

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:30 A.M. on February 7, 2006, in Room 123-S of the Capitol.

All members were present,

Dwayne Umbarger arrived, 9:40 a.m.

Les Donovan arrived, 9:43 a.m.

David Haley arrived, 9:50 a.m.

Committee staff present:

Mike Heim, Kansas Legislative Research Department

Helen Pedigo, Office of Revisor of Statutes

Karen Clowers, Committee Secretary

Conferees appearing before the committee:

Mark Rondeau, Counsel, Sunflower Electric Corporation

Charles Benjamin, Sierra Club

Clinton McLaughlin, P.E.

Charles L. Wheelen, Kansas Association of Osteopathic Medicine

Lew Ebert, President and CEO, The Kansas Chamber

Anne Kindling, Kansas Association of Defense Counsel

John Campbell, Kansas Insurance Department

Bryan Smith, Kansas Trial Lawyers Association

Terese Gretencord

Zackery E. Reynolds, Kansas Bar Association

Lillian Spencer, Executive Director, MADD

George Lippencott, AARP

Others attending:

See attached list.

The Chairman indicated that he divided the Committee into three Sub-committees and assigned five bills to each sub-committee. A list was provided to Committee members. He requested that the Sub-committees have their reports in to the Chairman by Thursday, February 16, 2006, so that the Committee may take action on the reports.

The hearing on **SB 361-Kansas air quality act, appeal agency action to court of appeals** was opened.

Mark Rondeau spoke in support stating its' purpose is only to expedite the appeal process for permits issued under the Clean Air Act (Attachment 1). It is his opinion that the appeal process at the district court level is an unnecessary step in the process.

Charles Benjamin spoke in opposition of the bill indicating concern over increased emissions from coal-fired electric plants on the environment, especially mercury (Attachment 2). He also voiced concern regarding elimination of judicial review at the district level which appears to prohibit appeals from Kansas Court of Appeals on air permit decisions from being heard by the Kansas Supreme Court.

Chilton McLaughlin appeared in opposition to **SB 361** stating concern that the bill will limit the access of citizens to one level of jurisdiction in the courts (Attachment 3). As an environmental engineer he is concerned about the amount of toxins emitted by power plants and the rights of Kansas to participate in the appeal process.

Written testimony in opposition of **SB 361** was submitted by:

Robert V. Eye, Attorney, Irogonegaray & Associates, (Attachment 4)

There being no further conferees, the hearing on **SB 361** was closed.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on February 7, 2006, in Room 123-S of the Capitol.

The hearing on **SB 335--Evidence of collateral source benefits allowed in personal injury cases where damages requested** was opened.

Charles Wheelen appeared in support of the bill and proposed two amendments (Attachment 5). The first amendment would remove the sunset date from Section 5. The second proposed amendment would correct a possible flaw in the bill regarding petitions filed after effective date, even if the injury occurred before the effective date.

Lew Ebert spoke in support of **SB 335** which would allow evidence of collateral sources of payments to be admitted into evidence (Attachment 6). It is his opinion that plaintiffs receive compensation twice, once from the insurance company and again at trial.

Anne Kindling spoke in support indicating it is the opinion of the Kansas Association of Defense Counsel that some plaintiffs are overcompensated for their losses (Attachment 7). Abolishing the collateral source rule will allow the jury to hear both sides of the equation, benefits received as well as the costs incurred in obtaining those benefits.

John Campbell appeared in support of the bill and requested removal of the sunset date in Section 5. He feels that removal would have a positive impact on insurance premiums in Kansas (Attachment 8).

Bryan Smith spoke in opposition because the Kansas Trial Lawyers believe it will eliminate protection for Kansans by shifting accountability from the offender to the victim (Attachment 9). He feels that elimination of the collateral source rule would penalize individuals who purchase insurance.

Teresa Gretencord appeared in opposition by stating her belief that people should be held accountable for their actions and that **SB 335** works against that concept (Attachment 10).

Zackery Reynolds opposed **SB 335** because he believes it will encourage irresponsible behavior and would cause fewer cases to settle (Attachment 11).

Lillian Spencer appeared in opposition stating the **SB 335** will allow drunk drivers and other offenders to use the injured victim's health insurance benefits to reduce their responsibility to pay compensation (Attachment 12).

George Lippencott spoke in opposition (Attachment 13). The AARP believes defendants should not benefit by the victim's insurance.

Written testimony in support of **SB 335** was submitted by:

Jerry Slaughter, Executive Director, Kansas Medical Society (Attachment 14)

Chad Austin, Vice President Government Relations, Kansas Hospital Association (Attachment 15)

Written testimony in opposition of **SB 335** was submitted by:

Many Ann Khoury, DUI Victim Center of Kansas (Attachment 16)

Wil Leiker, Executive Vice President, Kansas AFL-CIO (Attachment 17)

There being no further conferees, the Chairman closed the hearing on **SB 335**.

Final action on **SB 408** continued. The Chairman distributed a balloon amendment that reflected the amendments adopted by the committee on February 6 (Attachment 18).

Senator Schmidt distributed a proposed amendment inserting a new Section 1 regarding reimbursement to counties by the Department of Corrections for offenders convicted of animal cruelty (Attachment 19).

Senator Schmidt moved, Senator Umbarger seconded, to adopt the proposed amendment. Motion carried.

The meeting adjourned 10:32 a.m. The next scheduled meeting is February 8, 2006.