL FUND 90,659,541.14

**TO SPECIAL FUNDS:****INSURANCE COMPANIES EXAMINATION FUND:**

Salary Reimbursement	387,415.67
Expense Reimbursement	157,243.57
Annual Leave Assessment	28,371.59
Data Processing Assessment	10,158.25
Sick Leave Assessment	19,418.41
Refunds	27,333.94
	629,941.43

Total Insurance Company Examination Fund 629,941.43

**INSURANCE COMPANY ANNUAL STATEMENT EXAM:** 629,941.43

Premium Tax - Foreign	90,000.00
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Total Insurance Company Annual Statement Fund 90,000.00

**INSURANCE COMPANY EXAMINER'S TRAINING FUND:**

Premium Tax—Foreign	60,665.00
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Total Insurance Company Examiner's Training Fund 60,665.00



HEALTH TASK FORCE GRANT FUND	0
INSURANCE DEPARTMENT SERVICE REGULATION FUND:	
Premium Tax—Domestic	0.00
MGA Notification Fee	9,200.00
Risk Purchasing Group—Notification Fee	2,510.00
Risk Retention Group—Notification Fee	0.00
Viatical Settlements	0.00
Annual Statement Fee	156,528.00
Certificate of Authority	21,857.00
Charter Fees	18,010.00
Retaliatory Fees	6,664.00
Cert. Fees/Util. Review Orgs.	2,350.00
Permit to Sell Stock	0.00
Form "A" Filing Fee	3,000.00
Registration Fees—Prepaid Services	1,150.00
Filing Fees—Nonadmitted Cos.	26,600.00
Certified Copies	111,078.00
Court Fees	12,650.00
Other Service Charges	80,735.00
Agent License Fees	3,149,909.00
Other Publications	128.00
Fee Fund Assessment	0.00
Recovery of Expenditures	41,540.00
Photocopies	25,803.00
Prior Fiscal Year—Recovery of Expenditures	349.00
Operating Transfers Out	
Other Miscellaneous Revenue	<u>22,973.03</u>
Total Insurance Department Service Regulation Fund	3,693,034.03
SENIOR HEALTH INSURANCE COUNSELING FOR KANSANS	193,485.50
INSURANCE EDUCATION AND TRAINING FUND	1,045.77
SALE OF COMMODITIES AND USABLE EQUIPMENT: TOTAL	363.00
WORKERS COMPENSATION FUND:	
Assessments	21,553,391.41
Reimbursements	<u>197,222.48</u>
Total Workers Compensation Fund	21,750,613.89

BLUE CROSS/BLUE SHIELD SETTLEMENT FUND: TOTAL	62,764.40	
MUNICIPAL GROUP-FUNDED POOLS: TOTAL	52,500.90	
GROUP-FUNDED WORKERS COMPENSATION FUND: TOTAL	84,651.13	
FIREFIGHTERS RELIEF TAX: TOTAL	5,149,193.11	
INSURANCE BUILDING PRINCIPAL AND INTEREST FUND:		
Fund Operating Transfers	173,519.97	
Principal and Interest	<u>4,288.12</u>	
Total Insurance Building Principal and Interest Fund	177,808.09	
INSURANCE BUILDING RESERVE FUND:		
Net Interest on State Agency Investment	12,037.45	
Investments - Book Value	169,000.00	
Operating Transfers out	<u>(12,038.38)</u>	
Total Insurance Building Reserve Fund	168,999.07	
INSURANCE DEPARTMENT REHAB AND REPAIR FUND	41,792.00	
SUSPENSE (NET RECEIPTS): TOTAL		
TAX AND FEE REVOLVING FUND (GROSS RECEIPTS) TOTAL	1,302.94	
COMMISSIONER'S TRAVEL REIMBURSEMENT	<u>2,154.37</u>	
TOTAL TAXES TO SPECIAL FUNDS		32,160,314.63
TAXES REMITTED TO OTHER AGENCIES:		
* FIRE MARSHAL: TOTAL		2,176,511.97
INSURANCE DEPARTMENT NET DEPOSITS FISCAL YEAR 1998		<u><u>122,819,855.77</u></u>

\*Collected for State Fire Marshal in accordance with KSA 75-1514. Amount not included in net deposits.

