

Approved _____

Date

2/24/89

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by SENATOR RICHARD L. BOND at _____
Chairperson

9:00 a.m. ~~on~~ TUESDAY, FEBRUARY 21, 1989 in room 529-S of the Capitol.

All members were present except: Senators Bond, Salisbury, Karr, Kerr, McClure, Moran, Parrish, Reilly, Strick and Yost.

Committee staff present:

Bill Wolff, Research Department
Bill Edds, Revisor's Office
Louise Bobo, Committee Secretary

Conferees appearing before the committee:

Senator Nancy Parrish, Kansas Senate
Jerry Slaughter, Kansas Medical Society

Chairman Bond called the meeting to order at 9:08 a.m.

SB 174 - Senator Parrish addressed the committee in support of this proposal. She reminded the committee that this bill was similar to SB 624 which passed out of this committee and out of the Senate last year but stalled in the House. Senator Parrish stated that SB 174 would modify the current statutory policy of providing tail coverage for all health care providers through the Health Care Stabilization Fund. She further stated that SB 174 would reduce the liability of the Fund which would subsequently reduce the surcharges assessed to health care providers.

SB174 would provide that tail coverage would continue if the health care provider has participated in the Fund for 10 or more years. It would no longer pick up the coverage for a doctor practicing less than 10 years who decided to move to another state. Also, the bill would only apply to doctors who begin practice in the state after July 1, 1989. It would also provide an exemption for a doctor who becomes disabled through no fault of his own.(attachment 1)

Jerry Slaughter, Kansas Medical Society, appeared before the committee in opposition to SB174. Mr. Slaughter stated that his organization was not necessarily opposed to the bill as it recognizes that the provision of tail coverage by the Health Care Stabilization Fund would remove any disincentives for physicians who decide they want to leave the state. However, Mr. Slaughter advised the committee that, since there are several proposals in the House and Senate dealing with various aspects of the Health Care Stabilization Fund, it would be wise to delay action on any amendments to the Stabilization Fund until such time that HB 2047, the product of an interim study, is acted upon in the House.(attachment 2)

Discussion followed with committee members inquiring as to the number of doctors Kansas has lost in recent years, how Kansas relates to other states with respect to the ratio of doctors to population, and the high cost of coverage in Kansas compared to other states. Mr. Slaughter replied that, since 1984, our physician numbers had remained relatively stable as well as our population. Mr. Slaughter also informed the committee that there are several reasons for the high cost of coverage in Kansas. We not only have had a large number of claims filed but a large number of big lawsuits and we just seem to pay out more in judgments.

Chairman Bond concluded the hearing on SB 174.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on TUESDAY, FEBRUARY 21, 1989.

SB 249 - Chairman Bond asked Staff to brief the committee on SB 249, authorizing interstate banking, which is scheduled for a hearing before the committee, Wednesday, February 22 and February 23. According to Staff, 46 states have some kind of interstate banking legislation in place. The bill limits activity to four contiguous states, Missouri, Colorado, Oklahoma or Nebraska. The bill also requires reciprocity by those four contiguous states. Other limitations are set forth in the bill including protection from a bank holding company, other than a regional contiguous bank holding company, acquiring a Kansas bank or a Kansas bank holding company until 1992.

The meeting adjourned at 10:00 a.m.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

Tues. Feb. 21

DATE	NAME	ADDRESS	REPRESENTING
2/21	Greg Zinke	TOPEKA	KMS
2/21	Chip Wheeler	Topeka	KMS
2/21	Brad Sincot	Topeka	4th Financial Corp.
	Vikundhaz	"	KTC A
	Tom Bell	"	KHA
	Shelly Meyers	K.C.	
	Wan Meyers	Kansas City	
	Patrick Murphy	Manhattan	KTCA
	R.G. Frey	TOPEKA	KTCA
	Ron Todd	"	Ki. Ins. Dept

