

MINUTES OF THE House COMMITTEE ON Labor and Industry

The meeting was called to order by Representative Anthony Hensley at
Chairperson

9:10 a.m./~~p.m.~~ on January 29, 1992 in room 526-S of the Capitol.

All members were present except:

Representative Flottman - excused

Committee staff present:

Jim Wilson, Revisor of Statutes
Jerry Donaldson, Principal Analyst
Barbara Dudney, Committee Secretary

Conferees appearing before the committee:

Don Bruner, Director, Div. of Labor-Management Relations and Employment Standards,
Kansas Department of Human Resources.
Duane Guy, Safety Supervisor, Industrial Safety and Health section.

The meeting was called to order at 9:10 a.m., by the chairman, Rep. Anthony Hensley.

Chairman Hensley stated that the first order of business was motions for introduction of bills by the committee. He recognized Rep. Denise Everhart for such a motion.

Rep. Everhart moved to introduce a bill to clarify the state's policy on employee use of sick leave. The motion was seconded by Rep. Darrel Webb. Motion carried.

Rep. Arthur Douville moved to introduce a bill on subrogation rights in workers' compensation cases. The motion was seconded by Rep. Jack Sluiter. Motion carried.

Rep. Eloise Lynch moved to introduce a bill providing that public employees be covered by the same occupational safety and health standards for private- sector employees as administered and enforced by the federal Occupational Safety and Health Administration (OSHA). She stated that it was her intention to have the administration and enforcement of a state OSHA program carried out by an existing state agency, such as the Industrial Safety and Health section within the Kansas Department of Human Resources. She presented a copy of the Connecticut statute and requested that Jim Wilson, Revisor, use that statute as a model for the proposed bill. The motion was seconded by Rep. Dick Edlund. Motion carried.

Chairman Hensley introduced Don Bruner, Director, Division of Labor-Management Relations and Employment Standards, Kansas Department of Human Resources. Mr. Bruner handed out various documents describing the organizational structure of his division and its relationship with OSHA (attachments #1, #2, #3, #4 and #5). He then answered questions from several members of the committee.

Mr. Bruner introduced Duane Guy, Safety Supervisor, Industrial Safety and Health section. Mr. Guy explained the workplace safety and health program operating in Kansas. He presented information on the estimated number of days it takes for his field people to conduct safety inspections. He noted that a recent study of the National Institute of Workplace Safety had ranked Kansas 46th in the country in terms of the criteria the Institute used to determine state-by-state performance in providing safe, healthy workplaces. He took exception to some of the criteria used, but would like to make further comments after he has actually read the study's findings. Chairman Hensley shared with the committee a copy of a news article entitled, "Kansas Fares Poorly in Job Safety Study." The chairman said that the news article described the Institute's study, and that he would obtain a copy of the study's findings to present to committee members.

Mr. Guy further noted the importance of "ergonomics" in the workplace, particularly in the office setting. He said that he has been urging state personnel managers to be aware of employee needs and safety concerns. He then answered questions from members of the committee.

The meeting was adjourned at 9:59 a.m.

Remarks to Kansas House Committee on Labor and Industry
January 29, 1992

Good morning Mr. Chairman and Members of the Committee. I am Don Bruner, Director Labor Management Relations and Employment Standards. First, I want to thank each of you and the Committee for your interest in what I consider a most important matter, Industrial Safety in Kansas.

We are pleased to respond to the request of the Committee Chairman to provide a staff overview of the programs administered by the Industrial Safety and Health Section. If at any time you have questions please feel free to inquire.

The section has several functions of which the Public Sector Occupational Safety and Health (44-636) and the Federal/Kansas Consultation program 7(c)(1) agreement with the U.S. Department of Labor, Occupational Safety and Health Administration are the major efforts. The Public Sector (44-636) is funded by state general funds. The Federal 7(c)(1) agreement is funded 90% federal/10% state.

