

M I N U T E S

SPECIAL COMMITTEE ON LABOR AND INDUSTRY

July 20 and 21, 1977

Members Present

Representative Eugene Gastl, Chairman  
Senator John Vermillion, Vice-Chairman  
Senator Paul Feleciano, Jr.  
Senator Bill Morris  
Senator Don Allegrucci  
Representative Samuel Sifers  
Representative Lynn Whiteside  
Representative Denny Burgess  
Representative Darrell Webb  
Representative John Sutter

Staff Present

Mike Heim, Kansas Legislative Research Department  
Sherman Parks, Revisor of Statutes Office  
Ramon Powers, Kansas Legislative Research Department

Conferees and Others Present

Dick Smelser, Division of Workers' Compensation, Department of Human Resources  
Bryce Moore, Director, Division of Workers' Compensation, Department of  
Human Resources  
Tim Brazil, Kansas Insurance Department  
William Sneed, Kansas Insurance Department  
Don Ramsey, Kansas Association of Commerce and Industry  
Jack Pearson, Kansas Association of Commerce and Industry  
Mark L. Bennett, American Insurance Association  
Homer Cowan, Jr., The Western Insurance Company  
Leslie Thompson, U.S. Department of Labor  
Rob Hodges, Kansas Association of Commerce and Industry  
Charles D. Lewis, United Telephone of Kansas  
Hamp Fairleigh, Department of Human Resources  
Dr. James McCain, Secretary of the Department of Human Resources  
Virgil Huseman, Kansas Livestock Association  
John K. Blythe, Kansas Farm Bureau  
Jack Doyle, American Insurance Alliance  
Bud Cornish, Kansas Insurance Association  
James Ketcherside, Farmers Alliance Mutual Insurance Company  
David Brasher, National Federation of Independent Businesses  
James Johnston, Wichita Attorney  
Lee Kinch, Kansas Trial Lawyers Association  
Jeff Wampler, Kansas Farm Bureau  
Carol McDowell, Kansas Trial Lawyers Association  
Donald Lee, Alliance Insurance Company  
Bill Abbott, Boeing Company  
Jim Yount, Kansas State Federation of Labor, AFL-CIO  
Wilber Ringler, Kansas State University Cooperative  
Extension Service  
George McCullough, Kansas State Federation of Labor, AFL-CIO  
Patrick Brazil, Kansas Department of Human Resources  
Ernie Maxwell, Kansas Department of Human Resources

Conferees and Others Present (continued)

Lyle Phillips, Kansas Department of Human Resources  
Vickie Robben, Kansas Department of Human Resources  
Bill Clawson, Kansas Department of Human Resources  
George Medlock, Veterans Employment Representative, Kansas Department  
of Human Resources  
Pat Casey, Kansas Department of Human Resources  
John White, Kansas Department of Human Resources  
Clif Mudge, Kansas Department of Human Resources  
Ed Fallon, Employment Security Advisory Council  
Roy Gooden, Employment Security Advisory Council  
Allan Dollen, Employment Security Advisory Council  
Carl Nordstrom, Employment Security Advisory Council  
John Harrelson, Employment Security Advisory Council  
Dan McClenny, Employment Security Advisory Council  
Honorable Frank Carlson, Employment Security Advisory Council  
Dean Joe Pichler, Employment Security Advisory Council  
Dr. Marvin Wilson, Employment Security Advisory Council  
Mrs. Virginia Visser, Employment Security Advisory Council

Proposal No. 45 - Worker's Compensation

July 20, 1977

The meeting was called to order at 10:00 a.m. by Representative Eugene Gastl, chairperson.

Mr. Mark Bennett of the American Insurance Association said that Kansas should comply with the 19 essential recommendations of the President's National Commission on States' Workmen's Compensation Laws. A copy of his statement is attached (Attachment I). Mr. Bennett indicated that he would like the opportunity to appear at a later time if the Committee decided to discuss the issue of a state workmen's compensation insurance fund. In response to a question, Mr. Bennett said that he was not sure whether insurance companies kept information regarding workmen's compensation insurance profits and losses by state. Mr. Dick Smelser, Division of Workers' Compensation of the Department of Human Resources, said that he thought this information was available in the annual statement filed by insurance companies with the State Insurance Department.

Mr. Bud Cornish of the American Insurance Alliance introduced Mr. Jack Doyle, senior legislative analyst for the Alliance. Mr. Doyle said the Alliance represents more than 100 different insurance companies. He said Kansas compares pretty well with the other states in terms of compliance with the 19 essential recommendations. Mr. Doyle noted that the Alliance supports compliance with the 19 essential recommendations but recognizes there may be some problems with providing coverage for all farm workers. Mr. Doyle said organized labor on the national level believes that it can now persuade Congress to pass legislation mandating state workmen's compensation standards. He said that organized labor at the moment, however, is more concerned with common site picketing legislation and national health insurance legislation. He suggested Kansas consider amending its insurance laws to allow domestic and casual workers to be covered by household liability insurance. Mr. Doyle agreed to provide the Committee with information showing workmen's compensation insurance profit and loss figures for the past three years.

Mr. Virgil Huseman of the Kansas Livestock Association said that his Association was opposed to any attempt to include agriculture under the provisions of the State Workmen's Compensation Law. He also said his association opposed increasing the maximum benefit above the present \$50,000 limit. A copy of Mr. Huseman's statement is attached (Attachment II).

Mrs. Mary Wiersma of the Kansas Farm Bureau noted her organization opposed workmen's compensation coverage for farm workers. A copy of her statement, which includes a listing of other states' provisions regarding worker's compensation is attached (Attachment III). Senator Feleciano asked Mrs. Wiersma to provide him a copy of the publication entitled Farm Safety Review. Mrs. Wiersma noted there is a problem in differentiating who constitutes an employee in farm operations since it often involves relatives or friends helping out without pay. It is also difficult to differentiate farms in terms of their status as corporations.

Afternoon Session

The Committee was called to order at 1:15 p.m. by Representative Gastl, chairperson.

Mr. Lee Kinch of the Kansas Trial Lawyers Association said statistics indicate farm work is as hazardous as construction work and, for this reason, his association favors some type of coverage of farm workers. He suggested the Committee consider exempting farms with less than five employees. Mr. Kinch said that Kansas law did not comply with the National Commission recommendation in regard to occupational disease and that an amendment was needed to clarify this provision. He said the provision of Kansas law which requires that an injury be a result of an accident leads injured workmen to prevaricate especially in back injury cases. Mr. Kinch suggested the law be changed in regard to heart cases to provide benefits if it can be proved there was more than normal exertion at work than in non-employment life. He said the law should be changed to eliminate the \$50,000 benefit maximum or the two-thirds of the state's average weekly wage maximum or both. He also said that the time limit for filing a claim should be extended to three years.

Mr. James Johnston, a Wichita attorney engaged in workmen's compensation practice, suggested that some type of coverage for farm workers be provided, that Kansas clarify its law in regard to occupational disease to come into compliance with the National Commission recommendations and that the unusual exertion requirement in regard to heart attacks be dropped. Mr. Johnston predicted that the Federal Government would soon mandate state workmen's compensation standards. The Chairperson asked Mr. Johnston to submit to the Committee a copy of his suggestions in regard to farmworker coverage.

Mr. Homer Cowan of the Western Insurance Company said his firm generally supported the idea of Kansas coming into full compliance with the 19 essential recommendations. A copy of his statement is attached (Attachment IV).

Mr. Jack Pearson of the Kansas Association of Commerce and Industry (KACI) said he would provide the Committee with a copy of the specific recommendations of KACI within ten days. He distributed copies of illustrations showing Kansas employers insurance premiums from 1963-1976 (Attachment V). He noted KACI was opposed to the concept of bringing Kansas into full compliance with the 19 essential recommendations.

Mr. Don Ramsey, an attorney and a spokesman for KACI, recommended the provision of Kansas law dealing with permanent partial disability be amended in a similar fashion as recommended by Mr. Cowan. (See Mr. Cowan's statement - Special Exception, page 2.) He suggested that seven days' notice be given to the employer's attorney if a filing is made by the claimant for a preliminary hearing and that the \$50,000 benefit maximum be clarified in regard to dowry payments. The question also exists whether children would continue to receive 50 percent of the benefits if a dowry is paid or if their benefit would be raised to 100 percent in such cases. He said KACI was opposed to any change in the heart amendment provisions of Kansas law. Mr. Ramsey was asked to submit a copy of his remarks in writing to the staff.

Mr. Charles D. Lewis of the United Telephone Company of Kansas said his firm was opposed to bringing Kansas into full compliance with the 19 essential recommendations. A copy of his statement is attached (Attachment VI). Mr. Lewis agreed to provide the Committee with information concerning the worker's compensation insurance rates of Nebraska.

Mr. Wilbur Ringler, Assistant Director of the Kansas State University Cooperative Extension Service, said that nothing had been done to comply with the recommendations of a 1974 interim committee which suggested the Extension Service embark on an educational program to inform farmers of the benefits and risks of carrying or not carrying workmen's compensation, liability and health and accident insurance. Mr. Ringler said that the Extension Service to his knowledge had never been informed of the 1974 committee's recommendations. Mr. Ringler was asked to provide the Committee with information regarding the number of farmers that carry workmen's compensation insurance, liability insurance, and health and accident insurance and why some farmers do not carry various types of insurance.

Mr. George McCullough, representing the Kansas State Federation of Labor, AFL-CIO, said the Federation generally supports full compliance with the 19 essential

recommendations. He said that the newly-formed Workers' Compensation Advisory Council hopes to present recommendations to the Committee at its September or October meeting.

Representative Whiteside moved the minutes of the June meeting be approved. Senator Allegrucci seconded the motion; the motion carried.

July 21, 1977

Morning Session

Members of the Committee met in Room 532-S of the State Capitol Building for transportation to the Employment Security Division offices of the Department of Human Resources at 401 Topeka Avenue.

Dr. James McCain, Secretary of the Department of Human Resources, welcomed the Committee and gave an overview of the operation and budget of the Department.

Mr. Ben Cortright, Job Services Manager of the Employment Division, explained that his duty was to provide jobs for people and people for jobs. He noted that under reorganization, his division was expanded from 26 offices to 48 offices. This reorganization, however, involved no increase, only a reassignment of staff. He said 35 percent more people have been placed in jobs because of this change. The Division has also implemented a program of computerized job placement.

Mr. Bill Medlock, Work Incentive Program (WIN) Director, said WIN was a cooperative program involving his office, the Social and Rehabilitation Services Department, and the Federal Government. The program is concerned with individuals receiving public assistance with the aim to help these individuals become employed and self-sufficient. One of the measures of success of the program is the degree which welfare grants are reduced. Last year there was a \$3.6 million reduction and a \$4 million reduction is expected this year. He said this is the only manpower program -- with a \$2.5 million budget -- that has had more dollars returned than expended. The program operates in eight locations and covers 23 counties (mostly urban) in Kansas.

Mr. Rex Cates, Director of Staff Services, explained the funding of the unemployment system. Mr. Cates said that effective January 1, 1977, the Federal Unemployment Tax (FUTA) rate was raised to .7 percent and that the wage base will be raised to \$6,000 effective January 1, 1978.

Mr. Lyle Phillips, Unemployment Insurance Program Director, gave a slide presentation outlining the functions of his division. Following Mr. Phillips' presentation the Committee toured the various sections and divisions of the Department. The Committee and staff were the guests of KACI and the State Federation of Labor at the Topeka Town Club for lunch.

Afternoon Session

The Committee and the Employment Security Advisory Council were called to order following lunch.

Mr. Patrick Brazil, Director of the Division of Employment, introduced Ms. Pat Casey who reviewed the Kansas Employment Security Law.

Mr. Carl Nordstrom, Advisory Council member, explained the membership and function of the Advisory Council. He said labor, management, and the public were represented on this Council. He noted the Council developed an eight-year plan for financing the system in 1973 and that the plan was continuing to function well. Mr. Nordstrom said the Council is currently in the process of surveying employers to determine what effects sudden rate jumps have had on their businesses since there had been some rapid rate fluctuation recently. He also noted there is currently an attempt to recodify the Employment Security Law.

Professor Joe Pichler, Dean of the University of Kansas School of Business and Council member, said there was a great spirit of cooperation between labor and business members of the Council. He said that Kansas is in exceptionally good condition in terms of its unemployment insurance program compared to other states.

Mr. Jim Yount, Council member, said one of the greatest contributions the Council has made has been the time it has saved labor and business arguing issues before the Legislature.

Ms. Mary Torrence of the Revisor of Statutes Office said that the recodification of the Employment Security Law has been underway for at least three years. She noted there has been no attempt to make substantive changes with this recodification but only to make the law more understandable.

Dr. McCain said he would like to see Council-recommended S.B. 411 (held over) be amended to include certain specified retirement deductions from unemployment insurance benefits. This could be studied by the Council and recommendations made to the proper Committee next session.

Representative Gastl complimented the Advisory Council on its fine work and thanked Dr. McCain and his staff for their work in preparation for the meeting.

The meeting adjourned.

Prepared by Mike Heim

Approved by the Committee on:

August 17, 1977  
(Date)

BEFORE THE SPECIAL COMMITTEE ON LABOR AND INDUSTRY  
OF THE KANSAS LEGISLATURE  
Hearing July 20, 1977

Re: Proposal No. 45

MR. CHAIRMAN AND MEMBERS OF THE SPECIAL COMMITTEE:

I AM MARK BENNETT AND I REPRESENT THE AMERICAN INSURANCE ASSOCIATION, WHICH IS AN ORGANIZATION COMPRISED OF 147 PROPERTY AND CASUALTY INSURANCE COMPANIES. OUR MEMBER COMPANIES PROVIDE A SIGNIFICANT PERCENTAGE OF THE TOTAL WORKERS' COMPENSATION INSURANCE WRITTEN THROUGHOUT THE COUNTRY.

PROPOSAL NUMBER 45 PROVIDES FOR A STUDY BY THIS COMMITTEE ON THE QUESTION OF WHETHER OR NOT THE KANSAS WORKERS' COMPENSATION LAW SHOULD BE BROUGHT INTO FULL COMPLIANCE WITH THE 19 ESSENTIAL RECOMMENDATIONS OF THE NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS. IN ADDITION TO THE FOREGOING, PROPOSAL NUMBER 45 PROPOSES A REVIEW OF THE KANSAS LAW WHICH PROHIBITS PAYMENT OF BENEFITS IN CERTAIN CORONARY AND CEREBROVASCULAR CASES.

THE POSITION OF THE AMERICAN INSURANCE ASSOCIATION ON THE 19 ESSENTIAL RECOMMENDATIONS OF THE NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS IS THAT WE FEEL IT IS NECESSARY THAT ALL STATE LAWS, INCLUDING KANSAS, PARTICULARLY THOSE THAT DO NOT COMPLY WITH THE ESSENTIAL RECOMMENDATIONS OF THE NATIONAL COMMISSION, BE AMENDED TO DO SO, AND IT IS OUR FURTHER POSITION THAT WE SUPPORT LEGISLATION THAT WILL ATTAIN THAT OBJECTIVE.

