

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANSThe meeting was called to order by Senator Paul Hess at
Chairperson11:00 a.m./p.m. on March 29, 1983, 19__ in room 123-S of the Capitol.All members were present except:
Senator Bogina

Committee staff present:

Research Department: Marlin Rein, Sherry Brown, Mary Galligan, David Monical
Julian Efird, Bill Gilmore, Lyn Goering

Revisor's Office: Norman Furse

Committee Office: Mark Skinner, Doris Fager

Conferees appearing before the committee:

Jerry Slaughter, Kansas Medical Society
Rebecca Kupper, Kansas Hospital Association
Ron Todd, Insurance Commissioner's Office
Arnold Berman, Department of Human ResourcesSB 41, SB 283, SB 284 - Concerning Health Care Providers

Senator Gaines presented the subcommittee report on the above mentioned proposals. (Attachment C) Following his explanation of the report, there was committee discussion.

Mr. Slaughter presented written testimony (Attachment A). Following his presentation, he added that the \$1 million cap would, at the minimum, double insurance costs. He said substantial changes in the complex law should not be made without further study. In summation, Mr. Slaughter said his organization does not oppose the reporting aspect of the report, but does oppose the two major changes as relates to coverage.

Following Mr. Slaughter's testimony, there were questions from committee members. Senator Hess asked how he would propose the matter be studied. Mr. Slaughter answered that everyone in the industry is very serious about getting a long-term solution; however, there is no crisis. He added that everyone has agreed to sit down in the Insurance Commissioner's office next summer and hammer out solutions. Mr. Slaughter stated that the other alternative would be to put together another interim committee of legislators or others.

Ms. Kupper presented her written testimony (Attachment B). She said the Kansas Hospital Association agrees with Mr. Slaughter in opposing the subcommittee report. She suggested reporting SB 284 without amendments; she opposed the \$1 million cap; and opposed raising primary limits.

The Chairman asked Mr. Todd about the Insurance Commissioner's position on the three bills in question. Mr. Todd replied that the Department is aware the issue needs to be addressed, and it is his feeling the subcommittee report does address it. He added that the Insurance Department does not have the expertise to indicate how to address the issue, but will support whatever is decided. Mr. Todd said he feels SB 284 should be enacted; and that SB 283 should be held in committee, since there is a continued study of available markets, and hospitals and doctors are committed to work with the Insurance Department on this problem. In answer to questions, he said he felt the problem can be worked out without causing the Legislature the problem of having another interim study.

Mr. Todd noted there had been conversation about limits of \$150,000 on primary insurance coverage, and he is afraid it might create the problem of having some companies pull out of the market.

SB 41, SB 283, SB 284 - Continued

Motion was made by Senator Talkington and seconded by Senator Hein to report SB 284 favorably for passage. The motion carried by roll call vote.

Motion was made by Senator Gaines to amend SB 41 by including the amendment attached to the subcommittee report; and to further amend SB 41 to sunset it June 30, 1984. The motion was seconded by Senator Steineger.

There was a lengthy discussion and many questions from committee members. Senator Gaines and Senator Steineger withdrew the motion and second and the Chairman appointed the following subcommittee to come back with a recommendation on SB 41: Senators Hein, Chairman; Harder, McCray, Werts and Gaines.

There was no action on SB 283.

HB 2148 - Appropriations FY 1984, Regents' Institutions
HB 2135 - Appropriations FY 1983, Regents' Institutions

HB 2135 - Section , University of Kansas

Senator Werts presented the subcommittee report on this section, and answered questions from committee members.

HB 2148, Section 7 - University of Kansas

Following Senator Werts presentation of the subcommittee report on this section, there was a discussion concerning the Geological Survey Building and the \$40 fee providing revenue to the Geological Survey Fund. Included in this discussion was Senate Subcommittee Recommendation No. 2, which is opposite House recommendations.

