Approved: *January 25, 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 24, 2000 in Room 529-S of the Capitol.

All members were present except: Senator Praeger, Excused

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
Duane Goossen, Director of the Budget

Others attending: (See Attached)

Commissioner Sebelius presented a list of the proposed working groups of the Financial Services Modernization Task Force of the NAIC for the implementation of S 900 Gramm-Leach-Bliley Act (Attachment 1):

- Definition of insurance
- Consumer protection rules
- Privacy issues such as can financial information be shifted from securities to insurance to banking within one organization (Commissioner Sebelius serves as the Chair of this national committee)
- S 900 Implementation/functional regulation coordinating working group. Goal is to assure NAIC members appropriately manage their responsibilities. Key functions are:
    - Communication and information dissemination
    - Coordination with federal regulators
    - Assist in coordination with other topic-specific working groups and coordinating through the NAIC as the clearinghouse for consultation activities with federal regulators
    - Information sharing agreements
- NARAB - coordination with current agent-related committees

Commissioner Sebelius informed the Committee of a recent case of embezzlement within a title insurance company in Wichita. Without the legislation recently developed and passed by the FI&I Committee, the KID would have been unable to investigate the problem and greater losses would have been incurred to the customers. Also the $100,000 bond now required by title insurance companies has allowed for more thorough investigative procedures.

PREMIUM TAX

Commissioner Sebelius reviewed the memo she sent to Duane Goossen, Director of the Budget, on December 23, 1999, regarding the loss in premium tax revenues (Attachment 2). The reason for the primary loss of $20 million is due to the job credit option available to insurance companies that employ Kansas residents. Due to legislation passed in 1997, major reasons for the loss in revenues include:

- The repealing of the annuity premium tax on annuity products sold after January 1, 1997.
- Laws equalizing the premium tax rate paid by domestic companies to the rate paid by those companies organized under the laws of another state or of a foreign country at 2 percent beginning in 1998 were put in place;

- Allowance of a credit of 25% of salaries paid to Kansas employees as a credit against the premium tax.

If the current legislation is not repealed, an annual loss of $35 to $36 million can be expected next year. A freeze of the 25% tax credit was discussed.

Commissioner Sebelius has been informed by Mary Burch, Overland Park Chamber of Commerce, of the unusual growth in the insurance industry in the College Boulevard area. Universal Underwriters has recently redomesticated to Kansas and more than 1000 employees have been added to their staff of 450. Farmers Group has moved 500 jobs primarily in the Consolidated Claims area into Olathe with a salary average of $30,000.

Mr. Duane Goossen, Director of the Budget, indicated the Governor's budget was not built on any recommended changes to the Premium Tax issue. He agreed to return to the Committee at a later date for questions regarding the tax issue. No directives nor proposed legislation from the Governor are expected.

Additional information requested by Committee members included the employee's pay scale in the companies redomesticating to Kansas, an approximate of what they pay in income and property taxes as well as sales tax. Such estimates are needed to determine that repealing the tax credits would not eliminate jobs and stop the income flow from another area.. The Chair suggested the Taxation and Assessment Committee be involved in the preliminary discussions prior to any legislation being proposed.

<u>Senator Becker moved for the approval of the minutes of January 13 and 18. Motion was seconded by Senator Brownlee. Motion carried.</u>

The meeting was adjourned at 10:00 a.m. The next meeting will be held on January 25, 2000.

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
GUEST LIST
DATE: 1/24/00

NAME	REPRESENTING
Trish Heim	SPBG
Larrie Ann Lower	KS Assoc of Health Plans
Lee WRIGHT	FARMERS
Bill Sneed	Am. Ins. Life
Janet Stubbs	KBIWCF & KBIA
Pat Morris	KAIA
Randy [illegible]	Universal Underwriters GROUP
Stan Parsons	KGC
Kevin Davis	Am. Family Ins.
Nicole Basso	Kansas Ins. Dept.
John C. Bottenberg	Bottenberg & Assoc.
Kevin Barone	Hein/Weir Chtd.
Linda DeCoursey	KS Ins. Dept
Kathleen Sebelius	KS Ins. Dept
STEVE KEARNEY	RELIANT
MATT GOODARD	HCBA
DAVID HANSON	K's Insur Assns
Andy Allison	Kansas Health Institute
Kathy Damron	Prudential
Roger L Swartz	Kans. Ins. Dept

NAIC

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816-842-3600

816-471-7004 Main Fax
816-842-9185 Financial Services & Research Fax

National
Association
of Insurance
Commissioners

TO: All NAIC Members

FROM: George Nichols III, President
Kathleen Sebelius, Vice President
Terri Vaughan, Secretary-Treasurer
George Reider, Past President

George Nichols III
Kathleen Sebelius
Therese M. Vaughan
George W. Reider Jr.