The Industrial Safety and Health Section is currently staffed as follows (1/29/92).

| | |
|---|-----------------------|
| * (1) Occupational Safety and Health Administrator (Vacant effective 1/8/92) | 50%/50% State/Federal |
| (1) Industrial Safety Supervisor | 50%/50% State/Federal |
| (2) Industrial Inspector III's | 50%/50% State/Federal |
| (2) Industrial Inspector II's | 50%/50% State/Federal |
| (2) Industrial Hygienist II's | 100% Federal |
| (1) Industrial Hygienist I | 50%/50% State/Federal |
| (1) Secretary III (Also serves as secretary to Division Director) | |
| (2) Office Assistant III's | 1 Federal/1 State |

*Plans have been submitted to the Secretary for approval to reallocate the Administrator position down to a Hygienist position and to use the savings realized to improve the service to citizens. The plan utilizes a single level of supervision/manager.

My first eight months as Division Director has held considerable challenge ranging from overspent budget to unwise use of available funds, having to effect a two (2) person layoff to prevent a projected budget shortfall of 65K to 70K in FY '92. We are currently back on target and have recalled the two (2) employees laid off following three (3) staff resignations who accepted employment in private industry. Even with distractions, staff in calendar year 1991 completed 211 public sector inspections wherein 31,151 persons were employed and made 5,524 recommendations for corrections of hazards. Additionally, in the private sector (Federal 7(c)(1)), they made 636 employer consultations finding 1448 serious and 3688 non-serious hazards. The 636 employers employed 39,709 employees.

*House Labor & Industry
Attachment #1
1-29-92*

Looking to the future, workplace health and hygiene problems continue to grow daily. New chemicals, occupational illnesses and hygienic working conditions are becoming the concern of both employers and employees. My current plan recognizes this fact by proposing to upgrade our capability and number of staff in the area.

Equally important to the prevention of work place injury is the education and training of employers, employees and employee/employer organizations. The Industrial Safety and Health Section provides staff to assist employers, either public or private, in planning and carrying out training programs to reduce risk of injury to employees on the job. We fully support such training as the best way to prevent job related injury and the resulting worker compensation claims sure to follow injury.

I would now turn the presentation over to Duane Guy, Safety Supervisor. Duane will give a program specific description of our activities.

I personally thank you for your attention and if a question occurs to you later, please give either Duane or myself a call.

In discussing Industrial Safety and Health today as a section in the Department of Human Resources let's look back at what has happened since the OSH Act was signed December 29, 1970. This act pre-empted the State of Kansas from any enforcement of safety and health laws, rules and regulations in the private sector of the employment scene.

When I began employment in January 1974 there were 9 Safety Inspectors, one Industrial Hygienist, 4 clerk typists and administrative staff. In June 1975 the staff was reduced by 3 Safety Inspectors and 2 clerk typists. In July 1975 an agreement was entered into with the U.S. Department of Labor to administer a Consultation Program to assist employers in the private sector with their safety and health programs, and voluntary compliance with OSHA requirements.

Today we have a staff of 4 Industrial Inspectors, 3 Industrial Hygienists and 2 office assistants. The Safety Inspectors are committed to devote 50% of their time to the consultation activity. Two of the Industrial Hygienists are committed to 100% of their time to the Consultation Program and one Industrial Hygienist is committed to 50% of his time to the Consultation Program and 50% to public sector Industrial Hygiene work. The Industrial Hygienist that is 50 - 50 came on board Monday, January 27, 1992. This allows us the equivalent of 2 fulltime equivalent Safety Inspectors and one half time Industrial Hygienist to conduct public sector inspections, investigate complaints from employees

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attachment # 2
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and respond to employer requests for assistance. A copy of the latest employer request is being provided. I believe we, in the Industrial Safety and Health Section, are aware of what needs to be done. Three former employees that have accepted positions in the private sector, that received their training with us, have developed or improved safety and health programs showing lower incidence rates, reduced worker's compensation costs, improved employee morale, working conditions and employee acceptance of the programs. They have shown that safety pays, it does not cost.