In accordance with Senate Subcommittee Recommendation No. 3, motion was made by Senator Werts and seconded by Senator Warren to introduce legislation to provide that the Director of the Biological Survey shall be an unclassified employee of the University, and that a request be made to refer it to Committee of the Whole. The motion carried by roll call vote.

There was discussion concerning House Subcommittee Recommendation No. 12. Senator Werts said it is his understanding that the University could transfer from the bequest fund on their own to provide funds for the Honeywell Computer.

There was a question from Senator Hess in connection with House Subcommittee Recommendation No. 8. He asked where the Wichita well core sample library would be funded, and Senator Werts replied that it would be from the State General Fund.

Motion was made by Senator Werts and seconded by Senator Talkington to adopt the subcommittee reports for the University of Kansas for FY 1983 and FY 1984. The motion carried by voice vote.

Kansas State University, HB 2135, Section 5

Senator Talkington explained the subcommittee report on this section, and answered questions from committee members.

HB 2148 - Appropriations 1984, Regents' Institutions, Continued
HB 2135 - Continued

HB 2148, Section 3 - Kansas State University

Senator Talkington presented the subcommittee report. He called the committee's attention to Senate Subcommittee Recommendation No. 2, and indicated that a request was made for \$50,000. The subcommittee came to the conclusion that the program had merit, but provided only \$30,000.

Senator Talkington stated that, in visiting with people from Kansas State University, it became apparent that the Joint Committee on State Building Construction's recommendations were of primary concern, but the subcommittee felt it was a decision for the full committee. There were questions from members concerning the total cost of the different projects noted in the House subcommittee report.

Senator Werts noted that there was nothing included in the subcommittee recommendations concerning an offset for loss of fees due to a decrease in enrollment. He added that there has been an increase in funds at Wichita State University and the University of Kansas because of an increase. It was suggested by the Chairman that these decisions should be made with some uniformity following the completion of reports on all Regents Institutions.

HB 2135, Section - K.S.U. Veterinary Medical Center

There were no questions following Senator Talkington's explanation of the subcommittee report.

HB 2148, Section 4 - K.S.U. Veterinary Medical Center

Following Senator Talkington's presentation of the subcommittee report, there were questions concerning House Subcommittee Recommendation No. 2, concerning increase of the revenue floor for the Hospital and Diagnostic Laboratory Revenue Fund. It was noted that this floor had not been raised for some time, and it was decided this was a reasonable expectation of the amount of revenue which the Center will receive.

Motion was made by Senator Talkington and seconded by Senator McCray that the subcommittee reports for Kansas State University and the K.S.U. Veterinary Medical Center be adopted. The motion carried by voice vote.

HB 2135, Section 3 - Department of Revenue

Senator Gaines presented the subcommittee report on this section, and committee members were given opportunity to question him.

HB 2086, Section 3 - Department of Revenue

Following Senator Gaines' presentation of the subcommittee report, there was discussion concerning Senate Subcommittee Recommendation No. 1, concerning K-BITS. Senator Talkington indicated this is a complex problem, and will take until April 5 to get information on the subject.

Motion was made by Senator Gaines and seconded by Senator Talkington to adopt the subcommittee reports for the Department of Revenue. The motion carried by voice vote.

Motion was made by Senator Talkington and seconded by Senator McCray to report HB 2086 as amended favorably for passage. The motion carried by roll call vote.

HB 2140 and HB 2135, Appropriations FY 1983 and FY 1984

HB 2135, Section 19 - Securities Commissioner

Senator Harder explained the subcommittee report and answered questions from committee members.

HB 2140, Section 19 - Securities Commissioner

Following Senator Harder's presentation of the subcommittee report, committee members were given opportunity to question him.

HB 2135, Section - Board of Tax Appeals

Senator Harder presented the subcommittee report on this section, and answered questions.

HB 2140, Section 13, Board of Tax Appeals

Senator Harder presented the subcommittee report, and answered questions from committee members.

