

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman David Wysong at 8:30 a.m. on March 3, 2009, in Room 545-N of the Capitol.

All members were present.

Committee staff present:

Ms. Margaret Cianciarulo, Committee Assistant  
Mr. Norm Furse, Office of the Revisor of Statutes  
Mr. Ken Wilke, Office of the Revisor of Statutes  
Mr. Reed Holwegner, Kansas Legislative Research Department  
Mr. Julian Efird, Kansas Legislative Research Department

Conferees appearing before the Committee:

Senator Anthony Hensley, District 19  
Mr. Wil Leiker, Executive Vice President, Kansas AFL-CIO  
Mr. Dennis Phillips, Lobbyist, Kansas State Council of Fire Fighters  
Ms. Patrician Oslund, MA,  
Institute for Policy & Social Research, University of Kansas  
Mr. Delbert Young, Private Citizen  
Ms. Shirley Young, Private Citizen  
Mr. Timothy Short, Attorney at Law, on behalf of the Kansas Association for Justice  
Ms. Kathy Outlaw, representing Kansas State Nurses Association  
Ms. Terry Humphrey, President, Kansas Coalition for Work Place Safety  
Mr. Don Saylor, President & CEO,  
Kansas Restaurant & Hospitality Association

Others attending:

Please see attached list.

**Possible action on SB108 - an act concerning the economic revitalization and reinvestment act relating to the Secretary of Commerce and the Kansas Development Finance Authority authorizing the issuance of bonds for certain economic development projects**

Upon calling the meeting to order, Chairman Wysong announced that he would like to entertain a motion to pass out **SB108** which is the solar energy bill. Senator Kelsey made a motion to pass **SB108** favorably. It was seconded by Senator Holland and the motion carried.

The Chair then directed the Committee to the fiscal note reminding them of the testimony at the February 26, 2009 meeting stating it was nonexistent and the Secretary of Commerce's office will absorb the work. A copy of this fiscal note is (Attachment 1) attached and incorporated into the Minutes as referenced.

**Discussion on SR1828 - a resolution urging the Kansas congressional Delegation to oppose legislation that disenfranchises workers to removing their right to a private ballot union election.**

The Chair then turned the Committee's attention to **SR1828** in their bill books asking them to look at it today and/or tonight because tomorrow he would like to have an up or down vote as he does not plan on having a hearing or work the bill and he will be doing this before the Committee concludes the 2-day hearing on **SB258**.

**Hearing on SB258 - an act concerning workers compensation relating to caps to benefits**

Chairman Wysong then opened the hearing on **SB258** and called on Mr. Ken Wilke, Office of the Revisor of Statutes, to explain the bill who stated the bill basically directs the Secretary of Labor to adjust the current caps on all benefits in the Workers Compensation Act by an amount that is equal to the cost of living adjustment since they were last increased. He went on to say:

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- The mechanism would require the Secretary to determine the increase and publish it in the Kansas register within 60 days after the effective date of the act and annually after July 1 of each year.
- It is similar to what is found in the statutes for the Secretary of State publishing.
- The act would become effective upon its publication in the register.
- One of the caps that is mentioned for \$125,000 is found in K.S.A. 44-510f found in subsection (e), paragraph one, and is a cap on permanent total disability and that was raised in 1987 from \$100,000. Also in paragraph three of the same subsection, there is a cap on temporary partial disability that was raised from \$75,000 to \$100,000, permanent partial disability for functional impairment is only awarded a cap of \$50,000 and added in 1993.

As there were no questions from Mr. Wilke, the Chair called on the first of nine proponents, Senator Anthony Hensley, District 19, who stated that the public policy change in this bill is a step in the right direction toward economic justice for Kansas working families who experience an unfortunate or sometimes tragic incident of a loved one injured or killed on the job due to no fault of their own and a statement about statutory caps that have been in place since 1987. He went on to say that the bill requires the Secretary of Labor:

- 1, To adjust those caps in an amount equal to the Midwest cost-of-living adjustment.
2. To determine the amount of increase, since the caps were last enacted based on the CPI for Midwest urban wage earners published by the U.S. Bureau of Labor Statistics.

And lastly, Senator Hensley offered two primary advantages to taking this approach as opposed to increasing the caps in the statute:

1. The first advantage in requiring the Secretary of Labor to adjust the caps on benefits annually is to keep up with the cost-of-living.
2. The second is to remove the issue of caps on benefits from the political process.

A copy of his testimony and an attachment comparing 1987 prices with 2008, is (Attachment 2) attached and incorporated into the Minutes as referenced.

The Chair then called upon Mr. Wil Leiker, Executive Vice President, Kansas AFL-CIO, who stated that the Workers Compensation Law (WCL) was enacted to protect the employer from being sued and to have a safety net for the injured worker. (Today 94% of the entire Kansas workforce is covered by the Kansas WCL). He went on to offer a break down of each type of disability, be it temporary total, permanent total, temporary partial or permanent disability, along with an example of each plus the maximum dollar amount to be paid.

Lastly, he said couple the low benefit payments by employers during the time frame of 1987 through 2008 with the one hundred thirteen (113) major tax cuts granted to the business community, one can only conclude that the injured employee be given some consideration, and offering that in the last four years along, the tax cuts enacted for businesses are about \$1.14 billion through FY2013. A copy of his testimony and attachments (showing the maximum permanent total (P.D.) benefits by state for 2008, their rankings, and maximum benefits by state) is (Attachment 3) attached and incorporated into the Minutes as referenced.

The third proponent called upon was Mr. Dennis Phillips, Lobbyist, Kansas State Council of Fire Fighters, who stated that Kansas is one of only five states that cap benefits for workers who are permanently and totally disabled, with Kansas being the lowest. He went on to say that the cost of supporting the families of firefighters who are seriously injured or killed in the line of duty has increased by 77% since 1987 according to a study done by the Policy Research Institute at the University of Kansas. A copy of his testimony is (Attachment 4) attached and incorporated into the Minutes as referenced.

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The Chair then recognized Ms. Patrician Oslund, MA, Institute for Policy & Social Research, University of Kansas, who offered a report addressing the effect of price inflation on the purchasing power of Workers Compensation Benefits, looking at two possible methods of valuing maximum benefit caps:

1. Method 1: Purchasing power adjustment including how to measure changes in the value of a dollar and adjusting benefits for inflation and offering two tables:

A. the first showing price indexes and inflation rates and the second showing capped benefits adjusted for inflation as of July 2008.

B. Method 2: Average Wage Adjustment, offering a table showing benefit caps compared with growth of Kansas average wages as of July 2008.

A copy of her report is ([Attachment 5](#)) attached and incorporated into the Minutes as referenced.

Next to testify was Mr. Delbert Young, a private citizen and a 27-year employee at Boeing, who offered his experience with workers compensation after being injured on the job in July, 2006 and misdiagnosed by several doctors. A copy of his testimony is ([Attachment 6](#)) attached and incorporated into the Minutes as referenced.

Mrs. Shirley Young, his wife, was the sixth proponent and testified her husband's primary physician told the couple that had he been diagnosed and treated earlier, about 75 percent of his injuries would have been fixed, which make his permanent injuries even more difficult to accept. She stated Mr. Young had lost his employer paid health insurance when he lost his job and that the cap on benefits will run out in less than five years even though he has a lifetime injury and cannot return to work. A copy of her testimony is ([Attachment 7](#)) attached and incorporated into the Minutes as referenced.

The next conferee called upon was Mr. Timothy Short, Attorney at Law on behalf of the Kansas Association for Justice, who testified that as a 30-year practicing attorney a large part of his practice has been devoted to helping working Kansans when they are forced to navigate the complicated workers compensation system after being seriously injured on the job. He went on to say that because worker compensation benefits are so much less than what the employee had been earning, often the taxpayers are left picking up the tab one way or another for the benefit's inadequacy available under the WCA. (Disabled workers cannot support their families on the compensation so they end up on food stamps, on cash assistance, or on Social Security Benefits.). Lastly he stated that although the maximum weekly benefit payment increases annually in response to an increasing state average weekly wage (SAWW), it does not increase the total capped benefit level, and although this bill does not fix all the problems, it restores the purchasing power of disability benefits bringing fiscal relief to Kansas families that currently are asked to make ends meet in 2009 with the purchasing power of 1987. A copy of his testimony is ([Attachment 8](#)) attached and incorporated into the Minutes as referenced.

Ms. Kathleen Outlaw, representing the Kansas State Nurses Association (KSNA), and the eighth proponent, offered and explained statistics and sources regarding health care workers. She concluded her testimony saying the KSNA requests that the bill be passed without amendments. A copy of her testimony is ([Attachment 9](#)) attached and incorporated into the Minutes as referenced.

The final proponent was Ms. Terry Humphrey, President, Kansas Coalition for Work Place Safety, who stated that the benefit levels on compensation for permanent total disability and permanent partial work disability have remained unchanged since 1987, even though wages in Kansas have more than doubled over the 22 years since these limits were last raised and functional impairment has not changed in 16 years since the "Fletcher Bell Amendment" was enacted in 1993. She offered statistics from Mr. Allan Schwartz, an actuary with AIS Risk Consultant who reviewed the bill. Ms. Humphrey then called on Mr. John Ostrowski of the Kansas Coalition for Workplace Safety to offer testimony in conjunction with hers. Mr. Ostrowski stated that the benefits of the vast majority of injured workers will not change under this bill, only the most severely injured. A copy of Ms. Humphrey's testimony including Mr. Schwartz's findings and Mr. Ostrowski's testimony is ([Attachment 10](#)) attached and incorporated into the Minutes as referenced.

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Chairman Wysong then called on the only opponent of the bill, Mr. Don Sayler, President & CEO Kansas Restaurant & Hospitality Association (KRHA), along with the KRHA Education Foundation. He stated he is also representing the Kansas Self-Insurers Association (KSIA) which is a not-for-profit organization with more than 80 members representing both public and private employers who are primarily self insured for workers compensation. He went on to say that they oppose the bill, that any adjustment to caps needs to be researched as part of a comprehensive economic study, and wondered if NCCI had been contacted regarding what impact an increase would have on cost. A copy of his testimony is (Attachment 11) attached and incorporated into the Minutes as referenced.

The Chair then asked for questions or comments from the Committee which came from Senators Faust-Goudeau, Lynn, and Reitz including thanking Mr. Young for his courage to come forward and share his story. How much have the workers' compensation rates increased in relation to premium increases? If you raise caps will it raise premiums and if so, by how much? And, where are the Boeing members to explain themselves regarding Mr. Young's situation?

### **Adjournment**

As it was past 9:30 a.m., Judicial Committee time, the Chair said they would continue with the hearing tomorrow and adjourned the meeting. The time was 9:35 a.m.

The next meeting is scheduled for March 4, 2009.



# SENATE COMMERCE COMMITTEE

## GUEST LIST

DATE: Tuesday, March 3, 2009

NAME	REPRESENTING
JEFF CLAUDON	<del>KS</del> KS Chamber
RACHAEL COLLINS	
Diana Smith	AFP-KANSAS
Mike Ryeat	KSIA
David Shriver	KASB
Liz Maisberger-Clark	KASB
Alex Kotoyantz	P. I. A.
Callie Hittle	Ks Assn for Justice
Wigh Beck	Hein Law firm
Neke Murray	V. W. Baumgardner
JOL Ewert	KAHSA
Kevin McFarland	KING
DAN MORGAN	Builders' Assn.
PHIL PERRY	UWA of GKC
Eric Staffal	AGIC of KS
Kathleen Outlaw	KSIA
Ken Stangor	KS Coalition - for Workplace Safety
JEFF K. COOPER	KS Coalition for Workplace Safety
Timothy A. Smith	Kansas Association for Justice

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# SENATE COMMERCE COMMITTEE

## GUEST LIST

DATE: \_\_\_\_\_

NAME	REPRESENTING
Jim Garner	Kansas Dept. of Labor
Kerri Spielman	KAIA
Scott Heidner	KSIA
Don Saylor	KRHA
Larry Karns	Ks Chamber of Commerce
Janice Carter	KS Organization of State Employees
Dennis Phillips	KSCFF
Ed Redman	KSCFF
Wil Leiker	Ks AFF-CIO
And Burke	Cesena Aircraft Co.
Devick Loring	ATP
Dan Murray	NFIB
Brad Stauffer	Carter Group
Dave Holtwick	Overland Park Chamber
Pat Osmond	University of Kansas.
NICK Jordan	Capitol Strategies
Ron Seebert	Ks Agribusiness Ass., Ks Grain & Feed
Cynthia Nace	Goodyear Tire & Rubber Co
RICHARD THOMAS	KDEL-UC



# SENATE COMMERCE COMMITTEE

## GUEST LIST

DATE: 3/3/09

NAME	REPRESENTING
PAULA GREATHOUSE	KDOL
MEGAN INGMIRE	KDOL
Seth Valerius	KDOL
Michelle Roush	Westar Energy
MARCIA DAVNE	STORMAN SOLUTIONS
Carolyn Smith	VCHS
Jim Mang	Spirit AeroSystems
Angela Cool	Westar Energy
Chad Austin	KHA
J.P. SMALL	KOCH INDUSTRIES; LEARJET
Mike Hein	Hein Law Firm
DEIBERT Young	INJURED WORKERS
Shuley Young	Injured Workers Comp.
Sandra Schultz	IMA
BURNAY YOUNG	Deibert Young injured worker
Aimee M. Young - daughter of	DEIBERT Young: injured worker.

February 25, 2009

The Honorable David Wysong, Chairperson  
Senate Committee on Commerce  
Statehouse, Room 141-E  
Topeka, Kansas 66612

Dear Senator Wysong:

SUBJECT: Fiscal Note for SB 108 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 108 is respectfully submitted to your committee.

