



ALASKA DISTRICT COUNCIL OF LABORERS

Laborer's International Union of North America

2501 Commercial Drive • Suite 140 • Anchorage, Alaska 99501

907.276.1640 • Fax: 907.274.7289 • info@alaskalaborers.com

Dennis Moen

Business Manager
Secretary-Treasurer
District Council

Business Manager
Public Employees Local 71

Joey Merrick

President
District Council

Business Manager
Laborers Local 341

Kevin Pomeroy

Vice President
District Council

Business Manager
Laborers Local 942

February 24, 2017

Honorable L & C Committee Members
Alaska State House of Representatives
Juneau, Alaska 99801

Re: **HB 38 Worker Compensation Amendment on Death Cases and PPI Injuries**

Dear Honorable Representatives;

Your support for passage of HB 38 protects families of **Alaskan workers killed on the job**; and for **Alaskan workers suffering permanent injuries**.

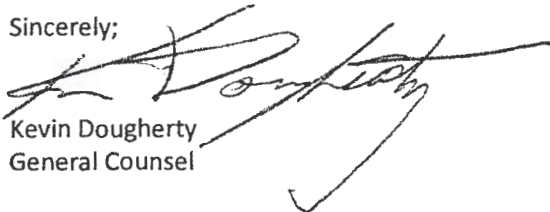
Specifically, Section 4 corrects the embarrassing neglect of prior Legislatures for Death cases wherein the worker was single, yet had grandchildren, parents, or siblings. **For over 40 years- since 1968 – this Death benefit has languished at the insulting \$20K for the loss of human life.** Sadly, a number of Alaska families have been subject to this insulting statute. For example, the families of Alaskans such 1). **Kerry Brookman killed** while working for our AKRR by an avalanche, 2). **Tyler Kahle** a construction worker killed in Nome, and 3). Anchorage Laborer **Samuel Rey Damn killed** by a truck -- sadly received this outdated, substandard \$20k for the death on the job!

And even worse, after **Abigail Caudle was killed** on the job in Anchorage, the existing Worker Comp statute was used to provide the family **zero-no** compensation whatsoever-- for their daughter's death. [See Alaska Work Comp Appeals Com'n, Decision No. 215 (2015). That Decision deferred responsibility to the Alaska Legislature to address this tragedy. See footnote 32.

Secondly, section 2 also corrects an outdated statute that **unfairly impacts Alaskans disabled from workplace accidents**. Specifically, the Worker compensation amount for a Permanent Disability in A.S. 23.30.190 has not been adjusted since the year 2000- and thus has eroded by inflation! Your HB 38 Bill rightly corrects this inequity for injured Alaskans.

We appreciate your work for passage of this Legislation for Alaska families!


Sincerely;

A handwritten signature in black ink, appearing to read "Kevin Dougherty", is written over the printed name and title.

Kevin Dougherty
General Counsel

Attachments: Abigail Caudle Obituary/ADN article
Re: Kerry Brookman; "Avalanche Kills Railroad worker"
Letter of Mother Michelle Kahle/son Tyler killed in Nome
1968 Alaska Legislative Amendment
1915 Alaska Territorial Legislature

Alaska Dispatch News



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Abigail Elizabeth "Abby" Caudle Obituary



Abigail (Abby) Elizabeth Caudle passed away Monday night, June 20th, as a result of a tragic accident. She was born February 16, 1985 in Santa Rosa, California and moved to Anchorage in 1996 with her family. Abigail graduated from Anchorage Christian School (ACS)

in 2003. Upon graduation, Abigail worked at ACS as a pre-school teacher, then she worked at Home Depot for five years in the electrical and garden department, and since September 2010, she was an electrician apprentice at Raven Electric, which she absolutely loved.

Abigail is survived by her father Nathan Caudle and wife Lee; mother Marianne Burke and husband Gene; brother Corban and wife Katrina; sister Christal and husband Roger; brother Jeffry; aunt Betty Caudle (her best bud) and cousin Jared; uncles David, John, and Michael Ross and Larry Caudle; paternal grandmother Shirley Parker and husband Gene of Stagecoach, Nevada; maternal grandmother Dianne Gilmer of Santa Rosa, California, and maternal grandfather Ron Ross; step-siblings; Jack, Emma, John, Gideon, Uriah, and Luke; and many other loving family and friends.

She was preceded in death by her paternal grandfather Harold Caudle and wife Joan; and her maternal grandfather Gene Gilmer.

