

FINAL REPORT

ELIMINATION OF DISCRIMINATORY INSURANCE PRACTICES STUDY COMMITTEE

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Copies of the minutes of the meetings of the Elimination of Discriminatory Insurance Practices Study Committee are available under separate cover from the Legislative Service Bureau.

F I N A L R E P O R T

ELIMINATION OF DISCRIMINATORY INSURANCE PRACTICES STUDY COMMITTEE

February, 1989

AUTHORIZATION AND APPOINTMENT

The Elimination of Discriminatory Insurance Practices Study Committee was formed by the Legislative Council of the 72nd General Assembly for the 1988 interim period. The Council charge to the Committee was as follows:

Develop legislation to assure no Iowan who is covered by insurance, or who applies for coverage, is treated differently from any other covered person or applicant on the basis of sex or marital status with respect to the availability, terms, conditions, rates, benefits, or requirements of insurance coverage. Report to the Legislative Council with proposed legislation by December 15, 1988.

Members appointed and serving on the Committee were:

Senator William Dieleman, Co-chairperson
Representative Minnette Doderer, Co-chairperson
Senator Al Sturgeon
Senator Julia Gentleman
Representative Tony Bisignano
Representative Phil Tyrrell

MEETINGS OF THE COMMITTEE

The Committee was authorized by the Legislative Council to hold three meetings. The three meetings were held on the following dates:

First meeting: September 12, 1988, in Room 22 of the State House, Des Moines, Iowa.

Second meeting: November 17, 1988, in Room 116 of the State House, Des Moines, Iowa.

Third and final meeting: December 16, 1988 in Room 116 of the State House, Des Moines, Iowa.

All meetings were open to the public and were attended by members of the Legislative Service and Fiscal Bureaus, caucus staff, representatives of various interest groups, the press, and other interested persons. Minutes were taken of all meetings and are on file with the Legislative Service Bureau.

SEPTEMBER 12, 1988, FIRST MEETING

The first meeting was devoted primarily to the advocates of the existing industry practice of using gender and marital status as risk rating factors in determining rates for automobile insurance and individual life and health insurance policies. A listing of those making presentations and summaries of their remarks follows.

1. William D. Hager, Iowa Commissioner of Insurance. Commissioner Hager explained the general issue and scope of debate concerning gender-based insurance rates. Commissioner Hager explained that under existing state law it is already illegal to discriminate between applicants or insureds on the basis of sex or marital status with respect to the availability, terms, conditions, benefits, or requirements of insurance coverage. The Commissioner further explained that gender (sex) differentiated insurance rates, while permitted, are required to be actuarially justified and in any case are limited to a relatively small proportion of the total insurance market. (See Attachment A.)

2. Ed Zimmerman, Counsel for the American Council of Life Insurance of Washington, D.C. Mr. Zimmerman reviewed the history of the nongender insurance issue from the industry's viewpoint, with particular focus on the political history in Montana, where the Legislature first passed the law and then attempted to repeal it. The repeal was vetoed by the Governor. Mr. Zimmerman recommended against the passage of nongender insurance legislation.

3. Judy Mintel and Kathy Peckham, both of Bloomington, Illinois, representing State Farm Mutual Auto Insurance Company. Ms. Mintel explained and defended State Farm's use of gender in the current rate classification system for automobile insurance. Ms. Mintel argued that under a gender neutral rating system, many more drivers than the current three-tenths of one percent of the state's drivers would end up in the assigned risk pool because they would not be insurable by private industry. Ms. Mintel urged the Committee to continue the current rate system, under which Iowa has the lowest rates for automobile insurance in the country.

4. Wendy Munyon, of Grinnell, Iowa, Assistant General Counsel, Grinnell Mutual Reinsurance Company. Ms. Munyon explained the stake of a relatively small insurance company, like her own which

specializes primarily in automobile insurance, in the issue of gender neutral insurance pricing. Ms. Munyon concluded by advising the Committee to consider Iowa's need for a favorable casualty and property insurance climate when the state is attempting to promote itself as an insurance industry center.

