

Approved: March 10, 2000  
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 9, 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:

A. J. Kotich, Kansas Department of Human Resources  
Rudy Leutzinger, Kansas Department of Human Resources  
Wendy Harms, Kansas Aggregate Producers' Association  
Dr. M. Lee Allison, State Geologist  
Dave Shufelt, Division of Workers Compensation

Others attending: See attached list

**HB 2767 - Transfer of maps of underground mines to control of state geologist**

A. J. Kotich, Legal Counsel, Department of Human Resources (KDHR), testified **HB 2767** was introduced at the request of KDHR to transfer control of certain mine maps and plans to the state geologist. Present law directs the owner, agent or operator of every coal mine and of every underground rock and limestone mine in Kansas to keep an accurate map or plan of their mine and to file with the secretary of human resources. Human Resources does not regulate the health and safety of miners, and there is no reason for maps and plans to be filed with the secretary. In the interest of economy of management and efficiency, KDHR believes the state geologist is better equipped to survey mines, interpret and preserve maps, and make maps available to the public. There is no cost involved in this transfer or a need for additional personnel. (Attachment 1)

Rudy Leutzinger, Administrator, Industrial Safety and Health Division, KDHR, testified **HB 2767**, had received 3 inquiries for maps during the last year, 2 being from the state geologist. There are 7 boxes of maps and plans stored within KDHR archives.

Wendy Harms, Kansas Aggregate Producers' Association (KAPA), testified in support of **HB 2767**, stating KAPA is an industry-wide trade association whose members provide basic building materials to all Kansans. The industry consists of mining operations whose members routinely request the review of underground maps and other geological data. The transfer of mine maps and plans does not require any regulatory efforts or additional resources to be spent by the Kansas Geological Survey. (Attachment 2)

M. Lee Allison, State Geologist and Director, Kansas Geological Survey, testified in support of **HB 2767**, stating the transfer of the archiving of maps of coal and underground rock or limestone mines from the KDHR to the state geologist provides "one-stop shopping" for users. The state geologist already collects, archives, and disseminates data and reports on mines, as well as maps from other sources in Kansas. **HB 2767** provides a more efficient management for the archiving and makes available mine maps together with other materials at one location, at no increased cost. (Attachment 3)

The hearing on **HB 2767** was concluded.

**SB 644 - Workers compensation; bill dispute resolution**

CONTINUATION SHEET

Dave Shufelt, Assistant to the Director, Workers Compensation Division, briefed the Committee on the provisions contained in **SB 644**. Mr. Shufelt stated the proposed changes in Sections 1, 2 and 3 were submitted to the advisory council at its February meeting. They tabled any action at that time and were to consider the proposals at the meeting in March which was cancelled. The remaining sections have been recommended by the advisory council, as has the rewriting and simplifying of the peer review and utilization review procedures. (Attachment 4)

Section 1. Takes existing sections of KSA 1999 Supp. 44-510 and places them together with other sections dealing with comparable subject matter so the statute reads in a sequential fashion.

Section 2. Deals with the medical administrator and the medical fee schedule and places them together in the statute.

Section 3. Inserts a new provision that streamlines the medical bill dispute resolution and utilization review procedures; deletes the word "shall" and inserts the word "may" on Page 6 at lines 24 and 28; and changes the civil fine appeal process from the district court of Shawnee County to the workers compensation board.

Section 4. On Page 9, at line 36, adds the language "or under the supervision of". Present law requires blood or other samples to be collected by a "licensed health professional". This amendment allows non-licensed persons to collect and label test samples, but only under the supervision of a licensed professional.

Section 5. On Page 13, at line 40, includes in the definition of "health care provider" any person licensed to practice "audiology".

Sections 6 and 7. Technical amendments containing a repealer clause to bring the bill into conformity.

Section 8. On Page 19, at lines 2, 3 and 4, provides that the medical report of the health care provider appointed to perform an independent medical evaluation shall be considered by the administrative law judge without the necessity of taking his deposition.

