

Approved AWD

Date 3-16-90

MINUTES OF THE House COMMITTEE ON Labor & Industry

The meeting was called to order by Representative Dorothy Flottman at  
Chairperson

9:05 a.m. on February 7, 1990 in room 526-S of the Capitol.

All members were present except:

Representative Douville - Excused  
Representative Schauf - Excused

Committee staff present:

Jerry Donaldson - Legislative Research Department  
Jim Wilson - Revisor of Statutes' Office  
Kay Johnson - Committee Secretary

Conferees appearing before the committee:

Kelly Johnston - Kansas Trial Lawyers Association  
Hoot Gibson - Builders' Association Self-Insurers' Fund & Associated General Contractors  
of Kansas City

The meeting was called to order at 9:05 a.m. by the Vice-Chairperson, Representative Dorothy Flottman. She explained the following bills would be heard today and additional hearings will be scheduled:

- HB 2759 - Workers compensation, time period, notice of occupational disease.
- HB 2760 - Workers compensation, judicial review, compensation pending review.
- HB 2761 - Workers compensation, removing limitation on amounts payable by employer for permanent total disability.
- HB 2762 - Workers compensation, rehabilitation benefits, temporary total compensation during vocational evaluation.
- HB 2763 - Workers compensation, civil actions for willful, gross or wanton acts or omissions, benefit increase for failing to provide guards or protection.

Kelly Johnston addressed the committee in support of all 5 bills, attachment #1:

- HB 2762 - insert the word "evaluation" on page 5, lines 12 & 20.
- HB 2761 - remove cap from total disability benefits.
- HB 2759 - allow same amount of time to file a written claim for occupational disease as for accidental injury - 200 days.
- HB 2760 - allow option to remove appeal to the district court if the Director's office has not made a decision within 45 days and invoke payment of compensation while appeal is being decided.
- HB 2763 - impose a penalty when injury or death is caused by intentional negligence and allow the right to sue in civil court.

Representative Buehler asked if rather than remove the limit, it could be extended so that an employer can be found liable for negligence. He stated his concern that all employers in a class would be paying for the negligence of one employer. Mr. Johnston stated that the proposal contained in HB 2763 is designed to provide civil remedy only in those cases where the conduct of the employer can be legitimately characterized as intentional, gross or wanton. He doesn't believe there will be a significant increase in these kind of lawsuits. The premium rates for this kind of litigation will fall upon the liability carrier.

Representative Hensley distributed copies of a newspaper article that Mr. Johnston had referred to, attachment #2, describing the death of a person working in a ditch that collapse. He stated it is a good example of what HB 2763 can address.

Representative Patrick asked if an OSHA standard is not followed, does that in itself constitute gross negligence? Mr. Johnston replied yes, in a situation where the element of causation is present. That is included in the bill in page 2, line 17. Representative Patrick asked why workers compensation rates keep going up and what is his solution. Mr. Johnston stated he didn't think the rates had gone up in the last year and one solution is to justify rate requests. Also, the 1987 amendments have helped to keep rates down.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Labor & Industry,  
room 526-S, Statehouse, at 9:05 a.m./~~p.m.~~ on February 7, 1990.

Representative Lane asked if a worker is working in known, unsafe conditions, does he have an obligation to stop working? Mr. Johnston responded that OSHA does not place responsibility of that nature on the worker and anytime you go outside of the Workers Compensation Act the issue of a workers contributory fault, as well as gross negligence, will be involved.

Representative O'Neal, referring to page 1, line 34, "negligence by employer or employee", asked if this allows a lawsuit against an employee. Mr. Johnston responded yes. Representative O'Neal asked about vicarious liability situations. Mr. Johnston said he had no objection to clarifying that issue as long as it covered the situation where the conduct of the employee was sanctioned by the employer.

Hoot Gibson addressed the committee as an opponent to HB 2763, attachment #3. He stated that the few states allowing employees to file civil lawsuits have been or are considering repeal of exceptions to the exclusive remedy rule. He stated it would create an avalanche of expensive litigation and produce higher workers compensation costs.

Representative Whiteman asked about accident history rates in relation to workers compensation rates going up. Mr. Gibson responded it has dropped each year but cost of claims continue to rise. Representative Whiteman asked to be provided statistics.

Representative Webb said he has found that states with higher workers compensation costs have lower accident rates. Does Mr. Gibson agree that higher costs make employers more safety conscious? Mr. Gibson stated the experience rating modification system is a very effective system.

Representative Patrick asked how many states permit common law by-pass. Mr. Gibson responded it is currently 6, but Texas has repealed that as of January 1, 1991.

Representative Everhart asked if Mr. Gibson preferred doing away with the cap or allowing civil liability. He responded he would rather have neither one, but would choose the extension of the cap.

Representative Hensley said there is a Senate bill which specifically addresses instances where a trench has not been shored and makes it a criminal penalty. What is Mr. Gibson's position? He responded yes, if it is determined to be a gross and wanton violation, felony provisions should be invoked.

Representative Whiteman asked Jerry Donaldson to research the 5 other states that have the by-pass and how it affects workers compensation premiums.