Throughout the State and it's political subdivisions emphasis should be placed on developing programs, conducting training and inspection. Although inspection is just one part of a safety and health program, inspection from an objective stand-point must be conducted. This is being done by the Section as time and schedules permit. I conducted a study a couple of years ago to determine the number of facilities in the state and it's political subdivisions with an estimate of the time required to conduct a safety inspection. A copy is included. Inspectors have not recommended Industrial Hygiene work in the public sector because we have not had staff to conduct the Industrial Hygiene work. Occupational Health has come to the forefront in recent years. The National Institute for Occupational Safety and Health and OSHA now estimates there are over 100,000 deaths in this country each year from occupational illness. Industrial Hygienists are the persons that conduct the air monitoring in the work environment to determine concentrations of air contaminants and recommend

changes to reduce possible overexposure to acceptable levels or recommend other methods of protecting employees from possible health hazards. Ergonomics issues, considered an occupational illness is another area of great concern today. Conducting ergonomic evaluations is very time consuming. It is one area that can make a great pay-back. Studies have shown greater productivity if employees are more comfortable in their work environment. In 1984 a State Employee Safety Advisory Committee was formed. We are still active although participation has fallen off. This group could be of tremendous benefit to the State if expanded to include representatives from every State agency. Without funding and at times little or no support we have continued, and this past fall held a conference in Topeka. There were approximately 225 persons in attendance. Comments were very positive and attendance indicated considerable interest in safety and health. Other things that could be done to improve employee safety in the public sector would be:

Emphasize safety programs. - Use the OSHA Training Institute.

Emphasize and promote training of employers and employees.

Tie worker's compensation to performance in State agencies - this would require manager's to be more responsive to safety and health issues.

Develop a program similar to Oklahoma's for the private sector whereby employers would get a reduction in Work Comp premiums for using the Consultation Service.

Conduct more frequent inspections. State inspectors have all received considerable training at the OSHA Institute and by cross-training with each other. We now use the OSHA rules and regulations by reference to support our recommendations. We feel this is a uniform method and gives public employees the same reference as those employed in the private sector. The newest rule to become final in OSHA is the Bloodborne Pathogens Rule. We are reviewing this rule and Mr. Boggs is scheduled to attend training on it next month at the Institute. He will conduct training for all staff upon completion of the course. A copy of OSHA's Summary of Compliance Costs on the rule is available. I did not copy it for everyone because of the length and cost to copy. I would be glad to discuss it with you if you have questions.

There has been discussion within OSHA in recent years to expand coverage of the OSH Act to coverage of public employees. I would not recommend this. I would recommend that we in Kansas avoid or work to prevent OSHA coverage. Money that would go to pay penalties imposed by OSHA would go a long way toward providing programs, eliminating hazards and improving working conditions.

FEDERAL REPORT FOR
1ST 6 MONTHS 1991

INDUSTRIAL SAFETY AND HEALTH ACTIVITIES - KANSAS 7(C)(1)

| NAME | VISIT | SERIOUS | NON-SERIOUS | EMPLOYEES | FOLLOW-UP |
|-------|-------|---------|-------------|-----------|-----------|
| | 3 | 0 | 0 | 256 | 0 |
| | 28 | 12 | 0 | 2,886 | 0 |
| | 67 | 120 | 651 | 5,749 | 1 |
| | 18 | 52 | 15 | 2,773 | 0 |
| | 54 | 133 | 345 | 1,542 | 3 |
| | 21 | 12 | 77 | 1,501 | 0 |
| | 43 | 81 | 295 | 2,206 | 0 |
| | 58 | 222 | 654 | 4,228 | 3 |
| | 107 | 147 | 239 | 3,285 | 4 |
| | 8 | 19 | 27 | 300 | 0 |
| TOTAL | 407 | 798 | 2,303 | 24,726 | 11 |

SAFETY CONSULTATIONS: _____359_____
INDUSTRIAL HYGIENE CONSULTATIONS: _____48_____
SUBTOTAL: _____407_____
SAFETY & HEALTH FOLLOW-UPS: _____11_____
TOTAL: _____418_____

