

## MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman David Wysong at 8:30 a.m. on March 4, 2009, in Room 545-N of the Capitol.

All members were present.

Committee staff present:

Ms. Margaret Cianciarulo, Committee Assistant  
Mr. Ken Wilke, Office of the Revisor of Statutes  
Mr. Reed Holwegner, Kansas Legislative Research Department  
Mr. Julian Efird, Kansas Legislative Research Department

Conferees appearing before the Committee:

Mr. Larry Karns, Attorney, and Kansas Chamber of Commerce Appointee, to Kansas Workers Compensation Advisory Council  
Mr. Dan Murray, State Director, National Federation of Independent Business, Kansas  
Mr. Ron Seeber, Vice President Government Affairs, Kansas Grain & Feed Association & KS Agribusiness Retail  
Mr. David Shriver, Attorney, Director of Insurance Services, Kansas Association of School Boards  
Mr. David Hartwick, Vice President of Government Affairs, Overland Park Chamber of Commerce

Others attending:

Please see attached list

### **Action on SR1828 - A resolution urging the Kansas Congressional Delegation to oppose legislation that disenfranchises workers to removing their right to a private ballot union election**

Upon calling the meeting to order, Chairman Wysong called the Committee's attention to **SR1828** and as he said yesterday, it is not the Chair's intention to have a hearing or even work the bill except to vote to move it or leave the bill in Committee.

Senator Lynn made a motion to move the resolution out favorably. It was seconded by Senator Wagle and the motion carried.

### **Continued hearing and possible action on SB258 - an act concerning workers compensation relating to caps to benefits**

With the next order of business, the Chair offered written proponent testimony from yesterday's Committee meeting from the following:

1. Ms. Jane Carter, Executive Director, Kansas Organization of State Employees
2. Mr. Jim Garner, Secretary, Kansas Department of Labor
3. Mr. Richard Taylor, Business Manager, Plumbers & Pipefitters Local 441
4. Mr. Ernest Kutzley, Advocacy Director, AARP, Kansas
5. Mr. Terry Forsyth, Kansas National Education Association (KNEA)

A copy of the above written proponent testimonies is (Attachment 1) attached and incorporated into the Minutes as referenced.

The Chair then recognized the first of five opponents, Mr. Larry Karns, Attorney, and Kansas Chamber of Commerce Appointee to Kansas Workers Compensation Advisory Council, who stated the Kansas Chamber opposes the bill because businesses struggling to survive in this economy cannot sustain increasing worker compensation costs and in order to better support employees we must first protect the businesses that employ them and pay their claims. He offered an example of an employee receiving compensation because of a 10% whole body impairment beginning in 1987 and showing as of 2008, the weekly benefits

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automatically being adjusted ,and more than doubling since 1987. And lastly, the Kansas Insurance Department states that increased caps will result in increased premiums. A copy of his testimony is ([Attachment 2](#)) attached and incorporated into the Minutes as referenced.

Second to testify was Mr. Dan Murray, State Director, National Federation of Independent Business, Kansas (NFIB-KS) who stated they support reforms that keep worker compensation insurance rates affordable while providing fair coverage to their injured employees. He went on to state that a recent study by the National Council on Compensation Insurance (NCCI) on a similar worker compensation bill indicated that costs could have increased by 10 to 14%. A copy of his testimony is ([Attachment 3](#)) attached and incorporated into the Minutes as referenced.

The third opponent, Mr. Ron Seeber, Vice President, Government Affairs for Kansas Grain & Feed Association (KGFA) & Kansas Agribusiness Retailers Association (KARA) offered a brief history of both associations and stating that between 2001 and 2004 agribusiness saw work comp increases ranged from 17% to 105%. And, he said it is his understanding that NCCI has not yet given an official cost estimate to this bill, but a similar piece of legislation recently received an estimated increase from NCCI of approximately 12%. A copy of his testimony is ([Attachment 4](#)) attached and incorporated into the Minutes as referenced.

