

Approved: As corrected 2/24/99  
Date

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

The meeting was called to order by Chairperson Al Lane at 9:02 a.m. on February 19, 1999 in Room 521-S of the Capitol.

All members were present except: Rep. Broderick Henderson - excused  
Rep. Rick Rehorn - excused

Committee staff present: Darrell McNeil, Acting Revisor of Statutes  
Dennis Hodgins, Legislative Research Department  
Bev Adams, Committee Secretary

Conferees appearing before the committee: Wayne Maichel, AFL/CIO  
Hal Hudson, NFIB  
Terry Leatherman, KCCI  
Bill Layes, KDHR

Others attending: See attached list

Handed out to the committee were fiscal notes for **HB 2493 and 2494**.

Rep. Candy Ruff thanked the committee for listening to the stories of the victims and families of the DeBruce explosion. (See Attachment 1)

Testimony from Tim King, Kansas Trial Lawyers Association (KTLA), on **HB 2287** was passed out to the committee. The attachment is included with the February 18, 1999, minutes.

**Hearing on: HB 2494 - Employment security tax cut.**

Wayne Maichel, Kansas AFL/CIO, appeared as a proponent of the bill. They only ask that the procedure guarantee one factor, the solvency of the Trust Fund. They feel the reduced rates provided by the bill should maintain adequate levels. (See Attachment 2)

Hal Hudson, State Director, National Federation of Independent Business (NFIB), appeared today representing more the 7,000 members of the Kansas Chapter of NFIB. Many of the members have benefitted from a zero rate the past four years. They feel the reinstatement of the unemployment tax will penalize the employers who have maintained a stable workforce, increased their payroll, and have had few or no claims against the fund in the past five years. They feel that the Legislature can do more without endangering the fund and those who need its benefits. They support the enactment of **HB 2494** as introduced or with further rate reductions, if possible. (See Attachment 3)

Terry Leatherman, Kansas Chamber of Commerce and Industry (KCCI), appeared before the committee to explain why KCCI supports the bill. He offered to the committee several charts showing the success of the unemployment compensation tax moratorium and the condition of the Trust Fund. They feel the tax decrease proposed in the bill will be adequate to meet the unemployment benefit needs of Kansas workers. (See Attachment 4)

Bill Layes, Chief of Labor Market Information Services, Kansas Department of Human Resources (KDHR), pointed out the intricacies of the bill and the changes that it will make to the unemployment compensation tax law. The changes include a new tax schedule as well as a requirement for KDHR to monitor the fund and make recommendations to the Legislature if the trust fund falls below the level needed to remain solvent.

The conferees answered several questions from the committee.

No others were present to testify for or against **HB 2494** and Chairman Lane closed the hearing.

CONTINUATION SHEET

MINUTES OF THE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE , Room 521-S  
Statehouse, at 9:02 a.m. on February 19, 1999.

**Final Action on: HB 2494 - Employment security tax cut.**

Rep. Swenson made a motion to pass out HB 2494 favorably. The motion was seconded by Rep. Ruff. The motion passed.

**Final Action on: HB 2161 - Secretary of state; filing procedures for various business associations.**

Melissa Wangeman, Legal Counsel, Secretary of State's Office, explained to the committee that the amendment to the bill that she requested in her testimony was language originally requested but left out in the original bill draft.

Rep. Ruff made a motion to amend the bill as requested by the Secretary of State's office (See Attachment 5). The motion was seconded by Rep. Gilmore. The motion passed.

Rep. Humerickhouse made a motion to amend the bill to recapture the general fund money that is lost from the elimination of foreign corporation certificates in HB 2161 (See Attachment 6). The motion was seconded by Rep. Aday. The motion carried.

Rep. Grant moved that the bill be passed out favorably as amended. Rep. Humerickhouse seconded the motion. The motion passed.

**HB 2197 - Consumer protection, negative option invitation or announcement.**

It was pointed out to the committee that an amendment was included with Steve Rarrick's testimony of February 12, 1999.

A motion was made to amend the bill as per Steve Rarrick's testimony. (See Attachment 7). It was seconded by Rep. Huff. The motion passed.

Rep. Huff made a motion to pass out HB 2197 favorably as amended. Rep. Swenson seconded the motion. The motion carried.

The meeting was adjourned at 9:40 a.m.

