

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:10 a.m. on January 19, 1994 in Room 529-S of the Capitol.

Members present: Senators Corbin, Hensley, Lawrence, Lee,

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

Conferees appearing before the committee: Ron Nitcher, Insurance Department  
Richard Brock, Insurance Department  
Robert Harder, Secretary of Health and Environment  
Judy Stork, Banking Department

Others attending: See attached list

Senator Steffes made a motion, seconded by Senator Praeger, to approve the minutes of the meeting of January 18 as submitted. The motion carried.

Discussion was reopened on SB 486, which was heard in the committee meeting of January 18. Observing that the bill would remove inappropriate restrictions on domestic companies on ownership in HMO's, Senator Steffes made a motion to move SB 486 favorably. The motion was seconded by Senator Corbin. The motion carried. The bill will be carried by Senator Bond.

Hearing was opened on SB 492, filing financial statements by electronic means. Ron Nitcher, State Insurance Department, appeared before the committee to explain the bill. (Attachment #1.) Senator Bond requested clarification of the requirement to file with the Insurance Commissioner and the National Association of Insurance Commissioners. Mr. Nitcher explained that the NAIC provides members with data collected from these sources. Mr. Carman questioned the language in line 15, page 2, suggesting that "electronically readable medium" may be more appropriate. Chairman Bond requested that Mr. Carman and representatives from the Insurance Commissioner's office develop appropriate language and present their revision to the committee at a later meeting.

Hearing was opened on SB 491, concerning managing general agents. Mr. Nitcher explained to the committee that this bill would exempt third party administrators from the definition of a managing general agent and would also exempt registered third party administrators from those statutes regulating managing general agents. The bill would also amend KSA 40-2,135 to make it clear that the Commissioner may order any one of the three separate penalty actions set forth in this law, or any combination thereof. (Attachment #2.) Following brief discussion, the hearing on SB 491 was closed. Senator Praeger made a motion, seconded by Senator Lawrence, to move SB 491 favorably. The motion carried. Senator Bond will carry this bill.

Hearing was opened on SB 485, relating to the statistical plan for accident and sickness loss and expense data. Richard Brock, State Insurance Department, explained why this legislation is necessary. (Attachment #3.) This legislation designates the Secretary of Health and Environment as the administrator of the health care data base, thereby fulfilling the requirements of previous legislation regarding health insurance statistics.

Secretary Robert Harder, Department of Health and Environment, appeared as a proponent of SB 485. (Attachment #4.) Dr. Wolff of Legislative Research questioned whether any problems were anticipated with two different agencies, the Insurance Department and the Department of Health and Environment, being able to adopt rules and regulations since the language in the bill does not specifically divide responsibility between the two agencies. Secretary Harder and Mr. Brock were in agreement that no problems were foreseen since the two agencies will cooperate in adopting rules and regulations. Senator Praeger observed that it is critical that information collected is consistent and collaboration is needed so that the agencies' rules and regulations do not overlap each other. Senator Praeger suggested that the language reflect that the agencies will jointly adopt rules and regulations. Following further discussion regarding language clarification, the hearing was closed.

Senator Praeger made a motion to amend SB 485 by changing line 22, page 2, to read "The commissioner or the secretary of health and environment, or both, may jointly adopt rules and regulations....." The motion was seconded by Senator Lawrence. The motion carried.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
Room 529-S Statehouse, at 9:10 a.m. on January 19, 1994.

Senator Praeger then made a motion to pass **SB 485** favorably as amended. Senator Lawrence seconded the motion. The motion carried. Senator Praeger will carry the bill.

Judy Stork, State Banking Department, appeared before the committee to request introduction of legislation to amend KSA 9-1724 to include article 68 of chapter 17 of the Kansas Statutes Annotated. (Attachment #5.) Senator Petty made a motion, seconded by Senator Lee, to introduce this legislation. The motion carried.

The committee adjourned at 9:45 a.m.

