Approved 2-26-85
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Senator Roy M. Ehrlich at
Chairperson

10:00 a.m./~~p.m.~~ on February 19, 1985 in room 526-S of the Capitol.

All members were present ~~except~~:

Committee staff present:

Conferees appearing before the committee:

Richard Huncker, Kansas Insurance Department
David Hanson
Martin Toews
Austin K. Vincent

Others Attending: See attached list.

Senator Vidricksen moved that the minutes of February 11, 12, 13, and 14th be approved. Senator Reilly seconded the motion and it carried.

Richard Huncker, Kansas Insurance Department continued his testimony answering questions dealing with expenses covered under SB-121.

David Hanson presented written testimony by the Health Insurance Association of America and testified opposing SB-121. The Kansas Life Insurance Association does not feel the need for this type of insurance has been sufficiently established. Attachment I

Martin Toews presented a request for a bill concerning insurance coverage for certain diabetic equipment and education programs.

Senator Francisco moved that this bill be introduced. Senator Anderson seconded the motion and the motion carried.

Austin K. Vincent presented a request for introduction of a bill comparable to HB 2204, copies of which were passed out to the committee. Senator Reilly made the motion that the bill be introduced. Senator Francisco seconded the motion. The chair was in doubt to the vote. A hand vote was called for. The motion to introduce the bill failed with a 5 to 4 vote.

Senate Bill 72 with no amendments was addressed by the committee. Senator Francisco made the motion to report SB-72 adversely. Senator Mulich seconded the motion. Senator Salisbury questioned whether or not the bill would be more amenable if it were amended to apply only to medical personnel responsible for patient care. After questions raised by Senator Salisbury, Senator Mulich requested permission to withdraw his second. Senator Francisco, as author of the motion granted Senator Mulich that privilege but asked for another second. Senator Morris seconded the motion. Senator Salisbury requested permission to make a substitute motion requesting that the language in line 26 starting with "an employee through line 28 law enforcement official) be struck from SB-72. Senator Anderson seconded the substitute motion. The chair was in doubt to the vote and a hand vote was called for. Those in favor 6, opposed 4. The motion carried.

Senator Francisco renewed his motion that the bill be reported adversely as amended and was seconded by Senator Morris. The motion was lost. Division was called for and the motion was lost 7 to 2. Senator Reilly made the motion to report SB-72 as amended favorably. Senator Anderson seconded the motion. Motion carried. Staff commented on a possible printer's error on line 50 of SB-72 and the correction will appear in the amended bill.

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 26-S, Statehouse, at 10:00 a.m./p.m. on February 19, 1985.

Senator Morris made the motion that SB-81 be reported favorably as printed. Senator Walker seconded the motion and the motion carried.

Attention was turned to SB-89 and staff stated a technical amendment, line 102 which would delete "elgible", was needed. Senator Francisco moved to strike "elgible" and Senator Mulich seconded the motion. The motion carried.

Senator Francisco made a motion to amend SB-89 by defining adults as "non institutional". The motion was seconded and the motion carried. Staff stated that an exception be created excluding from SB-89, residents, as that term is defined by K.S.A. 39 1401 FC.

Senator Anderson made the motion to pass SB-89 as amended. Senator Mulich seconded the motion and it carried.

Meeting adjourned.

SENATE

PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2/19/85

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
JACK ROBERTS	BC-BS
Connie Stewart	KS AFL-CIO
Allen Cot	Intern - Sen. Karr
Marilyn Bradt	KINH
John Grace	KS Assoc Homes Aging
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Hattie Norman	KNOA
Reba Caldwell Litman	KCOA - SH L. Dr. Kansas
Olive Smith	AARP
Helen Melichar	AARP
Harold Pitts	TARTA
Basil Covey	KRTA
Ila Major	AARP - KS. Leg. Comm.
Kathern Forest	AARP - Ks Legis. Com.
Margaret Mullikin	Gov. Council on Aging
Ruth Wilkin	Girl Scouts
Morton F. Ewing	AARP Ks. Leg. Com.
DAN MORGAN	AGC of KS, Inc.
LINDA CAROL WOODY	NAT'L ORGANIZATION FOR WOMEN
Martin L Toews	Am. Diabetes Assoc.
Sofia Francisco	
Rich Huncker	Ks. Ins. Dept.
Lynelle King	Ks St. Nurses' Assn

