MINUTES

HEALTH CARE STABILIZATION FUND OVERSIGHT COMMITTEE

November 1, 2011
Room 548-S—Statehouse

Members Present

Dick Bond, Chairperson
Senator Vicki Schmidt
Senator Laura Kelly
Representative Eber Phelps
Representative David Crum
Darrell Conrade
Dr. Jimmie Gleason
Dr. Paul Kindling
Dr. Terry "Lee" Mills
Dr. James Rider

Member Absent

Dennis George (appointment not yet approved by the LCC)

Staff Present

Melissa Calderwood, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Iraida Orr, Kansas Legislative Research Department
Sean Ostrow, Office of the Revisor of Statutes

Others Present

Chip Wheelen, Health Care Stabilization Fund Board of Governors
Russ Sutter, Towers Watson
Mandy Miller, Strategic Communications of Kansas
Page Routhier, Hein Law Firm
Derek Hein, HCA
Rachelle Columbo, Kansas Medical Society
John Kiefhaber, Kansas Chiropractic Association
Jerry Slaughter, Kansas Medical Society
Chad Austin, Kansas Hospital Association
Cynthia Smith, Sisters of Charity of Leavenworth Health System
Leigh Keck, Capitol Strategies

Chairperson Dick Bond called the meeting to order at 9:00 a.m. The Chairperson noted the appointment of Representative David Crum to replace long-serving member, the late Representative Jim Morrison. Additionally, Dr. Jimmie Gleason is now serving on the Committee, in his role as Chairman of the Health Care Stabilization Fund Board of Governors.

The Chairperson recognized Melissa Calderwood, Kansas Legislative Research Department, for an overview of relevant materials provided to the Committee for its review. Ms. Calderwood first reviewed the Committee Report to the 2011 Legislature and its conclusions and recommendations (Attachment 1). Ms. Calderwood noted that a copy of KSA 40-3403 was provided and directed the Committee's attention to the language from 2010 SB 414, language requiring payment of State General Fund (SGF) reimbursements to the Health Care Stabilization Fund for its expenses in administering the self-insurance program (Attachment 2). The 2011 Report had recommended the legislative budget committees consider payments of this State General Fund (SGF) obligation at an earlier time, should financial conditions improve and revenues be made available. Ms. Calderwood provided a draft of the *2012 Legislator Briefing Book* article on the Fund and Kansas medical malpractice laws (Attachment 3). It was noted the FY 2011 and FY 2012 Subcommittee reports (Attachment 4) were included. The Committee could review the recommendations of the budget and subcommittee process. Ms. Calderwood concluded her review, noting written testimony from the Executive Vice-Chancellor, University of Kansas Medical Center, was provided for the Committee's review. (Testimony detail is provided later in these minutes).

Chairperson Bond called on Rita Noll, Deputy Director and Chief Attorney, Health Care Stabilization Fund Board of Governors, to address the FY 2011, medical professional liability experience (based on all claims resolved in FY 2011 including judgments and settlements) (Attachment 5). Ms. Noll began her presentation by noting jury verdicts. Of the 19 medical malpractice cases involving 29 Kansas health care providers tried before juries during FY 2011, 16 cases were tried before juries in Kansas courts and three cases were tried before juries in Missouri. The largest number of cases (three) were tried in the following jurisdictions: Jackson County, Missouri; U.S. District Court, Kansas; and Wyandotte County. Of those 19 cases tried, 16 resulted in complete defense verdicts; plaintiffs won verdicts in two cases; and one case resulted in a “split” verdict. Ms. Noll noted those cases with plaintiff verdicts are on appeal. (Ms. Noll's testimony also included a nine-year history of total cases, defense verdicts, plaintiff verdicts, split verdicts, and mistrials.)

