

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Rep. Rex Hoy at
Chairperson

3:30 XX a.m./p.m. on March 31, 1986 in room 521-S of the Capitol.

All members were present except:

Committee staff present:
Ms. Ene Correll, Research Department
Ms. Melinda Hanson, Research Department
Mr. Gordon Self, Revisor's Office
Ms. Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Mr. Dick Brock, Kansas Insurance Department

The meeting was called to order by the Chairman.

The final report of the joint subcommittee on insurance was distributed and read by Ms. Hanson. (Attachment 1) There was discussion as to the whereabouts of the various bills recommended.

Final action on: HB 2860 - Required impact statement concerning proposed mandate

A balloon amendment to this bill was distributed. (Attachment 2) The Chairman explained that whereas SCR 1621 required the insurance commissioner to come up with facts as to the cost of diabetic equipment coverage, HB 2860 would require that any one of many organizations provide such a report for any proposed mandate.

Ms. Correll further explained that the legislation is patterned after bills adopted in Arizona and Washington. It provides for the legislature to have information before it relating to the cost of a mandate. The purpose of the amendment is to clarify that any legislator can introduce any bill at any time he or she chooses and that the report doesn't have to be presented at the time of the bill request. It also sets out guidelines for the information to be included in the report.

Concern was expressed that information provided by the proponents and opponents would be slanted and that better information would be provided by objective sources such as Legislative Post Audit, Legislative Research, or the insurance commissioner's office.

Others were of the opinion that those wishing to make a request should have the burden of producing a believable report and that there should be some homework done.

Rep. Blumenthal made a motion to amend the bill to allow the revisor leeway so that Legislative Post Audit would prepare the reports. He suggested that it specify dates by which requests would have to be submitted in order for a report to be done.

Rep. King made a motion to adopt the balloon amendments; Rep Neufeld seconded the motion. The motion carried.

CONTINUATION SHEET

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Rep. Blumenthal made a motion to table the bill; Rep. Graeber seconded the motion. The motion failed.

There was discussion about the number of proposed mandates in recent years and the opinion expressed that, though there would likely be more than one set of figures, it would be helpful to be able to compare them.

Rep. King moved that HB 2860 be recommended favorably; Rep. Neufeld seconded the motion. The motion carried.

Final action: HB 3104 - Examination of policies and reports

Mr. Brock reviewed the bill for the committee. It resulted from the hearings by the joint committee on insurance and would require the insurance industry to set up an audit bureau to determine whether rates charged coincide with those on file. He said that it would be an expensive mechanism, which would come from premium dollars. There would be a comfort factor knowing that all policies had been checked; the insurance department market conduct examinations perform a similar function, but it is not staffed to be able to check every policy. The market conduct examinations do not uncover a great deal of error, and the errors go both ways.

There was discussion regarding the fact that the bill could be applied to every type of policy, which would give the commissioner a lot of flexibility to spot check.

Rep. Lowther made a motion to amend the bill to sunset it in two years (June 30, 1988) for reevaluation; Rep. King seconded the motion. The motion carried.

Rep. Turnquist made a motion to amend the bill by inserting the words "and numbers" on Line 120 after "types"; Rep. Lowther seconded the motion. The motion carried.

Rep. Turnquist made a motion to recommend HB 3104 favorably as amended; Rep. Sprague seconded the motion. The motion carried.

The minutes of the previous meeting were approved as amended.

The meeting was adjourned at 4:40 p.m.

March 25, 1986

REPORT
OF THE JOINT SUBCOMMITTEE ON INSURANCE
TO THE 1986 LEGISLATURE

Mr. President and Mr. Speaker, the House and Senate Subcommittee on Insurance, appointed by their respective chairmen, has spent many early hours discussing the problems confronting many of our Kansas citizens with regard to the availability and affordability of insurance.

We have had the benefit of a wealth of testimony from many conferees, each who had their own perception as to how Kansas should address the insurance dilemma.

It is apparent that, in view of the dimension of the problem, some action is warranted by this legislative session in attempting to provide some relief that will allow the industry to recognize that Kansas is concerned about the amount and scope of some of the awards that are being handed down by the courts.

The issue is deeper than just concern for insurance companies or attorneys. The issue is one of a society that has become more litigious in nature and, for whatever reasons, have found it much more difficult to settle their differences without going to court. There also appears to be a great deal of fear and trepidation on the part of companies, consumers, attorneys, and Kansas citizens in general in view of the present course of insurance availability in this state.