## Department Headlines

### **Children's Health Insurance A Reality**

HealthWave is the the new children's health insurance program which was approved by the 1998 Kansas Legislature. HealthWave is expected to cover over 60,000 uninsured kids beginning January 1, 1999. Commissioner Sebelius, an advocate for the children's health care initiative, was pleased that the Legislature agreed to provide the necessary funding. Kansas will receive about \$32 million annually for the next five years.

### **Consumer Assistance Division Has \$10 Million Year**

Setting yet another record for the Kansas Insurance Department, the Consumer Assistance Division recovered more than \$10 million for consumers during 1998.

"The efforts of the Consumer Assistance Division continue to surpass previous records. Their ability is a true indication of our dedication and diligence when it comes to helping Kansans get the most out of their insurance coverage," said Commissioner Kathleen Sebelius.

### **Department Named Outstanding Organization of the Year**

The safety belt campaign featuring the cartoon character "Click-it Cricket" helped the Insurance Department earn the highest honor awarded by the Kansas Safe Kid's Coalition. The Department was named outstanding organization of the year by the Coalition.

The Department won the award for its participation in a cooperative effort with the Kansas Department of Transportation and the Kansas Safety Belt Education Office. The three organizations worked together to increase the visibility of the message to always use safety belts by sharing information and program materials.

The "Click-it Cricket" program is one of the educational components of the 1999 Auto Insurance Improvement Act.

### **European Companies Cooperate with Regulators' Efforts to Resolve Holocaust Claims**

Five major European insurance companies signed a written agreement to cooperate fully with the National Insurance Commissioners Association's (NAIC) Holocaust investigation.

"We are making real progress to ensure Holocaust survivors and their heirs receive the insurance benefits they're owed, but the process is like putting together a very complicated puzzle," said Commissioner Sebelius. The Commissioner is a member of the NAIC multi-state working group investigating allegations that Holocaust victims were denied insurance benefits on policies they paid for in good faith.

### **Kansas Receives an "A" for Its Consumer Education Efforts.**

The Consumer Federation of America (CFA) reviewed consumer materials produced and distributed by state insurance departments. Following it's review, CFA determined the best states for written consumer information, those with a grade of "A," are Colorado, Florida, KANSAS, Missouri, Ohio, Texas and Wisconsin.

"We try very hard to get useful information into the hands Kansas insurance consumers. It's very rewarding to have our efforts recognized as among the best in the nation," said Commissioner Kathleen Sebelius.

### **Commissioner Elected to Leadership Position with National Association of Insurance Commissioners.**

Members of the National Association of Insurance Commissioners (NAIC) selected Commissioner Kathleen Sebelius to serve as Secretary-Treasurer for 1999 during its Winter National Meeting.

"I am honored my peers have elected me to help navigate the NAIC into the new century. I will be an advocate for state insurance regulation, consumers, and for a vibrant industry. I look forward to this challenge and welcome the opportunity to serve," Sebelius said.

## Bulletins Briefs

### **Workers Compensation Insurance**

#### **Bulletin 1998-1; 1a. (January 5, 1998)**

RE: Information and Educational Workers Compensation Materials

SUMMARY: Revised educational materials have been issued and must be provided to employers.

### **File and Use Laws**

#### **BULLETIN 1998-2 (January 13, 1998)**

RE: File and use law, clarifications and definitions

SUMMARY: This bulletin provides clarification for the file and use law effective July 1, 1997.

### **Arbitration/Appraisal Clauses**

#### **BULLETIN 1998-3 (February 3, 1998)**

RE: Use of Arbitration/Appraisal Clauses

SUMMARY: Voluntary arbitration clauses in insurance contracts are permissible. The language of the provision must clearly state that the procedure is voluntary and both parties must agree to the procedure.

### **Mental Health Parity Act**

#### **BULLETIN 1998-4 (February 12, 1998)**

RE: Mental Health Issues

SUMMARY: Bulletin responds to questions regarding the requirements to comply with the Mental Health Parity Act of 1996 and 1997 Kansas Senate Bill 204.