The next meeting is scheduled for January 20, 1994.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE

DATE: 1-19-94

[illegible]

Testimony on  
Senate Bill No. 492

by

Ron Nitcher

Kansas Insurance Department

In December 1991, the Kansas Insurance Department became one of the first nine state insurance departments in the United States to become certified under the National Association of Insurance Commissioners' (NAIC) Financial Regulation and Standards Program. The purpose of the program is to create national standards for financial regulation which will improve and strengthen the state regulatory system of insurance and the safety and soundness of insurance companies.

In order to maintain our accreditation, Senate Bill No. 492 represents one of four new standards which Kansas must adopt by January 1, 1996. However, it is important to note that maintenance of NAIC accreditation is a secondary consideration. The fact is the enactment of these proposals would produce a more effective, efficient and consistent regulatory environment which is in the best interests of all insurance consumers including those in Kansas.

Specifically, this proposal would amend K.S.A. 40-225 by authorizing the Commissioner of Insurance to adopt regulations requiring insurance companies to file their annual and quarterly financial statements on a machine-readable diskette. By receiving such information on computer diskette, both the Insurance Department and NAIC could immediately begin analyzing insurance company financial data without first having to manually enter it onto the computer. In addition, many of the preliminary audits and cross checks can be automated.

Since Kansas is one of only five states that currently does not require insurance companies to make their filing on computer diskette, virtually all companies which operate in Kansas and at least one other state are already submitting their financial statements to the NAIC or to such other state on computer diskette. As a result, this legislation will not have a massive impact by requiring insurers to implement new computer programs or technology. The vast majority are already doing so and, in fact, support the opportunity to file their financial statements on tape, diskette or whatever medium is ultimately required. Senate Bill No. 492 could, however, require some Kansas insurance companies that do not operate outside our state and which previously have not been required to file their financial statements on computer diskette to begin doing so.

*Senate File 1/19/94  
Attachment #1*

Testimony on  
Senate Bill No. 491

by

Ron Nitcher

Kansas Insurance Department

Senate Bill No. 491 proposes to amend K.S.A. 40-2,130 and 40-2,135 which pertain to the regulation of managing general agents. Managing general agents are independent entities which insurance companies may contract with to perform various management functions of the company including producing, underwriting, paying claims and obtaining reinsurance. In 1990, the Insurance Department proposed these laws to address solvency problems and regulatory concerns associated with a company's use of managing general agents. As a result of the significant management decisions made by managing general agents and the lack of knowledge many companies had with respect to the risks being assumed, some companies were forced into liquidation. The statutes enacted in 1990, which were also needed for the Insurance Department to become accredited under the National Association of Insurance Commissioners' Financial Regulation and Standards Program, impose certain restrictions and obligations on managing general agents and the companies that contract with them.

Specifically, Senate Bill No. 491 would exempt third party administrators from the definition of a managing general agent. Third party administrators, which are regulated under Article 38 of the Insurance Code, are independent entities employed by life and accident and health insurers to collect premiums and pay claims on behalf of such insurers. Even though we did not intend for third party administrators to fall under the statutes regulating managing general agents and thus be subject to dual regulatory requirements, the fact is that because of the definition of "managing general agent" they do so. Consequently, the enactment of this proposal would clearly exempt registered third party administrators from those statutes regulating managing general agents.

The proposed amendment to K.S.A. 40-2,135 is technical in nature. This law sets forth three separate actions which the Commissioner may take when a violation of the statutes regulating managing general agents occurs. As presently drafted, the law could be interpreted to imply that the second and third actions listed must be taken together. The amendment would make it clear that the Commissioner may order any one of the actions or any combination thereof.

Senate File # 1/19/94  
Attachment # 2

Testimony on  
Senate Bill No. 485

by

Dick Brock

Kansas Insurance Department

The 1990 session of the Kansas legislature enacted a bill which requires the Insurance Department to promulgate a statistical plan that would provide for the recording, reporting and compilation of premiums, loss experience, and expenses associated with the writing of accident and sickness insurance. Following enactment of this legislation, the Department retained an independent actuarial firm for the purpose of assisting us in the development of the statistical requirements. However, upon completion of the first phase of this work, the Department encountered a significant obstacle in that we have not been able to locate an organization that is willing to serve as a statistical agent i.e. someone with the expertise and resources to collect and compile the enormous number of pieces of data that will be involved. As a result, this statute has not been implemented.

