

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS

The meeting was called to order by Senator Dan Thiessen at
Chairperson

1:30 a.m./p.m. on Monday, April 1, 1985 in room 527-S of the Capitol.

All members were present except:

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Gordon Self, Office of the Revisor of Statutes
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Rob Hodges, Kansas Chamber of Commerce and Industry-KCCI
George McCullough, Kansas AFL-CIO
Fred Haag, Attorney re: Boeing and Ks. Assoc. for Commerce & Industry
Bill Morrissey, Div. of Workers' Compensation, Dept. of Human Resources
Chris Miller, Staff Attorney-Kansas Insurance Department
Bill Henry, Exec. Vice Pres., Kansas Engineering Society

The Chairman called the meeting to order at 1:30 p.m.

Chairman Thiessen brought the attention of the committee to SB365: An Act concerning workers' compensation; relating to vocational rehabilitation; relating to the workers' compensation fund; concerning temporary total disability compensation and knowledge of impairment by employer.

Rob Hodges: I have 2 attachments here, One I did myself, and I will take all blame for errors, which is a copy of SB365, a corrected copy by Committee on Ways and Means, and the other is a copy of the interim committee specific recommendations, taken from the interim committee report, and that is why I did not make copies of the entire report. I have highlights of the bill of the balloon. We have 2 gentlemen here, that helped work out the compromises, that resulted in SB365, and will respond to any questions the committee might have. (See Attachments A & B)

George McCullough with Rob Hodges: reviewed the above attachments, pointing out the interim committee recommendations on pages 4, 5, 7, 8, 9, 10, 11, and 13 of attachment A.

Chairman Thiessen: On sub section 3, if employee elects not to take part in rehabilitation, do they have a choice whether they want to participate or not?

Rob Hodges: Yes

Chairman Thiessen: What happens to the awards, if they decide they don't want rehabilitation?

Fred Haag: At that time they would receive the permanent impairment function rating, which is a rating that we did not feel we could require that employee to participate in vocational rehabilitation, if he felt he did not want to or did not need to. In the rehabilitation plan, we have provided what would happen under different circumstances. If he elects not to participate, he will receive compensation based on his medical impairment function rate.

Senator Daniels: I apologize for not knowing, but what part of the bill did we adjust?

Fred Haag: We did not. I provided that because some sections of this bill do pertain to specific recommendation of the interim committee but many do not. There were several sections in SB9, that are not in SB365. Most of the suggestions came out of the interim committee. The special labor and industry committee, instructed the Ad Hoc Committee to make recommendations to the Labor and Industry Committee, that is what you see in SB 365.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS,
room 527-S, Statehouse, at 1:30 ~~x~~m./p.m. on Monday, April 1, 1985.

Chairman Thiessen: Fred, would you go through the funding, the way it is supposed to be done?

Fred Haag: Mr. Chairman, I would ask that Bill Morrissey do that, because he put together a large portion of the input.

Bill Morrissey: New section 8, page 16-Attachment A, the cost of evaluation and training expense, will be paid from fund that is created by section 8. The assessment that we would make to create that fund, is the same type of assessment done on the same basis that we now assess for the financing in our office. We make a separate assessment at the same time, up to ½ of 1%. This is a similar approach taken by the State of Nebraska. That amount of money, their experience, lasted them more than a year and possible 2 years, on one assessment. So it would not have to be assessed every year. We don't know exactly what it will cost at this point.

Chairman Thiessen: Do you have an estimate?

Bill Morrissey: Sixty Seven Hundred Thousand dollars. That is just the financing of the evaluation and the training. It is not for any compensation or direct medical expenses.

Chairman Thiessen: Would that come out of the workers' compensation fund?

Bill Morrissey: That is paid by the employer.

Chris Miller: When I spoke the other day, it may have come off like we were opposing this bill, we in the Insurance Department, and I want to make clear that, that was not the case. I would like to point out as I indicated, that our budget will probably increase, our budget being the budget of the workers' compensation fund. I will be happy to answer any questions, as to where our money comes from, and how we spend it, or anything like that.

Chairman Thiessen: You say, there would be considerable more cost now, with the additional funding provided in this, is this going to cover the cost that you are talking about?

Chris Miller: That money does not come to us, our money comes from basically, 2 sources. We get four million dollars from legislative appropriations, and then we assess the insurance carriers, the balance of whatever our budget needs to be. Last year, that was about eight million dollars. We have not used all that money this year, so we are going to have some left over. I don't know exactly how much, but when you take away the issue of reservation, which is basically, the Hines case, the language on page 11 of SB 365, and also the acute knowledge of the doctor's and the employers, it is going to put us in quite a few more cases, which we can handle, but is also going to result in paying more money. That will not increase the appropriations for the legislature, because that is fixed at four million dollars. So what it will do, eventually is cause us to assess more money against the insurance carriers and self insured employers.

Chairman Thiessen: Is that going to come from the 2nd injury fund?

Chris Miller: That is where our money comes from, so it is going to go into there, and then we will turn around and pay it back. In effect, we are getting more money in, and then, we are turning around and paying back more. I would estimate, in the neighborhood of 18 to 20 million dollars, will be our budget.

Motion was made by Senator Gordon, seconded by Senator Norvell to pass SB 365 favorably. Motion carried.

HB 2084 An Act concerning workers' compensation; relating to the liability of certain construction design professionals and employees thereof.

Senator Morris: I have been hearing from some people that they want some language struck, and I don't know where, maybe line 84, I believe that should

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS,
room 527-S, Statehouse, at 1:30 ~~pm~~ p.m. on Monday, April 1, 1985

be deleted.

Motion was made by Senator Morris and seconded by Senator Werts to amend HB2084 and delete on line 84 "or by the affirmative" and line 85 "actions". Motion carried.

Chairman Thiessen: What is the pleasure of the committee on the bill?

Motion was made by Senator Morris and seconded by Senator Yost to report HB2084 favorably for passage, as amended. Motion carried.

HB2443:An Act providing for licensure and regulation of certain transient merchants; prohibiting certain acts and providing penalties for violations.

Senator Morris: I have one small concern with this bill, and I think Section 3 pretty well exempts everything, but I wonder, what I have a concern with, is a different non-profit groups, like a Church, a Scout Troop or something of that nature, and I wonder, if we should add non-profit, and I don't know where to add it.

Senator Morris moved to add "or non-profit organization" to Section 3, line 47, seconded by Senator Ehrlich. Motion carried.

Motion was made by Senator Morris to pass HB 2443 favorably, as amended, seconded by Senator Ehrlich. Motion carried.

HB2556:An Act concerning the employment security law; relating to disqualification for benefits.