### **Health Insurance Sales Practices**

#### **Bulletin 1998-5 (February 12, 1998)**

RE: Health Insurance and Agent Sales Practices

SUMMARY: Bulletin advises that tactics being used to avoid compliance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and amendments to the Kansas Insurance Code made by 1997 Senate Bill 204 may be subject to fines and penalties under the unfair trade practice laws.

### **Medicare Supplement Sales**

#### **Bulletin 1998-6 (April 8, 1998)**

RE: Medicare Supplement Sales to Persons Under Age 65

SUMMARY: Bulletin describes tactics being used to deny guarantee issue products to disabled individuals under age 65 and advises these considered unfair trade practices. Companies may be fined if found to be using these tactics.

### **Workers' Compensation Insurance**

#### **Bulletin 1998-7 (April 23, 1998)**

RE: 1998 House Bill 2591, Self-Employed Subcontractors

SUMMARY: The 1998 Legislature deleted the controversial requirement for self-employed subcontractors to purchase a workers' compensation policy. This bulletin provides clarification of this new law.

### **Mobile Home Programs, Inflation Guard Provisions**

#### **Bulletin No. 1998-8 (May 12, 1998)**

RE: Mobile Home Programs, Inflation Guard Provisions

SUMMARY: Bulletin surveyed companies about inflation guard protection benefits.

### **Accident & Health Insurance Changes**

#### **Bulletin No. 1998-9 (May 29, 1998)**

RE: Provisions of 1998 House Substitute for Senate Bill 439

SUMMARY: Bulletin lists requirements to comply with this legislation as of July 1, 1998.

### **Medicare Supplement Insurance**

#### **Bulletin 1998-10 (June 4, 1998)**

RE: Affects of Federal Balanced Budget Act of 1997 on state law and the issuance of Medicare supplement insurance.

SUMMARY: This bulletin advises companies that if they are selling Medicare supplement policies they must bring them into compliance with federal law until the state regulations are amended.

### **Liability Claim Notice**

#### **Bulletin 1998-11 (August 21, 1998)**

RE: Written notice of third party settlement to claimants

SUMMARY: All companies are required to send written notice to a claimant when a third party liability claim settlement is \$5,000 or more. Contact the Legal Division (785-296-7810) if you have questions about this bulletin.

### **Y2K Coverage Endorsements**

#### **Bulletin 1998-12 (September 23, 1998)**

RE: Year 2000 Exclusion Endorsements

SUMMARY: Advises of rules which apply to the use of the ISO Year 2000 Coverage Endorsements approved by this department.

### **Property & Casualty Endorsements**

#### **Bulletin 1998-13 (October 19, 1998)**

RE: Policy endorsements.

SUMMARY: Changes filing requirements for "blank" or "change" endorsements

*(Continued on page 10)*

## Bulletin Briefs (Continued)

(Continued from page 9)

### **Women's Health and Cancer Rights Act Bulletin 1998-14 (November 6, 1998)**

RE: Women's Health and Cancer Rights Act of 1998.

SUMMARY: Outlines guidelines for providing coverage for reconstructive surgery following mastectomies

### **Kansas Uninsurable Health Insurance Plan Bulletin 1998-15 November 9,**

RE: Administrator for Kansas Uninsurable Health Insurance Plan (KHIA)

SUMMARY: Sought bids by December 1, 1998.

### **Accident and Health Insurance**

#### **Bulletin 1998-16 (November 10, 1998)**

RE: Guarantee Issue Rights Pursuant to the Federal Balanced Budget Act of 1997

SUMMARY: Addresses the guarantee issue provisions regarding Medicare supplement business pursuant to the Federal Balanced Budget Act of 1997.

## Funds, Plans and Pools

### **Kansas FAIR Plan**

The purpose of the Kansas FAIR Plan (Fair Access to Insurance Requirements) is to provide fire, extended coverage, vandalism and malicious mischief, theft and personal liability insurance for qualified applicants unable to obtain this kind of insurance through the private market. There is a nine member governing committee which oversees the plan.

In 1998 there were 4,665 policies in force with a total premium written of \$1,936,900. The total amount of insurance in force for 1998 was \$99,483,415. There were 336 losses reported in 1998 and \$451,936 losses were paid.

