

MINUTES OF THE HOUSE COMMITTEE ON LABOR AND INDUSTRY

The meeting was called to order by Representative Arthur Douville at  
Chairperson

9:10 a.m. ~~p.m.~~ on February 22, 1984 in room 526-S of the Capitol.

All members were present except:

All members were present.

Committee staff present:

All present.

Conferees appearing before the committee:

Mr. Rob Hodges, KCCI  
Mr. Ken Cobb, Iowa Beef Packers, Inc.  
Mr. Bob Wolff, Boeing Military Airplane Co., Wichita  
Mr. Bill Barnes, Modine Manufacturing Co.  
Mr. Gary Jordan, Attorney  
Mr. James B. Zongker, Attorney

Representative Douville passed out to the committee attachment #1. Then called Rob Hodges to the speakers stand to testify on H.B. 2980 and H.B. 2938. Mr. Hodges introduced Mr. Ken Cobb who spoke as a proponent on H.B. 2980 and H.B. 2938. See attachment #2.

The next speaker was Mr. Bob Wolff, who also spoke as a proponent of H.B. 2980 and H.B. 2938. See attachment #3.

Mr. Bill Barnes also spoke as a supporter of both bills. See attachment's #4 and #4a.

Mr. Gary Jordan was the next person to testify. He testified as an opponent of both H.B. 2980 and H.B. 2938. He also gave examples of some of the cases he has worked on and what the settlements were. He then pointed out to the committee lines in H.B. 2980 that he would like to see changed. They were: page 3, line 0088; page 11, line 0398; and pages 4-5 starting on line 0154.

Mr. James Zongker also testified as an opponent to both H.B. 2980 and H.B. 2938. He said that he represents probably 70% of the people who file a claim against Boeing.

The meeting was adjourned at 10:00 a.m.

# LABOR & INDUSTRY

2-22-84

## Visitors

Larry Weaver  
Steve Curtis  
Ken Cobb

Bill SNEED

Gary Jordan

Kathleen Sebelius

B Moore

Morris Taylor

James B Zongker

Bill Morley

Group [Signature]

H. Dale Stinson

William O. Barnes

Michael Merriam

M. Beshears

## Representing

IBP inc  
KCCI IBP  
IBP inc

Ks. Ins. Dept

KTLA

KTLA

DHR/Workers' Comp

DHR/Workers' Comp

Personal

DHR/Workers' Comp

Kan AFH-CIO

EMPORIA, KS Chamber

MODINE MFG CO - EMPORIA

IBP, Inc.

IBP, Inc.

ARTHUR DOUVILLE  
REPRESENTATIVE, TWENTIETH DISTRICT  
JOHNSON COUNTY  
9600 WOODSON  
OVERLAND PARK, KANSAS 66207



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
CHAIRMAN: LABOR AND INDUSTRY  
MEMBER: JUDICIARY  
LOCAL GOVERNMENT

MEMO

TO: LABOR AND INDUSTRY COMMITTEE

FROM: CHAIRMAN ARTHUR DOUVILLE

RE: DEVELOPMENTS IN WORKERS' COMPENSATION LAW  
1974 - 1983

The Kansas Legislature starting in 1974 has taken a number of steps to liberalize the Workers' Compensation Act. We have summerized a number of those changes as they developed over the intervening years.

In 1974 the compensation act was drastically overhauled.

1. The act was made applicable to practically all employments including all units of government and not just to hazardous employments.
2. The medical limitation of \$10,500 was removed, so today if an employee gets injured there is no limit on his right to medical benefits.
3. The death limitation of \$18,500 was removed and increased to \$50,000 and was made payable to the wife until her death or remarriage.
4. There was increased amount of benefits payable to children.
5. The weekly benefit payable per week was increased from 60 to 66 2/3 of the employees weekly wage.
6. The maximum weekly benefit of \$56.00 was stricken and the maximum weekly benefit was made to fluctuate with the states average weekly wage and was pegged at 2/3 of the states average weekly wage.
7. Subject to certain monetary maximums a limitation of 415 weeks payable for temporary total and permanent total was removed.
8. All the scheduled entries were changed to provide that the weekly benefit would go up from 60% to 66% of the average weekly wage.
9. Also, set in place was a hearing designated as a preliminary hearing, which is a summary proceedings, whereby an employee can file a claim and within a couple of weeks get a hearing on his application for medical and temporary total. Those are the only

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questions to be heard at the preliminary hearing and if the employee comes in and testifies that he needs medical care and can't work, with very few exceptions he will be awarded some temporary total disability and medical benefits.