DATE: January 18, 2000

RE: S900 Implementation

Outlined below is the proposed working groups of the Financial Services Modernization Task Force for the implementation of S900. We plan to discuss these during Roundtable at the Commissioners Conference and hope to have all assignments finalized by the end of February.

1. Definition of Insurance. The Gramm-Leach-Bliley sponsors told us the states have the authority to define insurance so that it includes all the things we want, such as reinsurance. NAIC should take the lead in developing a definition of insurance for states to use that includes everything we care about.

2. Consumer Protection Rules. The Feds must develop consumer protection rules, which will be focused almost entirely on sales and marketing issues. The NAIC should review the 13 safe harbors for sales, as well as existing state practices and regulations. We will need to justify any rules that treat banks differently.

3. Privacy. Appointed through Executive Committee. Kansas, Chair; North Dakota, Vice Chair.

4. S900 Implementation/Functional Regulation Coordinating Working Group. This will be a small group overseeing the total implementation plan and strategies for NAIC members. Our goal is to assure that we appropriately manage our responsibilities related to the Act. Key functions are:

   1. Communication and information dissemination.

   2. Coordination with federal regulators.

Senate Financial Institutions & Insurance

Date 1/24/00

Attachment # 1

3. Assist in coordination with other topic-specific working groups and coordinating through the NAIC as the clearinghouse for consultation activities with federal regulators.

4. Information sharing agreements.

5. NARAB. Our coordination with current agent-related committees.

We wanted to share the proposed working groups with you to keep you informed of our activities going forward.

*NAIC*News Release

National Association of Insurance Commissioners

Contact: Bob Martin, Kris Welschmeyer, or Susan Scheperle
816-842-3600
For Immediate Release
January 14, 2000

January 21, 1998

120 West 12th Street
Suite 1100
Kansas City, Missouri 64105-1925
(816) 842-3600 (816) 374-7186 Fax

KANSAS CITY, MO—The National Association of Insurance Commissioners today released the following request seeking public comment on implementing the consumer privacy provisions of the Gramm-Leach-Bliley Act.

REQUEST FOR PUBLIC COMMENTS

How should State insurance departments implement the consumer privacy provisions of the Gramm-Leach-Bliley Act?

In response to the enactment of the Gramm-Leach-Bliley Act (Public Law 106-102), NAIC President George Nichols III created the Privacy Working Group in December 1999 to give high priority for protecting the privacy of consumers in their dealings with insurance providers under the new law.

Under the leadership of Commissioner Kathleen Sebelius of Kansas (Chair) and Commissioner Glenn Pomeroy of North Dakota (Vice Chair), the Working Group is seeking public comments on implementing the consumer privacy provisions of this law. The Working Group's findings and recommendations will be presented through the NAIC for state regulatory consideration and may lead to the adoption of final privacy rules by individual states.

The Gramm-Leach-Bliley Act reaffirms the traditional authority of the states to regulate the business of insurance in the United States. The Act also provides for state insurance departments to adopt and enforce regulations to protect the confidentiality of personal consumer information held by insurance providers.

Title V of the Act sets forth a number of specific consumer privacy protections that Federal and State agencies must implement in their role as functional regulators of financial institutions. Generally, the Act directs regulatory agencies to establish appropriate standards covering administrative, technical, and physical safeguards which will be followed by financial institutions holding personal financial information provided by consumers. The purpose of such regulatory standards is to ensure the security and confidentiality of consumer information, including protections against anticipated threats or unauthorized access "which could result in substantial harm or inconvenience to any customer."

In meeting its responsibilities, the NAIC Privacy Working Group recognizes that states may go beyond the consumer privacy protections contained in the Act. Section 507 of the Act expressly permits states to offer privacy protections which are greater than those set forth in the Act.

