

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman David Wysong at 8:30 a.m. on March 4, 2009, in Room 545-N of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the Committee:

Mr. Larry Karns, Attorney, and Kansas Chamber of Commerce Appointee, to Kansas Workers Compensation Advisory Council
Mr. Dan Murray, State Director, National Federation of Independent Business, Kansas
Mr. Ron Seeber, Vice President Government Affairs, Kansas Grain & Feed Association & KS Agribusiness Retail
Mr. David Shriver, Attorney, Director of Insurance Services, Kansas Association of School Boards
Mr. David Hartwick, Vice President of Government Affairs, Overland Park Chamber of Commerce

Others attending:

Please see attached list

Action 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

Upon calling the meeting to order, Chairman Wysong called the Committee's attention to **SR1828** and as he said yesterday, it is not the Chair's intention to have a hearing or even work the bill except to vote to move it or leave the bill in Committee.

Senator Lynn made a motion to move the resolution out favorably. It was seconded by Senator Wagle and the motion carried.

Continued hearing and possible action on SB258 - an act concerning workers compensation relating to caps to benefits

With the next order of business, the Chair offered written proponent testimony from yesterday's Committee meeting from the following:

1. Ms. Jane Carter, Executive Director, Kansas Organization of State Employees
2. Mr. Jim Garner, Secretary, Kansas Department of Labor
3. Mr. Richard Taylor, Business Manager, Plumbers & Pipefitters Local 441
4. Mr. Ernest Kutzley, Advocacy Director, AARP, Kansas
5. Mr. Terry Forsyth, Kansas National Education Association (KNEA)

A copy of the above written proponent testimonies is (Attachment 1) attached and incorporated into the Minutes as referenced.

The Chair then recognized the first of five opponents, Mr. Larry Karns, Attorney, and Kansas Chamber of Commerce Appointee to Kansas Workers Compensation Advisory Council, who stated the Kansas Chamber opposes the bill because businesses struggling to survive in this economy cannot sustain increasing worker compensation costs and in order to better support employees we must first protect the businesses that employ them and pay their claims. He offered an example of an employee receiving compensation because

CONTINUATION SHEET

Minutes of the Senate Commerce Committee at 8:30 a.m. on March 4 2009, in Room 545-N of the Capitol.

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of a 10% whole body impairment beginning in 1987 and showing as of 2008, the weekly benefits automatically being adjusted ,and more than doubling since 1987. And lastly, the Kansas Insurance Department states that increased caps will result in increased premiums. A copy of his testimony is (Attachment 2) attached and incorporated into the Minutes as referenced.

Second to testify was Mr. Dan Murray, State Director, National Federation of Independent Business, Kansas (NFIB-KS) who stated they support reforms that keep worker compensation insurance rates affordable while providing fair coverage to their injured employees. He went on to state that a recent study by the National Council on Compensation Insurance (NCCI) on a similar worker compensation bill indicated that costs could have increased by 10 to 14%. A copy of his testimony is (Attachment 3) attached and incorporated into the Minutes as referenced.

The third opponent, Mr. Ron Seeber, Vice President, Government Affairs for Kansas Grain & Feed Association (KGFA) & Kansas Agribusiness Retailers Association (KARA) offered a brief history of both associations and stating that between 2001 and 2004 agribusiness saw work comp increases ranged from 17% to 105%. And, he said it is his understanding that NCCI has not yet given an official cost estimate to this bill, but a similar piece of legislation recently received an estimated increase from NCCI of approximately 12%. A copy of his testimony is (Attachment 4) attached and incorporated into the Minutes as referenced.

The fourth conferee, Mr. David Shriver, Attorney, Director of Insurance Services, Kansas Association of School Boards, stated that 79 school entities purchase workers compensation insurance through the KASB Workers Compensation Fund with their policies having a policy year beginning July 1 to coincide with the fiscal year of all school districts. He went on to say that one objection to the proposed legislation is the timing of the adjustments being effective on July, as there would be no way for their underwriting procedure to participate potential increases in the caps in sufficient amounts to reflect those changes in premiums charged. A copy of his testimony is (Attachment 5) attached and incorporated into the Minutes as referenced.

The final opponent conferee was Mr. David Hartwick, Vice President of Government Affairs, Overland Park Chamber of Commerce, who stated that not only are many of their members struggling to hold the line on costs to remain in business with the state of the current economy, but they battle over the state line they share with Missouri every day trying to make sure their Kansas businesses are able to remain competitive and additional costs such as this would certainly tip the balance in Missouri's favor. A copy of his testimony is (Attachment 6) attached and incorporated into the Minutes as referenced.

Chairman Wysong then turned the Committee's attention to the eight written proponent testimony in front of them including:

1. Mr. Peter Schrepferman, Post Chairman, Wichita Independent Business Association, Kansas Independent Business Coalition
2. Ms. Ashley Sherard, Vice President, Lenexa Chamber of commerce
3. Mr. Kevin McFarland, President, Kansas Association of Homes & Services for the Aging, Insurance Group
4. Mr. Trinidad Galdean, Attorney, Legislative Director for the Kansas State Council for Human Resources Management and the Wichita Society for Human Resources Management
5. Mr. Phil Perry, Staff Vice President Governmental Affairs, Home Builders Association of Greater Kansas City
6. Mr. Eric Stafford, Director of Government Affairs, Associated General Contractors of Kansas, Inc.
7. Ms. Leslie Kaufman, Executive Director, Kansas Cooperative Council
8. Mr. John Buselt, Director, Safety, Ms. Kay Reigel, Manager, Human Resources and Organization Development, Via Christi Health Center.