10. Also brought into the picture was both physical and vocational rehabilitation.

In 1977:

11. We increased the allowance for burial benefits to \$2,000.

12. We changed the law so that an employee could continue to draw workers' compensation benefits even though he went on social security.

13. We also removed the provision in the law which cut down on death benefits when social security was paying social security benefits.

In 1979:

14. We increased the death benefit to a maximum of \$100,000. Actually by the wording in the statute, it is possible to draw more than a \$100,000 death benefit if you have minor children.

15. We increased the maximum compensation rate to 75% of the states average weekly wage, from 66 2/3% of the states average weekly wage. (This was done in two steps.)

16. We also increased the total disability and total temporary disability to \$100,000 and permanent partial to \$75,000.

17. We also put the assistant director and administrative law judges under civil service statutes, so that they could not be removed simply because the employer or employee did not like a particular decision.

In 1981:

18. We increased the unauthorized medical allowance \$350.00 from \$150.00.

In 1982:

19. We cut down the employer subrogation rights when the employer was negligent.

In 1983:

20. We expanded the definition of children to include any natural or adopted child as well as any dependant ✓ child related by marriage or blood.

Recently, businesses both large and small have asked that we take a look at our workers' compensation act to see what changes, if any, could be made.

#2

Statement of IBP, inc. for the Kansas House Committee on  
Labor and Industry, February 23, 1984

Good morning, members of the House Committee on Labor and Industry. My name is Kenneth Cobb; with me is Larry Weaver. Both of us are with IBP, inc., and together we are responsible for managing IBP's worker's compensation matters in Kansas. Larry's title is Manager, Workers' Compensation and I am Associate Senior Attorney.

As many of you know, IBP is a major employer in Kansas. We have meat packing plants at Emporia and in Finney County which total approximately 4,000 employees. Our annual payroll is \$70 million. We slaughter 2.5 million cattle per year at those two plants and the value of those cattle is \$1.6 billion per year. Our Finney County plant, which is just a few years old, was built in Kansas primarily because of Kansas' good business climate and the availability of good cattle in western Kansas.

Within an approximate five-year time frame IBP plans to expand its meat processing operation significantly in a way that would add an additional three or four thousand employees in Kansas. However, these plans are threatened by dramatic recent increases in Kansas workers' compensation costs which we have not experienced at our plants in other states. Labor costs account for more than half of our total costs, and a significant increase in workers' compensation losses impacts upon those labor costs. In the meat packing industry IBP as well as other major Kansas packers such as Excel, Val Agra, National Beef and High Plains Dressed Beef typically operate on a profit margin of only one cent for every dollar of sales. We packers simply cannot afford a big increase in our workers' compensation costs.

In the last two years IBP's per employee workers' compensation costs have risen 135%. Comparing Kansas to some neighboring states in which IBP also operates meat packing plants, we have found that our per employee workers' compensation costs in Iowa and in Nebraska increased 18% in 1983, whereas our Kansas costs increased a whopping 72.5% in 1983. IBP's 1983 per employee workers' compensation cost in Kansas was \$454, compared to \$215 in Iowa and \$372 in Nebraska. In summary, IBP's workers' compensation costs in Kansas jumped from \$1.0 million dollars in 1982 to 1.7 million dollars in 1983.

The reason for this rise in costs is quite apparent when Kansas is compared with neighboring states. Kansas law is now being interpreted in such a way that a case which would be worth only five or ten thousand dollars in permanent disability award in a state such as Nebraska, Iowa or Missouri, can cost the employer 50 to 75 thousand dollars in Kansas, if the claimant is represented by a

skillful claimant's specialist attorney such as Gary Jordan, who is present here today. Of course, in such cases the claimant's attorney normally takes 25% of the award as his fee. The legislation that we are talking about today, House bills 2938 and 2980, would correct a couple of inequities in Kansas law which have allowed awards of over 50 thousand dollars to be paid to employees who in fact were only slightly injured.