YOU HAVE RECEIVED FROM THE DIRECTOR OF WORKERS' COMPENSATION A SUMMARY OF THE 19 ESSENTIAL RECOMMENDATIONS ALONG WITH HIS COMMENTS IN REGARD TO COMPLIANCE

*Atch. I*

OR NONCOMPLIANCE OF THE PRESENT KANSAS STATUTES WITH THOSE STANDARDS. IN THE EVENT, HOWEVER, RECOMMENDATION NUMBER 4 IS MET BY NEW LEGISLATION TO COVER HOUSEHOLD WORKERS THAT LEGISLATION SHOULD BE SO DESIGNED AS TO ALLOW SUCH COVERAGE IN HOMEOWNERS' POLICIES RATHER THAN A STRAIGHT WORKMEN'S COMPENSATION POLICY. THIS WOULD BE NECESSARY IN ORDER TO AVOID THE PROBLEM IN ENFORCEMENT OF THE LAW REQUIRING THE COVERAGE.

IT IS THE FURTHER POSITION OF THE AMERICAN INSURANCE ASSOCIATION THAT WITH THE ENACTMENT OF LEGISLATION ON THE 19 RECOMMENDATIONS OF THE NATIONAL COMMISSION FURTHER LEGISLATION ON THE SUBJECT MATTER OF WORKMEN'S COMPENSATION IS UNNECESSARY, UNDESIRABLE AND COULD HAVE THE EFFECT OF SUBSTANTIALLY INCREASING THE COST. INDICATIVE OF THAT SITUATION IS SENATE BILL 196 WHICH PROPOSES A CHANGE IN THE PRESENT KANSAS LAW WHICH NOW PROHIBITS PAYMENT OF BENEFITS IN CERTAIN CORONARY AND CEREBROVASCULAR CASES. THAT PROPOSED LEGISLATION AND LEGISLATION OF SIMILAR NATURE, WHICH WERE PENDING BEFORE ONE HOUSE OR THE OTHER OF THE LEGISLATURE AT THE END OF THE 1977 SESSION, WILL HAVE THE EFFECT OF ENLARGING THE EXPOSURE OF THE EMPLOYER IN SEVERAL AREAS INCLUDING HEART CASES. ANY ENLARGEMENT OF THE EXPOSURE AUTOMATICALLY REQUIRES CONSIDERATION BE GIVEN TO THE PROBABILITY OF INCREASED PAYOUTS RESULTING FROM THE CHANGE IN THE LAW. I HAVE BEEN ADVISED THAT IN STATES WHERE THE STATUTE ON HEART ATTACKS IS IN THE FORM PROPOSED BY SENATE BILL 196 THE COST TO INDUSTRY OF HEART ATTACK CASES HAS SKYROCKETED AND THE BROADENING OF THE KANSAS STATUTE, K.S.A. 1976 SUPP. 44-501, BY THE PROPOSAL IN SENATE BILL 196 WOULD PRODUCE THE SAME RESULT IN KANSAS. WE BELIEVE K.S.A. 1976 SUPP. 44-501 SHOULD BE RETAINED IN ITS PRESENT FORM.

THE ENACTMENT OF KANSAS STATUTES INCORPORATING THE 19 ESSENTIAL RECOMMENDATIONS INTO KANSAS LAW IS FOR THE PURPOSE OF ENLARGING THE BENEFITS TO WORKMEN, AND AS THOSE BENEFITS ARE ENLARGED COSTS WILL AUTOMATICALLY INCREASE. THE ADDITION OF OTHER LEGISLATION FURTHER INCREASING BENEFITS DOES NOT APPEAR APPROPRIATE AT THIS TIME. AS INDICATED BY THE COMMENTS OF THE DIRECTOR OF WORKERS' COMPENSATION ON THE 19 RECOMMENDATIONS, KANSAS IS PRESENTLY IN COMPLIANCE WITH MOST OF THEM, AND THOSE RECOMMENDATIONS WERE DETERMINED AS A PART OF THE EFFORT TO MAKE THE WORKERS' COMPENSATION LAWS OF THE VARIOUS STATES MORE RESPONSIVE TO THE NEEDS OF LABOR AND WITH THE AFFORDABILITY OF EMPLOYERS.

ANOTHER ENLARGEMENT PROPOSED AND PRESENTLY PENDING BEFORE THE LEGISLATURE IN THAT REGARD IS HOUSE BILL 2309 WHICH WOULD AMEND K.S.A. 1976 SUPP. 44-511 BY ADDING A NEW PROVISION DESIGNATED AS (e) TO PROVIDE THAT THE EMPLOYEE'S GROSS WEEKLY WAGE SHALL BE DETERMINED AS OF THE TIME THE INJURY REQUIRES THE EMPLOYEE TO CEASE EMPLOYMENT RATHER THAN AT THE TIME OF THE ACCIDENT. THE LAPSE OF TIME BETWEEN THE DATE OF ACCIDENT AND THE DATE THE INJURY CAUSED THE EMPLOYEE TO STOP WORKING COULD AND IN MANY CASES PROBABLY WOULD BE IN A DIFFERENT POLICY YEAR. THUS THE PREMIUM CHARGED IN THE YEAR THE CLAIM WAS MADE COULD BE DIFFERENT THAN THE PREMIUM CHARGED IN THE YEAR IN WHICH THE ACCIDENT OCCURRED.

HOUSE BILL 2430 IS ALSO OBJECTIONABLE SINCE IT GIVES THE EMPLOYEE THE RIGHT TO SUE HIS EMPLOYER IN A NEGLIGENCE ACTION IN ADDITION TO RECEIVING THE BENEFITS OF WORKERS' COMPENSATION. THIS IS ENTIRELY CONTRARY TO THE ORIGINAL PURPOSE OF THE WORKERS' COMPENSATION LAW SINCE IT AGAIN TURNS THE EMPLOYEE AND EMPLOYER INTO ANTAGONISTS IN THE COURTROOM INSTEAD OF HAVING AVAILABLE TO THE EMPLOYEE



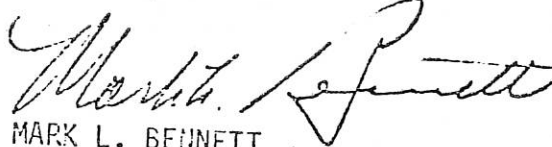
WHAT IS PRACTICALLY AN ADMINISTRATIVE REMEDY UNDER WORKERS' COMPENSATION. THE BILL, OF COURSE, PROVIDES THAT A VIOLATION OF THE FEDERAL OSHA STATUTES WOULD CONSTITUTE A CAUSE OF ACTION IN TORT. IT IS INTERESTING TO NOTE IN THIS CONNECTION THAT THE FEDERAL GOVERNMENT HAS NOT INCORPORATED ANY SUCH PROVISION IN THE FEDERAL LONGSHOREMEN AND HARBOR WORKERS' ACT. THE ENACTMENT OF THIS PROPOSED LEGISLATION PROBABLY WOULD ELIMINATE THE NEED FOR ANY WORKERS' COMPENSATION LAW SINCE FROM THE MORASS OF OSHA LAWS SOME CAUSE OF ACTION COULD BE FOUND FOR ANY CASE. THIS, OF COURSE, WOULD AGAIN RAISE THE QUESTION OF THE DEFENSE OF CONTRIBUTORY NEGLIGENCE, ASSUMPTION OF RISK, ETC.

ANOTHER BILL PRESENTLY PENDING IS HOUSE BILL 2093 WHICH PROPOSES TO AMEND K.S.A. 1976 SUPP. 44-520a WHICH PROVIDES FOR AN ACTION AGAINST THE WORKERS' COMPENSATION FUND IN CASES WHERE THE EMPLOYEE HAS FAILED TO FILE HIS CLAIM UNDER THE WORKERS' COMPENSATION ACT WITHIN THE TIME REQUIRED. WE FEEL THIS PROPOSED LEGISLATION WOULD ALLOW A CLAIM TO BE FILED A NUMBER OF YEARS AFTER THE DATE OF THE ACCIDENT WHEN ALL RECORDS AND INFORMATION THE EMPLOYER WOULD OTHERWISE HAVE ARE NO LONGER AVAILABLE, WHERE WITNESSES ARE NO LONGER AVAILABLE, AND THE ONLY EVIDENCE THAT WOULD BE INTRODUCED WOULD BE THE EVIDENCE OF THE CLAIMANT, AND HIS STATEMENT OF WHAT HAPPENED IN MANY CASES COULD NOT BE REBUTTED. THE REASON FOR ANY STATUTE OF LIMITATIONS IS TO AVOID EXACTLY THAT TYPE OF PROBLEM. WE ARE OPPOSED TO THAT BILL.

IN CONCLUSION WE RESPECTFULLY SUBMIT THAT THE ADOPTION OF THE 19 ESSENTIAL RECOMMENDATIONS, TOGETHER WITH AMENDMENTS TO THE KANSAS WORKERS' COMPENSATION

LAW IN 1974, HAS GIVEN KANSAS, BOTH LABOR AND INDUSTRY, A GOOD, WORKABLE AND FAIR LAW AND FURTHER AMENDMENTS TO IT ARE NOT INDICATED OR JUSTIFIED AT THIS TIME.

RESPECTFULLY SUBMITTED,

A handwritten signature in cursive script, appearing to read "Mark L. Bennett".

MARK L. BENNETT  
FOR THE AMERICAN INSURANCE ASSOCIATION

Even as these changes work against the insurers, other adverse factors have developed. In California cumulative trauma has made a significant impression on losses, and the unions would like to extend this theory to other states as a means of supplementing pension benefits. Obtaining an adequate rate for losses which don't show up until after the employee is retired is no easy matter.

Liberalized benefits and rate increases that are out of step with rising losses make the outlook for workmen's compensation a bleak one. For the stock companies especially, with about 13% of their premium volume tied up in this line, the situation is serious.

### MISCELLANEOUS LIABILITY

In some respects, the miscellaneous liability business represents an advanced case of workmen's compensation disease. A few years ago, new areas of loss developed and there was a lag in the industry's ability to respond. The only remedy applied thus far is rate increases which in the last two years have brought down the overall underwriting loss by more than \$560 million, the 1976 result being estimated at a minus \$200 million. In 1975 premiums increased by 30% and last year by 36% while pure losses in those two years increased 16% and 22%, respectively.

The stock companies write more than seven times as much miscellaneous liability business as the mutuals, but last year they managed to lose less total money (\$90 million) than the mutuals (\$110 million). The after-dividend combined ratio of 100.5% is nearly 14 points lower than in 1975, with eight points of this reduction coming from pure losses and three each from loss and underwriting expenses.

But there may be a limit to the application of rate increases as a solution for miscellaneous liability problems. For the stock companies, rates are up 83% in two years, and the regulators, prompted by the outcries of the insured, are beginning to pay close attention to prices of malpractice and product liability business.

The mutuals managed a 12-point drop in their combined ratio on miscellaneous liability last year, but that left them at an estimated 118% combined ratio with an underwriting loss of \$110 million on premiums of a little more than \$600 million. Neither the loss nor the expense ratio was down as much as for the stock companies. Miscellaneous liability has cost the mutual companies more than \$800 million in underwriting loss over the past 10 years.

There are those in the business who can remember when miscellaneous liability was a profitable line, but

Year	MISCELLANEOUS LIABILITY				
	Premiums Written \$	Loss Ratio %	Expense Ratio %	Combined Ratio %	Ratio After Div.
	(Stock Companies)				
1972	2,138,614	82.6	30.3	112.9	113.3
1973	2,283,009	84.0	30.3	114.3	114.7
1974	2,509,995	94.9	29.5	124.4	124.7
1975	3,335,977	87.3	26.8	114.1	114.4
1976*	4,600,000	76.5	23.7	100.2	100.5
5 Yrs.	14,867,595	84.1	27.3	111.4	111.7
	(Mutual Companies)				
1972	416,599	93.5	25.0	118.5	122.3
1973	418,309	99.5	25.9	125.4	129.3
1974	425,998	102.6	25.7	128.3	132.0
1975	487,970	104.9	24.5	129.4	130.4
1976*	605,000	94.5	22.6	117.1	118.0
5 Yrs.	2,353,876	98.8	24.6	123.4	125.9
	(Total Industry)				
1972	2,555,213	84.4	29.4	113.8	114.7
1973	2,701,318	86.5	29.6	116.1	117.1
1974	2,935,993	96.1	29.0	125.1	125.9
1975	3,823,947	89.6	26.5	116.1	116.5
1976*	5,205,000	78.6	23.6	102.2	102.5
5 Yrs.	17,221,471	86.2	27.0	113.2	113.8

\* Estimated.

it began its steady descent in 1963 and got into the loss column in 1967; since going into the red it has cost the industry almost \$3.2 billion and the problems are far from solved. Regulators have been generally unsympathetic to the needs of the companies for income now to pay losses later, but at the same time there was a bit of panic in the industry ranks when the bad results on medical malpractice began to surface. The reaction of doctors to rate increases, however, made it clear that money alone is not the answer. Changes in the tort system seem to be necessary, but this is a process that takes a good deal of time. Over the past 10 years, pure dollar losses for miscellaneous liability have risen at an average of 18.6% annually, against an average annual increase in earned premiums of 15.5%. The only line with a worse loss record is commercial multiple peril, where losses have risen by 22.1% on the average each year.

### OTHER LINES

The 10 or so other lines of insurance had in the aggregate an estimated loss of \$125 million in 1976, an improvement of about \$350 million from the year before. Premiums for these lines totaled nearly \$6.1 billion, a 14% increase over the past 10 years.



# Insurance News Digest

Property Casualty Edition

January 3, 1977

## REVIEW & PREVIEW

From a property casualty insurance industry standpoint, 1976 probably will be thought of as a year of recovery. Reducing the disastrous \$4.2 billion underwriting loss of 1975 was an essential for survival, but the recovery, while it reduced the loss by 45%, was uneven in its effect and the year ended as the third worst the business has suffered.

The movement of underwriting experience throughout 1976 was, however, favorable on an overall basis. After a first quarter which saw the largest dollar loss the industry ever recorded in a three-month period, the underwriting deficit was halved in the second quarter, and the third quarter saw that loss reduced by half. Our estimate for the fourth quarter is that, due to the usual end-of-the-year acceleration in premiums earned, the industry showed an underwriting loss of about \$50 million, only about one-sixth the loss of the preceding three months.

The unevenness of the recovery becomes evident when the underwriting results are examined by line. Workmen's compensation experience worsened; automobile liability continued as a billion-dollar loser; auto physical damage had its second worst year in history. The problems of the general liability line are largely unresolved and experience is still \$200 million in the red. Profits show up in the lines of business which produce the least premium income. If underwriting gains in these lines are cut back because of rate reductions and a competitive market, this seems inevitable; the overall favorable trend will be modified—and modified further because rate increases in the troubled areas cannot be expected to be granted as they were when the disaster of 1975 made additional premium income imperative. The impact of the higher rates already approved will shortly be fully absorbed, but inflation continues its relentless advance at a rate more than double what the economy had been experiencing prior to 1974.

The fact that the industry came within shouting distance of break-even in the third quarter of 1976 is then not a valid reason for rejoicing. Too many

problems remain unsolved and too many trends are running against the business to permit the luxury of a hallelujah, particularly at a time when federal involvement with the business is growing and the question of federal versus state regulation has been reopened.

Additionally, the business falls somewhat short of the capital base it needs to conduct its current and anticipated operations. Over the past five years the industry has managed to increase its consolidated surplus by only \$4.1 billion, and that \$4.1 billion is carrying a \$20 billion growth in premium volume.

### *Premiums Gained 20.3% in 1976*

Our estimate of property casualty insurance premiums for 1976 is \$59.5 billion, an increase of 20.3% over 1975. This was, since the 25% gains of the post-war years of 1946 and 1947—when premium volume was less than one-tenth of what it is now—the largest percentage increase the industry has ever recorded, and the \$10.1 billion gain is an all-time record amount. Surging premium income was the primary factor in the reduction of 1975's underwriting loss of \$4.25 billion (after policyholder dividends) to an estimated \$2.33 billion last year. 1976 then becomes the third worst year the industry has suffered in terms of underwriting experience, and all three of the worst years have come in succession. The underwriting loss for the industry over the past three years has aggregated \$9.2 billion.