The meeting adjourned at 9:57 a.m. The next meeting of the committee is scheduled for Thursday, February 8, 1990 at 9:00 a.m. in room 526-S.





# KANSAS TRIAL LAWYERS ASSOCIATION

Jayhawk Tower, 700 S.W. Jackson, Suite 706, Topeka, Kansas 66603  
(913) 232-7756 FAX (913) 232-7730

1989-90 EXECUTIVE COMMITTEE  
 JOHN W. JOHNSON, President  
 EDWARD HUND, Immediate Past President  
 DAN LYKINS, Topeka, Vice President for Membership  
 DENNIS CLYDE, Overland Park, Vice President for Education  
 TIMOTHY ALVAREZ, Kansas City, Vice President for Legislation  
 RUTH BENJEN, Overland Park, Vice President for Public Affairs  
 M. JOHN CARPENTER, Great Bend, Treasurer  
 MICHAEL HELBERT, Emporia, Secretary  
 PEDRO IRIGONEGARAY, Topeka, Parliamentarian  
 GARY McCALLISTER, Topeka, Immediate Past President  
 BRUCE BARRY, Junction City, Elizabeth Kaplan, Overland Park, John L. White, Leavenworth, Members-At-Large  
 LYNN R. JOHNSON, Overland Park, At-Large Governor  
 THOMAS E. SULLIVAN, Overland Park, At-Large Governor  
 DENNIS L. HORNER, Kansas City, At-Large Delegate  
 SHANNON KRYSL, Wichita, At-Large Delegate

1989-90 BOARD OF GOVERNORS  
 DONALD S. ANDERSEN, Wichita  
 MARVIN APPLING, Wichita  
 THOMAS C. BALLEW, Leawood  
 JAMES M. BARNETT, Kansas City  
 TERRY E. BECK, Topeka  
 VICTOR A. BERGMAN, Overland Park  
 ARDEN J. BRADSHAW, Wichita  
 LELYN J. BRAUN, Garden City  
 LLOYD BURKE BRONSTON, Overland Park  
 PHILIP BURDICK, Hawatha  
 MICHAEL E. CALLEN, Kansas City  
 DAVID P. CALVERT, Wichita  
 GAIL CARPENTER, Great Bend  
 PHILIP CARSON, Kansas City  
 PHIL M. CARTMELL, JR., Overland Park  
 WILLIAM A. CLEAVER, Overland Park  
 BRYSON R. CLOON, Overland Park  
 RICHARD CORDRY, Wichita  
 DWIGHT COHRN, Wichita  
 JAMES CRABTREE, Overland Park  
 MICHAEL CROW, Leavenworth  
 LAVONE A. DAILY, Kansas City  
 STEVEN L. DAVIS, Emporia  
 STEPHEN G. DICER, Kansas City  
 STEVEN M. DICKSON, Topeka  
 EDGAR W. DWIRE, Wichita  
 GERALD T. ELLIOTT, Lenexa  
 J. DAVID FARRIS, Atchison  
 RANDALL J. FORBES, Topeka  
 THOMAS E. FOSTER, Overland Park  
 LAWRENCE C. GATES, Overland Park  
 HAROLD K. GREENLEAF, JR., Liberal  
 LARRY E. GREGG, Topeka  
 WILLIAM GRIMSBAW, Olathe  
 RANDALL D. GRISSELL, Garden City  
 DAVID HALL, Anthony  
 JOHN R. HAMILTON, Topeka  
 TOM E. HAMMOND, Wichita  
 KEITH R. HENRY, Junction City  
 MICHAEL D. HEPPELRY, Wichita  
 MICHAEL I. HODGES, Overland Park  
 J. ROY HOLLIDAY, JR., Olathe  
 LAURENCE R. HOLLIS, Wichita  
 STEVE L. HORNBAKER, Junction City  
 ANDREW W. HUTTON, Wichita  
 MARK B. HUTTON, Wichita  
 WILLIAM W. HUTTON, Kansas City  
 NORMAN M. IVERSON, Arkansas City  
 N. M. IVERSON, JR., Arkansas City  
 ARVID "VIC" JACOBSON, Junction City  
 SUSAN C. JACOBSON, Junction City  
 MARK JOHNSON, Overland Park  
 KELLY WILLIAM JOHNSTON, Wichita  
 ROBERT S. JOHNS, Salina  
 GARY L. JORDAN, Ottawa  
 ALBERT L. KAMAS, Wichita  
 TOM KELLEY, Topeka  
 E. L. LEE KIRCH, Wichita  
 RUBEN JORGE KRISZTAL, Overland Park  
 CHARLES D. KUGLER, Kansas City  
 GERALD D. LASSWELL, Wichita  
 ROBERT R. LEE, Wichita  
 ROBERT LEVY, Garden City  
 DONNA LONG, Clay Center  
 S. W. LONGAN III, Overland Park  
 GEORGE E. MALLON, Kansas City  
 MARLYS MARSHALL, Wichita  
 DAVID L. McLANE, Pittsburg  
 C. A. MENDING, Pittsburg  
 GERALD L. MICHAUD, Wichita  
 DAVID R. MORRIS, Overland Park  
 ROBERT WICKLIN, Wichita  
 DIANE A. NYGAARD, Overland Park  
 JULIE ORR, Wichita  
 JERRY R. PALMER, Topeka  
 TIMOTHY PICKELL, Westwood  
 JUDY POPE, Topeka  
 RONALD POPE, Topeka  
 BLAKE A. POST, Topeka  
 BRADLEY POST, Wichita  
 BRADLEY J. PROCHASKA, Wichita  
 EUGENE RALSTON, Topeka  
 RANDALL K. RATHBUN, Wichita  
 GORDON M. ROCK, JR., Olathe  
 TIM RYAN, Clay Center  
 MARK J. SACHSE, Kansas City  
 RICHARD SANBORN, Wichita  
 GENE E. SCHROEDER, Topeka  
 S. A. SCHMECA, Wichita  
 GERALD W. SCOTT, Wichita  
 K. GARY SEBELIUS, Topeka  
 DANIEL SEVART, Wichita  
 MICHAEL L. SEXTON, Kansas City  
 RONALD SHALT, Colby  
 JOHN ELLIOTT SHAMBERG, Overland Park  
 KAREN L. SHELTON, Kansas City  
 JAMES R. SHELTLAR, Overland Park  
 TIMOTHY SHORT, Pittsburg  
 CRAIG SHULTZ, Wichita  
 DONALD E. SHULTZ, Topeka  
 MICHAEL SIMPSON, Leavenworth  
 DAN L. SMITH, Overland Park  
 BROCK R. SNYDER, Topeka  
 MARTY SNYDER, Topeka  
 FRED SPIGARELLI, Pittsburg  
 DIANNA K. STAPLETON, Kansas City  
 DANIEL J. STRAUSBAUGH, Overland Park  
 M. WILLIAM SYRIOS, Wichita  
 LEE H. TETWILER, Paola  
 JAY THOMAS, Overland Park  
 ROBERT TILTON, Topeka  
 DAVID P. TROUP, Junction City  
 PHILIP W. UNRUH, Harper  
 DONALD W. VASOS, Kansas City  
 ARTIE E. VAUGHN, Wichita  
 MICHAEL WALLACE, Overland Park  
 WES WEATHERS, Topeka  
 ROBERT V. WELLS, Kansas City  
 SAMUEL WELLS, Kansas City  
 T. MICHAEL WILSON, Wichita  
 W. FREDRICK ZIMMERMAN, Kansas City  
 JAMES B. ZONGKER, Wichita