Section 9. A conforming amendment.

Section 10. On Page 22, at lines 3 and 4, a grammatical clean-up.

Section 11. A conforming amendment.

Section 12. On Page 24, at lines 9, 10 and 11, is the repealer section and also repeals KSA 44-513 which provides for the apportionment of benefits when a conflict exists between dependents. The statute is no longer needed as KSA 44-510b provides a statutory formula for apportionment of benefits once the determination of dependency has been established.

Mr. Shufelt submitted an additional amendment for the Committee to consider, on Page 4 at line 41, to strike the words "the employer or carrier" and insert "service provider".

The hearing was concluded.

**Senator Ranson moved, seconded by Senator Steineger, that the Minutes of the March 7<sup>th</sup> and March 8<sup>th</sup> meetings be approved. The vote was unanimous in favor of the motion.**

The meeting adjourned at 8:45 a.m.

The next meeting is scheduled for March 10, 2000.



Prepared Testimony for House Bill 2767  
Transfer of Mine Maps and Plans to the State Geologist

By A.J. Kotich, Chief Legal Counsel  
Kansas Department of Human Resources

House Bill 2767 was introduced at the request of KDHR to transfer control of certain mine maps and plans to the state geologist. The bill amends K.S.A. 49-201, the only remaining section of an old Kansas law which once regulated the health and safety of miners.

K.S.A. 49-201 directs the owner, agent or operator of every coal mine and of every underground rock and limestone mine in Kansas to keep an accurate map or plan of their mine, and to file an updated map or plan with the secretary of human resources by July 10th each year. If the secretary has reason to believe that a mine map or plan is not accurate, the secretary is empowered to survey the mine and prepare an accurate map at the owner's expense.

House Bill 2767 amends K.S.A. 49-201 to transfer this responsibility from the secretary of human resources to the state geologist. The state geologist is better equipped to survey mines, interpret and preserve maps, and make maps available to the public. All mine maps and plans in the custody of the secretary of human resources would be transferred to the state geologist by July 31, 2000.

We stand ready to answer any questions you may have concerning this bill.

Senate Commerce Committee  
Date: 3-09-00

Attachment # /

# KAPA

Kansas Aggregate  
Producers' Association

Testimony

Edward R. Moses  
Managing Director

By The  
Kansas Aggregate Producers' Association

Before the  
Senate Commerce Committee

Regarding HB 2767

March 9, 2000

Good Morning, Madame Chair and members of the committee. Thank you for the opportunity to come before you today with our comments on HB 2767. My name is Wendy Harms, Associate Director of the Kansas Aggregate Producers' Association.

The Kansas Aggregate Producers' Association (KAPA) is an industry-wide trade association comprised of over two hundred fifty (250) members located in all one-hundred and sixty five (165) legislative districts in this state, providing basic building materials to all Kansans.

We thank you for the opportunity to come before you today with our comments on HB 2767, a bill, which would transfer maps from the Secretary of Human Resources to the State Geologist.

As our industry consists of mining operations, our members routinely request us to review and retrieve underground maps and other geological data. In our opinion, it would be more efficient and make more sense to refer all the maps from the Division of Human Resources to the Kansas Geological Survey. At one time, miner's safety laws were administered by the Division of Human Resources. Now all mine safety functions are currently under the Mine Safety and Health Administration (MSHA). Transferring such maps would not require any regulatory efforts or additional resources to be spent by the Kansas Geological Survey. We see no reason why this should not be approved.

We urge this committee to recommend HB 2767 favorable for passage. Once again, thank you for allowing me the time to appear before you today. At this time, I am willing to respond to any questions you may have.