HB 2135, Section 4 - Department of Human Resources

Senator Harder explained the subcommittee report on this section. Mr. Berman explained to the committee some problems which the Department has which were not noted in the subcommittee report: (1) There is no reflection in the report that would permit the Department to bring on board on April 1 another Conciliator II in teacher negotiations; (2) There is no reflection in the subcommittee report to provide resources for travel in the field for the last three or four months of the fiscal year in the Labor Relations Division. There was discussion about whether or not these two items appear in the subcommittee report. Senator Hein said the subcommittee must have been operating from the wrong information, because it was thought there were the same number of people as last year, as reflected in the budget. Mr. Berman said there were more people--one additional investigator who had been traveling and, for part of the year, one additional hearing officer. Senator Hein said he felt the subcommittee could amend its report if there are problems.

HB 2140, Section 8 - Department of Human Resources

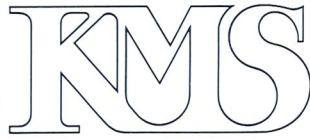
Senator Harder presented the subcommittee report, and answered questions from committee members.

Mr. Berman appeared to request that the subcommittee reconsider some of the items in the budget. He explained that the reduction in F.T.E. had been made in administrative positions, but the Department would like to have the flexibility of taking cuts where they would be best for the agency. Mr. Berman further noted that, in the CETA funds, there is a balance of \$274,000 which needs to be considered. He added that if this is not spent in FY 1984 and is not turned back to the Federal treasury, it will be reallocated among other states. His last request was that certain people in the new Job Training Program to be placed in unclassified service. Senator Hess asked the subcommittee to get further information from the Department on these items, and to return to the committee with recommendations.

Mr. Berman also noted cuts of personnel and funds for the Veterans Commission. He said he thought one position had been restored and a shrinkage problem had been eliminated. He added he was defending the Governor's budget.

No decisions were made concerning the budget for the Department of Human Resources.

The meeting was adjourned by the Chairman.



Kansas Medical Society

Incorporated 1859

March 28, 1983

TO: Senate Ways and Means Committee

FROM: Jerry Slaughter
Director of Governmental Affairs

SUBJECT: SB 284; Concerning Professional Liability

This week the Senate Ways and Means Committee will be considering a subcommittee report on SB 284, relating to professional liability. SB 284 makes necessary amendments to the Health Care Stabilization Fund, and in its present form, has the general agreement of all involved parties, including the Insurance Commissioner, the Medical Society and the Hospital Association. This bill is necessary and must be passed this year to guarantee that the Fund will have some additional revenue.

We urge you to reject the subcommittee recommendations for further amendments to SB 284; and then to pass SB 284 favorably as it is currently written.

The subcommittee has delayed further consideration of the bill, while it has drafted several amendments. These amendments would: place a cap of \$1 million on the Fund's exposure, increase the primary insurance limits to \$150 thousand, and institute a mandatory reporting provision to the Board of Healing Arts. None of these proposals have been sufficiently explored and evaluated. They should be rejected, pending further study this summer. The professional liability laws are complex and major changes such as those being proposed should not be adopted without a much more thorough study of the ramifications of such changes. None of the key questions on coverage and cost of primary and excess insurance have been answered. If the subcommittee recommendations are adopted without a more in depth evaluation of the insurance available, hundreds of physicians could find themselves in the same predicament they were in in 1975, when this insurance was either unavailable or unaffordable.

We urge you to reject the subcommittee recommendations, and report SB 284 favorably as it is currently written. Thank you.

ATA 3-29-83
11:00 a.m.



Memorandum

Donald A. Wilson
President

March 25, 1983

TO: Senate Ways and Means Committee
FROM: Rebecca L. Kupper
SUBJECT: SENATE BILL 284 AND SENATE BILL 41

The Kansas Hospital Association wishes to reiterate concerns we have expressed to your subcommittee and the full committee in prior hearings.