SENATE

PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-19-85

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
Donald L. Logan	KDOA
Austin K. Vincent	KFL
Robert C. Harder	SRS
Evelyn Whitfield	SRS
Spurlock	EMS-KHP
Dick Hummel	Ks. Health Care Assn
Rod Lake	KASB
John Irwin	Ks Dept of Health & Env.
Barbara J. Sabol	"

SB 121 - David Hanson - 2-19-85

STATEMENT IN OPPOSITION
TO SENATE BILL 121
BY THE
HEALTH INSURANCE ASSOCIATION OF AMERICA

The Health Insurance Association of America (HIAA) is a national trade association representing some 325 insurance companies that write more than 85% of the private health insurance issued in the United States. Many of these companies presently transact health insurance business in the state of Kansas providing a wide variety of health insurance coverage.

General Recommendations

The purpose of S.B. 121 obviously is to provide greater access and availability of major medical forms of coverage to persons believe to be without adequate health insurance or who cannot obtain health insurance because of existing health conditions. It would do so by establishing a "pooling program" under which major medical coverages would be provided to eligible persons. The costs of this coverage would be borne in part by modest premiums (compared to the coverage provided and the nature of the risks) paid by eligible persons, and assessments for pool losses against insurance companies and other "insurance" type organizations providing health benefit plan coverages in the state. The pool losses, assessed to insurers, would ultimately be borne by employers in the state in the form of added premium charges to their group employee insurance plans. While the "uninsurable" problem is numerically very small (national estimates indicate less than .04%) we do understand and appreciate the fact that problems are perceived when even one person has experienced major medical expenses and is without adequate health insurance protection. Adequacy of health insurance is generally meant to be sufficient coverage to provide financial reimbursement for vitually any health care need that might occur.

2/19/85
Attachment I

While, within this broad definition, numerous persons might not have "adequate" coverage, nonetheless various forms of health insurance protection are available to all persons. In this sense, there is no reason for anyone to be deemed "uninsurable", although numerous persons might nonetheless be underinsured or inadequately covered.

State uninsurable pooling mechanisms, such as would be established by S.B. 121, can be a viable answer to the problems of the uninsurables and the underinsured who can afford such pool coverage. However, two very important cautions should be recognized. First, they are costly to establish and administer and should not be established in the absence of a thorough study by the state to determine whether such program is actually needed. Such study should include the availability of coverages presently in the marketplace, other mechanisms to provide for temporary losses of coverages, and an evaluation of what the medical-economic needs are that might not be presently served. Secondly, the viability of a pooling program is greatly impaired due to present Federal law which prevents them from being established on a sufficiently broad financial base. The National Association of Insurance Commissioners (NAIC) devoted considerable study to this issue and in developing model pooling provisions clearly cautioned against the establishment of such pools until these two identified concerns are met. If there is no real demonstrated need for such a program and present market availability is reasonable in terms of meeting public needs, then the establishment of a pooling program would be a questionable expenditure of resources. Unless the problem of the ERISA preemption can be corrected, a pooling program once established is not likely to remain viable.

The viability of a pooling program is greatly impaired due to Federal law which prevents them from being established on a sufficiently broad financial base. The Federal Employee Retirement Income Security Act (ERISA) contains preemptive language that prevents state laws regulating insurance from applying to employee benefits plan. The courts have consistently applied the ERISA preemption to state statutes which would require participation in a state pooling program by employee benefit plans that are self-insured.

More than 85% of all health insurance is written as group insurance through employee/employer groups. Today, because of what is viewed as unacceptable regulatory impositions on group health insurance, more and more employers are dropping their insurance plans and self-funding or "self-insuring" their benefit plans. Conservative estimates today indicate that perhaps more than 60% of what was once the group health insurance market has changed to self-insurance. Since state pooling programs must rely on assessments from health insurance companies to subsidize the loss experience of the pool coverage, this financial base of support gets smaller as more employers decide to self-insure. Eventually, unless this trend is checked through appropriate corrections to the Federal law, what remains of the group health insurance market will be far too small to provide the financial support essential to the economic survival of these pools.