The loss and loss adjustment expense ratio to earned premiums last year is estimated at 75.8%, down from 79.3% the year before; underwriting expenses are estimated at 25.9% against 27.3%, and the combined ratio works out to 101.7%, which is 4.9 points better than 1975. After policyholder dividends, the ratio for 1976 is 102.8% compared with 107.9% the year before.

Aggregate underwriting losses for the industry over the last 10 years come to \$9.7 billion, with only two of the years in the profit column, both of them record highs. In just the last five years, the industry

\$92.9 million, and in the five years before that there was a loss of around \$26 million. Inland marine is rolling along in fine style for the stock companies, and the effort simply should be to keep it that way.

The mutual companies haven't shown a before-dividend underwriting loss on inland marine for more than 25 years, and only once (in 1969) had there been a loss after dividends. Unfortunately, inland marine is small potatoes in the total picture, accounting for only 1% of the mutuals' premium volume.

Nevertheless, 1976 was a record year for inland marine results by the mutual companies. The underwriting gain after dividends is estimated to be nearly \$15 million as the combined ratio dropped to 87.8%. The loss ratio was down six points and expenses were down 1.3 points and dividends to policyholders were estimated to be under 1% for the first time.

Inland marine is a reliable pocket of profit for the mutual companies. They have developed an underwriting approach which has worked with remarkable consistency. The line is a perfect example of what pricing freedom and prudent underwriting can do.

#### WORKMEN'S COMPENSATION

Now in its eighth year of decline, workmen's compensation insurance in 1976 suffered its worst year ever. The underwriting loss before dividends to policyholders is estimated at about \$360 million, and with dividends adding nearly \$350 million the total loss exceeds \$700 million. This is a deeply troubled line of insurance. Losses have had a greater rate of gain than net premiums for seven of the last eight years, and there is no particular reason to believe this trend will be reversed soon.

The 75% of the workmen's compensation business written by the stock companies produced a vastly worse underwriting record than that of the mutuals. On premiums of nearly \$5.5 billion, the stock companies showed an underwriting loss before dividends to policyholders of approximately \$440 million. They paid about \$215 million in dividends to produce a total underwriting loss of \$650 million. The pure loss ratio is estimated at 79.5%, adjustment expenses at 9%, and the overall loss ratio is 88.5%. Underwriting expenses are 19.1% and dividends to policyholders add another four points to bring the combined ratio after dividends to 111.6%. The stock companies have had a before-dividend underwriting loss on workmen's comp in four of the last five years and in those five years have an estimated total loss, after dividends, of \$1.7 billion. The aggregate profits of the preceding five years—1971-75—are worth only \$85 million,

#### WORKMEN'S COMPENSATION

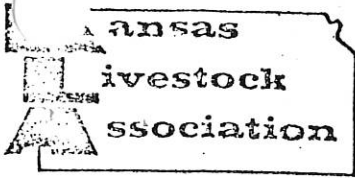
Year	Premiums Written \$	Loss Ratio %	Expense Ratio %	Combined Ratio %	Ratio After Div.
(Stock Companies)					
1972	3,030,840	73.8	21.0	99.8	105.1
1973	3,549,029	77.9	20.8	98.7	103.8
1974	4,048,564	81.6	20.7	102.3	107.3
1975	4,634,298	84.1	19.9	104.0	108.5
1976*	5,480,000	88.5	19.1	107.6	111.6
5 Yrs.	20,742,731	82.9	20.2	103.1	107.8
(Mutual Companies)					
1972	1,073,250	76.2	17.3	93.5	106.9
1973	1,212,145	75.1	16.6	91.7	105.3
1974	1,364,872	76.8	16.1	92.9	106.5
1975	1,479,609	76.6	16.0	92.6	104.1
1976*	1,830,000	80.0	15.0	95.0	102.5
5 Yrs.	6,959,876	77.2	16.1	93.3	104.8
(Total Industry)					
1972	4,104,090	78.1	20.0	98.1	105.6
1973	4,761,174	77.1	19.8	96.9	104.2
1974	5,413,436	80.4	19.6	100.0	107.2
1975	6,113,907	82.3	18.9	101.2	107.4
1976*	7,310,000	85.4	18.1	104.5	109.4
5 Yrs.	27,702,607	81.5	19.1	100.6	107.0

\* Estimated.

bringing the underwriting results over the past decade to a loss of \$1.6 billion.

Over the last 10 years, the mutual companies have a before-dividend profit on workmen's compensation of nearly \$1 billion, but they have paid almost \$1.5 billion in dividends to policyholders and are left with a loss of \$400 million to show for their efforts. Last year their gain before dividends is estimated at more than \$75 million, but dividends amounting to 7.5% of earned premiums eliminated that profit, the net result coming out as an underwriting loss of \$50 million. The combined ratio before dividends was 95%, after dividends, 102.5%.

Premiums for workmen's compensation have risen about 100% in the last five years, and losses have gained nearly 125%. There is nothing in view that will stem the rising tide of loss, and now it has spilled over into a minus before dividends to policyholders, a reversal is even farther out of the carriers' reach. The insurance industry is in an anomalous position in dealing with compensation insurance, in that it supports more liberal benefits as recommended by the Commission on State Workmen's Compensation Laws, knowing at the same time that the increased premiums to pay for these benefits will be granted tardily and will be an unwelcome addition to the expenses of their policyholders, the employers,



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TESTIMONY OF THE  
KANSAS LIVESTOCK ASSOCIATION  
TO  
SPECIAL COMMITTEE ON LABOR AND INDUSTRY  
WORKMEN'S COMPENSATION  
BY  
VIRGIL HUSEMAN, EXECUTIVE SECRETARY, FEEDLOT DIVISION

JULY 20, 1977

My name is Virgil Huseman. I represent the Kansas Livestock Association.

It is our understanding that the 19 "essential" recommendations of the National Commission on State Workmen's Compensation Laws are just that, recommendations. We understand that there is no federal threat or mandate to carry each one out in individual states. We also have the impression that they were compiled with benefits and coverage as the primary objective with little consideration given to the costs, or the consequences resulting from the increased costs.

I personally, know that more complete insurance coverage on my car, or my home, or my life is available, but I have weighed the costs against the benefits and have chosen, like many other people, somewhat-less-than-full coverage. State government, in the case of workmen's compensation, has the responsibility to perform this calculation of costs versus benefits.

Because agriculture is exempt from mandatory workmen's comp coverage in Kansas, most employers have chosen not to be included. However, many of the state's larger

- |                                    |  |  |                            |
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*Atch. II*

agricultural employers have voluntarily elected to pay because of the protection it affords both employer and employees. Members of our association fit into both of those categories. Some pay voluntarily, others do not.

The Kansas Livestock Association is on record in solid opposition to mandatory workmen's compensation coverage for agriculture. We've heard the argument that workmen's comp doesn't cost the employer anything because he simply passes the cost on to the consumer.

We think this is a poor argument in any case, but it is particularly in error with regard to agriculture. If farmers and cattlemen were able to directly pass their cost of production on to the consumer, wheat would be \$3.50 per bushel instead of \$1.80 and choice steers would be \$50 per hundred weight instead of \$40. Historically, farmers have been "price takers" and not "price makers".

In the case of agriculture, the cost of workmen's compensation will come right out of the farmer's pocket. The current cost for workmen's comp coverage for "cattle raising" and "field crops and drivers" is \$4.64 for every \$100 of wages paid. In view of the current economic plight of Kansas farmers, we can't think of a more inopportune time to extract this additional tax from farm earnings. Farmers are already mad about their prices and becoming increasingly more militant. Unfortunately, there's not a great deal that they can do in the short run about their prices. But they can raise a lot of fuss with their legislators if another tax on them is proposed.

Most farmers hire part-time help to do many tasks. An example is high school boys to help put up hay bales. If a farmer had just one full-time employee and paid wages over the \$10,000 minimum, thereby falling under the act, he would also be required to provide coverage on the high school boys he hires to put up hay. Because most farmers are relatively small employers, we are told they would have to go the "assigned-risk" route in seeking coverage. This is bound to cause all sorts of mechanical problems in getting all of the employees covered properly.

STATEMENT OF KANSAS FARM BUREAU  
presented by  
Mary J. Wiersma  
Special Committee on Labor & Industry  
Proposal 45  
July 20, 1977

We sincerely appreciate the opportunity to make response to the aspects of Proposal 45 most specifically relating to KFB members. Naturally, Farm Bureau members in Kansas are most interested in addressing Recommendation No. 3 as proposed by the National Commission on State Workers' Compensation Laws.

I've summarized on the attached map the present workmen's compensation coverages mandated in the Midwest. Additionally, using the latest (1976 Edition) study of workers' compensation laws published by the Chamber of Commerce of the United States, we have updated the state-by-state comparisons which we have provided for previous Labor and Industries Committees. We have verified the information for the Midwestern states with Farm Bureau officials in those states. Three changes have been made since our last report to the 1976 Committee: (1) Colorado's law is now a compulsory law (effective January, 1977) and exempts only public servants and casual employees earning less than \$2,000 per year (no one--including the States Workmen's Compensation Fund--is quite sure yet how to define casual worker); (2) Louisiana's law has changed from elective to compulsory since our last report; and (3) Iowa's '74 statute mandating coverage when past year's payroll reached \$2,500 has been modified (effective January 1, 1977) to require coverage at a \$1,000 level.

The 1975 Special Committee on Agriculture and Livestock was the last committee to devote study time to the issue of agricultural coverage. We have included the Committee's Conclusions and Recommendations for your review.

The most recent Kansas agricultural statistics are contained in the Kansas Agricultural Accidental Death Report--1975, Kansas State Department of Health and Environment:

"Kansas continued its record breaking trend in reducing farm work fatalities during 1975 with a new annual low of 22 fatalities. This was a reduction of 29% from the previous record low of 31 such deaths in 1974 and was a continuation of a downward trend since 1934 . . . . Accidents involving tractors remain the single largest contributor to farm accident fatalities. The number of such accidents, however, has declined greatly since the high of 34 recorded in 1960 (11 recorded in 1974)."

The Farm Safety Review, Special Issue 1976, published by the National Safety Council after a 15-state survey reveals:

Atch. III



I don't believe this Legislature has heard strong argument from farm employees asking to be brought under workmen's compensation. As I pointed out, many of the larger employers have voluntarily elected to cover their employees. However, many others who have chose not to participate in workmen's comp, do provide an insurance package that is superior in many cases to the protection afforded by workmen's compensation. An example would be complete health and accident coverage for the employee's entire family. If workmen's comp were made mandatory, economics would dictate that this additional coverage would be dropped.

We've also been asked by the committee to state our position on two other matters regarding workmen's compensation. The Kansas Livestock Association stands opposed both to eliminating the \$50,000 maximum death benefit and to instituting an automatic cost-of-living factor. Likewise, our association opposes revising or eliminating the section of the Kansas law prohibiting the payment of benefits in certain coronary and cerebrovascular cases.

"An estimated 204,000 injuries occur annually to farm residents, workers and visitors, in this 15-state area . . . . Approximately 85% of the injuries reported involved family members, while 11% involved hired help. Visitors, sales people, etc. accounted for the remaining injuries (4%)."

The Cooperative Extension Service, Kansas State University, has just released the first Kansas Farm Accident Survey. This survey was based upon 1975 farm accidents. The following table was printed as Table 14 of that publication.

Percentage Distribution of Work and Non-Work Related Injuries  
Among Family Member, Employees and Others

	Percent Work Related Injury	Percent Non-Work Related Injury
Family Member	88.5	96.1
Employee	8.3	2.4
Others	3.2	1.6

Our organization has continued to recognize the recommendations of the National Commission, but is of the opinion that our present workers' compensation law is tailored for industry. Reading from the 1977 Resolution, "For that reason we believe coverage of agricultural employment under the Kansas Workmen's Compensation Act would be inappropriate."

We will naturally continue to work with your committee and all other legislative committees that study the workmen's compensation program in this state. In order to relate how our organization continually strives to make our membership and citizens of our state most directly involved in agriculture more aware of the positive safety standards that must be maintained in any business today, we are attaching for your study a copy of four years' programming contacts through our Safety Division and a map indicating the location of those educational programs.

We thank you for the opportunity of visiting with you today and would be happy to answer any questions you might have.

WORKERS' COMP COVERAGE

January, 1977

NORTH DAKOTA

Farm labor exempt

MINNESOTA

"Family farm employer" paying less than \$2,000 annually is exempt.

WISCONSIN

Coverage elective until employment total 6.

SOUTH DAKOTA

Non-hazardous agric. labor exempt until employed more than 24 hrs. in any week or 6 weeks in any 13-week period

WYOMING

Coverage elective for ranch, farm, agricultural, horticultural and stock raising employments

IOWA

Coverage required if payroll reached \$1,000 in previous calendar year. Exchange help and Family labor costs are excluded from such payroll determination.

ILLINOIS

NEBRASKA

Farm labor exempt

COLORADO

Coverage mandatory except for casual employees earning less than \$2,000 annually

MISSOURI

Ag exemption where payroll is no more than \$2,500. Any employer with less than 5 workers is exempt unless work is classified as "hazardous"

KANSAS

Agricultural workers exempt

NEW MEXICO

Farm or ranch labor exempt

OKLAHOMA

Commercial or custom feedlots required to carry workers' comp. All other agricultural pursuits are exempt.

ARKANSAS

Farm labor is one of several excluded employments

TEXAS

Elective law. Farm and ranch labor exempt

tates where Workers' Compensation Coverage for Agricultural Workers  
is Mandatory or Identical to that Required for other Employments (13):

Arizona

California

Colorado (Effective January 1, 1977, changed from elective to compulsory law)

Connecticut

Hawaii

Louisiana (Now a compulsory law)

Massachusetts

Michigan--Compulsory for all employers having 3 or more employees, or less than 3 if 1 is employed for 35 hours per week for 13 consecutive weeks for same employer.

Montana

New Hampshire

New Jersey--An elective law. Employers of farm workers not required to insure.

Ohio

Oregon

States where Workers' Compensation Coverage for Agricultural  
Workers is Substantially the Same as for other Employments (9):

Alaska--Harvest help is exempt.

Iowa--Effective July 1, 1977, agricultural employers are required to provide coverage when cash payments to one or more employees reach \$1,000 or more during preceding calendar year. Friendly exchange help and family help labor-costs are generally excluded from payroll total in making determination whether an employer should be covered.

Minnesota--Commercial threshing and baling specifically covered. Coverage voluntary as to farm labor and domestics. Law exempts "family farm employer" (law specifies such an employer pays less than \$2,000 annually) but does not include wages paid to employer's immediate family or exchange help.

Missouri--Employers with less than 5 employees are exempt unless work is classified as hazardous. Law does not mandate coverage for farm laborers or domestic workers where total annual payroll is \$2,500 or under.

New York--Elective as to farm labor if payroll during prior year was less than \$1,200.

Pennsylvania--Complete agricultural exemption repealed in 1972. Only when labor costs for one employee fall under \$150 or 20 or less labor days are used is any agricultural exemption now applicable.

South Dakota--Non-hazardous agricultural labor is exempt until employed more than 24 hours in any week or 6 weeks in any 13-week period. Coverage is compulsory for operators of certain farm machinery--threshers, combines, shellers, cornhuskers, etc.

Vermont--Eliminated blanket agricultural and numerical exemptions in 1973. Farm employers now exempt only when total payroll is under \$1,000 or when wages go to family employee living in household.