*House Labor & Industry
Attachment # 3
1-29-92*

INDUSTRIAL SAFETY AND HEALTH ACTIVITIES

STATE REPORT FOR
1ST 6 MONTHS 1991

| NAME | INIT. INSP. | FOLLOW UP INSP. | RECOMMENDATION | EMPLOYEES |
|---------------|-------------------------|-----------------|--------------------------------|----------------------------------|
| | I- 12 J- 2 S- 7 | 2 | I - 691 J - 0 S - 2 | I - 1,994 J - 95 S - 96 |
| | I- - J- - S- 4 | - | I - - J - - S - 0 | I - - J - - S - 708 |
| | I- 6 J- 5 S- 2 | - | I - 319 J - 59 S - 20 | I - 4,637 J - 123 S - 37 |
| | I- - J- 1 S- - | - | I - - J - 0 S - - | I - - J - 4 S - - |
| | I- 20 J- - S- - | - | I - 763 J - - S - - | I - 4,926 J - - S - - |
| | I- 1 J- - S- 1 | - | I - 32 J - - S - 0 | I - 24 J - - S - 5 |
| | I- 8 J- 6 S- - | - | I - 235 J - 54 S - - | I - 4,366 J - 475 S - - |
| | I- 8 J- 1 S- 3 | - | I - 190 J - 23 S - 51 | I - 1,190 J - 80 S - 11 |
| | I- 7 J- 2 S- 1 | - | I - 253 J - 6 S - 0 | I - 4,616 J - 14 S - 6 |
| | I- 2 J- 1 S- 1 | - | I - 2 J - 3 S - 1 | I - 52 J - 4 S - 25 |
| TOTALS | I- 64 J- 18 S- 19 | 2 | I - 2,485 J - 145 S - 74 | I - 21,805 J - 795 S - 888 |

I - USDS & COLLEGES J - LOCAL GOVERNMENTS
S - STATE AGENCIES

HYGIENE I - 2, J - 2, S - 5 INCLUDED IN THE ABOVE

INDUSTRIAL SAFETY AND HEALTH ACTIVITIES

STATE REPORT FOR
2ND 6 MONTHS 1991

| NAME | INIT. INSP. | FOLLOW UP INSP. | RECOMMENDATION | EMPLOYEES |
|--------|-------------------------|-----------------|--------------------------------|-----------------------------------|
| | I- 13 J- 13 S- - | - | I - 271 J - 161 S - - | I - 1,504 J - 326 S - - |
| | I- 1 J- 1 S- 2 | - | I - 6 J - 3 S - 0 | I - 12 J - 12 S - 9 |
| | I- 4 J- 34 S- - | - | I - 241 J - 483 S - - | I - 1,521 J - 796 S - - |
| | I- 1 J- 2 S- 10 | - | I - 0 J - 0 S - 4 | I - 20 J - 99 S - 666 |
| | I- - J- 1 S- - | - | I - - J - 0 S - - | I - - J - 15 S - - |
| | I- - J- 4 S- 1 | - | I - - J - 133 S - 12 | I - - J - 405 S - 5 |
| | I- 2 J- 13 S- 6 | - | I - 330 J - 286 S - 0 | I - 1,964 J - 180 S - 29 |
| | I- - J- - S- 2 | - | I - - J - - S - 61 | I - - J - - S - 100 |
| TOTALS | I- 21 J- 68 S- 21 | 0 | I - 842 J - 1,905 S - 73 | I - 5,021 J - 1,833 S - 809 |

I - USDS & COLLEGES
S - STATE AGENCIES

J - LOCAL GOVERNMENTS

HYGIENE I - 12, J - 9, S - 17 INCLUDED IN THE ABOVE

ESTIMATED DAYS
TO INSPECT

| | |
|--|-------|
| Cities | 672 |
| Counties | 193 |
| All Schools - Including Colleges & Universities | 510 |
| Schools: | |
| 347 High School | \ |
| 82 Junior High School | / 214 |
| 1,048 Elementary School | 131 |
| Maint. Facilities & Bus Maintenance | 43 |

1,763 Estimated days to inspect all facilities @ 220 working days per year = 8 man years (this does not include complaint, fatality or other investigations)

Burk
Dinkel
Samuels
Phillips \ 2 Man Years

To inspect all public facilities annually would require 8 full time inspectors; bi-annually - 4 full time, or with current staffing once every four (4) years.