The fourth conferee, Mr. David Shriver, Attorney, Director of Insurance Services, Kansas Association of School Boards, stated that 79 school entities purchase workers compensation insurance through the KASB Workers Compensation Fund with their policies having a policy year beginning July 1 to coincide with the fiscal year of all school districts. He went on to say that one objection to the proposed legislation is the timing of the adjustments being effective on July, as there would be no way for their underwriting procedure to participate potential increases in the caps in sufficient amounts to reflect those changes in premiums charged. A copy of his testimony is ([Attachment 5](#)) attached and incorporated into the Minutes as referenced.

The final opponent conferee was Mr. David Hartwick, Vice President of Government Affairs, Overland Park Chamber of Commerce, who stated that not only are many of their members struggling to hold the line on costs to remain in business with the state of the current economy, but they battle over the state line they share with Missouri every day trying to make sure their Kansas businesses are able to remain competitive and additional costs such as this would certainly tip the balance in Missouri's favor. A copy of his testimony is ([Attachment 6](#)) attached and incorporated into the Minutes as referenced.`

Chairman Wysong then turned the Committee's attention to the eight written proponent testimony in front of them including:

1. Mr. Peter Schrepferman, Post Chairman, Wichita Independent Business Association, Kansas Independent Business Coalition
2. Ms. Ashley Sherard, Vice President, Lenexa Chamber of commerce
3. Mr. Kevin McFarland, President, Kansas Association of Homes & Services for the Aging, Insurance Group
4. Mr. Trinidad Galdean, Attorney, Legislative Director for the Kansas State Council for Human Resources Management and the Wichita Society for Human Resources Management
5. Mr. Phil Perry, Staff Vice President Governmental Affairs, Home Builders Association of Greater Kansas City
6. Mr. Eric Stafford, Director of Government Affairs, Associated General Contractors of Kansas, Inc.
7. Ms. Leslie Kaufman, Executive Director, Kansas Cooperative Council
8. Mr. John Buselt, Director, Safety, Ms. Kay Reigel, Manager, Human Resources and Organization Development, Via Christi Health Center.

Copies of the above written testimonies are ([Attachment 7](#)) attached and incorporated into the Minutes as referenced.

Chairman Wysong stated he felt like the Committee is lacking information or real numbers (yesterday they heard 1 - 1 ½%, today they are hearing 12%, 17%, up to 105%) so the Committee cannot make good decisions until they hear the right results and asked for comments from Mr. Hartwick. He then asked for questions or comments from the Committee which came from Senators Lynn, Faust-Goudeau, Wagle, Reitz,

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and Holland for Mr. Shriver and Mr. Karns including:

- Of the districts that are self-insured, what kind of impact would this be, who picks up the additional costs, and where does it come from?

- Re: Mr. Young's problem (see Minutes of, March 3, 2009) what would you say as opponents to Mr. Young and how can we make sure this does not happen again? And, does Mr. Young have any legal remedies for this situation? A discussion ensued regarding Mr. Young's medical malpractice.

- Re: Kansas Worker Compensation Advisory Board, can you share with the Committee your concerns about coming to a compromise or what your analysis would be in trying to find a resolution?

- What is your implication regarding your example of the person with 10% full body impairment? Do we have any idea how many people are approaching the cap? And, regarding fraud and abuse, how is this being tracked?

As there were no more questions or discussions, Chairman Wysong announced he would like to have someone from both sides, labor and business, to provide real numbers or Ms. Paula Greyhouse could come up with the true numbers and then someone from the business side could substantiate saying that the Committee has one more week open where they could come back and revisit the issue, but to get back to him with the figures because the Committee will not do anything until they have real numbers. He then closed the hearing.

### **Adjournment**

As there was no further business, the Chair adjourned the meeting, The time was 9:30 a.m.

The next meeting is scheduled for March 5, 2009.