

Approved February 23, 1988  
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Sen. Neil H. Arasmith at  
Chairperson

9:00 a.m./~~p.m.~~ on February 22, 1988 in room 529-S of the Capitol.

All members were present except:

Sen. Gannon - Excused

Committee staff present:

Bill Wolff, Legislative Research  
Bill Edds, Revisor of Statutes

Conferees appearing before the committee:

Sen. Mike Johnston  
Richard Mason, Kansas Trial Lawyers Association  
Ted Fay, Kansas Insurance Department  
Jerry Slaughter, Kansas Medical Society

The minutes of February 19 were approved.

The hearing began on SB 623 concerning liability of the health care stabilization fund for and self-insurance of occurrences arising during residency training. Sen. Johnston, one of the authors of the bill, testified in support of the bill. He said the bill deals with residents of K.U. Medical Center and first year physicians and what they have to pay for malpractice insurance. At present, malpractice insurance for new physicians is cheaper in other states because of the tort system. Changes are on pages four and seven of the bill. Sen. Johnston explained further that the first year premium is based on four years of experience, and they have to pick up the tail coverage (the three years they were in the resident program). The same physician could go to Arizona, and the first year premium would be based on one year experience. It is lower in Arizona because in this state, they have to pick up their own tail coverage. This bill requires that the state self-insure or pick up the three years coverage for the residency program. Thus, the physician in a residency program would begin on the basis of one year experience. He concluded by noting that the bill was drafted in accordance to suggestions from the Insurance Department.

The Chairman asked how this is handled differently in other states. Sen. Johnston said the explanation is technical in nature, but mainly it is because coverage is different than in any other states where it is occurrence based, but not in Kansas. The Chairman asked if Sen. Johnston knew what the potential exposure to the state general fund would be. Sen. Johnston said there would be some additional cost, but he could not give any figures on it. He indicated that perhaps the Insurance Department could answer this better than he.

Richard Mason, Kansas Trial Lawyers Association, followed with testimony in support of SB 623. He said Sen. Johnston's reasons for support match his organization's reasons. He also noted that his organization has been involved in medical malpractice for years, and they think this legislation will have a positive impact on medical malpractice in Kansas.

Ted Fay of the Kansas Insurance Department followed with brief testimony and to answer questions from the committee. He told the committee that the Department had prepared a slide program on medical malpractice to show around the state. After the presentation of the program, doctors told them that they have a problem in recruiting doctors when they graduate because insurance is higher in Kansas. Other states do not require that new physicians pickup the tail coverage for the three years residency, but rather base the insurance on first year experience which is cheaper because it is based on occurrence of the one year only, not the four year period. Mr. Fay thought that the bill would

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probably reduce state costs. It would expand health insurance coverage to the period of residency, and the fund would continue to be the excess insurance coverer.

The Chairman asked what assurance the committee would have that the industry would offer the one year coverage to new physicians. Bob Hays, also of the Insurance Department, said that the companies will have to do this in accordance with what approval they already have on file. Sen. Harder asked if physicians leaving the state would have as high a premium at the end of seven years as if they stayed in Kansas. Mr. Fay said that at the end of five years, the premium will be higher in other states so actually going to another state doesn't save that much.

Sen. Karr asked if the bill would allow Kansas to be more competitive in rural areas where the first years are financially critical. Mr. Hays said it would, and the Chairman added that this is not limited to rural areas. Sen. Karr asked further if Mr. Fay feels that the wording in the bill will answer the concern. Mr. Fay said that it would because it will require the primary carrier to pick up the tail coverage. As to the fiscal impact, Mr. Fay said the bill will have no effect on the amount of tort cases, but it will affect the health care stabilization fund because the claims coming out of the residency program come after the physician has left. Sen. Karr then commented that if the resident stays in Kansas, he is also paying in to the fund, but if he leaves, nothing is paid in Kansas, but Kansas still has to pay claims if there are any. Mr. Fay said the general fund exposure would be the same. Sen. Harder asked if other states have a health care stabilization fund. Mr. Fay said two or three do, and they operate not exactly as in Kansas but similar to Kansas.

Jerry Slaughter, Kansas Medical Society, testified in support of the concept but noted that this is not solving the malpractice problem. It is taking money from one hand to another. Also, it will lower first year liability costs but only for the first couple years, then they go to mature cost. With the present formula the Medical Center uses to insure residents (surcharge is based on \$600,000), the state is not paying its full share.

The Chairman said the theory behind the bill is to keep first year physicians in Kansas and asked how many leave the state. Mr. Slaughter said this cannot be tracked accurately because the reason for leaving is not always determined by insurance. However, reduction of the rate would be helpful, and the tort system is a significant part of why liability costs are high. He also explained to the committee that doctors moving here from other states would have a higher first year premium.

Sen. Warren had questions as to how claims are settled at K.U. Medical Center. The Chairman asked how much the increase to the K.U. self-insurance program would be. Mr. Slaughter said this is difficult to determine because we won't see the results until three or four years from now when the claims mature.

With regard to Mr. Slaughter's comment during his testimony that the committee may be working under the illusion that they are doing something for malpractice, Sen. Reilly commented that he feels the committee does not feel that way. They just want to help new physicians to stay in Kansas by reducing their first year costs. He asked Mr. Slaughter what the basic premium is for family practice. Mr. Slaughter said it would go from \$7000 to \$18,000 and that the cost would be lowered considerably if the physician eliminates o.b. practice.

The Chairman asked if the fact that only 40% of the students on medical scholarship stay is indicative of the overall problem. Mr. Slaughter answered that, no, a lot of it is determined by where they take their residency program. Sen. Karr asked if the bill is helpful to the whole problem of malpractice. Mr. Slaughter said it would insofar as lowering the first year cost. With this, the hearing on SB 623 was concluded.

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The Chairman asked Mr. Fay to work with staff on the amendment that was suggested. He said it is strickly a policy issue for the committee to decide since there is no information on the impact it would have on the general fund.

Sen. Reilly reported on the Insurance Subcommittee. The subcommittee has come to a tentative agreement, and they hope to have it for the committee some time this week.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS  
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2/22	Richard Mason	Topeka	KTRA
2/22	Jon Jossard	Lawrence	KU
2/22	Jim Olinic	Topeka	PIA of Ks
2/22	Ron Smith	"	KBA Assoc
"	Ben Todd	"	Ins. Dept.
2/22	Leed Fay	Topeka	Ins Dept
2-22	Bob Wagon	"	Ins Dept.
2-22	Blonna Jote	Topeka	Sen. Johnston
2/22	Chip Wheelen	Topeka	Ks Medical Society
2/22	Stacy Walker	Topeka	KU