

MINUTES OF THE SENATE COMMERCE

The meeting was called to order by Chairperson Karin Brownlee at 8:35 A.M. on February 11, 2005 in Room 123-S of the Capitol.

Committee members absent:

Senator Jim Barone-absent
Senator Susan Wagle-excused

Committee staff present:

Susan Kannarr, Legislative Research Department
Helen Pedigo, Revisor of Statutes
Jackie Lunn, Committee Secretary

Conferees appearing before the committee:

Marlee Carpenter, Kansas Chamber of Commerce & Industry

Others Attending:

See attached list

Chairperson Brownlee opened the meeting announcing that the Kansas Chamber of Commerce and AFL-CIO are very close to an agreement on **SB 55** and have asked the Committee for more time. The Committee agreed.

Chairperson Brownlee announced the Committee would be working **SB 108** first. Chairperson Brownlee asked if there were changes to **SB 108**, being none, Senator Kelly made the motion to move **SB 108** favorable for passage. The motion was seconded by Senator Wysong. Motion Carried.

Next the Committee turned to **SB 69**. Federico Consulting provided additional information in written form for the Committee. (Attachment 1) The committee discussed **SB 69** further. There was some concern the bill would not be a "win win" for the consumer and the operator. There was concern regarding owners who charge a late fee that is more than the 20% which is suggested in **SB 69**. After some discussion the committee proposed to amend Pg 2, line 9 to add the word "not" in front of to exceed \$20.00. Senator Jordan moved to accept amendment. Senator Schodorf seconded. Motion Carried. Senator Jordan moved to pass **SB 69** out favorably as amended. Senator Reitz seconded. Motion Carried.

Chairperson Brownlee opened the floor for discussion of **SB 122**. The Committee asked if the two parties were trying to come to an agreement. Chairperson Brownlee recognized Natalie Bright, Via Christi Regional Medical Center. Ms. Bright stated there were questions asked after the hearing yesterday. Discussion with Ms. Bright regarding the Committee's concern about the debit cards and how they will work. There was discussion by the Committee with an understanding of both sides of the issue. The Committee wanted to make sure that if they go to debit cards and/or electronic deposit the employee will not be charged an extra charge. Chairperson Brownlee recognized Mary Ellen Conlee, Via Christi Health Systems. She stated the debit card was a backup if the employee did not want electronic deposit. After much discussion by the committee. Senator Elmer moved to amend Line 20 before the Colin to add "at no cost to employee". Senator Schodorf seconded the motion. Motion carried. After further discussion on the pros and cons of electronic deposit and the debit card. Senator Emler offered another amendment to add to the end of line 28 "upon agreement by employee and employer and to the beginning of line 29 E"Except as provided in paragraph 4, section C". Senator Reitz seconded. Motion carried. Senator Emler made a motion to pass **SB 69** out favorable as amended. Senator Reitz seconded. Motion carried with some opposition.

Chairperson Brownlee discussed the agenda for next week. She also stated she would be visiting with Committee members individually in regard to **SB 33**.

Senator Schodorf moved to approve minutes for: January 20th, 21st, 24th, February 1st, 2nd, 3rd, 4th, and 8th. Senator Wysong seconded. Motion carried..

CONTINUATION SHEET

MINUTES OF THE Senate Commerce at 8:30 A.M. on February 11, 2005 in Room 123-S of the Capitol.

Meeting adjourned at 9:05 a.m. The next meeting scheduled for Tuesday, February 15, 2005 at 8:30 a.m. in 123S.



Additional Information
Submitted By: John J. Federico

SB 69 (Self-Storage Late Fee Bill)

1. The opponent mentioned that there currently were only 90 members of the Kansas Self Storage Owners Association. He is correct. But it is NOT because the remaining operators do not agree with the KSSOA. It is because the Association is a NEW association, only 18 (or so) months old. A brand new association that is signing on new members every week because of this issue.
2. **SB 69 merely asks that you add "CLARITY" to a "HAZY" part of the Self Storage Act**, by making it permissible (not mandatory) to charge a reasonable late fee. You are NOT adding new requirements or bureaucracy, merely codifying what is a current business practice.
3. **YOU ARE NOT ENDORSING GOVERNMENT INTERVENTION AND OVER-REGULATING.** You are responding to the legitimate needs and concerns of small businesses owners who are your constituents and who need help.
4. **NO ONE LOSES with the passage of SB 69.** Not the operator, nor the consumer.
5. By passing SB 69

Operators gain:

- A) **Clear legislative intent that it is permissible to charge a late fee.** (No different than many, many other businesses)
- B) **Protection from a very expensive class-action lawsuit** (such as the self storage industry experienced in Maryland)
- C) **Protection very common "retaliatory" lawsuits that drag Operators to court because they are mad that their personal belongings were sold.** (The delinquent payer wants revenge and uses the only cause of action available, that which challenges their right to charge them a late fee. These court challenges are frequent, time consuming and expensive.)

The Consumer gains:

- A) Requirement that the late fee be **part of a written contract**
- B) If a late fee is part of the written contract, **a cap on what that amount can be,** (where there currently is none!)
- C) If the Operator does exceed the "cap" (such as the conferee who charges a \$60 monthly late fee on a \$50 rental) than the Operator is burdened with the responsibility of proving the late fee is "reasonable."