Ms. Noll highlighted the claims settled by the Fund, characterizing FY 2011 as similar to FY 2010, “only better.” During FY 2011, Ms. Noll continued, 61 claims in 57 cases were settled involving HCSF monies. Settlement amounts for the fiscal year totaled $17,518,727.54, with the average settlement per claim of $287,192 (FY 2010 total was $19,745,200.00 to settle 61 claims in 54 cases). [These figures presented do not include settlement contributions by primary or excess insurance carriers.] Ms. Noll spoke to the trends for claims – more claims are falling to the high range, with the largest part of the increase seen in medical bills. Ms. Noll's testimony indicated the HCSF individual claim settlement contributions during FY 2011 ranged from a low of $17,500 to a high of $800,000. Ms. Noll continued her remarks, noting in addition to the $17,518,727.54 incurred by the Fund, primary insurance carriers contributed $10,400,000 to the settlement of these claims (of the 61 claims involving Fund monies, primary insurance carriers tendered their policy limits to the Fund in 52 cases). Additionally, four claims involved contribution from an insurer whose coverage was in excess of Fund coverage – these contributions totaled $4,350,000.

Ms. Noll's report included FY 1995 to FY 2011 settlement contributions by primary carriers, the HCSF, and excess carriers; claims settled by primary carriers (FY 2000 to FY 2011); a report of HCSF total settlements and verdict amounts, as well as new cases opened for FY 1977 to FY 2011. The Fund was notified of 267 new cases during FY 2011. Ms. Noll stated this is the third straight fiscal year where the number of new cases has declined and primary carriers also have had a similar experience. In the first three months of FY 2012, there have been 68 new cases and the Fund is expecting an increase to the 2011 total. In response to a

Committee member's question, Ms. Noll indicated the information provided is by fiscal year, not calendar year.

The Chief Attorney addressed *Miller v. Johnson* and the potential implications if the cap on non-economic damages is declared unconstitutional. Ms. Noll indicated claims for the next fiscal year depend on the outcome of this case and if there is an unfavorable ruling, it would not only effect the Fund but also primary insurance carriers. Ms. Noll's testimony further states it would not be possible to estimate the impact of such a decision "until such time that our actuary knows whether the Court's decision would apply to all personal injury actions, or to claims made after the date of the decision, or only to causes of action accruing after the date of decision." A Committee member inquired whether if the decision was expected by the end of the year. Ms. Noll indicated it was not known. Another Committee member asked about the cost factor (Missouri modification factor) for Missouri-licensed health care providers practicing in Kansas. The Chairperson then asked the Committee to give consideration to how the Legislature could choose to respond if the cap is declared unconstitutional, *e.g.* restating the Legislature's authority *via* a constitutional amendment.

Ms. Noll continued her remarks, next addressing the self-insurance programs and reimbursements for the University of Kansas (KU) Foundations and Faculty and residents. Ms. Noll first highlighted the FY 2011 KU Foundations and Faculty and KUMC (University of Kansas Medical Center) and (WCGME) Wichita Center for Graduate Medical Education program costs, noting, in FY 2011, there were six claims. The FY 2012 experience, she continued, would look more like FY 2010 (increased from FY 2011). Ms. Noll further stated there were no trials or settlements during FY 2011, while in FY 2010, there was a case (birth injury) involving two residents and resulted in a defense verdict. She noted a couple of trials had been scheduled (accounting for the increase in FY 2010 self-insurance program costs). Ms. Noll reviewed the reimbursement history for the programs and the schedule under the 2010 law for reimbursements to be made to the Fund. Those non-reimbursed amounts are as follows: KU Foundations and Faculty (FY 2011: $684,218.79; FY 2010: $945,658.21; and FY 2009: $2,190,724.52); KU and WCGME residents (FY 2011: 455,621.25; FY 2010: $1,201,718.01; and FY 2009: $728,875.79). Ms. Noll stated the FY 2011 resident self-insurance program reimbursement was the lowest amount since FY 1990. Further, excess coverage claims for the self-insurance programs totaled $195,000 for FY 2011 ($970,000 in FY 2010). Ms. Noll's testimony noted, as of June 30, 2011, the accrued State General Fund reimbursements receivables to the Health Care Stabilization Fund were $3,287,216.26.