Washington--Only exemption provided is for child under 18 on a family farm

States where Agriculture is Exempt from Workers'  
Compensation Coverage (29):

Alabama--Voluntary for employers of less than 3

\*Arkansas--Voluntary for excluded employments (farm labor, domestic servants, public charities, vendors or distributors, etc.).

\*Delaware--Farm labor exempt

\*District of Columbia--Domestic help and farm labor exempt

Florida--Employers with 5 or less farm laborers exempt

\*Georgia--Farm labor exempt

\*Idaho--Agricultural pursuits exempt

Illinois--Farmers exempt who employ less than 245 days of labor, excluding members of family

\*Indiana--Farm labor exempt

\*Kansas--Farm labor exempt

\*Kentucky--Farm labor exempt

Maine--Casual or seasonal farm labor exempt

Maryland--Farm employers exempt if they employ less than 3 fulltime workers. Seasonal or migratory farm laborers who do not operate machinery exempt.

\*Mississippi--Farm labor exempt

\*Nebraska--Farm labor exempt

\*Nevada--Farm labor exempt

\*New Mexico--Farm or ranch labor exempt

\*North Carolina--Farm labor exempt

\*North Dakota--Farm labor exempt

Oklahoma--Agriculture, horticulture, dairy and stock raising exempt (mandatory for commercial feedlots)

\*Rhode Island--Agriculture exempt

\*South Carolina--Elective law. Persons engaged in selling agricultural pursuits and farm labor exempt.

\*Tennessee--Farm labor exempt

\*Texas--Elective law. Farm and ranch labor exempt.

\*Utah--Farm labor exempt

\*Virginia--Horticultural and farm laborers exempt

West Virginia--Employer with 5 or less farm laborers is exempt.

Wisconsin--Farm employers exempt until employees total 6.

\*Wyoming--Elective as to ranch, farm, agricultural, horticultural and stock raising employments.

\*Complete exemption (21)

The Committee in its briefing on workmen's compensation rates by the Insurance Commissioner's Office found that rates for agricultural employments were high. Rates for the three farm employments classifications include: \$1.60 per \$100 of payroll for truck farming and gardening employment; \$3.86 per \$100 of payroll for poultry producing employment and \$5.13 for general farm operations employment.

#### Conclusions and Recommendations

The Committee, after consideration, decided not to recommend any amendment to the present Kansas Workmen's Compensation Law. No action by the Legislature would mean that coverage would continue to be on a voluntary basis for agriculture employments.

The Committee reached its conclusion after determining there was considerable difficulty in assessing the actual situation in Kansas. The Committee was not able to determine, for example, the present extent of coverage of farm workers by workmen's compensation or the full extent of coverage by other types of insurance such as liability, health and accident insurance. Testimony from the various farm organizations indicated there was no consensus among organizations to mandate coverage of farm laborers by workmen's compensation.

After the hearings the Committee also concluded that support for workmen's compensation coverage of agricultural workers seemed to be lacking even among farm labor itself since no effort was made to inform the Committee of their stand on the issue. Testimony further indicated that there was only a small percentage of agricultural accidents which involve hired agricultural workers other than family members.

The Committee concluded therefore, that there was not enough interest and too few facts to determine a need to require any change from the present voluntary system. The Committee also concluded from testimony by various farm organizations that many farmers

have some form of insurance for their workers. In addition, agricultural employers have the option to provide workmen's compensation under the present law.

The Committee does recommend, however, that the State Extension Service embark on an educational program to inform Kansas farmers of the risks of no insurance as well as costs and benefits of providing workmen's compensation, liability insurance, and other types of insurance. The Committee suggests that State Extension Service through the various County Extension Councils, in their educational program, point out the need for some type of insurance coverage and the various differences in the coverage provided by workmen's compensation, liability, health and accident and other lines of insurance available.

Respectfully submitted,

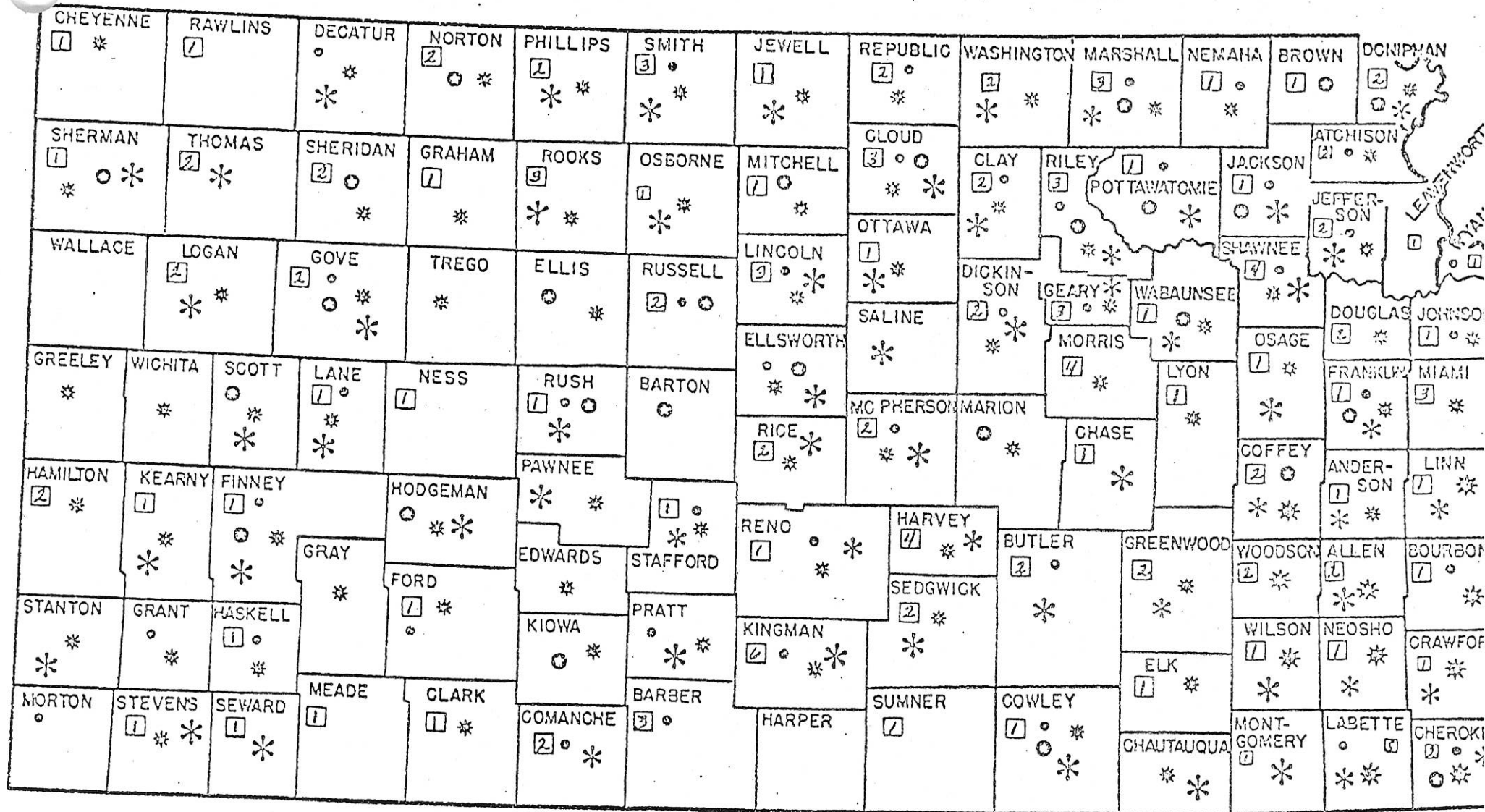
Rep. John Vogel, *Chairman*  
Special Committee on Agriculture  
and Livestock

*Sen. Leslie Droge,*  
*Vice-Chairman*  
*Sen. Don Christy*  
*Sen. R.J. Williams*  
*Sen. Chuck Wilson*  
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*Rep. Ambrose Dempsey*  
*Rep. Lee Hamm*  
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*Rep. Alva Lee Powell*  
*Rep. Pascal Roniger*  
*Rep. Wm. C. Stutz*

# KANSAS FARM BUREAU

## SAFETY DIVISION



### SAFETY PROGRAMS

MAY 1974 - APRIL 1977

BABY SITTER SAFETY COURSES \_\_\_\_\_  
 CARDIOPULMONARY RESUSCITATION (CPR) PROGRAMS \_\_\_\_\_  
 FARM FAMILY SAFETY SEMINARS \_\_\_\_\_  
 "ZERO IN" SAFETY PROGRAMS \_\_\_\_\_  
 HOME & FARM FIRE PREVENTION PROGRAMS \_\_\_\_\_

POSITION MEMORANDUM

OF

THE WESTERN CASUALTY AND SURETY COMPANY

THE WESTERN FIRE INSURANCE COMPANY

THE WESTERN INDEMNITY COMPANY

ALL OF

FORT SCOTT, KANSAS

First, please understand that The Western would support any social concept, or mechanism that would tend to make whole an injured person. The only reservations would be, are the recommendations feasible and can the public afford it.

One has to remain cognizant that each benefit purchased has a price tag and the ultimate price is picked up by all the public, not just employers.

Every idealistic mechanism of the social trend of "protection from the cradle to the grave" is born with compassion, but too often buried with abuse and misuse. Cost projections are never as low as proponents of social laws suggest and probably not as high as opponents estimate.

Today's climate, in respect to insurance, is not conducive to a question in advance of how much does it cost?, but indeed the after the fact cry of "how come it costs so much"?

The climate today is to mandate insurance whether the risk is insurable or not, to everyone, whether they need it or not, at a price that is affordable, whether they can afford it or not. And as long as it's hidden in the cost of goods or services, who cares?



KANSAS FARM BUREAU  
Safety Department Programming  
1973 - 1976

	1973		1974		1975		1976	
	<u>No. of Programs</u>	<u>No. of Prog. Participants</u>	<u>No. of Programs</u>	<u>No. of Prog. Participants</u>	<u>No. of Programs</u>	<u>No. of Prog. Participants</u>	<u>No. of Programs</u>	<u>No. of Prog. Participants</u>
Fire Safety Demo:	176	24,500	146	22,439	40	3,609	98	
Farm Family Safety:					84	4,233	32	
Youth Tractor Safety:	9	450	15	579	3	158	15	
Defensive Driving Course:	18	1,251	15	462	23	1,963	12	
Baby Sitter Safety:	41	5,146	32	2,315	12	429	48	
Woman's Tractor Safety:			35	875	9	270	8	
Miscellaneous:	7	412	5	426	8	385	6	
<b>TOTALS</b>	<b>251</b>	<b>31,759</b>	<b>248</b>	<b>27,096</b>	<b>179</b>	<b>11,047</b>	<b>219</b>	<b>18</b>

1972 - 1975 Totals: 897 Programs, 87,927 Program Participants

The only two viable questions are - "How much protection can the public afford?? and "Who is subsidizing whom??"

In respect to Workers Compensation, all of these remarks are academic, because we are already under federal "suggested" mandates and will be more so in time to come. It's not a matter of if we change our laws to accomodate the mandates, but a question of when -- how much -- and how many times??

I think the only contribution we, as an insurance carrier, can make to your already repetitious testimony is to comment on the 19 essentials as if we had a choice in what is to be.

(1) R2.1

Compulsory Coverage: With some reservation, we would support. Our reservations revolve around domestic/causal workers, farm workers and the payroll exemption that Kansas presently allows and the issue of waivers. Our comments below will amplify these reservations.

Waivers: It is inherent in our philosophy that the freedom of choice is a basic American privilege in respect to all things. Although this right is being gradually whittled away in many areas, it remains that we have an automatic negative reflex when a right is limited or removed.

Certainly a partner in a business should have a right of choice or a self-employed business person. Executive officers should have a right to elect.

There are workers who would rather work than receive a benefit for not working. There are those whose financial assets would absorb a job injury. There are those with other fringe benefits that would absorb such an injury without adding to the overall cost of workers compensation insurance. There are those who would remain unemployed without a waiver elective

It is agreed that with the waiver mechanism, some employer might use the waiver as a leverage for employment. We do not support this.

But there should be a mechanism that, with rigid guidelines and prior approval from the Workers Compensation Director that would allow waivers under the proper circumstances.

Payroll Exemption: Kansas presently exempts employers with an annual payroll of \$10,000 or less. We favor retaining this or some similar exemption. We realize this leaves some worker exposed, but there are times where equities require balancing.

There are times when a small employer, who perhaps uses intermittent help or one worker, may be forced out of business by "red tape", bookkeeping and even the cost of insurance. We feel that the payroll exemption is an automatic filter of some exposures that are most difficult to define. (See comments under R2.4 & R2.5).

(2) R2.2

Kansas complies with exception of payroll exemption referred to above.

(3) R2.4

Farm Workers: We afford coverage for farm workers now on a voluntary basis. We basically support their inclusion under the Workers Compensation Act. There are several problem areas.

- (1) Family Farms - Is the wife an employee? Are the children who help on the farm employees? There is no exchange of money - no payroll - no records.
- (2) Exchange Labor - It is common practice for Farmer Smith to help out Farmer Brown and vice versa. Again, there is no payroll or exchange of money.

The payroll exemption mentioned heretofore has filtered out some of the problems in connection with the above.

We would support the inclusion of this class subject to proper definition of "farm worker" and/or the payroll exemption.

(4) R2.5

Casual Workers: Is a babysitter an employee? A boy that cuts your lawn? Since many courts have held a volunteer to be an employee, is your neighbor who helps you cut a tree limb an employee?

"Odd jobs" are a problem, not only in record keeping, violation of record keeping, impossible to monitor, but quite often are performed by unemployable people, unable to work at a job full time. They are, in many cases, an accident looking for a place to happen and quite often workers compensation is a mechanism to use "between jobs".

The rate for workers of this nature are on a "per person" basis as opposed to payroll for the very reason that payroll is impractical to report. The rates are:

Occasional Inservant	\$7.00 per person	\$35.00 min.
Full time	14.00 per person	\$35.00 min.
Occasional Outside	10.00 per person	\$35.00 min.
Full time Outside	21.00 per person	\$36.00 min.

This coverage is written on an "accomodation basis". It is neither solicited nor desired. It would not be applicable to the "odd job" situation.

Again, the payroll exemption filtered out some of the most difficult to handle situations. Difficult from an insurance standpoint and difficult from the customer standpoint.

Obviously, there is a small base (upon which to spread the risk) upon which to develop a premium base. Not too many people have domestic help and/or "casual" workers. Thus a correct premium might be prohibitive.

The mechanism used by California might be utilized - that is a surcharge on every homeowner policy. However, you might check this out with Governor Brown as we understand they have experienced considerable difficulties. After all, not all property is insured under a homeowners and since many do not use domestic help, they are subsidizing those who do.

We would support the inclusion of casual workers under workers compensation if there was a proper definition and/or a payroll exemption.

(5) R2.6

Kansas complies except with respect to the payroll exemption. No comments. We should retain the exemption.

(6) R2.7

Kansas complies - no comments.

(7) R2.11

Kansas complies - no comments.

(8) R2.13

Kansas generally complies. Work related diseases. We know the Federal studies would like to broaden all aspects of occupational disease. While we support the inclusion of "occupational disease", we are very concerned when there is legislative contemplation of extending or broadening coverage. If not very cautious, one can create "legal diseases", never contemplated by the Workers Compensation Act, or any other act. It could be a national health plan all of its own.

