

F I N A L R E P O R T
NONGENDER BASED INSURANCE STUDY COMMITTEE

Senator William Palmer, Co-chairperson
Representative Minnette Doderer, Co-chairperson

Submitted to the General Assembly
January 1990

Prepared by the Legislative Service Bureau

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AUTHORIZATION AND MEMBERSHIP

The Nongender Based Insurance Study Committee was established by the Legislative Council in 1989. The charge of the Committee as specified by the Legislative Council was to "investigate and report on the adoption of a public policy of prohibiting gender-based rates on individual, nongroup insurance policies in Iowa." The Council directed the Committee, in cooperation with the Insurance Commissioner, to gather data to corroborate findings and make recommendations on consultant services or other resources needed for the study. The charge included a directive to make recommendations to the 1990 General Assembly.

Members of the Committee were:

Senator William Palmer, Des Moines, Co-chairperson
Representative Minnette Doderer, Iowa City, Co-chairperson
Senator Michael Gronstal, Council Bluffs
Senator Wally Horn, Cedar Rapids (replaced original appointee,
Senator Richard Running)
Senator John Jensen, Plainfield
Senator Jim Lind, Waterloo
Senator Jean Lloyd-Jones, Iowa City
Senator Larry Murphy, Oelwein
Senator Jack Nystrom, Boone
Representative Tony Bisignano, Des Moines
Representative Joel W. Brown, Lucas
Representative Roger A. Halvorson, Monona
Representative Joseph Kremer, Jesup
Representative Joyce Nielsen, Cedar Rapids
Representative Michael Peterson, Carroll
Representative Don Shoning, Sioux City

MEETING DAYS

The Committee was authorized a total of four meetings. The meetings were held on August 15, September 13, October 3, and November 1, 1989. At the first meeting the Committee invited testimony from Commissioner William D. Hager of the Insurance Division. At subsequent meetings the Committee received additional testimony from Commissioner Hager and also heard presentations from persons on both sides of the issue of nongender based rates. The

afternoon of the final meeting was devoted to consideration of recommendations.

PRESENTATIONS

On August 15, 1989, Insurance Commissioner William D. Hager presented an overview of the issue of nongender based insurance and stated that the decision whether to mandate nongender based pricing is a policy matter for the legislative body. He said it would be inappropriate for the Insurance Commissioner to take a position for or against the proposition.

The Commissioner described the investigation as involving two primary issues: First, are the rate differentials and the data upon which they are based valid and justified? Second, even if the distinctions are statistically valid, should they nevertheless be prohibited on public policy grounds and, if so, what would the effects be?

Commissioner Hager presented information he had provided to the Elimination of Discriminatory Insurance Practices Study Committee in 1988 and offered the assistance of the Insurance Division in answering questions, gathering data, and selecting outside consultants. Committee members suggested several areas in which they would like further information from the Insurance Division.

On September 13, 1989, the following presentations were made to the Committee:

Commissioner Hager, assisted by Keven Conley of the Insurance Division as to auto insurance information, presented a packet of materials in response to the Committee's requests for information. The documents included information on health insurance premium differentials attributable to complications of pregnancy; the factors and processes used in establishing automobile insurance rates; the estimated number of individual (nongroup) health insurance policies in Iowa; the effect of requirements for home state approval of insurance rates and forms; differences in life expectancy for whites and nonwhites and for females and males; statutory provisions on group insurance, rate approval authority, and unfair discriminatory practices; summaries of United States Supreme Court cases addressing gender differentials in employment-related annuities and pensions; comments on California's Proposition 103, which required a rollback of private passenger auto insurance rates; and the extent to which Iowa has followed national trends as set forth in model legislation.

Ms. Judith Brannon of Preferred Risk Mutual Insurance Company testified on behalf of the National Association of Independent Insurers. Her testimony related to the use of gender in the establishment of automobile insurance rates. Addressing the issue

of "fair" versus "unfair" discrimination, she asserted that to be fair, insurance rates should differentiate between groups of people which are identifiable as having different loss potentials, and that to fail to so discriminate would itself constitute unfair discrimination. She defended sex as a valid discriminator in automobile insurance. She described the changes in her company's rates for different male and female groupings upon implementation of nongender pricing in states where it has been required.

Dr. Mary Gray, Professor of Mathematics and Statistics at American University in Washington, D.C., testified on behalf of the Women's Equity Action League (WEAL). She addressed the broad issue of insurance practices which discriminate against women and stated her concern over the use of gender and marital status as risk classification factors. She criticized the use of discriminatory stereotypes and convenient but inaccurate proxies instead of actual risk factors. Dr. Gray said the insurance industry could operate very well if the industry were forced to give up discriminatory rates in individual policies; they have adapted to the requirements of nondiscrimination in employment-related insurance, she added. She asserted that sound public policy calls for the elimination of gender-based discrimination in insurance.

On October 3, 1989, the following presentations were made:

Mr. C. E. (Chuck) Rohm of Principal Mutual Life Insurance Company testified in opposition to state mandated gender neutral pricing in individual insurance coverage, stating his belief that it would be harmful for insurance companies, economic development in Iowa, and Iowa consumers. He commented on the effectiveness of market competition in the insurance industry in Iowa and suggested that if gender were not valid as a risk classification, competing companies would have developed a more accurate classification system.

The Committee viewed a videotape produced by the Nongender Insurance Project of the Montana Women's Lobby. The tape was based on a meeting in Washington, D.C., in May of 1988 and included statements by a number of persons active in the movement for adoption of nongender insurance legislation. The State of Montana has prohibited the use of gender as a factor in insurance and pension plans since 1983.

