

Approved: 2/19/97  
Date

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

The meeting was called to order by Chairman Al Lane at 9:13 a.m. on January 28, 1997 in Room 526-S of the Capitol.

All members were present except: Rep. David Adkins - excused  
Rep. William Mason - excused

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

Conferees appearing before the committee: Patrick J. Morris, KS Assn of Insurance Agents  
Michael Byington, WISB  
Rep. Phyllis Gilmore  
Rep. Al Lane  
Terry Leatherman, KCCI  
Wayne Maichel, AFL/CIO

Others attending: See attached list

Chairman Lane started the meeting with introduction of bills.

Patrick J. Morris, Executive Vice President of the Kansas Association of Insurance Agents asked the committee to introduce a bill that would protect selected policyholder information in the Assigned Risk Plan from general publication unless the plan and/or Commissioner have obtained a written authorization from the policyholder. (see Attachment 1) Rep. Boston made a motion for the committee to introduce the bill. It was seconded by Rep. Wilson. The motion passed.

Michael Byington, Wichita Industries and Services for the Blind, made a request that the committee introduce a bill amending K.S.A. 75-3317, the Kansas Use Law. (see Attachment 2) Rep. Storm made a motion for the bill to be introduced as a committee bill. The motion was seconded by Rep. Boston. The motion carried.

Rep. Phyllis Gilmore asked for two bill introductions concerning Professional Social Workers. The first bill would allow social workers to form professional corporations. Rep. Wilson made a motion to introduce the bill by the committee. It was seconded by Rep. Beggs. The motion carried.

The second bill would allow social workers as authorized health care providers for purposes of workers compensation. Rep. Grant made a motion to introduce the second bill. It was seconded by Rep. Pauls. The motion carried.

Chairman Lane introduced a bill for Rep. Alldritt that would amend the employment security law concerning wage reports; to change the reporting date to the postmark on the report. Rep. Crow made a motion to introduce the bill as a committee bill. It was seconded by Rep. Pauls. The motion carried.

Chairman Lane introduced Terry Leatherman, Executive Director of the Kansas Industrial Council, Kansas Chamber of Commerce and Industry, who had a few comments on the status of employment issues in our State. He reviewed the effects of the Workers Comp Reform bill of 1993 on insurance rates in Kansas and also filled the committee in on the results and savings for employers that the tax moratorium has had on the collection of unemployment compensation taxes. He ended his comments by talking about a few issues that are concerning Kansas businesses. (see Attachment 3)

Wayne Maichel, Executive Vice-President of the Kansas AFL/CIO appeared before the committee. The AFL/CIO represent 100,000 working people across Kansas. They feel that there are serious problems with the Kansas economy. Although unemployment is down, there is a big loss of jobs in Kansas, most recently a lay-off by the Yellow Freight and a factory in Winfield which is already affected by the closure of the state hospital. Businesses are downsizing and consolidating and this means less jobs. The biggest problem is that the majority of these jobs are good jobs with benefits that many of the jobs left do not have. A study done at Kansas University for Kansas Inc. shows that Kansas is 7% above the national average for workers who hold

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR, Room 526-S  
Statehouse, at 9:13 a.m. on January 28, 1997.

down two jobs or more. This shows we have a high work ethic in Kansas but also shows we need an increase in the number of high rate jobs. We have plenty of jobs in Kansas but we have a shortage of educated and skilled workers. It is estimated that the average high school senior graduating today will need to be retrained seven times during his working lifetime. The apprenticeship programs find that graduating seniors are not as well prepared to enter the job market or training programs as in years past. They need to know good math and computer skills, in short, our educators need to do a better job.

Mr. Maichel continued with a few words about the '93 Workers Compensation reform. They have a few concerns but do not see them as enough reason to make any changes at this time. He finished by answering questions from the committee.

The meeting was adjourned at 9:56 a.m.

The next meeting is scheduled for January 31, 1997.





January 28, 1997

**COMMITTEE BILL REQUEST**

The Kansas Association of Insurance Agents would like to respectfully request that the enclosed draft bill be introduced as a House Business, Commerce, & Labor committee bill.

Patrick J. Morris  
Executive Vice President

**BILL SUMMARY:**

Protects selected policyholder information in the Assigned Risk Plan from general publication unless the plan and/or Commissioner have obtained a written authorization from the policyholder.

*House Business, Commerce & Labor  
1/28/97  
Attachment 1*

815 SW Topeka Boulevard ♦ Topeka, Kansas 66612 ♦ 913-232-0561 ♦ 800-229-7048 ♦ FAX 913 232-6817

The Kansas Association of Insurance Agents was formed September 1, 1992, through the combination of the Professional Insurance Agents of Kansas (PIAK) and the Independent Insurance Agents of Kansas (IIAK). The association was formerly affiliated with the National Association of Professional Insurance Agents (PIA) and is currently affiliated with the Independent Insurance Agents of America (IIAA).



**PROPOSED AMENDMENT OF K.S.A. 40-2109**

AN ACT providing for the protection of policyholder information from release without written authorization; and amending K.S.A. 40-2109.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A 40-2109 is hereby amended to include a new paragraph (f) as follows:

*(f) The plan shall not provide for the release of or allow the Commissioner to release the experience information, payroll data, loss data, expiration date of the policy or classification information of any policyholder under the plan to any person or entity other than to the servicing carrier or rating bureau used by the servicing carrier without the written authorization of the policyholder.*

WICHITA INDUSTRIES & SERVICES FOR THE BLIND, INC.

