

Approved April 26, 1991  
Date

MINUTES OF THE House COMMITTEE ON Labor and Industry

The meeting was called to order by Representative Anthony Hensley at  
Chairperson

9:07 a.m./~~pm~~ on March 28, 1991 in room 526-S of the Capitol.

All members were present except:

Rep. Douville - excused

Committee staff present:

Jim Wilson, Revisor  
Jerry Donaldson, Research Assistant  
Barbara Dudney, Committee Secretary

Conferees appearing before the committee:

The meeting was called to order at 9:07 a.m. by the chairman, Rep. Anthony Hensley.

The chairman announced discussion and final action on Senate Bill No. 277, which had been reported favorable, as amended, but re-referred to the committee for further amendments.

The chairman suggested that Senate Bill No. 277 be amended to include the following recommendations of Employment Security Advisory Council: (1) Clarify the definitions of wages such as vacation pay, holiday pay, and severance pay, (2) Add to the duties of the Secretary of Human Resources the ability to issue interrogatories and change the delivery of subpoenas to include leaving a copy of the subpoena at a person's house or usual place of business followed by a notice using first class mail that a copy has been left. (3) Allow from the date of final determination interest on the overpayments of unemployment compensation due to fraud, in the amount of 1.5% per month, and (4) Repeal the April 1, 1992 "sunset" provision for the state Shared Work Program. The chairman handed out a memorandum, dated March 6, 1991, from Michael Johnston, Secretary, Kansas Department of Human Resources, which explained these recommendations (attachment #1).

The chairman said his intention of amending Senate Bill No. 277 in this manner is to leave the policy issue of drug testing in the workplace a separate issue contained in Senate Bill No. 270. He said the committee could then also consider House Bill No. 2226, which would establish and implement a drug screening program for employees who work in state institutions.

Rep. Sam Roper moved to amend Senate Bill No. 277 by incorporating into the bill the recommendations of the Employment Security Advisory Council with the exception of the recommendation on drug testing in the workplace. Rep. Tim Carmody seconded the motion. Motion carried.

Rep. Roper moved that Senate Bill No. 277 be reported favorable for passage, as amended. Rep. Gene Amos seconded the motion. Motion carried.

Chairman Hensley announced discussion and final action on Senate Bill No. 270, and entertained a motion to delete from the bill all recommendations of the Employment Security Advisory Council except the provision on drug testing in the workplace.

Rep. Amos moved to amend Senate Bill No. 2170 by deleting from the bill all of the recommendations of the Employment Security Advisory Council except the provision on drug testing. Rep. Roper seconded the motion. Motion carried.

After further discussion, Rep. Amos moved to amend Senate Bill No. 270 by incorporating into the bill the provisions of House Bill No. 2226. Rep. Theo Cribbs seconded the motion. Motion carried.

Rep. Roper handed out copies of a proposed amendment to Senate Bill No. 270 which would add a new section to the bill, stating, "It shall be unlawful for an employer to refuse to hire or to discharge any individual, or otherwise disadvantage any individual, with respect to compensation, terms, conditions or privileges of employment because the individual engages in lawful activities off the premises of the employer during nonworking hours." (attachment #2).

The chairman announced that the committee would consider Rep. Roper's proposed amendment

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Labor and Industry,

room 526-S, Statehouse, at 9:07 a.m./~~p.m.~~ on March 28, 1991.

to Senate Bill No. 270 in the committee meeting tomorrow, March 29, 1991. He announced that the committee would also discuss and take final action on House Bills No. 2554, 2196 and 2401.

The meeting was adjourned at 9:40 a.m. The next meeting will be March 29, 1991 at 9:00 a.m. in room 526-S.





## Office of the Secretary

401 S.W. Topeka Boulevard, Topeka, Kansas 66603-3182  
913-296-7474 --- 913-296-0179 (Fax)

Joan Finney, Governor

Michael L. Johnston, Secretary

## M E M O R A N D U M

DATE: March 6, 1991  
TO: Chairman and Members of Labor and Industry Committee  
FROM: Michael L. Johnston, Secretary of Human Resources  
SUBJECT: Senate Bill 270 - Proposed Revisions to Kansas Statutes  
(as amended)

## TESTIMONY

Chairman and Committee Members.

My remarks are a brief summary of my memorandum to this Committee dated February 20, 1991, embodying the substance of S.B. 270.

As background, it should be noted the proposed amendments to the Unemployment Insurance statutes and the Work Sharing statute have been studied in depth by the Employment Security Advisory Council. The Council is made up of members representing Labor, Industry and the Public. They approved these proposals and sent them to the Legislature for its consideration.

**Sec. 1, p. 3. K.S.A. 44-704(e)(1) and (2). Definition of Wages and Items Not Constituting Wages.**

1. Analysis: The proposed language inserts definitions of wages in (e)(1) and definitions of items not constituting wages in (e)(2). Specific wages mentioned are vacation pay, holiday

*Labor & Industry*

*3-28-91*

*attachment # 1*

pay and severance pay.

**Sec. 2, pp. 6-7. K.S.A. 44-706(b)(2) and (3). Specific Types of Misconduct; Controlled Substances, Alcohol, Tardiness and Absenteeism.**

1. Analysis: The statute is amended to specifically include the use of alcohol or other controlled substances as well as repeated absenteeism and tardiness, as specific incidence of misconduct.

Proposed K.S.A. 44-706(b)(2) sets out the definition of a controlled substance; the testing procedure; the standard of proof; the circumstances surrounding the necessity for the tests; the chain of custody; and the confirmation of the results of the testing.

Proposed K.S.A. 44-706(b)(3) places a more readily identifiable standard in cases involving absenteeism and tardiness. The changes set forth in the standard place employers and employees on notice of the basis for disqualification.

**Sec. 3, pp. 16-17. K. S.A. 44-714(g) and (h)(1). Addition of Interrogatories and Changing Method of Delivering Subpoenas.**

1. Analysis: Subsection (g) simply adds the words "issue interrogatories" to the powers and duties of the Secretary. The purpose of interrogatories is to simplify the trying of cases and to eliminate expense when routine matters can be covered by interrogatory, rather than by using the more formal route of the deposition.

K.S.A. 44-714(b)(1) concerns service of subpoenas. The

change is to the method of delivering subpoenas which have not been able to be served with "due diligence".

The recommended change of K.S.A. 44-714(h) will bring the Department into conformity with K.S.A. 60-304(a).

Sec. 4, p. 23. K.S.A. 44-719(d)(2). Amended to Allow Monthly Interest of 1.5 Per-Cent on Unemployment Insurance Overpayment which are not Repaid. Interest on Fraud Overpayment Accrues as of the Date of Final Determination While that of Nonfraud does not Begin to Accrue Until Two Years After Final Determination.

Sec. 5, pp. 24 and 28. K.S.A. 44-757. Worksharing or Shared Work Program is Amended to Repeal the Current April 1, 1992, Sunset Date. In Addition Secretary's Designee would be Permitted to Approve Work Sharing Plans.

Sincerely,

Michael L. Johnston, Secretary  
Kansas Department of Human Resources

MLJ:AJK:HDC:1a

Model Non-Specific Language  
Lawful Activities

Version I

1. It shall be unlawful for an employer to refuse to hire or to discharge any individual, or otherwise disadvantage any individual, with respect to compensation, terms, conditions or privileges of employment because the individual engages in lawful activities [uses lawful products]\* off the premises of the employer during nonworking hours.

\*There is a preference for the use of the phrase "lawful activities". It may, however, be advantageous to use the more restrictive phrase "lawful products" in some instances.