



**Written Testimony in Opposition to Senate Bill 361**  
**Mr. Daniel Murray**  
**Kansas State Director, National Federation of Independent Business**

**Senate Committee on Commerce**  
**March 8, 2022**

Chairwoman and members of the committee, **I am pleased to submit written testimony on behalf of NFIB Kansas in strong opposition to SB361.** NFIB Kansas is the leading small business organization in Kansas representing small and independent businesses. A non-profit, nonpartisan organization founded in 1943, NFIB Kansas represents the consensus views of its nearly 4,000 members in Kansas.

NFIB Kansas opposes SB361 because it would dramatically increase the cost of workers compensation premiums for our state's vulnerable small businesses. The bill would eliminate the \$155,000 cap on permanent total disability (PTD) in the Workers Compensation Act. Further, it would allow an injured worker who is determined to be permanently totally disabled to receive weekly benefits at the rate of the employee's average weekly wage in effect on the date of the injury from settlement for life, or the duration of the disability.

The changes proposed in SB361 would increase costs to businesses not only because their work comp coverage will pay higher payouts because there is no cap on PTD, but also because the bill will require full payment of the employee's average weekly wage instead of two-thirds of the wage. The National Council on Compensation (NCCI) estimates that if the PTD benefit cap is eliminated, the impact on those claim costs would increase by approximately 210%. NCCI's projected fiscal impact would be a \$14 million increase in premiums for both public and private employers. This does not include self-insured work comp plans, which would add another \$4 million in premium increases. Additionally, the fiscal note states the Department of Administration estimates that enactment of SB 361 could result in additional expenditures of approximately \$10.8 million annually beginning in FY 2023 for workers compensation benefits paid to state employees through the State Self Insurance Fund.

Further, as we are starting to see in the business liability market following the *Hilburn* decision which tossed out the caps on noneconomic damages, SB361 will lead to increased PTD cases as work comp trial attorneys will have the incentive to not settle their claim, driving up legal costs and possibly leading to higher judgements. As an offshoot, too, settlement amounts will certainly increase as businesses seek to avoid costly legal battles and fear of runaway judgements.

Thank you for the opportunity to provide comments today and we urge you to oppose SB361.