The problems faced by IBP and other meat packers, indeed by other industrial employers generally, are two-fold. First, an employee who suffers a body as a whole injury in Kansas is awarded permanent partial disability based upon his lost earning capacity, and that lost earning capacity is measured solely by the employee's ability to return to his old job. Even if the employee has a very slight functional disability such as 5%, and even if he earns as much or more money after his accident as he did before, he can be awarded a work disability of 100% because of his inability to return to his old job. This completely eliminates any incentive for the employer to vocationally rehabilitate the employee or to switch the employee to some other job in the employer's plant.

We have undertaken research of the law in the states surrounding Kansas and have learned that in all of the other states surrounding Kansas the primary test for permanent partial disability is the measure of the employee's lost earning capacity to do any work for which he is qualified. House bill 2938 would correct this inequity by providing that an employee injured to the body as a whole would be awarded a general disability rating based upon his ability to engage in work for which he is qualified by education, training or experience. This bill would bring Kansas back into line with the neighboring states and would restore a measure of rationality to body as a whole awards.

The second problem is carpal tunnel syndrome, which especially is common in the meat packing industry and other assembly line jobs. Carpal tunnel syndrome is caused by repeated and rapid wrist movements over a period of time and sometimes requires minor surgery with a resultant disability to the affected wrist of zero to 10%. Most carpal tunnel victims are able to resume their old jobs or to do other jobs in IBP's plants without any loss in earning capacity or without any loss of day-to-day wrist or hand functions. If carpal tunnel syndrome occurs in one wrist, in Kansas it is simply a scheduled injury and the disability award is paid based on the percentage of disability as shown in the statutory schedule. If it occurs in both wrists, in the states surrounding Kansas it would simply be treated as two scheduled injuries. Unfortunately, due to liberal interpretation of the existing law by Administrative Law



Judges, a carpal tunnel injury to both wrists in Kansas is treated as an injury to the body as a whole. A claimant who is represented by a highly competent attorney such as Mr. Jordan can find a doctor who will suggest that the employee not return to his old job, and the result often is a 75 to 100% work disability award of more than \$50,000 to an employee who may have less than 5% disability in each hand! The result, of course, is that far more carpal tunnel injuries are claimed in Kansas than are claimed in our neighboring states. In 1983, IBP had just two litigated carpal tunnel cases in Iowa and Nebraska combined, covering some 4,400 employees, at an average payout of \$10,000 per case. But in Kansas, where we have only about 3,900 hourly employees, IBP had 23 carpal tunnel cases which averaged \$32,000 in payouts.

House bill 2980 would make all carpal tunnel injuries scheduled injuries. This would bring Kansas in line with neighboring states and would recognize the relatively minor disability to each hand that carpal tunnel syndrome involves. It would correct the currently ludicrous situation in which a slight case of carpal tunnel syndrome to two hands can result in an award of \$75,000, whereas the total amputation of one hand would result in an award of only \$37,000.

These bills would provide an inducement for employers to work with employees to provide other work for them. The employees could then go on and have a full, meaningful work career instead of obtaining a one-time award which normally is soon spent and which leaves the worker with no future. We urge the House to pass both of these bills, and we suggest that if the current situation is not remedied, Kansas' ability to attract and retain new industry will be severely curtailed.

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My name is Bob Wolff. I'm Manager - Insurance & Employee Benefits for the Boeing Military Airplane Company, Wichita, Kansas.

I'm pleased to have the opportunity to testify in support of House Bills 2938 and 2980 before this House Labor and Industry Committee on this February 22, 1984.

Atch 3



## KANSAS WORKERS' COMPENSATION 1984

Kansas employers are concerned over the current practices associated with workers' compensation benefits provided to injured employees. We believe that the current law encourages Administrative Law Judges to make excessive awards and permits the Director to routinely approve excessive attorneys' fees that are in no way justified by the amount of work or effort involved.