5. Shirley Timmons, Immediate Past President, National Association of Insurance Women of Washington, D.C. Ms. Timmons focused on how an insurer establishes rates. Ms. Timmons explained that insurance is the only business in which the company does not know the cost of the product when it sets the price. Ms. Timmons questioned whether a gender neutral rating system would offer sufficient gain for women to justify the economic benefit lost and stated she represented only herself, not the association.

6. Dee Ann Bernhard, Alliance of American Insurers from Washington, D.C. Ms. Bernhard explained that insurers attempt to classify insureds with similar characteristics and expected claim experience together. Ms. Bernhard proposed that the fairness principle dictates that whichever group produces costs should pay those costs, and that a lower cost group should not be forced to subsidize a high cost group. Ideally, Ms. Bernhard argued, classification criteria must be readily identifiable, objective rather than subjective, and have the greatest effect on risk exposure.

7. Tom Phillips, Actuary, Principal Financial Group, Des Moines. Mr. Phillips explained that his duties were primarily involved with the development of new policies or insurance products. Mr. Phillips stated that his company supports the principle that there should be no differentiation on the basis of sex or marital status with respect to the availability, terms, conditions, or requirements of coverage. However, with respect to premium rates, the Principal opposes state-mandated gender neutral pricing. Mr. Phillips argued that the debate on the social policy question of gender neutral pricing should be conducted at the national level, and not in the individual states. It was pointed out to Mr. Phillips that his CEO opposed this proposal when it was conducted at the national level. He also stated that his company had made the policy adjustments to sell insurance in gender neutral Montana.

8. Patricia Huffman, Actuary with Farmland Mutual of Des Moines, representing Iowa Life Insurers Association. Ms. Huffman addressed the question of gender neutral insurance from the viewpoint of small Iowa insurance companies. Ms. Huffman recommended against mandating gender neutral insurance because the cost of complying would be high for both insureds and insurance companies, and stated that nongender pricing was opposed by small companies.

NOVEMBER 17, 1988, SECOND MEETING

The second meeting was reserved primarily for advocates of gender neutral insurance pricing. A listing of those making presentations and summaries of their remarks follows:

1. Ms. Andrea Bennett, Montana State Auditor and Commissioner of Insurance. Commissioner Bennett explained that she was a Republican state representative at the time Montana originally adopted its gender neutral law in 1983, and voted in favor of the bill. Commissioner Bennett explained that her experience after election as State Auditor and Insurance Commissioner has convinced her that Montana's gender neutral law was the right decision. Commissioner Bennett defended gender neutral insurance as another step in achieving equality and eliminating preconceived notions about women's rights.

Since the nongender law became effective, Commissioner Bennett has had to warn insurance companies, as well as agents, that they cannot mislead Montana residents about the impact of this law, such as blaming all increases on the nongender law. In several instances, she has had to require insurance companies to change premium inserts and inform policyholders of corrections. She stated consumers need to know that a combination of factors led to insurance rate increases in the last few years and that the nongender law cannot be cited as the single cause, and consumers also need to know that nongender did not impact all lines of insurance, such as commercial liability.

Additionally, Commissioner Bennett stated the following:

"In the life market, Montana actually had a number of agents claiming they do not have the same number or variety of insurance products to offer now that the law has taken effect. The truth is that some companies are choosing to offer a smaller portfolio of products until they make their entire product line nongender. That disruption did not end the availability or affordability of insurance to Montana. It also did not put a single insurance company out of business."

She stated that she frequently has been asked, "Has the nongender law had an impact on the number of companies doing business in the state of Montana?" She said that the most recent numbers available show that the number of new insurance companies authorized in Montana since October 1, 1985, the same date the nongender went into effect, totals 128. The number of companies that have stopped doing business in Montana during this same period

totals 45. These 45 companies withdrew from the state mostly because of consolidation or because they had financial problems, not because of the nongender law. She stated that basing rates on gender is like saying all women are good drivers and all men can't cook.