E-4. Mr. Robert Flockhart, of the American Insurance Association, presented testimony at a Senate Sub-Committee in Washington on June 30th. We are attaching his comments marked Exhibit 2, page E-4 for your review. The Western adopts the position stated therein.

(9) R3.7

Kansas complies.

(10) R3.8

We would support the 100% maximum concept. \* SPECIAL NOTE: WE COULD NOT SUPPORT IF THE CHANGE DID NOT CONTEMPLATE A CHANGE IN OUR PRESENT COMPUTATION FORMULA. (SEE SPECIAL EXEMPTION SECTION.)

(11) R3.11

Kansas complies - No comments.

(12) R3.12

Kansas complies - No comments.

(13) R3.15

We would support the 100% concept. \*

(14) R3.17

The Western cannot support the removal of the dollar limitation at this time. We do favor the concept as suggested by the proposal, but again feel very strongly that there needs to be some changes in the Kansas law as it presently exists before we can afford to remove the dollar limitation. (SPECIAL NOTE: See Special Exception Section).

(15) R3.21

Kansas complies - No comment.

(16) R3.23

We would support the 100% concept \* subject to the SPECIAL EXCEPTION SECTION attached hereto.

\*

SPECIAL NOTE: Wherever we have stated that we support the "100% concept", we have predicated the statement upon the fact the worker only receives  $66 \frac{2}{3}$  of their actual gross wage. Under no circumstances could we support any concept of allowing more than the worker actually made - nor could we support a percentage of the actual wage.

We mention this because Illinois has (or had) a law which allowed 50% of actual wages due to death. A fairly recent case resulted in a young widow receiving \$42,000.00 per year due to her husband's wages being \$84,000.00 per year. With a life expectancy of over 40 more years, this equaled nearly 2 million dollars! Illinois immediately had an insurance availability problem.

(17) R3.25

The Western would support lifetime benefits. Again, this would increase the cost of insurance, but subject to the reasonable cap (based on state average weekly wage) we believe it is justified. (SEE SPECIAL EXCEPTION SECTION.)

We support the remarriage lump sum concept.

We support the dependent children to age 18 (or 25 if in school) concept.

We must point out there are areas of abuse with these benefits and some safeguards should be built in.

(18) R4.2

Kansas complies - No comment \*\*

(19) R4.4

Kansas complies - No comment \*\*

\*\*

SPECIAL NOTE: Our support of lifetime benefits is predicated upon some type of limitation (statute of limitation) to bring a claim or present additional medical bills. The continuous payments do not bother us, but the great bulk of files where additional payments are not anticipated does.

Presently, we keep claim files seven years. Beyond that time, we do not have any way to verify a subsequent claim. (Obvious cases where additional claims are anticipated are kept on a "Do Not Destroy Basis".

To keep files indefinitely will ultimately become a serious problem. We are not sure how to cope with the forthcoming problems in this respect, but we would suggest study be given to some mechanism to allow companies to close files within some period of time.

Record keeping - Reporting requirements, etc. are becoming a serious cost factor in the industry, having a definite bearing on the cost of insurance.

CONCLUSION:

With some reservations, The Western does support compliance with the "19 essential requirements" under study by this committee.

We have three additional qualifications:

- (1) Do Not Act In Haste. We know there are additional studies going on in Washington (See H 15609 and S 2018). There will be additional testimony and new recommendations. Unless a particular requirement seems essential to Kansas at this time, it might be worthwhile to see what else happens --- to see how other states are reacting or their results if already enacted.

Too often what is good for New York or Washington is not the best for Kansas. While compliance may ultimately be mandatory you should be reluctant to adopt any law for Kansas on a voluntary basis unless you are confident it is good for Kansas.

- (2) Please note SPECIAL EXCEPTION SECTION that follows. We believe that the present Kansas computation formula is unfair and we would not support any of the recommended changes herein that involve permanent partial payments without change of the formula.

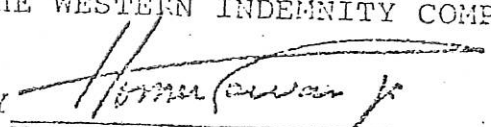
- (3) We have to repeat what we said at the outset --

How much protection can the public afford .  
and  
Who is subsidizing whom?

RESPECTFULLY SUBMITTED,

THE WESTERN CASUALTY AND SURETY COMPANY  
THE WESTERN FIRE INSURANCE COMPANY  
THE WESTERN INDEMNITY COMPANY

BY

  
Homer H. Cowan, Sr. \*  
Assistant Vice President

\*Registered Lobbyist



SPECIAL  
EXCEPTION  
SECTION

While The Western offered general support for the 19 "Essentials" as proposed - we did have some reservation.

Particularly important was retention of the \$10,000 payroll exemption.

All of our support, however, was predicated upon changes in our present law. We believe there is a glaring inequity in the Kansas computation formula for permanent partial disability. The following pages will illustrate the point.

To increase benefits predicated upon "bad law" cannot help but increase the rates to Kansas employers. Compliance with the "19 essentials" will increase rates as it is. Without altering our present law, the increase may be intolerable.

## SPECIAL EXCEPTION SECTION

The 19 essential recommendations, in addition to raising benefits, are based in part on having some uniformity in all the states.

The question needs to be asked -- "Raised from what?"

If you look at other states, a common figure you see when determining wages or disabilities is 66 2/3% of -- "gross weekly wage"  
 -- "average weekly wage"  
 -- "etc."

In almost all states, injuries are predicated on the number of weeks.

Likewise the formula in nearly every state is 66 2/3% of gross weekly wage (up to a maximum) X (times) the number of weeks designated for the injury.

Thus, in respect to a general injury, the formula would be:

66 2/3 of gross weekly wage X % of disability X no. of weeks.

Thus, a 25% disability to a person making \$100.00 per week would be:  
 (Based upon maximum of 415 weeks).

66 2/3 % of \$100.00	=	\$66.66	per week
		x 25% disability	
		<u>33330</u>	
		13332	
		<u>166650</u>	
		x 415	No. of weeks
		<u>\$6,915.97</u>	Total

BUT KANSAS HAS A FAR DIFFERENT FORMULA IN RESPECT TO PERMANENT PARTIAL DISABILITY.

Actual Wage X % of disability X 66 2/3% X No. of Weeks

Thus for the \$100.00 per week worker (25% disability)

$$\begin{array}{r}
 100.00 \times 25\% = 25.00 \\
 66 \frac{2}{3} \times 25\% = 16.67 \\
 16.67 \times 415 = \$6,916.00 \\
 \text{(weeks)}
 \end{array}$$

That tracks quite well with the formula used in most states.

But let's take a high wage earner.

First the accepted formula - (\$500.00 per week) (25% disability)

$$66 \frac{2}{3}\% \text{ of } \$500.00 = 125.00 \text{ per week (over the maximum of } \$120.95)$$

$$\begin{array}{r}
 120.95 \text{ maximum} \\
 \times 25\% \text{ disability} \\
 \hline
 60475 \\
 24190 \\
 \hline
 30.2375 \text{ rate} \\
 \times 415 \text{ no. of weeks} \\
 \hline
 \$12,549.60
 \end{array}$$

Now the Kansas Formula:

Wage x 5 x 66 2/3 x weeks

$$\begin{array}{r}
 500.00 \\
 \times 25\% \\
 \hline
 125.00 \text{ (rate)} \\
 \times 66 \frac{2}{3} = 83.34 \times 415 \text{ weeks} = \$34,585.00
 \end{array}$$

While we have no argument that the high wage earner may require more, we do feel the present Kansas formula discriminates against the low wage earner. The formula should work out more equally.

Special Exception  
Section - 4

Article 7.—MEASUREMENT OF DISABILITY

51-7-3. Injuries not covered by the schedule; general bodily disability. In cases of injuries resulting in temporary total disability or total permanent disability, the workman is entitled to sixty-six and two-thirds (66%) percent of his average weekly wage, in no case less than the minimum, nor more than the maximum amount provided in K. S. A. 44-510c. The payment of compensation for permanent partial general bodily disability shall not exceed 415 weeks; however, K. S. A. 44-510d and 44-510e create a presumption that the disability existed immediately after said injury. This presumption may be rebutted by the employer.

The following injuries are recognized by K. S. A. 44-510c to constitute total permanent disability: loss of both eyes, both hands, both arms, both feet, or both legs, in the absence of proof to the contrary, substantially total paralysis, or incurable imbecility or insanity resulting from an injury independent of all other causes. In all other cases total permanent disability shall be determined in accordance with the facts.

Where temporary total disability results from the injury, no compensation shall be paid during the first week of disability. Provided, however, that if the temporary total disability exists for three (3) consecutive weeks then compensation shall be paid for the first week of said disability. Thereafter, weekly payments shall be made during such temporary total disability of a sum equal to sixty-six and two-thirds (66%) percent of the average weekly earnings of the injured workman, but in no case less than the minimum per week, nor more than sixty-six and two-thirds (66%) percent of the state's average weekly wage.

A. The following formula should be used to compute compensation for permanent partial general bodily disability:

1. Computation of the payment partial weekly rate
 

Average Gross weekly wage	
× Percent of permanent partial general disability	← Note
-----	
\$	
× 66%	
-----	
\$	Permanent total weekly rate (not to exceed maximum rate)
2. Computation of permanent partial compensation due claimant
 

415 weeks	
— Temporary total weeks	
-----	
Weeks available for permanent partial rate	
× Permanent partial weekly rate	
-----	
Total permanent partial compensation due	

B. The following formula should be used to compute compensation for permanent total disability:

1. Computation of weekly rate for total disability
 

Average Gross weekly wage	
× 66%	
-----	
\$	Permanent total weekly rate (not to exceed maximum rate)

Kansas  
Computation  
Formula  
in Respect  
to Partial  
Disability

2.

\$50,000	
— Amount of temporary total paid	
-----	
\$	Balance to be paid

3. Computation of number of weeks compensation should be paid for total disability:

Balance to be paid =	Number of weeks compensation is payable for
-----	-----
Permanent total weekly rate	Permanent total disability

C. Notwithstanding any provision of the workmen's compensation act to the contrary, the maximum compensation payable by the employer for permanent total disability, temporary total disability and partial disability combined shall not exceed a maximum and total amount of fifty thousand dollars (\$50,000) for an injury or any aggravation thereof. (Authorized by K. S. A. Supp. 44-510d and 44-573; effective Jan. 1, 1966; amended J. 1969; amended Jan. 1, 1971; amended Jan. 1, 1973; amended E-74-31, July 1, 1974; amended May 1, 1975.)

Article 8.—COMPENSATION FOR EYE INJURIES

51-8-10. Compensation for loss of hearing. K. S. A. 44-510d (20), provides for the complete loss of hearing of both ears, sixty-six and two-thirds (66%) percent of the average weekly wage during one hundred ten (110) weeks; and for the complete loss of hearing of one ear, sixty-six and two-thirds (66%) percent of the average weekly wages during thirty (30) weeks. For the permanent partial loss of the hearing of an ear, compensation shall be paid at the rate of sixty-six and two-thirds (66%) percent of the average weekly wages, not in excess of the maximum provided in K. S. A. 44-510d during that portion of the number of weeks in the foregoing schedule provided for loss of such hearing of an ear, which portion of loss thereof bears to the total loss of the hearing of an ear.

The law does not make any requirements as to the methods of measuring loss of hearing or partial loss of hearing. In determining whether or not loss of hearing exists, standard instruments recommended by the American Medical Association in medical cases are to be used. Compensation is payable only for that percentage of loss of hearing which is incurred by the accident.

In measuring the loss of hearing the procedure recommended by the American Medical Association is to be used whenever practicable. These recommendations are as follows:

1. Since the pure tone audiometer is the best available instrument for determining the loss of acuity of hearing, the procedure recommended herein is based on measurements of hearing loss by an accepted standard audiometer. Since, in the present state of knowledge, it is not possible to arrive at quantitative evaluation of hearing impairment except by audiometric measurements, no consideration is given to other than audiometric finding in setting this basic procedure.



Kansas presently has a \$50,000 maximum. Perhaps that was a trade-off for the lopsided computation formula!

A formula like the one Kansas has, inevitably is reflected in the insurance rate..

Comparing to Missouri, which follows the normally accepted computation formula, we selected several classifications at random --

Class	Missouri	Kansas
5645 (Carpentry)	3.06	5.34
8810 (Clerical)	.11	.16
5190 (Electrical wiring)	1.84	2.61
5506 (Road construction)	2.54	4.11
8387 (Service Station)	2.08	3.16

(Rate per \$100.00 of payroll)

Yet, with the higher rate, our loss ratio for Kansas is consistently higher than for the State of Missouri.

	KANSAS		MISSOURI	
	Western Casualty	- Western Fire	Western Cas.	- Western Fire
1970	56.	69.8	56.	50.6
1971	55.7	66.2	55.8	52.2
1972	55.6	64.1	54.9	52.2
1973	55.4	65.1	54.6	56.4

(pure loss ratio -- policy years)

One might argue that the maximum rate in Missouri is lower -- yes, that is true.

Missouri is \$95.00 week maximum.  
Kansas is \$120.95 week maximum.

But Missouri has 40 week "healing period" which is not subtracted from permanent partial. Kansas is subtracted.

Missouri has lifetime benefits to widows.

Kansas has a \$50,000 maximum.

Missouri has complied with 11 of the so-called essentials - Kansas 9.

KANSAS DEPARTMENT OF  
*Human Resources*  
DIVISION OF WORKERS' COMPENSATION

Register  
Chibi

6TH FLOOR, 535 KANSAS AVE. TOPEKA, KANSAS 66603  
913-236-3441

How Kansas has complied with the nineteen (19) essential recommendations of the National Commission on State Workers' Compensation Laws. Prepared by the Division of Workers' Compensation, State of Kansas.

- 1) Coverage by workmen's compensation laws be compulsory and no waiver be permitted.

Comment: Workmen's Compensation is compulsory for those employers that are mandatorily covered under the act. The prior law allowed an employer at his election to come out from under the act. However, it would be pointed out that certain employments are not mandatorily covered in this state such as agricultural pursuits and those employers who have less than a \$10,000 annual payroll in the preceding calendar year.

R2.1

- 2) Employers not be exempted from workmen's compensation coverage because of the number of their employees.

Comment: Kansas no longer exempts employers because of the number of employees. However, as noted there is a \$10,000 payroll exemption.

R2.2

- 3) A two-stage approach to the coverage of farm workers. First, as of July 1, 1973, each agriculture employer who has an annual payroll that in total exceeds \$1,000 be required to provide workmen's compensation coverage to all of his employees. As a second stage, as of July 1, 1975, farmworkers be covered on the same basis as all other employees.

Comment: Kansas excludes agricultural pursuits, therefore, does not meet this recommendation.

R2.4

- 4) As of July 1, 1975, household workers and all causal workers be covered under workmen's compensation at least to the extent that are covered by Social Security.

Comment: Kansas would not discriminate against household workers or any causal workers, however, it would be pointed out that there is a \$10,000 payroll exemption.

R2.5

FD

R.2.6  
5) Workmen's Compensation coverage be mandatory for all government employees.  
Comment: Workmen's compensation coverage is mandatory for all state employees and generally for all employees of other local units of government. However, it would be pointed out where a local unit of government has less than a \$10,000 annual payroll in the preceding calendar year, they would be exempted from the Kansas Workmen's Compensation Act.

R2.7  
6) There be no exemptions for any class of employees, such as professional athletes or employees of charitable organizations.  
Comment: Kansas would meet this recommendation.