TESTIMONY  
 of the  
 KANSAS TRIAL LAWYERS ASSOCIATION  
 before the  
 HOUSE LABOR & INDUSTRY COMMITTEE  
 by  
 Kelly W. Johnston

February 7, 1990

### HOUSE BILL 2762

The only change herein proposed is the insertion of the word "evaluation" on page five at lines 12 and 20. Under current law, temporary total disability benefits can be paid during the period the worker is being evaluated for possible rehabilitation, as well as during the performance or execution of an approved vocational rehabilitation plan. The purpose of subsection g is to provide an additional period of weeks during which temporary total disability benefits can be received by a worker with a scheduled injury (K.S.A. 44-510d), since the maximum number of allowable weeks for some scheduled injuries is rather limited. Even for the amputation of an arm, the maximum number of allowable weeks, including healing period compensation, is 225, and this is considerably fewer than is allowed for a general bodily injury (415). The problem with the current law is that weeks during which the injured worker is being paid temporary total disability benefits while undergoing testing and analysis prior to approval of a vocational rehabilitation plan are not expressly eligible to be included in this allowance of additional weeks. Addition of the word "evaluation" will clarify legislative intent in this regard.

It is our understanding that the amendments to K.S.A. 44-510g being proposed by the Governor's Joint Advisory Committee included a recommendation similar to that proposed herein. Specifically, it is proposed that the word "assessment" be inserted in the same places as are recommended by HB 2762 that the word "evaluation" be inserted. We do not know if the Joint Advisory Committee considers these terms to be synonymous.

### HOUSE BILL 2761

HB 2671 will make permanent total disability benefits payable for life. Although the lid on permanent total payments was raised in 1987 from \$100,000 to \$125,000, simply mathematics proves the inadequacy of this allowance. Currently, the

RICHARD H. MASON  
EXECUTIVE DIRECTOR

House Labor & Industry  
 Attachment #1  
 02-07-90

maximum weekly rate for permanent total disability payments is \$271. Imagine a 25 year old breadwinner with dependent children who is rendered quadriplegic in the course of employment. He or she would receive the last disability compensation payment under the Kansas Workers Compensation Act less than nine years later. And Social Security disability benefits will not even come close to replacing the loss of these benefits. The Kansas Workers Compensation Act was designed to impose the costs of industrial accidents on industry. For the most seriously injured and economically impaired Kansas workers and their families, the Act no longer serves this purpose. If a change is not made, a lot of these people, instead of receiving these benefits from their employers and insurance carriers, are going to be seeking assistance from the Department of Social and Rehabilitation Services. We know from recent experience how ill-equipped SRS is to provide assistance to those who should be provided for through other sources.