Air sampling in corrections facilities and other public places of employment, complaint investigations and requests would require one (1) additional full time Industrial Hygienist.

*House Labor & Industry
Attachment # 4
1-27-92*

| | DAYS |
|---|------|
| Adjutant General 64 locations - National Guard Armories | 64 |
| Dept. of Administration 3 locations plus State Office Buildings (4) Building & Grounds Shop, Architectural Services & Printing Plant | 3 |
| Dept. of Aging 3 locations - offices | 1 |
| Dept. of Agriculture 4 locations - Central office, laboratories, Weights & Measures, plus offices in State Office Building | 2 |
| Banking Department 1 location | 1 |
| Civil Rights 2 locations - Wichita & State Office Building | 1 |
| Dept. of Commerce 6 Field Offices and Administrative Offices | 3 |
| Commission on Veterans Affairs 1 location - Ft. Dodge | 1 |
| Conservation Commission 1 location | 1 |
| Corporation Commission 2 locations & State Office Building | 1 |
| Dept. of Corrections 20 locations & Topeka offices (7 are detention facilities) | 32 |
| Cosmetology 1 location | 1 |
| Deaf School 1 location | 2 |
| Deferred Comp 1 location | 1 |
| Dental Board 1 location | 1 |
| Dept. of Education 1 location | 1 |

| | |
|--|----|
| Emporia State University | 15 |
| Fort Hays State University | 5 |
| Governor 1 location & Capital Building | 1 |
| Grain Inspection 8 locations | 8 |
| Health & Environment 6 locations & Forbes Buildings | 8 |
| Hearing Aid Board of Examiners 1 location | 1 |
| Highway Patrol 15 locations | 15 |
| Historical Society 13 locations | 13 |
| Human Resources 40 locations | 20 |
| Insurance Commissioner 2 locations | 1 |
| Kansas Advocacy and Protective Services 1 location | 1 |
| Kansas Bureau of Investigation 2 locations | 2 |
| Kansas Lottery 4 locations | 1 |
| K.N.I. 1 campus | 2 |
| Kansas State University 1 campus | 10 |
| K.T.I. 1 location | 2 |
| Kansas Technology Enterprise Corp. 1 location | 1 |
| Kansas, Inc. 1 location | 1 |

| | |
|--|-----|
| KSU Agronomy Horticulture Forestry Exp. Fields 9 locations | 4.5 |
| KSU Branch Experiment Stations 5 locations | 5 |
| KSU Extension Offices 106 locations | 53 |
| Larned State Hospital 1 campus | 2 |
| Legislative Post Audit 1 location | 1 |
| Legislative Research Department 1 location | 1 |
| Norton State Hospital 1 campus | 2 |
| Optometry Examiners, Board of 1 location | 1 |
| Osawatomie State Hospital 1 campus | 2 |
| Parsons State Hospital 1 campus | 2 |
| Pharmacy, Board of 5 locations | 2.5 |
| Pittsburg State University 1 campus | 5 |
| Public Disclosures Commission 1 location | .5 |
| Rainbow Metal Health Facility 1 location | 1 |
| K.P.E.R.s 1 location | .5 |
| Revenue, Dept. of 2 locations & State Office Building | 1 |
| S.R.S. 108 office locations & 2 blind workshops & State Office Building | 56 |