R2.11  
7) An employee or his survivor be given the choice of filing a workmen's compensation claim in the State where the injury or death occurred, or where the employment was principally localized, or where the employee was hired.  
Comment: Kansas would meet this recommendation.

R2.13  
8) Full coverage for work-related diseases.  
Comment: Generally Kansas would meet this requirement.

R3.7  
9) Subject to the State's maximum weekly benefit, temporary total disability benefits be at least 66 2/3 percent of the worker's gross weekly wage.  
Comment: Kansas would meet this recommendation.

R3.8  
10) As of July 1, 1973, the maximum weekly benefit for temporary total disability be at least 66 2/3 percent of the State's average weekly wage, and as of July 1, 1975, the maximum be at least 100 percent of the State's average weekly wage.  
Comment: Kansas meets the first part of this recommendation, but not the second. The maximum benefit in Kansas at the present time is 66 2/3 percent of the State's average weekly wage.

R3.11  
11) The definition of permanent total disability used in most States be retained. However, in those few states which permit the payment of permanent total disability benefits to workers who retain substantial earning capacity, the benefit proposals be applicable only to those cases which meet the test if permanent total disability used in most States.  
Comment: Kansas would seem to meet this recommendation as the definition of total disability is the ability to engage in any gainful and substantial employment.

R3.12  
12) Subject to the State's maximum weekly benefit, permanent total disability benefits be at least 66 2/3 percent of the worker's gross weekly wage.  
Comment: Kansas would meet this recommendation.

R3.15  
13) As of July 1, 1973; the maximum weekly benefit for permanent total disability be at least 66 2/3 percent of the State's average weekly wage, and as of July 1, 1975, the maximum be at least 100 percent of the State's average weekly wage.  
Comment: Kansas would meet the first part of this recommendation, but would not meet the second part of this recommendation. The maximum in Kansas is 66 2/3 percent of the State's average weekly wage.



- 14) Total disability benefits be paid for the duration of the worker's disability, or for life, without any limitation as to dollar amount or time.

R3.17

Comment: Kansas does not meet this recommendation as there is a monetary limit of \$50,000 for each claim in Kansas.

- 15) Subject to State's maximum weekly benefit, death benefits be at least 66 2/3 percent of the worker's gross weekly wage.

R3.20

Comment: Kansas would meet this recommendation.

- 16) As of July 1, 1973, the maximum weekly death benefit be at least 66 2/3 percent of the State's average weekly wage, and as of July 1, 1975, the maximum be at least 100 percent of the State's average weekly wage.

R3.23

Comment: Kansas would meet the first part of this recommendation, but not the second part. The maximum benefit in Kansas for a weekly death benefit is 66 2/3 percent of the State's average weekly wage.

- 17) Death benefits be paid to a widow or widower for life or until remarriage, and in the event of remarriage two years' benefits be paid in a lump sum to the widow or widower. Benefits for a dependent child be continued at least until the child reaches age eighteen, or beyond such age if actually dependent, or at least until age twenty-five if enrolled as a full-time student in any accredited educational institution.

R3.25

Comment: Kansas would partially meet this recommendation, but in part would not. Death benefits are not paid for the life time of the widow or widower and there are monetary limitations on these payments. Benefits to dependent children are only paid up to age 23 under the circumstances set out in this recommendation. Kansas does allow a 100 weeks lump sum benefit upon remarriage.

- 18) There be no statutory limits of time or dollar amount for medical care or physical rehabilitation services for any work-related impairment.

RA.2

Comment: Kansas would generally meet this recommendation. However, the statute of limitations could terminate the right to future medical.

- 19) The right to medical and physical rehabilitation benefits not terminate by the mere passage of time.

RA.4

Comment: Kansas would generally meet this recommendation. However, the statute of limitations could terminate the right to future medical.

REI.  
- Occupational Disease

(Robt. Flockhart, AIA)

I am happy that thus far I have been able to be both positive in my statements and, I hope, informative. The issue of coverage for occupational disease, however, is a complex one which does not lend itself to definitive answers, a fact of which I am sure you are aware after these three days of hearings on this subject. To avoid repetition of testimony already received, I should like to comment just briefly on some of the problem areas.

First is the problem of diseases resulting from multiple causation, where some causes of the disability are work-related and others are not. We believe the workers' compensation system should only respond to the degree of disability which arises out of and in the course of employment.

A somewhat related situation are those diseases - heart ailment, respiratory ailments, strokes -- which in large part are the result of normal wear and tear of life. Such ailments are common to all people and are not peculiar to the work environment. They are, in other words, ordinary diseases of life. We believe it would be necessary to strike a proper balance in handling these types of diseases, so that the evidence in each compensable case clearly establishes a causal connection between the disease and the employment and, further, that the employment exposed the individual to certain conditions to which the public as a whole are not exposed. We are concerned that in some states there appears to be tendency to erode or even to eliminate the causality factor and the need to produce evidence that the employment created exposures which are different from those to which persons of all ages and walks of life are exposed. In short, all diseases which are incurred during the work day are not necessarily, and should not automatically be brought within the definition of "occupational disease."

Another area of concern is that of aggravation of existing disease conditions. Here again, it is difficult to determine the degree of disability arising out of and in the course of employment, which should be the sole compensable element. It is possible such situations could be handled through the use of special funds as exist in most states for pre-existing injuries. This approach must be viewed cautiously, bearing in mind that such funds are generally maintained by assessments included in the cost of the worker's compensation system. The substantial growth of such funds could sharply inflate the cost of the system.

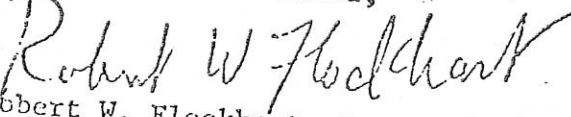
In conclusion we would like to emphasize two concerns we have in this area and urge that in your review of the general issue of occupational disease you bear them in mind:

- 1) Compensability for occupational disease should be strictly limited to those circumstances where sound medical evidence establishes disability. The creation of "legal diseases", that is, diseases established by statutory presumptions rather than medical evidence, should be avoided. The enormous cost of the black lung program, involving only one disease in one industry, portends gravely on the future of the workers' compensation system should similar programs be adopted for all diseases.
- 2) Compensability for occupational diseases should be based upon sufficient evidence that the cause of the disease arose out of and in the course of employment. Elimination of this casualty factor would, in effect,

create a comprehensive health program for workers. While the scope of persons encompassed by such a comprehensive health program would be significantly smaller than the scope envisioned in the coverage of a comprehensive national health program, the benefits under the workers' compensation system would involve both medical benefits and wage loss replacement. The cost figures estimated for a comprehensive national health program cast ominous shadows over the future of the workers' compensation system should this system be expected to encompass a "mini" comprehensive health program.

I thank you for this opportunity to allow me to present to you the views of the American Insurance Association. As in the past, the Association stands ready to provide whatever assistance you or your staff may feel desirable in your further deliberations on the subject of occupational disease.

Respectfully submitted,

  
Robert W. Flockhart, Counsel  
AMERICAN INSURANCE ASSOCIATION

STATE WORKERS' COMPENSATION LAWS COMPARED WITH THE 19 ESSENTIAL RECOMMENDATIONS  
 OF THE NATIONAL COMMISSION ON STATE WORKERS' COMPENSATION LAWS  
 (Laws in Effect on January 1, 1977)

Number of States in Compliance	2.1 1/2		Essential Recommendation 1/															2.25 2/				4.2	4.4	
	(a)	(b)	2.2	2.4	2.5	2.6	2.7	2.11	2.13	3.7	3.8*	3.11	3.12	3.15*	3.17	3.21	3.23*	(1)	(2)	(3)	(4)			
State	27	33	34	13	2	29	22	27	49	45	23	50	47	21	16	30	18	11	8	12	6	17	53	
Alabama	X	X	-	-	-	-	X	X	X	X	-	X	X	-	-	-	-	-	-	-	-	-	X	X
Alaska	X	X	X	-	-	-	-	X	X	X	X	X	X	-	X	X	-	-	-	-	-	-	X	X
Arizona	X	-	X	X	-	-	X	X	X	X	X	X	X	-	X	X	X	-	-	-	-	-	X	X
Arkansas	X	X	-	-	-	X	-	-	X	X	-	X	X	-	X	-	X	-	-	-	-	-	X	X
California	X	X	X	X	(X)	X	X	-	X	X	-	X	X	-	X	-	-	-	-	-	-	-	X	X
Colorado	X	-	X	(X)	-	X	-	X	X	X	-	X	X	-	-	X	-	-	-	-	-	-	X	-
Connecticut	X	X	X	X	-	-	-	-	X	X	-	X	X	-	X	X	-	-	-	-	-	-	X	X
Delaware	X	X	X	-	-	-	-	-	X	X	-	X	X	-	X	X	-	-	-	-	-	-	X	X
District of Columbia	X	X	X	-	-	-	X	-	X	X	-	X	X	-	X	X	-	-	-	-	-	-	X	X
Florida	X	-	X	-	-	X	X	-	X	X	X	X	X	X	X	-	X	-	-	-	-	-	X	X
Georgia	X	-	-	-	-	-	-	X	X	X	-	X	X	-	X	-	-	-	-	-	-	-	X	-
Hawaii	X	X	X	X	-	-	-	X	X	X	X	X	X	-	X	X	-	-	-	-	-	-	X	-
Idaho	X	X	X	-	-	X	-	X	X	X	X	X	X	X	X	-	-	-	-	-	-	-	X	X
Illinois	X	X	X	-	-	-	-	X	X	X	-	X	X	-	X	X	-	-	-	-	-	-	X	X
Indiana	X	X	X	-	-	-	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Iowa	X	-	X	-	-	X	-	X	X	X	X	X	X	-	-	X	-	-	-	-	-	-	X	X
Kansas	X	-	-	-	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Kentucky	X	-	X	-	-	X	X	X	X	X	X	X	X	-	X	X	-	-	-	-	-	-	X	X
Louisiana	X	X	X	X	-	-	X	X	X	X	-	X	X	-	X	X	-	-	-	-	-	-	X	X
Maine	X	-	X	-	-	X	X	-	X	X	-	X	X	-	X	-	-	-	-	-	-	-	X	X
Maryland	X	-	X	-	-	X	X	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Massachusetts	X	X	X	X	-	-	X	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Michigan	X	X	X	X	-	-	X	-	X	X	-	X	X	-	X	X	-	-	-	-	-	-	X	X
Minnesota	X	X	X	-	-	-	X	-	X	X	-	X	X	-	X	X	-	-	-	-	-	-	X	X
Mississippi	X	X	-	-	-	-	X	-	X	X	X	X	X	-	X	-	-	-	-	-	-	-	X	X
Missouri	X	X	-	-	-	X	X	X	X	X	X	X	X	-	X	X	-	-	-	-	-	-	X	X
Montana	X	X	X	X	-	-	X	-	X	X	X	X	X	-	X	X	-	-	-	-	-	-	X	X
Nebraska	X	X	X	-	-	X	X	X	X	X	X	X	X	-	X	X	-	-	-	-	-	-	X	X
Nevada	X	X	X	-	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
New Hampshire	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
New Jersey	-	X	X	X	-	X	X	X	X	X	X	X	X	-	X	X	-	-	-	-	-	-	X	X
New Mexico	X	X	-	-	-	X	-	X	X	X	-	X	X	-	-	-	-	-	-	-	-	-	X	-
New York	X	X	X	-	-	-	-	X	X	X	X	X	X	-	-	-	-	-	-	-	-	-	X	-
North Carolina	X	-	-	-	-	-	-	-	X	X	X	X	X	-	X	-	-	-	-	-	-	-	X	X
North Dakota	X	X	X	-	-	X	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Ohio	X	-	X	X	-	X	X	-	X	X	X	X	X	X	X	X	-	-	-	-	-	-	X	X
Oklahoma	X	-	-	-	-	-	-	-	-	-	-	-	-	X	X	X	X	X	X	X	X	X	X	X
Oregon	X	X	X	X	-	X	-	-	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Pennsylvania	X	X	X	-	-	-	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Rhode Island	X	X	-	-	-	-	X	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
South Carolina	-	-	-	-	-	-	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
South Dakota	X	-	X	-	-	-	-	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Tennessee	X	-	-	-	-	-	X	-	-	X	-	X	X	-	X	X	-	-	-	-	-	-	X	X
Texas	-	X	X	-	-	-	-	-	-	X	-	X	X	-	-	X	-	-	-	-	-	-	X	X
Utah	X	X	X	-	-	X	X	-	X	X	X	X	X	-	X	X	-	-	-	-	-	-	X	X
Vermont	X	-	X	-	-	-	X	X	X	X	(X)	X	X	(X)	-	X	-	-	-	-	-	-	X	X
Virginia	X	-	-	-	-	-	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Washington	X	X	X	-	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
West Virginia	X	X	X	-	-	X	X	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Wisconsin	X	X	X	-	-	-	X	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Wyoming	X	X	X	-	-	-	-	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

Total State Compliance Score

X Law meets recommended standard.  
 - Law does not meet recommended standard.  
 (X) Law has been enacted which will bring State into compliance at a future date, not later than December 31, 1977.  
 1/ The essential recommendations are reproduced on the following page.  
 2/ Recommendation 2.1 has two components, each with a value of 1/2; recommendation 3.25 has four components, each with a value of 1/4.  
 \* Based on the ratio of maximum weekly benefits on January 1, 1977 for a single worker (or surviving spouse) to the average weekly wage of workers covered under the State unemployment insurance laws for 1975, furnished by the U. S. Bureau of Labor Statistics or the respective State agency.