To help determine what standards should be established by state insurance departments, the Privacy Working Group requests public comments on each of the major privacy protection areas set forth in the Gramm-Leach-Bliley Act. Those areas are described in the list of questions attached to this notice. Comments should address the issues raised by the attached questions, and may also offer additional views.

Because privacy issues are so important to consumers and industry alike, the NAIC's Privacy Working Group seeks input from a wide range of interested parties. We encourage everyone to give us your views and recommendations. We also ask interested organizations to share this public comment notice with their members.

The Gramm-Leach-Bliley Act sets May 12, 2000 as the deadline for adopting final privacy regulations mandated in the Act. In order to meet this tight statutory timeframe, we request that all public comments be submitted in writing by January 31, 2000 at the following address:

NAIC Privacy Working Group
c/o David Wetmore, Director of Federal and
International Relations
National Association of Insurance Commissioners
701 Hall of the States
444 North Capitol Street, NW
Washington, DC 20001

We will begin discussion of these comments and our timetable for further action in early February during our annual NAIC Commissioners' Conference. We anticipate providing additional opportunities, including public meetings, to review and hear comments from interested parties directly.

We look forward to receiving your comments and recommendations.

Sincerely,

George Nichols III
President, NAIC
Kentucky Commissioner of Insurance

Kathleen Sebelius
Vice President, NAIC
Kansas Commissioner of Insurance

The NAIC is located on the World Wide Web at www.naic.org. It is the nation's oldest association of state government officials, consisting of insurance regulators from the 50 states, the District of Columbia, and four U.S. territories.

NAIC PRIVACY WORKING GROUP

Consumer Privacy Implementation Issues Relating to the Gramm-Leach-Bliley Act

Following is a list of questions which must be addressed by State insurance departments as they implement the consumer privacy provisions of the GLB Act. In order to maximize the value of your comments, please respond to these questions using the format shown below –

(a) State the particular privacy issue or problem that you believe should be addressed by State regulators.

(b) Recommend a specific type of regulation that should be adopted, remembering that State insurance departments set overall standards, while commercial insurance providers will be responsible for determining how they comply with State standards in their daily business activities.

(c) Provide a general description of the public benefits which justify the costs that will result from adopting your recommended regulatory standard.

These questions are not intended to cover all privacy issues, and should not be regarded as a complete listing of State regulatory concerns. Please feel free to make additional comments regarding any privacy issue that you believe is relevant.

1. Under the GLB Act, insurance providers have an affirmative and continuing obligation to safeguard nonpublic personal information given to them by consumers. What types of consumer information constitute "nonpublic personal information"? Does nonpublic personal information include all information provided directly to an insurer by a consumer, even if some information could be gained from publicly available sources elsewhere? Does personal information include information given about a spouse, children, or other family members?

2. The Act requires that consumers receive "clear and conspicuous disclosure" of an insurance provider's privacy policies at the time a customer relationship is established, and at least

annually thereafter. What type of disclosure satisfies this standard? How detailed should it be?

3. The Act contemplates that required disclosures be in writing or an electronic form approved by the consumer. What safeguards are needed to assure that insurance consumers are getting clear communications of their privacy rights? Should there be some required response to prove that the consumer received and understood the insurer's privacy policies?

4. The Act recognizes that consumers have privacy rights at every stage of their relationship with an insurance provider – before, during, and after an actual customer relationship has been established. Should there be any difference in the way personal information is handled before or after an actual customer relationship is established, compared to how it is treated during the customer relationship? At what point should personal information given during a consumer inquiry or application process become protected by State regulations?

5. What rights, if any, should a consumer or customer have to demand that an insurance provider tell him or her exactly what personal information has been disclosed and to whom it was disclosed?

6. Under the GLB Act, a consumer has two basic ways to exercise his or her privacy rights. First, the consumer is free to do business elsewhere if an insurance provider's privacy policies are deemed inadequate. Second, a consumer can elect to "opt out" or not permit a commercial firm to disclose personal information by affirmatively telling the firm that the consumer does not want protected information disclosed to others. Some people have said that consumers should have the right to "opt in" or explicitly agree to having their personal information disclosed before a commercial firm could disclose it to others. Should State insurance regulators go beyond the requirements of the GLB Act by providing that insurance consumers must "opt in" before their personal information can be disclosed to outsiders?