January 28, 1997

TO: House Committee on Business, Commerce, and Labor

REPLY TO: Michael Byington  
WISB Governmental Affairs Office  
P. O. Box 1063  
Topeka, Kansas 66601  
(913) 575-7477 (Topeka office and voice mail)  
(913) 233-2539 (Topeka FAX)

SUBJECT: Bill Request

This is largely the same bill our organization requested last year amending K.S.A. 75-3317 *et seq.*, "The Kansas Use Law.". You all were kind enough to introduce it then, and to pass it favorably out of Committee. It was given the number 2864. Unfortunately, however, it stalled on the House floor and did not make it out of House of origin in time to continue to be alive. This is why we are back again with it this year. With a two year session available to us, we are a little more optimistic.

There is one new feature which was not in 2864 last year. I will explain this new feature first, and then, for any new members of the Committee, will explain the provisions which are back for a second year.

This year's version of the bill would allow the creation of a central not-for-profit agency to represent rehabilitation facilities and Kansas Industries for the Blind, as these entities are described in the act, in their negotiations with the director of purchases and the secretary of social and rehabilitation services, per their duties as are described in the act. This is permissive language, not mandatory. Rehabilitation facilities as defined in the act would not be required or compelled to participate through the central not-for-profit agency, but the legislation would enable them to do so if this was their choice. They also would continue to have the option of negotiating purchases and contracts directly with the director of purchase. Allowing for a central not-for-profit agency would allow the director of purchases and the secretary of social and rehabilitation services to have less entities overall with whom they would have to directly negotiate in obtaining products and services through the act, and thus greater

*House Business, Commerce & Labor*

*1 1/28/97*

*Attachment 2*

A not-for-profit  
agency providing  
employment &  
services to people  
who are blind.

801 East Lincoln  
Wichita, Kansas 67211  
(316) 267.2244  
Fax (316) 267.4312

925 Sunshine Road  
Kansas City, Kansas 66115  
(913) 281.0710  
Fax (913) 281.2450

1600 North Walnut  
Pittsburg, Kansas 66762  
(316) 231.8600  
Fax (316) 231.8620

streamlining and efficiency would result.

The next paragraphs will explain the aspects of the bill which this committee also introduced last year. Committee members who were on this Committee last year and remember last year's bill need read no further.

Two years ago, a different interpretation than has ever been applied before was made concerning K.S.A. 75-3317 *et seq.* This interpretation was made by legal staff within the Kansas Department of Administration. While we do not fault the legal analysis which went into the new interpretation, we believe it has potential to cause confusion, and to make the Kansas Use program less efficient and more costly to the Kansas tax payers. We are thus requesting that this law be amended to in fact bring it more into line with former interpretations.

Throughout the history of the Kansas Use Law, until last year, no two employers of disabled persons covered under the law had ever attempted to make the exact same product or offer the exact same service, in competition with each other. Two years ago, however, this occurred. Kansas Industries for the Blind had been re-manufacturing laser printer cartridges for well over a year and selling these products to the State of Kansas under a sole source contract issued under provisions of K.S.A. 75-3317 *et seq.* At that time, an employment program for the developmentally disabled also entered this field and requested to have the exact same products included in the Kansas Use Catalog (referred to as the "list of products and services offered" in K.S.A. 75-3320.) After some deliberation, the Department of Administration and the Department of Social and Rehabilitation Services jointly determined that nothing in the current law prohibits competition among covered entities and further determined, therefore, that the sole source contract which had been issued for re-manufactured laser printer cartridges had been let in error and was not a legally made contract. This contract was thus nullified, and, last year, competition began in earnest between the two manufacturing entities. This has not proven to be an incredible hardship for either entity involved, but it certainly has caused confusion in ordering, product procurement, production capacity needs, etc.

It is my understanding that this situation occurred not because the second group getting into the business wished to target the first one in such a competitive manner, but



rather because the second group was unaware of the activities of the first. The staff leadership of the second group was new to the State of Kansas, but had experience in another state in teaching laser re-manufacturing to workers who are disabled. They took their company into the business because of their own knowledge of it, and not because they wanted to be in a market filled with competition. In fact, some dismay was expressed by both groups when they learned of the activities of each other.

At first consideration, one might ask what is wrong with competition. After all it is the American way. In this instance, however, the law causes competitiveness to be artificially controlled. Competition ends up costing Kansas taxpayers more, rather than assuring the best value. I shall explain why this is the case.

First of all, products and services sold under K.S.A. 75-3317 *et seq.* have their prices and standards fixed by the customer. The State is the buyer covered under this law, but the State's Director of Purchases is empowered to set prices and standards based on fair market value. This is therefore not a situation where one company can effectively underbid another one. There is a finite amount of business available, and it is all available at the same price.

An employer of disabled persons covered under the law has thus always been able to fairly accurately estimate the amount of business which is going to be available, and tool, fund, inventory, and staff the manufacturing operation accordingly. If the manufacturer is then surprised with the presence of other entities entering the same field for a piece of the same finite amount of State business, downsizing, re-tooling, loss on raw goods inventory, etc. are the results.

We at Wichita Industries and Services for the Blind, Inc. (WISB) currently receive no State or county subsidy for our manufacturing operations. We, however, are the exception to the norm among industries who employ persons having severe disabilities. Virtually all of the workshops for the mentally retarded/developmentally disabled receive county mill levee monies. As many of you know who are on committees which have considered its privatization, Kansas Industries for the Blind has, for the past several years, been operating at a loss which has been covered by State funding. As these organizations

are using taxpayer dollars at all levels, it makes no sense to put them in business situations which are at high risks for manufacturing business losses through overtooling, overinventory, etc.