SB 108 would amend the Economic Revitalization and Reinvestment Act. Current law authorizes the Kansas Development Finance Authority (KDFA) to issue bonds of up to \$150.0 million for eligible aviation projects, which meet certain criteria and are approved by the Secretary of Commerce. The bill would reduce the average annual gross Kansas compensation requirement for an "eligible aviation business" from \$300.0 million to \$150.0 million and would also allow eligible wind or solar energy businesses to qualify for benefits under the Economic Revitalization and Reinvestment Act. The provisions of any agreement under this act must be approved by the State Finance Council. The principal amount of each bond issued for an eligible wind or solar energy businesses would be limited to \$5.0 million plus certain bonding expenses. The bonds would have a maximum maturity of 20 years, unless the Secretary of Commerce determines that a longer maturity date of up to 30 years would be necessary for the economic feasibility of the eligible project.

An eligible wind or solar energy project means the research, development, engineering, or manufacturing project relating to the production of a business component or product and may include product development and design, applied research, manufacturing, improvement, replacement or acquisition of real or personal property, and modernization and retooling of existing property in Kansas. An eligible wind or solar energy project would be required to be undertaken by a Kansas manufacturing company that pays at least \$32,500 of average annual gross compensation per Kansas employee and is described by the North American Industrial Classification System as being in the manufacturing sector. No new project could be approved after July 1, 2013.



Proceeds from the bonds would be used for a research, development, engineering, or manufacturing project for which the eligible business would incur at least \$30.0 million in expenditures in Kansas and employ at least 200 full-time employees in Kansas within five years. The principal and interest on the bonds would be repaid by the eligible business; however, the bonds would be specifically repaid through withholding taxes on wages paid by the eligible business. The taxes would be deposited in the Special Economic Revitalization Fund. In all other cases, withholding taxes are deposited in the State General Fund.

In the event the eligible wind or solar energy business cancels or reduces the project, the eligible wind or solar energy business would remain responsible for the payment of the entire outstanding principal as well as any interest still outstanding, and no money remaining in the Special Economic Revitalization Fund would be used to pay the remaining interest portion of the eligible wind or solar energy business' debt service obligation. The Legislative Division of Post Audit would be allowed to audit the eligible wind or solar energy project to determine if the business is meeting its obligations under the act. The eligible wind or solar energy business would not be allowed to participate in the IMPACT Program administered by the Department of Commerce. The bill would take effect upon its publication in the *Kansas Register*.

Estimated State Fiscal Effect				
	FY 2009 SGF	FY 2009 All Funds	FY 2010 SGF	FY 2010 All Funds
Revenue	--	--	(\$350,000)	(\$350,000)
Expenditure	--	--	\$100,861	\$100,861
FTE Pos.	--	--	--	1.00

The Department of Revenue estimates that SB 108 would decrease State General Fund revenues by \$350,000 in FY 2010. The decrease in revenues and how the November 4, 2008 consensus revenue estimate for FY 2010 would be affected are shown in the following table:

Effect on FY 2010 Consensus Revenue Estimates  
(Dollars in Thousands)

Receipt Description	Consensus Revenue Estimates (Nov. 4, 2008)	Change in Revenue FY 2010	Proposed Adjusted CRE FY 2010
Motor Carrier	\$ 28,500	\$ --	\$ 28,500
Income Taxes:			
Individual	2,990,000	--	2,990,000
Corporate	365,000	--	365,000
Financial Institutions	32,000	--	32,000

Estate	15,000	--	15,000
Excise Taxes:			
Retail Sales	1,750,000	--	1,750,000
Compensating Use	225,000	--	225,000
Cigarette	110,000	--	110,000
Corporate Franchise	20,000	--	20,000
Severance	130,200	--	130,200
All Other Excise Taxes	90,100	--	90,100
Other Taxes	<u>121,500</u>	<u>--</u>	<u>121,500</u>
Total Taxes	\$5,877,300	\$ --	\$5,877,300
Other Revenues:			
Interest	\$ 50,000	\$ --	\$ 50,000
Transfers	(199,500)	(350)	(199,850)
Agency Earnings	<u>54,600</u>	<u>--</u>	<u>54,600</u>
Total Other Revenues	(\$ 94,900)	(\$ 350)	(\$ 95,250)
Total Receipts	\$5,782,400	(\$ 350)	\$5,782,050

The fiscal effect to State General Fund revenues during subsequent years would be as follows:

	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>
State General Fund	(\$350,000)	(\$350,000)	(\$350,000)	(\$350,000)

To formulate these estimates, the Department of Revenue reviewed data on potential Kansas wind and solar energy manufacturing industries and assumes that only one “eligible wind or solar energy business” would participate in the Economic Revitalization and Reinvestment Act. It is assumed that one bond would be issued in the amount of \$5.0 million and would be paid back over a 20-year period. The Department of Revenue does not have information to determine if there will be additional aviation businesses that will qualify and apply for benefits under the provisions of the bill that reduce the average annual gross Kansas compensation requirement for an “eligible aviation business” from \$300.0 million to \$150.0 million.

The Department of Commerce indicates it is unable to perform additional administrative responsibilities that require oversight, compliance, reporting, and audit activities without additional staff and funding. The Department of Commerce indicates that this bill would require \$100,861 in FY 2010 for salary and wages and operational expenses for 1.00 new FTE position to create the application form, manage the application process, and to conduct an annual review of the benefits issued under the Economic Revitalization and Reinvestment Act. The Division of the Budget would note that the Department administers other similar incentive programs already in place. Whether additional staff and operating expense would be needed should be evaluated further, but are included here for purposes of this fiscal note. These additional costs would

The Honorable David Wysong, Chairperson  
February 25, 2009  
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presumably be borne by the State General Fund, as no other funding source is available. Any fiscal effect associated with SB 108 is not reflected in *The FY 2010 Governor's Budget Report*.

Sincerely,

A handwritten signature in cursive script that reads "Duane A. Goossen". The signature is written in black ink and is positioned above the printed name and title.

Duane A. Goossen  
Director of the Budget

cc: Jeff Conway, Commerce  
Steve Neske, Revenue

Testimony in Support of Senate Bill No. 258  
Senator Anthony Hensley  
March 3, 2009

Mr. Chairman and Members of the Senate Commerce Committee:

I am not here today to curry favor from a particular group of lawyers or labor unions. I am here today because I truly believe Senate Bill No. 258 will make a real difference in the lives of Kansas working families.

I am here today because the public policy change in this bill represents why I do this job and have for the past 33 years.

The public policy change in this bill is a step in the right direction toward economic justice - economic justice for Kansas working families who experience an unfortunate or sometimes a tragic incident of a loved one injured or killed on the job due to no fault of their own.

The public policy change in this bill is making a statement - a statement about statutory caps that have been in place since 1987 - a \$125,000 cap on a permanent total disability, and a \$100,000 cap on a permanent partial and temporary total disability.

These 1987 statutory caps are not only woefully inadequate in today's economy but woefully unfair and unjust in today's society.

Senate Bill No. 258 requires the Secretary of Labor to adjust those caps in an amount equal to the Midwest cost-of-living adjustment. The Secretary is required to determine the amount of increase since the caps were last enacted based on the CPI for Midwest urban wage earners published by the U.S. Bureau of Labor Statistics.

The Secretary is required to make the cost-of-living adjustment to the current caps within 60 days of the bill's effective date, and annually thereafter on July 1. Notice of the cap increases would be published in the August Kansas Register.

-over-

Senate Commerce Committee

Date: March 3, 2009

Attachment 2



There are two primary advantages to taking this approach as opposed to increasing the caps in statute. The first advantage in requiring the Secretary of Labor to adjust the caps on benefits annually is to keep up with the cost-of-living.

The second advantage is to remove the issue of caps on benefits from the political process. Injured workers and their families will no longer be held hostage to politics or a long delay, in this case for 22 years, in legislative action to increase the caps.

You will be presented the results of a study that examined the eroding value of the current benefit cap levels.

In a legislative session that will yield very few positive results for the people of Kansas, the members of this committee have the opportunity to do something far different. You have the opportunity to impact the lives of Kansas working families in a very meaningful and very positive way.

You have the opportunity to recognize the dignity and worth of our state's injured workers and their families by moving Senate Bill No. 258 favorably for consideration by the entire Kansas Senate.

3/13/09  
Sen. F. King

	<u>1987</u>	<u>2008</u>
First-class stamp	\$0.22	\$0.42
Avg. Non-Agricultural Wage	\$9.14	\$17.41
Kellogg's Corn Flakes	\$1.48 (18 oz.)	\$2.99 (12 oz.)
Federal Minimum Wage	\$3.35	\$7.25
Nabisco Oreo Cookies	\$2.49 (20 oz.)	\$4.29 (18 oz.)
Avg. Annual KPERs Benefit	\$3,648	\$11,411
Movie Matinee	\$2.25	\$7.25
Avg. Price for a New Car	\$10,400	\$22,651
Kansas Legislator - base salary	\$55.00	\$86.50
Kansas Legislator - per diem	\$66.00	\$109.00
Kansas Legislative Allowance	\$5,400	\$7,083
Permanent Total Disability Cap	\$125,000	\$125,000
Permanent Partial Disability Cap	\$100,000	\$100,000
Temporary Total Disability Cap	\$100,000	\$100,000



President  
**Mark Love**

Executive Secretary  
Treasurer  
**Andy Sanchez**

Executive Vice  
President  
**Wil Leiker**

Executive Board

*Paul Babich  
Mike Brink  
Jane Carter  
Kurt Chaffee  
Rick Greeno  
David Han  
Larry Horseman  
Jim Keele  
Lloyd Lavin  
Lisa Ochs  
Emil Ramirez  
Earl Ransom  
Steve Rooney  
Rory Schaffer  
Deb Shepard  
Mark Shughart  
Richard Taylor  
Dan Woodard*

## TESTIMONY IN SUPPORT OF SB 258

Senate Commerce Committee  
**Wil Leiker, Executive Vice President**  
Kansas AFL-CIO  
March 3, 2009

Thank you Mr. Chairman and Committee Members for the opportunity to appear before you today.

The Workers Compensation Law was enacted to protect the employer from being sued and to have a safety net for the injured worker. Year after year, the law is eroded to be little more than an employer protection act. Some may smile to themselves and think that is okay, but one day while looking in the mirror, they will finally ask themselves, "Did I do my best for all citizens of Kansas?"

Today 94% of the entire Kansas workforce is covered by the Kansas Workers Compensation Laws. What reasons could there be for such a total disrespect to the physical, emotional and financial well being of our citizen workforce? The work ethic of Kansas employees is second to none. The workforce of this state is its greatest asset. Why then is their protection from financial ruin at the other end of the spectrum? This cavalier attitude toward the well being of the injured Kansas worker must change.

All of us understand the term inflation, some of us all to well, but the Legislative body has for too long ignored the need for the injured Kansas worker to have their benefits adjusted to track the inflationary trends. Today, with SB 258, we have a chance to make a modest change to that shortcoming. Before you is a very simple Bill to put forth and maintain a level of benefits which will help to bring liquidity to the lives to some of the injured Kansas workers.

You will hear or have heard the great disparities which have been created by nothing having been done over the past 22 years to keep pace with inflation. What is important about the last 22 years? 1987 was when the last increase was put into the caps, or amounts of money paid to an injured worker after a work-related injury if it involved death, permanent total disability, temporary total, temporary partial, permanent partial and temporary partial disability. The Consumer Price Index was at 113.6 in 1987 when the last raise was added to the caps; in 2008, the Consumer Price Index was \$215.30. (1) In 2009, \$185.87 is needed to buy what \$100.00 bought in 1987. (2) In 2009, it takes \$232.331.65 to have the same buying power as the max cap of \$125,000.00 imposed in 1987 had. (3)

- (1) U.S. Department of Labor
- (2) Bureau of Labor Statistics
- (3) Bureau of Labor Statistics

Senate Commerce Committee

*Date: March 3, 2009*

Attachment 3



As aforementioned, the highest cap is \$125,000.00. The top cap would apply if you are not killed on the job, but injured so severely that they can not do their job or maybe any job in this great state. Hypothetically, this person could have been making \$15,000.00 a year (\$300.00 a week), then injured, unable to hold any job and get compensated \$125,000.00. That seems like a windfall, except it is paid at 66 2/3% of the week wage or \$200.00 per week in this case. Now this individual might qualify for Social Security, which will be reduced due to the Workers Compensation payment, thus yielding maybe \$200.00 a month from Social Security. For the next 12 years this individual will make a huge sum of \$13,000 a year; that's how long his Workers Compensation will take to pay out at \$200.00 a week. After the 12 years, this individual will then get only Social Security, which now might be up to \$700.00 a month without deductions for his Workers compensation payments or \$8,400.00 per year. This individual, if the bread winner of the family, becomes a ward of the state along with his or her family. It breaks out as:

**I. TEMPORARY TOTAL DISABILITY**

This is when a worker is temporarily and totally disabled. The worker receives two-thirds of his average weekly wage, not to exceed the weekly maximum.

Typically, this occurs immediately after the injury or when the worker might be recovering from surgery. It is defined in the statute at K.S.A. 44-510c(b)(2).

Temporary total cannot exceed \$100,000.

**II. PERMANENT TOTAL DISABILITY**

This is when a worker is permanently and totally disabled. The worker receives two-thirds of his average weekly wage, not to exceed the weekly maximum.

It is defined in the statute at K.S.A. 44-510c(a)(2).

Permanent total cannot exceed \$125,000.

**III. TEMPORATY PARTIAL DISABILITY**

This is when a worker is temporarily and partially disabled. The worker receives two-thirds of the difference between his average weekly wage, not to exceed the weekly maximum.