A Committee member asked about the anticipated growth at the KUMC (residency program) and the potential to face greater risks with future growth. Ms. Noll provided statistical information regarding growth in the self-insurance programs: Full-Time Faculty-FY 2011 (514) and FY 2000 (310); Residents, Kansas City-FY 2011 (493) and FY 2000 (375); and Residents, WCGME and more recently, Salina campus-FY 2011 (319) and FY 2000 (270). The Committee discussed liability coverage for medical students (Kansas Tort Claims Act) versus the residents. Ms. Noll stated that increasing the number of residents impacts the Fund. The Committee and HCSF staff also discussed the risk aversion programming and training for faculty and residents.

Actuarial Report

Chairperson Bond next recognized Russ Sutter, Towers Watson, to provide an actuarial report. The actuarial report serves as an addendum to the report provided to the Fund Board of Governors dated March 25, 2011 (Attachment 6). The actuary first addressed the forecasts of the Fund's position on June 30, 2011: the Fund held assets of $239.85 million and liabilities

(discounted) of $183.72 million, with $56.13 million in unassigned reserves. The projection for June 2012 were: assets of $246.09 million and liabilities (discounted) of $188.76 million, with $57.33 million in unassigned reserves. The report noted the forecasts were based on Fund data from December 31, 2010. Assets on June 30, 2011, were $4.5 million higher than anticipated; and, the report continues, FY 2011 settlements were 19 percent below average of the prior six years. The actuary commented on the current "sound financial position of the Fund" and then offered some general conclusions: undiscounted liabilities on June 30, 2011, are approximately $7.0 million lower than anticipated in the actuary's 2010 study; the forecasts assume no change in surcharge rates for FY 2012; $27.4 million in surcharge revenue in FY 2012; a 2.0 percent rate for the undiscounted liabilities; continued full reimbursement for the KU/WCGME claims, but with reimbursement from the state delayed until FY 2014; and no change in current Kansas tort law. Finally, the actuaries have suggested the Board consider maintaining the FY 2011 rates for FY 2012, or implement an overall decrease involving modest changes by class to improve the rate adequacy in certain classes (the Board of Governors did not change surcharge rates for FY 2012).

Mr. Sutter reviewed the Fund's liabilities as of June 30, 2011, highlighting future claims against inactive providers—tail coverage and future payments. A Committee member inquired about when changes to the computation of tail coverage occurred; Mr. Sutter stated the change was effective in 2008. Mr. Sutter discussed the changes from prior forecasts and made some observations about the Fund loss experience: claim volume/activity in Calendar Year 2010 was generally lower than expected; the only unfavorable change, Mr. Sutter continued, was the reserves on open claims increased by nearly $8 million. The changes in the estimates for losses included: active provider settlements were lower than expected (expected $24.1 million; actual were $19.5 million); settlements on inactive providers (expected $2.5 million; actual, $1.7 million); and open claims at year-end (expected 245, actual 222). A Committee member asked Mr. Sutter to comment on the projections (estimates) versus the actuals on claims and loss experience. Mr. Sutter stated, generally, over the last five years, there were lower claims experience than was anticipated.

The actuary made further observations for the Committee's consideration:

- From 1999 to 2009, the Fund's surcharge revenue ranged from 23 percent of basic coverage premium (2005) to 33 percent of premium (2001 and 2009). The FY 2010 ratio was 36.3 percent, and the fifth consecutive year with an increase;
- Availability Plan insureds increased from 251 in FY 2001 to 674 in FY 2006, but have dropped since then. In FY 2010, there were 456 Plan insureds; and
- The Fund's investment yield declined in FY 2011. However, given market rates over the last few years, the Fund's yield has been surprisingly good. (The FY 2011 average yield-to-maturity on Fund investments, the actuary noted, was still above 4.0 percent.)