Further, K.S.A. 75-3322 provides provisions for wavering purchases required under K.S.A. 75-3317 *et seq.* at times when the covered providers can not supply the products or services needed or are unable to meet delivery requirements on any order or requisition. In such situations, the law requires the Secretary of Social and Rehabilitation Services or the Secretary's designee, to immediately forward a written waiver to the purchasing officer involved exempting the order or requisition from the mandatory purchasing requirements. Under the new interpretation of the current law, it is certainly proving to be more difficult for the Secretary of SRS, or her designee to appropriately waiver purchases if more than one manufacturer of the same product must all be consulted and if combined multipoint order/requisition compilation must first be considered. Should competition occur in the future involving even more multiple agency providers, the wavering process will grow even more and more complicated.

The above are all problems created by the re-interpretation of the current law, and which introduction of the requested bill would address. I shall now summarize the specific changes requested.

Attached to this request is a document containing, on the left side of the page, the entire text of K.S.A. 75-3317 *et seq.* The right hand column contains proposed changes. Words to be struck are indicated by having a line through them. Proposed additions are indicated by underlined text.

A total of three changes are specifically proposed. These are summarized below.

Our organization was founded as Kansas Foundation for the Blind. We are listed by that name in K.S.A. 3317 (d). Our name changed only a few years ago. K.S.A. 3317 (d) would simply be amended to reflect our name change. Additionally the central not-for-profit agency permissive language would be added to the definition of "rehabilitation facility."

K.S.A. 75-3319 (b) would have conforming language added



to recognize the option of cooperation with the central not-for-profit agency.

K.S.A. 75-3320 (a) would be amended with an addition to the duties of the Secretary of Social and Rehabilitation Services. A requirement would be added to insure that products and services are not placed on the "list of products and services being offered for sale" in a manner creating competition between two providers. The proposed amendment gives priority to the first provider who proposes to list the product. The rather convoluted wording of the existing law makes the wording of this section somewhat cumbersome, but this is a complete summary of the action which would be caused via the proposed amendment. This amendment would not be retroactive. We are not attempting to spank the provider who caused the question of competition to arise, but rather only resolve the issue as it relates to future situations.

K.S.A. 3321 would be amended to make it clear that sole source contracting would be permitted with rehabilitation facilities or the central not-for-profit agency. This would in fact make the waiver provisions contained in K.S.A. 75-3322 more efficiently applicable because the Secretary of SRS or her designee would only have to determine if one provider could meet an order before deciding whether a waiver is appropriate.

Thank you for this opportunity to present this issue. Please feel free to contact me if I may answer any questions.

Kansas Statutes

KS ST Sec. 75-3317, Purchase of products and services offered by Kansas industries for the blind division and rehabilitation

(CURRENT LANGUAGE)

K.S. Sec. 75-3317

KANSAS STATUTES

CHAPTER 75. STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

ARTICLE 33. SOCIAL AND REHABILITATION SERVICES

75-3317. Purchase of products and services offered by Kansas industries for the blind division and rehabilitation services and by rehabilitation facilities; definitions.

As used in K.S. 75-3317 through 75-3322, and amendments thereto, unless the context requires otherwise:

(a) "Director of purchases" means the director of purchases of the department of administration;

(b) "Kansas industries for the blind division and rehabilitation services" means workshops and home industry projects for blind or other handicapped persons which are located in Kansas and which are supported, operated or supervised by the division of services for the blind or rehabilitation services of the department of social and rehabilitation services;

(c) "state agency" means any state office or officer,

(PROPOSED LANGUAGE WILL BE UNDERLINED. LANGUAGE PROPOSED TO STRIKE WILL BE IN STRIKEOUT MODE.)

(PROPOSED LANGUAGE)

K.S. Sec. 75-3317

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(a) "Director of purchases" means the director of purchases of the department of administration;

(b) "Kansas industries for the blind division and rehabilitation services" means workshops and home industry projects for blind or other handicapped persons which are located in Kansas and which are supported, operated or supervised by the division of services for the blind or rehabilitation services of the department of social and rehabilitation services;

(c) "state agency" means any state office or officer,



department, board, commission, institution, bureau or any agency, division or any unit within an office, department, board, commission or other state authority;

(d) "rehabilitation facility" means any community mental health center or community facility for the mentally retarded operating under K.S. 19-4001 et seq. and amendments thereto or nonprofit corporation contracting with a mental retardation governing board to provide services under K.S. 19-4001 et seq. and amendments thereto, which has registered with the secretary of social and rehabilitation services for the purposes of K.S. 75-3317 through 75-3322, and amendments thereto, and shall also mean the Kansas foundation for the blind, Wichita, Kansas, center industries, inc., Wichita, Kansas, and, upon registration hereunder, any workshop or other facility for blind or other handicapped persons which is located in Kansas and which is certified to the United States department of labor and licensed by the secretary of social and rehabilitation services as a sheltered workshop under K.S. 75-3307b and amendments thereto.

department, board, commission, institution, bureau or any agency, division or any unit within an office, department, board, commission or other state authority;

(d) "rehabilitation facility" means any community mental health center or community facility for the mentally retarded operating under K.S. 19-4001 et seq. and amendments thereto or nonprofit corporation contracting with a mental retardation governing board to provide services under K.S. 19-4001 et seq. and amendments thereto, which has registered with the secretary of social and rehabilitation services for the purposes of K.S. 75-3317 through 75-3322, and amendments thereto, and "rehabilitation facility" shall also mean the Kansas foundation for the blind, Wichita, Kansas, Wichita industries and services for the blind, inc., center industries, inc., Wichita, Kansas, and, upon registration hereunder, any workshop or other facility for blind or other handicapped persons which is located in Kansas and which is certified to the United States department of labor and licensed by the secretary of social and rehabilitation services as a sheltered workshop under K.S. 75-3307b and amendments thereto. "rehabilitation facility" shall further also mean a central not for profit agency which may be recognized and designated by the director of purchases for the purpose of representing a consortium of rehabilitation facilities, as are otherwise defined in this section, in negotiations pursuant to the provision of products and services for use by state

agencies as defined in this section.

