

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS

The meeting was called to order by Senator Paul Hess at \_\_\_\_\_  
Chairperson

11:00 a.m./p.m. on February 13, 1984 in room 123-S of the Capitol.

All members were present except:  
Senator Doyen

Committee staff present:  
Research Department: Ed Ahrens, Mary Galligan, Lynne Holt, Carolyn Rampey  
Revisor's Office: Norman Furse  
Committee Office: Doris Fager

Conferees appearing before the committee:

HB 2679 - Appropriations FY 1985, Legislature and related agencies

Mr. Ahrens distributed the subcommittee report prepared by the House subcommittee, and reviewed that report for committee members. There were questions from committee members. Mr. Ahrens answered those questions to the committee's satisfaction.

Motion was made by Senator Talkington and seconded by Senator Gaines to report HB 2679 as amended by House Committee favorably for passage. The motion carried by roll call vote.

SB 507 - Health Care Providers Insurance Availability Act

The Chairman reminded the committee of previous discussion and amendment of SB 507, and suggested further amendments be made or action be taken on the total proposal.

Motion was made by Senator Steineger and seconded by Senator McCray to delete all of section 7, concerning confidentiality. Senator Steineger then made statements supporting his motion. He reminded the committee that the Kansas Supreme Court has ruled on the matter. The policy of the state should be that a plaintiff is entitled to information referred to in section 7 if the trial judge, upon review, feels the plaintiff's attorney should have the information. He added this is a good check and balance and the Senate should not attempt to include this provision in an insurance bill. He stated that, if the Senate did take action, it should be initiated in the Judiciary Committee.

Senator Werts asked if the Supreme Court has responsibility to set public policy, and Senator Steineger answered that it is the Court's duty to do so. When asked by Senator Werts concerning the responsibility of the Legislature, Senator Steineger answered that if this bill is passed, that responsibility is to overturn the Supreme Court.

Senator Hess suggested that the law has been silent in the area of confidentiality. Senator Steineger answered that, under the rules of discovery and evidence, this type of information has always been available. Under the general rule of discovery, attorneys are allowed to have access to any information that is applicable to a certain case. The Supreme Court has now made a final decision and has limited the discovery clause. He further commented that the Supreme Court specifically referred to public policy decisions involved.

Senator Talkington commented about Senator Steineger's statement concerning initiation by the Judiciary Committee of the subject in question. He stated that there are only two more lawyers on the Judiciary Committee than on the Ways and Means Committee. He agreed with Senator Steineger that the matter will be considered separately, even though it appears in SB 507. He reminded Senator Steineger that the full Senate will have the

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SB 507 - Continued

opportunity to look at the proposal. Senator Talkington added that the contents of section 7 may eventually hold down the cost of health care, because attorneys will have the advantage of seeing records, and perhaps more complaints will be filed. He concluded by stating that it is his belief new section 7 is the best means of saying that records are discoverable, and he opposes the amendment.

Senator Gaines suggested the contents of SB 507 are a compromise, and he complimented the organizations who were instrumental in proceeding with the bill. He said he had reservations about the power of subpoena given to the disciplinarian; and wondered if the disciplinarian should be limited in his access to hospital records across the state. He commented that once the complaint is filed everything is public, and there are checks and balances by professional people.

Senator McCray questioned whether the medical profession has the courage to police itself. He said this question came to mind as he examined the records made available to the committee from the Wesley Hospital case. Senator Talkington said he understood Senator McCray's concern. He added, however, that the legal profession has a disciplinary administrator, and this has proved helpful to that profession. He suggested SB 507 is patterned after that procedure. Senator Gaines said that some doctor's in the state do not agree with the contents of SB 507, but that he felt the majority of them have nothing to hide, and will not hide anything from the general public.

Senator Steineger's motion lost on a voice vote.

Motion was made by Senator Gaines and seconded by Senator Harder to report SB 507 favorably as amended. The motion carried by roll call vote.

The meeting was adjourned by the Chairman.