#### HOUSE BILL 2759

The significant change proposed herein is found on page one at lines 17 and 20. The other changes are only of a "housekeeping" nature. The purpose of this bill is to allow workers disabled by occupational disease the same amount of time (200 days) to file a written claim for compensation as is allowed to workers disabled by accidental injury. Current law only allows 90 days to file a written claim for an occupational disease. Since failing to comply with the applicable written claim deadline will result in a complete loss of all medical and disability benefits, even in an otherwise valid claim, an inordinately short written claim period is difficult to justify. And since some occupational diseases like cancer do not always manifest themselves or become symptomatic as quickly as, for example, a back injury, some workers disabled by occupational disease may lose their right to pursue a claim before they even realize that they are ill or recognize that the cause of an illness was work-related.

#### HOUSE BILL 2760

This bill seeks to reduce the amount of hardship the current appellate process imposes on injured workers and their families in two different ways. The first change is found on page one at lines 18-23. This language will allow either party to an appeal to the Director of Workers Compensation from an award by an administrative law judge, if the Director has not issued a decision within 45 days, to remove the appeal to the district court of the county where the injury occurred by filing a petition for judicial review. Under current law, no time limits are placed on the Director for deciding requests for review and, although the Director's office has done an admirable job of virtually

eliminating its backlog, for the past four years or so it has not been unusual for the Director's office to take an entire year to decide an appeal. This proposal will create a time limit of sorts on the Director's office and, if the time limit is not satisfied, the Director will only lose jurisdiction over the appeal if one of the parties to the case decided to file a petition for review with the district court. In other words, this time limit will not be mandatory.

The second way in which this bill will reduce the financial hardship suffered by injured workers during a protracted appeal is by requiring weekly compensation benefits awarded by the administrative law judge to be paid while the appeal is being litigated. Current law allows disability benefits to be withheld until the Director's decision is published, and even then only requires the compensation due to be paid during the ten weeks prior to the Director's decision, and during those weeks prior to a decision by the district court, to be paid. Past experience has taught that sometimes the Director's office requires long periods of time to decide an appeal, and during those months the injured worker and his or her family have to do without compensation. Under this proposal (found on page two at lines 19-23), the disabled worker would be allowed to receive compensation benefits awarded by the administrative law judge while the Director is deciding the appeal. If the Director overturns the decision by the administrative law judge, then any overpayment to the disabled worker (current law permits) can be recouped from the Workers Compensation Fund.

A couple of thoughts to keep in mind about HB 2760 are as follows. First, passing both of these proposals will have the effect of allowing injured workers to wait for the Director to decide the appeal, instead of removing the appeal to the district court. Since even under these proposals a substantial amount of compensation (those benefits awarded by the administrative law judge for weeks more than ten weeks prior to the decision by the administrative law judge) might remain unpaid until after decision by the district court, the injured worker should also still be allowed to remove the appeal to the district court, if an inordinate amount of time is necessary for the Director to decide the appeal. All compensation due in the past must be paid after the district court resolves the petition for judicial review, by the way.

In addition, passing these proposals may also have the effect of reducing the litigation load on the Director of Workers Compensation. Since an insurance carrier can delay the payment of benefits awarded by the administrative law judge by filing an appeal to the Director, by requiring compensation to be paid during the period the claim is being appealed to the Director the financial incentive for the insurance carrier to appeal to the Director would be eliminated. Some appeals to the Director which

would be motivated primarily to delay benefit payments under these proposals would not be filed. Appeals motivated solely for the purpose of delaying benefit payments are properly characterized as frivolous, and should not be encouraged.

Finally, passing these proposals may also have the effect of reducing lump sum settlements necessitated by financial hardship. Injured workers who cannot wait for the appellate process to run its course sometimes opt to accept lump sum settlements for amounts that do not reflect the true value of their claims. The Kansas Trial Lawyers Association does not believe that our appellate process should promote lump sum settlements accepted by injured workers to avoid hardship on their families.

#### HOUSE BILL 2763

HB 2763 addresses the growing problem in the work place of people who suffer serious injury or death when their employers knowingly or recklessly subject them to hazardous machines or environments. Again, there are two ways this bill proposes to promote safety in the shop. The language found on page one, lines 34-43 and page two, lines 1-10, is designed to make a limited change in the current law which will not permit an injured worker to sue an employer for common law tort damages such as pain and suffering, or even 100% of wage losses (workers compensation benefits are based on 67% of the average wage), and it doesn't make any difference how flagrant is the employer's conduct in causing the injury. Worker's compensation benefits are the only remedy. This proposal will allow disabled workers to file a common law tort action against the employer only in those cases where the injury was caused intentionally, or as a results of gross and wanton conduct. In the event of a recovery, the previous receipt of workers compensation benefits will be deducted. Employers will continue to be protected from lawsuits filed by their employees for injury caused by negligence. We believe that the threat of civil liability should provide a significant incentive to employers to behave responsibly, and our public policy should encourage nothing less. Many states already possess similar laws.