Chairman Thiessen asked the committee members if there were any questions concerning this bill.

Senator Norvell: In some of the testimony we had earlier, it was stated that school bus drivers do not have to drive in the summer, and still be able to qualify for benefits by law, and some people think they should be disqualified from benefits, if they do not seek job employment. I don't know if it is right or wrong, but I wonder if there is a problem with this bill.

Chairman Thiessen: The testimony, as I remember it, was that those who work for the school district, do not have to seek other employment during the 3 month period, and this will not get us out of compliance with the Federal mandates on the employment security law.

Senator Morris: This brings the private sector, the bus operators, into the same rules that the public school employees, themselves have, whether it applies to bus driver, food service or whatever, there is a reasonable expectancy for a contract to be issued, and then they are not eligible, if they are school employees, now this is for bus contractors. The only problem that I see with this, is I think you have to make certain that, if those drivers do other tasks, whether it be contract hauling or what, during that period of time, then their subject to the law, the same as any other employee would be. It may mean keeping two sets of records, for the contractors, but if they are a school employee, and are brought into run a convention or something, then they should be subject, just as any other employee in the State would be.

Senator Feleciano: I think we are opening the door for unemployment compensation and I submit to you, the next thing we will have is Avon, Merry Kay Cosmetics, and that is well and good but be prepared to do battle with the independent and small business.

Chairman Thiessen: I think, we might need an amendment to the bill, to provide for that coverage, when they do contract for other than schools.

A conceptual motion was made by Senator Morris to amend, HB2556 to clarify the non-school hauling under that contractor, would not be exempt, seconded by Senator Ehrlich. Motion carried

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS,
room 527-S, Statehouse, at 1:30 ~~xxx~~/p.m. on Monday, April 1, 1985.

Senator Steinger: I want to take a moment on the question that Senator Feleciano was driving at, we are targeting one small group, on a much, much larger problem being, this would show that small businessmen, are paying a greater share of the unemployment compensation, than our big business and I think we are opening the door, and I think at some time we will have to take a look at this, as to whether everyone is paying, in business big vs small business. The small businessmen that I know, are paying more than they should be paying. I would rather address this in an overall, for all the small businessmen, rather than starting off with one small group, and I quite agree with the Senator from Sedwick County, once we open this door there will be a lot of other small businessmen coming in, with variations on this kind of a problem.

Chairman Thiessen: Of course in this case, they are paying a high amount but they are also drawing a lot more than they are paying.

Senator Morris: I think the Senator from Wyandotte County, is exactly right and I don't think it is small vs big, I think it relates to industry and their occupations, the small contractor is hurting all of us, but we agreed sometime back, that we were not going to penalize him, above a certain amount. I really think it is the type of business rather than if, it is small or big.

Motion was made by Senator Yost to pass HB2556 favorably, seconded by Senator Gordon. Motion carried.

Chairman Thiessen: We are going to have a revised agenda tomorrow, the House passed HB2546, this morning on final action, and we will have hearings on that tomorrow, both opponents and proponents. This bill has to do with the unemployment compensation, where they do not seek work, when they are supposed to, and things of that nature. We will have hearings tomorrow.

Chairman Thiessen adjourned the meeting at 2:30 p.m.

GUEST LIST

COMMITTEE: SENATE LABOR, INDUSTRY & SMALL BUSINESS

DATE: 4-1-85

| NAME (PLEASE PRINT) | ADDRESS | COMPANY/ORGANIZATION |
|---------------------|-----------------|---|
| Leroy Jones | Overland Park | B.L.E. |
| Roger BARR | TOPEKA, KS | BAC |
| Judy Shorman | RC, KS | Intracorp |
| Valerie Smith | Topeka KS | Intracorp |
| RICHARD L THOMAS | TOPEKA, KS | SRS REHABILITATION SERVICES |
| Jane Brunner | Topeka | SRS - Rehab Services |
| Bill Morrissey | li | Dept of Human Resources Div. of Work Comp. |
| FRED HAAG | WICHITA | Foulston Simerly |
| Rob Hodge | Topeka | KCCI |
| Mike Drilling | Topeka | Meminger Foundation |
| Burt DeBaun | | State Rep |
| Richard E Miller | McPherson | Alliance Ins Co's |
| Lee Wight | Geneva | Farmers Ins Group |
| LARRY MAGILL | TOPEKA | IAA |
| M. Haave | " | Cap-Journal |
| Helen Stephens | Prairie Village | Ks. Engineering Society |
| Sam Daniels | Topeka | Ks Society of Architects |
| Wayne Marcher | Top | Ks AFL-CIO |
| John E. Dullaugh | " | " " |
| Ralph McCall | Wichita | Wichita |
| JUDITH RUCKETT | WICHITA | Ks Restaurant Assoc |
| | | |
| | | |
| | | |
| | | |

SENATE BILL No. 365

By Committee on Ways and Means

3-28

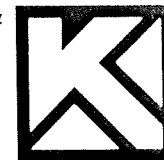
0017 AN ACT concerning workers' compensation; relating to voca-
 0018 tional rehabilitation; relating to the workers' compensation
 0019 fund; concerning temporary total disability compensation and
 0020 knowledge of impairment by employer; amending K.S.A. 44-
 0021 510d, 44-510e, 44-528 and 44-531 and K.S.A. 1984 Supp.
 0022 44-534a and 44-567 and repealing the existing sections; also
 0023 repealing K.S.A. 44-510g.

0024 *Be it enacted by the Legislature of the State of Kansas:*

0025 Section 1. On and after October 1, 1985, K.S.A. 44-510d is
 0026 hereby amended to read as follows: 44-510d. (a) Where disabil-
 0027 ity, partial in character but permanent in quality, results from the
 0028 injury, the injured employee shall be entitled to the compensa-
 0029 tion provided in K.S.A. 44-510 and amendments thereto, but
 0030 shall not be entitled to any other or further compensation for or
 0031 during the first week following the injury unless such disability
 0032 exists for three (3) consecutive weeks, in which event compen-
 0033 sation shall be paid for the first week. Thereafter compensation
 0034 shall be paid for temporary total loss of use and as provided in
 0035 the following schedule, ~~sixty-six and two-thirds percent (66 2/3%)~~
 0036 $66\frac{2}{3}$ of the average gross weekly wages to be computed as
 0037 provided in K.S.A. 44-511 and amendments thereto, and the
 0038 weekly compensation in no case to be more than the maximum as
 0039 provided for in K.S.A. 44-510c and amendments thereto. If there
 0040 is an award of permanent disability as a result of the injury there
 0041 shall be a presumption that disability existed immediately after
 0042 the injury and compensation is to be paid for not to exceed the
 0043 number of weeks allowed in the following schedule:

- 0044 (1) For loss of a thumb, ~~sixty (60)~~ 60 weeks.
- 0045 (2) For the loss of a first finger, commonly called the index
 0046 finger, ~~thirty-seven (37)~~ 37 weeks.