Copies of the above written testimonies are (Attachment 7) attached and incorporated into the Minutes as referenced.

Chairman Wysong stated he felt like the Committee is lacking information or real numbers (yesterday they heard 1 - 1 ½%, today they are hearing 12%, 17%, up to 105%) so the Committee cannot make good decisions

CONTINUATION SHEET

Minutes of the Senate Commerce Committee at 8:30 a.m. on March 4 2009, in Room 545-N of the Capitol.

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until they hear the right results and asked for comments from Mr. Hartwick. He then asked for questions or comments from the Committee which came from Senators Lynn, Faust-Goudeau, Wagle, Reitz, and Holland for Mr. Shriver and Mr. Karns including:

- Of the districts that are self-insured, what kind of impact would this be, who picks up the additional costs, and where does it come from?

- Re: Mr. Young's problem (see Minutes of, March 3, 2009) what would you say as opponents to Mr. Young and how can we make sure this does not happen again? And, does Mr. Young have any legal remedies for this situation? A discussion ensued regarding Mr. Young's medical malpractice.

- Re: Kansas Worker Compensation Advisory Board, can you share with the Committee your concerns about coming to a compromise or what your analysis would be in trying to find a resolution?

- What is your implication regarding your example of the person with 10% full body impairment? Do we have any idea how many people are approaching the cap? And, regarding fraud and abuse, how is this being tracked?

As there were no more questions or discussions, Chairman Wysong announced he would like to have someone from both sides, labor and business, to provide real numbers or Ms. Paula Greyhouse could come up with the true numbers and then someone from the business side could substantiate saying that the Committee has one more week open where they could come back and revisit the issue, but to get back to him with the figures because the Committee will not do anything until they have real numbers. He then closed the hearing.

Adjournment

As there was no further business, the Chair adjourned the meeting, The time was 9:30 a.m.

The next meeting is scheduled for March 5, 2009.

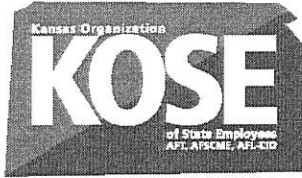
SENATE COMMERCE COMMITTEE

GUEST LIST

DATE: Wednesday, March 4, 2009

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continue
passing*

NAME	REPRESENTING
Wick Jordan	Capital Strategies.
Alex Kotlyantz	P.I.A
LARRY KARNIS	Chamber
Michelle Colonno	Ks Chamber
JEFF GLENNON	"
Just Eckles	KS Chamber
DAN MORGAN	Builders' Assn. & KC Chapter, AGC
Eric Stafford	AG of KS
Natalie Buzler	Buzler Carpenter
Callie Hartle	Ks Assn for Justice
John Ostrowski	KS AFL-CIO
Anthony Hensley	State Senator
John Peterson	Capital Strategies
Dady Sanchez	KS AFL-CIO
Kathleen O'Hea	KSNA
Kevin Farland	KS Homes & Services for Aging
Liz Masbergen-Claw	KASB
David Shriver	KASB
RICHARD TIKMAS	KDOL W C



A New Day... A Better Way... For State Employees

TO: Chairman Wysong and Members of the Senate Commerce Committee

FROM: Jane Carter, Executive Director

DATE: March 3, 2009

RE: Proponent Testimony for SB 258

On behalf of the 11,000 executive branch employees represented by the Kansas Organization of State Employees, I am asking the Committee to support SB 258 without any amendments.

Kansas state employees currently rank 40th in the nation for pay according to the US Census Bureau, and dollar per dollar, employees have the worst benefits according to the Pew Center. Even worse, 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! It is a race to the bottom, and Kansas is first.

For more than two decades, Kansas has not adjusted workers compensation disability benefit. 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.

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."

Regardless of injuries, workers must continue to pay rent, put food on the table, pay for gas and other bills for their family. Injured workers are forced to pay their current-day bills with 1987 dollars! This is an outrageous hardship on hard-working Kansans, especially in today's tough economy. Consumer buying power goes down when wages are low, or when benefits such as these are in effect. The Kansas Legislature must fix this problem and fix it this year by passing SB 258.

KOSE strongly supports this legislation for many reasons. SB 259 maintains benefit levels previously set by the Legislature. Additionally, this bill restores the purchasing power of disability and death benefits to match today's economy and requires the Department of Labor to apply an annual inflationary adjustment to death and disability benefits, taking politics out of the debate. On an economic level, this legislation protects Kansas businesses by maintaining consumer purchasing power and assuring that debts are paid. Even more importantly, this legislation bears no fiscal note to the State, protects Kansans from bankruptcy, and protects taxpayer-funded welfare programs.

KOSE urges the Committee to support SB 258. It is time Kansas is no longer at the bottom for working families. It is time for the Legislature to support employees that make Kansas work, and SB 258 is a step in the right direction..