The next meeting is scheduled for February 22, 1999.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE  
GUEST LIST

DATE February 19, 1999

NAME	REPRESENTING
Bice Lawrence	BOEING
Hal Hudson	NFIB / Kansas
Terry Leatherman	KCCI
<del>David</del>	KELI
John Whittell	KTLA
Jim Hettoff	KS AFL-CIO
Gail Bright	A.G.
Bill Hayes	KDHR
Russ Vawter	KDHR
Ron Sicks	KDHR
W. Sanders	KDHR
PAUL BICKNELL	KDHR
Melissa Wangemann	Sec. of State
Fariba Pouraryan	Sec. of State
Christy Cramer	Rep. Lane

February 17, 1999

To the Members of the House Business, Commerce and Labor Committee:

Thank you for listening to our story today. We respectfully submit the attached statement for distribution to the committee members and for inclusion in the official hearing record on House Bill 2287.

We heard a great many concerns expressed by the business community about premiums, profits and losses. We just want to say it would be nice, for once, to hear these words from the Kansas business community, "**Our number one priority is the safety of the workers.**"

Thank you for your attention to our concerns.

Respectfully submitted,

The Families of DeBruce

Darryl H. Williams  
Brigitte Williams  
Johnny Sutton  
Cheri Mosteller  
Scott Mosteller  
Georgia Sutton

Sue Lehnker  
Deb Goin  
Bob Williams  
Fran Williams  
Tom Mosteller

HOUSE BUSINESS, COMMERCE & LABOR COMM.  
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Attachment 1



**W**e are the families of DeBruce. The explosion that maimed and killed our friends, coworkers and family members on June 8, 1998, is a painful and constant reminder of the importance of workplace safety and of the tragic consequences when workplace safety is ignored.

Most Kansas businesses operate safely and responsibly. Sadly, however, some Kansas businesses disregard workplace safety and place employees at risk of serious injury or death. The workers compensation laws of our state protect *even the most irresponsible and unsafe businesses* from full accountability. That means unscrupulous employers have little incentive to change dangerous business practices and invest in worker safety.

Those of us who survived the June 8 inferno understand better than most Kansans the pain of injustice, the danger of hazardous working conditions, and the desire to hold responsible parties accountable. Yes, we want to hold someone accountable for what happened to us on June 8, 1998. We want to hold someone responsible for the events of that day that changed our lives *forever*. But the workers compensation laws of Kansas prevent us from getting that accountability. You can right this injustice for future victims of hazardous workplaces by allowing them the option to seek a civil remedy for injuries caused by an employer's gross negligence or criminal conduct. You can pass House Bill 2287 and House Bill 2493.

**Testimony on H.B. 2494  
to the House, Business, Commerce & Labor Committee**

**By Wayne Maichel, Executive Vice President  
Kansas AFL-CIO**

**February 19, 1999**

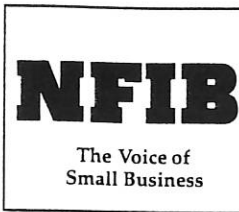
Thank you Mr. Chairman and members of the committee for the opportunity to present evidence in support of H.B. 2494.

Mr. Chairman, I also serve on the Employment Security Advisory Committee. The labor members of the Advisory Committee have always felt that policy for making contributions by employers to the Employment Security Trust Fund should be made by the business community. We only ask that the procedure guarantee one factor, and that is the solvency of the Trust Fund. We believe H.B. 2494 will bring employers back into the Employment Security system at a much reduced rate, but at the same time, maintain adequate levels in the Trust Fund for paying of benefits.

Therefore, Mr. Chairman, we support H.B. 2494. I would be happy to try and answer any questions.

**HOUSE BUSINESS, COMMERCE & LABOR COMM.  
2-19-99  
Attachment 2**





**Statement by  
Hal Hudson, State Director  
Kansas Chapter, National Federation of Independent Business  
Before the  
House Business, Commerce and Labor Committee  
On House Bill 2494  
February 19, 1999**

Mister Chairman and Members of the Committee: For the record, my name is Hal Hudson. I am here today representing the more than 7,000 members of the Kansas Chapter of the National Federation of Independent Business – small and independent business owners who are part of the backbone of the Kansas economy.

For some time, our members have been concerned about the consequences of ending the moratorium on the payment of unemployment compensation taxes, which now seems imminent.

It is true that many NFIB members have enjoyed the ride, and have benefited from a zero rate these past four years. Now, unless a change is made, many of these same firms will be penalized for doing exactly what was hoped they would do with the moratorium savings.

They have expanded their businesses and added new jobs. They have increased wages, and in some cases have increased employee benefits.

Under the present rate structure, those firms who have added employees and/or have a higher wage base today than they had in 1994, will be penalized for their success in bolstering the Kansas economy.

H.B. 2494 proposes a general reduction of rates, below rates in current law. This is a good move, in the right direction. We endorse the reductions, and generally support the concept of H.B. 2494. However, we believe you can do more to help those businesses who have maintained a stable workforce, increased their payroll, and have had few or no claims against the fund in the past five years. You can do more without endangering the fund and those who need its benefits.