Senate Labor, Industry &
 Small Business 4-1-85
 (Attachment A)



**Kansas
 Chamber of
 Commerce
 and Industry**

ROB HODGES
 Executive Director
 Kansas Industrial Council

500 First National Tower, One Townsite Plaza
 Topeka, KS 66603-3460 (913) 357-6321

Senate Libr., Inds. &
 Sm. Bus. 4-1-85
 Attachment A

- 0047 (3) For the loss of a second finger, ~~thirty (30)~~ 30 weeks.
- 0048 (4) For the loss of a third finger, ~~twenty (20)~~ 20 weeks.
- 0049 (5) For the loss of a fourth finger, commonly called the little
0050 finger, ~~fifteen (15)~~ 15 weeks.
- 0051 (6) Loss of the first phalange of the thumb or of any finger
0052 shall be considered to be equal to the loss of ~~one-half (1/2)~~ $1/2$ of
0053 such thumb or finger, and the compensation shall be ~~one-half (1/2)~~
0054 $1/2$ of the amount specified above. The loss of the first phalange
0055 and any part of the second phalange of any finger, which in-
0056 cludes the loss of any part of the bone of such second phalange,
0057 shall be considered to be equal to the loss of ~~two-thirds (2/3)~~ $2/3$ of
0058 such finger and the compensation shall be ~~two-thirds (2/3)~~ $2/3$ of
0059 the amount specified above. The loss of the first phalange and
0060 any part of the second phalange of a thumb, which includes the
0061 loss of any part of the bone of such second phalange, shall be
0062 considered to be equal to the loss of the entire thumb. The loss of
0063 the first and second phalanges and any part of the third proximal
0064 phalange of any finger, shall be considered as the loss of the
0065 entire finger. Amputation through the joint shall be considered a
0066 loss to the next higher schedule.
- 0067 (7) For the loss of a great toe, ~~thirty (30)~~ 30 weeks.
- 0068 (8) For the loss of any toe other than the great toe, ~~ten (10)~~ 10
0069 weeks.
- 0070 (9) The loss of the first phalange of any toe shall be consid-
0071 ered to be equal to the loss of ~~one-half (1/2)~~ $1/2$ of such toe and the
0072 compensation shall be ~~one-half (1/2)~~ $1/2$ of the amount above
0073 specified.
- 0074 (10) The loss of more than one phalange of a toe shall be
0075 considered to be equal to the loss of the entire toe.
- 0076 (11) For the loss of a hand, ~~one hundred fifty (150)~~ 150 weeks.
- 0077 (12) For the loss of a forearm, ~~two hundred (200)~~ 200 weeks.
- 0078 (13) For the loss of an arm, ~~two hundred ten (210)~~ 210 weeks.
- 0079 (14) For the loss of a foot, ~~one hundred twenty five (125)~~ 125
0080 weeks.
- 0081 (15) For the loss of a lower leg, ~~one hundred ninety (190)~~ 190
0082 weeks.
- 0083 (16) For the loss of a leg, ~~two hundred (200)~~ 200 weeks.

0084 (17) For the loss of an eye, or the complete loss of the sight
0085 thereof, ~~one hundred twenty (120)~~ 120 weeks.

0086 (18) Amputation or severance below the wrist shall be con-
0087 sidered as the loss of a hand. Amputation at the wrist and below
0088 the elbow shall be considered as the loss of the forearm. Ampu-
0089 tation at or above the elbow shall be considered loss of the arm.
0090 Amputation below the ankle shall be considered loss of the foot.
0091 Amputation at the ankle and below the knee shall be considered
0092 as loss of the lower leg. Amputation at or above the knee shall be
0093 considered as loss of the leg.

0094 (19) For the complete loss of hearing of both ears, ~~one hun-~~
0095 ~~dred ten (110)~~ 110 weeks.

0096 (20) For the complete loss of hearing of one ear, ~~thirty (30)~~ 30
0097 weeks.

0098 (21) Permanent loss of the use of a finger, thumb, hand, arm,
0099 forearm, toe, foot, leg or lower leg or the permanent loss of the
0100 sight of an eye or the hearing of an ear, shall be equivalent to the
0101 loss thereof. For the permanent partial loss of the use of a finger,
0102 thumb, hand, arm, toe, foot or leg, or the sight of an eye or the
0103 hearing of an ear, compensation shall be paid as provided for in
0104 K.S.A. 44-510c and amendments thereto, per week during that
0105 proportion of the number of weeks in the foregoing schedule
0106 provided for the loss of such finger, thumb, hand, arm, toe, foot or
0107 leg, or the sight of an eye or the hearing of an ear, which partial
0108 loss thereof bears to the total loss of a finger, thumb, hand, arm,
0109 toe, foot or leg, or the sight of an eye or the hearing of an ear; but
0110 in no event shall the compensation payable hereunder for such
0111 partial loss exceed the compensation payable under the schedule
0112 for the total loss of such finger, thumb, hand, arm, toe, foot or leg,
0113 or the sight of an eye or the hearing of an ear, exclusive of the
0114 healing period.

0115 (22) For traumatic hernia, compensation shall be limited to
0116 the compensation under K.S.A. 44-510 and amendments thereto,
0117 compensation for temporary total disability during such period of
0118 time as such employee is actually unable to work on account of
0119 such hernia, and, in the event such hernia is inoperable, weekly
0120 compensation during ~~twelve (12)~~ 12 weeks, except that, in the

0121 event that such hernia is operable, the unreasonable refusal of
 0122 the employee to submit to an operation for surgical repair of such
 0123 hernia shall deprive such employee of any benefits under the
 0124 workmen's compensation act.

0125 (b) Whenever the employee is entitled to compensation for a
 0126 specific injury under the foregoing schedule, the same shall be
 0127 exclusive of all other compensation except the benefits provided
 0128 in K.S.A. 44-510 and amendments thereto, and no additional
 0129 compensation shall be allowable or payable for either temporary
 0130 or permanent disability, except that: (1) *Weeks of temporary*
 0131 *total disability compensation paid during vocational rehabili-*
 0132 *tation evaluation or training shall not be deducted from the*
 0133 *schedule of weeks for the injury, and (2) the director may, in*
 0134 ~~proper cases,~~ allow additional compensation during the actual
 0135 healing period, such period not to be more than ~~ten percent~~
 0136 ~~(10%)~~ 10% of the total period allowed for the scheduled injury in
 0137 question nor in any event for longer than ~~fifteen (15)~~ 21 weeks.
 0138 The return of the employee to ~~his or her~~ *such employee's* usual
 0139 occupation shall terminate the healing period.