Senate Commerce Committee
Date: March 4, 2009



DEPARTMENT OF LABOR

Kathleen Sebelius, Governor
Jim Garner, Secretary

www.dol.ks.gov

Testimony in support of 2009 Senate Bill 258
Senate Commerce Committee
Jim Garner, Secretary
Kansas Department of Labor
Tuesday, March 3, 2009

Chairman Wysong and members of the committee:

Danny Manning was playing -- not coaching -- basketball for the Kansas Jayhawks, Ronald Reagan was President of the United States and I was a student in law school at KU. It was 1987. It was also the last time the caps on workers compensation benefits for permanent partial and permanent total disability were adjusted in Kansas. The time for adjusting these caps to preserve the value of these benefits has long passed. That is why I support this legislation.

Kansas is one of only four states in the country that even caps benefits for a person who suffers a permanent total disability on the job -- and regrettably, we have the lowest cap among those four states, with a maximum benefit of \$125,000. Under this current cap, a person who is permanently and totally disabled and who is drawing the maximum weekly benefits amount will exhaust benefits in about four and half years. When the benefits run out, these individuals must look to the public welfare system for assistance, primarily the social security disability program.

The other caps in our state's workers compensation system are also in need of adjustments to keep step with the inflationary impacts of time, such as the \$250,000 benefit cap to provide assistance to surviving family members when a person dies in a work-related accident, the \$100,000 caps on benefits to individuals suffering permanent partial or temporary total disabilities, and the funeral expense benefit cap of \$5,000. It is time to bring these caps back to their original value -- putting today's dollars to those levels. This bill is not about increasing benefit levels, but is about regaining the value of the originally set benefits.

As you consider this legislation, please keep in mind the general condition of Workers Compensation in Kansas. The Workers Compensation market in Kansas remains very stable. According to the National Council of Compensating Insurers, Kansas remains a profitable place for insurers to operate. Moreover, every two years, the state of Oregon produces one of the best comparison reports on workers compensation premium costs amongst the various states. The most recent report was released in October 2008. On a scale of 1 to 51 (with 1 being the highest costs and 51 being the lowest), Kansas ranks 42nd in the nation on premium costs. Kansas' premium rate index is \$1.77 per \$100 of payroll -- well below the national median, which is valued at \$2.26 per \$100 of payroll.

Finally, the proposed changes set out in this bill will not place any additional burden or administrative challenge on the Kansas Department of Labor. It would require a simple adjustment that can be easily accomplished with existing staff and resources within the agency. I encourage the committee to support this needed change in the caps on benefits within the Workers Compensation system.

Thank you for allowing me the opportunity to share this testimony in support of 2009 Senate Bill 258.



UNITED ASSOCIATION
of Journeymen and Apprentices of the
Plumbing and Pipe Fitting Industry of
the United States and Canada

Founded 1889

Letters should
be confined to
one subject

UA Local Union:

Subject:

PLUMBERS & PIPEFITTERS LOCAL UNION #441
1330 EAST FIRST STREET NORTH, SUITE 115
WICHITA, KANSAS 67214-4000
PHONE (316) 265-4291 FAX (316) 265-5731

William P. Hite
General President

Patrick R. Perno
General Secretary-Treasurer

Stephen F. Kelly
Assistant General President

TESTIMONY SB 258
SENATE WAYS AND MEANS COMMITTEE
MARCH 3, 2009

Chairman Emler and members of the committee. My name is Richard Taylor and I represent the Plumbers and Pipefitters for the state of Kansas. I appreciate the opportunity to provide testimony in support of SB 258, which adjusts work comp benefits to reflect the cost of living in 2009.

My members rely on workers compensation benefits to provide them and their family with financial security should they be injured on the job and not able to work. This, of course, is its intent. The major concern with the system currently is simply that the Kansas Legislature has not adjusted disability and death benefit caps for inflation since they were set in 1987. Obviously, the cost of living is substantially higher now in 2009 as compared to 1987.

The biggest majority of my members are married and have families that depend on them for a security. These men and women have learned a skill that enables them to do just that. Our trade is one that requires hands on and if an injury occurs that limits this ability, the work cannot be performed. Unfortunately, if the work stops, so does the income. However, the rent or mortgage, groceries, utility bills, and all the other bills do not stop. If one is trying to pay these bills with 1987 dollars, there is not nearly enough to go around.

The Plumbers and Pipefitters of Kansas encourage you to support SB 258. Please don't let another year go by and further erode the purchasing power of work comp disability benefits.

Richard L. Taylor
Business Manager
Plumbers and Pipefitters Local 441



AARP Kansas
555 S. Kansas Avenue
Suite 201
Topeka, KS 66603

T 1-866-4-3619
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TTY 1-877-434-7598
www.aarp.org/ks

March 2, 2009

The Honorable David Wysong, Chairman
Senate Commerce Committee

Reference – SB 258 Workers Compensation

Good morning Chairman Wysong and Members of the Senate Commerce Committee. My name is Ernest Kutzley and I am the Advocacy Director for AARP Kansas. AARP represents the views of our over 376,000 members in the state of Kansas. Thank you for allowing us to present our written comments in support of SB 258.