The second method by which this proposal will encourage safety in the workplace is found in the language on page two at lines 17-24. Current law, whether state or federal, does not provide enough incentive to employers to comply with safety laws. A classic scenario that has repeated itself time and again in Kansas is the construction contractor who refuses to shore-up his trench walls in compliance with OSHA. Current OSHA penalties are for violating these regulations are insufficient to offset the money saved by avoiding the building of trench supports, and the time saved on the construction schedule. Of course, no one ever thinks the wall is going to cave-in and kill someone on one of their jobs. The Kansas Workers Compensation Act does very little to promote safety in the

Testimony of Kansas Trial Lawyers Association  
House Labor & Industry Committee  
Page 5

workplace. The Act may even encourage or license employer irresponsibility because of the provisions that protect the employer from civil liability for negligence. This bill will impose a penalty in the form of increased benefits to the disabled worker in such situations. The new language found at lines 23-24 on page three is designed to permit the increased benefit penalty to be paid without regard to the limits on total benefits found in K.S.A. 44-510f.

The Kansas Trial Lawyers Association hopes that you will give serious thought to supporting these proposals.

Thank you.



... need ... dern, at- ... ssenge ... ninal at ... a tangible sign that the ... to start doing exciting, ... will get this communi- ... County Commission ... Paris says. ... day of the special elec- ... al for the Metropolitan ... Authority to issue up to ... bonds for construction ... ger terminal at Forbes

... leaders who support the ... struction of a modern ... rnal at Forbes Field ... commercial airport —

... form their im- ... of a communi- ... v. And when ... t off a plane ... t do they see ... their impres-

— Ed Fallon

... 1.90-million levy to retire ... e terminal represents ... the future of the Tope-

... was transferred to the ... the U.S. General Ser- ... tion in the early 1970s, ... the former U.S. Air ... s transferred to the ... ears ago when it was ... tive authority for the ... ad Carl Pritchett, op- ... for MTAA.

... Ed Fallon, business ... ayers Local 1179, said ... n the air terminal is ... y for itself quickly, in ... pment, broader tax ... efits that come from ... pment in the area." ... ou have to spend mon- ... y. That rule holds true ... nd for business, and I ... vestment in the termi- ... ll prove that rule."

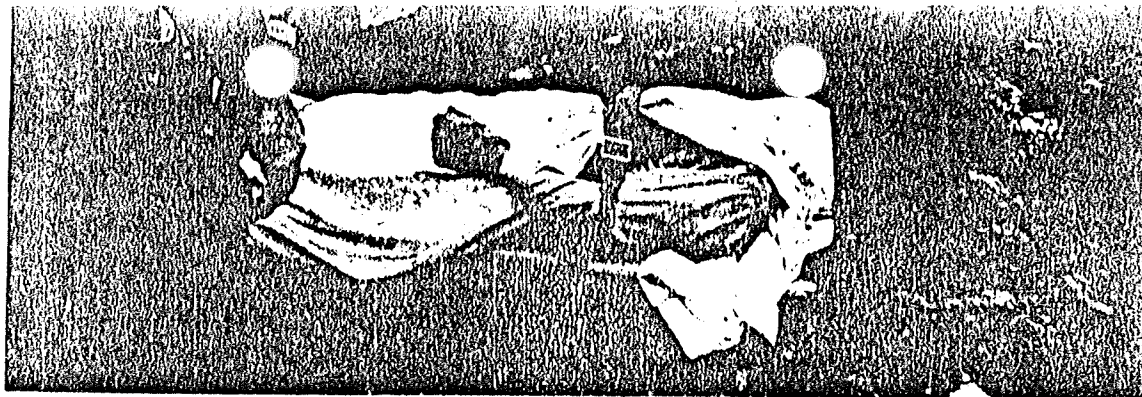
... People form their im- ... munity quickly. And ... off a plane here, what ... ase their impression

... ting our commercial ... ut of an old building ... uate and makes a bad

... need anything fancy. ... g that in this proposal ... simple terminal. Not ... like. It will meet our ... aid. "Look at Manhat- ... e terminal. Not lavish, ... e community's needs. ... ood impression of the ... se that terminal," he

... room there for region- ... to operate from. We ... now to handle any new ... rriers mean service, ... Topeka, mean that it is ... business will be willing

... oned on page 3, column 1



—Staff/Jim Richardson

Workers removed the body of John Jacobson, 70, Rossville, who was killed in a ditch collapse Thursday.



Dorothy Lloyd, daughter of the dead man, prayed while workers struggled to remove her father from the ditch.

# Workman dies in ditch accident

By STEVE SWARTZ  
Capital-Journal law enforcement writer

One man was killed Thursday and another was trapped briefly when the side of a ditch they were working in on the Kansas Capitol grounds collapsed.

Sgt. Clyde O. Johnson of Capitol Area Security Patrol identified the dead man as John Jacobson, 70, Rossville. He was pronounced dead at the scene by District Coroner Dr. W. Kiernan O'Callaghan.

An autopsy was to be performed Friday morning to determine cause of death. O'Callaghan said he was told

Jacobson's head was never covered by the dirt and clay in the ditch. He said there was "massive trauma" to Jacobson's chest.

Johnson said he did not know if Jacobson was covered by dirt.

Jacobson and fellow worker John A. Cline, 60, Havensville, were laying new drainage pipe just north of the Statehouse when the accident occurred just before 3 p.m., said Johnson. The men were working for Herrman's Excavating.