We sincerely hope this committee will consider further reductions in the rates paid by those with positive account balances as quickly as lower fund balance requirements are determined. I urge you to support enactment of H.B. 2494, as introduced, or with further rate reductions, if possible.

Thank you.

**HOUSE BUSINESS, COMMERCE & LABOR COMM.**  
2-19-99  
Attachment 3

# LEGISLATIVE TESTIMONY



Kansas Chamber of Commerce and Industry

web: [www.kansaschamber.org](http://www.kansaschamber.org)

835 SW Topeka Blvd. Topeka, KS 66612-1671 (785) 357-6321 FAX (785) 357-4732 e-mail: [kcci@kansaschamber.org](mailto:kcci@kansaschamber.org)

HB 2494

February 19, 1999

## KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Business, Commerce and Labor

by

Terry Leatherman  
Executive Director  
Kansas Industrial Council

Mr. Chairman and members of the Committee:

I am Terry Leatherman, with the Kansas Chamber of Commerce and Industry. Thank you for this opportunity to explain why KCCI supports HB 2494. Since the bill proposes to alter Kansas unemployment compensation tax rates, my testimony will review the highly successful unemployment compensation tax moratorium program, the condition of the Kansas Employment Security Trust Fund, and why the Kansas Chamber feels the tax decrease proposed in this bill will be adequate to meet our unemployment benefit needs.

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.

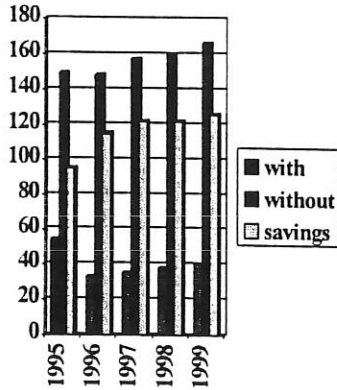
**HOUSE BUSINESS, COMMERCE & LABOR COMM.**

**2-19-99**

**Attachment 4**



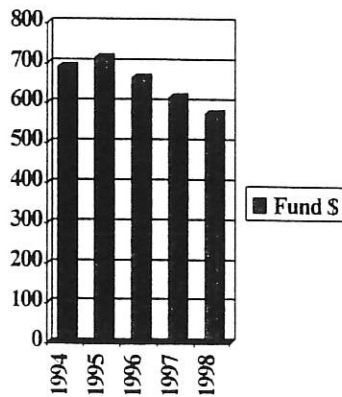
## U.C. Moratorium How Many \$ Have Been Saved



- Without the 1995 moratorium bill, employer taxes would have totaled \$780 million from 95 to 99
- With moratorium, tax paid should be \$200 million from 95 to 99
- Savings= \$580 million

## THE CONDITION OF THE KANSAS EMPLOYMENT SECURITY TRUST FUND

## U.C. Moratorium Did We Drain The Trust Fund?



- Employer taxes have dropped \$450 million to date, due to moratorium
- Trust Fund Balance has dropped \$139.9 million during moratorium

STATE	Reserve Fund Ratio	STATE	High Cost Multiple
Kansas	2.58	Oklahoma	1.59
Oklahoma	2.43	Kansas	1.31
Nebraska	1.40	Colorado	0.99
Colorado	1.24	Nebraska	0.90
Arkansas	1.11	Arkansas	0.41
Missouri	0.61	Missouri	0.31

### WHY END THE MORATORIUM?

Year	Total F.Y. Kansas Payroll	Trust Fund Balance (as of 7/31)	Fund to Payroll Ratio
1994	\$19.6 billion	\$724.6 million	3.703%
1995	\$20.8 billion	\$729.8 million	3.505%
1996	\$22.1 billion	\$675.4 million	3.054%
1997	\$23.9 billion	\$621.4 million	2.605%
1998	\$25.7 billion (est)	\$574.0 million (7/1)	2.233%

4-3

**Current Law**

**What Will My Tax Be In 2000?**

Trust Fund Balance Estimate (7/31/99)	\$513,580,000
Total Ks. Payroll Estimate for Fiscal Year Ending 6/30/99 (7.8% growth)	\$27,722,000,000
Ratio – Fund Balance % of Total Payroll	1.852%
Schedule III Fund Control (Ks. Law)	.66%
1999 U.C. Tax Estimate	\$182,965,000

**HB 2494**

**What Will My Tax Be In 2000?**

Trust Fund Balance Estimate (7/31/99)	\$513,580,000
Total Ks. Payroll Estimate for Fiscal Year Ending 6/30/99 (7.8% growth)	\$27,722,000,000
Ratio – Fund Balance % of Total Payroll	1.852%
Schedule III Fund Control (Ks. Law)	.56%
1999 U.C. Tax Estimate	\$155,243,000

AMENDMENT TO HB 2161

ADD:

**K.S.A. 17-7301. Foreign corporations; application to do business in Kansas; contents of application; issuance of certificate by secretary of state, conditions.**

(a) As used in this act, the words "foreign corporation" mean a corporation organized under the laws of any jurisdiction other than this state.