The actuary's presentation addressed the findings by provider class. Mr. Sutter commented on the loss experience among the classes, noting analysis continues to show differences in the relative loss experience among classes. Four classes were identified as "undercharged" (relative rate change indicated – increase was greater than 12 percent): Class 11 [Surgery Specialty – Neurosurgery]; Class 4 [Family Practitioners, including minor surgery and OB]; Class 17 [Medical Care Facilities]; and Class 15: +77 percent [Availability Plan insureds]. The percentage for Class 15, Mr. Sutter explained, denotes insureds currently pay 40 percent of the basic coverage premium; recognizing actual claims experience, the insureds should be paying 77 percent. The actuary continued with an historical review of surcharge rate changes (FY 2000-FY 2012). Mr. Sutter noted that there was no change in the surcharge rate

for FY 2003, FY 2011, and FY 2012, and Class 1 (Physicians, No Surgery – dermatology, pathology, psychiatry) has experienced no increase (class surcharge rate) since 2006. Rates, have been stable since 2010.

Committee members inquired about the scenario when there is no surcharge increase (all providers) for the individual classes and whether there is a "re-balance." Mr. Sutter indicated, in this instance, the Board of Governors chose not to make changes to the class rates. Another member asked the actuary to respond to the relativity of the risk, particularly for classes with higher losses. Mr. Sutter indicated the issue, from the actuary's perspective, is one of fair share.

Statutory Report

Chairperson Bond called on Chip Wheelen, Executive Director, Health Care Stabilization Fund, to provide the Board's statutory report (as required by KSA 40-3403(b)) for FY 2011 and to update the Committee on the 2011 Session items, the electronic compliance system, and other requests and recommendations (Attachment 7). Among the highlights, **net surcharge revenue** collections amounted to $25,795,776, with the lowest surcharge rate of $50 (chiropractor, first year of Kansas practice who selected the lowest coverage option) and the highest surcharge rate of $16,552 (neurosurgeon, five or more years of Fund liability exposure who selected the highest coverage option). Mr. Wheelen's report indicated gross surcharge revenue collected in FY 2011 was very similar to FY 2010, but due to refunds, net surcharge revenue was about 2.3 percent less than the FY 2010 net surcharge revenue collected. There were 19 medical professional liability cases involving 29 Kansas health care providers decided as a result of a jury trial (only two claims resulted in Fund obligations amounting to $1,600,000). Fifty-seven cases involving 61 claims were settled, resulting in HCSF obligations amounting to $17,518,727.54 (average compensation per claim was $287,192, an 11.28 percent decrease to FY 2010). These amounts are in addition to the compensation paid by primary insurers. Due to past and future periodic payment of compensation and other cash-flow characteristics, the reported amounts were not necessarily paid during FY 2011; instead, the report continued, the **total claims** paid during the fiscal year amounted to $19,207,586. This amount represents a 29.2 percent reduction compared to the prior fiscal year; there also was a corresponding reduction in expenditures for attorney fees and other costs attributable to claims activity. Mr. Wheelen concluded the statutory report, stating the balance sheet, as of June 30, 2011, indicated assets amounting to $244,401,935 and liabilities amounting to $216,171,036. Mr. Wheelen commented about the ratio of unassigned reserves the Fund would like to see, noting, currently, HCSF assets exceed liabilities, but "only marginally." A healthy ratio translates, Mr. Wheelen continued, into physical protection and quick compensation for an injured party. He noted that, while the Fund appears to be actuarially sound at the time, the ratio could change quickly, depending on economic factors and the *Miller v. Johnson* outcome.