Many states reduce or terminate workers' compensation benefits when recipients become eligible for retired-worker benefits under Social Security. Although older workers are less likely than younger workers to be injured on the job, the number of older workers affected by these offset or termination provisions is likely to increase as the workforce ages. In addition many workers may reach retirement age having been unable to work for long periods due to occupational injury or illness, which would have an adverse impact on other retirement income.

Kansas employers enjoy the fourth lowest premiums in the nation and workers compensation benefits are already among the lowest in the nation. Weekly benefits for injured workers are well below the standard recommended by the National Commission on State Workmen's Compensation Laws. We are one of the few states that caps benefits for permanent total disability and our cap is the lowest in the nation.

AARP believes that workers who suffer an occupational injury or illness should be eligible for full workers' compensation, regardless of age or eligibility for retired-worker benefits under Social Security. Legislatures should repeal those portions of state workers' compensation laws that prevent this.

Therefore, AARP supports SB 258 which would adjust the current caps on all benefits contained in the Workers Compensation Act to an amount equal to the Midwest cost of living adjustment. We appreciate the opportunity to provide this testimony and respectfully request your support of SB 258.

Thank you.
Ernest Kutzley



Making public schools great for every child

KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

**Terry Forsyth, Testimony
Senate Commerce Committee
March 3, 2009**

Senate Bill 258

Mister Chairman, members of the committee, thank you for the opportunity to present KNEA's written testimony regarding Senate Bill 258.

We support **SB 258** which would adjust worker compensation disability benefits for inflation. These disability benefits for workers are covered in the Kansas Workers Compensation law. Kansas has not adjusted these benefits since 1987. They must pay their bills in 2009 dollars and yet their benefits are capped in 1987 dollars. Twenty-two years of inflation have seriously eroded an injured worker's ability to survive in today's world. Kansas workers still must pay rent or a mortgage, buy gas and groceries and pay all the bills they incurred before they were injured. Kansas businesses need for them to stay current with their financial obligations. Businesses are affected when consumer purchasing power is diminished. This is an absolutely unnecessary hardship on Kansas workers and Kansas businesses.

SB 258 would maintain benefit levels previously set by the Legislature and would restore the disability and death benefits to match today's economy. **SB 258** has no fiscal note for the state of Kansas. It protects Kansas by protecting taxpayer-funded social service programs. It protects Kansans from bankruptcy.

We also know that inflation hits hardest those whose benefits are defined in fixed dollars and which have not been adjusted over time. Working Kansans who depend on benefits that have been capped under the Kansas Workers Compensation provisions are an example of this hardest hit group.

We know that Kansas is one of only five states in the country that caps benefits for workers who are permanently and totally disabled and the Kansas cap is the lowest. We believe that it is inappropriate for Kansas – one of the first states in the nation to have worker compensation laws – to be at the bottom of the list.

We would urge your support of **SB 258**.

Legislative Testimony

SB 258

March 3, 2009

Senate Commerce Committee

**Larry Karns, Kansas Chamber of Commerce Appointee to
Kansas Workers Compensation Advisory Council**

Chairman Wysong, members of the Committee:

We appreciate the opportunity to provide testimony in opposition to HB 258. My name is Larry Karns. I am an attorney in Topeka, Kansas, with the law firm of Glenn, Cornish, Hanson & Karns. My practice primarily involves defending workers compensation claims for employers across the state. I am here on behalf of the Kansas Chamber of Commerce, representing the Kansas business community.

The Kansas Chamber opposes SB 258 because businesses struggling to survive in this economy cannot sustain increasing workers compensation costs. In order to better support employees we must first protect the businesses that employ them and pay their claims.

In Kansas, employers generally insure coverage for workers compensation claims by purchasing insurance in one form or another, or if financially secure, by being approved by the State of Kansas as a self-insured employer. Many of the State's employers and governmental units are self-insured.

Workers compensation is a system of compensation developed a century ago to provide medical care and wage replacement for employees hurt on the job. It was part of early social legislation to address the shift from a rural to an urban and industrial employment base. When first enacted, other benefits and social programs such as employee health insurance, social security, and unemployment compensation were not available to employees as they are today.

Some argue that workers compensation benefits in Kansas have not been raised for over 20 years. While it is true that the benefit caps, except for the cap on wrongful death, have not changed, the benefits awarded to injured employees and their costs to employers, in fact, have changed.

As an example, on July 1, 1987, an employee suffering a back injury with a 10% whole body impairment earning sufficient wages for the maximum workers compensation rate, would receive compensation as follows: 415 weeks (the statutory number of weeks available) x 10% impairment rating = 41.5 weeks of benefits x \$256 the maximum benefit per week for a total of \$10,624.00 awarded to the employee.



835 SW Topeka Blvd. **Topeka, KS** 66612 785.357.6321

Senate Commerce Committee

Date: March 4, 2009

Attachment 2



As of July 1, 2008, as the maximum weekly benefits payable have automatically been adjusted each year, for the same injury the employee would currently be awarded 41.5 weeks x \$529 the current maximum weekly benefit for a total of \$21,953.50. The amount awarded for the same injury has increased by over 100%. It has more than doubled since 1987.

Additionally, the costs of associated medical expenses have increased even more dramatically. In fact, workers compensation insurance carriers cite rising medical costs as the primary reason behind routine rate increases that businesses are already absorbing. Proponents of SB 258 have claimed that the cap adjustment will not impact premium price, but the Kansas Insurance Department states that increased caps will result in increased premiums.