Typically, this occurs when the worker is recovering from an injury but released to part time work. So, if a worker was earning \$300 per week at the time of injury, and now could work part time, he would receive \$150 in wages, and \$100 in workers compensation benefits. Due to a ruling by the Kansas Appellate Courts, a worker cannot receive temporary partial disability when the worker has a scheduled injury (e.g. arm, leg, foot, etc.)

Temporary partial cannot exceed \$100,000.



#### IV. PERMANENT PARTIAL DISABILITY

If a worker has a permanent impairment or disability from an on-the-job injury, but the impairment or disability does not completely keep the worker from employment (i.e. the worker is partially impaired/disabled), the worker can receive permanent partial disability payments.

The number of weeks paid and the amount paid is dependent on the body part injured and whether or not the worker is earning wages similar to those earned at the time of injury.

Permanent partial disability is defined in K.S.A. 44-510e.

The maximum for permanent partial disability is \$100,000.

Kansas has the most restrictive caps in the country for permanent total disability, with most states having none. (Attachment 1) Just how miserable do we want to treat our injured workers?

You will hear from the opponents how this bill will break business and cost jobs. Not so, as only a select number of cases will fall under this change. When injured workers cried "foul" after the 'Casco Case' (5) which destroyed a 75 year old application of law and cost Kansas injured workers millions of dollars, NCCI (National Council on Compensation) summary stated in part, "Any potential system cost impact from this decision will be realized through future loss experience and reflected in subsequent loss cost filings. (6) Maximum weekly benefits are not a cause of concern in Kansas as there are only eight states which pay less in benefits than injured Kansas workers receive. (Attachment 2)

Couple the above low benefit payments by employers during the time frame of 1987 through 2008 with the one hundred thirteen (113) major tax cuts granted to the business community, and one can only conclude that the injured employee be given some consideration. In the last four years alone, the tax cuts enacted for business are about \$1.14 billion through FY 2013.

I ask you to do the right thing and pass SB 258.

Thank you and I stand for questions.



**MAXIMUM BENEFITS BY STATE**

<b>STATE</b>	<b>MAXIMUM BENEFIT</b>	<b>STATE</b>	<b>MAXIMUM BENEFIT</b>
<i>Iowa</i>	\$1,264.00	<i>Montana</i>	\$545.00
<i>Oregon</i>	\$1,175.00	<i>Kansas</i>	\$529.00
<i>New Hampshire</i>	\$1,153.00	<i>Idaho</i>	\$525.00
<i>Illinois</i>	\$1,120.00	<i>Arkansas</i>	\$504.00
<i>Connecticut</i>	\$1,038.00	<i>Louisiana</i>	\$478.00
<i>Massachusetts</i>	\$1,000.00	<i>Georgia</i>	\$450.00
<i>Vermont</i>	\$974.00	<i>Wyoming</i>	\$446.00
<i>Washington</i>	\$961.00	<i>New York</i>	\$400.00
<i>Alaska</i>	\$901.00	<i>Mississippi</i>	\$387.00
<i>California</i>	\$881.00	<i>Arizona</i>	\$374.00
<i>Maryland</i>	\$848.00		
<i>Rhode Island</i>	\$845.00		
<i>Pennsylvania</i>	\$779.00		
<i>Wisconsin</i>	\$777.00		
<i>Virginia</i>	\$773.00		
<i>North Carolina</i>	\$754.00		
<i>Minnesota</i>	\$750.00		
<i>Tennessee</i>	\$750.00		
<i>Missouri</i>	\$742.00		
<i>Ohio</i>	\$730.00		
<i>Florida</i>	\$724.00		
<i>Michigan</i>	\$723.00		
<i>Nevada</i>	\$721.00		
<i>Colorado</i>	\$719.00		
<i>New Jersey</i>	\$711.00		
<i>Hawaii</i>	\$678.00		
<i>Texas</i>	\$674.00		
<i>North Dakota</i>	\$653.00		
<i>Alabama</i>	\$651.00		
<i>Kentucky</i>	\$646.00		
<i>South Carolina</i>	\$645.00		
<i>Utah</i>	\$631.00		
<i>Nebraska</i>	\$617.00		
<i>Indiana</i>	\$600.00		
<i>New Mexico</i>	\$595.00		
<i>West Virginia</i>	\$587.00		
<i>Oklahoma</i>	\$577.00		
<i>Delaware</i>	\$571.00		
<i>Maine</i>	\$554.00		
<i>South Dakota</i>	\$550.00		

# KANSAS STATE COUNCIL OF FIRE FIGHTERS



Affiliated With

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS • KANSAS AFL-CIO • CENTRAL LABOR BODIES

March 3, 2009

## Testimony by Dennis Phillips

I, appear here today on behalf of the Kansas State Council of Fire Fighters (KSCFF) in support of S. B. 258 that would provide for a Cost of Living Adjustment (COLA) for the caps on disability and death benefits under work comp. These benefits have not been adjusted since the caps were set in 1987. Kansas is one of only 5 states that cap benefits for workers who are permanently and totally disabled and Kansas is the lowest.

Fire fighters through out the State depend on these benefits to help support their families when they are seriously injured or killed in the line of duty. The cost of supporting their families has increased by 77% since 1987 according to a study done by the Policy Research Institute at the University of Kansas. With what it cost just for the necessities to provide for their families these adjustments to the caps under work comp are not only necessary but vital to these injured workers.

While injured workers depend on these benefit's the businesses in their communities also depend on these benefits so that these injured workers can pay their bills. These bills include but not limited too mortgage payments, rent, utilities, food, clothing, fuel, and etc.

The KSCFF would ask the committee for their support on S. B. 258 these cost of living adjustments to these caps are vital to the Fire Service in Kansas. Again thank you for your time and consideration on this issue.

Dennis Phillips  
Lobbyist, KSCFF

Senate Commerce Committee  
Date: March 3, 2009

Attachment 4



# **The Eroding Value of Workers Compensation Benefit Cap Levels**

**An updated report prepared for the  
Kansas Coalition for Workplace Safety**

**By**

**Pat Oslund, MA  
Institute for Policy & Social Research  
The University of Kansas  
Lawrence, Kansas  
Dr. Steven Maynard-Moody, Director**

**September 8, 2008**

Senate Commerce Committee

*Revised: March 3, 2009*

Attachment   5

## The Declining Value of Workers Compensation Benefit Cap Levels

This report addresses the effect of price inflation on the purchasing power of Workers Compensation Benefits. Worker compensation benefits depend on factors such as the extent of a worker's wage level and the extent of his injuries. However, benefits are capped at fixed dollar amounts. Benefit caps are not adjusted on a regular basis. As each year goes by, the maximum allowable benefits go less and less far towards supporting an injured worker and her family.

In this report, we look at two possible methods of valuing maximum benefit caps. One approach looks at what could be purchased by a worker whose injuries and wages warrant compensation at one of the maximum benefit levels. How have price changes affected the purchasing power of a worker's payments? To complete this analysis, we examine several alternative price adjustment measures provided by the US Bureau of Labor Statistics (BLS)<sup>1</sup>. A second approach looks at wages; what would benefit caps look like today if they had grown by the same rate as Kansas average wages per employee?

### *Method 1: Purchasing Power Adjustment*

We all experience the impact of inflation in our daily lives. Inflation produces winners and losers; one couple may retire comfortably on the proceeds of a home that has risen in value. Another couple may drift into poverty as the purchasing power of a fixed pension erodes. Inflation hits hardest on those whose income or benefits are defined in fixed dollar terms that are not adjusted over time. People who depend on benefits that have been capped under Kansas Workers Compensation provisions are a good example of this hardest hit group.

### **How to measure changes in the value of a dollar**

When prices change, the purchasing power of a dollar changes accordingly. If people purchased only one good, say bread, measuring the purchasing power of a dollar would be easy: it simply would be the amount of bread that could be purchased with a dollar. But real people purchase an array of hundreds of goods and services. Furthermore, people purchase these goods and services in different proportions: for some people, gasoline is 20 percent of their weekly expenditures; for others it is only 5 percent. Hence there is no perfect measure of the value of a dollar or of the "cost of living."

However, the BLS calculates *approximations* of the cost of living, published as the often cited Consumer Price Index, or CPI. And in fact, there is not a single CPI, but rather several CPIs, each of which depends on the population group whose expenditure patterns are tracked.

Examples of price indexes include:

- all urban residents in the US (the most commonly used CPI)
- all urban wage earners and clerical workers in the US
- urban residents in the Midwest
- urban wage earners and clerical workers in the Midwest
- urban residents in the Kansas City Area (no other Kansas areas are included by BLS)
- urban wage earners and clerical workers in the Kansas City Area.

BLS price indexes are computed as the ratio between the weighted average of prices in the current time period to prices at some historical base time period (1982-1984 is used as the base for the CPI). By definition, the index is 100 in the base period. If the Consumer Price Index were 200 today, this would mean that prices on average had doubled since the base period. Inflation is calculated as the percentage change in a price index. Table 1 below shows several commonly used price indexes and the inflation that is computed from them.

**Table 1: Price Indexes and Inflation Rates**

Index Name	Index- July 1987	Index- July 1993	Index- July 2000	Index- July 2008	Inflation 1987- 2008	Inflation 1993- 2008	Inflation 2000- 2008
CPI-All Urban Consumers	113.8	144.4	172.8	220.0	93.3%	52.4%	27.3%
CPI-All Urban Consumers- Midwest	112.3	140.0	168.8	210.1	87.1%	50.1%	24.5%
CPI-All Urban Consumers- Kansas City	111.5	137.5	165.0	200.0	79.4%	45.5%	21.2%
CPI-Urban Wage Earners and Clerical Workers	112.7	142.1	169.4	216.3	91.9%	52.2%	27.7%
CPI-Urban Wage Earners and Clerical Workers-Midwest	110.4	137.2	165.1	206.0	86.6%	50.1%	24.8%
CPI-Urban Wage Earners and Clerical Workers-Kansas City	108.6	133.5	159.5	192.4	77.2%	44.1%	20.6%

Source: BLS. Calculations by PRI, University of Kansas

As can be seen in Table 1, all of the listed priced indexes follow the same general pattern. However, prices have risen less rapidly in Kansas City and in the Midwest than they have in the nation as a whole. Similarly, prices based on the expenditure patterns of wage earners and clerical workers have risen less rapidly than prices based on the expenditures of all urban consumers.

In the calculations that follow, we rely on the CPI for Kansas City wage earners and clerical workers. The definition of this group most closely matches the characteristics of those who may become eligible for Kansas Workers Compensation benefits. It would be straightforward to change our calculations to make use of a different index; however this would not change our overall conclusions.

### **Adjusting benefits for inflation**

Several workers compensation benefits are subject to a maximum capped level. Caps for total disability, partial disability, and temporary total disability have not been adjusted since 1987. The functional-only cap has been set at \$50,000 since 1993, and the death benefit cap has been set at its current level of \$250,000 since 2000.

As can be seen in Table 2 below, substantial increases in Workers Compensation benefit caps would be necessary to bring the purchasing power of the benefits back to what they were when the caps were established. To put this in human terms, a worker in 1987 could have heated his home for a month, purchased 5 pounds each of bananas and hamburger, brought home 5 half-gallons of ice cream, and filled his car twice--all for under \$100<sup>2</sup>. Today, the heating bill alone would be over \$160. Not all prices have risen as rapidly as those for natural gas and fuel, but averaged over all of the goods a typical worker buys, prices are more than 77 percent higher than they were in 1987.

**Table 2: Capped (Maximum) Benefits Adjusted for Inflation as of July, 2008**

Capped Benefit	Maximum Amount (\$)	Date Last Adjusted	Inflation Based on KC CPI	Adjusted Amount (\$)
Permanent Total Disability	125,000	July, 1987	77.2%	221,455
Permanent Partial Disability	100,000	July, 1987	77.2%	177,164
Temporary Total Disability	100,000	July, 1987	77.2%	177,164
Functional Only	50,000	July, 1993	44.1%	72,060
Death	250,000	July, 2000	20.6%	301,567

Source: BLS. Calculations by PRI, University of Kansas

***Method 2: Average Wage Adjustment***

So far, we have examined the effect of consumer price changes on the value of Workers Compensation benefits. This section takes an alternative approach, asking “what would benefit caps look like if they had kept pace with average *wage* changes?” It is true that the single biggest factor behind changes in the average wage is price changes, so the price and wage approaches will give somewhat similar results. However, wage changes also reflect such factors as changes in productivity within industries, shifts of workers across industries, and collective bargaining agreements.

Each year, the Kansas Department of Labor<sup>3</sup> computes a statewide average weekly wage. This statewide average is used to peg maximum weekly Workers Compensation benefits—at two-thirds of the Kansas average wage per worker. But while wage growth is reflected in the growth of maximum weekly benefits, it does not affect benefit caps. As wages rise and caps remain constant, this means that many injured workers will reach their benefit caps in fewer weeks.

Table 3 below shows the adjustments that would be necessary in order for benefit caps to keep pace with the growth of wages in Kansas. We find that adjustments based on wage growth would be somewhat higher than adjustments based on changes in the Kansas City CPI, reflecting that wages have outpaced inflation in Kansas.

**Table 3: Benefits Caps Compared with Growth of Kansas Average Wages as of July, 2008**

Capped Benefit	Maximum Amount (\$)	Date Last Adjusted	Growth in Kansas Av. Wage through 2008	Adjusted Amount (\$)
Permanent Total Disability	125,000	July, 1987	106.7%	258,324
Permanent Partial Disability	100,000	July, 1987	106.7%	206,659
Temporary Total Disability	100,000	July, 1987	106.7%	206,659
Functional Only	50,000	July, 1993	66.1%	83,030
Death	250,000	July, 2000	32.0%	330,000

Source: Wage data from Kansas Department of Labor (see endnote 3).  
Calculations by PRI, University of Kansas.