Senate Commerce Committee

Date: 3-09-00

Attachment # 2

# Testimony

## House Bill 2767

To the Senate Committee on Commerce, March 9, 2000

By Dr. M. Lee Allison, State Geologist and Director, Kansas Geological Survey

I urge you to pass out favorably House Bill 2767. This measure transfers archiving of maps of coal and underground rock or limestone mines from the secretary of human resources to the state geologist at the Kansas Geological Survey. It does so with no increased costs, and it improves service.

The Kansas Geological Survey already collects, archives, and disseminates data and reports on mines as well as maps from other sources in Kansas.

It is expected that this bill will involve no more than a few tens of maps per year. The KGS can accommodate the additional workload within our existing capabilities.

The KGS has responsibility for similar functions under state law, such as reporting on natural resources of economic importance (KSA 76-326); collecting annual mineral production reports (KSA 76-323a); and conservation of geological information, drill cuttings, and logs of oil and gas wells (Corporation Commission Rule 82-2-125).

Industry and government agencies are accustomed to finding maps and other mining information at the KGS. They are more likely to turn to the KGS first when looking for mine maps. This bill would provide essentially "one-stop shopping" by archiving and making available mine maps with other materials at one location.

HB 2767 makes it easier for us to do our job and improves service to the state and our customers.

Senate Commerce Committee

Date: 3-09-00

Attachment # 3

**TESTIMONY BEFORE THE SENATE COMMERCE COMMITTEE  
SENATE BILL 644**

**THURSDAY, MARCH 9, 2000**

**BY PHILIP S. HARNESS, DIRECTOR OF WORKERS COMPENSATION**

Senate Bill 644 is the result of advisory council recommendations, as well as rewriting and simplifying peer review and utilization review procedures.

1. **Section 1** takes existing sections of K.S.A. 1999 Supp. 44-510 and places them together with other sections dealing with comparable subject matter so that the statute reads in a sequential fashion. Since it takes existing portions of K.S.A. 1999 Supp. 44-510, there are no amendments to present language.
2. **Section 2** is similar, taking existing sections of K.S.A. 1999 Supp. 44-510 dealing with the medical administrator and the medical fee schedule and places them together. There are no amendments to present language.
3. **Section 3** inserts new provisions that streamline the medical bill dispute resolution and utilization review procedure with existing provisions on the same subject matter in order to provide for a more streamlined and understandable procedure. Several mandatory words, such as "shall," have been deleted in favor of "may," as well as changing the civil fine appeal process from the district court of Shawnee County to the workers compensation board.
4. **Section 4** amends K.S.A. 1999 Supp. 44-501 (d) (2) (C) to add the language "or under the supervision of." Present law requires blood or other samples to be collected by a "licensed health professional." This function is sometimes routinely performed by persons who are not licensed, phlebotomists for example. This amendment would allow non-licensed persons to collect and label test samples, but only under the supervision of a licensed professional. This item was recommended to the workers compensation advisory council by the workers compensation board.
5. **Section 5** amends K.S.A. 1999 Supp. 44-508 (i) to include in the definition of "health care provider" any person licensed to practice audiology.
6. **Section 6** amends K.S.A. 1999 Supp. 44-510b to insert a reference to "sections 1 and 2" where the statute currently refers to K.S.A. 44-510. This is necessary because K.S.A. 44-510 is actually repealed by the repealer clause, and since the statute originally referred back to K.S.A. 44-510, it must refer back to the section that took the place of K.S.A. 44-510.
7. **Section 7** amends K.S.A. 1999 Supp. 44-510c to replace the reference to K.S.A. 44-510

with reference to the new sections which will take the place of K.S.A. 44-510.