But Kansas businesses cannot absorb additional costs and maintain viability in this economy.

The Kansas Chamber does not support increasing the cost of doing business in Kansas, forcing more employers out of business and more individuals into unemployment. This is a complex and emotional issue but the fact remains that the weekly workers compensation rate has increased from \$256 in 1987 to \$529 in 2008 – a more than 100% increase. Raising caps in addition to the already increased weekly wage is untenable.

SB 258 will result in more business closing, less revenue for the state and more individuals filing for unemployment. The Kansas Chamber urges you to oppose this bill.

Thank you for the opportunity to offer these comments today and I am happy to stand for questions.

The Kansas Chamber, with headquarters in Topeka, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to do business. The Chamber represents small, medium and large employers all across Kansas.



Senate Commerce Committee
Daniel S. Murray: State Director, NFIB-Kansas
Testimony in Opposition to SB258
March 3, 2009

Mr. Chair, Members of the Committee: My name is Dan Murray and I am the State Director of the National Federation of Independent Business-Kansas. NFIB-KS is the leading small business association representing small and independent businesses. A nonprofit, nonpartisan organization founded in 1943, NFIB-KS represents the consensus views of its 4,000 members in Kansas. Thank you for the opportunity to comment on SB258

NFIB-KS supports reforms that keep worker's compensation insurance rates affordable while providing fair coverage to our injured employees. However, SB258 represents a drastic increase in the current permanent total and permanent partial disability caps—over twice their current level. A recent study by the National Council on Compensation Insurance (NCCI) on a similar workers' compensation bill indicated that costs could have increased by 10% to 14%.

An increase in costs of this magnitude would significantly impact Kansas' small business owners. Such increases in operating costs mean small businesses have less money to invest in their business; reduced employee benefits, such as health insurance; shrinking payrolls; and higher prices for their customers. Higher workers' comp costs hurt small businesses, and that hurts the economy. In this current recession, most businesses are already struggling with reduced sales, poor financial markets, etc. The last thing small and independent businesses need right now is a drastic increase in workers compensation rates.

Further, SB258 authorizes the Secretary of Labor to adjust the caps based on the CPI and prospectively increase caps based on the Midwest cost of living adjustment. This attachment to an arbitrary cost of living escalator removes any legislative oversight or ability of employers or employees to react to current economic conditions, whatever they may be. Putting anything on automatic pilot reduces transparency for small business owners. This current economic climate is the worst time to be removing public input and accountability and legislative oversight concerning such a critical cost center for the state's smallest employers. It guarantees a never-ending path to higher and higher costs with no input from those of us who pay the bill.

Kansas' small businesses with fewer than 20 employees collectively employ nearly 218,000 people. Please do not threaten these jobs with an uncertain and drastic increase in their cost center. When contemplating SB258, we urge you to consider the impact on small business. Thank you for the opportunity to comment.

Senate Commerce Committee
Date: March 4, 2009

Attachment 3



816 SW Tyler, Suite 100
Topeka, Kansas 66612

(785) 234-0461
Fax (785) 234-2930
www.KansasAg.org

Kansas Grain & Feed Association Kansas Agribusiness Retailers Association

Testimony to the Senate Commerce Committee Opposition to SB 258

Chairman Wysong and Members of the Senate Commerce Committee:

I am Ron Seeber, Vice President, Government Affairs for the Kansas Grain and Feed Association and the Kansas Agribusiness Retailers Association. The KGFA is a voluntary state association with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. KGFA's membership includes over 950 Kansas business locations and represents 99% of the commercially licensed grain storage in the state. KARA's membership includes over 700 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry.

Our associations stand in strong opposition to SB 258. Between 2001 and 2004, agribusiness saw work comp increases ranging from 17% to 105%. In the past few years, some rates have dropped slightly, while others have continued to climb.

SB 258 would increase workers compensation caps considerably. It is my understanding that NCCI has not yet given an official cost estimate to this bill, but a similar piece of legislation recently received an estimated increase from NCCI of approximately 12%. It would impose an increase to the caps equal to the Midwest cost of living adjustment, and it would impose such an increase retroactively for each year since the cap was last adjusted. The exact amount of the increase is not yet determined, but estimates are that caps for permanent total disability and permanent partial disability would more than double.

As the Chairman has eloquently expressed his concerns we are in a deep recession – or I recall he has referred to our circumstance as a depression. It is simply reckless to put yet another financial burden on businesses during this time of economic instability.

Mr. Chairman and Members of the Committee, I urge you on behalf of the members of KGFA and KARA and every small business struggling to provide workers compensation insurance to defeat this proposal.

Senate Commerce Committee

Date: March 4, 2009

Attachment 4

**KANSAS
ASSOCIATION**



**OF
SCHOOL
BOARDS**

**1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600**

Testimony on **SB 258**
before the
SENATE COMMERCE COMMITTEE
by

David G. Shriver, Attorney
Director of Insurance Services
Kansas Association of School Boards

March 3, 2009

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to appear today on Senate Bill 258, which establishes a method by which the secretary of labor would adjust the amount of benefits, or caps, available for death of a worker in a workers compensation matter, and for disability payments.