### A General Statement About Workers' Compensation

The purpose of workers' compensation is to compensate those workers who are injured in an industrial accident, without regard to their own fault or that of co-workers. The cost of this compensation is to be borne by all industry. Workers' compensation seeks to compensate the worker in part for wages lost as the result of his disability, but it does not attempt to pay the worker ordinary civil damages for his injury. The idea of compensation is a "trade off" in which the worker gains completely free medical treatment and a sure recovery regardless of his fault or the employer's lack of fault, while in return the employer's liability is supposedly limited to reasonable amounts, not subject to whim, passion, or prejudice.

Similarly, a separate administrative agency is established to handle workers' compensation claims efficiently without burdening the civil courts with lengthy and costly legal proceedings and appeals. Additionally, the legislature gave this agency the power to review attorneys' fees to protect workers by insuring reasonableness. These statements on workers' compensation relate to the original intent and ideals of the system. The reality today is a far cry from those ideals. Years of administrative and judicial interpretations as well as legislative amendments have eroded the original system to a point where it has become a plague on industry and a marked disincentive to manufacturers to place their facilities in Kansas rather than neighboring states. The current state of workers' compensation law and practice in Kansas demands immediate action. In the past ten years, Kansas employers have seen their premiums for workers' compensation insurance go through the roof:

| <u>Year</u> | <u>Employers' Cost</u> |
|-------------|------------------------|
| 1973        | \$37,024,905.00        |
| 1974        | 48,829,189.00          |
| 1975        | 60,931,943.00          |
| ]976        | 74,905,244.00          |
| 1977        | 95,030,094.00          |
| 1978        | 111,624,578.00         |
| ]979        | 118,240,623.00         |
| 1980        | 141,189,216.00         |

| <u>Year</u> | <u>Employers' Cost</u> |
|-------------|------------------------|
| 1981        | 156,207,756.00         |
| 1982        | 154,944,245.00         |

Ten Year Increase \$117,919,340.00 in Annual  
Cost Percentage Increase 418%

Costs have increased every year except for 1982, which was a recession year with high unemployment. When any costs increase more than 400% in ten years, shouldn't you as legislators be concerned?

#### Problem One--Benefit Controversies

The current Kansas workers' compensation law encourages controversy. From 1981 to 1983 there was a 20% increase in the number of cases contested. During the same time, requests for reviews of awards by the Workers' Compensation Director increased 28.7% and appeals to the District Courts increased 16.5%. Most significantly, the number of cases appealed to the Kansas Court of Appeals and Supreme Court increased by 56.7%.

What do these statistics indicate? They indicate that no one is able to agree on Awards and Awards are not accepted as written. More importantly, the parties to these cases are showing an increased lack of support for the administrative process and are appealing to the civil courts.

Why is this occurring? Current Kansas law encourages it to happen through the element of Work Disability.

While the Kansas Workers' Compensation Act provides a schedule of benefits for loss of use of a bodily member, when a worker has an injury involving more than one member or a member not included on the schedule such as the back, he is considered to have a general bodily injury. There are two ways to measure the residual effects of such an injury. The first is functional impairment and the second is work disability.

Functional impairment ratings are determined by a physician [REDACTED]

[REDACTED]

[REDACTED] These ratings are expressed as a percentage of loss of use or body function. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Work Disability ratings, on the other hand, are entirely subjective and imprecise. They are defined as the reduction, expressed as a percentage, in the claimant's ability to engage in work of the same type and character that he or she

was performing at the time of the injury. This is further defined in terms of the percentage of job tasks and requirements that the person can no longer perform. The impairment rating is a key element in work disability, and even if the employee returns to full work duties, he or she is still awarded at least the amount called for by the rating. Most implausibly of all, a worker who gets a better job for substantially more pay can still get an extremely large award under this concept.

