

MINUTES OF THE HOUSE COMMITTEE ON LABOR AND INDUSTRY

Held in Room 521-S, at the Statehouse at 9:30 a. m. ~~p. m.~~,  
on January 25, 1983, 1983.

All members were present except:

Representative Jerry Friedeman/Excused

The next meeting of the Committee will be held at 9:30 a. m. ~~p. m.~~,  
on January 27, 1983.

These minutes of the meeting held on \_\_\_\_\_, 1983 were  
considered, corrected and approved.

  
Chairman

The conferees appearing before the Committee were:

Mr. Ron Todd  
Mr. William W. Sneed  
Mr. Bryce Moore

Chairman Douville called the meeting to order at 9:35 a.m.

Chairman Douville introduced Assistant Commissioner Ron Todd,  
who was asked to speak to the committee on the Workman's  
Compensation Fund.

Mr. Todd gave an over-view of the Fund. (Attachments 1, 2  
and 3.)

Mr. Todd introduced Mr. Bill Sneed, chief attorney.

A discussion period followed.

Chairman Douville adjourned the meeting at 10:03 a.m.



# Guest List

Rob Hodges	Topelca	KACI
Bill Morrissey	"	Div. of Work. Comp.
Tom	"	" "
David Ross	Missouri, Ks.	FARMERS INI. GROUP.
Ed Jenson	Topelca	Kans Assoc. of Prop. & Cas. Ins. Co.
Jim Ketcherside	McPherson	FARMERS ALLIANCE MUTUAL INS. CO.
Amy Carter	Topelca	intern
Ron Todd	"	Ks Ins Dept
William W Sneed	"	Ks Ins Dept
Ralph McGee		Ks AFL-CIO
Wayne Mauch	" "	Kans. AFL-CIO

## THE KANSAS WORKER'S COMPENSATION FUND

The Kansas Worker's Compensation Fund is a legislative vehicle, found at K.S.A. 44-566 et seq., which is designed to encourage the employment of handicapped persons by relieving the employer or his insurance carrier, in whole or in part, the burden of paying Worker's Compensation benefits to employees injured in later industrial accidents.

Historically, the Worker's Compensation Fund was originally called the Second Injury Fund, and was established in 1945. As you can tell by this date, the initial purpose behind the establishment of the Fund was to encourage the hiring of veterans who had received some type of injury during the war, and who were having difficulty in obtaining work. Originally, the Second Injury Fund was specifically limited to cover only the eye, arm, hand, leg or foot, and that the disability that resulted must be one of total permanency.

By 1961, the legislature overhauled the Second Injury Fund, and broadened its coverage. After the 1961 amendments, an injured worker no longer had to be totally disabled in order to receive benefits from the State. Further, the restriction that the handicapped must be due to the loss of a body member was deleted and at that time a laundry list of sixteen "handicapps" was established. This laundry list is still in use and found at K.S.A. 44-566.

Finally, the 1974 legislature abolished the Second Injury Fund and established the Worker's Compensation Fund. Initially, the Fund was authorized for other purposes in addition to Second Injuries, such as insolvent employer cases and reimbursement cases. Insolvent employer cases are those in which the injured worker's employer did not procure insurance and after the injury occurred had no money in order to pay Worker's Compensation benefits. The Fund would step into the shoes of the employer and pay the claim, and then attempt, through the judicial process, to collect the money back from the employer. Reimbursement type cases are those in which an employer has been ordered to pay Compensation benefits and that order is later reduced or disallowed. Then the Fund, will reimburse the employer so that the employer would not have to attempt to judicially go after the injured worker. The 1974 legislature also added a seventeenth definition to the handicapped statute and in turn greatly broadened the second injury aspect of the Fund. The seventeenth definition "any other physical impairment disorder or disease, physical or mental which is established as constituting a handicapped in obtaining or in retaining employment" led the way for expanding the Fund liability. There of course were several other changes made by the legislature which put together created an enormous amount of additional liability for the Fund.

The Fund receives its monies through four general sources. Initially, the state general revenue entitlement of the Fund is that money which represents payments for Second Injury type cases. Effective July 1, 1982, the general revenue entitlement is limited to 4 million dollars. Secondly, the Commissioner has the authority to assess Worker's Compensation Insurance Carriers and Self-Insurers for additional monies needed to pay for a fiscal year. Third, if an individual is killed while in the course of his or her employment and does not have any dependents, the Fund receives a lump sum amount which is classified as a Non-Dependent death receipt. Until the last legislative session, the Fund received \$5,000.00 per Non-Dependent death. That rate was raised last year to \$18,500.00. Finally, the Fund receives monies through miscellaneous areas such as recoveries against an insolvent employer, or third party suits, etc.

As mentioned earlier, the Fund can pay for all or part of a second injury case. All Compensation and medical expenses will be paid by the Fund when the handicapped employee suffers a compensable accident and the employer shows that the accident or disability resulting therefrom probably or most likely would not have occurred but for the pre-existing impairment.

Further, liability is shared by the employer and the Fund in those instances in which an injury or disability, which would have been suffered by a worker regardless of his pre-existing handicapp, but the resulting disability or death was contributed by the pre-existing impairment. In such cases, the "apportionment" is to determine equitably and reasonably and based upon medical evidence.