The Kansas Association of School Boards Workers Compensation Fund opposes this legislation. All 295 school districts in Kansas belong to KASB, and 79 school entities purchase workers compensation insurance through the KASB Workers Compensation Fund. Our policies have a policy year beginning July 1 to coincide with the fiscal year of all school districts. One objection to the proposed legislation is the timing of the adjustments being effective on July 1. There would be no way for our underwriting procedure to anticipate potential increases in the caps in sufficient amounts to reflect those changes in premiums charged.

Additionally, the Kasb Workers Compensation Fund believes the current procedure for review of workers compensation issues by the workers compensation advisory committee with recommendations made to the legislature allows for a more thorough procedure for adjustment of caps than does a fixed reference based on the Midwest consumer price index.

The KASB Workers Compensation Fund acknowledges that the benefits provided to injured workers is lower than many states in the region, but a proposal of adjusting benefits at one time in excess of 100% for one of the categories is extreme. Our clients

Senate Commerce Committee

Date: March 4, 2009

Attachment 5

are school districts which already are facing budget deficits with the potential of offering fewer services to Kansas students. Such a benefit increase would necessitate additional adjustments by school boards at a time when funds are not available.

The KASB Workers Compensation Fund urges a negative vote for SB 258.

I appreciate the opportunity to offer this testimony, and am willing to stand for questions.



Testimony in Opposition to Senate Bill 258

Submitted by Dave Holtwick
On behalf of the Overland Park Chamber of Commerce

Senate Commerce Committee
Tuesday, March 3rd, 2009

Chairman Wysong and Committee Members:

My name is Dave Holtwick and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. I am appearing today on behalf of our board of directors and our nearly 900 member companies. I appreciate the opportunity to appear before you today to share testimony in opposition of Senate Bill 258.

This legislation would require the Department of Labor to adjust the current caps on all benefits contained in the Workers Compensation Act to an amount equal to the Midwest cost of living adjustment retroactive to the last date that each cap was established. According to estimates based on similar programs, this would cause an increase in Workers Compensation Insurance premiums of approximately 12%.

Many of our members are struggling to hold the line on costs just to remain in business with the state of the current economy. Additionally, we battle over the state line we share with Missouri every day trying to make certain our Kansas businesses are able to remain competitive and additional costs such as this would be would certainly tip the balance in Missouri's favor.

Now is not the time to raise costs on Kansas businesses that are doing all they can to maintain the work force through these very difficult times. I encourage you to oppose Senate Bill 258 to help give Kansas businesses a fighting chance.

Thank you very much for your time today.

Senate Commerce Committee
Date: March 4, 2009

Attachment 6

9001 W. 110th Street • Suite 150
Overland Park, KS 66210
t: 913.491.3600 • w: opks.org



Wichita Independent Business Association

THE VOICE OF INDEPENDENT BUSINESS

**Kansas Senate Commerce Committee
Written testimony in opposition of:
Senate Bill 258**

**By:
Pete Schrepferman, Past Chairman
Wichita Independent Business Association
Kansas Independent Business Coalition
445 N Waco, Wichita, KS 67202
Phone 316 267 8987 – Fax 316 267 8964**

Chairman Wysong and Honorable Committee members:

Thank you for the opportunity to provide comments in opposition to SB 258, which proposes to require the KS Department of Labor (KDOL) to adjust the current caps on all benefits contained in the Workers Compensation Act to an amount equal to the Midwest cost of living adjustment. My name is Pete Schrepferman and I am the chair of the Governmental Affairs committee for WIBA/KIBC and am the owner of Johnstone Supply, an air conditioning and refrigeration distributor located in Wichita.

WIBIA opposes the changes set out in SB 258 because it stands to increase workers compensation caps significantly. If passed, it would impose an increase to the caps "equal to the Midwest cost of living adjustment," and would impose such an increase retroactively for each year since the cap was last adjusted. Though the exact amount of the increase is not yet determined, estimates are that caps for permanent total disability and permanent partial disability would more than double and NCCI priced a similar piece of legislation recently received an estimated increase from NCCI of approximately 12%.

In a time in which businesses are struggling in Kansas, especially the south-central Kansas and Wichita area, any increase in business costs would be counterproductive. These increased costs are significant and would put the Kansas employer at a disadvantage in these tough economic times. Thank you for your consideration of this issue and we ask this committee to hold the line on business costs during the 2009 Legislative Session. Please feel free to contact me with any questions.

Senate Commerce Committee
Date: March 4, 2009

Attachment 1



The Historic Lackman-Thompson Estate

11180 Lackman Road

Lenexa, KS 66219-1236

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Fax 913.888.3770

www.lenexa.org

TO: Sen. David Wysong, Chair
Sen. Julia Lynn, Vice-Chair
Members, Senate Commerce Committee

FROM: Ashley Sherard, Vice-President
Lenexa Chamber of Commerce

DATE: March 3, 2009

RE: SB 258 -- Workers Compensation Benefit Increases

The Lenexa Chamber of Commerce would like to express its strong opposition to SB 258, a bill that would significantly increase workers compensation benefit caps.

Increasing caps as proposed in SB 258 would have serious consequences. Estimates are that some benefit caps under the bill would more than double, and NCCI has projected a similar piece of legislation would increase costs approximately 12%. Employers would face significant increases in claim costs under SB 258, leading to increases in their experience rating and increases in their premiums.