NANCY PARRISH
 SENATE DEMOCRATIC POLICY CHAIR
 STATE SENATOR, NINETEENTH DISTRICT
 SHAWNEE COUNTY
 3632 S. E. TOMAHAWK DR.
 TOPEKA, KANSAS 66605
 913-379-0702 HOME
 913-296-7373 BUSINESS



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
 RANKING MINORITY MEMBER: EDUCATION
 MEMBER: FINANCIAL INSTITUTIONS AND INSURANCE
 JUDICIARY
 LEGISLATIVE AND CONGRESSIONAL
 APPOINTMENT
 LEGISLATIVE POST AUDIT
 WAYS AND MEANS
 CHAIRMAN: SHAWNEE COUNTY LEGISLATIVE
 DELEGATION

TESTIMONY ON S.B. 174

February 20, 1989

S.B. 174 modifies the current statutory policy of providing tail coverage for all health care providers through the Health Care Stabilization Fund. The purpose of S.B. 174 is to reduce the liability of the Fund which would subsequently reduce the surcharges assessed to health care providers.

A brief background is necessary to understand the concept of tail coverage. As I understand, in the mid 70's when the Health Care Stabilization Fund was established, the legislature changed medical malpractice insurance coverage from "Occurrence" policies to "Claims-made" policies. "Occurrence" policies are ones in which the insurance company that carries the insurance at the time a medical malpractice incident occurs is liable for the claim. A "Claims-made" policy is one in which the insurance company that carries the insurance at the time the claim for damages is made, is liable for the claim. There is not a problem with tail coverage if the insurance policy is an Occurrence policy because the insurance carrier who provides the insurance at the time of the incident is still responsible 2 or 3 years later when the claim is filed.

But in the case of a "Claims-made" policy, tail coverage is important. For example, in 1980, Dr. X performs an operation at which time malpractice occurs. Company A is the insurance company for Dr. X in 1980. In 1982 Dr. X leaves the state of Kansas to practice in Arizona at which time he purchases insurance with Company B. In 1983, victim files medical malpractice suit against Dr. X. Neither Company A nor Company B is liable to cover Dr. X's case. Company A isn't liable because Dr. X didn't have coverage with Company A during 1983. Company B isn't liable because Dr. X didn't purchase tail coverage from Company B. Instead, the Health Care Stabilization Fund is liable for the tail coverage from the first dollar of liability.

*Attachment 1
 SFDW 2/21/89*

Kansas is the only state in the U.S. that provides tail coverage. Our total premiums appear high in comparison to some other states because included in the Kansas premium is tail coverage for the physician. The attached charts that were compiled by the Insurance Commissioner's office show Kansas rates in comparison to several other states. (The charts were prepared in 1987).

There are several problems with providing tail coverage. First of all, by the Fund providing tail coverage, doctors inadvertently are encouraged to leave the state to avail themselves of lower premiums for at least the initial 2 to 3 years. Some of these doctors have lost their licenses in Kansas.

Out-of-state doctors tend to be unavailable to defend cases against themselves when it involves travel back to Kansas. This makes it difficult for the Fund to defend a case on behalf of an out-of-state doctor.

Providing tail coverage is not altogether an undesirable feature. It provides flexibility to doctors who want to change companies and provides tail coverage for retired doctors no longer in practice.

Realizing the benefits as well as the pitfalls of the tail coverage, S.B. 174 provides that tail coverage will continue if the health care provider has participated in the Fund for 10 or more years. Under S.B. 174, the Fund would no longer pick up the tail coverage for a young doctor practicing less than 10 years who decides the grass is greener and the medical malpractice premiums are less in the west. No longer would the Fund pay tail coverage for a doctor who leaves Kansas because he lost his license if that doctor had been practicing less than 10 years, but under S.B. 174 the Fund would pay tail coverage for retired doctors if they had practiced in Kansas 10 years or more.

The bill doesn't apply to doctors currently practicing in Kansas. It only applies to new doctors starting practice as of July 1, 1989. In addition, the bill provides an exemption for any doctor who becomes disabled through no fault of his or her own.