Kan. Adopted 9 essentials  
 Mo. " " " 11 essentials

DEVELOPMENT OF RATES AND BENEFITS

MISSOURI

1930 - 1964

160

150

140

130

120

110

100

90

80

70

60

50

40

30

Rate Level

Benefit Level

Rate Level

RATE LEVEL

BENEFIT LEVEL

1-1

1930

1-1

1940

1-1

1950

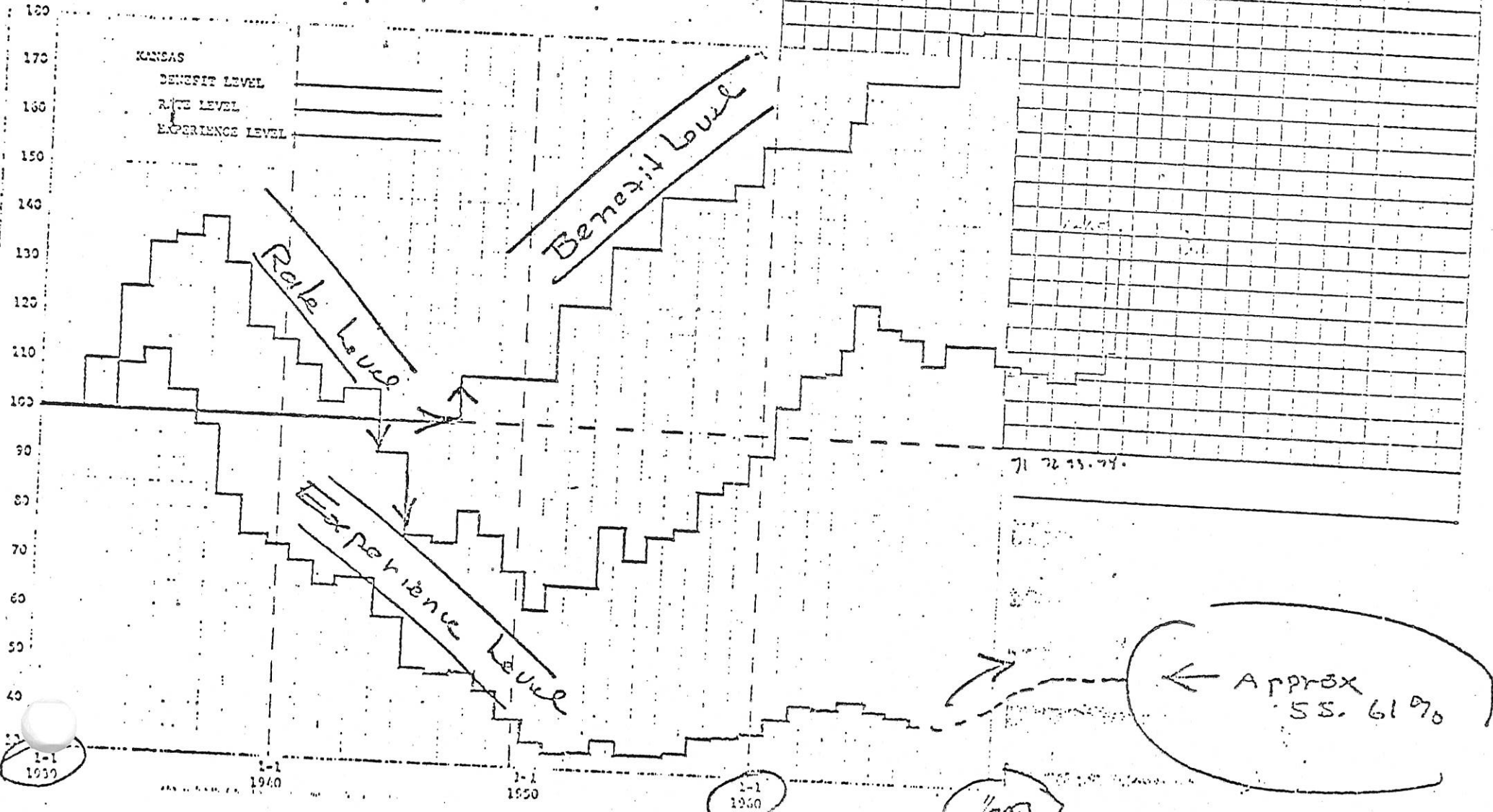
1-1

1960

'64

11-8

1930-1970 - (Partial projection thru 1975)



# Policy YEARS

REVISED

6,531,207 65

4	498	TAKES 3 YEARS FOR Development.																				
	146.1																					
5	515	535	WC = Western Casualty & Surety Co																			
	96.9	86.4	WF = Western Fire Ins. Co																			
6	563	71.1	47.5																			
	90.0	72.3	92.0																			
7	492	62.2	51.3	51.2																		
	91.2	77.5	81.1	85.3																		
8	211	56.5	53.2	51.5	52.6											52.1	10,450,173	54				
	41.1	77.4	95.4	108.8	112.9											97.6	497,421	70				
9		25.3	62.7	59.9	58.9	59.3												11,261,930	53			
		44.3	60.9	61.4	61.7	61.2												744,831	73			
10			17.2	47.7	51.2	49.1	51.9												12,110,118	51		
			29.7	52.9	63.6	62.4	62.3												993,384	69		
11				25.5	52.8	50.7	49.3	50.2												12,892,757	55	
				25.2	40.6	41.7	43.6	43.4												1,302,854	61	
12					27.1	53.4	58.6	57.7	56.9												13,900,413	55
					32.2	79.2	83.8	79.7	78.7												1,655,590	64
13						32.4	51.0	47.9	46.1												14,894,696	55
						28.3	54.6	61.7	62.1												2,063,065	65
14							23.1	59.2	60.4												16,218,597	52
							30.4	49.2	60.5												2,534,416	63
15								37.1	49.6												17,796,118	55
								64.7	73.4												3,218,959	66
16									27.0												19,834,289	59
									29.6												4,129,559	63

Not Developed →



# Missouri - Pure Loss Policy Years

13,048,253

1	45.7	TAKES 3 YEAR FOR Development								
	13.4									
5	57.2	57.9								
	57.5	61.5								
6	57.1	57.6	57.7							
	24.6	25.0	25.0							
7	54.0	55.3	54.9	54.8						
	45.6	51.3	50.6	50.6						
8	31.6	59.6	66.0	58.6	58.4		57.2	19,187,570		
	48.1	80.2	86.1	86.9	83.4		58.8	46,757,644		
9	35.9	65.3	63.6	60.7	59.9			20,620,232		
	35.9	72.6	81.4	88.5	88.5			688,562.4		
		22.9	53.8	54.8	59.3	61.6	W.C.	22,094,201		
		13.9	38.1	33.4	35.6	35.6	W.F.	923,006		
			32.5	58.3	56.3	57.5	61.3	W.C.	23,811,950	
			29.0	47.5	51.4	57.3	54.7	W.F.	1,163,767	
2			23.4	49.5	52.5	53.1	53.0	W.C.	25,880,910	
			29.8	77.6	90.4	86.7	85.6	W.F.	1,488,237	
3				24.8	55.4	58.3	57.6	W.C.	27,940,424	
				27.2	51.1	56.0	53.4	W.F.	1,814,701	
4					19.9	50.8	55.6	W.C.	29,987,664	
					22.7	53.8	70.9	W.F.	2,267,025	
						26.5	64.7		32,490,324	
						28.9	59.2		2,830,975	
							37.9		35,189,115	
							35.6		3,539,636	

not developed



# 5 YR Exhibit - Western Casualty - Kansas

## COMPENSATION PREMIUMS WRITTEN (INCL. DIV.) AND LOSSES INCURRED TO 12-31-

CO LINE	ST	YR	DIR. PREM. WR.	COMP. LOSSES INC.	MED. LOSSES INC.	TOTAL INC.
C	09	15 71	13,148,692.00	5,112,407.13		
C	09	15 72	989,827.23		2,449,452.00	7,501,899.13
C	09	15 73	1,083,563.94	355,175.33	207,945.23	563,120.56
C	09	15 74	1,361,985.42	299,635.60	199,680.95	499,316.55
C	09	15 75	1,673,637.33	521,984.08	301,064.31	825,043.39
C	09	15 76	1,576,582.67	537,218.29	292,607.41	829,825.70
C	09	15 (77)	342,250.00	293,113.94	133,289.47	420,403.41
C	09	15 (78)	150,626.00			
C	09	15	19,234,289.39			
			20,327,165.39 *	7,119,534.37 *	3,584,039.37 *	10,703,573.74 *

3 YR policy prom.

1976 not yet Developed

54.2

# 5yr Exhibit

## Western Fire Ins Co. - Kansas

	TR	59	15	71	1,323,796.59					
	TR	59	15	72	337,411.00	670,830.74				
	TR	59	15	73	394,869.00	166,655.84	288,750.20			
	TR	59	15	74	554,180.00	139,565.90	98,748.57	999,580.94		72.5
	TR	59	15	75	728,527.00	224,093.30	101,370.20	265,404.41		78.7
	TR	59	15	76	811,075.25	232,552.90	111,004.46	240,936.10		62.6
	TR	59	15	(77)	132,783.25	153,039.44	330,548.62	335,097.70		60.5
	TR	59	15	(78)	35,553.00		87,142.50	563,101.52		78.4
					4,129,858.84			240,181.94		29.6
					4,298,195.09	* 1,586,733.12	* 1,017,564.55	* 2,604,302.67		* 60.6

3yr policy Prem.

1976 not Developed as yet.

60.6

3yr Exhibit -

Western Casualty & Surety Co. - Missouri

				12,600,700.00					
	C	09	23	12,618,307.05	*	4,311,385.89	*	3,495,562.87	* 7,806,948.76
	C	09	24 71	24,033,974.68		9,785,593.90		4,136,378.58	13,921,972.48
	C	09	24 72	1,982,953.61		714,944.94		335,637.53	1,050,582.47
	C	09	24 73	2,099,976.00		776,662.58		433,699.21	1,210,361.79
	C	09	24 74	2,166,091.03		794,128.72		410,151.99	1,204,280.71
	C	09	24 75	2,404,895.65		1,075,222.69		479,704.36	1,554,927.05
	C	09	24 76	2,501,224.28		601,672.43		345,401.40	947,073.83
	C	09	24 (77)	791,753.01					
	C	09	24 (78)	283,744.67					
	C	09	24	35,199,115.25					
	C	09	24	36,264,612.93	*	13,748,225.26	*	6,140,973.07	* 19,889,198.33

66.5  
54.3

3yr Policy Prem

Average

1976 Not fully Developed

# 5 YR Exhibit

## Western Fire Ins. Co - Missouri

24	71	1,161,248.12	472,229.48	214,606.95	686,556.43	59.1
24	72	288,775.00	170,597.70	76,590.41	247,188.11	85.6
24	73	320,705.00	103,508.84	67,685.29	171,194.13	53.4
24	74	451,548.21	219,780.48	100,161.96	319,942.44	70.9
24	75	578,575.00	215,380.31	127,332.15	342,712.46	59.2
24	76	738,785.00	144,137.95	118,851.09	262,989.04	35.6
24	77	105,922.00				
24	78	41,808.00				
24		3,529,626.23				57.4
24		3,687,366.53 *	1,325,634.76 *	705,227.85 *	2,030,862.61	55.1

57.4  
55.1

Average

But Includes 77-78 prem (3 yr policies)

1976 not fully developed.

RE:

H - 15609 - (Very similar to 2018) (Gaydos Bill)  
S - 2018 - (Kennedy-Mondale, etc.)  
(Notes follows S-2018)

Congress declares and finds

That American workers are best served by a comprehensive National Workers Compensation System. (Sec 2 - (A)(5)).

Existing state laws inadequate (Sec. 2 (A)(6)).

That Congress must provide for a national enforcement procedure. (Sec. 2 (8)).

That injury means harmful change in the human organism -----

That disability includes -----

No time or dollar limit amount of compensation payable or medical re-habilitation.

150% - 200% (Gaydos)                      50% - (Gaydos)  
200% of state minimum wage.              (50% minimum)

Lifetime benefits to widow (2 years upon remarriage).  
Children to age 18 - (25 if in school).

3 day waiting period.

Periodic adjustment.

Reasonable attorney fees.

3 year statute of limitation (Known or should have known).  
(Minimum age 21) (Statute tolled during incapacity).

Appropriate compensation even though religious beliefs do not permit usual medical.

Employment related disease (presumptions).

State required to law.

Single State Agency  
Rehabilitation facilities  
Information Services  
Procedure for resolving contested cases  
Regulation of attorney fees  
Limitation on lump sum awards  
Insolvency protection mechanism  
Adequate funds  
Special provisions for pre-existing conditions  
comparable to Longshoreman's Act  
Reporting requirements  
Civil Service

(Without regard to amount-Gaydos)

Provides appeal from state to U. S. District Court  
Federal procedures against state agency or employer  
(also intervene).

Congress will appropriate such sums as are necessary to  
implement program.

Extensive reporting requirements (State - Employers - Carriers)

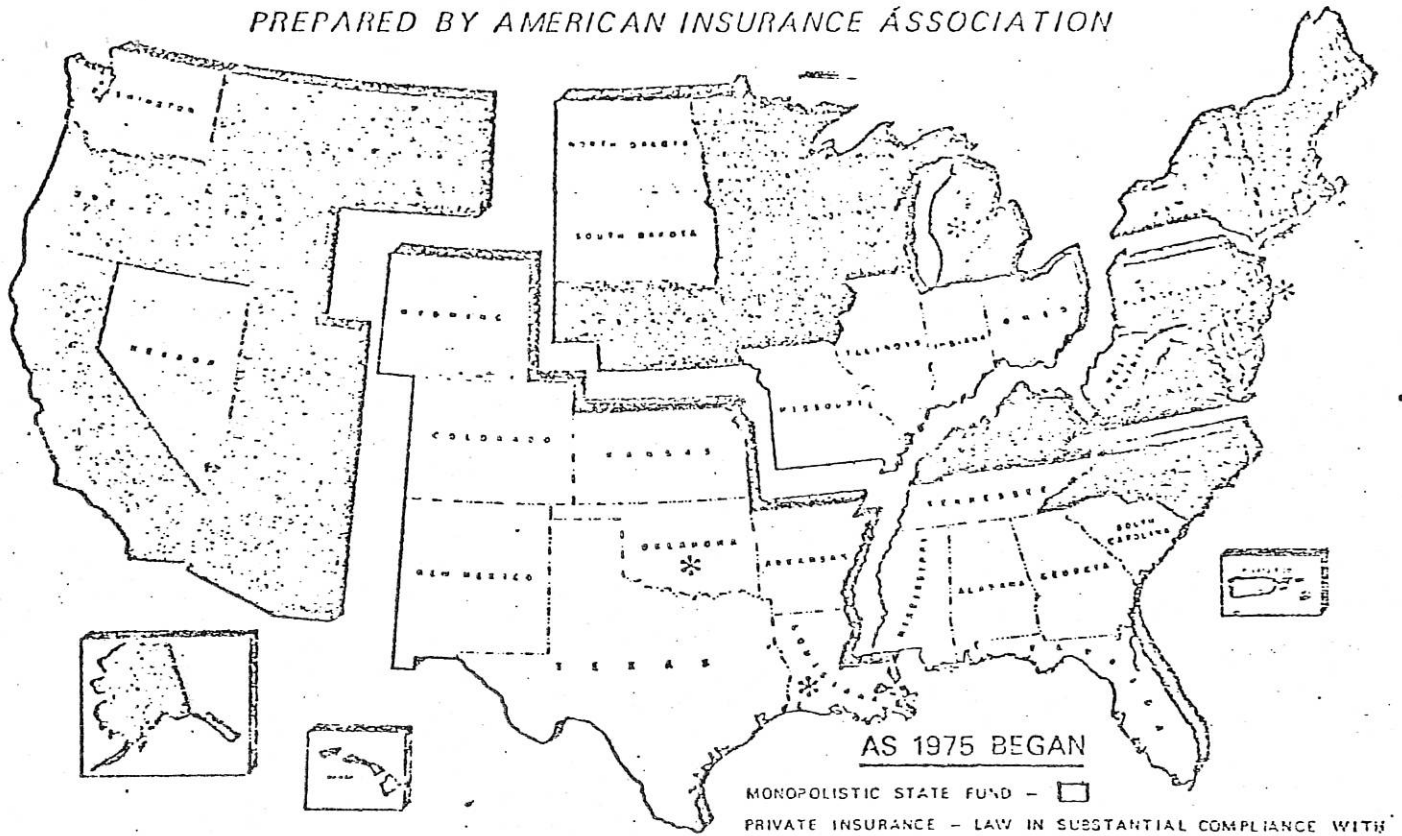
Audits

Advisory Commission

Review of all old cases - (2 years prior to enactment of Act)