7. How should the consumer "opt out" process work? Should the insurance provider be required to give a self-addressed stamped form that a consumer can mark with a simple check and mail to exercise the "opt out" right? Should consumers be able to "opt out" by Internet or phone? If so, how should the process work?

8. The GLB Act gives consumers a right to "opt out" of having their personal information disclosed to non-affiliated third parties of an insurance provider, but consumers have no right to stop the disclosure of nonpublic personal information to affiliated companies. Should State insurance regulators go beyond the GLB Act's protections, and require that consumers be able to veto the sharing of personal information with both affiliates and non-affiliates of an insurance provider?

9. The GLB Act lists several exceptions to its rule that consumers be permitted to "opt out" of having personal information disclosed to non-affiliated third parties. These exceptions include normal business procedures and compliance with law enforcement, but they also include sharing personal information in a joint marketing agreement with a non-affiliated third party. Are all of these exceptions to the "opt out" rule justifiable? Should State insurance departments make any changes? If so, why?

The GLB Act requires Federal regulatory agencies to cooperate in establishing uniform privacy standards, yet the Act expressly permits States to require stronger safeguards for consumers. How important is it for State insurance regulators to promulgate privacy standards that are uniform with the Federal standards? What are the reasons to making State standards substantially the same as Federal standards? Why should State standards be stronger?

****30****

6-1

Summary of Title V, Gramm-Leach-Bliley Act

[This is just a summary. It contains paraphrased language to capture the gist of the bill. For the actual language, see the full text of the bill.]

Current as of Wednesday, January 19, 2000

Section	Title	Summary	Comment
TITLE V	**PRIVACY**		
Subtitle A	**DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION**		
501	**PROTECTION OF NONPUBLIC PERSONAL INFORMATION**		
501(a)	Privacy Obligation Policy	Financial Institutions are obliged to respect and protect customers' nonpublic personal information ("Nonpublic Personal Information").	
501(b)	Financial Institutions Safeguards	Agencies described in 505(a) shall issue regulations for the Financial Institutions under their jurisdiction regarding (1) security and confidentiality of information; (2) protection of anticipated threats to security of information; and (3) protection against unauthorized access.	This requires KID to promulgate regulations. Although the language of this grant of authority is different that that for the federal agencies in 504, it appears that this grant allows states to promulgate regulations to further the goals of the entire title. A narrow reading of this section could suggest that the states' authority is narrower, however.
502	**OBLIGATIONS WITH RESPECT TO DISCLOSURES OF PERSONAL INFORMATION**		
502(a)	Notice Requirements	A Financial Institution may not disclose Nonpublic Personal Information to a Nonaffiliated Third Party unless it has provided notice under 503.	Important protection.

01-1

Section	Title	Summary	Comment
502(b)	Opt Out	(1) A Financial Institution may not disclose Nonpublic Personal Information to Nonaffiliated Third Parties unless (A) The Financial Institution clearly and conspicuously discloses that the Nonpublic Personal Information may be disclosed; (B) The consumer is given the opportunity to opt out; and (C) The Financial Institution explains how the consumer can opt out. (2) This shall not prevent a Financial Institution from providing Nonpublic Personal Information to a Nonaffiliated Third Party if the Nonaffiliated Third Party performs services for or functions on behalf of the Financial Institution pursuant to joint agreements, if the Financial Institution discloses this to the consumer.	Important protection. It is crucial to define "clear and conspicuous" robustly. Note that Financial Institutions may disclose Nonpublic Personal Information to affiliates without notice or opt out.
502(c)	Limits on Reuse of Information	Nonaffiliated Third Parties may not disclose the Nonpublic Personal Information to another Nonaffiliated Third Party (of the Financial Institution or the Nonaffiliated Third Party) unless the disclosure would be lawful if made directly to the Nonaffiliated Third Party by the Financial Institution itself.	
502(d)	Limitations on the Sharing of Account Number Information for Marketing Purposes	Financial Institutions shall not disclose, other than to a consumer reporting agency, account numbers to Nonaffiliated Third Party for use in marketing.	
502(e)	General Exceptions	Subsections (a) and (b) do not apply if: (1) The disclosure is necessary (A) to effect a transaction requested	504 provides that federal regulators can create additional exceptions. Does that mean that states can also create additional