Mr. Wheelen continued his presentation, next addressing the commercial professional liability insurance market in Kansas, which he generally described as "extremely cyclical." Mr. Wheelen cited a recent article in *Physician Insurer* detailing the marketplace's likely move from a soft market (stable or declining premium rates) to a hard market (increasing rates, limited sale of new policies). The Health Care Provider Insurance Availability Act, the Executive Director continued, stabilizes the medical professional liability market in Kansas; the supplemental liability coverage provided by the HCSF, combined with the existence of a joint underwriting association, makes Kansas a stable market environment for insurers. The Executive Director discussed the Availability Plan (Plan) and the providers who would be likely to rely on the Plan for the purchase of their primary layer of professional liability insurance (unable to purchase

from one of the commercial insurers)–some of whom have unique circumstances or specialties, including residents who want to work outside of their training program (moonlighting) and *locum tenens* (health care providers who need to purchase short-term insurance coverage that applies only to their temporary Kansas practices). The existence of the Availability Plan, Mr. Wheelen noted, allows commercial insurers to reject applicants who have a history of claims or are under investigation by a licensing agency. As of October 1, 2011, there were 386 Kansas health care providers insured by the Plan. Mr. Wheelen noted, under a unique occurrence last year, it was determined the Plan should liquidate some of its reserves, resulting in a substantial transfer of $5,015,334 from the Plan to the HCSF (pursuant to requirements of KSA 40-3413). This year the Plan will transfer a surplus of $1,350,697. Mr. Wheelen briefly reviewed the criteria for health care providers to become an authorized self-insured (KSA 40-3414). The Executive Director also commented on 2010 SB 414 detailing the compromise to create the equivalent of a "line of credit," whereby the Fund continues to pay claims and expenses on behalf of the State, but will not be reimbursed until FY 2014. Mr. Wheelen's prepared remarks indicated that at a recent board meeting, the Board of Governors adopted a formal motion directing its staff to "determine a better business model for insuring the professional liability of residents in training as well as full time physician faculty members and faculty foundations."

Mr. Wheelen addressed the Board of Governor's recent technology improvement plans. Among recent activities, an information technology officer was hired; the Information Network of Kansas was contracted to host a new website; and the new electronic compliance form (requiring an overhaul of the database and other substantive changes) is functional. Mr. Wheelen provided a review and demonstration of the website – created for use by the health care providers, insurers, and providers' attorneys. The website included a link to KanPay, which allows an insurer or agent to submit the health care provider's surcharge payment using a credit card or electronic check. The next phase of the technology improvement plan has begun with the HCSF collaborating with the principal insurer of Kansas health care providers to determine the feasibility of direct data exchange. This could allow the information contained in numerous compliance forms to be transmitted *via* the internet in batch mode. Mr. Wheelen's written remarks also addressed requests to centralize information technology facilities, equipment, and personnel, stating a concern about the potential impact on the HCSF's progress thus far. The HCSF's file servers and information technology staff, he emphasized, must remain independent under the supervision of the Board of Governors in order to effectively serve Kansas health care providers and their insurers. A Committee member noted he regularly uses the website and appreciates the enhancements. Another Committee member asked for clarification on the agency's FTE count. Mr. Wheelen stated the agency had to ask the Legislature to keep an existing FTE position throughout the 2011 Session. An effort to abolish vacant positions had mistakenly identified a vacant position within the agency, he continued. The position, however, was filled. Mr. Wheelen also noted the across-the-board cuts to technology improvements; the agency's budget was included in the cut.

Mr. Wheelen discussed the agency's FY 2013 budget request, describing the budget as a modest, maintenance-only budget. The Executive Director requested the Committee consider a recommendation expressing support for the agency's FY 2013 budget request to maintain its existing 18 staff positions and continuing the agency's independent information technology improvements. A Committee member noted the Fund staff is asking for support to spend "non-state" dollars. (Mr. Wheelan's testimony also included a history of the Fund, detailing significant events that led to the creation of the Fund and the availability of professional liability insurance coverage in Kansas.)