2. Ms. Marcia Youngman, Director of the National Clearinghouse for Ending Sex Discrimination in Insurance of the Montana Women's Lobby. The Montana Women's Lobby was formed to promote public policy which improves the economic and social status of women and families. The Clearinghouse was established by the Lobby in 1985 after the passage of Montana's gender neutral bill to determine the economic impact of the law and its effect on women and families. Ms. Youngman stated, based on a study by her group, that gender neutral insurance had benefited women in Montana, particularly because many women and families have been able to afford certain types of insurance for the first time, especially health insurance, and their economic security has increased because of the overall improved value of women's policies and the enhanced settlement options on men's and women's life insurance. Ms. Youngman presented lifetime impact charts in support of her claim of financial benefit to women. Ms. Youngman summarized the results of her survey in each of the major insurance market categories. Ms. Youngman advocated adoption of gender neutral pricing in Iowa not only for philosophical reasons, but also because it would further economic justice for women. She asserted that sex discrimination in insurance is fundamentally a civil rights issue, and that the civil rights and economic arguments are inseparably linked. Ms. Youngman concluded that her organization does not dispute the existence of actuarial differences between men and women, but claimed the existence of such statistics is not enough to justify their use to discriminate against women.

3. Ms. Jane Lopp, president of the Northwest Montana Association of Life Underwriters, testifying in writing. Ms. Lopp denied that sex discrimination in insurance is justifiable because it is actuarially based. She observed that insurance rates are primarily market driven rather than risk-based, explaining why insurers using the same actuarial data may offer rates varying by hundreds of dollars annually depending on management costs and marketing considerations. Ms. Lopp further added that it is a good time to make a transition to gender neutral rates as companies are in the process of converting older, obsolete products into new more interest-sensitive products offering a broader range of financial services. Ms. Lopp concluded by recommending adoption of gender neutral insurance pricing in Iowa and nationwide.

4. Ms. Deborah Ellis, of New York, Staff Counsel, American Civil Liberties Union Women's Rights Project. Ms. Ellis advanced

the ACLU's policy opposing all forms of discrimination based on sex in the writing and selling of insurance for the fundamental public policy reason that certain protected characteristics--race, color, religion, sex, marital status, and national origin--should not be taken into account in setting insurance rates even if such factors are actuarially justified. Ms. Ellis described the legal and business history of sex discrimination in insurance, including a review of key cases. Ms. Ellis stated that there is no principled--and no "scientific"--reason for rejecting classifications based on race and religion while retaining the classifications based on sex.

Ms. Ellis concluded by observing that this is a state and not federal issue because insurance regulation has traditionally been a state province. She believes that the concept that insurers find sex a convenient rating category cannot be reconciled with Iowa's commitment to equal rights for men and women, and Ms. Ellis recommended that Iowa adopt gender neutral insurance.

5. Ms. Jenny Erickson, Assistant Legislative Counsel, John Hancock Mutual Life Insurance Company of Boston, Massachusetts. Ms. Erickson expressed her company's view that the time has come to eliminate sex discrimination, including discrimination in insurance, just as racial and religious discrimination have been barred. John Hancock, the nation's fifth largest life insurer, supports so-called "unisex" insurance, and believes it is fair to both consumers and insurers. According to Ms. Erickson, the defenders of gender-based rates emphasize group fairness (the forest) and unisex advocates focus on the civil rights of individuals (the trees). John Hancock deviates from the industry line because it believes the issue is no longer an actuarial issue, it is a social issue appropriate for resolution by the courts and legislatures as such, and not an economic issue. Ms. Erickson supported the removal by legislation of gender-based rates, provided that doing so does not create undue hardships on existing policyholders or place insurance firms at a competitive disadvantage.

6. Ms. Inga Bumbarly-Langston, Director of the Iowa Civil Rights Commission. Ms. Bumbarly-Langston explained that the Iowa Civil Rights Commission has a mandate to eliminate discrimination in the state and carry out investigations and studies to achieve that goal.

7. Ms. Charlotte Nelson, Executive Director of the Iowa Commission on the Status of Women, also representing Ms. Naomi Christensen, Chairperson of the Commission. Ms. Nelson reviewed the history in Iowa of the issue of sex discrimination in insurance, including the ban in 1974 of discrimination in the availability, coverage, and benefits of insurance. She reviewed

the findings of the Commission's 1975 report, "A Study of Insurance Practices that Affect Women".