As it turns out, this may be a blessing in disguise. With the 1993 enactment of Senate Bill No. 118, the process of establishing a comprehensive health care data base was started. As a result, the data to be collected from insurance companies and other third party payors may now be somewhat different than would have been the case if only insurance data was to be accumulated. In any event, because of the 1993 legislation, a health care data governing board now exists and is currently engaged in the process of developing policy regarding the collection of health care data. Furthermore, the legislation designates the Secretary of Health and Environment as the administrator of the health care data base.

Senate Bill No. 485 will not only take advantage of the opportunity the health care data base initiative presents to fulfill the requirements of the previous legislation regarding health insurance statistics but, equally important, it would seem to be a practical way of integrating the insurance

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Attachment #3

data into the broader information system the health care data base will ultimately contain.

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State of Kansas

Joan Finney, Governor



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Department of Health and Environment

Robert C. Harder, Secretary

Testimony presented to

The Financial Institutions and Insurance Committee

by

The Kansas Department of Health and Environment

Senate Bill 485

We are being encouraged to make health care decisions which will need data. Every discussion about making health decisions calls for more data to be available to assure we will meet the health care needs of Kansans. By enabling the Department of Insurance to develop a statistical plan and with the establishment of the Health Care Data Governing Board, the legislature had the vision to enable two state agencies to begin looking at data needed to answer many health-related questions. In Senate Bill 485, we have before us the mechanism to fund and collect data for the health care database that will provide some of the answers needed for health care utilization, funding and availability.

We need to know how the current system is utilized and be able to estimate how it will be utilized in a new environment. The Kansas Department of Health and Environment understands there are significant challenges to be overcome when we attempt to compile health care utilization and cost data from different third party payors for the state. We believe this database will be a profound accomplishment and a good step toward providing the data necessary to make sound health care decisions.

Testimony presented by: Robert C. Harder

Secretary

Kansas Department of Health and Environment

January 19, 1994

Senate F 191  
1/19/94  
Attachment #4

## Banks and Banking

**9-1724. Merger, consolidation or transfer of assets and liabilities; information to be filed with commissioner; investigation; fees.** (a) Before any bank can merge, consolidate with or transfer its assets and liabilities under the provisions of article 67 *or article 68* of chapter 17 of the Kansas Statutes Annotated, the bank concerned in such merger, consolidation or transfer shall file, or cause to be filed, with the state banking commissioner, certified copies of all proceedings had by its directors and stockholders relating to such merger, consolidation or transfer. The stockholders' proceedings shall show that a majority of the stockholders voted in favor of the merger, consolidation or transfer. The stockholders' proceedings shall also contain a complete copy of the agreement made and entered into by the bank, with reference to such merger, consolidation or transfer. This act shall not apply to the merger, consolidation or transfer of assets and liabilities of a bank when the surviving entity is a national banking association or other federally chartered financial institution.

Upon the filing of the stockholders and directors' proceedings, the commissioner shall make an investigation of each party to the merger, consolidation or transfer to determine whether:

- (1) The interests of the depositors, creditors and stockholders of the bank are protected;
- (2) the merger, consolidation or transfer is in the public interest; and
- (3) the merger, consolidation or transfer is made for legitimate purposes.

The commissioner's consent to or rejection of such merger, consolidation or transfer shall be based upon such investigation. No merger, consolidation or transfer shall be made without the consent of the commissioner. At the time of filing the request for the merger, consolidation or transfer, a fee shall be paid to the commissioner in an amount established by rules and regulations adopted by the commissioner.

Notice of merger, consolidation or transfer shall be published at least once each week for three consecutive weeks before or after the merger, consolidation or transfer is to become effective, at the discretion of the commissioner, in a newspaper of general circulation published in each city or county in which the bank is located and a certified copy of the notice shall be filed with the commissioner.

(b) As used in this section "bank" means a state bank or trust company incorporated under the laws of Kansas.

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Attachment #5