History: L. 1953, ch. 392, Sec. 1; L. 1972, ch. 327, Sec. 1; L. 1979, ch. 288, Sec. 1; L. 1980, ch. 272, Sec. 2; L. 1982, ch. 358, Sec. 1; L. 1985, ch. 281, Sec. 1; L. 1988, ch. 301, Sec. 24; July 1.

75-3318, Repealed.  
K.S. Sec. 75-3318

History: L. 1953, ch. 392, Sec. 2; L. 1972, ch. 327, Sec. 2; L. 1974, ch. 348, Sec. 92; L. 1975, ch. 416, Sec. 21; L. 1979, ch. 288, Sec. 2; Repealed, L. 1988, ch. 301, Sec. 33; July 1.

75-3319. Same; prices and standards of products and services; cooperation by rehabilitation facilities; products and services subject to 75-3317 to 75-3322.

(a) The director of purchases shall determine fair market prices of products manufactured, processed, and offered for sale and of services offered under K.S. 75-3317 through 75-3322, and amendments thereto, by the Kansas industries for the blind division and rehabilitation services and by each rehabilitation facility. All of the products and services shall be standard conforming. Those products and services offered for purchase by or for a state agency shall meet specifications required by the director of purchases. Those products offered for purchase by or for a unified school district shall meet specifications required by the board of education of the unified school district. The

History: L. 1953, ch. 392, Sec. 1; L. 1972, ch. 327, Sec. 1; L. 1979, ch. 288, Sec. 1; L. 1980, ch. 272, Sec. 2; L. 1982, ch. 358, Sec. 1; L. 1985, ch. 281, Sec. 1; L. 1988, ch. 301, Sec. 24; July 1.

75-3318, Repealed.  
K.S. Sec. 75-3318

History: L. 1953, ch. 392, Sec. 2; L. 1972, ch. 327, Sec. 2; L. 1974, ch. 348, Sec. 92; L. 1975, ch. 416, Sec. 21; L. 1979, ch. 288, Sec. 2; Repealed, L. 1988, ch. 301, Sec. 33; July 1.

75-3319. Same; prices and standards of products and services; cooperation by rehabilitation facilities; products and services subject to 75-3317 to 75-3322.

(a) The director of purchases shall determine fair market prices of products manufactured, processed, and offered for sale and of services offered under K.S. 75-3317 through 75-3322, and amendments thereto, by the Kansas industries for the blind division and rehabilitation services and by each rehabilitation facility. All of the products and services shall be standard conforming. Those products and services offered for purchase by or for a state agency shall meet specifications required by the director of purchases. Those products offered for purchase by or for a unified school district shall meet specifications required by the board of education of the unified school district. The

director of purchases shall revise the prices determined under this section from time to time in accordance with changing market conditions.

(b) Each rehabilitation facility shall cooperate with and shall provide the director of purchases and the secretary of social and rehabilitation services with all information necessary for the administration of K.S. 75-3317 through 75-3322, and amendments thereto.

(c) The provisions of K.S. 75-3317 through 75-3322, and amendments thereto, shall apply only to products manufactured or processed in Kansas or services provided in Kansas by blind or other handicapped persons.

(d) The provisions of K.S. 75-3317 through 75-3322, and amendments thereto, shall not be construed to require a unified school district to purchase services offered by blind or other handicapped persons under this act.

History: L. 1953, ch. 392, Sec. 3; L. 1972, ch. 327, Sec. 3; L. 1979, ch. 288, Sec. 3; L. 1985, ch. 281, Sec. 2; L. 1988, ch. 301, Sec. 25; July 1.

75-3320. Same; list of products and services offered for sale under 75-3317 to 75-3322; publication fee for advertising authorized.

(a) The secretary of social

director of purchases shall revise the prices determined under this section from time to time in accordance with changing market conditions.

(b) Each rehabilitation facility shall cooperate with and shall provide the director of purchases and the secretary of social and rehabilitation services with all information necessary for the administration of K.S. 75-3317 through 75-3322, and amendments thereto, or, if the rehabilitation facility has chosen to be represented by the central not-for-profit Agency, this information may be provided to the director of purchases through this agency.

(c) The provisions of K.S. 75-3317 through 75-3322, and amendments thereto, shall apply only to products manufactured or processed in Kansas or services provided in Kansas by blind or other handicapped persons.

(d) The provisions of K.S. 75-3317 through 75-3322, and amendments thereto, shall not be construed to require a unified school district to purchase services offered by blind or other handicapped persons under this act.

History: L. 1953, ch. 392, Sec. 3; L. 1972, ch. 327, Sec. 3; L. 1979, ch. 288, Sec. 3; L. 1985, ch. 281, Sec. 2; L. 1988, ch. 301, Sec. 25; July 1.

75-3320. Same; list of products and services offered for sale under 75-3317 to 75-3322; publication fee for advertising authorized.