### *Summary*

We have examined the impact of fixed maximum benefit caps using two different methods. Under method 1, we used the CPI for wage earners and clerical workers for Kansas City to measure inflation. We found that benefits that were capped in 1987 would need to increase by about 77 percent to adjust for inflation; benefits that were capped in 1993 would need to increase by about 44 percent, and benefits capped in 2000 by about 21 percent.

Under method 2, we used data from the Kansas Department of Labor to measure changes in the average wage level. We estimated how much benefit caps would need to change in order to track wage growth. We found that benefits that were capped in 1987 would need to increase by about 107 percent to match wage growth; benefits that were capped in 1993 would need to increase by about 66 percent to match wage growth, and benefits capped in 2000 by about 32 percent.

The two methods differ somewhat in their exact dollar estimates. However, they both tell the same story—that maximum Workers Compensation benefits have eroded substantially over time.

<sup>1</sup> Data for Consumer Price Indexes are published by the US Bureau of Labor Statistics and are available on the BLS Web site: <http://www.bls.gov/data/#prices> (09/08/2008).

<sup>2</sup> Data on prices for specific items are published by the US Bureau of Labor Statistics in its “Average Price Data” series. We used data for Kansas City where available and data for the Midwest Region otherwise. <http://www.bls.gov/data/#prices> (09/08/2008).

<sup>3</sup> Data on average wages are calculated by the Kansas Department of Labor. Historical data from 1993-2005 are published on the KDL website: [http://www.dol.ks.gov/WC/html/wccurrent\\_ALL.html](http://www.dol.ks.gov/WC/html/wccurrent_ALL.html) (02/08/2006). Additional historical data were received directly from KDL.



Testimony of Delbert Young, Wichita  
Senate Commerce Committee  
SB 258—SUPPORT  
March 3, 2009

Thank you for the opportunity to tell you about my experience with workers compensation. I was a loyal employee at Boeing for 27 years. I never filed any claim for any injury until the fall that left permanent damage to my spinal cord. More than anything I have wanted to return to work and take care of myself and my family. I find it difficult to believe that we are in the situation we're in since we always worked hard, paid our bills, and taken care of ourselves. Now, I am permanently unable to work and our financial picture is extremely bleak.

I urge you to pass SB 258 to protect other Kansans from what I and my family have experienced.

#### Workplace Injury

I was injured on the job on July 17, 2006. Because of a cost savings strategy my employer, Boeing, decided to get rid of gas powered three wheeled scooters. Instead employees were provided two wheeled bicycles to get from one building to another. While riding a company bicycle on the job, I fell off the bike outside the company medical department, striking my head and shoulder on the concrete.

After the fall, I could not walk because my legs were rubbery, and they took me into the medical department in a wheel chair. A gauze bandage was put on the wound and the lump on my head. They gave me an ice pack, some medicated cream, and sent me back to work. No x-rays were taken and no doctor saw me. I was told to return for a follow up appointment the next day.

I was having difficulty looking up at monitors at work because it hurt my neck. My legs were weak and I had difficulty walking. I reported this to the company nurse at Boeing's medical department, and she told me that since I had diabetes that was probably why my legs were weak. The Boeing medical department provided me with a handicapped parking permit because I could not walk more than a hundred yards.

I went to my family doctor, and he ordered a diabetic workup. My blood work was normal so my family doctor sent me to a neurologist. The neurologist told me nerve testing did not show diabetes was the cause of my leg weakness and that the problem was in my neck. My family doctor then ordered an MRI of my neck and shoulder. But at the MRI center I was told that since this was a workers compensation case, I would have to get medical department approval from my employer to the MRI.

I went back to the nurse at Boeing's medical department nurse and told her that my personal physician wanted an MRI of my neck and my shoulder. The nurse said that the medical department would only authorize a shoulder MRI, and they sent me to an orthopedic surgeon who treated my shoulder with an injection and physical therapy. Again I went back to the medical department complaining about my neck and difficulty walking.

Senate Commerce Committee  
*Date: March 3, 2009*

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I hired a lawyer October 16, 2006. On the same day, Boeing sent me back to the orthopedic doctor to check my neck and head, and an MRI was ordered for my neck on October 18, 2006 and performed on October 20, 2006. The MRI showed several damaged cervical discs with prominent disc protrusion in my neck pressing on my spinal cord. Boeing's doctor sent me back to work with a 25 pound weight restriction.

After my attorney discussed my case with the workers compensation insurance carrier, I was referred immediately to a neurosurgeon. The neurosurgeon diagnosed me with spinal cord compression and progressive myelopathy on October 31, 2006. I underwent surgery on my neck on November 2, 2006, some three and a half months after my injury at work.

I have been permanently totally disabled since my surgery. I have lost much of the strength in my arms and hands and still can not be on my feet for more than a half hour, and I have a foot drop on my right leg. During my operation, the surgeon found pieces bone fragments in my spinal cord that he had to remove, and he fused two of my cervical vertebrae.

The surgeon said if my neck condition had been diagnosed and treated earlier about 75 percent of my injuries would have been fixed. Because workers compensation is my exclusive remedy under Kansas law, I cannot hold my employer or their medical personnel accountable for their refusal to provide me with treatment for injuries that have left me permanently unable to work.

#### My Family's Finances After My Injury and in the Future

My family's finances have been devastated. When my workers compensation benefits max out in 2011, I don't know how we will pay our bills.

At the time of my injury, I was 57 years old, and I was earning \$75,000 per year and receiving bonuses, stock options, health insurance, sick leave, dental insurance, eye insurance and benefits worth another \$25,000 per year. My monthly salary with benefits amounted to \$8,269.23.

When I became totally disabled after neck surgery on November 2, 2006, I lost my job and I was required to live on a maximum workers compensation benefit of \$2,076.79 per month to pay my mortgage payment, monthly bills, car payments, and support my wife and disabled daughter. Monthly living expenses for me and my family amounted to \$4,500 per month at the time.

After a year of trying to live on weekly workers compensation benefits of \$483 per week, my retirement savings and Boeing stock totaling \$35,000 were spent, and I was broke. The federal social security total disability system came to my assistance after fourteen months off work and presently pays me \$2,001 per month, a Boeing disability retirement pension provides me with \$1,700 per month and the workers compensation benefits are \$2,076.90 per month. My family and I are presently living on \$5,777.90 per month.

We're getting by right now, with difficulty. My wife Shirley and I are supporting our

daughter, who has sickle cell anemia. Before I lost my job, I, my wife, and my daughter had health insurance coverage through my employer. Now that coverage is gone, and COBRA ran out in November 2008 and was not renewed. Many of my daughter's medical bills are not covered by Medicare. We don't have insurance coverage for prescription medications that my wife must take.

The future is very uncertain. In two years, my workers compensation total disability payments of \$2,076.90 will stop. When I reach the age of 62, my social security disability benefit will drop to about \$1,200 per month. My wife, my disabled daughter and I will be forced to survive on social security retirement benefits of \$1,200 per month, and a Boeing disability retirement of \$1,700. I cannot work to earn additional income because of my injuries.

I would never have thought this would happen to me. Like most Kansans, my wife and I worked hard to raise and support ourselves and our family. Yet under the workers compensation system, my family and I have been left in circumstances that we never would have chosen and can do very little to change.

I urge you to pass SB 258 so that Kansas working families don't go through what we have been through and don't face the economic future we are facing.

Testimony of Shirley Young, Wichita  
Senate Commerce Committee  
SB 258—SUPPORT  
March 3, 2009

I appreciate the opportunity to appear before the Senate Commerce Committee to give my testimony on how workers compensation has affected my family. Before my husband Delbert Young was hurt on the job I did not know much about work comp or how it worked. What I have learned is that it doesn't work. I'm happy that the Legislature is considering changes that will help Kansas families like mine. It is time to make some changes to help people that get hurt on the job.

No one should have to watch their loved one experience what I've watched my husband go through. A loyal employee at Boeing for 27 years, Delbert never filed any claim for any injury until after this fall left him unable to work with permanent damage to his spinal cord. He was always proud of his work and an excellent provider. Delbert has only wanted to get better and return to work. His doctor told us that had he been diagnosed and treated earlier about 75 percent of his injuries would have been fixed, which makes his permanent injuries even more difficult to accept.

Now Delbert can no longer garden, something he loved to do. When the flowers were in bloom he would bring them to me in the house. I especially miss his bringing me the roses. Now we have to pay somebody to mow the grass. Due to loss of strength and pain in his hands, my husband has trouble with lots of every day tasks, such as fastening his pants, shirts and shoes. So we gave away a lot of his clothes to family members in need, to Goodwill Industries and to homeless shelters in Wichita.

Financially, we have been hit hard. The first thing that shocked me when my husband and I met with our attorney was that workers compensation benefits for permanently disabled workers are very low. Too low for us to make ends meet. We have struggled and for now, are getting by.

But our worry is that the benefit limits will hit our family very soon, in mid-July 2011. The cap on benefits means that Delbert receives benefits for a little less than five years even though he has a lifetime injury and can't return to work. I have my own health challenges that keep me out of the workforce, and because of Delbert's condition he needs my help at home.

Delbert lost his employer paid health insurance when he lost his job. He, our daughter Burnay, who is disabled with sickle cell anemia, and I were all covered under this insurance. So we do not have coverage for my blood pressure medication and diabetes medication. Burnay is on Medicare and Medicaid, and taxpayers bear the expense of her illness.

Before his work related injury Delbert was able to help pay for the nursing school

Senate Commerce Committee

Date: March 3, 2009

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education of Gina, our oldest daughter, who now works in an ob-gyn physician's office. Our youngest daughter, Tylin, has plans to attend medical school. We had hoped to help support her while she worked towards this dream but can't do it now. Tylin has earned a scholarship in the nursing program at Wichita State University.

It may be too late to help us, since after 22 years workers compensation benefits have not kept up with the cost of living in Kansas, and we have been left behind.

Only the Legislature can correct this critical problem. We ask you to vote to in favor of SB 258.

Thank you for your time and attention and I will be happy to try to address any questions you may have for me.





719 SW Van Buren St., Ste. 100, Topeka KS 66603  
Phone: 785-232-7756  
Fax: 785-232-7730  
www.ksaj.org

TO: Senator David Wysong, Chairman  
Members of the Senate Commerce Committee

FROM: Timothy A. Short, Attorney at Law  
On behalf of the Kansas Association for Justice

DATE: March 3, 2009

RE: SB 258 Workers Compensation—SUPPORT

I am appearing on behalf of the Kansas Association for Justice, a professional organization of Kansas attorneys. I am an attorney from Pittsburg, Kansas, where I have been practicing law for more than 30 years. During my career, a large part of my practice has been devoted to helping working Kansans when they are forced to navigate the complicated workers compensation system after being seriously injured on the job. On behalf of KsAJ members, and on behalf of the thousands of Kansans we represent, I respectfully ask you to support SB 258.

Since its inception in 1911, a key purpose of the Kansas Workers Compensation Act has been to assure that injured workers and their families do not suffer economic loss following disabling on-the-job injuries. Today, the Workers Comp Act does not adequately meet that goal.

Like my colleagues in the Kansas Association for Justice, I regularly see the economic impact that workplace injuries have on Kansans who had been hard-working, solvent, and productive members of society before becoming disabled. These Kansans and their families experience serious financial hardships because the benefits they receive under the Kansas Workers Compensation Act do not come close to keeping up with their bills and do not have any basis in today's economic reality.

Because workers compensation benefits are so much less than what they had been earning, many injured workers cannot pay the bills they previously were able to keep up with: mortgages, their car payments, their health and auto insurance premiums, their children's tuition, and other family expenses. These once proud Kansans, who had been self-sufficient before their injuries, are forced to borrow money from family, accept charity from strangers, or apply for public assistance. Significant changes to the family's lifestyle have to be made, and sometimes ends still can't be met. The financial turmoil and the loss of self-esteem frequently cause depression or other psychological problems in injured workers, and sometimes cause families to break apart.

Senate Commerce Committee  
*Date: March 3, 2009*

Attachment 8

Often, it is the taxpayers who are left picking up the tab, one way or another, for the inadequacy of the benefits available under the Workers Comp Act. Disabled workers cannot support their families on the compensation they receive, so they end up on food stamps, on cash assistance or on Social Security disability.

Only the Legislature can fix this problem. There is nothing in the law that adjusts disability benefits levels and their purchasing powers to current economic conditions. Although the maximum weekly benefit *payment* increases annually in response to an increasing state average weekly wage (SAWW), it does not increase the total capped benefit level. As a result, the maximum benefit levels are still reached, but are reached at a quicker pace: for permanent work disability, benefits max in only 4 ½ years (236.29 weeks); for permanent work disability, a little more than 3 ½ years (189.04 weeks), and for permanent functional impairment, less than 2 years (94.52 weeks). After payment of the initial \$40,000 lump sum in death cases, benefits for a fatally injured worker's family at the maximum rate last just over 7 ½ years (396.98 weeks).

SB 258 does not fix all the problems Kansans experience when they are forced into the workers compensation system because of a work place injury. But because it restores the purchasing power of disability benefits, it will bring fiscal relief to Kansas families that currently are asked the impossible: to make ends meet in 2009 with the purchasing power of 1987.

If it is passed this year, Senate Bill 258 will address two *decades* of the Legislature's neglect. On behalf of the Kansas Association for Justice members and the clients they serve, I respectfully ask you to pass SB 258.



The Voice & Vision of Nursing in Kansas

March 3, 2009

1109 SW Topeka BLvd  
Topeka, Kansas 66612-1602  
(785) 233-8638 • Fax (785) 233-5222  
www.nursingworld.org/snas/ks  
ksna@ksna.net



President Susan Bumsted, MN, RN

**Testimony Before the  
Senate Commerce Committee  
SB 258: COLA Worker's Compensation**

Chairman Wysong and Members of the Commerce Committee:

My name is Kathy Outlaw, and I am here to represent the Kansas State Nurses Association, the professional organization for Registered Nurses in the State. KSNA requests the committee pass SB 258 without amendments.