(b) No foreign corporation shall do any business in this state, through or by branch offices, agents or representatives located in this state, until it has filed in the office of the secretary of state of this state an application for authority to engage in business in this state as a foreign corporation. Such application shall be filed in accordance with K.S.A. 17-6003 and amendments thereto and shall set forth:

(1) A certificate issued within 90 days of the date of application by the proper officer of the jurisdiction where such corporation is incorporated attesting to the fact that such corporation is a corporation in good standing in such jurisdiction;

(2) the address of the principal office of the corporation is located;

(3) the address of the principal office or place of business in this state is to be located, if known;

(4) the full nature and character of the business the corporation proposes to conduct in this state;

(5) the name and address of each of the officers and trustees or directors of the corporation;

(6) a statement as to when the corporate existence of the corporation will expire in the state of incorporation;

(7) a detailed statement of the assets and liabilities of the corporation, as of a date not earlier than 12 months prior to the filing date;

(8) the location of the registered office of the corporation in this state and the name of its resident agent in charge of the registered office; and

(9) the date on which the corporation commenced, or intends to commence, doing business in this state.

The application shall be subscribed and sworn to by the president or a vice-president and the secretary or an assistant secretary of the corporation, and it shall be accompanied by the written consent of the corporation, irrevocable, that actions may be commenced against it in the proper court of any county where there is proper venue by the service of process on the secretary of state as provided for in K.S.A. 17-7307 and amendments thereto and stipulating and agreeing that such service shall be taken and held, in all courts, to be as valid and binding as if due service had been made upon the president and secretary of the corporation. Such consent shall be executed by the president or a vice-president and the secretary or an assistant secretary of the corporation and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees or managers of the corporation authorizing the secretary or an assistant secretary and the president or a vice-president to execute it. Nothing in this act or the act of which this section is amendatory shall be construed as requiring such consent or the order or resolution of the board of directors to be recorded in the office of the register of deeds.

Ron Thornburgh  
Secretary of State



2nd Floor, State Capitol  
300 S.W. 10th Ave.  
Topeka, KS 66612-1594  
(785) 296-4564

STATE OF KANSAS  
MEMO

TO: REPRESENTATIVE JOE HUMERICKHOUSE

FROM: MELISSA WANGEMANN, LEGAL COUNSEL  
OFFICE OF THE SECRETARY OF STATE

DATE: 11 FEBRUARY 1999

RE: HB 2161; AMENDMENT TO FOREIGN CORPORATION FILING FEE

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I have attached the amendment necessary to recapture the general fund money that is lost from the elimination of foreign corporation certificates in HB 2161. The current filing fee for a foreign corporation is \$75, which goes to general funds. If you raise the fee to \$100 it will offset the loss of general fund money resulting from the elimination of both certificates.

HB 2161 eliminates two certificates; one that is issued when the foreign corporation comes into the state (certificate of qualification) and one that is issued when the foreign corporation leaves the state (certificate of withdrawal). Our office does not issue as many certificates of withdrawals, in fact, it's about 20% less than qualification certificates. Our office issued 399 certificates of withdrawal in 1998, compared to 1,957 certificates of qualification. Therefore, when we increase the filing fee for qualification by \$25 we recapture more than enough to offset the loss of both certificate fees.

My fiscal note stated that the estimated loss, based on 1998 figures, would be \$47,140 per year. [(\$20 x 1,957 certificates of qualification) + (\$20 x 400 certificates of withdrawal)] = \$47,140. If we increase the filing fee for qualification by \$25, the general fund will receive \$48,925 [\$25 x 1,957]. Instead of losing money, the state will realize a gain of \$1,785.

Other information that you might find helpful:

\*When the corporate code was adopted in 1972 the filing fee for foreign corporations was \$50. It was increased to \$75 in 1982.