Administratively, the Insurance Department has on staff, a staff attorney, a part-time law clerk, a clerk-steno secretary, an account clerk, and an investigator to handle the internal workings of the Fund. Needless to say, the Department handles over 2,000 active files per year and in order to be represented in these matters the Department has the authority to hire outside counsel to represent the Fund at the hearings. These Attorney appointments are on a per case basis, and are paid at an hourly rate at \$45.00 per hour. Historically, approximately 88% of all Funds spent by the Worker's Compensation Fund are to the benefit of the employee in the form of disability and medical compensation. Thus, approximately 12% of our Funds are spent on Attorney's Fees, Court Costs, Medical Records, Travel Expense, and other administrative expenses incurred in the administration of the Fund.



#2  
1-25-83

FISCAL YEAR  
1982

FISCAL YEAR  
1983

FISCAL YEAR  
1984

FISCAL YEAR  
1985

\$ 2.04\* G.R. 1  
.833 Assess 2  
1.00 G.R. Supp. 3  
.545 Miscellaneous 4  
\$ 4.418 Available 5

\$ 3.60 G.R.  
(1.00) FY 1982 G.R. Supp.  
3.40 Assess  
2.00 (Short) 6  
\$ 8.00 Available

\$ 4.10 G.R.  
(4.00) G.R. Cap  
.10 Assess  
2.00 Assess For FY 1983  
Shortage  
4.00 Assess  
\$10.10 Available

\$ 7.50 G.R.  
(4.00) G.R. Cap  
3.50 Assess  
5.50 Assess  
\$13.00 Available

1/1/81

6/30/82

7/1/82

6/30/83

7/1/82

6/30/83

7/1/84

6/30/85

93%

93%

\* Millions of Dollars

1. G.R. = Money allocated to the Fund from State general revenues. A \$4 million limit has been established, effective FY 1984.
2. Assess = Assessments imposed on worker's compensation carriers and self-insurers.
3. G.R. Supp. = Money advanced from the following fiscal year's G.R. allocation.
4. Miscellaneous = Carry-over balance and non-dependent death receipts.
5. Available = Total funds available for payment of claims during that fiscal year.
6. Short = Amount estimated to be committed for payment of claims, payable July 1, 1984.

Atch. 2

#3  
1-25-83

KANSAS WORKERS' COMPENSATION FUND

RECEIPTS

FISCAL YEARS 1979 - 1982

<u>Description</u>	<u>F.Y. 1979</u>	<u>%</u>	<u>F.Y. 1980</u>	<u>%</u>	<u>F.Y. 1981</u>	<u>%</u>	<u>F.Y. 1982</u>	<u>%</u>
Assessment Receipts	1,000,073.25	(37.2)	2,653,436.23	(53.4)	-0-	(0)	833,817.16	(18.87)
General Revenue Fund Entitlement	501,523.00	(18.7)	1,624,747.00	(32.7)	1,799,457.00	(39.96)	3,047,776.00	(68.97)
Non Dependent Death Receipts	115,000.00	(4.3)	50,000.00	(1.01)	98,600.00	(2.18)	25,000.00	(.57)
Miscellaneous Reimbursements	8,950.41	(.3)	21,048.90	(.42)	26,812.44	(.6)	16,395.49	(.37)
Total Receipts	1,625,546.66		4,349,232.13		1,924,869.44		3,922,988.65	
Previous Year Carryover Balance	1,061,016.71	(39.5)	619,510.94	(12.47)	2,578,528.11	(57.26)	495,713.33	(11.22)
Total Funds Available	2,686,563.37	(100)	4,968,743.07	(100)	4,503,397.55	(100)	4,418,701.98	(100)

Attch. 3

KANSAS WORKERS' COMPENSATION FUND

EXPENDITURES

FISCAL YEARS 1979 - 1982

<u>Description</u>	<u>F.Y. 1979</u>	<u>%</u>	<u>F.Y. 1980</u>	<u>%</u>	<u>F.Y. 1981</u>	<u>%</u>	<u>F.Y. 1982</u>	<u>%</u>
Disability Compensation	1,587,196.04	(76.79)	1,934,187.73	(80.92)	3,298,917.38	(82.32)	3,456,486.40	(78.27)
Medical	201,948.25	(9.77)	173,034.12	(7.24)	283,163.68	(7.07)	343,025.00	(7.77)
Attorneys' Fees	235,736.01	(11.4)	258,375.12	(10.81)	397,307.59	(9.91)	580,793.70	(13.15)
Court Costs	34,842.13	(1.69)	23,810.69	(1.00)	*		21,148.72	(.48)
Depositions, Medical Reports	2,330.00	(.11)	807.30	(.03)	26,495.57	(.66)	14,444.92	(.33)
Refunds (Non-Dependent Death)	5,000.00	(.24)	-0-		1,800.00	(.04)	-0-	
Total	2,067,052.43	(100)	2,390,214.96	(100)	4,007,684.22	(100)	4,415,898.74	(100)

\*During F.Y. 1981, the court cost and deposition categories were combined.