8. **Section 8** adds language to K.S.A. 44-516 to provide that the medical report of the health care provider appointed to perform an independent medical evaluation shall be considered by the administrative law judge without the necessity of taking the deposition of the health care provider. Of course, any party may depose the health care provider if that party chooses to do so. This conforms K.S.A. 44-516 to K.S.A. 44-510e and K.A.R. 51-9-6.
9. **Section 9** amends K.S.A. 1999 Supp. 44-510d to replace the references to K.S.A. 44-510 with a corresponding reference to the appropriate new sections that will replace K.S.A. 44-510 upon its repeal.
10. **Section 10** amends K.S.A. 1999 Supp. 44-550b to replace the references to K.S.A. 44-510 with the corresponding reference to the appropriate new sections that will replace K.S.A. 44-510 upon its repeal. This section also contains grammatical amendments (inserting the word “which” that was accidentally omitted when the statute was first drafted as well as striking the words “records for its” as being unnecessary) that do not make any substantive changes to the statute.
11. **Section 11** amends K.S.A. 1999 Supp. 44-567 to replace the references to K.S.A. 44-510 with the corresponding reference to the appropriate new sections that will replace K.S.A. 44-510 upon its repeal.
12. **Section 12** is the repealer provision of the proposed legislation. Along with other statutes, the bill would repeal K.S.A. 44-513 which statute should have been repealed in the 1993 reforms as it was abrogated by other statutes. K.S.A. 44-513 provides for tendering payment into the district court or to the director for death claims where only the apportionment of the benefits is not agreed to by the dependents. The statute is no longer necessary because amendments over the years to K.S.A. 44-510b have provided a statutory formula for apportionment of benefits once the determination of dependency has been made.



1 shall be a representative of providers of vocational rehabilitation services  
 2 pursuant to K.S.A. 44-510g and amendments thereto. Each appointed  
 3 member shall be appointed for a term of office of two years which shall  
 4 commence on July 1 of the year of appointment. Members of the advisory  
 5 panel attending meetings of the advisory panel, or attending a subcom-  
 6 mittee of the advisory panel authorized by the advisory panel, shall be  
 7 paid subsistence allowances, mileage and other expenses as provided in  
 8 K.S.A. 75-3223 and amendments thereto.

9 (e) All fees and other charges paid for such treatment, care and at-  
 10 tendance, including treatment, care and attendance provided by any  
 11 health care provider, hospital or other entity providing health care serv-  
 12 ices, shall not exceed the amounts prescribed by the schedule of maxi-  
 13 mum fees established under this section or the amounts authorized pur-  
 14 suant to the provisions and review procedures prescribed by the schedule  
 15 for exceptional cases. A health care provider, hospital or other entity pro-  
 16 viding health care services shall be paid either such health care provider,  
 17 hospital or other entity's usual charge for the treatment, care and attend-  
 18 ance or the maximum fees as set forth in the schedule, whichever is less.  
 19 In reviewing and approving the schedule of maximum fees, the director  
 20 shall consider the following:

21 (1) The levels of fees for similar treatment, care and attendance imposed  
 22 by other health care programs or third-party payors in the locality  
 23 in which such treatment or services are rendered;

24 (2) the impact upon cost to employers for providing a level of fees  
 25 for treatment, care and attendance which will ensure the availability of  
 26 treatment, care and attendance required for injured employees;

27 (3) the potential change in workers compensation insurance premi-  
 28 ums or costs attributable to the level of treatment, care and attendance  
 29 provided; and

30 (4) the financial impact of the schedule of maximum fees upon health  
 31 care providers and health care facilities and its effect upon their ability  
 32 to make available to employees such reasonably necessary treatment, care  
 33 and attendance to each injured employee to cure and relieve the em-  
 34 ployee from the effects of the injury.

35 New Sec. 3. When an employer's insurance carrier or a self-insured  
 36 employer disputes all or a portion of a bill for services rendered for the  
 37 care and treatment of an employee under this act, the following proce-  
 38 dures apply:

39 (a) (1) The employer or carrier shall notify the service provider  
 40 within 30 days of receipt of the bill of the specific reason for refusing  
 41 payment or adjusting the bill. Such notice shall inform the ~~employer~~  
 42 ~~XXXXX~~ that additional information may be submitted with the bill and  
 43 reconsideration of the bill may be requested. The provider shall send any

service provider