Therefore, we urge serious consideration be given to the enactment of S.B. 121 or any other kind of pooling program until there has been a thorough study to determine whether such a program is needed, and if it is, added consideration is given to how such a pool can be funded on a sound basis.

Specific Recommendations

Even if it is determined that a pooling program should be enacted, S.B. 121 is not recommended. This bill as presently drafted should be seriously reconsidered on numerous points. Various provisions of the bill are patterned after those in several other state pooling programs. Experience under these programs has demonstrated the need for improvement. The eligibility requirements are too stringent, mechanical and unnecessary. To require the applicant to have been rejected by two or more carriers is an unnecessary imposition and tends to make applicants feel demeaned. Furthermore, it is simply very time consuming and difficult for a person that really needs access to the pool. The criteria based on notification of coverage reductions or limitations or notice of premium increase of 50% or more is totally unworkable. There are numerous situations where a reduction of coverage is made because of other coverages or the insured requests a reduction in coverage. Also, the increase in premium of 50% or more is an unrealistic criteria. Because of the escalation of health care costs and the inability of insurers to adjust their rates in a timely manner, there are many instances where health insurance premium rates must be increased 100% or more, yet this factor has nothing to do with the applicant's insurability or the availability of coverage. In some forms of coverage it takes an insurer 2 or 3 years from the time a rate increase is deemed necessary until it can be processed through and approved by the Insurance Commissioners in the states where the policies are issued. The criteria based on notification that premiums for proposed coverage will exceed the standard rate by 50% are set within reasonable margins, the rate alone will provide the appropriate screening of eligible persons. These provisions of the bill need substantial rethinking and revision.

The bill requires the pool to provide Medicare supplement coverage to persons eligible for Medicare. There is no need for this kind of pool coverage. Even in the several states that now have pooling programs, there has been no demonstrated lack or unavailability of adequate Medicare supplement coverages in the state. Furthermore, however, this provision is in direct conflict with other provisions of the bill stating that the pool shall not provide coverage to persons over age 65, and in conflict with other provisions stating that if an eligible person is also covered under Medicare, the pool plan shall not pay benefits to the extent paid by Medicare.

The rates permitted in the bill for pool coverage are clearly inadequate. Experience in other state pools has shown that there needs to be a rate parameter of not less than 150% nor more than 200% of rates for standard risks. Limiting rates to not more than 150% of standard risks is inadequate and will place a burden on the insurance buying public in the state. It must be remembered that rate assessments against insurers will have to be passed on as higher premium rates for health insurance issued in the state. This means that, for the most part, because of the ERISA problem discussed above, the financial burden of the pool will have to be borne through higher premium rates on group health insurance issued to employers in the state. Again, because of ERISA, this financial base of employers will continue to shrink and a few number of Kansas employers will be carrying this financial burden for the entire pool.

One approach that theoretically mitigates the financial burden on Kansas employers would be to provide that assessments for the pool losses can be offset from premium taxes insurers pay to the state general revenue fund. This approach would place the pool cost burden directly on the state. This

alternative may not be viable for reasons of general state revenue considerations. Furthermore, since not all entities covered by the bill have premium taxes against which such assessments could be offset, there might be Constitutional legal reasons making this alternative unworkable. The legality of allowing some entities to offset assessments but not others would be highly questionable.

Conclusions

We seriously urge S.B. 121, or any other such pooling program, not be enacted at this time. Appropriate and thorough studies are needed to determine if such a program is needed and whether other mechanisms might more appropriately address areas of inadequate health insurance availability such a study might identify.

Should it be determined that such a pooling program is necessary and that the costs can be justified, the present provisions of S.B. 121 should be further considered as an appropriate solution.

Respectfully submitted,

Caroll Callaway
Associate General Counsel
February 14, 1985