4-4

| | | |
|--|--|----|
| State Fair | | |
| 1 location (multiple buildings) | | 3 |
| Topeka State Hospital | | |
| 1 campus | | 1 |
| Department of Transportation | | |
| 94 shops, sign shop, laboratory (1) 12, (2) 16, (3) 9, | | 96 |
| (4) 17, (5) 21, & (6) 19 | | |
| University of Kansas | | |
| 1 campus & Medical Center | | 20 |
| Veterinary Examiners, Board of | | |
| 5 locations | | 2 |
| Visually Handicapped, School | | |
| 1 location | | 1 |
| Vocational Education, State Council on | | |
| 1 Location | | 1 |
| Wheat Commission | | |
| 1 location | | 1 |
| Wichita State University | | |
| 1 campus | | 10 |
| Wildlife & Parks | | |
| 27 locations & fish hatchery & State Office Building | | 14 |
| Winfield State Hospital | | |
| 1 campus | | 3 |
| Youth Center at Atchison | | |
| 1 campus | | 1 |
| Youth Center at Beloit | | |
| 1 campus | | 1 |
| Youth Center at Larned | | |
| 1 campus | | 1 |
| Youth Center at Topeka | | |
| 1 campus | | 1 |
| Docking State Office Building | | 2 |
| Landon State Office Building | | 2 |
| Capital Building | | 1 |
| Judicial Building | | 1 |

105 Counties

4 - 5 days for larger counties
(population) i.e. Sedgwick,
Wyandotte, Johnson & Shawnee

2 - 3 days for medium size
counties, i.e. Saline, Reno,
Pratt, Ford, etc.

1 - 2 days for smaller counties,
i.e. Gove, Logan, Hamilton, etc.

| | | |
|----|--------|-----|
| 38 | 1 day | 38 |
| 62 | 2 days | 124 |
| 5 | 3 days | 15 |
| 4 | 4 days | 16 |

DAYS TO CONDUCT INSPECTION OF ALL FACILITIES

| CITIES (INCORP) | (1) | (2) | (3) | (4) | (5) | TOTAL |
|-----------------|-----|-----|-----|-----|-----|-------|
| A-35 | 32 | 3 | | | | 38 |
| B-46 | 46 | | | | | 46 |
| C-51 | 50 | 1 | | | | 52 |
| D-20 | 18 | 2 | | | | 22 |
| E-31 | 29 | 2 | | | | 33 |
| F-15 | 15 | | | | | 15 |
| G-35 | 33 | 2 | | | | 37 |
| H-49 | 42 | 1 | 1 | | | 47 |
| I-6 | 5 | 1 | | | | 7 |
| J-6 | 4 | 2 | | | | 6 |
| K-11 | 10 | | | | 1 | 15 |
| L-50 | 44 | 4 | 2 | | | 58 |
| M-55 | 53 | 1 | 1 | | | 58 |
| N-19 | 18 | 1 | | | | 20 |
| O-24 | 22 | 1 | 1 | | | 27 |
| P-34 | 31 | 3 | | | | 37 |
| Q-2 | 2 | | | | | 2 |
| R-25 | 25 | | | | | 25 |
| S-50 | 48 | 2 | | | | 52 |
| T-14 | 13 | | | 1 | | 17 |
| U-4 | 4 | | | | | 4 |
| V-7 | 7 | | | | | 7 |
| W-40 | 37 | 2 | | | 1 | 44 |
| Y-1 | 1 | | | | | 1 |
| Z-2 | 2 | | | | | 2 |

672 Days

HUTCHINSON

POST OFFICE BOX 1567 67504-1567
TELEPHONE 316/665-2613

OFFICE OF
CITY MANAGER

January 21, 1992

RECEIVED

JAN 24 1992

KANSAS DEPARTMENT
OF HUMAN RESOURCES

Duane Guy
Kansas Department of Human Resources
Division of Industrial Safety and Health
512 S.W. Sixth
Topeka, Ks 66603-3150

Dear Mr. Guy:

In October 1990, your department did a safety inspection on different City departments to determine possible unsafe or unhealthy working conditions. The recommendations from that inspection were addressed and corrected.

The City of Hutchinson requests another inspection by your department. Please, inform me as to a date and time for this inspection. If it is possible, the City would like an annual inspection.

If you have any questions or need additional information, please feel free to contact me. Thank you for your time.

Sincerely,

Glenda Stout

Glenda Stout
Administrative Staff Aide

*House Labor + Industry
attachment #5
1-29-92*