0140 Sec. 2. On and after October 1, 1985, K.S.A. 44-510e is
 0141 hereby amended to read as follows: 44-510e. (a) Should the
 0142 employer and the employee be unable to agree upon the amount
 0143 of compensation to be paid in the case of injury not covered by
 0144 the schedule in K.S.A. ~~510d,~~ *as amended, 44-510d and amend-*
 0145 *ments thereto* the amount of compensation shall be settled
 0146 according to the provisions of the workmen's compensation act
 0147 as in other cases of disagreement: ~~Provided, That.~~ In case of
 0148 temporary or permanent partial general disability not covered by
 0149 such schedule, the ~~workman~~ *worker* shall receive weekly com-
 0150 pensation as determined in this subsection (a) during such
 0151 period of temporary or permanent partial general disability not
 0152 exceeding a maximum of ~~four hundred fifteen (415)~~ 415 weeks.
 0153 Weekly compensation for temporary partial general disability
 0154 shall be ~~sixty-six and two-thirds percent (66 $\frac{2}{3}$ %)~~ 66 $\frac{2}{3}$ % of the
 0155 difference between the average gross weekly wage that the
 0156 ~~workman~~ *worker* was earning prior to such injury as provided in
 0157 the workmen's compensation act and the amount ~~he~~ *such worker*

Interim Committee recommendation #4

Interim Committee recommendation #7

0158 is actually earning after such injury in any type of employment,
0159 such weekly compensation in no case to exceed the maximum as
0160 provided for in K.S.A. 44-510c; ~~as amended and amendments~~
0161 *thereto*. Permanent partial general disability exists when the
0162 ~~workman~~ *worker* is disabled in a manner which is partial in
0163 character and permanent in quality and which is not covered by
0164 the schedule in K.S.A. 44-510d; ~~as amended and amendments~~
0165 *thereto*. ~~The extent of permanent partial general disability shall~~
0166 ~~be the extent, expressed as a percentage, to which the ability of~~
0167 ~~the workman to engage in work of the same type and character~~
0168 ~~that he was performing at the time of his injury, has been~~
0169 ~~reduced. The extent of permanent partial general work disabili-~~
0170 ~~ty shall be the extent, expressed as a percentage, by which the~~
0171 ~~ability of a worker has been reduced from obtaining or per-~~
0172 ~~forming work of a type and character that the worker was~~
0173 ~~reasonably able to obtain or perform, considering the worker's~~
0174 ~~age, education, training, previous work experience and physical~~
0175 ~~abilities. Postinjury earnings are not determinative of such~~
0176 ~~percentages. The extent of permanent partial general work~~
0177 ~~disability shall in no event be less than the extent of permanent~~
0178 ~~partial impairment of function. The amount of weekly compen-~~
0179 ~~sation for permanent partial general disability, except for loss of~~
0180 ~~wage earning capacity provided by section 7, shall be deter-~~
0181 ~~mined: (1) By multiplying the average gross weekly wage of the~~
0182 ~~workman~~ *worker* prior to such injury by the percentage of per-
0183 manent partial general disability as determined under this sub-
0184 section (a); and (2) by then multiplying the result so obtained by
0185 ~~sixty-six and two-thirds percent (66⅔%)~~ 66⅔%. The amount of
0186 weekly compensation for permanent partial general disability so
0187 determined shall in no case exceed the maximum as provided for
0188 in K.S.A. 44-510c; ~~as amended and amendments thereto~~. If there
0189 is an award of permanent disability as a result of the compensa-
0190 ble injury, there shall be a presumption that disability existed
0191 immediately after such injury. In any case of permanent partial
0192 disability under this section, the ~~workman~~ *worker* shall be paid
0193 compensation for not to exceed ~~four hundred fifteen (415)~~ 415
0194 weeks following the date of such injury, subject to review and

Interim Committee recommendation #8

0195 modification as provided in K.S.A. 44-528, ~~as amended and~~
0196 ~~amendments thereto.~~

0197 (b) If a ~~workman~~ worker has received an injury for which
0198 compensation is being paid ~~him~~, and ~~his such worker's~~ death is
0199 caused by other and independent causes, any payment of com-
0200 pensation already due ~~him such worker~~ at the time of ~~his~~ death
0201 and then unpaid shall be paid to ~~his such worker's~~ dependents
0202 directly or to ~~his such worker's~~ legal representatives if ~~he such~~
0203 ~~worker~~ left no dependent, but the liability of the employer for
0204 the payments of compensation not yet due at the time of the
0205 death of such ~~workman~~ worker shall cease and be abrogated by
0206 ~~his such worker's~~ death.

0207 (c) The total amount of compensation that may be allowed or
0208 awarded an injured ~~workman~~ worker for all injuries received in
0209 any one accident shall in no event exceed the compensation
0210 which would be payable under the workmen's compensation act
0211 for permanent total disability resulting from such accident.

0212 (d) Where a minor or ~~his such minor's~~ dependents are en-
0213 titled to compensation under the workmen's compensation act,
0214 such compensation shall be exclusive of all other remedies or
0215 causes of action for such injury or death, and no claim or cause of
0216 action against ~~said~~ such employer shall inure or accrue to or exist
0217 in favor of the parent or parents of such minor employee on
0218 account of any damage resulting to such parent or parents on
0219 account of the loss of earnings or loss of service of such minor
0220 employee.

0221 (e) In any case of injury to or death of a female employee,
0222 where the ~~said~~ female employee or her dependents are entitled
0223 to compensation under the workmen's compensation act, such
0224 compensation shall be exclusive of all other remedies or causes
0225 of action for such injury or death, and no claim or action shall
0226 inure, accrue to or exist in favor of the surviving husband or any
0227 relative or next of kin of such female employee against such
0228 employer on account of any damage resulting to such surviving
0229 husband or any relative or next of kin on account of the loss of
0230 earnings, services, or society of such female employee or on any
0231 other account resulting from or growing out of the injury or death

0232 of such female employee.