HOUSE BUSINESS, COMMERCE & LABOR COMM.  
2-19-99  
Attachment 6

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Administration (785) 296-4564  
FAX (785) 291-3051  
Corporations (785) 296-4564  
FAX (785) 296-4570

Web Site:  
<http://www.ink.org/public/sos>  
e-mail:  
kssos@ssmail.wpo.state.ks.us

Elections (785) 296-4561  
FAX (785) 291-3051  
UCC (785) 296-4564  
FAX (785) 296-3659

\*Kansas has very low filing fees in comparison to other states. Missouri charges \$155.00 for foreign corporation qualification, Nebraska charges \$145.00, Oklahoma charges a minimum of \$300.00, Delaware, \$150.00. Colorado, like us, charges \$75.

\*Other foreign business entities pay a filing fee of \$150 to register in Kansas; foreign limited liability companies, foreign limited partnerships and foreign limited liability partnerships.

cc: Rep. Al Lane, Chairman



**K.S.A. 17-7502. Application and recording fee of domestic corporations; foreign corporation fees.**

(a) At the time of filing its articles of incorporation, each domestic corporation organized for profit shall pay to the secretary of state an application and recording fee of \$75, and the fee for domestic corporations organized not for profit shall be \$20.

(b) Before any foreign corporation shall be authorized to do business in this state, such corporation shall pay to the secretary of state a filing fee of \$75 ~~\$100~~ and the fee prescribed by K.S.A. 17-7506, ~~and amendments thereto, for issuing the certificate of authority to do business in Kansas.~~

# HOUSE BILL No. 2197

By Representatives Ray, Adkins, Beggs, Campbell, Carmody, Cox, Faber, Freeborn, Glasscock, Huff, Jennison, Phil Kline, Phill Kline, Lane, Lightner, Loyd, McCreary, Myers, Powell, Shultz, Stone and Wilk

2-1

11 AN ACT relating to consumer protection; concerning negative option  
12 invitation or announcement; amending K.S.A. 50-617 and repealing  
13 the existing section.  
14

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

16 Section 1. K.S.A. 50-617 is hereby amended to read as follows: 50-

17 617. (a) Whenever any supplier shall, in any manner, or by any means,  
18 deliver ~~goods property~~ or services not ~~actually affirmatively~~ ordered or  
19 requested by the recipient, the receipt of any such unordered ~~goods prop-~~  
20 ~~erty~~ or services shall for all purposes be deemed an unconditional gift to  
21 the recipient who may use or dispose of the same in any manner the  
22 recipient sees fit without any obligation on the recipient's part to the  
23 ~~sender supplier. Property or services are considered to be unsolicited un-~~  
24 ~~less the recipient specifically requested, in an affirmative manner, the~~  
25 ~~receipt of the property or services according to the terms under which~~  
26 ~~they are being offered. Property or services are not considered to have~~  
27 ~~been affirmatively ordered or requested if a person fails to respond to a~~  
28 ~~negative option invitation or announcement to purchase the property or~~  
29 ~~services, and the property or services are provided notwithstanding. In~~  
30 ~~any action for the return of such goods property or for payment of the~~  
31 ~~purchase price of such goods property or services or any other consid-~~  
32 ~~eration, it shall be a complete defense that the goods property or services~~  
33 ~~were delivered to the recipient unordered voluntarily and that the recip-~~  
34 ~~ient did not actually affirmatively order or request the same.~~

unordered

35 (b) As used in this section, "negative option invitation or announce-  
36 ment" means any material sent by a supplier which identifies property or  
37 services which such supplier proposes to send to recipients, and the re-  
38 cipients are thereafter billed for the property or services identified in the  
39 material, unless by a date or within a time specified by the supplier, the  
40 recipients, in conformity with the supplier's terms set forth in the material,  
41 instruct the supplier not to send the identified property or services.

or sends

42 (b)(c) Any attempt to collect on ~~billing for goods property~~ or services  
43 ~~received as an unconditional gift~~ under this section is a deceptive act or

or bill for unordered  
received as an unconditional gift

House Business, Commerce  
& Labor Comm

2-19-99

Attachment 7

HOUSE BUSINESS, COMMERCE & LABOR COMM.  
2-19-99  
Attachment 7

1 practice under the Kansas consumer protection act.

2 (e) ~~(d)~~ This section shall be part of and supplemental to the Kansas  
3 consumer protection act.

4 Sec. 2. K.S.A. 50-617 is hereby repealed.

5 Sec. 3. This act shall take effect and be in force from and after its  
6 publication in the statute book.

(d)

(e)

*The provisions of Section 50-617 do not apply to plans and arrangements regulated by and in compliance with 16 CFR 425 or to contractual plans or arrangements such as continuity plans, subscription arrangements, standing order arrangements and series arrangements under which the supplier periodically ships property to a consumer who has affirmatively ordered or requested in advance to receive such property on a periodic basis.*