Section	Title	Summary	Comment
		or authorized by the consumer; (B) to maintain the consumer's account; (C) to a securitization, secondary market sale, or similar transaction. (2) The consumer consents or directs the disclosure. (3) The disclosure is necessary (A) to protect confidentiality or security of information; (B) to protect against fraud, etc., (C) for required institutional risk control; (D) to persons holding a legal or beneficial interest relating to the consumer; (E) to fiduciaries or representatives. (4) The disclosure in necessary to provide information to insurance rate advisory organizations, guaranty funds, etc. (5) The disclosure is specifically permitted or required under other laws. (6) The disclosure is to a consumer reporting agency in accordance with the FCRA, or from a credit reporting agency. (7) The disclosure is in connection with a sale, merger, or exchange of a business if the disclosure concerns solely consumers of that business. (8) The disclosure is necessary to comply with Federal, State, or local laws.	exceptions in their regulations?
503	**DISCLOSURE OF INSTITUTION PRIVACY**		

1-12

Section	Title	Summary	Comment
	POLICY		
503(a)	Disclosure Required	Initially and at least annually, a Financial Institution shall clearly and conspicuously disclose its policies and practices regarding (1) Disclosure of Nonpublic Personal Information to affiliates and Nonaffiliated Third Party, including categories of information; (2) Disclosing Nonpublic Personal Information to former customers; and (3) Protecting Nonpublic Personal Information.	
503(b)	Information to be Included	The disclosure shall include: (1) The Financial Institution's policies and practices for disclosing Nonpublic Personal Information to Nonaffiliated Third Party, including the categories of Nonaffiliated Third Parties; (2) The categories of Nonpublic Personal Information collected; (3) The policies to protect the Nonpublic Personal Information; (4) The disclosures required by the FRCA.	
504	**RULEMAKING**		
504(a)	Regulatory Authority	(1) The federal regulators, after consultation with state regulators designated by the NAIC, shall issue regulations necessary to carry out this subtitle with respect to Financial Institutions under their jurisdiction according to 505. (2) Regulators shall coordinate to ensure consistency. (3) These regs shall be promulgated within 6 months of enactment of this act.	This grant appears to apply only to federal regulators, except that these regulators must consult with the NAIC Privacy Working Group.
504(b)	Authority to Grant Exceptions	The regulations under 504(a) may grant additional exceptions to 502(a)-(d).	

1-13

Section	Title	Summary	Comment
505	**ENFORCEMENT**		
505(a)	In General	The functional regulators, including state insurance authorities, shall enforce this subtitle.	
505(b)	Enforcement of Section 501	Certain federal regulators shall issue regulations in the same manner as standards under the FDIC.	
505(c)	Absence of State Action	If a state insurance authority fails to adopt regulations, it shall forfeit its ability to override the insurer customer protection regulations under the FDIC.	The threshold for satisfying this requirement is unclear. How broad must the regulations be? What is the deadline for promulgating these regulations? It does not appear to be six months, like in 504(a)(3). Is it 6 months after the 504 regulations are issued, like in 510?
505(d)	Definitions	The terms regarding certain federal regulators are the same as the International Banking Act of 1978.	
506	**PROTECTION OF FAIR CREDIT REPORTING ACT**		
506(a), (b), (c)	Amendment, Conforming Amendment, Relation to Other Provisions.	Section 621 of the FCRA is amended.	Does not appear relevant to state regulation.
507	**RELATION TO STATE LAWS**		
507(a)	In General	This subtitle only supersedes or alters state law to the extent that the law is inconsistent with this subtitle.	
507(b)	Greater Protection Under State Law	State law is not inconsistent if it provides greater protection.	This allows states to grant consumers greater privacy protection, such as an opt-in provision, instead of the opt-out provision.
508	**STUDY OF INFORMATION SHARING AMONG FINANCIAL AFFILIATES**		
508(a)	In General	The Secretary of the Treasury, along with	