0233 Sec. 3. On and after October 1, 1985, K.S.A. 44-528 is hereby
0234 amended to read as follows: 44-528. (a) Any award or modifica-
0235 tion thereof agreed upon by the parties, except lump-sum settle-
0236 ments approved by the director or administrative law judge,
0237 whether the award provides for compensation into the future or
0238 whether it does not, may be reviewed by the director for good
0239 cause shown upon the application of the employee, employer,
0240 dependent, insurance carrier or any other interested party. In
0241 connection with such review the director may appoint one (1) or
0242 two (2) physicians to examine the employee and report to the
0243 director. The director shall hear all competent evidence offered
0244 and if the director finds that the award has been obtained by
0245 fraud or undue influence, that the award was made without
0246 authority or as a result of serious misconduct, that the award is
0247 excessive or inadequate or that the incapacity or disability im-
0248 pairment or work disability of the employee has increased or
0249 diminished, the director may modify such award, or reinstate a
0250 prior award, upon such terms as may be just, by increasing or
0251 diminishing the compensation subject to the limitations pro-
0252 vided in the workmen's compensation act.

0253 (b) If the director shall find that the employee has returned to
0254 work for the same employer in whose employ the employee was
0255 injured or for another employer and is capable of earning the
0256 same or higher wages than the employee did at the time of the
0257 accident, or is capable of gaining an income from any trade or
0258 employment which is equal to or greater than the wages the
0259 employee was earning at the time of the accident, or shall find
0260 that the employee has absented and continues to absent so that a
0261 reasonable examination cannot be made of the employee by a
0262 physician selected by the employer, or has departed beyond the
0263 boundaries of the United States, the director may cancel or
0264 suspend payments under the award and end the compensation.

0265 (c) The number of reviews under this section shall be limited
0266 pursuant to rules and regulations adopted by the director to
0267 avoid abuse.

0268 (d) An award modified under this section shall be modified

Addresses court decision regarding
changing an award.

This change will remove a conflict which
will be created should the proposed vo-
cational rehabilitation system be imple-
mented.

0269 *as of the date that the change actually occurred. Any increase in*
0270 *weekly payment shall be paid to the employee by the employer*
0271 *in an amount which would equal the difference between the*
0272 *new rate and the rate actually paid to the date the award is*
0273 *made. Payments under the modified award shall then be made*
0274 *at the new rate; if the award is reduced the reduction shall*
0275 *revert back to the date the change actually occurred and any*
0276 *payments made that exceed the amount allowed on the modified*
0277 *award shall be reimbursed to the employer by the workers'*
0278 *compensation fund.*

0279 Sec. 4. On and after October 1, 1985, K.S.A. 44-531 is hereby
0280 amended to read as follows: 44-531. (a) Where all parties agree to
0281 the payment of all or any part of compensation due under the
0282 workmen's compensation act or under any award or judgment,
0283 and where it has been determined at a hearing before the
0284 director or an assistant director that it is for the best interest of
0285 the injured employee or the dependents of a deceased em-
0286 ployee, or that it will avoid undue expense, litigation or hardship
0287 to any party or parties, the director may permit the employer to
0288 redeem all or any part of ~~his~~ *such employer's* liability under the
0289 workmen's compensation act by the payment of compensation in
0290 a lump sum. The employer shall be entitled to an ~~eight percent~~
0291 ~~(8%)~~ 8% discount on the amount of any such lump-sum payment,
0292 exclusive of any compensation due as of the date of such lump-
0293 sum payment. Upon paying such lump sum the employer shall
0294 be released and discharged of and from all liability under the
0295 workmen's compensation act for that portion of the employer's
0296 liability redeemed under this section.

0297 (b) No lump-sum awards shall be rendered under the work-
0298 men's compensation act except as provided in subsection (a) of
0299 this section, in cases of remarriage of a surviving spouse as
0300 provided in K.S.A. 44-510b; ~~as amended and amendments~~
0301 *thereto*, in cases involving compensation due the ~~workman~~
0302 *worker* at the time the award is rendered as provided in K.S.A.
0303 44-525; ~~as amended; and amendments thereto~~ and in cases of
0304 past due compensation as provided in K.S.A., 44-529 *and*
0305 *amendments thereto.*

Addresses a court decision regarding the effective date of an award modification.

0306 (c) No lump-sum awards shall be rendered with respect to
0307 accidents occurring after October 1, 1985, unless:

0308 (1) It has been determined by the rehabilitation administra-
0309 tor that the employee is not in need of vocational rehabilitation;
0310 (2) the employee has completed a rehabilitation program
0311 approved by the rehabilitation administrator; or
0312 (3) the employee has elected not to take part in a rehabilita-
0313 tion program.

0314 Sec. 5. On and after October 1, 1985, K.S.A. 1984 Supp.
0315 44-534a is hereby amended to read as follows: 44-534a. (a) After
0316 filing an application for a hearing pursuant to K.S.A. 44-534 or
0317 44-528 and amendments thereto, the employee may make appli-
0318 cation for a preliminary hearing, in such form as the director may
0319 require by rules and regulations, on the issues of: (1) The
0320 furnishing of medical treatment ~~and~~; (2) the payment of tempo-
0321 rary total disability compensation; (3) the payment of temporary
0322 total compensation during vocational rehabilitation evaluation
0323 or training; or (4) the advisability of the vocational rehabilita-
0324 tion plan as approved by the rehabilitation administrator. At
0325 least seven days prior to filing an application for a preliminary
0326 hearing, the employee shall notify the employer of the em-
0327 ployee's intent to file such an application and shall confirm such
0328 notice by letter. Upon receipt of an application for such a pre-
0329 liminary hearing, the director shall give seven days' written
0330 notice by mail to the employer of the date set for such hearing.
0331 Such preliminary hearing shall be summary in nature and shall
0332 be held by the director or an administrative law judge in any
0333 county designated by the director or administrative law judge,
0334 and the director or administrative law judge shall exercise such
0335 powers as are provided for the conduct of full hearings on claims
0336 under the workmen's compensation act. Upon a preliminary
0337 finding that the injury to the employee is compensable and in
0338 accordance with the facts presented at such preliminary hearing,
0339 the director or administrative law judge may make a preliminary
0340 award of medical and temporary total disability compensation
0341 against the respondent or, in proper cases, the workers' com-
0342 pensation fund to be in effect pending the conclusion of a full

Part of vocational rehabilitation concept

Part of vocational rehabilitation concept

0343 hearing on the claim. *Temporary total compensation so ordered*
 0344 *under this section shall be paid on a weekly basis. If such*
 0345 *payments are made by the workers' compensation fund and*
 0346 *later determined to be the responsibility of the respondent, the*
 0347 *workers' compensation fund shall be reimbursed by the respon-*
 0348 *dent.* The decision in such preliminary hearing shall be ren-
 0349 dered within five days of the conclusion of such hearing. No such
 0350 preliminary findings or preliminary awards shall be appealable
 0351 by any party to the proceedings, and the same shall not be
 0352 binding in a full hearing on the claim, but shall be subject to a
 0353 full presentation of the facts.