Ms. Marguerite Cothorn of the American Association of Retired Persons (AARP) commented on the use of demographic factors to determine rates, conditions of coverage, benefit schedules, and eligibility for insurance products and urged the identification and use of good predictors of risk that do not rely on group or immutable characteristics. She stated that the AARP supports the establishment of risk classification systems that accurately and fairly reflect the risks associated with the individual characteristics of each insured person and opposes arbitrary rate

setting based on group rather than individual characteristics and the use of "surrogate" factors. The AARP believes that as a matter of social policy, sex discrimination in insurance should be abolished, she said.

Ms. Denise O'Brien of Atlantic, a dairy farmer and former director of the Rural Women's Leadership Development Project for Prairiefire Rural Action, Inc., stated that her testimony was on behalf of rural women and women who work in businesses that employ fewer than 15 people. She noted that these women are outside the protection of federal court rulings which have resulted in nongender based insurance and annuity systems in employer group policies. She said she believes that gender-based insurance is an issue of discrimination and she urged that the Iowa Legislature remove gender bias in insurance on the grounds that it is bad public policy.

Mr. Tom Phillips of Principal Financial Group spoke on behalf of the Iowa Life Insurance Association. He provided a written statement from Ms. Patricia Huffman of Farmland Life Insurance Company, who was unable to attend because of illness. Mr. Phillips discussed the subjects of risk classification, pricing, and the role of competition in guarding against overpricing of products. He stated that there is statistical support for the use of different risk classifications in life insurance for males and females. He denied that gender is being used as a "surrogate" for something else, stating that it has not been made clear what other factor or factors might serve as appropriate substitutes. Mr. Phillips commented that there are administrative and technical problems which result from adoption of nongender pricing at the state level.

Mr. Mark Snell, Chairperson of the Legislative Committee of the Commission on the Status of Women, presented the Commission's policy of support for the elimination of insurance practices which discriminate on the basis of gender or marital status. He urged the Committee to approach the issue from a public policy standpoint.

Ms. Nancy Haragan, Vice President of USF&G Insurance and a representative of the American Insurance Association, stated that she wanted to present the other side of the public policy question -- that women benefit substantially from lower rates when gender-based risk classifications are used in automobile insurance and individual life insurance, and that it would not be fair to young women to make them pay more than their fair share for that insurance nor for men to pay more than their fair share for health insurance. She emphasized that auto insurance is much more likely to be purchased on an individual, gender differentiated basis while most health and disability insurance is purchased through employer group plans which do not differentiate in rates for the males and females in the same group.

Insurance Commissioner William Hager presented materials to supplement the information provided in September. The documents included information on the relationship between profitability and the increased use of statistical data and actuarial science in the insurance industry and information on the number of property casualty companies and life and health companies in Iowa and their profitability over the past ten years.

On November 1, 1989, the following presentations were made to the Committee:

Ms. Martha Chamallas, Professor at the University of Iowa Law School, said her area of specialty is civil rights law and she also serves as the Chairperson of the Women's Studies Program in the College of Liberal Arts. She discussed the relevance of a number of United States Supreme Court holdings and outlined historical developments with respect to classifications based on gender or other factors and the increased recognition of the antidiscrimination principle. Under the antidiscrimination principle, she said, persons are entitled to be treated as individuals, rather than on the basis of ascribed group status. She urged the application of this principle to prohibit the use of explicit sex-based rates in private, nongroup insurance policies. She emphasized her belief that the antidiscrimination principle forms the basis for sound public policy in this area.

Mr. Ted Anderson, representing the American Federation of State, County, and Municipal Employees (AFSCME), stated that the members of AFSCME Council 61 favor the elimination of all gender-based rating in the insurance industry.

MAJOR ISSUES

The Committee's charge related to the advisability of adoption of a public policy of prohibiting gender-based rates in individual, nongroup insurance policies in Iowa. There was no attempt to single out any particular type of coverage for study. The Committee heard testimony with respect to all types of coverage in which gender-based rates are used: life insurance and annuities, automobile insurance, and health and accident insurance.

As Insurance Commissioner Hager pointed out at the August meeting, two issues are involved in studies of gender-based insurance rates:

1. Are the rate differentials and the data upon which they are based valid and justified?
2. Even if the distinctions are statistically valid, should they nevertheless be prohibited on public policy grounds and, if so, what would the effects be?



In some instances discussion centered on the first issue but considerable emphasis was placed on the second.

At its final meeting the Committee voted to support further study and verification of information. The recommendations are given below.

RECOMMENDATIONS

On November 1, 1989, the Committee adopted the following statement and recommendations:

It is the belief of this Committee that the men and women of Iowa merit an accurate assessment of the true cost of their insurance, based on fact. Presently, most individual policies are based on sex distinct tables --one rate for men and one rate for women -- in some lines of insurance.

The Committee has been authorized to recommend to the Legislative Council a need for consultant services and other resources for a study to verify present practices of the insurance industry or to obtain further information needed to make recommendations for change.

The Committee recommends that initially a legislative investigation be conducted by the Legislative Service Bureau to gather information to corroborate information supplied to us by various insurance representatives and by others who support or oppose gender neutral rates.

If the Service Bureau cannot verify information supplied to the Committee, then an outside consultant who is neutral and independent of the insurance industry will be needed to further verify the information.

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