(a) The secretary of social

and rehabilitation services shall furnish to the department of administration, and to each person or officer authorized to purchase materials, services and supplies for any state agency or unified school district, a list of products manufactured, processed and offered for sale and of services offered under K.S. 75-3317 through 75-3322, and amendments thereto, by the Kansas industries for the blind division and rehabilitation services and by rehabilitation facilities.

and rehabilitation services shall furnish to the department of administration, and to each person or officer authorized to purchase materials, services and supplies for any state agency or unified school district, a list of products manufactured, processed and offered for sale and of services offered under K.S. 75-3317 through 75-3322, and amendments thereto, by the Kansas industries for the blind division and rehabilitation services and by rehabilitation facilities. The secretary of social and rehabilitation services shall insure that products and services placed on the list of products manufactured, processed and offered for sale and of services offered under K.S. 75-3317 through 75-3322, and amendments thereto, after July 1, 1997, do not contain identical products or products having identical functions, manufactured, processed or offered for sale by the Kansas industries for the blind division and rehabilitation services, and a rehabilitation facility, or by more than one rehabilitation facility, and the secretary of social and rehabilitation services shall also insure that the list of products manufactured, processed and offered for sale and of services offered under K.S. 75-3317 through 75-3322 does not contain identical services available in the same geographic area of the State offered through Kansas industries for the blind division and rehabilitation services, and a rehabilitation facility, or offered through more than one rehabilitation facility. In instances where more than one rehabilitation

facility or a rehabilitation facility and the Kansas industries for the blind division and rehabilitation services propose to place on the list: identical products, products having identical functions, or identical services offered in the same or overlapping geographic areas of Kansas, the secretary of social and rehabilitation services shall determine which provider's proposal was received first, and that provider shall be the one placed on the list as offering the product or service.

(b) The list of products and services shall be certified by the director of purchases. The secretary of social and rehabilitation services shall amend such list from time to time in accordance with the recommendations of the director of purchases.

(c) The secretary of social and rehabilitation services may charge a reasonable publication fee to those rehabilitation facilities which advertise their products or services on such lists. The secretary of social and rehabilitation services shall remit all moneys received pursuant to this section to the state treasurer at least monthly. Upon receipt of such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and credit the same to the social welfare fund.

History: L. 1953, ch. 392, Sec. 4; L. 1972, ch. 327, Sec. 4; L. 1979, ch. 288, Sec. 4; L. 1985, ch. 281, Sec. 3; L. 1987, ch. 340, Sec. 1; L. 1988, ch. 301, Sec. 26; July 1.

(b) The list of products and services shall be certified by the director of purchases. The secretary of social and rehabilitation services shall amend such list from time to time in accordance with the recommendations of the director of purchases.

(c) The secretary of social and rehabilitation services may charge a reasonable publication fee to those rehabilitation facilities which advertise their products or services on such lists. The secretary of social and rehabilitation services shall remit all moneys received pursuant to this section to the state treasurer at least monthly. Upon receipt of such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and credit the same to the social welfare fund.

History: L. 1953, ch. 392, Sec. 4; L. 1972, ch. 327, Sec. 4; L. 1979, ch. 288, Sec. 4; L. 1985, ch. 281, Sec. 3; L. 1987, ch. 340, Sec. 1; L. 1988, ch. 301, Sec. 26; July 1.



75-3321. Same; purchase of products or services by state or school district.

The director of purchases and any person or officer authorized to purchase materials and supplies for any state agency or unified school district or to purchase services for any state agency shall purchase, except as otherwise provided in this section, the products and services on the list certified by the director of purchases from the Kansas industries for the blind division and rehabilitation services or from a rehabilitation facility, when those products are to be procured by or for the state or unified school district or when those services are to be procured by or for the state. Services offered for purchase are not required to be purchased by a unified school district.

History: L. 1953, ch. 392, Sec. 5; L. 1972, ch. 327, Sec. 5; L. 1979, ch. 288, Sec. 5; L. 1985, ch. 281, Sec. 4; L. 1988, ch. 301, Sec. 27; July 1.

75-3322. Same; waiver of mandatory purchase requirements by secretary of social and rehabilitation services, when.

75-3321. Same; purchase of products or services by state or school district.

The director of purchases and any person or officer authorized to purchase materials and supplies for any state agency or unified school district or to purchase services for any state agency shall purchase, except as otherwise provided in this section, the products and services on the list certified by the director of purchases from the Kansas industries for the blind division and rehabilitation services or from a rehabilitation facility, when those products are to be procured by or for the state or unified school district or when those services are to be procured by or for the state. Nothing in this act shall be construed as preventing the director of purchases and any person or officer authorized to purchase materials and supplies for any state agency or unified school district or to purchase services for any state agency from establishing sole source contractual arrangements with the provider of any product or service on the list, or through the central not-for-profit agency. Services offered for purchase are not required to be purchased by a unified school district.

History: L. 1953, ch. 392, Sec. 5; L. 1972, ch. 327, Sec. 5; L. 1979, ch. 288, Sec. 5; L. 1985, ch. 281, Sec. 4; L. 1988, ch. 301, Sec. 27; July 1.

75-3322. Same; waiver of mandatory purchase requirements by secretary of social and rehabilitation services, when.

Whenever the Kansas industries for the blind division and rehabilitation services and rehabilitation facilities are unable to supply the products or services needed or are unable to meet delivery requirements on any order or requisition, a written waiver shall immediately be forwarded to the director of purchases or purchasing officer of the unified school district by the secretary of social and rehabilitation services or the secretary's designee and that waiver shall relieve and exempt the state or unified school district purchasing authority from the mandatory provisions of K.S. 75-3317 to 75-3322, inclusive, and amendments thereto, in the case of the specific order, request or requisition.