0354 (b) If compensation in the form of medical benefits or tem-
 0355 porary total disability benefits has been paid by the employer or
 0356 the employer's insurance carrier *either voluntarily or pursuant*
 0357 *to a preliminary award entered under this section and the*
 0358 ~~amount of compensation so awarded is reduced or to which the~~
 0359 *employee is entitled is found upon full hearing of the claim to be*
 0360 *less than the compensation paid or if compensation is totally*
 0361 *disallowed upon a full hearing on the claim, the employer and*
 0362 *the employer's insurance carrier shall be reimbursed from the*
 0363 *workers' compensation fund established in K.S.A. 44-566a and*
 0364 *amendments thereto, for all amounts of compensation so paid*
 0365 *which are in excess of the amount of compensation that the*
 0366 *employee is entitled to as determined in the full hearing on the*
 0367 *claim. The director shall determine the amount of compensation*
 0368 *paid by the employer or insurance carrier which is to be reim-*
 0369 *bursed under this subsection, and the director shall certify to the*
 0370 *commissioner of insurance the amount so determined. Upon*
 0371 *receipt of such certification, the commissioner of insurance shall*
 0372 *cause payment to be made to the employer or the employer's*
 0373 *insurance carrier in accordance therewith.*

0374 Sec. 6. On and after October 1, 1985, K.S.A. 1984 Supp.
 0375 44-567 is hereby amended to read as follows: 44-567. (a) An
 0376 employer (1) who operates within the provisions of the work-
 0377 men's compensation act (2) who knowingly employs or retains a
 0378 handicapped employee, as defined in K.S.A. 44-566 and amend-
 0379 ments thereto, shall be relieved of liability for compensation

Requires that temporary total compensation pursuant to a preliminary award be paid on a weekly basis. Also, makes such payments reimbursable to the Fund if later found to be a respondent's responsibility.

Facilitates voluntary payments and reimbursement of such payments to employers or insurance carriers.

0380 awarded or be entitled to an apportionment of the costs thereof
0381 as follows:

0382 (A) Whenever a handicapped employee is injured or is dis-
0383 abled or dies as a result of an injury and the director awards
0384 compensation therefor and finds that the injury, disability or the
0385 death resulting therefrom probably or most likely would not
0386 have occurred but for the preexisting physical or mental impair-
0387 ment of the handicapped employee, all compensation and ben-
0388 efits payable because of the injury, disability or death shall be
0389 paid from the workers' compensation fund.

0390 (B) Subject to the provisions of the workmen's compensation
0391 act, whenever a handicapped employee is injured or is disabled
0392 or dies as a result of an injury and the director finds that the
0393 injury probably or most likely would have been sustained or
0394 suffered without regard to the employee's preexisting physical or
0395 mental impairment but the resulting disability or death was
0396 contributed to by the preexisting impairment, the director shall
0397 determine in a manner which is equitable and reasonable ~~and~~
0398 ~~based upon medical evidence~~ the amount of disability and pro-
0399 portion of the cost of award which is attributable to the em-
0400 ployee's preexisting physical or mental impairment, and the
0401 amount so found shall be paid from the workers' compensation
0402 fund.

0403 (b) In order to be relieved of liability under this section, the
0404 employer must prove either that the employer had knowledge of
0405 the preexisting impairment at the time the employer employed
0406 the handicapped employee or that the employer retained the
0407 handicapped employee in employment after acquiring such
0408 knowledge. The employer's knowledge of the preexisting im-
0409 pairment may be established by any evidence sufficient to
0410 maintain the employer's burden of proof with regard thereto.
0411 *The employer's knowledge of the preexisting impairment shall*
0412 *constitute a reservation in the mind of the employer as to*
0413 *whether to hire or retain the employee. Knowledge of an im-*
0414 *pairment by a physician who examined or treated the employee*
0415 *on behalf of the employer shall be imputed to the employer. If*
0416 the employer, prior to the occurrence of a subsequent injury to a

Addresses the Interim Committee's encouragement of recommendations concerning the Workers' Compensation Fund. This change is designed to make impleadings of the Fund easier for employers.

0417 handicapped employee, files with the director a notice of the
0418 employment or retention of such employee, together with a
0419 description of the handicap claimed, such notice and description
0420 of handicap shall create a presumption that the employer had
0421 knowledge of the preexisting impairment.

0422 (c) Knowledge of the employee's preexisting impairment or
0423 handicap at the time the employer employs or retains the em-
0424 ployee in employment shall be presumed conclusively if the
0425 employee, in connection with an application for employment or
0426 an employment medical examination or otherwise in connection
0427 with obtaining or retaining employment with the employer,
0428 knowingly: (1) Misrepresents that such employee does not have
0429 such an impairment or handicap; (2) misrepresents that such
0430 employee has not had any previous accidents; (3) misrepresents
0431 that such employee has not previously been disabled or com-
0432 pensated in damages or otherwise because of any prior accident,
0433 injury or disease; (4) misrepresents that such employee has not
0434 had any employment terminated or suspended because of any
0435 prior accident, injury or disease; (5) misrepresents that such
0436 employee does not have any mental, emotional or physical
0437 impairment, disability, condition, disease or infirmity; or (6)
0438 misrepresents or conceals any facts or information which are
0439 reasonably related to the employee's claim for compensation.

0440 (d) An employer shall not be relieved of liability for com-
0441 pensation awarded nor shall an employer be entitled to an
0442 apportionment of the costs thereof as provided in this section,
0443 unless the employer shall cause the commissioner of insurance,
0444 in the capacity of administrator of the workers' compensation
0445 fund, to be impleaded, as provided in K.S.A. 44-566a and
0446 amendments thereto, in any proceedings to determine the com-
0447 pensation to be awarded a handicapped employee who is injured
0448 or disabled or has died, by giving written notice of the em-
0449 ployee's claim to the commissioner of insurance prior to the first
0450 full hearing where any evidence is presented on the claim.

0451 (e) Amendments to this section shall apply only to cases
0452 where a handicapped employee, or the employee's dependents,
0453 claims compensation as a result of an injury occurring after the

0454 effective date of such amendments.

0455 (f) The total amount of compensation due the employee shall
0456 be the amount for disability computed as provided in *section 7*
0457 *and* K.S.A. 44-503a, 44-510 to ~~44-510g~~ *44-510f*, inclusive, and
0458 44-511, and amendments thereto, and in no case shall the pay-
0459 ments be less nor more than the amounts provided in K.S.A.
0460 44-510c and amendments thereto.

0461 New Sec. 7. (a) A primary purpose of the workmen's com-
0462 pensation act shall be to restore the injured employee to compa-
0463 rable gainful employment.

