

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR.

The meeting was called to order by Chairman Al Lane at 9:07 a.m. on January 24, 1996 in Room 526-S of the Capitol.

All members were present except: Rep Gary Merritt - excused  
Rep. Candy Ruff - excused

Committee staff present: Jerry Donaldson, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Bev Adams, Committee Secretary

Conferees appearing before the committee: John Houlihan, Department of Administration  
Kathleen Sebelius, Kansas Insurance Commissioner  
Bill Wempe, Kansas Insurance Department

Others attending: See attached list

A motion was made by Rep. Geringer to approved the minutes of January 17, 18, and 19. The motion was seconded by Rep. Beggs. The minutes were approved as written.

Continued Hearing on:

**SB 100 - State contractor accountability**

John Houlihan, Director of Purchases, appeared before the committee on the behalf of the Department of Administration in support of the concepts listed in SB 100. He stated that he believes that provisions contained in the bill already exist in other statutes, but will support the measure. (see Attachment 1) He concluded by answering questions from the committee.

Chairman Lane asked if there were others who wanted to testify on **SB 100**. Getting no response from the audience, he closed the hearing on the bill.

Chairman Lane introduced Jeff Wagaman, Deputy Secretary of the Department of Administration, who was sitting in the audience.

Kathleen Sebelius, Kansas Commissioner of Insurance, appeared before the committee to give an overview of Workers Compensation Insurance. (see Attachment 2) There are 220 companies which sell compensation insurance in Kansas and in 1994, \$338 million in compensation insurance was sold in all markets. That year there were 50,000 employers who purchased compensation insurance to cover over 1 million employees. It is a significant business cost as well as a significant economic factor in the insurance world in Kansas. Since the passage of the Workers Comp reform bill in 1993, the rates have decreased in both the voluntary and assigned risk markets.

The National Council on Compensation Insurance (NCCI) is the rating organization for all companies in Kansas. The 1996 rate filing by NCCI is expected in February. It is hoped that the rate filing for 1996 will show another decrease in workers compensation premiums. The new rates will be issued in mid-May and will begin July 1, 1996. The new use of loss cost rating will make a more competitive market with a wider variation of choices on the market from which employers can choose.

Commissioner Sebelius continued her overview with information about the assigned risk pool, the residual market plan, and the second injury fund. She stated that the 1993 amendments to the Kansas Workers Compensation Law have benefitted Kansas employers and employees and it is likely that these positive developments will continue during 1996. She ended her presentation by answering questions from the committee.

Rep. Packer asked the Commissioner, Do insurance companies who sell workers comp in the State of Kansas, whether they're a private insurer or a pool, have to belong to NCCI? Bill Wempe answered for the commissioner stating that the statutes say that insurance companies are not required to be a member of a rating organization to write workers comp insurance or have the rate level. Since NCCI is the only rate making organization in Kansas, they do not have any other alternative to go to, so companies use NCCI to get these rates.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR, Room 526-S  
Statehouse, at 9:07 a.m. on January 24, 1996.

Bill Wempe, Kansas Insurance Department, also answered other questions from the committee.

Rep. Packer asked Commissioner Sebelius if she would be able to return to give a review on the audit done on the attorneys in the Work Comp setting. She will return to brief the committee at a later date.

The meeting was adjourned at 9:59 a.m.

The next meeting is scheduled for January 25, 1996.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE  
GUEST LIST

DATE January 24, 1996

NAME	REPRESENTING
Whitney Damron	Kansas Bar Association
Jeff Wagaman	Dept. of Admin
Les Vogel	" " "
John Houlahan	" " "
Glenn M. Strubel	KTLA
Janet J. Stubb	KBIA
Richard Wilborn	Alliance for Co's
Amosa Suterauer	State Fair
Pat Morris	KAIA
Annex Powell	1st - Admin. Div
Joe Turjanic	KCA
Rich Getharie	Health Midwest
FRED LUCKY	KANSAS HOSPITAL ASSN.
Paula Headman	KID
Jalynn Copp	KID
Bill Wempe	Ky Cos Dept
Wayn Maichey	IS. AFL-CIO
Terry Leatherman	KCCI
Julie Hein	Hein, Ebert & Weir



TESTIMONY ON S.B. 100

House Business, Commerce and Labor Committee

January 23, 1996

Presented by John T. Houlihan  
Director of Purchases

Mr. Chairman, members of the committee. I am John Houlihan, the Director of Purchases. I am testifying today on behalf of the Department of Administration in support of the concepts listed in Senate Bill No. 100.

S.B.100, Section 1 authorizes the Secretary of Administration to debar or suspend a vendor from consideration for award of contracts with state agencies. I believe that K.S.A 75-3738 and 3740 already give the Director of Purchases the authority to suspend or debar vendors. Under 75-3738, "The director of purchases shall: ... Prescribe the manner in which supplies, materials and equipment shall be purchased, delivered and distributed." Under 75-3740, "The director of purchases shall have power to decide as to lowest responsible bidder for all purchases..." and "The director of purchases may reject the bid of any bidder ... who has failed to perform satisfactorily on a previous contract with the state". In practice, the Director has historically debarred and suspended vendors. To my knowledge, this authority has never been challenged.