Ms. Nelson concluded that in light of prevailing public policy against discrimination on the basis of sex in employment, education, and the issuing of credit, it is time to eliminate sex discrimination in insurance and stated that gender neutral has been a long-time position of the commission.

8. Ms. Patrice Sayre, of Des Moines, Iowa Chapter of the National Organization for Women. According to Ms. Sayre:

"Insurers argue that sex discrimination in insurance is 'fair' and saves women money. The higher amounts women pay for medical, disability, and retirement income insurance are dismissed by industry representatives as trade-offs for 'breaks' they claim that women receive on auto and life insurance."

Ms. Sayre stated, "Women's payouts from annuities and pensions are cut an arbitrary 10-15%. This practice is "justified" by a woman's alleged longevity (6-9 years), a class assumption applied to individuals regardless of smoking, alcohol use, and other individual health factors now demonstrated to be prime determinants of life expectancy for both women and men.

"In 1983, the U.S. Department of Health and Human Services published a report which demolished the longevity gap as a basis for insurance prices. The overwhelming difference between the average lifespan of women and men is the difference in the number of each sex who have never smoked. Women have no "biological advantage" and cannot be expected to live longer. Life expectancy shows far greater and more predictable differences across occupational, regional, or income categories. Whites live longer than blacks, Mormons live longer, married men live longer -- but none of them pay for their longevity with smaller annuities.

"In pensions/annuities, all women are required to pay in advance for the longer lives that only 16% of them will actually live. Men who live beyond their appointed span, however, are not penalized by having their pensions cut off. Of 100 women and 100 men retiring at age 65, 5 women and 2 men will reach their 95th birthday. Who lived longer than whom?

"Now to 'reward' women for their longer lifespans, when it comes to life insurance, women pay 10-20% less than men for the same coverage. But suddenly women have acquired TWO lifespans. For retirement income, insurers used a payout schedule based on women living 6-9 years longer than men. But for life insurance, they take the male mortality tables and set them back about three years;

that is, the tables used by the industry are not based on women's mortality experience at all. There would be a 40% break if the same 6-9 year gap was used.

"There is a secondary level of discrimination here concerning widow's benefits. Lower monthly income payouts are made to women beneficiaries than to men, despite the fact that protection of widows is a major life insurance selling point, and despite the fact that men's higher pay-ins are an additional expense to the family during the lifetime of the insured.

"Example: Metropolitan Life, \$100,000 policy paid on death to 55 year old survivor: Widow gets \$576 LESS each year than a widower for life.

"In health insurance, we need to question why women are routinely assessed for medical costs, wholly or primarily attributable to men, such as prostate surgery, heart surgery, and repairs of sports injuries. Insurers say that treatment for alcoholism and its related illnesses amounts to some \$24 billion a year (exclusive of injuries); yet it is a disease that is six times more prevalent in men than women, yet women carry the cost.

"The point, however, is not to do sex discrimination better, but to eliminate it entirely because it is inherently abusive to women. Severe overcharges in health insurance force many women to forego insurance protection, thus seriously jeopardizing their financial security.

"\$2 billion worth of disability insurance is bought by private individuals. Women's rates are often 50% higher. A typical policy started at age 25 costs men \$128/yr; women \$182/yr; a 42% increase. When they both retire at age 65, the woman will have paid \$4,854 more.

"The risk of being disabled is related to one's occupation, not one's sex. Disability insurance is important to homemakers and farm women -- it should not be out of their reach."

9. Ms. Mary Wiberg, of Des Moines, National Association of Commissions for Women. Ms. Wiberg related her own experience while a homemaker and mother to obtain disability insurance in the 1970's and was told that insurance was not available for women doing "unpaid" work. According to Ms. Wiberg, such coverage is still not generally or easily available. She noted that the "Iowa 50 States Project" which reviewed the Iowa Code in 1984 for areas of sex discrimination, recommended the adoption of unisex mortality tables limited to prospective application only. Many of the study's recommendations were acted upon, but according to Ms.