With the nationwide economy in trouble and many businesses struggling just to remain viable, now is not the time to increase business costs. Adding more financial burden now, particularly among the economically hardest hit industries such as construction and manufacturing, may be a decisive factor in a business's future. There is no doubt SB 258 would discourage and impede business recovery that is key to providing jobs to workers and producing economic growth.

For these reasons, the Lenexa Chamber of Commerce strongly urges the committee not to recommend SB 258 favorable for passage. Thank you for your time and attention to this critical business issue.

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Date: March 3, 2009
To: Senator David Wysong, Chair
Members of the Senate Commerce Committee
From: Kevin D. McFarland, President
Kansas Association of Homes and Services for the Aging Insurance Group
Re: Oppose SB 258

Thank you Senator Wysong and members of the Senate Commerce Committee for the opportunity to submit testimony regarding Senate Bill 258.

The Kansas Association of Homes and Services for the Aging Insurance Group (KING) is a group-funded workers compensation pool for members of the Kansas Association of Homes and Services for the Aging (KAHSA). KING provides workers compensation coverage and loss control services for over 60 non-profit nursing homes and retirement communities in the state. KING has been in operation for 19 years.

We oppose Senate Bill 258 and urge the committee to vote against its passage.

Health care costs continue to rise for consumers and the state & federal government. Medicaid pays for approximately 56% of Kansas nursing home residents. Medicare pays an additional 9%.

If enacted, Senate Bill 258 will increase the cost of workers compensation to all employers, including nursing homes. This increase in cost will in turn raise the cost of Medicaid and private pay residents.

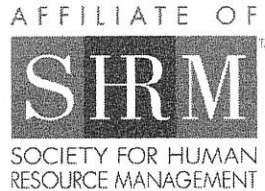
During these difficult economic times and scarce resources, measures that increase the cost to our state and federal budget and private paying citizens will have a negative impact on employers and employees alike. If increased costs to nursing homes are not reimbursed, they will be forced to cut employee benefits or staff. Increasing Medicaid costs increases costs to the state and federal budget. If costs to private pay residents are increased, they will spend down their own resources quicker and will go on Medicaid faster.

Thank you, Mr. Chairman and members of the committee for your consideration of this matter.

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7-3



Written Testimony in Opposition of Senate Bill No. 258

**By Trinidad Galdean, JD, PHR
Kansas Society for Human Resource Management – State Council
Wichita Society for Human Resource Management**

**Kutak Rock LLP
1605 N. Waterfront Parkway, Suite 150, Wichita, Kansas 67206
Phone (316) 609-7900 – Fax (316) 630-8021**

Committee Chairman and Committee Members:

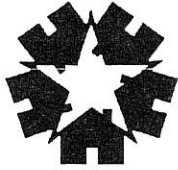
Thank you for the opportunity to present to you written testimony in opposition of SB 258, which proposes to require the Kansas Department of Labor (KDOL) to adjust the current caps on all benefits contained in the Workers Compensation Act to an amount equal to the Midwest cost of living.

My name is Trinidad Galdean and I am an employment attorney with Kutak Rock LLP. I am appearing as the Legislative Director for the Kansas State Council of the Society for Human Resource Management (KS-SHRM) and the Wichita Society for Human Resource Management (Wichita SHRM). KS-SHRM serves over 2000+ human resource professionals in the state of Kansas.

KS-SHRM and Wichita SHRM oppose the changes set out in SB 258 because it stands to increase workers compensation caps significantly. If passed, it would impose an increase to the caps “equal to the Midwest cost of living adjustment,” and would impose such an increase retroactively for each year since the cap was last adjusted. Additionally, as proposed, SB 258 fails to adequately research the comprehensive economic impact of such adjustment. Considering the increased costs associated with the increase in the caps, such would put the Kansas employer at a disadvantage during these economically difficult times.

In conclusion, the members of KS-SHRM and Wichita SHRM appreciate the efforts of the Kansas Legislature in addressing the issues presented before all employers in the State of Kansas. We respectfully request that you oppose SB 258.

Thank you, Mr. Chairman and Committee Members for your consideration of this matter.



**HOME BUILDERS ASSOCIATION
OF GREATER KANSAS CITY**



600 EAST 103RD STREET • KANSAS CITY, MISSOURI 64131-4300 • (816) 942-8800 • FAX (816) 942-8367 • www.kchba.org

**Written Testimony on SB 258
Senate Commerce Committee
Phil Perry, Staff VP Governmental Affairs
March 3, 2009**

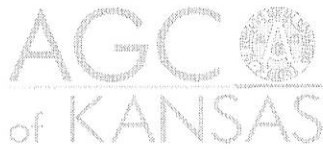
Mr. Chairman and members of the committee, thank you for the opportunity to provide written testimony on SB 258. The Home Builders Association of Greater Kansas City represents over 850 small businesses in the Greater KC area. Our association opposes this bill as our members are struggling to survive in this unprecedented market downturn and cannot afford rising workers compensation costs.

A number of our members are self-insured and the increases created by this bill would force them to acquire insurance from one of the carriers in the State of Kansas. This increase in worker's compensation insurance coverage, coupled with rising health insurance, would possibly be enough to force them out of business. While we realize that there have been no increases in benefit caps since 1987, the benefits that have been awarded to their employees have increased. The construction industry carries one of the highest ratings in the State and their carriers assure them that increased caps will result in increased premiums.