### **Kansas Automobile Insurance Plan:**

The Kansas Automobile Insurance Plan (KAIP) provides coverage for drivers who are unable to purchase automobile insurance on the private market. In 1997, the KAIP collected premiums totaling \$6,188,094 and paid out \$4,783,799 in losses.

### **Group Funded Pools**

Employers, including municipalities, may enter into agreements to self-insure certain insurance exposures as a group under the authority of two separate Kansas statutes.

Group Funded Workers' Compensation Pools are authorized under K.S.A. 44-581. This law permits five or more employers in the same or similar business that belong to the same bona fide trade or professional association which has been in existence for at least five years to enter into agreement to pool their liability for Kansas workers' compensation benefits and employers' liability. These pools are required to have a combined members' net worth of at least \$1,000,000; a combined annual workers compensation premium of \$250,000; and specific and aggregate excess workers' compensation insurance. Twelve of these pools were licensed in 1998.

Five or more employers engaged in *dissimilar* types of business, under K.S.A. 44-581(b), may form a pool. These pools are required to have a combined members net worth of at least \$1,250,000; a combined annual workers compensation premium of \$500,000; and specific and aggregate excess workers' compensation



## Funds, Plans and Pools (Continued)

insurance. As of December 31, 1998, certificates of authority had been issued to three pools.

The Kansas Municipal Group-Funded Pool Act was established under K.S.A. 12-2616. This law allows five or more municipalities to enter into agreement to pool their liabilities for all fire and casualty lines including workers' compensation and employers' liability.

Property, casualty and workers compensation pools must meet certain requirements, but municipal pools must have \$250,000 premium per line of insurance and may substitute adequate surplus funds in place of excess insurance. Municipalities may also pool their liabilities for accident, sickness and life insurance lines. Accident and sickness pools must have at least \$1,000,000 in gross annual premium and may substitute adequate reserves with excess loss insurance.

The oversight of municipal group-funded pools is divided between the Fire and Casualty Division and Accident and Health Division. There were eleven municipal pools who had certificates of authority under K.S.A. 12-2616 as of December 31, 1998. No currently funded municipal pools are involved in the transaction of life insurance.

### Workers' Compensation Assigned Risk Plan

The Kansas Workers' Compensation Insurance Plan operates under authority of K.S.A. 40-2109. The Plan provides workers' compensation and employers' liability insurance for qualified applicants unable to procure coverage in the normal market. Information from the National Council on Compensation Insurance who administers the Workers' Compensation Assigned Risk Plan shows the following statistics for policy year 1998.

Number of risks insured	10,114
New plan applications received	6,905
Earned premium	\$20,284,000
Incurred losses*	\$16,815,000
Loss ratio	82.9%

### Workers' Compensation Fund

The Legal Division of the Insurance Department administers the Workers' Compensation Fund in conjunction with the Kansas Workers' Compensation Act, K.S.A. 44-501, et seq. Representatives of the Legal Division are responsible for controlling the receipts and disbursements from the Fund. Attorneys throughout Kansas are appointed by the Department to represent and conserve the fund. A detailed accounting of the fund is filed annually with the Governor's office. Anyone wanting a copy of the most recent report may contact the Legal Division of the Kansas Insurance Department or the Office of the Governor of the State of Kansas.

### Firefighters Relief Fund Tax

The Firefighters Relief Fund is used to assist firefighters and their families when accident or death occur in the line of duty. This fund is generated by a two percent tax imposed on insurance companies writing fire insurance coverage within the state of Kansas. The tax was collected, placed in a special fund and distributed to 579 cities, counties, townships, and fire districts.