Section 2 of this bill establishes a vendor pre-qualification program for the state. I agree with this section, and in practice, the division has and does pre-qualify vendors when warranted. For example, furniture manufacturers must submit samples for testing before being allowed to bid on the state furniture contracts. If their products are acceptable, they are placed on an approved vendors list for their products. I believe the Directors authority for establishing a pre-qualification program is provided under the provisions of K.S.A. 75-3738. It reads "The director of purchases shall: Establish standards of quality and quantity and develop standard specifications in consultation with several state agencies."

*House Business, Commerce  
& Labor Committee  
1/24/96  
Attachment 1*

Section 3 amends K.S.A. 75-37,102 to require the director of purchases to report any negotiated procurement that is not awarded to the lowest vendor and the rationale for the award. I don't feel this report is necessary if the purpose is to ensure that procurement negotiating committees are using proper evaluation techniques and judgment. This evaluation information is included in each file and is available to the public under the open records act. If the evaluation process used in selecting other than the low bidder was not proper or properly documented, the rejected low bidder will protest the award of the contract. If the proposals were not properly evaluated, the director of purchases can over turn the contract award.

These concepts help ensure that the State will always contract for quality goods and services.

Although I agree with the provisions of this bill, I believe the provisions in S.B. 100 already exist in other statutes. However, you may feel there is merit to formalizing these concepts with the measure. The Department does support the measure and is happy to work with you.

This concludes my prepared testimony. Thank you for the opportunity to appear. Are there any questions?



Kathleen Sebelius  
Commissioner of Insurance  
**Kansas Insurance Department**

**MEMORANDUM**

To: House Business, Commerce  
and Labor Committee

From: Kathleen Sebelius, Commissioner  
of Insurance

Re: Workers Compensation Overview

Date: January 23, 1996

Workers compensation insurance represents a major cost of doing business in Kansas. There are over 220 companies which sell compensation insurance in Kansas and \$338 million in compensation insurance was sold in all markets (voluntary and residual) in 1994. That year there were 50,000 employers who purchased compensation insurance to cover over 1 million employees.

There has been a dramatic improvement in the workers compensation insurance market in Kansas since the enactment of legislative changes to the law in 1993. The enhancements to the workers compensation law are reflected in the premiums paid by Kansas businesses. From 1990 through 1993 the workers compensation rates in Kansas increased an average of almost 14% per year. In 1994 there was a modest 2.0% decrease in the rates approved by the Kansas Insurance Department. In 1995 the Department authorized a rate decrease which averaged 6.9% amounting to a \$25 million savings for Kansas employers. These rates were decreased in both the voluntary and assigned risk markets.

The National Council on Compensation Insurance is the rating organization for all companies which sell workers compensation insurance in this state. The NCCI collects premium and claims information from the industry and uses that data to propose rate changes each year. The rate filing is made to the Kansas Insurance Department during

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*1/24/96  
Attachment 2*

the first of the year. I expect the 1996 rate filing by NCCI will be made sometime in February. The Insurance Department then subjects the rate filing request to analysis by an independent actuary. Based on the rate filing from the National Council and the report of our actuary, the Insurance Department approves a final rate increase or decrease for the market. I am hopeful that the rate filing for 1996 will show another overall decrease in workers compensation premiums.

When premiums increased dramatically during the early 1990s, there were a number of Kansas businesses which were unable to find workers compensation coverage on the voluntary market. These companies were forced into the workers compensation assigned risk pool. There has been a significant depopulation in the assigned risk pool over the past two years. In 1993 there were approximately 21,000 policies written through the plan with premiums of \$141 million. In 1994 there were approximately 20,000 policies with premiums of \$119 million. It is estimated by NCCI that there were 15,000 policies written through the assigned risk plan in 1995 with premiums of \$65 million.

The losses incurred by the residual market plan have also decreased. The loss ratio for the assigned plan has been cut in half since the high of 120% in policy year 1989. In 1994, for the first time in at least 16 years, the assigned risk pool had a positive balance of \$213,000 and workers compensation insurers were not assessed to make up the difference between loss claims and premium income. This positive balance follows losses to the assigned risk pool of \$15 million in 1992 and \$7.8 million in 1993.

As you are aware, the Kansas Workers Compensation Fund is administered by the Insurance Department. This program, which is also referred to as the second injury fund, pays for that portion of the medical costs of an injured worker caused by a previous medical condition. The fund also pays in the event of an insolvent or uninsured employer. In 1993, the Kansas Legislature approved a statutory change which ended the liability of the fund for any "second injury" claims arising after July 1, 1994. It is expected that the payout of the fund for those cases will continue through the year 2014.

The legal costs incurred in defending the fund against claims represents a significant cost. The Kansas Insurance Department has taken a number of steps to



strengthen the administration of the second injury fund. The Insurance Department has worked to clear up the six month backlog of payments due to claimants from the second injury fund. Rules for the handling of cases by outside counsel were implemented and three attorneys were dismissed from further work on behalf of the Workers Compensation Fund.

It is clear that the 1993 amendments to the Kansas Workers Compensation Law have benefited Kansas employers and those employees who are injured on the job. These changes have provided a dramatic improvement in the insurance market in Kansas and have also helped increase the number of companies which participate in the voluntary workers market. It is likely that these positive developments will continue during 1996.