

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 A.M. on February 6, 2006 in Room 241-N of the Capitol.

All members were present except:

Delia Garcia- excused  
L. Candy Ruff- excused  
Louis Ruiz- excused  
Patricia Kilpatrick- unexcused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department  
Norm Furse, Office of Revisor of Statutes  
Rena Jefferies, Office of Revisor of Statutes  
June Evans, Committee Secretary

Conferees appearing before the committee:

Larry Magill, Kansas Association of Insurance Agents

Others attending:

See attached list.

The Chairman opened the hearing on **HB 2671 - Workers compensation fund, duties of commissioner of insurance.**

Staff gave a briefing on **HB 2671** relating to occurrence deductibles. The change in “an occurrence deductible means a deductible that applies only once to a single accident, as defined in subsection (d) of K.S.A. 44-508, and amendments thereto, regardless of the number of workers injured in that accident”.

The Revisor suggested the bill needed to be changed so the existing policies would continue the same until the new license is issued.

Larry Magill, representing the Kansas Association of Insurance Agents, testified as a proponent to **HB 2671**. Deductibles have long been used as a risk management technique to handle small claims that can negatively impact the business’ cost of insurance. This would provide protection to every business in Kansas from a multiple deductible event and there would be a slight decrease in the credit for deductibles as a result. The biggest incentive and the biggest cost saving from deductibles is in the calculation of the experience modification and not from the very small deductible credit. The calculation of the experience modification will not be effected unless there is a catastrophe (Attachment 1).

The Chairman closed the hearing on **HB 2671**.

The meeting adjourned at 9:10 a.m. The next meeting will be February 7, 2006.

COMMERCE AND LABOR COMMITTEE

DATE February 6, 2006

NAME	REPRESENTING
LARRY MAGILL	KAIA
BRIAN MALONE	
EDWARD THOMAS	KODOL- WC
Ken Seebor	Hein Law Firm
Bill Curtis	Ks Assoc of School Bds
RUSSELL MILLS	GACHES
Ken GACHES	EODA

Kansas Association of Insurance Agents



Testimony on House Bill 2671  
Before the House Commerce & Labor Committee  
By Larry Magill  
February 3, 2006

Thank you mister Chairman and members of the committee for the opportunity to appear today in support of House Bill 2671, a measure introduced by your committee at our request. My name is Larry Magill and I represent the Kansas Association of Insurance Agents. We have approximately 550 member agencies and branches across the state that employ a total of approximately 2,500 people. Our members write approximately 70% of the business property and liability insurance in Kansas including workers compensation. Independent agents are free to represent a number of different insurance companies.

We were instrumental in passing the original workers compensation deductible legislation in 1991 that allowed deductibles for the first time in workers compensation insurance. Deductibles have long been used as a risk management technique to handle small claims that can negatively impact the business' cost of insurance.

Under Kansas' statute, which is known as a net deductible law, the amount paid by the business under their deductible is not included in the calculation of their experience modification. Their experience modification is generally the single largest factor influencing their cost of coverage. The National Council on Compensation Insurance (NCCI) calculates the experience modification for every business with more than \$2,250 in annual premium by skipping the most recent two years and looking at the previous three years premiums and losses. This is done to allow claims to "mature" or develop towards their final cost.

After 9-11 the industry began charging a catastrophe loading in the rates and agents and their clients began to think more about the impact of a catastrophic event. Some other states according to NCCI currently offer an occurrence deductible. This means that the deductible applies only once to each occurrence, regardless of how many employees are hurt. Because the vast majority of claims involve the injury of just one person, the cost to protect the business from a catastrophic event should be slight.

I have attached an analysis from NCCI of the impact of HB 2671. They indicate that "all most all" occurrences involve only one claimant but that there would be a reduction in the credit for the additional risk to the insurer of having the occurrence deductible. We think the current credits are slight so any decrease is going to be slight by necessity. The main reason deductibles are attractive to businesses is because of their favorable impact on the businesses experience modification.

If this bill passes, every business in Kansas will be protected from a multiple deductible event and there will be a slight decrease in the credit for deductibles as a result. However, the biggest incentive and the biggest cost saving from deductibles is in the calculation of the experience modification and not from the very small deductible credit. The calculation of the experience modification will not be effected—unless there is a catastrophe!

Comm & Labor  
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Atch #1

This issue is more important than ever since over time, businesses have adopted larger deductibles. Insurers can individually file for an occurrence deductible today but it has almost never happened for medium to small employers. This affords the protection to every business in Kansas and we think makes good risk management sense.

We urge the Committee to report House Bill 2671 out favorably for passage. We would be happy to provide additional information or answer questions. Thank you for your consideration.



**ANALYSIS OF KANSAS PROPOSAL  
SECTION 44-559a – OCCURRENCE DEDUCTIBLES  
<01/14/06 version>**

**NCCI estimates that enactment of the proposed change to Section 44-559a would have no impact on Kansas's workers compensation system costs.**

**Summary of Proposed Change to Section 44-559a**

The proposed change to section 44-559a would require that all workers' compensation deductible policies be written on a "per occurrence" basis.

**Actuarial Analysis of Proposed Change to Section 44-559a**

Currently, deductible policies are written on a "per claim" basis, which means that the deductible in a multi-claim occurrence applies for each claimant. For example, two claimants are injured in the same accident. On a "per claim" deductible policy, the deductible would be applied to each of the two claims. On a "per occurrence" deductible policy, the deductible would apply just once.

Requiring all deductible policies to be written on a "per occurrence" basis would have no impact on benefits paid to an injured worker.

Financial data reported to NCCI, which is used for ratemaking, would also not be impacted from a change to "per occurrence" deductible policies. In accordance with NCCI's data reporting rules, large deductible policies (those with deductibles greater than \$100,000) are not reported in financial data. Small deductible policies, those with deductibles less than \$100,000, are reported on a gross basis (that is, the full value of the claim without reduction for the deductible). Therefore, there would be no difference in the way financial data is reported to NCCI.

Almost all occurrences involve only one claim, however, there is additional risk to carriers on policies with a per occurrence deductible compared to a per claim deductible, provided the deductible is the same size. Since there would be additional risk incurred by carriers when switching from per claim to per occurrence deductibles (of the same size), additional premium would result since the deductible credit on the policy is smaller for per occurrence deductibles compared to per claim deductibles (of the same size). Overall, rate adequacy would be maintained by recalculating deductible credits to appropriately reflect per occurrence deductibles.