What does work disability mean in practical terms? This is almost impossible to answer. The "work the employee was performing at the time of the injury" may have varied from day to day, and it is difficult to tie down just what job should be used as the standard. How long a period of "time" should be considered to determine the claimant's job when injured? That day? A week? A month? A year? The "percentage of job tasks or requirements" is impossible to determine with precision. Should each task or requirement be considered equal in weight? Should the amount of time taken on each task or requirement be considered? The effort needed? The physical difficulty? The training required? The different physical movements used by different individuals performing the same task? How does the judge determine what the worker "can no longer perform?" Those activities that are physically impossible because of the injury? Those that may cause pain? Those

that risk further injury? Or those that are probably safe but caution suggests the claimant should not perform? And how are disputes resolved when there is conflicting testimony over what the job tasks and requirements were?

There is no guidance from the courts or the Workers' Compensation Division on any of these questions. The only answer is the one that workers' compensation litigants are routinely getting at present. Purely subjective, completely unpredictable work disability ratings that seem to vary with each case and each person who formulates them. The following case is not unusual. It is taken from Docket No. 98,045, Nathan O'Quinn v. The Boeing Company and Aetna Casualty & Surety.

Mr. O'Quinn underwent back surgery and received impairment of function ratings from three physicians. Dr. Wakim, the treating physician rated him at 12% to 14%; and Dr. Rawcliffe found he had an 8% impairment of function. Both doctors are orthopedic specialists. Dr. Schlachter, a general practitioner who examined O'Quinn at the request of his attorney, found that he had a 20% rating. The Administrative Law Judge made the following Award:

Having reviewed the evidentiary record herein, the Administrative Law Judge, in addition to the stipulations of the parties, finds as follows: . . . Nathan

O'Quinn, the Claimant, sustained a 35% permanent partial disability associated with his accidental injury May 6, 1982. . . . It appears that Claimant performed work for Respondent in the hammer house, which required lifting from 5-100 lb. weights and bending, lifting, twisting, and stooping. After reviewing the entire record herein, the Administrative Law Judge finds that Claimant is capable of returning to similar employment that he performed for Respondent at the present time, however, Claimant may not be able to perform and retain the identical type of work he held for Respondent at the time of his accidental injury due to the restrictions placed upon him by all three physicians.

#### Award

Wherefore, Award of Compensation is hereby made in favor of the Claimant, Nathan O'Quinn, and against the Respondent, The Boeing Company and its insurance carrier, Aetna Casualty & Surety, for an accidental injury sustained on May 6, 1982. As a result of Claimant's accidental injury, he is entitled to 40.71 weeks temporary total disability at the rate of \$187.00 per week, or \$7,612.77 followed by 374.29 weeks at \$118.95 per week or \$44,521.80 for a 35% permanent partial general body disability, making a total award of \$52,134.57.

Both parties were dissatisfied with this Award and requested a Review by the Workers' Compensation Director. The Order entered by the Director gave no specifics about his analysis of O'Quinn's work duties and simply stated:

The Director, after considering the record as a whole, noting the work requirements of Claimant at the time of injury and taking into consideration the work restrictions placed on Claimant by Dr. Wakim, will find Claimant has a 45% disability to the body as a whole on a functional and work disability basis instead of the 35% as found by the Administrative Law Judge.



In all other respects, the award of the Administrative Law Judge is sustained.

IT IS THEREFORE CONSIDERED, ADJUDGED AND DECREED that the award entered herein by Administrative Law Judge Steven J. Howard on November 9, 1983, is modified to find Claimant has a 45% permanent partial disability to the body as a whole. Compensation is awarded as follows. Claimant is entitled to 40.71 weeks temporary total disability at the rate of \$187.00 per week or \$7,612.77 followed by 374.29 weeks at \$152.94 per week or \$57,243.91 for a 45% permanent partial general body disability, making a total award of \$64,856.68.

This man was approved to return to work! The Order is currently on Appeal to the Sedgwick County District Court which will have to make a new determination of just what "work disability" Mr. O'Quinn had. In doing so, it can consider three doctors' impairment ratings and two significantly different work disability findings. Obviously, this is a system in disarray.

#### Recommendation

The concept of work disability should be eliminated as a measurement of an injured employee's permanent partial disability rating. Instead, the Workers' Compensation Act should be amended to prescribe the applicable functional impairment rating by the various speciality committees of the American Medical Association and the American Academy of Orthopedic Surgeons as the basis for permanent partial disability awards.