Registered Nurses providing care to patients are put at risk for on the job injury everyday. U.S. Department of Labor statistics demonstrate that a health care worker in a nursing facility is more likely to be injured on the job than a coal miner<sup>1</sup>. Health and safety threats identified include severe back injury, potentially deadly diseases, assault, latex allergy and accidents due to fatigue.<sup>2</sup>

Back injuries affect up to 38% of all nurses. Every day the average nurse lifts 1.8 tons per shift, as a result, nurses suffer debilitating and often career-ending and life-altering injuries from repeatedly lifting, moving, transferring, and repositioning patients.<sup>3</sup> Twelve percent leave the profession annually due to back injuries. In Kansas the physical act of lifting is the most frequent cause of occupational injury for "Total Injury and Illness", "Time Lost" and "No Time Lost" cases.<sup>4</sup>

The Kansas Department of Labor reported 2,771 injuries due to being struck by a fellow worker or patient and 767 needle injuries in 2008.<sup>4</sup> Any of these types of injuries could cause permanent disability. Working as a psychiatric nurse, I have seen fellow workers injured, as well as some disabled. A survey in 2008 of over 700 nurses partially sponsored by the American Nurses Association indicated an overwhelming majority (87%) say safety concerns influence their decisions about the type of nursing they do and their continued practice in the field.<sup>5</sup>

Like most working Kansans, nurses depend on workers compensation disability insurance if injured at work. But because of inflation and wage growth, workers compensation disability benefits are woefully inadequate. According to Department of Labor statistics, the mean hourly wage of a nurse in Kansas in 2008 was \$25.20<sup>6</sup> or approximately \$52,000 per year. Without an adjustment in the cap rate to reflect the current cost of living, nurses would very quickly meet the current cap.

It is difficult to believe that disability benefits haven't been updated since 1987. Nurses are distressed by seeing fellow workers and workers compensation patients inadequately protected. Please support Kansas nurses by advancing SB 258, without amendments, out of committee.

Sources:

<sup>1</sup>US Department of Labor, Bureau of Labor Statistics Workplace Injuries and Illness in 2007.  
[www.bls.gov/news.release/pdf/osh.pdf](http://www.bls.gov/news.release/pdf/osh.pdf)

<sup>2</sup>American Nurses Association. Nursing World.org, Health and Safety Survey, September 2001.

<sup>3</sup>American Nurses Association. Legislative and Regulatory Initiatives for the 110th Congress: Workplace Health and Safety 2007. Safe Patient Handling and Movement.

<sup>4</sup>Kansas Department of Labor, Division of Worker's Compensation 34<sup>th</sup> Annual Statistical Report Fiscal Year 2008.

<sup>5</sup>American Nurses Association. Nursing World.org, 2008 Study of Nurses' Views on Workplace Safety and Needlestick Injuries, June, 2008.

<sup>6</sup>Kansas Department of Labor, Kansas Wage Survey 2008, Labor Market Information, Registered Nurses.

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*Date: March 3, 2009*

Attachment 9



# Kansas Coalition for Workplace Safety

Promoting Economic Security Through Workplace Safety for Kansas Workers and their Families  
719 SW Van Buren · Topeka, KS 66603 · www.ksworksafety.org

## **Testimony on SB 258--SUPPORT Senate Commerce Committee March 3, 2009**

I am Terry Humphrey, president of the Kansas Coalition for Workplace Safety. I am pleased to appear on behalf of the Coalition to testify in support of SB 258.

The Kansas Coalition for Workplace Safety has long sought improvements to the workers compensation system on behalf of the 94% of working Kansans protected under work comp. It has been disappointing to witness the Legislature time and again refuse to take action on behalf of Kansas working families—or worse, to support legislation that would make their situation even more difficult.

Now, with a worsening economic picture, Kansans simply can't wait for relief any longer. Only the Legislature can fix the problem, and it must act this session.

SB 258 is a common-sense bill. It maintains disability benefit levels previously set by the Legislature, but it restores their purchasing power to match today's economy. By requiring the Secretary of Labor to apply an annual inflationary adjustment, SB 258 will protect Kansans injured on the job from bankruptcy and will keep them from turning to taxpayer-funded welfare programs. It assures that injured workers can continue to pay their bills while they are recovering and until they can work again. SB 258 has no fiscal note.

SB 258 does not fix all of the problems in work comp. The maximum weekly rate is still no more than \$529 per week, far less than the maximum benefit rates in surrounding states. Even with an inflationary adjustment, Kansas' disability benefits are still some of the lowest in the nation. And SB 258 does not correct the disastrous decision by the Kansas Supreme Court in the Casco case.

But SB 258 will immediately address the frozen-in-time purchasing power of benefit levels set decades ago. The benefit levels on compensation for permanent total disability and for permanent partial work disability have remained unchanged since 1987, even though wages in Kansas have more than doubled over the 22 years since these limits were last raised. Functional impairment has not changed in 16 years, since the "Fletcher Bell Amendment" was enacted in 1993. Death benefits have not changed since 2000. These benefits can no longer sustain Kansans forced to rely upon them because they have not kept pace with inflation.

When a Kansan is injured on the job, the bills don't stop—groceries, car payments, mortgage or rent, utilities, gas, insurance. Yet because benefit levels have never been adjusted for inflation, the Legislature is asking Kansans to pay 2009 bills with 1987 dollars. Even the most frugal of families would find this task impossible, and it is irresponsible and callous to ask it of them.

Senate Commerce Committee  
*Note: March 3, 2009*

Attachment *10*



Because disability benefit levels are insufficient, Kansans are forced to raid savings and retirement plans, take loans from friends and family, and ultimately, declare bankruptcy. Even then, the bills don't stop, and these Kansans find their way onto the rolls of taxpayer funded welfare programs.

SB 258 is a small step towards assuring that Kansans injured on the job are not financially devastated following their injury. It protects businesses by assuring that debts continue to be paid and purchasing power is maintained. It protects the state from shouldering costs that rightly should be paid under the workers compensation system.

KCWS has received questions about the potential of SB 258 to increase work comp premium costs for Kansas employers. We asked Allan I. Schwartz, an actuary with AIS Risk Consultants, to review the bill. While it is impossible to determine how insurers will decide to quantify SB 258 in terms of impact on premium, Mr. Schwartz reviewed Kansas work comp statistics and he estimates a potential increase of 5.4% to the total amount of indemnity payouts by insurance companies. In other words, for every \$1,000 an insurance company pays out in indemnity benefits in Kansas, there is the potential for an increase in indemnity benefit costs to the insurance company of \$54.00. This amount is insignificant. The overall workers compensation lost costs for indemnity and medical is 1.7% increase or an increase of \$17.00 for every \$1,000 paid out. And a November 11, 2008 report by the National Council for Compensation Insurance on the Kansas work comp system indicates that indemnity loss ratios have decreased every year since 2000, and a continued decline will likely offset any potential increase that may result from SB 258.

Based on the expert analysis from Mr. Schwartz, KCWS believes that SB 258 will not, and should not be permitted, to place an unreasonable burden on Kansas employers. Employers should see minimal, if any, impact on premiums as a result of SB 258. The Kansas Insurance Commissioner has statutory authority to review and approve rate filings to assure that they are justified and not an excuse to pass through excessive costs to employers. Given the impossible financial position of Kansans forced to live on inadequate disability benefits, we believe that the possibility of minimal, if any, premium impact is a trade-off that is more than fair.

We will continue to work with the Legislature and all stakeholders to assure that additional needed reforms to work comp are enacted. In the meantime, SB 258 must pass this year in order to give modest relief to Kansans that have the misfortune of being injured on the job.

Further, we respectfully request that this bill be kept clean and without amendments. Amendments would only serve to damage the limited effort of SB 258 and hurt every working family in the state that is depending on the Legislature to responsibly address this issue.

We respectfully request that you pass SB 258 without amendment.



## Kansans have waited for 22 years. How much longer must they wait?

Kansas has not adjusted work comp disability benefit caps since 1987—more than two decades ago! A 2008 study by the Policy Research Institute at The University of Kansas found that disability benefits would need to increase by 77% to catch up with 22 years of inflation and restore workers' lost purchasing power. According to K.U. researchers:

*"Inflation hits hardest on those whose...benefits are defined in fixed dollar terms that are not adjusted over time. People who depend on benefits that have been capped under Kansas Workers Compensation provisions are a good example of this hardest hit group."*

To put this in human terms:

*"[A] worker in 1987 could have heated his home for a month, purchased 5 pounds each of bananas and hamburger, brought home 5 half-gallons of ice cream, and filled his car twice—all for \$100."*

### In 1987...

- Ronald Reagan was president
- 1st class stamp was 22¢
- Cost of gallon of regular unleaded gas was 95¢
- Cost of loaf of white bread was 57¢
- Cost of dozen eggs was 73¢

Injured workers still have to pay rent or mortgage, buy gas and groceries, and pay all the other bills they had before their injury. And Kansas businesses need them to pay their bills. But Kansas forces injured workers to pay their current-day bills with 1987 dollars! This is an unnecessary and outrageous hardship on hard-working Kansans, especially in today's tough economy. It affects Kansas businesses too, when consumer purchasing power goes down. **The**

**Kansas Legislature must fix this problem and fix it this year by passing SB 258/HB 2312.**

### Kansas Work Comp Benefits are Shameful

Kansas is only one of five states in the country that caps benefits for workers who are permanently and totally disabled—and *the Kansas cap is the lowest!*

### SB 258/HB 2312:

- Maintains benefit levels previously set by the Legislature
- Restores the purchasing power of disability and death benefits to match today's economy
- Requires the Department of Labor to apply an annual inflationary adjustment to death and disability benefits
- Protects Kansans from bankruptcy
- Protects taxpayer-funded welfare programs
- Protects Kansas businesses by maintaining consumer purchasing power and assuring that debts are paid
- Bears no fiscal note to the State

### Kansas Insurance Industry is Strong

- Kansas employers pay work comp premiums that are far lower than other states.
- Kansas ranks 42nd in work comp premiums—*lower than most states and D.C.*
- According to the Legislative Division of Post Audit, from 2003 to 2007, Kansas spent at least \$1.3 billion on economic development, including tax breaks for business.

**Support Working Kansans. Support SB 258/HB 2312.**



# Kansas Coalition for Workplace Safety

*More than 30 organizations representing 500,000 working Kansans*

## Member Organizations

AARP of Kansas  
Construction & General Laborers' Local Union #1290  
Greater KC B&C Trades Council  
IAFF Local #135  
IAM District Lodge #70  
IBEW Local Union 304  
International Association of Machinists & Aerospace Workers  
International Association of Fire Fighters, Local #64  
International Association of Firefighters Local #83  
Kansas Action Network  
Kansas AFL-CIO  
Kansas Association for Justice  
Kansas Fire Service Alliance  
Kansas National Education Association  
Kansas Organization of State Employees, AFT/AFSCME  
Kansas Staff Association  
Kansas State Council of Firefighters  
Kansas State Firefighters Association  
Kansas State Nurses Association  
MO-KS-NE Conference of Teamsters  
NE KS Building & Construction Trades Council  
Roofers Local #20  
SCIU  
Society of Professional Engineering Employees in Aerospace  
Sunflower Community Action / Hispanos Unidos  
Teamsters #41  
Teamsters Joint Council #56  
Teamsters Local Union #696  
Thomas Outdoor Advertising, Inc.  
Topeka Independent Living Resource Center  
Tri-County Labor Council  
United Auto Workers Local #31  
United Steelworkers District 11  
United Steelworkers Local #307  
United Teachers of Wichita  
Wichita/Hutchinson Labor Federation of Central KS

*AIS RISK CONSULTANTS, INC.*

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March 2, 2009

Ms. Terry Humphrey  
Executive Director  
Kansas Association for Justice  
719 SW Van Buren, Suite 100  
Topeka, KS 66603

Re: Actuarial Evaluation of SB258

Dear Ms. Humphrey:

Enclosed is our actuarial evaluation of the estimated loss cost impact of SB258 on Kansas workers compensation losses.<sup>1</sup>

Based upon the enclosed analysis, we estimate that SB258 will increase workers compensation loss costs for indemnity by about 5.4% and overall workers compensation loss costs for indemnity and medical combined by about 1.7%. The calculation of these values is set forth in the enclosed schedules.

The premium impact of a rate filing reflecting SB258 may depend on factors other than the loss cost change. These other factors include: (i) the treatment of expenses, (ii) investment income on loss reserves and (iii) loss trends. Premium rates consist of components for losses, expenses and profit less the impact of investment income. Certain expenses (e.g., general and other acquisition expenses) will not increase in direct proportion to losses. Therefore, the premium rate increase will be less than the loss cost increase. Also, since SB258 increases the loss payouts at the end of the claim by increasing the maximum dollar cap, insurance companies can be expected to earn additional investment income, which should have the impact of lowering any premium increase. Finally loss cost trends have generally been decreasing in Kansas. Indemnity loss ratios have been decreasing about -3½% a year and overall indemnity plus medical loss ratios have been decreasing about -1% a year. Taking these three considerations into account along with our estimate of a 1.7% loss cost increase for SB258, would result in an overall rate increase in the range of about ½% to 1%.