The two had just fitted a section of the concrete pipe in place in the seven-foot-deep trench when the east wall collapsed on them, he said.

Phil Howley, 25, no address available, was tamping the dirt around the section of pipe just to the north of Jacobson and Cline with a power tool when he saw the wall caving in.

"I just lucked out and saw it coming," said Howley, who managed, with the help of another worker, to free himself from the dirt, which filled in the area around his legs.

Witnesses said someone shouted a warning at Jacobson and Cline to get out of the way but it was too late. Cline said it appeared Jacobson was starting to move out of the way when the dirt

Continued on page 2, column 5

Bommarit  
made during the  
the Topekans  
iation in whi  
ome involved.  
He admitted the  
round of voting o  
year question was  
was he nervous o  
He said after t  
Goodyear's Gad  
turned the plan de

Continu

## Bommarit

Peter Bommarit  
United Rubber W  
will speak at a  
Friday in the 700  
west of Municipal

A scheduled 20-r  
junction with the e  
11:55 a.m. at the  
Hall, proceed to 7  
to 6th, west to Kan  
8th and east to Qu

## Suspec

names

gets cle

KALAMAZO

A man stopped  
for possession o  
bile probably  
wasn't much in

So when poli  
his, he gave th  
other, and anothe

Computer ch  
two names inc  
for crimes in ot

Police stoppe  
female compan  
Tuesday on a tr  
found he was dr  
in Pontiac abou

He willingly  
name, but quick  
ond moniker w

was o  
: four  
reek.  
't sett  
long.  
ek fo  
ed for

d tim  
alias  
no cri  
runn  
I still  
d Lt.  
rey do  
: the  
en if h

rying  
id.  
: wom  
they  
oo gav  
of a 24  
man.  
ever,  
not a k

House Labor & Industry  
Attachment #2  
02-07-90

group. The Democratic bill would provide permanent tax cuts in two consecutive years — starting Oct. 1 — and a third-year cut if inflation, interest rates and the federal deficit decline as much as Reagan forecasts. House debate begins Wednesday.

# continue

the bombing of Palestine targets in Beirut while having kept silent when previous Israeli governments ordered attacks on civilian targets.

Begin also issued a statement rebuking Defense Secretary Caspar W. Weinberger for his criticism of Israeli policy.

Weinberger said Wednesday that the June 7 bombing of an Iraqi nuclear reactor and last Friday's air raid on Palestinian guerrilla headquarters in downtown Beirut had each come just as U.S. efforts were about to bear fruit.

"I think the next session will have a lot to do with my political future," he said. "And I can tell you this. What I do hinges on what Bob Stephan does."

Both Stephan and Lady are considered conservatives, but Lady is easily the more moderate.

There could be some problems for a Stephan-Lady team because of the speaker's strong support for a severance tax last session. The tax was the keystone in Democratic Gov. John Car-

# Workman dies

Continued from page 1

shoved him against the west wall of the ditch, which was about four feet wide.

"I must have been standing on the pipe," said Cline, who was buried up to his waist for about 15 minutes. He was uninjured.

Almost immediately, fellow workers and Walter Graham, 23, 818 Belleview,

Stephan said he also had met with state Rep. Robert Frey, R-Liberal, who already has launched a campaign for the Republican nomination for attorney general in 1982.

Frey has said he will discontinue his effort if Stephan decides to seek reelection as attorney general.

"We've had a conversation," Stephan said. "Bob is collecting money and setting up an organization. I tried to impress on him I have not made any decision."

who was rebuilding the curbing at the 8th Street end of the line for another company, rushed to aid the trapped men.

Graham said he and others started digging Cline out of the ditch while others worked to free Jacobson.

Approximately 20 feet of the wall caved in, leaving a large cavity underneath a 6-inch-thick walkway just to the northwest of the Statehouse's north stairs.

About 15 minutes before Jacobson's body was finally pulled from the dirt, his daughter, Dorothy Lloyd, arrived at the scene with her son and mother.

"Where's John Jacobson?" Mrs. Lloyd asked a construction worker just north of where the rescue operation was going on.

Without saying a word, the worker pointed to the ditch.

Mrs. Lloyd screamed and ran toward the rescuers. Police attempted to restrain the woman but she broke away from them and ran closer to the ditch.

Later, she prayed out loud.

About 30 minutes after the collapse, workers using a back hoe, shovels and their hands pulled Jacobson from the ditch.

Pat Herrman, one of the owners of the company, said the company had never had an employee buried in about 26 years of business. He said the project had begun earlier in the week.

Jacobson had worked for Herrman's for about 10 years, Herrman said. Cline and Jacobson had been working partners for many years, said Cline.

Jacobson's fellow workers said there was no shoring in the ditch.

# to strike in

A federal judge Thure the Brotherhood of Railroad not to strike the St. Louis Railway Co. in its dispute of new automatic sign along an 80-mile stretch northeast Kansas.

Judge Richard D. Rogers District Court in Topeka the union and the railroad known as the Cotton Belt limit the dispute to the Railroad Board for arbitration days.

He said he would dissolve preliminary injunction which prevents a strike if the two submit to arbitration.