0464 (b) As used in the workmen's compensation act:

0465 (1) "Comparable gainful employment" means employment
0466 which is reasonably attainable, which the employee can reason-
0467 ably perform, and which returns the employee as close as is
0468 feasible to preinjury economic status.

0469 (2) "Vocational education" means a regimen of formal in-
0470 struction in a classroom setting with an established curriculum
0471 designed to enable a successful pupil to acquire a new market-
0472 able skill in comparable gainful employment.

0473 (3) "On-the-job training" means a regimen of formal and
0474 informal instruction in a workplace setting designed to enable a
0475 successful pupil to acquire a new marketable skill in comparable
0476 gainful employment.

0477 (4) "Job placement" means placing a person in comparable
0478 gainful employment which is expected to be a permanent place-
0479 ment in a permanent job but which does not necessarily enable
0480 the person to acquire a new marketable skill.

0481 (c) The director shall appoint a specialist in vocational reha-
0482 bilitation who shall be referred to as the rehabilitation adminis-
0483 trator. The rehabilitation administrator shall be in the classified
0484 service, and if the administrator has served in this capacity for a
0485 period of one year prior to the passage of this act, the adminis-
0486 trator shall be considered permanent in the classified service.

0487 (d) The rehabilitation administrator shall study the problems
0488 of vocational rehabilitation education, on-the-job training and
0489 job placement; investigate and maintain a directory of all reha-
0490 bilitation facilities, public or private; and be fully knowledge-

Addresses the Interim Committee's instructions to the ad hoc committee of business and labor representatives. This New Section 7 and the New Section 8 which begins on page 16 would establish a new program of vocational rehabilitation within the workers' compensation system.

0491 able regarding the eligibility requirements of all state, federal
0492 and other public vocational rehabilitation facilities and the ben-
0493 efits offered by each.

0494 The rehabilitation administrator shall have the duties of
0495 directing and approving vocational rehabilitation of employees
0496 in accordance with this act.

0497 (e) An employee who has suffered an injury or occupational
0498 disease which prevents the employee from returning to compa-
-0499 rable gainful employment which the employee was performing
0500 at the time of the injury or occupational disease shall be referred
0501 to the rehabilitation administrator. Such employee shall be en-
0502 titled to prompt vocational rehabilitation services as may be
0503 reasonably necessary to restore the employee to comparable
0504 gainful employment.

0505 (f) On the rehabilitation administrator's own instance or upon
0506 application of the employee or employer, the rehabilitation ad-
0507 ministrator may refer the employee to a facility for evaluation
0508 and for a report of the practicability of, need for, and kind of
0509 service, training or rehabilitation which is or may be necessary
0510 and appropriate to render such employee fit for comparable
0511 gainful employment. Referral by the rehabilitation administrator
0512 shall be to the Kansas division of rehabilitation programs if such
0513 services are available within 60 days, otherwise such referral
0514 may be to private evaluation facilities. If the evaluation is done
0515 through a private facility, the cost, if any, of such evaluation and
0516 report shall be paid from the workers' compensation rehabilita-
0517 tion fund. If the employer chooses to refer the employee to a
0518 private evaluation facility, such referral must be approved by the
0519 rehabilitation administrator.

0520 (g) Upon completion of evaluation, the rehabilitation coun-
0521 selor assigned to the case shall submit a rehabilitation plan to the
0522 rehabilitation administrator and the parties. The rehabilitation
0523 administrator shall approve or disapprove the plan within 30
0524 days. If disapproved, the rehabilitation administrator shall give
0525 reasons for such disapproval and may make suggestions for
0526 modification of the plan. The report, together with the rehabili-
0527 tation administrator's recommendation, shall be provided to the

0528 parties. A plan recommending job placement shall be disap-
0529 proved unless the employee is maintained in comparable gainful
0530 employment.

0531 If a party does not agree with the approval or disapproval of the
0532 plan by the rehabilitation administrator, such party may apply to
0533 the director for hearing on the plan within 20 days of the date
0534 such approval or disapproval was sent to the parties.

0535 (h) After affording the parties an opportunity to be heard and
0536 present evidence, the director may (1) approve the vocational
0537 rehabilitation plan; (2) refer the claim back to the rehabilitation
0538 administrator for further recommendation; (3) order a different
0539 plan; or (4) disallow vocational rehabilitation.

0540 (i) Where vocational education or training is recommended
0541 in the report, or is deemed necessary by the director to restore
0542 the employee to comparable gainful employment, the director
0543 may direct the employee to an appropriate private or public
0544 training facility. If there is a cost for services, the cost will be
0545 paid from the workers' compensation rehabilitation fund.

0546 (j) Where vocational evaluation, education or training re-
0547 quires that the employee reside at or near a facility or institution
0548 away from the employee's customary residence, either in or out
0549 of the state of Kansas, the reasonable costs of the employee's
0550 board, lodging and travel shall be paid from the workers' com-
0551 pensation rehabilitation fund pursuant to guidelines adopted by
0552 the rehabilitation administrator.

0553 (k) The employer shall pay temporary total disability com-
0554 pensation during the period of vocational evaluation, and con-
0555 tinuing until the employee completes the plan as approved by
0556 the rehabilitation administrator.

0557 If the approved plan undertakes on-the-job training, compen-
0558 sation shall be paid, if for general bodily injury, at the greater of
0559 permanent partial impairment of function or 80% of the differ-
0560 ence between preinjury wage and postinjury wage earning ca-
0561 pability.

0562 If the approved plan undertakes vocational education, tempo-
c rary total compensation shall be paid until the completion of the
0564 education. Thereafter, compensation shall be paid, if for general

0565 bodily injury, at the greater of permanent partial impairment of
0566 function or 80% of the difference between preinjury wage and
0567 postinjury wage earning capability.

0568 If a worker is maintained in job placement in comparable
0569 gainful employment, then compensation shall be paid only for
0570 permanent partial impairment of function.

0571 If an injured employee is determined to be physically or
0572 mentally incapable of rehabilitation, compensation, following
0573 temporary total disability compensation, if for general bodily
0574 injury, shall be on the basis of permanent partial general work
0575 disability, but not less than permanent partial impairment of
0576 function.

0577 Compensation for scheduled injuries, following rehabilitation,
0578 shall be as provided by K.S.A. 44-510d and amendments thereto.

0579 A completed rehabilitation plan shall remain open for review
0580 and further recommendation for a period of six months. There-
0581 after, a party may apply for further modification of the plan on the
0582 ground that the employee is unable to perform the work estab-
0583 lished by the plan because of disability due to the accident.