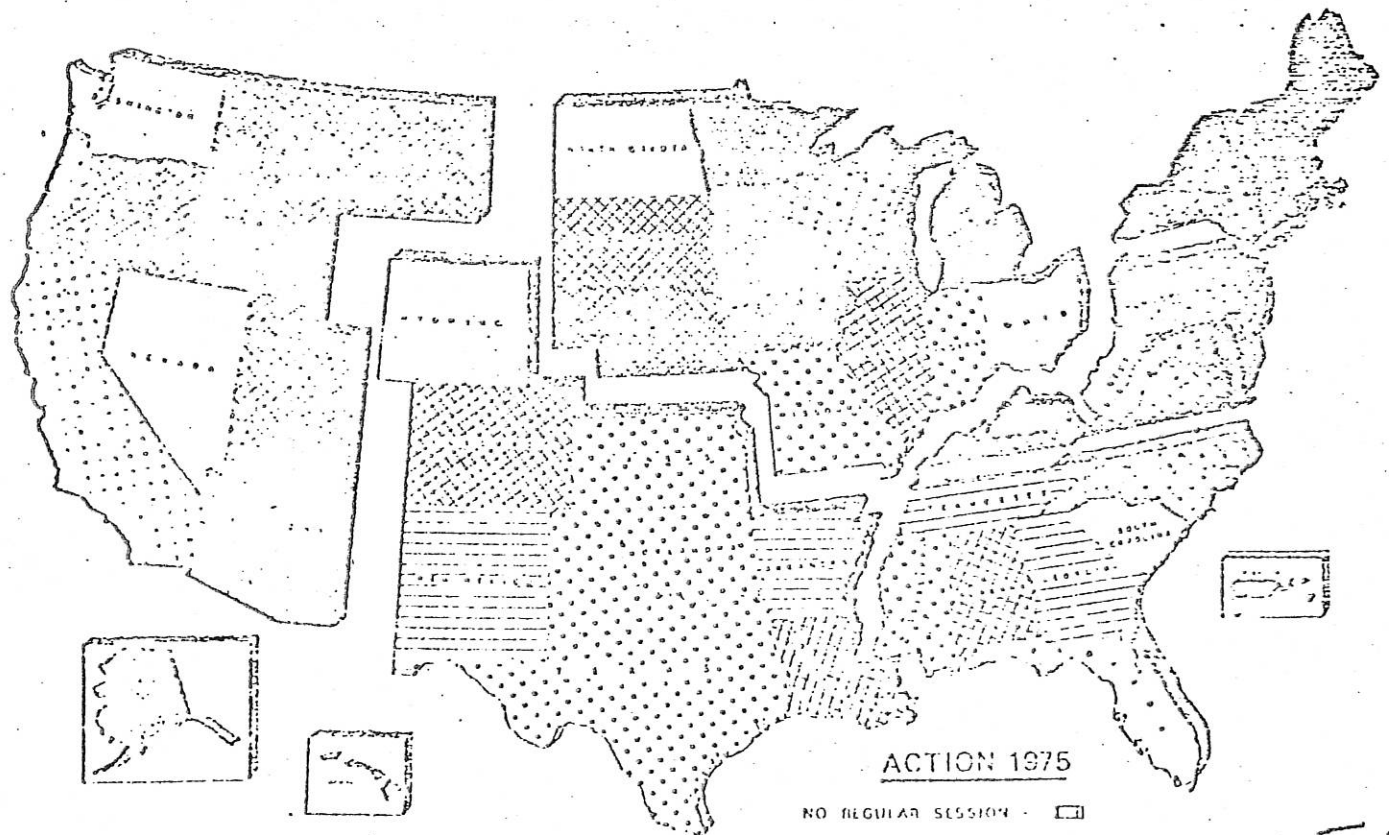
# WORKMEN'S COMPENSATION - 1975

PREPARED BY AMERICAN INSURANCE ASSOCIATION



## AS 1975 BEGAN

- MONOPOLISTIC STATE FUND - [Solid Black Box]
- PRIVATE INSURANCE - LAW IN SUBSTANTIAL COMPLIANCE WITH NATIONAL COMMISSION'S ESSENTIAL RECOMMENDATIONS - [Horizontal Lines Box]
- PRIVATE INSURANCE - IMPROVEMENTS NEEDED TO COMPLY WITH NATIONAL COMMISSION'S ESSENTIAL RECOMMENDATIONS - [Vertical Lines Box]
- OTHER SERIOUS PROBLEMS - [Cross-hatch Box]



## ACTION 1975

- NO REGULAR SESSION - [Solid Black Box]
- IMPROVEMENTS PASSED - [Horizontal Lines Box]
- ADDITIONAL IMPROVEMENTS NEEDED - [Vertical Lines Box]



WORKERS' COMPENSATION INSURANCE PREMIUMS  
PAID BY KANSAS EMPLOYERS  
CALENDAR YEARS 1963-1976  
(IN MILLIONS)

MILLION

\$70

\$60

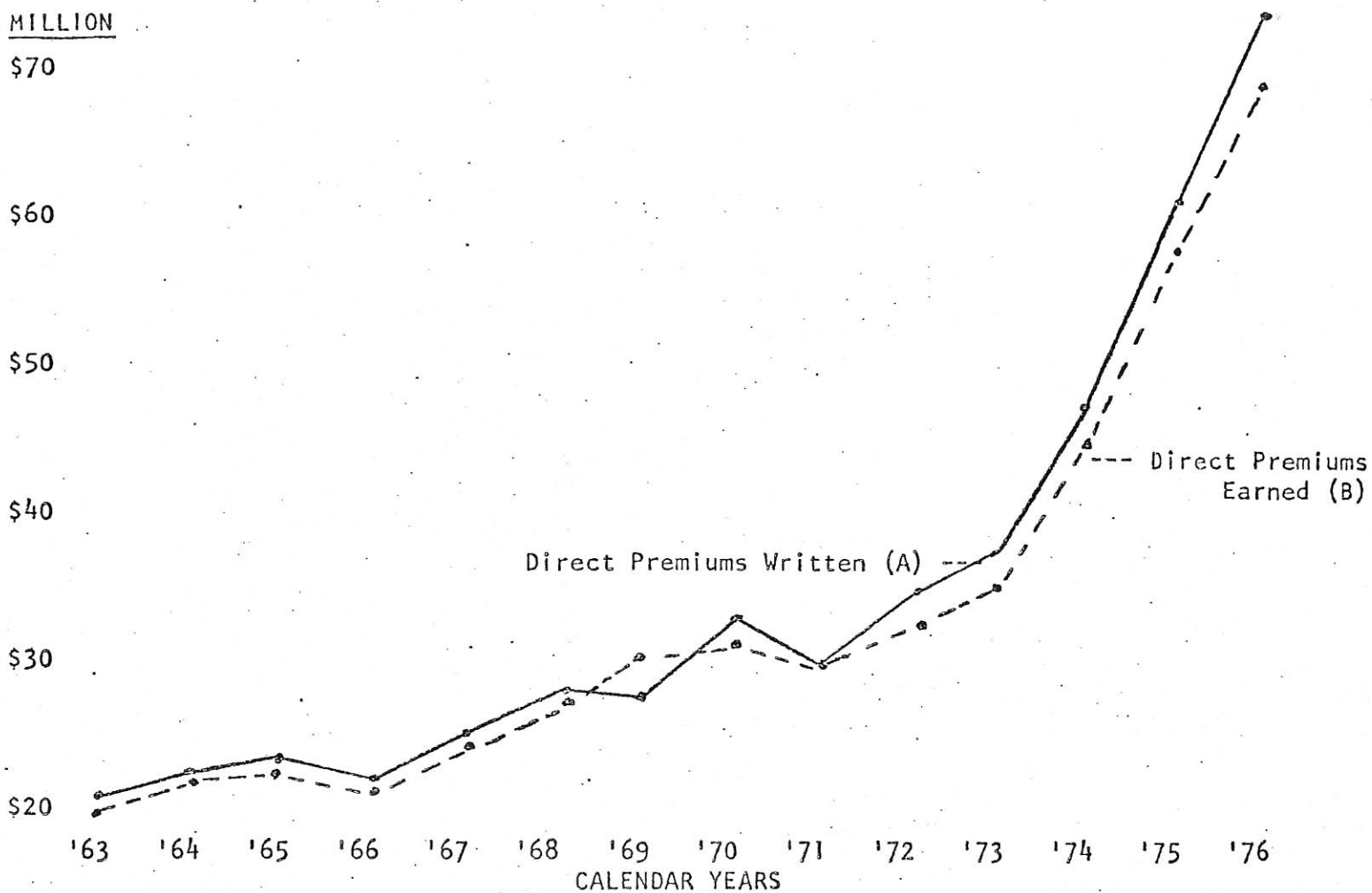
\$50

\$40

\$30

\$20

CHART 1



Cal. Year	DIRECT PREMIUMS (Millions)	
	Written A	Earned B
1963	\$20.6	\$19.6
1964	23.3	22.5
1965	23.7	23.5
1966	23.1	22.8
1967	25.8	24.7
1968	28.9	28.2
1969	28.4	30.6
1970	32.1	31.0
1971	30.2	30.1
1972	34.6	33.2
1973	37.0	34.4
1974	48.8	45.4
1975	60.9	58.4
1976	74.9	69.7

(A) PREMIUMS WRITTEN --

The amount insurance companies have actually collected for the calendar year.

(B) PREMIUMS EARNED --

The amount actually used during the year (i.e. a one year policy may have been written and paid for in mid-year)

KANSAS ASSOCIATION OF COMMERCE AND INDUSTRY  
July 20, 1976

TABLE 1.

PERCENTAGE INCREASE  
in  
Workmen's Compensation Rates  
Since  
Enactment of Major Changes  
in 1974

Base Year 1973 = 100%

<u>Average Annual Increases</u>		<u>Percent Over Base Year</u>
<u>Year</u>	<u>Percent</u>	
July 1, 1974	22%	22.00%
July 1, 1975	7%	30.54%
Aug. 1, 1976	13.1%	47.64%
July 1, 1977	17.4%	73.33%

Source: State Department of Insurance

TABLE 2.

NUMBER OF ACCIDENTS REPORTED  
by Employers and Insurance Carriers  
1975-1976

<u>Year</u>	<u>Total</u>	<u>Occupational Disability</u>	<u>Fatals</u>
1974	24,046	244	77
1975	40,305	536	104
1976	38,034	554	89

Source: Annual Statistical Report (July 1, 1976)  
State of Kansas, Division of Workers' Compensation, page 8.

*Atch. V*

T E S T I M O N Y

Special Committee on Labor  
and Industry concerning  
Workmen's Compensation

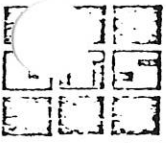
July 20, 1977

I am Charles Lewis, Public Relations/Public Affairs Manager for United Telephone Company of Kansas, Inc. Our state headquarters are located in Junction City, Kansas and we employ approximately 450 persons throughout the state. We are a part of the United Telephone System, the third largest telephone operating system in the United States, with over 3.6 million telephones in service in 21 states.

In addition to the United Telephone of Kansas operation in the state, we have the Midwest Group headquarters in Overland Park, with approximately 200 employees, and in Shawnee Mission is located our United Telecommunications, Inc. headquarters with more than 300 employees. In total, United Telephone System has approximately 950 employees in the state of Kansas.

I believe that United Telephone System and the individual operating companies within the system provide an outstanding employees wage, salary and benefit program. We, just as all of you, like holidays and vacations, hospitalization and life insurance benefits. We like pension plans and all the other things that fall

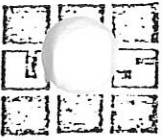
Atch. VI



2.

into the category known as employee benefits. According to my calculations, the average wage in Kansas is \$4.53 per hour, or \$181.42 weekly. Our United Telephone of Kansas average wage is presently \$4.91 per hour or \$196.40 per week. In accordance with previously negotiated union contracts, this average will soon increase to approximately \$5.30 per hour or \$212.00 weekly. During 1975 26.7 cents of every revenue dollar went for wages, salaries and benefits.

We have gone over in some detail the 19 essential recommendations of the National Commission in order to determine what effect they might have on our company, if they are enacted in Kansas. We anticipate there could be considerable additional expense to us if the maximum weekly benefits for temporary total disability or permanent total disability is increased beyond the 66-2/3 percent of the average state wage. As our average weekly wage is already substantially above the state average, with further increases already programmed, we would be subject to the full amount of any increase mandated. During the 1977 session of the Kansas legislature, a state minimum wage was enacted and it appears we can expect an increase shortly in the federal minimum wage. Only time will tell what effect these increased minimums and other inflationary pressures will have on the state average. The recommendation of the National Commission to go to 100 percent of the state average would result in a 50 percent increase in benefits and, therefore, in costs



3.

to not only our company, but all other businesses in the state.

We hear from various Kansas governmental spokesmen that we want to diversify our economy and attract new business and industry to Kansas. From statistics given in earlier hearings on this matter, we were informed that those states which have enacted the more liberal benefits are the same states that are now suffering most with gaining or even retaining business and industry. Those states which have taken a more conservative approach have shown the greatest gains in attracting new business and industry.

I believe that with the tax treatment accorded Workmen's Compensation benefits, the increase to 100 percent of the state average wage is unjustified. We have check payroll records and find that after state and federal income taxes and social security is deducted, the average percentage take home pay to gross wages is approximately 75 percent. Since there is no state or federal income taxes or social security withheld from Workmen's Compensation benefits, there would be less than 9 percent different in the net pay. However, if the recommendation is enacted to go to 100 percent, this could result in a considerable increase in net pay.

A part of our company's benefit plan is to supplement the employee's Workmen's Compensation benefit. The employee's longevity with the company would determine the amount of the supplement and

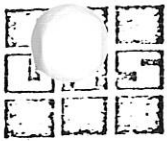
4.

the maximum duration. For instance, I have been with the United System for more than 18 years. Under our plan, for an on-the-job accident, I would receive a supplement that, in combination with Workmen's Compensation, would equal full pay for 20 weeks and half pay for 32 weeks.

Past experience with other programs has shown that where benefits or compensation is overly generous or compensating, some individuals tend to take advantage of the situations. This results in higher costs or taxes, as the case may be, and leaves less monies for those really needing assistance. This is not to insinuate that such is the practice of the majority of individuals, but evidence has been given to show that it is a costly factor.

We also voice our objection to the proposal to remove the \$50,000 maximum benefit for each claim. We believe this would open "Pandora's Box" so to speak, and really have no way of estimating what such a proposition might cost. We know now that there is a set maximum liability of \$50,000, but the elimination of this maximum would necessarily be reflected in a substantial increase in rates due to the unknown factors involved.

Another objectionable recommendation is the increase in the death benefits, both weekly and removal of the duration or amount.

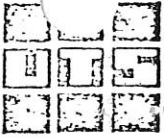


5.

Our reason for this objection is the same as stated earlier for temporary total and permanent total disability. In addition, we object to the recommended lifetime benefits to the surviving widow or widower. With the change in attitude of certain segments of society toward marriage, it might be tempting to some individuals to remain unmarried in order to receive the increased, prolonged benefits.

We find it difficult to calculate what the enactment of the full 19 essential recommendations might require our company to expend. During 1976 the United System expended approximately \$90,000 in Kansas for Workmen's Compensation coverage. I have received information from our Benefits Administration personnel that they can easily envision our cost could double, triple or even more to support such a program.

As you are aware, we are regulated by the Kansas Corporation Commission. Most other businesses are able, after evaluating supply and demand and other factors, to adjust their prices for goods and services to reflect additional operating costs in a quite timely manner. I make this point for two reasons: 1. To point out that it is the consumer who ultimately pays for any increases in costs; and 2. Due to our regulation and the vast amount of statistics and documentation which must be assembled and the time interval for the Kansas Corporation Commission and staff to evaluate the case, it can



UNITED TELEPHONE COMPANY OF KANSAS, INC.  
138 W. 6th ST. • JUNCTION CITY, KANSAS 66441 • 913-762-3232

United  
Telephone  
System

6.

sometimes take 12, 18 or event 24 months to realize additional revenues to compensate for this and other additional operating costs. This is not meant to be critical of the Kansas Corporation Commission or staff, but is solely to point out a fact of life that we and other similarly regulated industries face.

Again, I appreciate this invitation and opportunity to appear before your committee and participate in the American governmental process.

I will be glad to answer any questions you might have.

\* \* \* \* \*