Following Mr. Wheelen's presentation, Committee members asked questions about the Availability Plan and the Plan's administration. Mr. Wheelen noted the Plan Board's

reorganization and efforts to improve accounting services. The funds noted in the Plan surplus had been reserved for closed claims. A Committee Member inquired about the actuary's estimate that the Plan is underpaying its risk. Mr. Wheelen stated the imbalance is caused by the risks of a few providers who have an extraordinary number of claims or settlement amounts. He responded to a follow-up question from the member, indicating the Plan is "subsidized" – the Fund pays the difference in years with Plan losses. Another Committee member commented that the Availability Plan serves to help physicians who cannot find insurance and another member added that one or two outliers could be affecting the whole group. The Committee discussed residents who are moonlighting versus those physicians who are "expensive" (claims, experience). A Committee member noted those two parties would be rated differently. Another member spoke about the Availability Plan's ability to provide insurance in instances where a carrier leaves the state. The Committee discussed the role of the Board of Healing Arts and its oversight of certain practitioners (licensure includes compliance with insurance requirement).

Following a brief recess, Chairperson Bond recognized Jerry Slaughter, Executive Director, Kansas Medical Society (KMS), for comments on the current status of the medical malpractice market in Kansas. Mr. Slaughter noted Kurt Scott with KaMMCO would not be able to present remarks today, and he would be speaking for both KMS and KaMMCO. Mr. Slaughter began his comments stating the Fund, now 35 years old, has provided stability in the marketplace and is in good shape financially with adequate surplus. Mr. Slaughter noted one of the statutory questions before the Committee, indicating support for the continuance of the Committee and maintaining its role as a link between the Fund Board of Governors, providers and the Legislature. Mr. Slaughter described the current marketplace for professional liability insurance – premiums are stable and claims are declining. It is not known how long this trend will last, as *Miller v. Johnson* and other factors could effect the market conditions. Mr. Slaughter stated there is in excess of 20 insurers, with the top six or seven insuring most of the health care providers. The Fund is the integral part and the marketplace continues to be very competitive. Mr. Slaughter commented on the Plan, noting Kansas Medical Mutual Insurance Company (KaMMCO) serves as the servicing carrier. With mandatory professional liability insurance coverage, the Plan must be available to cover some providers and have the ability to adjust for market fluctuations. He further explained there are 43 moonlighting residents and those providers are nominally priced by the Plan, unlike the fully-insured resident. Mr. Slaughter commented on the recent history of the Plan and number of insureds, ranging from 250 to as high as 600, noting it would be difficult to construct a pricing scenario. Increasing the limit on basic professional liability coverage (from $200,000 to $300,000), Mr. Slaughter noted, is an option for a future discussion.

Chairperson Bond directed the Committee to the written testimony submitted by Barbara Atkinson, Executive Vice-Chancellor, KUMC and Executive Dean, KU School of Medicine (Attachment 8). Dr. Atkinson's testimony acknowledged the role of the Health Care Stabilization Fund in its administration of the professional liability coverage for faculty and residents at the University of Kansas Medical Center, stating the Fund is "critically important to support the training of physicians in our state." The testimony highlighted the shortage of physicians in Kansas, below the national average in both the number of and especially in primary care, as well as the mal-distribution of physicians, with low physician ratios in five of six major geographic regions. Dr. Atkinson also addressed the KU School of Medicine campus expansions in Salina and Wichita. Total KU School of Medicine enrollment (all four years) is projected for 2016 and beyond at 844 students (four classes of 211 students); prior to 2011, the enrollment totaled 700 students (four classes of 175 students). Dr. Atkinson's testimony addressed the need for additional residency slots and funding (Medicare funds most of these slots through the graduate medical education (GME) program); she noted new slots were not expanded as part of federal health care reform. There is concern about a number of

Congressional proposals that would cut GME. The testimony on residency slots and funding concluded "[w]ithout more residency slots, we will continue to struggle with physician workforce shortages in our state, and will accept fewer foreign medical graduates in order to accommodate our own medical school graduates."