Wiberg, the elimination of discrimination in insurance is the next step in establishing equity for all Iowans.

DECEMBER 16, 1988, THIRD AND FINAL MEETING

The third and final meeting was devoted to accommodating witnesses who could not make earlier meetings and to Committee discussion of the issues raised in the course of the interim study.

1. Joette Schliesman, of Waverly, Iowa, Actuary, Century Life of America, representing the Iowa Life Insurance Association. Ms. Schliesmann explained insurance companies' use of actuarial data to identify average risks in the group. The whole point of insurance, according to Ms. Schliesmann, is that some people will beat the averages and live longer and some will die young and need the insurance benefits.

Ms. Schliesmann concluded that gender neutral rating should be left to the market place.

2. James Luhrs, President, Equitable of Iowa and President of the Iowa Life Insurance Association. Mr. Luhrs noted that Montana has no domestic insurers, unlike Iowa in which domestic insurance companies are a leading industry which is currently experiencing growth. Mr. Luhrs advised against breaking the economic development partnership between Iowa insurers and state government by mandating adoption of gender neutral insurance. Mr. Luhrs also addressed the possible market disruptions which could result from adopting gender neutral insurance.

3. Barbara Lautzenheizer, of Hartford, Connecticut, independent insurance consultant and Past President of Montgomery Ward Life. Ms. Lautzenheizer argued for equality of opportunity, but observed that equality of opportunity does not always lead to equality of results, nor should it. Ms. Lautzenheizer opposed mandating gender neutral insurance as an attempt to mandate equality of opportunity which instead mandates equality of outcome. Ms. Lautzenheizer concluded that the end result of gender neutral insurance would be higher rates for women.

4. Donald J. Doudna, Director of Insurance Development, Iowa Department of Economic Development. Mr. Doudna explained the expected impact upon Iowa's emphasis of promoting further growth in the domestic insurance industry if gender neutral insurance were adopted. He did not express an opinion on the wisdom of either side of the debate, making it clear that it was for resolution by the Legislature or the courts, and not the executive branch. Mr. Doudna reviewed the history of the current economic development

initiative, the state's positive image as a fair, responsive, and supportive regulator of the insurance industry.

CONCLUSIONS AND RECOMMENDATIONS

Upon the motion of Representative Tony Bisignano, and concurrence of the Committee, no recommendation of policy or legislation was made by the Committee. Individual members indicated their intent to continue to review the conduct of insurance companies and their treatment of consumer and social concerns, including but not limited to gender based discriminatory rates. General concern was voiced over high insurance rates, especially for certain groups, and about excess profits, but no motion or recommendation was considered or adopted. Several members indicated their intention to continue hearings and review of insurance in the standing committees of the 73rd General Assembly. The minutes and research materials prepared for the Committee were directed to be forwarded and made available to the Legislative Council and members of the General Assembly for their future use and reference. No bill drafts were requested to be prepared by the Legislative Service Bureau.

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Iowa Unisex Premium

From 1987 Annual Report to the Governor
of the Iowa Insurance Division

Product Type	Total Iowa Premium	% Premium Unisex
Fire	153,000,000	100%
Inland Marine	44,300,000	100%
Liability	269,700,000	100%
Multiple Lines	303,800,000	100%
Workers' Comp	201,000,000	100%
Miscellaneous P/C	52,900,000	100%
Auto	633,700,000	66%
Life Insurance		
Individual	593,900,000	0%
Group	304,084,000	100%
Annuities	343,600,000	80%
Health	1,133,600,000	90%
HMO's	127,700,000	100%
Fraternal's	80,000,000	50%
County Mutuals	52,400,000	100%
State Mutuals	6,500,000	100%
Reciprocals	26,400,000	75%
Mortgage Guaranty	<u>5,700,000</u>	<u>100%</u>
 Total Premium	 4,333,087,000	
 Premium not Unisex	 1,034,192,210	
% Premium not Unisex	24%	
% Premium Unisex	76%	

ATTACHMENT A
(Commissioner Hager)