Section	Title	Summary	Comment
		certain federal regulators, shall study information sharing practices among Financial Institutions.	
508(b)	Consultation	The Secretary shall consult with representatives of state insurance authorities designated by the NAIC, and also with consumer groups, industry groups, etc.	
508(c)	Report	The Secretary shall report to Congress before 1/1/2002.	
509	**DEFINITIONS**		
	Federal Banking Agency		
	Federal functional regulator		
	Financial institution		
	Nonpublic personal information	Personally identifiable financial information (i) provided by a consumer to a financial institution, (ii) resulting from any transaction with the consumer or the service performed for the consumer, or (iii) otherwise obtained by the financial institution. Does not include publicly available information. Includes lists derived from information other than publicly available information. Does not include lists derived without using nonpublic personal information.	
	Affiliate		
	Nonaffiliated third party	Not an affiliate or related by common ownership or affiliated by corporate control with the Financial Institution. Does not include a joint employee of the institution.	
	Necessary to effect, administer, or enforce	For insurance: the disclosure is required, or is a usual, appropriate, or acceptable method, for insurance underwriting at the consumer's request or for reinsurance purposes, or for any of the following purposes as they relate to a consumer's insurance: Account administration,	

1-15

Section	Title	Summary	Comment
		reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects, or as otherwise required or specifically permitted by Federal or State law.	
	State insurance authority		
	Consumer	An individual who obtains financial products or services primarily for personal, family, or household purposes, and also means the legal representative of the consumer.	
	Joint agreement		
	Customer relationship		
510	**EFFECTIVE DATE**		
		This subtitle takes effect 6 months after the rules required by 504 take effect, except (1) to the extent that the regulations specify a later date, and (2) that 504 and 506 are effecting upon enactment.	Is this the deadline for state regulation under 505(c)?
Subtitle B	**FRAUDULENT ACCESS TO FINANCIAL INFORMATION**		
521	**PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS**		
521(a)	Prohibition on Obtaining Customer Information by False Pretenses	It is a violation of this subtitle to obtain customer information relating to another person by (1) making a false statement to a financial institution; (2) making a false statement to a customer; (3) providing a false, lost, stolen, or fraudulently obtained document.	

1-16

Section	Title	Summary	Comment
521(b)	Prohibition on Solicitation of a Person To Obtain Customer Information From Financial Institution Under False Pretenses	It is a violation of this subtitle to request a person to obtain customer information as described in (a).	
521(c)	Nonapplicability to Law Enforcement Agencies	This does not apply to law enforcement.	
521(d)	Nonapplicability to Financial Institutions in Certain Cases	Financial institutions can still perform acts described in (a) to (1) test security, (2) investigate wrongdoing, or (3) recover customer information taken by acts in (a) or (b).	
521(e)	Nonapplicability to Insurance Institutions for Investigation of Insurance Fraud	Insurance institutions can still perform acts described in (a) to investigate fraud.	
521(f)	Nonapplicability to Certain Types of Customer Information of Financial Institutions	One can still obtain customer information otherwise available as a public record pursuant to securities laws.	
521(g)	Nonapplicability to Collection of Child Support Judgments	Private investigators may still collect info to collect child support payments.	
522	**ADMINISTRATIVE ENFORCEMENT**		
522(a)	Enforcement by Federal Trade Commission	The FTC shall enforce this subtitle with the same authority it has under title VIII, FCDPA.	
522(b)	Enforcement by Other Agencies in Certain Cases.	In certain cases, other federal agencies shall enforce this subtitle.	
523	**CRIMINAL PENALTY**		
523(a)	In General	Knowing and intentional violations of this subtitle is punishable by a fine and up to 5 years imprisonment.	
523(b)	Enhanced Penalty for Aggravated Cases	The penalties in (a) double for aggravated violators.	
524	**RELATION TO STATE LAWS**		

1-17

Section	Title	Summary	Comment
524(a)	In General	This subtitle only supersedes or alters state law to the extent that the law is inconsistent with this subtitle.	
524(b)	Greater Protection Under State Law	State law is not inconsistent if it provides greater protection.	
525	**AGENCY GUIDANCE**		
		Each federal banking authority, the SEC, or self-regulatory organizations shall review regulations under their jurisdictions and prescribe revisions to ensure institutions have policies to prevent unauthorized disclosure and deter activities proscribed in 521.	
526	**REPORTS**		
526(a)	Report to the Congress	Regulators shall report to Congress on the efficacy and adequacy of this subtitle and recommendations for change.	
526(b)	Annual Report by Administering Agencies	The FTC and AG shall report to Congress regarding their enforcement actions.	
527	**DEFINITIONS**		
	Customer		
	Customer information of a financial institution		
	Document		
	Financial institution		