Senate Bill 258 will add another unneeded burden on a struggling industry and we ask you to reject this proposed change. Thank you for your time.

Do Business With A Member

7.5



Building a Better Kansas Since 1934
200 SW 33rd St. Topeka, KS 66611 785-266-4015

**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE SENATE COMMITTEE ON COMMERCE**

SB 258

March 4, 2009

By Eric Stafford, Associated General Contractors of Kansas, Inc.

Mister Chairman and members of the committee, my name is Eric Stafford. I am the Director of Government Affairs for the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

The AGC of Kansas opposes Senate Bill 258 and asks that you do not recommend it favorably for passage.

AGC has submitted testimony in other committees on how hard the current economic downturn has impacted the construction industry. Unemployment in the construction industry has topped 18% nationwide.

Others have cited data from the National Council on Compensation Insurance (NCCI) that SB 258 would result in an estimated increase of 12% in work comp costs for employers. To put this in perspective of a medium-sized general contractor, depending on their safety rating, a 12% increase in rates would result in an additional cost of \$6,000-\$8,000 (before CPI increases) per year.

As the market gets more competitive and construction backlogs disappear in these hard times, any substantial increase in costs would greatly impact the sustainability of construction companies in Kansas.

Again, the AGC of Kansas respectfully requests that you do no recommend SB 258 favorably for passage. Thank you for your consideration.



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Senate Commerce Committee

March 3, 2009
Topeka, Kansas

SB 258 - adjusting caps on worker compensation benefits.

Chairman Wysong and members of the Senate Commerce Committee, thank you for the opportunity to comment in opposition to SB 258. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director. The Kansas Cooperative Council (KCC) represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives.

Our various members take safety issues very seriously. Particularly among our utility and agribusiness members, safety training is an important operational activity. Still, our agribusiness sector has experienced a significant increase in workers compensation since 2001. Increases across the entire agribusiness sector, cooperatives and independents, have ranged from 17-105 percent.

As you know the bill before you now seeks to link workers comp benefit increases to the Midwest cost of living adjustment. Is a regional index the most accurate reflection of how the Kansas economy has performed? Additionally, SB 258 attempts to "retroactively correct" current caps based upon the consumer price index for urban wage earners and clerical workers. As an association with membership roots tied to rural areas, we are not convinced that relying on an urban wage earner standard is the most accurate calculation to be using.

The bill proposes no phase-in. No steady climb toward an updated amount. The new amounts hit all at once. Do we know how this will impact the fund and work comp rates when this leap is imposed?

Obviously, we have questions regarding the implementation of this bill, but we also have concerns with the underlying tenor of the proposal. As such, we respectfully request the committee not advance this measure at this time. Thank you.

The Mission of the Kansas Cooperative Council is to promote, support and advance the interests and understanding of agricultural, utility, credit and consumer cooperatives and their members through legislation and regulatory efforts, education and public relations.



Via Christi
Health System

3720 E. Bayley
Wichita, KS 67218

Tel 316-858-4900
Fax 316-858-4185

Date: March 3, 2009

To: Senator David Wysong, Chair
Members of the Senate Commerce Committee

From: John P. Buselt, Director, Safety
Kay Riegel, Manager, Human Resources and Organizational Development
Via Christi Health System

Re: Oppose SB 258

Chairman Wysong and Members of the Committee:

We thank you, Senator Wysong and members of the Senate Commerce Committee, for the opportunity to submit written testimony regarding Senate Bill 258.

Kay Riegel and I represent Via Christi Health System, the largest private provider of health care and related services in the State of Kansas. We employ over 9,000 Kansans representing many aspects of health care, including acute care, senior care, diagnostic imaging, insurance services and many others. Our greatest employee concentration is in Wichita (over 6,500 employees), but we also have acute care hospitals and senior care facilities in Manhattan (950 employees) and Pittsburg, Kansas (900 employees) and additional senior care facilities in Hays and Victoria, Kansas (210 employees).

We strongly oppose Senate Bill 258 and urge the committee to vote against its passage. As you know, access to health care services and rising health care costs are challenges for many Kansans. In FY 2008, Via Christi Health System provided \$73 million in benefit to the communities we serve. This includes more than \$35 million in charity care and more than \$20 million in unpaid costs of Medicaid services provided. We see the impact of laid-off employees in Wichita and the overall economic conditions through higher uncollectible debt and an increasing emphasis on internal cost containment. The economic downturn is real to those who use our Emergency Room and other services without adequate health care coverage.

If enacted, Senate Bill 258 will increase the cost of Workers Compensation to all Kansas employers at a time when many Kansas employers are already reducing costs through headcount reductions or other forms of cost containment.

Such a drastic change as what is proposed in Senate Bill 258 lends itself to a comprehensive cost study by the National Council on Compensation Insurance (NCCI) before any further consideration is undertaken.

Simply stated, the time is not right to advance Senate Bill 258 any further and we strongly urge you and the Senate Commerce Committee members to oppose any further consideration of this bill.

Thank you, Mr. Chairman and members of the committee for your consideration of this matter.