The 1998 tax distribution of the Fund was made as follows:

Insurance Commissioner Administrative Expenses (approved by legislature FY'99) \$ 75,078

Kansas State Firefighters Associations, Inc. (education and study of fire prevention and extinguishment) \$ 164,753

Kansas State Firefighters Associations, Inc. (death benefit - to restore balance to \$100,000) \$ 65,500

Each Association (based on amount of fire insurance written in area served by that assoc.) \$5,187,971

# Legislative Summary

Over 75 insurance related bills were before the Kansas Legislature this session. Ultimately 22 of the bills received approval. Here is a brief summary of insurance-related legislation for 1998:

## Accident & Health

- **SB411** (Utilization Review Organizations) - The legislation makes a minor change to the URO statute by removing the reference to the Kansas City Private Review Group which is no longer in operation. Amends K.S.A. 1997 Supp. 40-2c06 Effective 7/1/98
- **SB 409** (Prostate Cancer Screening) - Requires coverage for screening examinations for prostate cancer. **Amended into SB439, See Section 30.** Effective 7/1/98
- **SB 439** (Medicare Provider Sponsored Organizations) - Allows the Insurance Department to license and regulate Provider Sponsored Organizations which contract to offer Medicare services to enrollees. Sections 13-27 of SB 439 are actually about PSOs. This bill, referred to as the "insurance omnibus bill", had these bills amended into it: SB 409; SB 426; SB 494; HB 2636; HB 2705; HB 2997. Effective 7/1/98
- **HB 2705** (HIPAA Amendments) - The legislation makes a number of changes to the "Kassebaum-Kennedy" health insurance law passed last year. The bill clarifies when a preexisting condition limitation period starts. It also allows individuals who were members of another state's high risk pool to enroll in the Kansas pool without a six month waiting period. The Kansas Small Employer Reinsurance Program will be closed down. Finally, the legislation makes technical "clean-up" changes to the law passed in 1997. The law is also changed so that high deductible health insurance policies which are purchased in conjunction with a medical savings account must follow the mental health and substance abuse mandates (K.S.A. 40-2,105) once the deductible is met. The prior law required MSA policies to pay for outpatient mental health benefits on the same basis as medical benefits (mental health parity) once the deductible is met. **Amended into SB439, See Sections 2-12.** Effective 7/1/98
- **HB 2997** (Health Insurance/Coverage for Diabetes) - Requires health insurance coverage for certain diabetes treatments and supplies. Amends K.S.A. 40-110,40-19c06, 40-2209g, 40-2209m, 40-2241,40-

3207,40-3208,40-3210, 40-3211, 40-3213, 40-3214, 40-3215, 40-3219, 40-3220 and 40-3221 and K.S.A. 1997 Supp. 40-112, 40-221a, 40-2,105, 40-19c09, 40-2122, 40-2209, 40-2209d, 40-2209e, 40-2209f, 40-2228, 40-3202, 40-3203, 40-3204, 40-3209, and 40-3225 and repealing K.S.A. 40-2209k and 40-2209l and KSA 1997 Supp. 40-1909 **Amended into SB439, See Section 28.** Effective 7/1/98

- **SCR 1613** (Long Term Care Task Force) - The legislation establishes a 16 member task force to study adult care homes, the long term care ombudsman program and state and federal laws and regulations which impact on the services provided to consumers of long term care services. Eight of the members will be legislators and the other eight will be representatives of consumers and providers of long term care services. The group will report to the 1999 Legislature on their findings. Effective 7/1/98

## Industry Related

- **SB 15** (Guaranty Association/State Deferred Compensation Plan) - The bill provides that annuities purchased under the state employees' deferred compensation plan may be subject to coverage by the Kansas Life and Health Insurance Guaranty Fund. Amends K.S.A. 40-3003 and 40-3008 Effective 7/1/98
- **SB 412** (Risk Based Capital) - The bill updates the RBC instructions which insurance carriers must use in submitting financial information to the Insurance Department. K.S.A.1997 Supp. 40-2c01 Effective 7/1/98
- **SB 416** (Premium Tax Credits) - The bill provides premium tax credits to insurance carriers. A number of these credits were previously available to domestic insurers on their privilege tax payments. The new law includes credits for expenditures for making a building accessible to the disabled; ancillary support facilities; investments in employee training and education and certain types of qualified business operations. Amends K.S.A. 79-32,153, 79-32,154, 79-32,160a, 79-32,195 and 79-32,196 and K.S.A. 1997 Supp. 40-2813, 74-50,114 and 74-50,132 Effective 7/1/98
- **HB 2636** (Reinsurance Act Changes) - Minor changes to the reinsurance law to bring it into compliance with the NAIC Model Reinsurance Act. **Amended into SB439, See Section 29.** Effective 7/1/98