Memorandum

To: Duane Goossen, Director of the Budget

From: Kathleen Sebelius, Commissioner of Insurance

Date: 12/23/99

Re: Options to Existing Premium Tax Provisions

I promised that I would provide to you some options to mitigate the loss in premium tax revenues. In an informational memorandum that I sent to you in September, I outlined some major reasons for the FY 1999 decline in premium tax income to the state. The primary reason for the approximately $20 million dip in premium tax receipts is attributable to a job credit available to insurance companies that employ Kansas residents. This credit, first effective with tax year 1998, serves two purposes. (1) To "hold harmless" domestic companies that would now pay an increased rate from 1.0 percent to 2.0 percent on taxable premiums written. The domestic companies could use the credit to reduce their tax liability back to the 1.0 percent. (2) To increase the marketability of the State of Kansas in attracting new jobs and retaining current jobs.

How the job credit works: For tax year 1998, companies were allowed to reduce their premium tax liability by an amount that represented **25.0 percent** of salaries paid to Kansas employees. The amount of salary credit cannot exceed 1.0 percent of taxable premiums.

For tax year 1999 and subsequent tax years, insurance companies are allowed to take a credit against their premium tax liability for up to **30.0 percent** of salaries paid to Kansas employees. The amount of salary credit cannot exceed 1.25 percent of the total premium tax liability.

Note: On the attached table, the amounts shown for FY 1999 are actual dollars and reflect the provisions that were in effect for tax year 1998. The provisions for tax year 1999 are expected to further decrease premium tax receipts.

Senate Financial Institutions & Insurance

Date 1/24/00

Attachment # 2

Some options to consider:

To prevent further losses in premium tax revenues:

- Retain provisions that pertain to tax year 1998. This would roll back to 25.0 percent the amount of salaries paid to Kansas employees that could be used as a credit. Fiscal effect: approximately $1.0 million per one ~~percent~~.

- Keep in place the 1998 tax cap of 1.0 percent. (As mentioned on the previous page, current law will increase this cap to 1.25 percent for tax year 1999 and subsequent years.) Every roll back of one-quarter of one percent has the potential to increase revenues by approximately $6.25 million.

To increase premium tax revenues above current projections:

Does not recommend due to retaliatory taxes.

- Increase the current 2.0 percent premium tax rate. Fiscal effect: $8.6 million per one-quarter of one percent. (Missouri is at 2.0 percent, Nebraska at 1.0 percent, Oklahoma at 2.25 percent, Iowa at 2.0 percent, Colorado at 2.05 percent.)

- Currently companies may allocate their salary credit among insurance company affiliates. As an example, three affiliated companies had more than $8.0 million in Kansas employees' salaries. The 1.0 percent cap, based on the companies' premium tax liability meant that the three companies could collectively take only a $120,000 salary credit. The companies then allocated the remaining portion of the $8.0 million in salaries to 25 or more affiliated companies (none of whom previously had Kansas employees' salaries). Those affiliated companies were able to take $680,000 in additional salary credits against their premium tax liability.

  The language that permits this allocation could be repealed.

- Reduce the existing caps below 1998 percentages. (See above for fiscal effect.)

Premium Tax
Review
Kansas Insurance Department

8-13

	FY 1997	FY 1998	FY 1999	
Privilege Tax	$1,001,198	$2,112,535	(1,191,386)	1
Foreign and Domestic	78,664,361	84,909,825	64,306,261	2
Premium Tax	4.74%	7.94%	-24.27%	
(Decline in dollar amount.)			(20,603,564)	
Fire Marshal Tax	197,656	200,000	200,000	
Retaliatory Tax	1,656,382	2,996,667	2,787,877	
TOTAL PREMIUM TAX	$81,519,597	$90,219,027	$66,102,752	
Fines and Penalties	767,625	440,515	410,764	
Total	$82,287,222	$90,659,542	$ 66,513,515	

1 HB 2082 eliminated the privilege tax beginning with tax year 1998.

2 Reduction reflects a new job credit (loss of $14.3 in foreign tax receipts, small business credit (loss of $1.06 million), repeal of tax on annuity income ($1.0 million), and larger credits taken in tax year 1998 for guarantee assessments ($2.0 million).