COST COMPARISON FOR A OB / GYN SPECIALIST INSURED BY ST. PAUL

<u>State</u>	<u>Total Coverage Limits</u>	<u>Total Costs</u>	<u>Additional Cost For Tail Coverage</u>
Oklahoma	\$1,200,000 / \$3,600,000	\$32,232	\$55,060
Nebraska	\$1,200,000 / \$3,600,000	\$36,681	\$65,483
Indiana	\$500,000	\$45,578	\$37,515
Kansas	\$1,200,000 / \$3,600,000	\$51,815	- 0 -
Colorado	\$1,200,000 / \$3,600,000	\$66,818	\$105,703
St. Louis, MO	\$1,200,000 / \$3,600,000	\$143,092	\$252,432
Los Angeles, CA	\$1,200,000 / \$3,600,000	\$169,060	\$267,719

**COST COMPARISON FOR A
FAMILY PRACTICE DOCTOR
INSURED BY ST. PAUL**

<u>State</u>	<u>Total Coverage Limits</u>	<u>Total Cost</u>	<u>Additional Cost For Tail Coverage</u>
Oklahoma	\$1,200,000/\$3,600,000	\$10,310	\$17,529
Nebraska	\$1,200,000/\$3,600,000	\$11,760	\$20,869
Indiana	\$500,000	\$16,578	\$26,483
Kansas	\$1,200,000/\$3,600,000	\$18,162	\$0
St. Louis, MO	\$1,200,000/\$3,600,000	\$46,267	\$81,442
Los Angeles, CA	\$1,200,000/\$3,600,000	\$51,740	\$81,797



KANSAS MEDICAL SOCIETY

1300 Topeka Avenue · Topeka, Kansas 66612 · (913) 235-2383

February 21, 1989

TO: Senate Financial Institutions and Insurance Committee
FROM: Kansas Medical Society *Chris W. Stulen*
SUBJECT: Senate Bill 174, As Introduced

The Kansas Medical Society appreciates this opportunity to express our reservations about the amendatory language in Senate Bill 174. We recognize the good intentions of the sponsors of this legislation and acknowledge the fact that the provision of tail coverage by the Health Care Stabilization Fund removes any disincentives for physicians or residents who decide that they may want to leave the state of Kansas and practice medicine elsewhere.

While it may seem prudent to create a disincentive for physicians who are contemplating departure from the state of Kansas or early retirement, there are some serious considerations pertaining to other aspects of the Health Care Stabilization Fund. Foremost among those, is whether or not the Fund shall be continued in the future and, if so, for how long. For these reasons, we believe it is important to delay any action or further consideration of Senate Bill 174 until such time that the entire subject of the Health Care Stabilization Fund can be considered in context.

We would point out that this Committee has already taken action on Senate Bill 18 and assuming passage of that bill, it is very likely that the amendatory language of Senate Bill 18 will have to be incorporated into another bill. Currently, in addition to Senate Bills 18 and 174, the Senate has introduced SB203 which would provide for subsidy of Health Care Stabilization Fund premiums, SB223 which would allow for optional levels of coverage under the Stabilization Fund, and in addition, the House is currently considering HB2047 which pertains to the future of the Health Care Stabilization Fund and the possible phase-out of the Fund, HB2145 which provides Stabilization Fund insurance to all Kansas residents in training who have graduated from the University of Kansas School of Medicine, HB2158 which also would provide a program of subsidies for Stabilization Fund surcharges and finally, HB2304 which would provide Stabilization Fund insurance to all residents in training in Kansas but would not provide tail coverage unless the physician practices in Kansas for at least five years after completing the residency training. It appears obvious that the Legislature is determined to substantially amend the law that governs the operation of the Health Care Stabilization Fund. Therefore, we would respectfully request that this Committee delay any further action on amendments to the Stabilization Fund until such time that HB2047, which is the product of an interim study, is acted upon in the House.

Thank you for considering our concerns. We respectfully request that you not take action on Senate Bill 174.

CW:lg

*Attachment 2
5 Feb 21/89*