Other items that may be taken into account in considering SB258 include<sup>2</sup>:

<sup>1</sup> In performing this analysis, we relied upon data and information from various sources including, but not limited to, the Kansas Department of Labor and various participants involved with Kansas workers compensation. If that data and information are not accurate or not representative of the Kansas Workers Compensation system, that could have an impact, perhaps material, on the indicated results. The actual impact of SB 258 will depend upon various factors which are not currently observable including but not limited to future economic conditions, regulatory practices, judicial decisions and the actions of the participants in the Kansas workers compensation system. Therefore, the actual impact of SB258 may differ significantly from the estimates that are contained in this analysis. Other items which contribute to the potential uncertainty in the values contained herein are the limited amount of data available for analysis and the short time frame available in which to prepare the analysis.

<sup>2</sup> These values are based upon information from NCCI.



March 2, 2009  
Ms. Terry Humphrey  
Page Two

- Kansas has a relatively low workers compensation loss cost ( losses / payroll [ in 00's ]):

<u>Jurisdiction</u>	<u>Voluntary Market Loss Cost</u>
Kansas	1.21
Colorado	1.43
Missouri	1.22
Nebraska	1.42
Oklahoma	1.70
Region	1.40
Countrywide	1.44

- Kansas has a relatively low average indemnity cost per claim:

<u>Jurisdiction</u>	<u>Indemnity Claim Cost (in 000's)</u>
Kansas	15
Colorado	20
Missouri	15
Nebraska	17
Oklahoma	25
Countrywide	20

- The Kansas average indemnity cost per claim has been increasing slower than wage levels.
- From 2001 to 2006, the Kansas average indemnity cost per claim increased less than 5%, or less than 1% a year.

Please feel free to contact me if there is anything you would care to discuss.

Sincerely,

Allan I. Schwartz  
FCAS,ASA,MAAA,FCA  
ARE,AIC,APA,AU  
AIAF,ARM,API,ACS  
President

Enclosures

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**Kansas Workers Compensation**

**Estimated Impact of SB 258 on Workers Compensation Loss Costs**

<u>Type of Benefit</u>	(1) <u>Percent of Total Benefit Cost</u>	(2) <u>Estimated Impact of Maximum Cap Increase</u>
Fatal - Indemnity	1.5%	7.2%
Permanent Total - Indemnity	1.0%	27.0%
Permanent Partial - Indemnity	25.0%	5.0%
Temporary Total - Indemnity	4.5%	2.2%
Indemnity - Total	32.0%	5.4%
Medical - Total	68.0%	0.0%
Combined	100.0%	1.7%

Notes:

(1) : Based upon Kansas experience

(2) : Schedule AIS-2, Column (8)

Schedule AIS-1

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Kansas Workers Compensation

Estimated Impact of SB 258 by Injury Type

<u>Injury Type</u>	(1)	(2)	(3)	(4)	(5)	(6)	(7)		(8)
	<u>Average Indemnity Cost</u>	<u>Number of Claims</u>	<u>Estimated Percent of Claims at Maximum</u>	<u>Estimated Number of Claims at Maximum</u>	<u>Maximum Impact of SB 258</u>	<u>Estimated Impact of SB 258</u>	<u>Increase in Cost</u>		
							<u>Dollar</u>	<u>Percent</u>	
Death	\$109,640	13	25%	3.3	\$62,000	\$31,000	\$102,300	7.2%	
Permanent Total Disability	\$30,993	11	15%	1.7	\$108,250	\$54,125	\$92,013	27.0%	
Permanent Partial - Scheduled	\$12,006	1,296	7%	90.7	\$86,600	\$10,000	\$907,000	5.8%	
Permanent Partial - Unscheduled	\$17,164	746	7%	52.2	\$86,600	\$10,000	\$522,000	4.1%	
Other	\$9,028	6,688	2%	133.8	\$86,600	\$10,000	\$1,338,000	2.2%	
Total	\$10,340	8,754							

Notes:

(1) : Kansas Closed Claim Study - See Schedule AIS-3 and Schedule AIS-4

(2) : Kansas Closed Claim Study - See Schedule AIS-3 and Schedule AIS-4

(3) : Estimated based upon statistical information in Kansas Closed Claim Study - See Schedule AIS-3 and Schedule AIS-4  
For permanent partial, the current effective average maximum benefit was assumed to be \$75,000.

(4) : (2) X (3)

(5) : Schedule AIS-5, Column (7), For Permanent Partial Disability - Functional Only Maximum Increase is \$25,050

(6) : Judgment taking into account statistical data and statutory benefit provisions

(7) : (4) X (6)

(8) : (7) / [ (1) X (2) ]

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**Kansas Workers Compensation Closed Claim Study Data**

<u>Benefit Type</u>	<u>Mean</u>	<u>Median</u>	<u>Standard Deviation</u>	<u>Skewness</u>	<u>Kurtosis</u>	<u>Number of Claims</u>	<u>Percent of Total Claims</u>	<u>Dollars of Losses</u>	<u>Percent of Total Losses</u>
<i>Claims Closed in 2007</i>									
Death	\$126,883	\$104,516	\$112,911	0.20	(2.86)	6	0.2%	\$761,299	2.9%
Permanent Total Disability	\$53,293	\$30,966	\$59,632	0.62	(2.13)	6	0.2%	\$319,755	1.2%
Scheduled Permanent Partial	\$11,567	\$7,036	\$15,275	3.60	16.44	368	14.3%	\$4,256,612	16.1%
Unscheduled Permanent Partial	\$23,607	\$17,023	\$23,707	3.09	13.28	75	2.9%	\$1,770,526	6.7%
Temporary Total Injury	\$9,190	\$2,332	\$18,927	7.17	98.86	1,894	73.5%	\$17,406,693	65.9%
Temporary Partial	\$5,733	\$1,188	\$9,745	2.35	5.31	20	0.8%	\$114,663	0.4%
Indemnity Portion	\$10,096	\$6,159	\$14,895	3.14	10.34	12	0.5%	\$121,156	0.5%
Lump Sum Settlement	\$8,417	\$5,221	\$10,731	3.18	13.59	196	7.6%	\$1,649,716	6.2%
Combined	\$10,245					2,577	100.0%	\$26,400,420	100.0%
<i>Claims Closed in 2006</i>									
Death	\$73,379	\$29,609	\$103,693	1.85	3.43	4	0.2%	\$293,515	1.0%
Permanent Total Disability	\$6,506	\$6,506	\$310			2	0.1%	\$13,011	0.0%
Scheduled Permanent Partial	\$13,282	\$7,871	\$20,114	7.44	93.43	531	20.1%	\$7,052,864	23.9%
Unscheduled Permanent Partial	\$20,078	\$13,536	\$18,146	1.62	2.67	194	7.3%	\$3,895,161	13.2%
Temporary Total Injury	\$8,434	\$2,409	\$14,399	3.01	10.62	1,651	62.4%	\$13,924,270	47.2%
Temporary Partial	\$30,811	\$4,384	\$122,925	7.46	57.74	63	2.4%	\$1,941,119	6.6%
Indemnity Portion	\$2,898	\$2,006	\$3,031	1.65	2.79	5	0.2%	\$14,492	0.0%
Lump Sum Settlement	\$12,071	\$6,346	\$15,488	2.08	3.80	196	7.4%	\$2,365,920	8.0%
Combined	\$11,149					2,646	100.0%	\$29,500,352	100.0%
<i>Claims Closed in 2005</i>									
Death	\$129,148	\$129,148	\$76,577			2	0.1%	\$258,296	1.1%
Permanent Total Disability	\$6,735	\$6,735				1	0.0%	\$6,735	0.0%
Scheduled Permanent Partial	\$11,221	\$6,255	\$14,988	3.14	11.83	335	14.6%	\$3,759,156	16.5%
Unscheduled Permanent Partial	\$16,000	\$10,379	\$17,154	2.00	3.97	308	13.4%	\$4,927,969	21.6%
Temporary Total Injury	\$8,556	\$2,415	\$15,896	4.37	30.51	1,410	61.4%	\$12,063,593	52.9%
Temporary Partial	\$8,578	\$2,110	\$15,894	2.84	8.31	52	2.3%	\$446,041	2.0%
Indemnity Portion	\$3,644	\$3,644	\$2,044			2	0.1%	\$7,287	0.0%
Lump Sum Settlement	\$7,211	\$4,848	\$8,748	3.09	12.36	186	8.1%	\$1,341,231	5.9%
Combined	\$9,935					2,296	100.0%	\$22,810,308	100.0%
<i>Claims Closed in 2004</i>									
Death	\$112,216	\$112,216				1	0.1%	\$112,216	1.0%
Permanent Total Disability	\$710	\$710	\$748			2	0.2%	\$1,420	0.0%
Scheduled Permanent Partial	\$7,924	\$5,304	\$9,174	2.29	5.74	62	5.0%	\$491,279	4.2%
Unscheduled Permanent Partial	\$13,079	\$8,054	\$14,374	1.90	3.52	169	13.7%	\$2,210,420	18.7%
Temporary Total Injury	\$8,994	\$2,495	\$15,792	3.35	13.48	943	76.4%	\$8,481,663	71.9%
Temporary Partial	\$2,774	\$324	\$4,887	2.37	5.56	11	0.9%	\$30,515	0.3%
Indemnity Portion	\$10,341	\$6,394	\$12,749	4.10	21.26	44	3.6%	\$455,009	3.9%
Lump Sum Settlement	\$6,163	\$8,552	\$4,255	-1.73		3	0.2%	\$18,488	0.2%
Combined	\$9,555					1,235	100.0%	\$11,801,009	100.0%
<i>Claims Closed in 2004 - 2007</i>									
Death	\$109,640					13	0.1%	\$1,425,326	1.6%
Permanent Total Disability	\$30,993					11	0.1%	\$340,921	0.4%
Scheduled Permanent Partial	\$12,006					1,296	14.8%	\$15,559,910	17.2%
Unscheduled Permanent Partial	\$17,164					746	8.5%	\$12,804,076	14.1%
Temporary Total Injury	\$8,796					5,898	67.4%	\$51,876,219	57.3%
Temporary Partial	\$17,345					146	1.7%	\$2,532,338	2.8%
Indemnity Portion	\$9,491					63	0.7%	\$597,944	0.7%
Lump Sum Settlement	\$9,252					581	6.6%	\$5,375,355	5.9%
Combined	\$10,340					8,754	100.0%	\$90,512,090	100.0%

Source: Kansas Department of Labor, Annual Statistical Reports

Schedule AIS-3

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**Kansas Workers Compensation Closed Claim Study Data**

<u>Benefit Type</u>	<u>Combined</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>
<i>Average Cost Per Claim</i>					
Death	\$109,640	\$126,883	\$73,379	\$129,148	\$112,216
Permanent Total Disability	\$30,993	\$53,293	\$6,506	\$6,735	\$710
Scheduled Permanent Partial	\$12,006	\$11,567	\$13,282	\$11,221	\$7,924
Unscheduled Permanent Partial	\$17,164	\$23,607	\$20,078	\$16,000	\$13,079
Temporary Total Injury	\$8,796	\$9,190	\$8,434	\$8,556	\$8,994
Temporary Partial	\$17,345	\$5,733	\$30,811	\$8,578	\$2,774
Indemnity Portion	\$9,491	\$10,096	\$2,898	\$3,644	\$10,341
Lump Sum Settlement	\$9,252	\$8,417	\$12,071	\$7,211	\$6,163
Combined	\$10,340	\$10,245	\$11,149	\$9,935	\$9,555

<i>Number of Claims</i>					
Death	13	6	4	2	1
Permanent Total Disability	11	6	2	1	2
Scheduled Permanent Partial	1,296	368	531	335	62
Unscheduled Permanent Partial	746	75	194	308	169
Temporary Total Injury	5,898	1,894	1,651	1,410	943
Temporary Partial	146	20	63	52	11
Indemnity Portion	63	12	5	2	44
Lump Sum Settlement	581	196	196	186	3
Combined	8,754	2,577	2,646	2,296	1,235

<i>Dollars of Claims</i>					
Death	\$1,425,326	\$761,299	\$293,515	\$258,296	\$112,216
Permanent Total Disability	\$340,921	\$319,755	\$13,011	\$6,735	\$1,420
Scheduled Permanent Partial	\$15,559,910	\$4,256,612	\$7,052,864	\$3,759,156	\$491,279
Unscheduled Permanent Partial	\$12,804,076	\$1,770,526	\$3,895,161	\$4,927,969	\$2,210,420
Temporary Total Injury	\$51,876,219	\$17,406,693	\$13,924,270	\$12,063,593	\$8,481,663
Temporary Partial	\$2,532,338	\$114,663	\$1,941,119	\$446,041	\$30,515
Indemnity Portion	\$597,944	\$121,156	\$14,492	\$7,287	\$455,009
Lump Sum Settlement	\$5,375,355	\$1,649,716	\$2,365,920	\$1,341,231	\$18,488
Combined	\$90,512,090	\$26,400,420	\$29,500,352	\$22,810,308	\$11,801,009

<i>Percent of Total Number of Claims</i>					
Death	0.1%	0.2%	0.2%	0.1%	0.1%
Permanent Total Disability	0.1%	0.2%	0.1%	0.0%	0.2%
Scheduled Permanent Partial	14.8%	14.3%	20.1%	14.6%	5.0%
Unscheduled Permanent Partial	8.5%	2.9%	7.3%	13.4%	13.7%
Temporary Total Injury	67.4%	73.5%	62.4%	61.4%	76.4%
Temporary Partial	1.7%	0.8%	2.4%	2.3%	0.9%
Indemnity Portion	0.7%	0.5%	0.2%	0.1%	3.6%
Lump Sum Settlement	6.6%	7.6%	7.4%	8.1%	0.2%
Combined	100.0%	100.0%	100.0%	100.0%	100.0%