History: L. 1953, ch. 392, Sec. 6; L. 1972, ch. 327, Sec. 6; L. 1979, ch. 288, Sec. 6; L. 1985, ch. 281, Sec. 5; July 1.

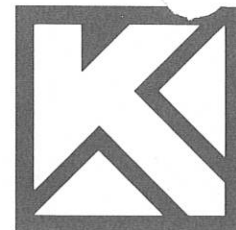
Whenever the Kansas industries for the blind division and rehabilitation services and rehabilitation facilities are unable to supply the products or services needed or are unable to meet delivery requirements on any order or requisition, a written waiver shall immediately be forwarded to the director of purchases or purchasing officer of the unified school district by the secretary of social and rehabilitation services or the secretary's designee and that waiver shall relieve and exempt the state or unified school district purchasing authority from the mandatory provisions of K.S. 75-3317 to 75-3322, inclusive, and amendments thereto, in the case of the specific order, request or requisition.

History: L. 1953, ch. 392, Sec. 6; L. 1972, ch. 327, Sec. 6; L. 1979, ch. 288, Sec. 6; L. 1985, ch. 281, Sec. 5; July 1.



# LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



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## KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Business, Commerce and Labor

by

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Mr. Chairman and members of the Committee:

Thank you very much for this opportunity for the Kansas Chamber of Commerce and Industry to comment on the status of employment issues in our state today, from the perspective of the Kansas business person. My name is Terry Leatherman. I am the Executive Director of the Kansas Industrial Council, which is a major division of the Kansas Chamber.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 47% of KCCI's members having less than 25 employees, and 77% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

*House Business, Commerce & Labor  
1/28/97  
Attachment 3*

Permit me to begin by stating a couple of facts about the Kansas Chamber of Commerce Industry. KCCI is a statewide business association. We have around 3,000 members. Most of those members are small employers. 77% employ less than 100 employees and 47% have less than 25 workers. KCCI's membership also includes most of the local chambers of commerce and trade associations in the state, which spreads our outreach to thousands of other businesses in Kansas.

My review of key employment issues to Kansas business will be dominated by two issues which dominate this Committee's deliberation, workers compensation and unemployment compensation. In both areas, recent diligent legislative efforts cause me to have much good news to report.

### WORKERS COMPENSATION

Legislative veterans will recall that the soaring cost of workers compensation reached crisis proportions in the early 90s. Annual double digit rate increases caused workers compensation insurance rates to increase over 50% in 1991 and 1992. Early in the 1993 session, legislators learned another 23% increase was certain to happen without action. With businesses literally shutting down due to the high cost of workers compensation, the Kansas Legislature approved a massive reform measure.

The following table shows the dramatic turnaround in workers compensation insurance rates since 1993. Without a doubt, the major reason for the improvement is the legislature's bold reform initiative.

## KANSAS W.C. INSURANCE RATES SINCE REFORM

In the comparison below, the "without reform" column assumes that a pending 22.6% rate increase request of 1993 would have been approved. In the following years, there is no increase in rates factored into the estimate.

YEAR	WITHOUT REFORM BILL PASSING	TODAY'S WORKERS COMPENSATION INSURANCE RATES	BUSINESS SAVINGS, DUE TO PASSAGE OF REFORM
1993	a 22.6% increase in insurance rates would have been approved. Additional insurance costs: \$83 million	due to reform, the rate hike was dropped. There were new surcharges on assigned risk. The result was \$13 million in additional premiums	\$70 million in lower premiums
1994	it is assumed there would be no new increase, but the 1993 hike would remain in effect.	a 2% rate decrease was approved on 6/1/94. Premium savings: \$7 million	\$90 million
1995	as with 1994, the 1993 is continued but no additional increase is projected.	an overall 7.5% decrease is approved on 6/1/94. Premium savings: \$26 million.	\$109 million
1996	as with the previous two year, no additional increase is projected.	an overall 11.5% decrease is approved on 6/1/95. Premium savings: \$39 million	\$122 million
93-96 totals	premiums would have increased \$332 million	premium reductions result in 1996 insurance level being \$59 million less than 1992 levels.	Business pays \$391 million less for workers compensation insurance.

The \$391 million in projected savings only reflects businesses who buy workers compensation insurance. Businesses that self-insure for workers compensation, estimated to be a quarter of the state's workers compensation marketplace.

**BUSINESS EXODUS FROM THE "INSURER OF LAST RESORT"**

Kansas Workers Compensation Plan (Assigned Risk)

POLICY YEAR	POLICY COUNT	PLAN PREMIUM	OPERATING LOSS/GAIN
1991	15,217	\$91,041,461	(\$27,468,323)
1992	17,941 (up 18%)	\$120,023,452 (up 31.8%)	(\$14,381,642)
1993	20,526 (up 14%)	\$135,815,242 (up 13.2%)	\$1,729,386
1994	19,791 (dn 4.8%)	\$109,988,605 (dn 19%)	\$6,924,799
1995	16,537 (dn 16.5%)	\$67,179,465 (dn 38.9%)	\$10,816,000 (est)

**WORKERS COMPENSATION CLAIM ACTIVITY**

Drawn from Division of Workers Compensation Statistical Reports

Year	# of claims	lost time injuries	preliminary hearings application	final hearings application
1992	89,815	44.66%	6,803	7,520
1993	96,404	44.39%	8,621	9,254
1994	95,565	47.23%	4,074	7,998
1995	99,105	43.87%	4,097	7,885
1996	94,465	26.41%	4,292	7,378

According to the National Council of Compensation Insurance, 1993's reform bill caused indemnity costs to decrease by 20% for the Kansas Assigned Risk Plan. Some of the major elements in the NCCI credits for the decrease include:

- \* PRESUMPTION OF NO WORK DISABILITY IF AN EMPLOYEE RETURNS TO WORK AT 90% OF PRE-INJURY WAGE LEVEL.
- \* ELIMINATION OF MANDATORY VOCATIONAL REHABILITATION.
- \* CHANGES TO THE "WHITE COLLAR" WORKERS COMPENSATION CLAIM
  - \$50,000 cap in functional impairment only cases
  - Weekly benefit cap for non-scheduled injuries
  - adding shoulder injury to scheduled injury list
- \* STRENGTHENING "EMPLOYER CHOICE" IN HEALTH CARE PROVIDERS.