To address the issue of insurance companies creating or contributing to the current liability insurance problem, the Subcommittee recommends that the appropriate committees of the Legislature hear and act upon S.B. 729, which concerns recording and reporting loss and expense experiences of insurance companies with the Commissioner of Insurance, and H.B. 3104, which requires the examination of insurance policies by the Commissioner to determine that such policies have been written in conformity with state law and regulations. In the alternative to these measures, H.B. 2987 could be considered. It would create the State Board of Insurance Rate Regulation to work with the Commissioner as the entity having jurisdiction and authority concerning rate regulation.

To address further the role of insurance companies in the problem, the Joint Subcommittee recommends that the House of Representative take action to pass S.B. 512, which would enact new laws creating criteria to be met before property and casualty insurance for business and professional needs could be cancelled, and S.B. 528, which would enact new law regarding notification prior to the charging of increased premiums for property and casualty insurance.

To address the problems of availability and affordability of professional liability insurance for professional persons other than health care providers, the Joint Subcommittee supports the concept of S.B. 540; however,

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it recommends that the Legislature look closely at the list of professionals included in the bill to determine whether each is appropriately included and whether other professionals have been excluded inadvertently. The bill would place certain limits on the liability of the specified professionals for damages arising out of the rendering of or failure to render services.

To address the problem confronting officials of local units of governments in obtaining liability insurance, the Subcommittee recommends that the Legislature review the provisions of H.B. 2912 and H.B. 2939, which would clarify the exemption from liability for local officials in the exercise of any governmental function regardless of whether the exercise of discretion is involved. Additionally, the Legislature could review the contents of S.B. 635, which would establish certain minimum levels of liability insurance and would limit liability to the level of insurance purchased.

To address further the concerns of officials of municipalities, the Subcommittee would call to their attention the existence of K.S.A. 75-6111, a part of the Tort Claims Act which authorizes those officials to enter into interlocal agreements providing for the pooling of the purchase of liability insurance and for the sharing of payments for judgments, settlements, attorney fees, etc.

To address the specific problem of products liability, the Subcommittee recommends that the Legislature enact S.B. 668, which would prohibit the introduction of certain evidence pertaining to advancements or changes in technical knowledge, design theory, testing knowledge, or in labeling, risk warning, or product instruction if these changes were made after the time the product in issue was designed, manufactured, and sold.

To address the problem of liability incurred in solid waste disposal, the Subcommittee recommends that the Legislature continue its review of S.B. 566, which would create a contingency fund from which claims would be paid for damages arising from the operation of the solid waste facility. The Subcommittee would encourage any interim committee assigned to study the bill or similar concepts contained in the bill to examine carefully the potential problems associated with the creation of such a fund, particularly those that might result from capping the size of the fund while allowing awards paid from the fund to be unlimited.

To address the issue of automobile liability insurance, the Subcommittee encourages the Conference Committee on 1985 H.B. 2422 to reach an agreement on the measure which would maximize the benefits to persons injured in automobile accidents.

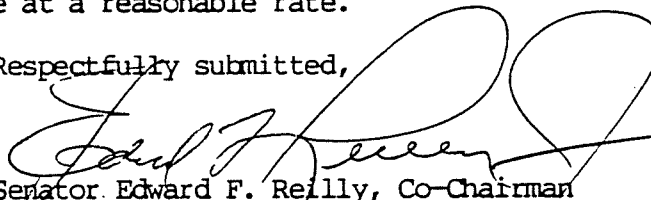
To further address the concerns of officials of political subdivisions, the Subcommittee recommends continued study of the feasibility of expanding or reinstating governmental immunity for political subdivisions to avoid the growing trend of litigation to impede the ability of many of these subdivisions from effectively performing their governmental functional. This continuing study should also include further consideration of any of the above cited bills, on this subject, that may not be enacted in the short time remaining in this legislative sessions. We recommend that this continuing review be conducted by an appropriate interim legislative committee and by Commissioner Bell's recently appointed Citizens Committee on Legal Liability.

To address the issue of handling liability issues before the judiciary, the Subcommittee recommends that the Legislature enact S.B. 480, which among other things expands the areas where sanctions can be imposed against a party or the party's attorney for abusing procedural devices.