<i>Percent of Total Dollars of Claims</i>					
Death	1.6%	2.9%	1.0%	1.1%	1.0%
Permanent Total Disability	0.4%	1.2%	0.0%	0.0%	0.0%
Scheduled Permanent Partial	17.2%	16.1%	23.9%	16.5%	4.2%
Unscheduled Permanent Partial	14.1%	6.7%	13.2%	21.6%	18.7%
Temporary Total Injury	57.3%	65.9%	47.2%	52.9%	71.9%
Temporary Partial	2.8%	0.4%	6.6%	2.0%	0.3%
Indemnity Portion	0.7%	0.5%	0.0%	0.0%	3.9%
Lump Sum Settlement	5.9%	6.2%	8.0%	5.9%	0.2%
Combined	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Kansas Department of Labor, Annual Statistical Reports

Schedule AIS-4

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**Kansas Workers Compensation**

**Increase in Maximum Benefits Under SB 258**

<u>Benefit Type</u>	(1) Current Maximum Amount	(2) Date Last Adjusted	(3) CPI - Urban Wage Earners and Clerical Workers - Midwest Base	(4) July 2008	(5) Increase	(6) Increase in Maximum Amount	(7) Adjusted Maximum Amount
Fatal	\$250,000	July 2000	165.1	206.0	24.8%	\$62,000	\$312,000
Permanent Total Disability	\$125,000	July 1987	110.4	206.0	86.6%	\$108,250	\$233,250
Temporary Total Disability	\$100,000	July 1987	110.4	206.0	86.6%	\$86,600	\$186,600
Permanent Partial Disability	\$100,000	July 1987	110.4	206.0	86.6%	\$86,600	\$186,600
Permanent Partial Disability Functional Only	\$50,000	July 1993	137.2	206.0	50.1%	\$25,050	\$75,050

Source: The Eroding Value of Workers Compensation Benefit Cap Levels, September 8, 2008  
by Pat Oslund, Institute for Policy & Social Research, The University of Kansas  
Page 3 - 4, Tables 1 - 2

Notes:

(5) = [ (4) / (3) - 1 ] X 100%

(6) = (1) X (5)

(7) = (1) + (6)

Schedule AIS-5

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**Kansas Workers Compensation**

**Maximum Benefits by Body Part**

<u>Body Part</u>	<u>Maximum Weeks of Benefits</u>	<u>Maximum Compensation at \$529 per week</u>		<u>Increase in Maximum Compensation at \$529/week</u>	
		<u>Current</u>	<u>SB 258</u>	<u>Dollar</u>	<u>Percent</u>
Shoulder	225	\$100,000	\$119,025	\$19,025	19.0%
Arm	210	\$100,000	\$111,090	\$11,090	11.1%
Forearm	200	\$100,000	\$105,800	\$5,800	5.8%
Hand	150	\$79,350	\$79,350	\$0	0.0%
Leg	200	\$100,000	\$105,800	\$5,800	5.8%
Lower leg	190	\$100,000	\$100,510	\$510	0.5%
Foot	125	\$66,125	\$66,125	\$0	0.0%
Eye	120	\$63,480	\$63,480	\$0	0.0%
Hearing, both ears	110	\$58,190	\$58,190	\$0	0.0%
Hearing, one ear	30	\$15,870	\$15,870	\$0	0.0%
Thumb	60	\$31,740	\$31,740	\$0	0.0%
Finger 1st (index)	37	\$19,573	\$19,573	\$0	0.0%
Finger 2nd (middle)	30	\$15,870	\$15,870	\$0	0.0%
Finger 3rd (ring)	20	\$10,580	\$10,580	\$0	0.0%
Finger (little)	15	\$7,935	\$7,935	\$0	0.0%
Great toe	30	\$15,870	\$15,870	\$0	0.0%
Great toe, end joint	15	\$7,935	\$7,935	\$0	0.0%
Each other toe	10	\$5,290	\$5,290	\$0	0.0%
Each other toe, end joint only	5	\$2,645	\$2,645	\$0	0.0%

Allowance of 10% and not over 15 weeks for healing period following an amputation.

Maximum Weekly Benefit : 7-1-08 to 6-30-09      \$529

Maximum Total Benefit : Current                      \$100,000

Maximum Total Benefit : With SB 258              \$186,600

Source: Kansas Department of Labor, Division of Workers Compensation, K-WC 107 (Rev.7-08)

Schedule AIS-6

Preliminary, Draft, Confidential, For Discussion Purposes Only

10-12

# Kansas Coalition for Workplace Safety

## Testimony on SB 258 - - SUPPORT

Senate Commerce Committee

March 3, 2009

Jeff Cooper, Esquire / John M. Ostrowski, Esquire

Thank you, Mr. Chairman. We offer this testimony in conjunction with the testimony of Ms. Terry Humphrey, the executive director of the Kansas Coalition for Workplace Safety. Obviously, the cost of Senate Bill 258 is an important part of the equation. As proponents of the bill, the Coalition was asked about the financial impact on premiums, and as such, sought the assistance of an actuarial consultant. In picking an actuarial consultant, the Coalition sought an individual with a solid reputation, and experience in these matters. We firmly believe that Allan Schwartz meets these qualifications. In that regard, we attach his report for the Committee's review.

I am not an actuary. In addition, math was never my strength in the academic environment. Having said that, I think we can all read Mr. Schwartz' "bottom line": SB 258 represents "an overall rate increase in the range of one-half percent to one percent".

Many factors are obviously at work to produce that final analysis including market factors, number of claims filed, trending, insurance company profits, etc. And, like any opinion, whether it be from a scientist, an attorney, a medical practitioner, or a politician, it comes with the mandatory disclaimer. However, it is clear that the passage of SB 258 is not a case of: "The sky is falling! The sky is falling!".

It seems that part of the general misconception whenever there is a discussion of increased benefits for claimants is the belief that "every" or "most" injured workers will receive increased benefits. This is simply not true<sup>1</sup>. The benefits of the vast majority of injured workers will not change under this bill. Rather, SB 258 is directed to the most severely injured, and those suffering the harshest economic losses.

We urge the Committee to pass SB 258.

I will stand for questions.

---

<sup>1</sup> The clearest example of this is found on Schedule AIS-2 of Mr. Schwartz' report. There were 13 death claims in the closed claim study. Death benefits in Kansas are \$250,000.00. Yet, of the 13 death claims, only 25% received the maximum. The average paid \$109,640.00.



*AIS RISK CONSULTANTS, INC.*

Consulting Actuaries • Insurance Advisors

4400 Route 9 South • Suite 1200 • Freehold, NJ 07728 • (732) 780-0330 • Fax (732) 780-2706

March 2, 2009

Ms. Terry Humphrey  
Executive Director  
Kansas Association for Justice  
719 SW Van Buren, Suite 100  
Topeka, KS 66603

Re: Actuarial Evaluation of SB258

Dear Ms. Humphrey:

Enclosed is our actuarial evaluation of the estimated loss cost impact of SB258 on Kansas workers compensation losses.<sup>1</sup>

Based upon the enclosed analysis, we estimate that SB258 will increase workers compensation loss costs for indemnity by about 5.4% and overall workers compensation loss costs for indemnity and medical combined by about 1.7%. The calculation of these values is set forth in the enclosed schedules.

The premium impact of a rate filing reflecting SB258 may depend on factors other than the loss cost change. These other factors include: (i) the treatment of expenses, (ii) investment income on loss reserves and (iii) loss trends. Premium rates consist of components for losses, expenses and profit less the impact of investment income. Certain expenses (e.g., general and other acquisition expenses) will not increase in direct proportion to losses. Therefore, the premium rate increase will be less than the loss cost increase. Also, since SB258 increases the loss payouts at the end of the claim by increasing the maximum dollar cap, insurance companies can be expected to earn additional investment income, which should have the impact of lowering any premium increase. Finally loss cost trends have generally been decreasing in Kansas. Indemnity loss ratios have been decreasing about -3½% a year and overall indemnity plus medical loss ratios have been decreasing about -1% a year. Taking these three considerations into account along with our estimate of a 1.7% loss cost increase for SB258, would result in an overall rate increase in the range of about ½% to 1%.

Other items that may be taken into account in considering SB258 include<sup>2</sup>:

<sup>1</sup> In performing this analysis, we relied upon data and information from various sources including, but not limited to, the Kansas Department of Labor and various participants involved with Kansas workers compensation. If that data and information are not accurate or not representative of the Kansas Workers Compensation system, that could have an impact, perhaps material, on the indicated results. The actual impact of SB 258 will depend upon various factors which are not currently observable including but not limited to future economic conditions, regulatory practices, judicial decisions and the actions of the participants in the Kansas workers compensation system. Therefore, the actual impact of SB258 may differ significantly from the estimates that are contained in this analysis. Other items which contribute to the potential uncertainty in the values contained herein are the limited amount of data available for analysis and the short time frame available in which to prepare the analysis.

<sup>2</sup> These values are based upon information from NCCI.

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March 2, 2009  
Ms. Terry Humphrey  
Page Two

- Kansas has a relatively low workers compensation loss cost ( losses / payroll [ in 00's ] ):

<u>Jurisdiction</u>	<u>Voluntary Market Loss Cost</u>
Kansas	1.21
Colorado	1.43
Missouri	1.22
Nebraska	1.42
Oklahoma	1.70
Region	1.40
Countrywide	1.44

- Kansas has a relatively low average indemnity cost per claim:

<u>Jurisdiction</u>	<u>Indemnity Claim Cost (in 000's)</u>
Kansas	15
Colorado	20
Missouri	15
Nebraska	17
Oklahoma	25
Countrywide	20

- The Kansas average indemnity cost per claim has been increasing slower than wage levels.
- From 2001 to 2006, the Kansas average indemnity cost per claim increased less than 5%, or less than 1% a year.

Please feel free to contact me if there is anything you would care to discuss.

Sincerely,

/s/

Allan I. Schwartz  
FCAS,ASA,MAAA,FCA  
ARE,AIC,APA,AU  
AIAF,ARM,API,ACS  
President

Enclosures

10-15

Kansas Workers Compensation

Estimated Impact of SB 258 on Workers Compensation Loss Costs

<u>Type of Benefit</u>	(1) Percent of <u>Total Benefit Cost</u>	(2) Estimated Impact of Maximum Cap <u>Increase</u>
Fatal - Indemnity	1.5%	7.2%
Permanent Total - Indemnity	1.0%	27.0%
Permanent Partial - Indemnity	25.0%	5.0%
Temporary Total - Indemnity	4.5%	2.2%
Indemnity - Total	32.0%	5.4%
Medical - Total	68.0%	0.0%
Combined	100.0%	1.7%

Notes:

(1) : Based upon Kansas experience

(2) : Schedule AIS-2, Column (8)

Kansas Workers Compensation

Estimated Impact of SB 258 by Injury Type

<u>Injury Type</u>	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	Average Indemnity Cost	Number of Claims	Estimated Percent of Claims at Maximum	Estimated Number of Claims at Maximum	Maximum Impact of SB 258	Estimated Impact of SB 258	Increase in Cost	
							Dollar	Percent
Death	\$109,640	13	25%	3.3	\$62,000	\$31,000	\$102,300	7.2%
Permanent Total Disability	\$30,993	11	15%	1.7	\$108,250	\$54,125	\$92,013	27.0%
Permanent Partial - Scheduled	\$12,006	1,296	7%	90.7	\$86,600	\$10,000	\$907,000	5.8%
Permanent Partial - Unscheduled	\$17,164	746	7%	52.2	\$86,600	\$10,000	\$522,000	4.1%
Other	\$9,028	6,688	2%	133.8	\$86,600	\$10,000	\$1,338,000	2.2%
Total	\$10,340	8,754						

Notes:

(1) : Kansas Closed Claim Study - See Schedule AIS-3 and Schedule AIS-4

(2) : Kansas Closed Claim Study - See Schedule AIS-3 and Schedule AIS-4

(3) : Estimated based upon statistical information in Kansas Closed Claim Study - See Schedule AIS-3 and Schedule AIS-4  
For permanent partial, the current effective average maximum benefit was assumed to be \$75,000.