# Legislative Summary

- **HB 2637** (Redomestication) - Clarifies the redomestication law passed last year by allowing carriers to file restated articles of incorporation with the Secretary of State. Amends K.S.A. 1997 Supp. 40-2,162 Effective 3/19/98
- **HB 2639** (Premium Taxes) - Corrects the tax bill passed last year by including Delta Dental in the changes in the premium tax law. Amends K.S.A. 1997 Supp. 40-252 Effective 2/19/98

## Workers' Compensation

- **HB 2591** (Workers' Compensation Insurance/Self-Employed Subcontractors) - Removes self-employed subcontractors doing work for a contractor from automatic coverage under the workers compensation system. The bill also amended the law regarding payments by employers when an employee without dependents is killed on the job. The employer is required to make a payment of \$25,000 to the estate of the deceased worker. Amends K.S.A. 44-570 and K.S.A. 1997 Supp. 44-503, 44-505, 44-508, 44-510b and 44-532 Effective 4/30/98
- **HB 2799** (Workers' Compensation Changes) - Changes were made to K.S.A. 44-534 and 44-556 to clarify the second injury fund's involvement in an action. In addition, K.S.A. 44-556 was amended to indicate who is liable in cases where there are multiple respondents or the second injury fund is involved. The penalties for fraud were increased. Utilization and peer review reports were made admissible in administrative hearings. Finally, the law was amended to include allocated loss adjustment expenses in workers' compensation policy deductibles. Amends K.S.A. 44-513a and K.S.A. 1997 Supp. 44-510, 44-534, 44-556, 44-559, 44-5,117, 44-5,120 and 44-5,125 Effective 7/1/98
- **HB 2831** (Workers' Compensation/Motor Carriers) - The legislation takes the exemption in the workers' compensation law for owner-operators and places it in a separate statute. There is no effective change in the law, however, it removes the provision from an existing statute (K.S.A. 44-503), which is frequently amended by the Legislature. Amends K.S.A. 1997 Supp. 44-503 Effective 4/16/98

## Budget

- **SB 426** (Salary Cap) - The legislation allows the Department to hire two actuaries by removing a provision in the law which prohibits the agency from paying actuaries more than the Commissioner. **Amended into SB439, See Section 31.** Effective 7/1/98
- **SB 494** (Second Assessment) - Changes the method of funding the Insurance Department budget. The Department will be funded through a combination of licensing and regulation fees and premium taxes (not to exceed 1% of premium taxes collected). If additional money is required to fund the Department budget, a "second assessment" will be made of insurance companies doing business in the state. **Amended into SB439, See Section 32.** Effective 7/1/98
- **Sub for HB 2895** (Omnibus Appropriations Bill) - The Insurance Department budget for FY 1998 was increased to provide funding for two actuarial positions. Effective 7/1/98

## Other

- **Sub for SB 424** (Children's Health Insurance) - The legislation established a program to provide health insurance coverage for children in families with incomes up to 200% of the federal poverty level. The program will be administered by the State Department of Social and Rehabilitation Services and coverage will be provided through health insurers and health maintenance organizations. The program is funded through a federal-state match. Effective 4/30/98
- **HB 2590** (Smoke Detector) - This bill provides for the creation of rural housing incentive districts in such cities and counties. The legislation was amended by adding provisions from SB 561 which requires homeowners to have smoke detectors in their homes. Effective 7/1/98
- **HB 2640** (Fire Liens) - The bill allows the Insurance Department to publish a list each calendar quarter of the cities and counties that have passed fire lien ordinances. Under prior law, we had to notify all property and casualty insurers each time an ordinance was approved. Amends K.S.A. 40-3902, 40-3904 and 40-3905 Effective 4/16/98