Following the formal presentations, the Chairperson asked if anyone had any suggested changes to the Health Care Provider Insurance Availability Act. There were no plan amendments suggested by those present.

The Chairperson invited Committee discussion on recommendations for the Committee report, noting Mr. Wheelen's testimony included a request for support of the budget request and independent technology needs. The Chairperson asked the Committee to consider the two statutory questions posed to the Oversight Committee:

- Should the Committee request an independent actuarial review of the Fund be completed in 2012; and
- Should the Committee be continued for another year.

Committee discussion followed, with one Committee member stating the Fund should be continued with a statement recognizing the history of the Fund, particularly in the 1980s and early 1990s, and the ability of the Fund to address the professional liability claims and coverage needs. *A motion was discussed, the Chairperson moved with Dr. Mills second the following motion: The Oversight Committee recognizes the important role and function of the Health Care Stabilization Fund in providing stability in the professional liability insurance marketplace, which allows for more affordable professional liability coverage to health care providers in Kansas. Further, the Oversight Committee expresses its support for the Health Care Stabilization Fund's existing staff positions and continuing the agency's independent information technology improvements. The motion carried.*

The Committee discussed the necessity for an independent actuarial review, should the *Miller v. Johnson* decision strike down the constitutionality of the cap on non-economic damages. Melissa Calderwood, KLRD, was recognized by the Chairperson, and stated staff would consult with Mr. Wheelen and the Board of Governors to secure any actuarial reviews and revised projections reflecting the Court's decision and make that information available to the Oversight Committee. *After discussion, it was moved by Dr. Kindling and seconded by Dr. Rider there was no need at this time for an independent actuarial review. The motion carried.*

The Committee considered its role in the oversight of Fund; a motion by Senator Schmidt and seconded by Dr. Gleason was made to support continuing oversight of the Fund for another year.

The Committee requested language that would address the issues of uncertainty for the future of the Fund and professional liability insurance marketplace in Kansas, recognizing the important function of the Fund as a stabilizer to market and economic conditions and premium rates, the declining claims volume, and potential impacts of the *Miller v. Johnson* decision on tort law reforms in Kansas, and the current and projected physician and other health care provider shortages, with attention to the events and circumstances that have shaped the Fund law and marketplace for professional liability insurance coverage. *Motion was made by Dr. Kindling and seconded by Senator Schmidt. Motion carried.*

Additionally, language contained in the Oversight Committee's reports to the Legislature will be continued, as follows:

Fund To Be Held In Trust. The Committee recommends the continuing of the following language to the Legislative Coordinating Council, the Legislature, and the Governor regarding the Health Care Stabilization Fund:

- The Health Care Stabilization Fund Oversight Committee continues to be concerned about and is opposed to any transfer of money from the HCSF to the State General Fund. The HCSF provides Kansas doctors, hospitals, and the defined health care providers with individual professional liability coverage. The HCSF is funded by payments made by or on the behalf of each individual health care provider. Those payments made to the HCSF by health providers are not a fee. The state shares no responsibility for the liabilities of the HCSF. Furthermore, as set forth in the Health Care Provider Insurance Availability Act, the HCSF is required to be ". . . held in trust in the state treasury and accounted for separately from other state funds."

- Further, this Committee understands the following to be true: All surcharge payments, reimbursements, and other receipts made payable to the Health Care Stabilization Fund shall be credited to the Health Care Stabilization Fund. At the end of any fiscal year, all unexpanded and unencumbered moneys in such Health Care Stabilization Fund shall remain therein and not be credited to or transferred to the State General Fund or to any other fund.

The Chairperson thanked the Committee members, staff, and attendees for their participation in this annual review. There being no further business to come before the Committee, the meeting was adjourned at 11:45 a.m.

Prepared by Melissa Calderwood
Edited by Iraida Orr

Approved by Committee on:

December 23, 2011
(Date)