(4) : (2) X (3)

(5) : Schedule AIS-5, Column (7), For Permanent Partial Disability - Functional Only Maximum Increase is \$25,050

(6) : Judgment taking into account statistical data and statutory benefit provisions

(7) : (4) X (6)

(8) : (7) / [ (1) X (2) ]

Schedule AIS-2



**Kansas Workers Compensation Closed Claim Study Data**

<u>Benefit Type</u>	<u>Mean</u>	<u>Median</u>	<u>Standard Deviation</u>	<u>Skewness</u>	<u>Kurtosis</u>	<u>Number of Claims</u>	<u>Percent of Total Claims</u>	<u>Dollars of Losses</u>	<u>Percent of Total Losses</u>
<u>Claims Closed in 2007</u>									
Death	\$126,883	\$104,516	\$112,911	0.20	(2.86)	6	0.2%	\$761,299	2.9%
Permanent Total Disability	\$53,293	\$30,966	\$59,632	0.62	(2.13)	6	0.2%	\$319,755	1.2%
Scheduled Permanent Partial	\$11,567	\$7,036	\$15,275	3.60	16.44	368	14.3%	\$4,256,612	16.1%
Unscheduled Permanent Partial	\$23,607	\$17,023	\$23,707	3.09	13.28	75	2.9%	\$1,770,526	6.7%
Temporary Total Injury	\$9,190	\$2,332	\$18,927	7.17	98.86	1,894	73.5%	\$17,406,693	65.9%
Temporary Partial	\$5,733	\$1,188	\$9,745	2.35	5.31	20	0.8%	\$114,663	0.4%
Indemnity Portion	\$10,096	\$6,159	\$14,895	3.14	10.34	12	0.5%	\$121,156	0.5%
Lump Sum Settlement	\$8,417	\$5,221	\$10,731	3.18	13.59	196	7.6%	\$1,649,716	6.2%
Combined	\$10,245					2,577	100.0%	\$26,400,420	100.0%
<u>Claims Closed in 2006</u>									
Death	\$73,379	\$29,609	\$103,693	1.85	3.43	4	0.2%	\$293,515	1.0%
Permanent Total Disability	\$6,506	\$6,506	\$310			2	0.1%	\$13,011	0.0%
Scheduled Permanent Partial	\$13,282	\$7,871	\$20,114	7.44	93.43	531	20.1%	\$7,052,864	23.9%
Unscheduled Permanent Partial	\$20,078	\$13,536	\$18,146	1.62	2.67	194	7.3%	\$3,895,161	13.2%
Temporary Total Injury	\$8,434	\$2,409	\$14,399	3.01	10.62	1,651	62.4%	\$13,924,270	47.2%
Temporary Partial	\$30,811	\$4,384	\$122,925	7.46	57.74	63	2.4%	\$1,941,119	6.6%
Indemnity Portion	\$2,898	\$2,006	\$3,031	1.65	2.79	5	0.2%	\$14,492	0.0%
Lump Sum Settlement	\$12,071	\$6,346	\$15,488	2.08	3.80	196	7.4%	\$2,365,920	8.0%
Combined	\$11,149					2,646	100.0%	\$29,500,352	100.0%
<u>Claims Closed in 2005</u>									
Death	\$129,148	\$129,148	\$76,577			2	0.1%	\$258,296	1.1%
Permanent Total Disability	\$6,735	\$6,735				1	0.0%	\$6,735	0.0%
Scheduled Permanent Partial	\$11,221	\$6,255	\$14,988	3.14	11.83	335	14.6%	\$3,759,156	16.5%
Unscheduled Permanent Partial	\$16,000	\$10,379	\$17,154	2.00	3.97	308	13.4%	\$4,927,969	21.6%
Temporary Total Injury	\$8,556	\$2,415	\$15,896	4.37	30.51	1,410	61.4%	\$12,063,593	52.9%
Temporary Partial	\$8,578	\$2,110	\$15,894	2.84	8.31	52	2.3%	\$446,041	2.0%
Indemnity Portion	\$3,644	\$3,644	\$2,044			2	0.1%	\$7,287	0.0%
Lump Sum Settlement	\$7,211	\$4,848	\$8,748	3.09	12.36	186	8.1%	\$1,341,231	5.9%
Combined	\$9,935					2,296	100.0%	\$22,810,308	100.0%
<u>Claims Closed in 2004</u>									
Death	\$112,216	\$112,216				1	0.1%	\$112,216	1.0%
Permanent Total Disability	\$710	\$710	\$748			2	0.2%	\$1,420	0.0%
Scheduled Permanent Partial	\$7,924	\$5,304	\$9,174	2.29	5.74	62	5.0%	\$491,279	4.2%
Unscheduled Permanent Partial	\$13,079	\$8,054	\$14,374	1.90	3.52	169	13.7%	\$2,210,420	18.7%
Temporary Total Injury	\$8,994	\$2,495	\$15,792	3.35	13.48	943	76.4%	\$8,481,663	71.9%
Temporary Partial	\$2,774	\$324	\$4,887	2.37	5.56	11	0.9%	\$30,515	0.3%
Indemnity Portion	\$10,341	\$6,394	\$12,749	4.10	21.26	44	3.6%	\$455,009	3.9%
Lump Sum Settlement	\$6,163	\$8,552	\$4,255	-1.73		3	0.2%	\$18,488	0.2%
Combined	\$9,555					1,235	100.0%	\$11,801,009	100.0%
<u>Claims Closed in 2004 - 2007</u>									
Death	\$109,640					13	0.1%	\$1,425,326	1.6%
Permanent Total Disability	\$30,993					11	0.1%	\$340,921	0.4%
Scheduled Permanent Partial	\$12,006					1,296	14.8%	\$15,559,910	17.2%
Unscheduled Permanent Partial	\$17,164					746	8.5%	\$12,804,076	14.1%
Temporary Total Injury	\$8,796					5,898	67.4%	\$51,876,219	57.3%
Temporary Partial	\$17,345					146	1.7%	\$2,532,338	2.8%
Indemnity Portion	\$9,491					63	0.7%	\$597,944	0.7%
Lump Sum Settlement	\$9,252					581	6.6%	\$5,375,355	5.9%
Combined	\$10,340					8,754	100.0%	\$90,512,090	100.0%

Source: Kansas Department of Labor, Annual Statistical Reports

Kansas Workers Compensation Closed Claim Study Data

<u>Benefit Type</u>	<u>Combined</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>
<u>Average Cost Per Claim</u>					
Death	\$109,640	\$126,883	\$73,379	\$129,148	\$112,216
Permanent Total Disability	\$30,993	\$53,293	\$6,506	\$6,735	\$710
Scheduled Permanent Partial	\$12,006	\$11,567	\$13,282	\$11,221	\$7,924
Unscheduled Permanent Partial	\$17,164	\$23,607	\$20,078	\$16,000	\$13,079
Temporary Total Injury	\$8,796	\$9,190	\$8,434	\$8,556	\$8,994
Temporary Partial	\$17,345	\$5,733	\$30,811	\$8,578	\$2,774
Indemnity Portion	\$9,491	\$10,096	\$2,898	\$3,644	\$10,341
Lump Sum Settlement	\$9,252	\$8,417	\$12,071	\$7,211	\$6,163
Combined	\$10,340	\$10,245	\$11,149	\$9,935	\$9,555
<u>Number of Claims</u>					
Death	13	6	4	2	1
Permanent Total Disability	11	6	2	1	2
Scheduled Permanent Partial	1,296	368	531	335	62
Unscheduled Permanent Partial	746	75	194	308	169
Temporary Total Injury	5,898	1,894	1,651	1,410	943
Temporary Partial	146	20	63	52	11
Indemnity Portion	63	12	5	2	44
Lump Sum Settlement	581	196	196	186	3
Combined	8,754	2,577	2,646	2,296	1,235
<u>Dollars of Claims</u>					
Death	\$1,425,326	\$761,299	\$293,515	\$258,296	\$112,216
Permanent Total Disability	\$340,921	\$319,755	\$13,011	\$6,735	\$1,420
Scheduled Permanent Partial	\$15,559,910	\$4,256,612	\$7,052,864	\$3,759,156	\$491,279
Unscheduled Permanent Partial	\$12,804,076	\$1,770,526	\$3,895,161	\$4,927,969	\$2,210,420
Temporary Total Injury	\$51,876,219	\$17,406,693	\$13,924,270	\$12,063,593	\$8,481,663
Temporary Partial	\$2,532,338	\$114,663	\$1,941,119	\$446,041	\$30,515
Indemnity Portion	\$597,944	\$121,156	\$14,492	\$7,287	\$455,009
Lump Sum Settlement	\$5,375,355	\$1,649,716	\$2,365,920	\$1,341,231	\$18,488
Combined	\$90,512,090	\$26,400,420	\$29,500,352	\$22,810,308	\$11,801,009
<u>Percent of Total Number of Claims</u>					
Death	0.1%	0.2%	0.2%	0.1%	0.1%
Permanent Total Disability	0.1%	0.2%	0.1%	0.0%	0.2%
Scheduled Permanent Partial	14.8%	14.3%	20.1%	14.6%	5.0%
Unscheduled Permanent Partial	8.5%	2.9%	7.3%	13.4%	13.7%
Temporary Total Injury	67.4%	73.5%	62.4%	61.4%	76.4%
Temporary Partial	1.7%	0.8%	2.4%	2.3%	0.9%
Indemnity Portion	0.7%	0.5%	0.2%	0.1%	3.6%
Lump Sum Settlement	6.6%	7.6%	7.4%	8.1%	0.2%
Combined	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Percent of Total Dollars of Claims</u>					
Death	1.6%	2.9%	1.0%	1.1%	1.0%
Permanent Total Disability	0.4%	1.2%	0.0%	0.0%	0.0%
Scheduled Permanent Partial	17.2%	16.1%	23.9%	16.5%	4.2%
Unscheduled Permanent Partial	14.1%	6.7%	13.2%	21.6%	18.7%
Temporary Total Injury	57.3%	65.9%	47.2%	52.9%	71.9%
Temporary Partial	2.8%	0.4%	6.6%	2.0%	0.3%
Indemnity Portion	0.7%	0.5%	0.0%	0.0%	3.9%
Lump Sum Settlement	5.9%	6.2%	8.0%	5.9%	0.2%
Combined	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Kansas Department of Labor, Annual Statistical Reports

Schedule AIS-4

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Kansas Workers Compensation

Increase in Maximum Benefits Under SB 258

<u>Benefit Type</u>	(1) Current Maximum Amount	(2) Date Last Adjusted	(3) CPI - Urban Wage Earners and Clerical Workers - Midwest Base	(4) July 2008	(5) Increase	(6) Increase in Maximum Amount	(7) Adjusted Maximum Amount
Fatal	\$250,000	July 2000	165.1	206.0	24.8%	\$62,000	\$312,000
Permanent Total Disability	\$125,000	July 1987	110.4	206.0	86.6%	\$108,250	\$233,250
Temporary Total Disability	\$100,000	July 1987	110.4	206.0	86.6%	\$86,600	\$186,600
Permanent Partial Disability	\$100,000	July 1987	110.4	206.0	86.6%	\$86,600	\$186,600
Permanent Partial Disability Functional Only	\$50,000	July 1993	137.2	206.0	50.1%	\$25,050	\$75,050

Source: The Eroding Value of Workers Compensation Benefit Cap Levels, September 8, 2008  
by Pat Oslund, Institute for Policy & Social Research, The University of Kansas  
Page 3 - 4, Tables 1 - 2

Notes:

(5) = [ (4) / (3) - 1 ] X 100%

(6) = (1) X (5)

(7) = (1) + (6)

Schedule AIS-5

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Kansas Workers Compensation

Maximum Benefits by Body Part

<u>Body Part</u>	<u>Maximum Weeks of Benefits</u>	<u>Maximum Compensation at \$529 per week</u>		<u>Increase in Maximum Compensation at \$529/week</u>	
		<u>Current</u>	<u>SB 258</u>	<u>Dollar</u>	<u>Percent</u>
Shoulder	225	\$100,000	\$119,025	\$19,025	19.0%
Arm	210	\$100,000	\$111,090	\$11,090	11.1%
Forearm	200	\$100,000	\$105,800	\$5,800	5.8%
Hand	150	\$79,350	\$79,350	\$0	0.0%
Leg	200	\$100,000	\$105,800	\$5,800	5.8%
Lower leg	190	\$100,000	\$100,510	\$510	0.5%
Foot	125	\$66,125	\$66,125	\$0	0.0%
Eye	120	\$63,480	\$63,480	\$0	0.0%
Hearing, both ears	110	\$58,190	\$58,190	\$0	0.0%
Hearing, one ear	30	\$15,870	\$15,870	\$0	0.0%
Thumb	60	\$31,740	\$31,740	\$0	0.0%
Finger 1st (index)	37	\$19,573	\$19,573	\$0	0.0%
Finger 2nd (middle)	30	\$15,870	\$15,870	\$0	0.0%
Finger 3rd (ring)	20	\$10,580	\$10,580	\$0	0.0%
Finger (little)	15	\$7,935	\$7,935	\$0	0.0%
Great toe	30	\$15,870	\$15,870	\$0	0.0%
Great toe, end joint	15	\$7,935	\$7,935	\$0	0.0%
Each other toe	10	\$5,290	\$5,290	\$0	0.0%
Each other toe, end joint only	5	\$2,645	\$2,645	\$0	0.0%

Allowance of 10% and not over 15 weeks for healing period following an amputation.

Maximum Weekly Benefit : 7-1-08 to 6-30-09      \$529

Maximum Total Benefit : Current                      \$100,000

Maximum Total Benefit : With SB 258              \$186,600

Source: Kansas Department of Labor, Division of Workers Compensation, K-WC 107 (Rev.7-08)





825 S Kansas Avenue, Suite 100  
Topeka, KS 66612  
Phone: (785)234-8773 • Fax: (785)233-2206  
www.ksia.org • sheidner@ksia.org

**Testimony RE: SB 258  
Senate Commerce Committee  
Presented by Don Sayler  
On behalf of  
Kansas Restaurant & Hospitality Association  
And  
Kansas Self-Insurers Association  
March 3, 2009**

Chairman Wysong and Members of the Committee:

My name is Don Sayler, and I am the President & CEO for the Kansas Restaurant & Hospitality Association (KRHA). KRHA is the leading business association for restaurants, hotels, motels, country clubs and allied business in Kansas. Along with the KRHA Educational Foundation, the association works to represent, educate and promote the rapidly growing industry of hospitality in Kansas.

I am also here representing the Kansas Self-Insurers Association, or KSIA. KSIA is a not for profit organization with over 80 members, representing both public and private employers who are primarily self insured for workers compensation.

KRHA has had a self-insured workers compensation fund since 1990. This fund is member owned and managed internally. Currently we insure approximately 500 employers who employ 25,000+ workers in the State of Kansas.

KRHA and KSIA oppose SB 258. It seems that any adjustment to caps needs to be researched as part of a comprehensive economic study. I wonder if NCCI has been contacted regarding what impact an increase would have on cost. Since this hearing was posted only last Thursday night and we did not find out until Friday, there has not been adequate time for fact gathering and analysis.

KRHA and KSIA are very concerned about its members as well as the employees that are covered under workers compensation. With the current economy we do not feel that now is the time to be adjusting these. We believe that the ultimate impact to employers as cost of doing business could be very detrimental.

We strongly urge you to oppose SB 258. Thank you for permitting me to testify on this important matter.

Senate Commerce Committee  
*Done: March 3, 2009*

Attachment 11