The Preface to the American Medical Association's Guides to the Evaluation of Permanent Impairment states:

Evaluation of permanent disability is an appraisal of the patient's present and probable future ability to engage in gainful activity as it is affected by nonmedical factors such as age, sex, education, economic and social environment, and the medical factor--permanent impairment. Nonmedical factors have proved extremely difficult to measure. For this reason, permanent impairment is, in fact, the sole or real criterion of permanent disability for more often than is readily acknowledged. A determination of permanent disability is an administrative decision as to the patient's entitlement.

Measurements under the AMA or AAOS manuals are not subjective or vague in nature, nor are they subject to abuse in a way that leads to excessive, unjustified or whimsical awards. Further, because they allow for predictability as opposed to the present "crap shoot" system of work disability, more cases will be settled amicably, with fewer ones litigated and fewer still appealed through the civil courts. Thus, not only will financial responsibility return to the workers' compensation system, but the costs to the State treasury will be harnessed.

#### Problem Two--Attorneys' Fees

The Kansas Workers' Compensation Act has attempted to tie the weekly compensation payment to the cost of living. That weekly payment is 66 2/3% of the product of the employees

prior average gross weekly wage multiplied by his percentage of disability. The payment is capped and cannot exceed 75% of the State average weekly wage. This maximum benefit has more than doubled over the last ten years, with the most dramatic growth in the last 6 years:

| <u>Year Beginning</u><br><u>July 1</u> | <u>Maximum Weekly</u><br><u>Benefit</u> |
|--|---|
| 1974                                   | \$ 95.20                                |
| 1975                                   | 103.10                                  |
| 1976                                   | 112.67                                  |
| 1977                                   | 120.95                                  |
| 1978                                   | 129.06                                  |
| 1979                                   | 148.00                                  |
| 1980                                   | 170.00                                  |
| 1981                                   | 187.00                                  |
| 1982                                   | 204.00                                  |
| 1983                                   | 218.00                                  |
| <br>                                   |   |
| <u>Increase</u><br><u>1974 - 1983</u>  | <u>Increase</u><br><u>1978 - 1983</u>   |
| 129%                                   | 69%                                     |

Not all of this has gone to injured workers, however. The Act permits attorneys' fees up to but not exceeding twenty five percent (25%) of the compensation paid. The Act provides that where there is no dispute as to any material issue or where compensation awarded does not exceed the offer made to the claimant by his or her employer prior to representation of the attorney, the fee shall not exceed the greater of \$250.00

or the reasonable fee for time actually spent. This is the ideal.

In practice, the Director invariably approves the maximum fee regardless of circumstances. This routinely leads to windfall fees by attorneys, without regard to the time, effort or risk involved in handling the case.

Attorneys representing the employer and insurance carrier in workers' compensation cases almost always work on an hourly fee basis with charges ranging approximately from \$40.00 to \$80.00 per hour for time actually spent. The total attorney fee for defending such a claim normally ranges from \$500.00 to \$2,000.00 and rarely exceeds \$1,500.00.

Working on a percentage basis, however, the claimant's attorney has a vastly more lucrative practice. Assuming that this attorney bills his noncompensation clients \$50.00 per hour and works 10 hours on the claim, an Award of only \$2,000.00 marks his break-even point at which workers' compensation cases are equal in value to other business. At \$75.00 per hour with 20 hours spent working, the same attorney gets a bonus for any Award over \$6,000.00. In the case of Mr. O'Quinn's attorney, if 50 hours were spent working on the claim, a highly unlikely assumption, the resulting fee is \$324.00 per hour actually

worked. Assuming a more realistic time expenditure of 20 hours, the attorney earns over \$810.00 per hour. This is unconscionable and it burdens employer, employee and the public.

#### Recommendation

The Workers' Compensation Act should be amended to standardize the attorney fee [REDACTED]

[REDACTED] The authorized fee should be based upon an hourly rate commensurate with the particular attorney's skill and experience, consistent with community or statewide standards. It must relate to work done, however. Such guidelines would reflect the current law which is being ignored in cases without material dispute or where recovery fails to exceed the initial offer. They would also follow the rules for discipline of attorneys promulgated by the state Supreme Court. Moreover, they would deprive no one of anything fairly earned or entitled.