The judge said in a 25-page ruling the signalmen are protesting, picketing, engineering kind of work slowdown or any way with installation centralized traffic control outside contractor hired to do the work.

Rogers denied the union an injunction to stop installation of new equipment by the union until the labor dispute is settled by the Railroad Adjustment Board.

The Railroad Adjustment Board created under the federal Labor Act to arbitrate "minor" disputes over interpretation of contract provisions.

Friday 6:16; sunset

## temperatures

77	10 a.m.	85
77	2 a.m.	87
78	3 p.m.	88
79	4 p.m.	90
75	5 p.m.	89
75	6 p.m.	89
75	7 p.m.	87
80	8 p.m.	84
80	9 p.m.	81
80	10 p.m.	79
82	11 a.m.	78
84	Midnight	76

## precipitation

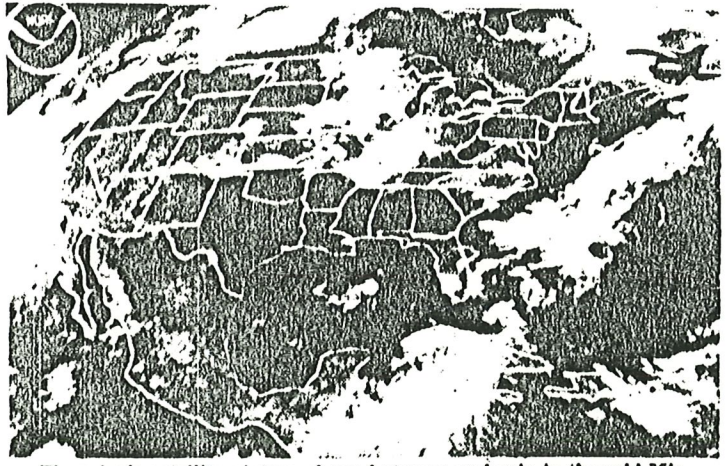
M	L	P
91	62	T
97	67	
95	65	
97	74	
93	70	
93	75	
93	72	
95	79	T
90	69	
93	75	
97	79	
104	78	
90	73	T
92	78	
89	66	
93	68	

## forecast

THURSDAY'S WEATHER	SATURDAY'S FORECAST
L H	P SKY L H
45 74	(3) 52 79
65 100	(3) 67 96

Amarillo	70 102	(3)	69 99	Lubbock	68 99	(1)	72 97	
Anchorage	54 60	29	(5)	54 60	Memphis	75 93	(3)	78 97
Asheville	63 83	(3)	66 85	Miami	79 93	(3)	80 92	
Atlanta	70 97	(1)	72 98	Midland	70 103	(1)	68 97	
Atlantic City	64 78	(3)	62 79	Milwaukee	51 71	(3)	63 90	
Austin	78 98	(3)	77 97	Mpls-St. Paul	62 78	.03	(3)	63 79
Baltimore	63 82	(3)	65 85	Nashville	66 88	(3)	74 94	
Billings	59 86	(4)	53 76	New Orleans	77 101	(3)	78 98	
Birmingham	69 98	(1)	73 97	New York	63 83	(1)	65 82	
Bismarck	60 86	(4)	52 70	Norfolk, Va.	72 81	(3)	67 84	
Boise	50 90	(1)	52 88	North Platte	59 84	(3)	64 84	
Boston	62 79	(3)	59 76	Oklahoma City	79 104	(1)	80 105	
Brownsville	76 97	(3)	77 94	Omaha	49 80	(3)	61 88	
Buffalo	48 74	(3)	62 82	Orlando	76 92	(3)	64 90	
Burlington, Vt.	54 75	(3)	50 79	Philadelphia	59 80	(3)	62 84	
Casper	49 95	(1)	51 84	Phoenix	86 111	(1)	82 108	
Charleston, S.C.	78 91	1.33	(3)	Pittsburgh	53 77	(3)	62 84	
Charleston, W.V.	60 85	(3)	62 88	Portland, Me.	53 79	(1)	53 73	
Charlotte, N.C.	70 87	(3)	69 88	Portland, Or.	60 76	(1)	58 84	
Cheverne	53 86	(3)	54 79	Providence	59 84	(3)	55 78	
Chicago	57 79	(3)	68 91	Raleigh	70 90	(3)	70 90	
Cincinnati	59 79	.01	(3)	Rapid City	53 87	.03	(3)	56 78
Cleveland	49 74	(3)	66 86	Reno	44 92	(1)	43 94	
Columbia, S.C.	76 94	.10	(3)	Richmond	67 84	(3)	65 88	
Columbus, Oh.	51 72	(3)	65 85	St. Louis	67 79	1.74	(3)	75 96
Dallas	74 101	(1)	76 102	St. Prba-Tampa	76 94	.26	(3)	76 94
Dayton	56 75	(3)	64 87	Salt Lake City	63 97	(1)	63 96	
Denver	60 93	(3)	62 88	San Antonio	77 98	(3)	77 97	
Des Moines	68 79	(3)	72 86	San Diego	70 80	(3)	69 79	
Detroit	50 75	(3)	64 88	San Francisco	52 59	(1)	53 64	
Duluth	54 67	.30	(4)	San Juan, P.R.	78 89	.36	(3)	79 91
El Paso	70 103	(1)	72 99	St. Ste. Marie	39 75	(5)	54 78	
Evansville	61 80	.06	(3)	Seattle	56 63	(1)	56 79	
Fargo	63 81	.04	(4)	Shreveport	75 97	(3)	75 99	
Flagstaff	56 82	(3)	54 84	Sioux Falls	64 88	.07	(3)	64 82
Great Falls	48 79	(4)	47 70	Spokane	53 83	(1)	55 82	
Hartford	56 80	(3)	54 80	Syracuse	51 77	(3)	59 82	
Helena	59 82	(4)	48 74	Tucson	77 102	(3)	77 102	
Honolulu	73 85	(3)	74 87	Tulsa	81 102	(1)	81 103	
Houston	82 97	(3)	77 97	Washington	68 84	(3)	69 86	
Jacksonville	74 95	.02	(3)	Fair; (2) Clearing; (3) Partly				
Juneau	48 73	(3)	53 66	Cloudy; (4) Cloudy; (5) Rain; (6)				
Kansas City	70 85	(3)	75 96	Snow.				
Las Vegas	78 110	(1)	80 107	National temperature extremes in				
Little Rock	76 98	(1)	78 100	the 48 contiguous states: Low, 28 at				
Los Angeles	66 85	(4)	66 84	Jackson, Wyo. High, 117 at Blythe,				
Louisville	64 83	(1)	76 95	Calif.				

