

Approved: February 4, 2000  
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on February 3, 2000 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Lynne Holt, Legislative Research Department  
Jerry Ann Donaldson, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Betty Bomar, Secretary

Conferees appearing before the committee:  
Janette Luehring, Kansas Corporation Commission

Others attending: See attached list

**SB 455 - Late payment fees on KUSF assessment**

Janette Luehring, Chief of Telecommunications, Utilities Division, Kansas Corporation Commission, testified in support of **SB 455**, which would legally authorize the Commission to assess late payment fees for delinquent Kansas Universal Service Fund payments. (Attachment 1)

The Commission established the KUSF and assessment method in its Docket 190,492-U, December 27, 1996 and Order of February 3, 1997. The assessments are required to be on an equitable and non-discriminatory basis. All telecommunications service providers are assessed a percentage of intrastate revenue at a rate of 4.92%. The Commission established a late fee assessment of 1% per month in its February 18, 1997 Order, finding that a late fee payment is necessary to encourage prompt payment, to ensure the integrity of the fund, and is a standard business practice.

Ms. Luehring stated telecommunication carriers submit worksheets to National Exchange Carriers Association reporting their intrastate revenues for the month, and a calculation of the KUSF assessment is made. Late payment fees are assessed if a carrier fails to make a timely and complete payment. The Commission forwards a certified letter to a company when its payment is 90 days past due. The Commission may pursue collection through the courts or may issue a show cause order to cancel a company's certificate if the company continues to fail to pay its KUSF.

The Commission requested introduction of **SB 455** which clearly authorizes the Commission to assess a late payment fee for delinquent KUSF payments. Currently, one carrier is challenging the Commission's authority because it is not specifically set forth in the statute.

Ms. Luehring reported that in year one late payments were collected in the amount of approximately \$80,000; year two - \$600,000, due largely to the court's decision that wireless carriers could be assessed; and year three to date - \$40,310.

The Committee questioned Ms. Luehring on the Commission practice of waiting 90 days prior to sending a certified letter. It was suggested a letter should be sent at the end of 30 days.

The hearing on **SB 455** was concluded.

**Senator Brownlee moved, seconded by Senator Steineger, that SB 455 be amended on line 26, following the word "due" by inserting the word "monthly". The voice vote was in favor of the motion.**

**Senator Steffes moved, seconded by Senator Brownlee, that SB 455 be recommended favorable for passage as amended. The recorded vote was unanimous in favor of the motion.**

CONTINUATION SHEET

The Chair distributed to the Committee a letter from Philip S. Harness, Director, Workers Compensation Division, in response to a Committee inquiry relating to the number of workers compensation fraud and abuse cases filed since February 1999. (Attachment 2)

**Upon motion by Senator Steffes, seconded by Senator Donovan, the Minutes of February 1 and February 2, 2000, were unanimously approved.**

The meeting concluded at 8:45 a.m.

The next meeting is scheduled for February 4, 2000.



Senate Commerce Committee  
Comments of Kansas Corporation Commission Staff  
February 3, 2000

Establishment of fund and assessment method - Docket 190,492-U, December 27, 1996 Order (reconsideration order February 3, 1997)

- assessments required to be on an equitable and non-discriminatory basis (K.S.A. 66-2008(b))
- all telecommunications service providers assessed a percentage of intrastate revenues (for year four of the KUSF the assessment percentage is 4.92); commission has evaluated and clarified what constitutes intrastate revenues

Establishment of late fee for assessments - February 18, 1997 Order

- the commission authorized a late payment fee for delinquent KUSF payments
- the late payment fee is 1% per month (12% APR)
- the commission stated that a late payment fee may be necessary to encourage prompt payment and to assure the integrity of the fund; commission noted that it is a standard business practice

Carriers submit worksheets to NECA stating intrastate revenues for the month, calculation of KUSF assessment

- late payment fee assessed if carrier fails to make timely, complete payment
- when a company is 90 days past due a certified letter is sent
- commission pursuing collection proceedings through the courts and the commission may show cause to cancel a company's certificate if company continues to fail to pay KUSF
- attachment demonstrates number of carriers delinquent for each year of the KUSF and the number of days delinquent; for example in current year (year 3), 56 carriers are 270 days past due
- for example in January of 1999, 9 carriers remitted \$29,349.69 in late KUSF payments and \$1,334.25 in late payment fees

The purpose of the modification of the statute as set forth in the bill would be to reinforce the commission's authority to assess a late payment fee for delinquent KUSF payments; one carrier currently challenging commission's authority because its not specifically set forth in the statute (company owes late payment charge of \$17,427 - commission pursuing legal action)

Senate Commerce Committee  
Date: 2-03-00

Attachment # 1-1 thru 1-2

# DELINQUENT CARRIERS TO THE KUSF

DAYS	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>YEAR 3</u>
30	0	5	52
60	2	7	11
90	1	7	14
120	3	3	13
150	0	1	16
180	1	0	4
210	2	1	7
240	1	0	8
270	1	1	56
300	5	1	
330	25	2	
360	<u>0</u>	<u>48</u>	<u>          </u>
TOTAL	41	76	181



# KANSAS

Bill Graves  
*Governor*

DEPARTMENT OF HUMAN RESOURCES  
*Division of Workers Compensation*

Richard E. Beyer  
*Secretary*

January 31, 2000

The Honorable Alicia Salisbury  
Chairperson, Senate Commerce Committee  
State Capitol, Room 120-S  
Topeka, KS 66612

Dear Chairperson Salisbury:

At the Senate Commerce Committee meeting on Friday, January 21, 2000, a question was asked as to the number of workers compensation fraud and abuse cases which have been filed since the February, 1999, Post Audit Report. The following is a summary comparing 1998 cases with 1999 cases. In order to understand the chart, it may be helpful to know that "ADMIN" means administrative filings pursuant to K.S.A. 44-5,120; "COMPLIANCE" refers to cases filed against employers who are uninsured; and "CIVIL ENF" stands for civil enforcement concerning cases where a judgment was rendered against a person found to have improperly collected workers compensation benefits and the state is proceeding to collect judgment through attachment of non-exempt assets, garnishment of wages, or the like.

Should you need any further information, please do not hesitate to ask.

Sincerely,

Philip S. Harness  
Workers Compensation Director

PSH:KCW:lre

Cc: Richard E. Beyer, Secretary of Human Resources  
Karen Wittman, Division of Workers Compensation

Senate Commerce Committee

Date: 2-03-00

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Attachment # 2-1 thru 2-2

CHART COMPARING 1998 TO 1999 FRAUD AND ABUSE CASES

YEAR	TOTAL CASES	CRIMINAL	DISMISSED/ REFUSED	ADMIN <sup>1</sup>	COMPLIANCE	CIVIL ENF <sup>2</sup>	CLOSED
1999	208	14	9	17 <sup>3</sup>	5 <sup>4</sup>	10	242
1998	166	10	3	9 <sup>5</sup>	2	0	148

<sup>1</sup> This includes compliance cases.

<sup>2</sup> Cases in which persons and/or companies were found to have committed fraud or were not in compliance with the Kansas Workers Compensation act. At this time we are seeking to collect \$36,940.27 in restitution and \$17,427.94 in fines.

<sup>3</sup> In one case, a judgment was entered for the Division in the amount of \$41,515.29. The case has been appealed to the Sedgwick County District Court.

<sup>4</sup> One case was dismissed.

<sup>5</sup> 3 dismissed for lack of prosecution.