

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Senator Vratil at 9:37 a.m. on February 19, 2002 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Revisor  
Mike Heim, Research  
Jerry Donaldson, Research  
Mary Blair, Secretary

Conferees appearing before the committee:

Barb Hinton, Legislative Post Audit (LPA)  
John Parisi, Kansas Trial Lawyers Association (KTLA)  
Jerry Slaughter, Kansas Medical Society (KMS)  
Tom Bell, Kansas Hospital Association (KHA)  
Julie Hein, Prairie Band Potawatami Nation  
Doug Smith, Professional Sureties  
Jeff Bottenberg, Kansas Sheriffs' Association

Others attending: see attached list

The minutes of the February 18<sup>th</sup>, 2002 meeting were approved on a motion by Senator Donovan, seconded by Senator O'Connor. Carried.

**SB 535—civil actions; re: false or fraudulent medicaid claims**

Conferee Hinton testified in support of **SB 535**, a bill which would create civil monetary penalties for Medicaid fraud. She stated that the bill was introduced in response to an audit the LPA Committee contracted with a CPA firm to assess the adequacy of the state's system for identifying fraud and abuse in its medicaid program.(attachment 1)

Conferee Parisi testified in opposition to **SB 535**. He stated the scope of the bill was too narrow and discussed why it should be expanded to include all public expenditures of Kansas taxpayers' money. He also discussed why the bill should contain a "whistleblower" provision identical to that in the Federal Claims Act and referred to a copy of a model Act being considered by the Missouri legislature (see attachment 2). He recommended an in-depth or interim study be done on the bill before its passage.(attachment 2)

Conferee Slaughter testified in opposition to **SB 535**. He stated that there already exists enough legal authority to prosecute and punish those who defraud the Medicaid program and he elaborated on this. He further discussed concerns about a provision which punishes unintentional fraud and stated it needs clarification or elimination.(attachment 3)

Conferee Bell testified in opposition to **SB 535**. He discussed the Medicaid Fraud Control Act which provides for both criminal penalties and recovery of monies in Medicaid fraud cases and stated that existing regulations allow SRS to terminate a provider for civil or criminal fraud against Kansas Medicaid. He also discussed the federal false claims act which he stated has been inappropriately used to prosecute innocent mistakes.(attachment 4)

It was the consensus of the Chair and the Committee to recommend **SB 535** for interim study. Following discussion Senator Oleen agreed to prepare a scope statement for a proposed post-audit study.

**SB 536—creating certain crimes involving use and possession of body armor**

Senator Schmidt stated that he introduced **SB 536**, a bill which creates a new felony offense of criminal use or possession of body armor, because there was concern in the law enforcement community regarding this subject. He made reference to an available video which depicts bank robbers in Los Angeles wearing full body armor making their capture by law enforcement more difficult.(no attachment)

Conferee Smith testified in support of **SB 536** and offered a balloon amendment which would exempt

professional surety service personnel due to the nature of their job.([attachment 5](#))

Conferee Hein testified as neutral on **SB 536** but wanted to offer a balloon amendment so that the bill would exempt tribal law enforcement officers while such an officer is on duty. She also cited other legislation regarding Tribal law enforcement officers which has passed the Senate for the past two years but has not been acted on by the House.([attachment 6](#))

Conferee Bottenberg stated briefly that the Kansas Sheriff's Association supports **SB 536**.([no attachment](#))

The Chair announced that Senate Judiciary Committee would hold meetings through Tuesday, February 26<sup>th</sup> of next week. He stated that any meetings after that date would be held solely to discuss House bills or other matters.

The meeting adjourned at 10:30 a.m. The next scheduled meeting is February 20, 2002.