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In addition to those changes, KCCI would also point to the 93 reforms as contributors to an improved workers compensation climate in Kansas.

- \* ADOPTION OF A MEDICAL FEE SCHEDULE IN 1993
- \* CREATION OF THE WORKERS COMPENSATION APPEALS BOARD
- \* PRE-HEARING SETTLEMENT CONFERENCES
- \* PRE EXISTING CONDITIONS
- \* ATTORNEY FEE LIMITATIONS
- \* LOSS COST RATING FOR WORKERS COMPENSATION INSURANCE
- \* DRUG AND ALCOHOL USE "CONTRIBUTING TO" AN ACCIDENT

Due to today's improved workers compensation system, the pressure for further change has been greatly diminished. However, KCCI believes the following reforms would be appropriate changes to current law.

#### **1. WORK DISABILITY DEFINITION**

*Problem:* Problems exist regarding both prongs of the current test to determine work disability compensation. The test comparing job skill loss over a 15 year period is difficult to determine and measure, has little relevance and appears to conflict with the Americans With Disabilities Act. The prong comparing pre and post injury wage loss encourages an employee to avoid work to maximize an award.

*Solution:* Delete the current definition of work disability from the law, and replace it with a system of supplemental compensation benefits for workers who cannot return to employment paying 90% of their pre injury wage. A supplemental compensation proposal must: establish functional impairment as the base for compensation; determine supplemental compensation through measurable standards; limit the weeks of supplemental compensation which could be awarded; and, not reward an employee for avoiding work they are capable of performing.

#### **2. REVIEW AND MODIFICATION**

*Problem:* Due to the 1993 reform of the law leading to quicker payout of a workers compensation claims, review and modification requests are being considered when a total award has been paid.

*Solution:* Change the time period for a request for review and modification to the number of weeks of compensation payments awarded in a case.

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### **3. REVIEW AND MODIFICATION ATTORNEY FEES**

*Problem:* Current law requires attorney fees for a claimant to be paid by an employer in review and modification cases, regardless of the merits of the review request.

*Solution:* Amend the law to require an employee to pay their own legal fees in review and modification cases where a request for additional compensation or health care is denied.

### **4. WAGE CALCULATIONS FOR BENEFITS**

*Problem:* When calculating an employee's wage for compensation benefits in cases where the employee has not returned to work, regardless of the reason for separation, the employee's fringe benefits are included in the calculations.

*Solution:* Eliminate the inclusion of fringe benefits in the wage calculation for workers compensation.

### **5. DIRECTING MEDICAL IN DISPUTED CASES**

*Problem:* In Kansas, employers have the right to direct medical care in workers compensation cases. However, in cases where an employer disputes responsibility for a claim, the employee has been granted the opportunity to select their health care provider.

*Solution:* Amend the law to permit employers to assign health care providers in disputed workers compensation cases, without admitting responsibility for the claim.

### **6. SELECTION OF ADMINISTRATIVE LAW JUDGES**

*Problem:* Currently, Administrative Law Judges are chosen by the Workers Compensation Director to civil service position. As a result, there is political influence on the selection process and little accountability towards the performance of duties.

*Solution:* Adopt a selection and retention process similar to the system used to select members for the Workers Compensation Board, and administratively develop a performance criteria to evaluate administrative law judge. The Workers Compensation Board selection process employs a nominating committee, comprised of representatives of KCCI and the Kansas AFL-CIO, to recommend nominees to the Secretary of Human Resources.



## UNEMPLOYMENT COMPENSATION

In January, 1995, a new Governor and Legislature convened in Topeka, anxious to find areas to provide tax relief. They found a ripe target when the Kansas Employment Security Trust Fund was brought to their attention. The Trust Fund, the pot of money where unemployment compensation benefits are paid, is totally financed from employer taxes. Starting 1995, there was well over \$700 million in the Trust Fund, four times more money than is needed to pay a typical year of unemployment compensation benefits.

The 1995 legislative product was a two-year moratorium in the collection of unemployment compensation taxes from "positive balance" employers (meaning business that have paid more in taxes than have been charged for benefits). Then, the legislature extended the moratorium for a third year, ending in 1997. In addition, there was a major slashing of the tax formula used to determine unemployment taxes. This tax formula change means employers will pay less in taxes when they resume after the moratorium than they did when taxes were last collected in 1994.

The following table tracks what unemployment taxes would have been, if the original tax moratorium will had not been approved, and estimates what tax collections will be because of the "moratorium" bill. The chart assumes that total payrolls and unemployment benefit payment growth is around 5% a year.