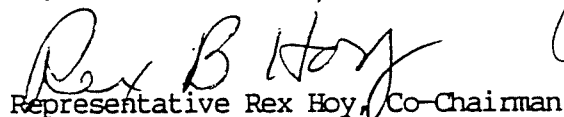
Finally, to address the issue of the Legislature contributing to the availability and affordability of professional liability insurance problem for professionals by mandating coverage for specific conditions or diseases, the Subcommittee recommends that the House of Representatives review the Senate's concerns with S.B. 671 and, taking those concerns into consideration, hear and act upon H.B. 2860. That bill would require sponsors of bills seeking to mandate certain benefits to submit reports to the Legislature assessing the social and financial impacts of such coverages.

These are just a few of the ways in which this legislature can proceed to at least give evidence to both the insurance companies and to the Kansas Bar that we are earnest, honest, and sincere in our effort to address this issue for our Kansas citizens. All of us must work closely together to insure that what we do is in the best interest of all Kansans but will enhance for them the availability of insurance at a reasonable rate.

Respectfully submitted,



Senator Edward F. Reilly, Co-Chairman



Representative Rex Hoy, Co-Chairman



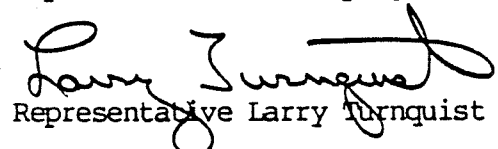
Senator Francis Gordon



Senator Richard Gannon



Representative Dale Sprague



Representative Larry Turnquist

HOUSE BILL No. 2860

By Committee on Insurance

(By request)

2-7

Attachment 2
House Insurance
3-31-86

0018 AN ACT concerning insurance; relating to mandated health
0019 insurance coverage; report required; assessment of social and
0020 financial impact.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. ~~Every person or organization which seeks spon-~~
0023 ~~sorship of a legislative proposal which would mandate a health~~
0024 ~~coverage or offering of a health coverage by an insurance carrier,~~
0025 ~~health care service contractor or health maintenance organiza-~~
0026 ~~tion as a component of individual or group policies, shall submit~~
0027 ~~a report to the legislative committees having jurisdiction, as-~~
0028 ~~sessing both the social and financial impacts of such coverage,~~
0029 ~~including the efficacy of the treatment or service proposed,~~
0030 ~~according to the guidelines enumerated in section 2.]~~ ←

A report assessing both the social and financial impacts of a proposed mandated or mandatorily offered health coverage, according to the guidelines enumerated in section 2, to the extent the information is available, shall be submitted to the legislative committees having jurisdiction by persons or organizations requesting a mandated or mandatorily offered health coverage by an insurance carrier, a nonprofit service corporation as provided in articles 18, 19, 19a, 19b or 19c of chapter 40 of the Kansas Statutes Annotated or a health maintenance organization.

0031 Sec. 2. Guidelines for the report required by section 1 for
0032 assessing the impact of proposed mandated or mandatorily of-
0033 fered health coverage, to the extent that information is available,
0034 shall include, but not be limited to, the following: (a) The social
0035 impact: (1) The extent to which the treatment or service is
0036 generally utilized by a significant portion of the population;
0037 (2) the extent to which the insurance coverage is already
0038 generally available;
0039 (3) if coverage is not generally available, the extent to which
0040 the lack of coverage results in persons avoiding necessary health
0041 care treatments;
0042 (4) if the coverage is not generally available, the extent to
0043 which the lack of coverage results in unreasonable financial
0044 hardship;
0045 (5) the level of public demand for the treatment or service;

← and

0046 (6) the level of public demand for insurance coverage of the
0047 treatment or service; and

0048 ~~[(7) the level of interest of collective bargaining agents in~~
0049 ~~negotiating privately for inclusion of this coverage in group~~
0050 ~~contracts; and]~~

0051 (b) The financial impact: (1) The extent to which the cover-
0052 age will increase or decrease the cost of the treatment or service;
0053 (2) the extent to which the coverage will increase the appro-
0054 priate use of the treatment or service;

0055 (3) the extent to which the mandated treatment or service
0056 will be a substitute for a more expensive treatment or service;
0057 (4) the extent to which the coverage will increase or decrease
0058 the administrative expenses of insurers and the premium and
0059 administrative expenses of policyholders; and

0060 (5) the impact of ~~this~~ coverage on the total cost of health care.

0061 Sec. 3. This act shall take effect and be in force from and
0062 after its publication in the statute book.

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Information provided under the provisions of this section may be obtained from insurers, health care providers, state agencies, voluntary organizations and any other appropriate source.