## Summary of Companies Doing Business in Kansas (Year ending December 31, 1998)

Life Insurance Companies of Kansas				Business Written in Kansas				
			Number of Companies	Life Premiums and Annuity Considerations Received	Life Claims & Benefits	Accident & Health Premiums Received	Accident and Health Losses Paid	
Domestic (Companies headquartered in Kansas)				12	\$ 144,392,217	\$ 88,783,376	\$ 645,060,022	\$ 561,936,289
Foreign (Any company not headquartered in Kansas)				641	\$ 2,388,869,369	\$ 1,784,596,179	\$ 773,961,968	\$ 547,459,513
Fraternal Societies				29	\$ 52,252,567	\$ 48,061,073	\$ 11,044,566	\$ 8,092,804
Totals				682	\$ 2,585,514,153	\$ 1,921,440,628	\$ 1,430,066,556	\$ 1,117,488,606
Health Maintenance Organizations				Number operating in Kansas	Kansas Net Earned Subscriptions	Costs of Hospital & Medical Benefits		
				21	\$ 597,699	\$ 543,866		
Fire and Casualty Companies				Number of Companies	Direct Premium Written	Direct Losses Paid		
Domestic				26	\$ 512,776,324	\$ 324,978,293		
Foreign				778	\$ 2,247,110,439	\$ 1,405,757,928		
Totals				804	\$ 2,759,886,763	\$ 1,730,736,221		
<b>Total Insurance Written in Kansas</b>					\$6,775,467,471			
(Total includes premium received from Life and Annuities, Accident and Health, Health Maintenance Organizations, and Fire & Casualty Companies)								

Please note: This information was provided by the National Association of Insurance Commissioners. The information is unaudited and is not a complete financial analysis nor is it an expression of opinion on any insurer.

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

Consumer Assistance Hotline  
1-800-432-2484  
(Main office)

Wichita Hotline  
1-800-860-5260

E-mail:  
ksebelius@ins.wpo.state.ks.us

Homepage: [http://www.ink.org/public/  
kid](http://www.ink.org/public/kid)

Main Office  
Kansas Insurance Dept.  
420 SW 9th St.  
Topeka, KS 66612-1678  
Phone: 785-296-3071  
Fax: 785-296-2283

Wichita Office  
130 S. Market St.  
Suite 4030, Box 3850  
Wichita, KS 67201-3850  
Phone: 316-337-6010  
Fax: 316-337-6018

Office hours are 8 a.m. to 5 p.m.,  
Monday through Friday.

**Publications Available  
Free to Consumers**

- Auto Insurance, A Necessity
- Auto Shoppers Guide, A Rate Comparison
- Health Insurance in Kansas
- Homeowners and Renters Insurance Shoppers Guide
- Kansas Homeowners and Renters Insurance
- Kansas Medicare Supplement Insurance Shoppers Guide
- Kansas Life Insurance Basics
- Kansas Long-term Care Insurance and Shoppers Guide
- Kansas Complaint Ratio Report
- HMO Report

Order your free copy:  
Toll-free hotline: 1-800-432-2484  
email: ksebelius@ins.wpo.state.ks.us  
homepage: <http://www.ink.org/public/kid>

# Consumer Information

The Kansas  
Insurance Department

**Kansas Auto Insurance and Shoppers Guide** explains basic auto insurance coverages required in Kansas and lists the costs for the top 30 companies selling auto coverage in Kansas.

**Health Insurance In Kansas** helps consumers understand their health insurance coverage and how to shop for coverage. It also tells how HMOs work and lists the HMOs operating in Kansas.

**Kansas Medicare Supplement Insurance Shopper's Guide** Medicare is a valuable resource that helps pay for many of today's advanced medical services. In this booklet, we help you identify the "gaps" in Medicare and compare rates for companies marketing Medicare supplement insurance and health maintenance organization.

**Kansas Homeowners Insurance and Shoppers Guide** provides homeowner, renters, and mobile homeowners with the information they need to insure their property. The shoppers guide compares rates for the 30 companies writing 75% of policies in Kansas.

**Life Insurance Basics** describes the basic types of life insurance plans, explains what happens when applying for coverage, and gives easy to understand definitions for policy terms.

**Kansas Long-term Care Insurance** guides consumers through the decision making process of buying a long-term care policy and compares costs for various plans sold in Kansas.

## Other Publications Available

Kansas Compliant Ratio Report  
Kassebaum/Kennedy, A Summary  
for Consumers and Business Owners

For a free copy of the guides, contact  
**Kathleen Sebelius, Commissioner of Insurance**

Kansas Insurance Department  
Consumer Hotline 1-800-432-2484

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