0584 If the injured employee refuses to complete the evaluation
0585 process, refuses to undertake the rehabilitation plan determined
0586 to be suitable or fails to complete the rehabilitation plan deter-
0587 mined to be suitable, and the refusal or failure is not due to the
0588 employee's physical or mental inability to do so, the employee
0589 shall be considered as having elected to not participate in the
0590 rehabilitation process and compensation shall be paid for dis-
0591 ability equal to the percent of impairment of function suffered as
0592 a result of the accident.

0593 Compensation provided pursuant to this section or otherwise
0594 shall be subject to the provisions of K.S.A. 44-510f and amend-
0595 ments thereto.

0596 (1) The provisions of this section shall be effective on and
0597 after October 1, 1985.

0598 New Sec. 8. (a) There is hereby created in the state treasury
0599 the workers' compensation rehabilitation fund. The expense of
0600 workers' compensation vocational rehabilitation evaluation,
0601 testing and training pursuant to section 7 shall be paid from such

This New Section 8 establishes a fund to pay for vocational rehabilitation evaluation, testing and training.

0602 fund. The director of workers' compensation shall be responsible
0603 for administering the workers' compensation rehabilitation fund,
0604 and all payments from the workers' compensation rehabilitation
0605 fund shall be upon warrants of the director of accounts and
0606 reports issued pursuant to vouchers approved by the director of
0607 workers' compensation or a person or persons designated by the
0608 director.

0609 The director of workers' compensation shall estimate as soon
0610 as practicable after January 1 of each year the expenses necessary
0611 for workers' compensation vocational rehabilitation testing and
0612 training pursuant to section 7 for the fiscal year beginning on
0613 July 1 thereafter.

0614 (b) On or before May 15 of each year, the director of workers'
0615 compensation shall impose an assessment against all insurance
0616 carriers, self-insurers and group-funded workers' compensation
0617 pools insuring the payment of compensation under the work-
0618 men's compensation act, the proceeds of which shall be credited
0619 to the workers' compensation rehabilitation fund. The total
0620 amount of each such assessment shall be equal to an amount
0621 sufficient, in the opinion of the director of workers' compensa-
0622 tion, to pay all amounts which may be required to be paid from
0623 such fund during the current fiscal year, less the balance re-
0624 maining in the fund from prior fiscal years. The total amount of
0625 each such assessment shall be apportioned among those upon
0626 whom it is imposed, such that each is assessed an amount that
0627 bears the same relation to such total assessment as the amount of
0628 money paid or payable in workers' compensation claims by such
0629 insurance carrier, self-insurer or group-funded workers' com-
0630 pensation pool in the immediately preceding calendar year bears
0631 to all such claims paid or payable during such calendar year. The
0632 maximum amount which shall be collected from any carrier,
0633 self-insurer or group-funded workers' compensation pool shall
0634 be $\frac{1}{2}$ of 1% of the workers' compensation benefits paid or
0635 payable by such carrier, self-insurer or group-funded workers'
0636 compensation pool. Not later than May 15 of each year, the
c director of workers' compensation shall notify all such insurance
J638 carriers, self-insurers and group-funded workers' compensation

0639 pools of the amount of each assessment imposed under this
0640 subsection on such carrier, self-insurer or group-funded workers'
0641 compensation pool, and the same shall be due and payable on
0642 the July 1 following.

0643 (c) The director of workers' compensation shall remit all
0644 moneys received by or for such director under this subsection to
0645 the state treasurer. Upon receipt of any such remittance the state
0646 treasurer shall deposit the entire amount thereof in the state
0647 treasury to the credit of the workers' compensation rehabilitation
0648 fund.

0649 Sec. 9. On and after October 1, 1985, K.S.A. 44-510d, 44-
0650 510e, 44-510g, 44-528 and 44-531 and K.S.A. 1984 Supp. 44-534a
0651 and 44-567 are hereby repealed.

0652 Sec. 10. This act shall take effect and be in force from and
0653 after its publication in the Kansas register.

COMMITTEE REPORT

TO: Legislative Coordinating Council
FROM: Special Committee on Labor and Industry
RE: PROPOSAL NO. 29 -- WORKERS' COMPENSATION
ACT*

Specific recommendations of the Committee are as follows:

1. Repetitive Use Conditions. Repetitive use conditions simultaneously occurring in opposite extremities shall be compensated as due for each extremity under the permanent partial disability schedule and additional compensation not to exceed 20 percent of the total period allowed for both extremities.
2. Review. Review of workers' compensation cases at the district court level shall be stricken. The recommended review sequence from a ruling of the director of workers' compensation will be to the court of appeals.
3. Dependent Children of Majority. The Act shall be amended to allow dependent children of majority in higher education of an employee who dies to receive compensation until age 23.
4. Evaluation. Payment of benefits to an injured worker during the evaluation period shall be allowed. Any payments made during the evaluation, vocational rehabilitation, reeducation or training period will not be deducted from a final award.
5. Failure to Pay. Service of written demand, upon failure to pay medical or disability

Senate Labor, Industry &
Small Business 4-1-85
(Attachment B)

compensation, shall be required only once. Subsequent failures to pay compensation or medical expenses shall entitle the injured worker to apply for penalty without demand.

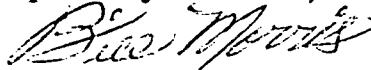
6. Awards. The maximum permanent and temporary total awards will be increased from the present 75 percent to 100 percent of the state's average weekly wage. Maximum compensation benefits when death results from an injury should be raised from the current \$100,000 to \$250,000.
7. Healing Period. There shall be an adjustment of the percentage, from the present 10 percent to 20 percent, used in formulating the healing period following scheduled injuries to allow for a maximum healing period of 40 weeks, as contrasted with the present 15 weeks allowed.
8. Permanent Partial Disability Test. The test for permanent partial disability should be changed to include the ability to engage in work that the employee is reasonably able to perform based on age, education, training, experience, physical ability, and potential for rehabilitation.

The above recommendations are incorporated in S.
Bill 9 which accompanies this report.

In conclusion, the Special Labor and Industry Committee has instructed the ad hoc committee, which is composed of business and labor representatives, to meet and make recommendations to the Labor and Industry Committees regarding

rehabilitation issues. In addition, the Special Committee on Labor and Industry would encourage recommendations of the ad hoc committee on the Workers' Compensation Fund.

Respectfully submitted,



Sen. Bill Morris, Chairperson
Special Committee on Labor
and Industry

December 4, 1984

Rep. Arthur Douville,
Vice-Chairperson
Sen. Bert Chaney
Sen. Norma Daniels
Sen. Dan Thiessen
Sen. Ben Vidricksen

Rep. Kenneth Green
Rep. Anthony Hensley
Rep. Dorothy Nichols
Rep. Lawrence Wilbert