We support Senate Bill 284 in the form it passed out of this committee originally. We oppose at this time any attempt to cap claims against the Fund at \$1,000,000. As you are aware, Senate Bill 283, which imposed a \$1,000,000 cap, was held in this committee at the request of the Insurance Department, our Association, and the other conferees. Everyone was in agreement that further study was necessary to determine the availability and cost of excess coverage. We urge you to allow providers, insurers and the Insurance Department another year to study this by holding Senate Bill 283.

There has been some discussion of increasing the primary coverage limits. Again, we ask you to forestall this action until the availability and cost of such coverage can be determined.

In regard to Senate Bill 41, which continues the Board of Healing Arts, there has been much discussion of requiring reports of physician misconduct to the Board of Healing Arts. While we have no problem with requiring instances of termination, suspension or restriction of a physician's hospital privileges to be reported to the Board of Healing Arts, such a requirement should be reasonable. In such cases, the medical staff is the body that recommends to the hospital board that privileges be restricted, suspended or terminated. We, therefore, believe that the chief of the medical staff is the appropriate person to make reports to the Board of Healing Arts. Restrictions on hospital privileges are a result of peer review, and the hospital administration should not be put in the middle of such situations. Also, reports of physician misconduct to the Board of Healing Arts could involve technical questions. Only another physician has the expertise to discuss medical and surgical issues.

In summary, we urge this committee to put Senate Bill 284 back on the calendar without further amendment and hold Senate Bill 283 in abeyance until next year. If you decide to put a reporting requirement in Senate Bill 41, it should be reasonable and require reports to be made by the chief of the medical staff.

Thank you for your consideration of our concerns.

RLK:mkc

*AHB 3-29-83
11:00a.m.*

March 25, 1983

SUBCOMMITTEE REPORT

SENATE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON THE BOARD OF HEALING ARTS

Subcommittee Recommendations

The Subcommittee makes the following recommendations:

1. Report S.B. 284 favorable for passage.
2. Amend S.B. 283 by increasing the liability limit of the health care stabilization fund from \$100,000 to \$150,000 and by capping liability at \$1,000,000, and report S.B. 283 as amended favorable for passage.
3. Amend S.B. 41 to continue the Board in existence for one year, with a sunset date of June 30, 1984 and to require reports of possible malpractice to be made to the Board by administrators of health care facilities (as specified in Attachment 1), and report S.B. 41 as amended favorable for passage.
4. Authorize an Interim study to focus on the health care stabilization fund with special emphasis upon peer review, discipline and insurability of practitioners.

Senator Frank Gaines
Subcommittee Chairman

Senator Gus Bogina

Senator Paul Hess

Senator Jack Steineger

ATC 3-29-83
11:00a.m.

Attachment 1

The chief of medical staff or if there is no chief of medical staff the
New Sec. ____ (a) The chief administrative officer of any

firm, facility, corporation, institution or association which has granted practice privileges to, or which has employed or is employing, any person licensed, registered or certified by the state board of healing arts, who has knowledge of, or has reasonable cause to believe that, such licensed, registered or certified person is guilty of malpractice, has been the subject of disciplinary action or has resigned in lieu thereof, or has had the privilege to practice limited or denied, shall immediately report the same, under oath, to the state board of healing arts.

(b) Any report made pursuant to this section shall contain the name and business address of the chief administrative officer making the report and of the accused person, information regarding the malpractice or actions reported, and any other information which the chief administrative officer believes might be helpful in an investigation of the case.

Sec. ____ K.S.A. 65-2898 is hereby amended to read as follows: 65-2898. (a) No person reporting to the state board of healing arts in good faith any information such person may have relating to alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against, a person licensed or, registered or certified by such the board shall be subject to a civil action for damages as a result of reporting such information.

(b) Any state, regional or local association composed of persons licensed to practice a branch of the healing arts and the individual members of any committee thereof, which in good faith

immune from liability in any civil action, that is based upon such investigation or transmittal of information if the investigation and communication was made in good faith and did not represent as true any matter not reasonably believed to be true.