#### Conclusion

The cost of providing workers' compensation benefits to Kansas employees is unreasonable--and getting progressively worse. To control these unreasonable costs yet still provide the injured employee with fair and adequate benefits, we solicit the help of the Legislature to:

1. Eliminate the vague, unworkable concept of work disability and replace it with an understandable, predictable system of determining awards based on the considered judgment of the various specialty committees of the American Medical Association and American Academy of Orthopedic Surgeons.

2. Regulate [REDACTED] attorneys' fees by tying those fees to work actually performed rather than allowing windfalls through percentage arrangements that bear no relationship to the honest effort, judgment, and skill used.

Adoption of these proposals will do nothing to jeopardize any legitimate interests. What it will do is make workers' compensation costs reasonable and administration manageable by cutting away the fat in the system.

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TESTIMONY BEFORE HOUSE AND INDUSTRY COMMITTEE  
CONCERNING WORKERS' COMPENSATION  
2/22/84

Good morning, I am Bill Barnes, Plant Manager of Modine Manufacturing Company's Emporia, Kansas plant. Modine is a manufacturer of heat exchange products such as radiators, oil coolers and space unit heaters with an annual sales volume of \$200,000,000+. At the Emporia plant, we manufacture light sheet metal radiators, mainly for replacement use in cars and light trucks. The Emporia plant has an annual payroll of \$4,565,000. I would like to thank you for this opportunity to address what I consider a very important issue - workers' compensation. I have only been in Kansas a short while but it didn't take me long to see that workers' compensation was one of my plant's highest indirect costs.

As Plant Manager, I have a responsibility to manage our facility efficiently and profitably. Since our company has plants in eight states and Canada, I am aware of how Kansas compares in the area of workers' compensation. Present Kansas law concerning workers' compensation places my plant at a competitive disadvantage, especially with increasing foreign competition and is a deterrent to future expansion plans. To illustrate, we have three plants located in Missouri. One of these plants produces the same product with the same number of employees, using the same type of machinery, equipment and processes as the Emporia plant. As a group, these three plants project to spend 45 percent of our projected workers' compensation expenditures for the coming year. (See attached table.)

Here we have three plants totalling 468 employees in a state adjacent to Kansas spending considerably less than our plant that employs 280 people. Is our plant managed any differently than these three plants? I don't think so.

Both our plant and our radiator plant located in Trenton, Missouri have many

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Testimony - Page 2

repetitive motion jobs. I feel that both House Bill 2938 and House Bill 2980, as introduced by Representative Douville, provide the direction needed to update existing law. Something must be done to reduce the potential for spiraling workers' compensation expenditures and to allow employers to return employees to work where they can engage in gainful employment for which they are reasonably qualified to perform.

I strongly endorse the passage of these two bills as well as the other bills introduced by Representative Douville. These changes are needed as a signal to industry that Kansas is improving its business climate.

Thank you for giving me this time to speak.

W. O. Barnes

WORKERS' COMPENSATION COMPARISON

Claims Lost

| <u>Fiscal Year</u> | <u>Emporia Radiator Plant</u> | <u>Missouri Radiator Plant</u> | <u>3 Missouri Modine Plants</u> |
|--------------------|-------------------------------|--------------------------------|---------------------------------|
| 1981               | \$152,100                     | \$ 8,900                       | \$135,600                       |
| 1982               | 92,500                        | 49,900                         | 63,900                          |
| 1983               | 184,100                       | 24,700                         | 42,700                          |
| 1984 (9 months)    | 76,000                        | 4,900                          | 13,500                          |
| No. of Employees   | 280                           | 265                            | 468                             |

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WORKERS' COMPENSATION COMPARISON

Claims Lost

| <u>Fiscal Year</u> | <u>Emporia Radiator Plant</u> | <u>Missouri Radiator Plant</u> | <u>3 Missouri Modine Plants</u> |
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Atch. 4a