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YEAR	TAX COLLECTED IF THERE HAD BEEN NO LAW CHANGE	TAX COLLECTED UNDER CURRENT LAW, DUE TO MORATORIUM	TOTAL TAX DOLLARS SAVED BY KANSAS BUSINESS
1995	\$149 million	\$55 million	\$94 million
1996	\$148 million	\$33 million	\$115 million
1997	\$157 million	\$35 million	\$122 million
1998	\$160 million	\$116 million * \$38 million	\$44 million * \$122 million
1999	\$166 million	\$129 million * \$146 million	\$37 million * \$20 million
95-99 total	\$780 million	\$368 million	Total Business Savings: \$412 million
* 95 -99 total, if moratorium is extended	\$780 million	\$307 million	Total Business Savings: \$473 million

The change in unemployment tax policy since 1995 has been extremely beneficial to the Kansas business community. It has placed hundreds of millions of dollars in the hands of the private sector, rather than in a Trust Fund. A year ago, we asked our members how they have utilized the unemployment tax windfall. Our survey received around one hundred responses. For the most part, legislative action in this area has meant business could add jobs, improve wages, purchase and upgrade equipment and retire debt.

The results of our member survey follows.

QUESTION: If your business qualified to pay no unemployment compensation taxes this year, please indicate below how the tax savings was utilized by your business.

RESPONSES:

4 - "raised wages"

"employee pay increases, business physical improvement"

"additional hiring and training"

"hired one additional employee"

"to hire two additional employees"

"employee bonus, help offset decrease in revenues"

"increased employment & sales"

"We have added to our employment base and made people full time that previously were doing work part-time and temporary activities"

"funded part of a new employee's compensation"

"Reallocation of health insurance costs"

"expansion of sales which would increase employment"

"safety training and incentives:"

"expansion and increasing employment"

11- "purchased new equipment"

"Yes, we received the benefit. The money saved was invested in equipment"

"invested in capital equipment - expanded work force"

"Improved profitability, lowered debt and purchased equipment. All was reinvested in the business to enhance future viability"

"Invested in Prepress Technology - Mac Computers"

"facility improvement"

"To upgrade and preserve the operations of the facility. This includes the education and betterment of the employees"

"To buy new equipment and up grade facilities, along with some more continuing education"

"Used to purchase additional production equipment, which adds more jobs as business increases"

"to upgrade tools and equipment"

"It was used to update our computer system."

"more research and development"

"re-invested in new buildings"

2 - Towards capital improvements"

2 - "update computer software & hardware"

"reinvestment in facilities & equipment, & processes to enhance or create new business, markets and jobs"

"purchased new computers, opened new offices, hired additional staff, paid off debt"

"expedited plans for capital investments and/or acquisition of property"

3 - "Pay off debt"

"used to offset increasing cost of product liability insurance"

"apply to liability & product insurance cost"

3 - "yes - reduced routine operating expense"

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3 - "Capital investment"  
"\$3,000/equipment purchase"  
"utilized in business operations"  
"To cover operating expenses that rose in other areas"  
"poor year; paying expenses"  
"simply lowered expenses"  
"Fund expansions"  
"placed into reserves"  
"Reinvested it all in our business, paid income taxes and created jobs"  
"ultimately reduced debt on inventory"  
"overhead management"  
"Ours is usually insignificant. It was easily absorbed in everyday expenses"  
"we spend all we can afford to each year to expand our business. Any expense reduction will help. We don't do wine, women and riotous living."  
"cash flow"  
"Used as any other saving and incorporated in the general budget"  
"Left in general fund for general operations"  
"reduced cost of doing business"  
"It helped reduce payroll taxes"  
2 - "It was a very small amount - absorbed into general fund"  
"Money used in every day running of the business"  
2 - "money would be used to reinvest in the business"  
2 - "additional profit"

"I had a very low rate so my savings was not very much. Probably used to help buy more equipment"  
"We bought coffee for everyone in the business for 2 weeks"  
"Less expense = increased profit"  
"The \$8,000 to \$10,000 savings did not make a significant impact on the Corporation. However, the fact that someone realized it was our money and not the state's is appreciated"  
"Small return compared to overall annual expenses; however, this year spent much time & \$ on small incremental expansions"  
"helps us remain in business"  
"Helped bottom line. This allowed us to forgo price increases, or at least lower increases planned"  
"Too small to make a significant contribution. However, it's refreshing not to penalized for others actions"  
"It was greatly appreciated and reduced our losses in a very rough year"  
"The actual cash savings was small to us. Where the money went I don't know. But, it sure felt good not to pay this tax"  
"Money from heaven"

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Besides unemployment taxing questions, KCCI's members continue to have concerns whether current law opens the door to unemployment benefits to individuals who are not "unemployed through no fault of their own. The two concern areas I most often hear involve absenteeism and seasonal employment.

## CONCLUSION

There are several other issues which have the attention of Kansas business.

- 1) This employer concern actually centers around more good news. Unemployment in Kansas today is at 4%, its lowest point in the 1990's. The downside to this good news is the pool of an available labor force is quite low.
- 2) Technology has touched literally every Kansas industry, making work force training of individuals more critical than ever.
- 3) The cancer of drug and alcohol abuse is an issue Kansas business has had to address. As a result, business increasingly has turned to proactive measures.
- 4) Kansas business is not immune to our country's frenzy of litigation. As a result, business looks to new steps that can be taken to resolve disputes and make parties whole outside of our bloated legal system.

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In employee relations, the Kansas Legislature has often asked the Kansas Chamber to work with the Kansas AFL-CIO to attempt to resolve these often contentious issues. KCCI looks forward to continuing our working relationship with the AFL-CIO. Kansas is very fortunate to have outstanding individuals like Wayne Maichel and Jim DeHoff directing its labor movement.

Mr. Chairman, thank you once again for this opportunity to comment on Kansas business issues and for the courtesy this committee has constantly extended the Kansas Chamber. I would be happy to answer any questions.

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