Broadcasting of local, state and regional weather conditions continues 24 hours a day on NOAA Weather Radio WXX-91 on a frequency of 162.475 MhzFM.



Thursday's satellite picture showed storms and rain in the mid-Mississippi Valley and into the upper Midwest.

# The Topeka Capital Journal

Vol. 107, No. 267, Friday, July 24, 1981  
 John H. Stauffer, Editor and Publisher  
 Published daily by Stauffer Communications Inc., Stanley H. Stauffer, president, at 616 Jefferson, Topeka, Ks. 66607. Second class postage paid at Topeka, Ks. USPS No. 633540. Postmaster: Send address changes to Mail Subscriptions, The Capital Journal, 616 Jefferson, Topeka, Ks. 66607.  
 Subscriptions AC 913-295-1133  
 Classified AC 913-295-1122  
 News and advertising AC 913-295-1111  
 Out of Town News Bureaus  
 Washington 20045 — Ken Peterson Room 991  
 National Press Bldg. — AC 202-783-3274  
 Manhattan 66502 — Rha Shelley  
 1001 Humboldt — AC 913-539-1447  
 Lawrence 66044 — Sherry Pigg  
 3203 W. 21st Place — AC 913-842-4290  
 Kansas City — Alan Eskew  
 1305 South 21st, Blue Springs, Mo. 64015  
 AC 816-229-9580

Subscriptions	Morn	Morn	Sun-
Mail to Zip Codes	7 day	6 day	day
66001-66699, 66801-66999, 67401-67499	3 mo. 22.75	15.50	11.00
To Zip Codes	1 yr. 85.00	56.00	38.00
66701-66799, 67001-67399, 67501-67999	3 mo. 24.25	16.75	12.00
Out of Kansas	1 yr. 91.00	61.00	42.00
	1 yr. 108.00	69.00	50.00



3 eye  
 Harvest  
 2-2  
 Downtown Open 9:30  
 Mon. & Thurs. Nites



## Builders' Association Self-Insurers' Fund

3801 S.W. TRAFFICWAY • P.O. BOX 32246 • KANSAS CITY, MO 64111  
PHONE 816/531-2642



### KANSAS LABOR AND INDUSTRY HEARING FEBRUARY 7, 1990

Ladies and Gentlemen I appear today on behalf of the Builders' Association Self-Insurers' Fund and the Kansas City Chapter of the Associated General Contractors of America. The Self-Insurers' Fund provides workers' compensation coverage to over 200 contractors in the state of Kansas.

Our Association is very concerned about the provisions contained in House Bill 2763. As I am sure you're aware, all but a handful of state workers' compensation systems abide by the long-standing doctrine that workers' compensation is the exclusive remedy an employee has against an employer. In fact, the few states that allow employees to file lawsuits in the civil courts have been or are now considering the repeal of exceptions to the exclusive remedy rule. The most recent of which is the state of Texas. Effective January 1, 1991 a Texas employee will no longer be able by-pass the workers' compensation system and take their claim to the civil courts.

Kansas workers' compensation has always been based on a no-fault system. The employer waives common law defenses and in turn the employee must pursue statutory workers' compensation benefits. Introducing legislation to grant an employee a remedy thru the civil court will create an avalanche of expensive, protracted litigation that will serve neither the employer or the employee.

House Labor & Industry  
Attachment #3  
02-07-90

Page 2

The cost of workers' compensation is becoming a major financial burden to our contractors. The voluntary market for workers' compensation coverage continues to recede. Further, an unprecedented 22.6% rate increase is now being considered by the Kansas Insurance Department. Passage of House Bill 2763 would produce significantly higher workers' compensation costs and drive workers' compensation premiums to intolerable levels.

Ladies and Gentlemen thank you very much.