An active volunteer at ChangePoint Church, Abigail had a great love for children, animals, and helping others. In her free time, Abigail enjoyed knitting, beading, working with tools and gadgets, and being outdoors. Her beautiful smile brightened the lives of all she met. Her family and friends will greatly miss her beautiful spirit, enthusiasm for life and giving nature.

Visitation will be held at Alaskan Heritage Memorial Chapel, 440 East Klatt Road, on Wednesday June 29th from 6:00pm to 9:00pm. The funeral service will be held at ChangePoint Church, 6689 ChangePoint Drive, on Thursday June 30th. A second visitation will be from 3:00pm to 4:00pm and the service will begin at 4:00pm.

In lieu of flowers, the family is asking for donations to a memorial savings account set up to help defray expenses. Donations are accepted at any Wells Fargo branch to Account No. 2426436164.

If you have a memory of Abigail to share with the family, please leave a comment on her web page at www.legacy.com or on her Facebook wall at www.facebook.com.

Guest Book

"I too was with the family the night Abigail passed away. I..."
- Irla Gerah

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Abigail Caudle's Guest Book has 18 entries and will expire in 1 day.

Create a lasting legacy by keeping this Guest Book online forever for \$38.00.

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Funeral Home

Legacy Funeral Home-Heritage Chapel at Angelus
440 E. Klatt Road
Anchorage, AK 99515
907-336-3338

[Funeral Home Details](#)
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Published in Alaska Dispatch News from June 26 to June 27, 2011

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Alaska News

Electrical apprentice dies after shock and fall at work site

✍ Author: Casey Grove ⓘ Updated: September 29, 2016 📅 Published June 21, 2011

An Anchorage electrical worker died after she was shocked late Monday while working in Midtown, police said.

Raven Electric employee Abigail Caudle, 26, was at a job site in the 4000 block of Credit Union Drive about 11:30 p.m. when the accident occurred, police spokesman Lt. Dave Parker said.

"She fell when she got shocked, about nine feet," Parker said.

Caudle was an apprentice electrician working with two journeymen on an electrical remodel, said Don Lederhos, president of Raven Electric.

Lederhos declined to comment in detail about what happened and said it's unclear exactly what killed Caudle.

"We really don't know, and basically, yes, there was an accident and at this time the accident is under investigation," he said.

Caudle's mother, Marianne Burke, said her daughter had worked for Raven Electric between six months and a year. Caudle was also a volunteer at ChangePoint church, Burke said.

Reach Casey Grove at casey.grove@adn.com or 257-4589.

By CASEY GROVE

casey.grove@adn.com

About this Author Casey Grove



Kustom Kitchen & Design
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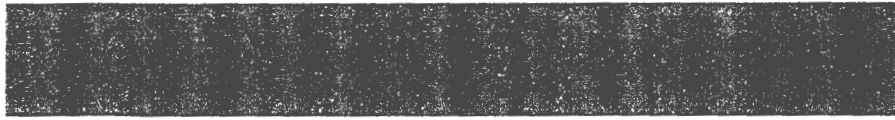


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Avalanche kills railroad worker

Highway remains closed after snowslides

Posted: Wednesday, February 02, 2000

By MAUREEN CLARK

THE ASSOCIATED PRESS

ANCHORAGE - State highway officials have temporarily abandoned their efforts to reopen the Seward Highway south of Anchorage after a Tuesday avalanche killed an Alaska Railroad worker.

• Photos



(<http://>)

Kerry Brookman, 53, of Palmer was trying to clean avalanche debris off the tracks with a bulldozer at about 12:30 p.m. Tuesday when a second avalanche swept him and his machine 500 feet onto the frozen surface of Turnagain Arm. Brookman was taken to Providence Alaska Medical Center suffering from a crushed pelvis and internal injuries. He died shortly after 5:30 p.m.

High winds gusting to 100 mph this morning made it impossible to send up aircraft to trigger controlled slides, said Chris Kepler, a maintenance chief with the Transportation Department. With the temperature rising into the 40s today, the avalanche danger remained high.

"The wind's blowing too hard, so we can't fly helicopters to do any bombing," Kepler said. "We are not going in there until we know absolutely that it's safe."

The Transportation Department was moving in large bulldozers and front-end loaders on the northern and southern ends of the highway to be ready to plow the road once avalanche control is completed.

"We just have the equipment on standby," Kepler said. "We're waiting for weather."



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FISHER INVESTMENTS*

My name is Michele Kahle. Because talking of my son's death is very difficult for me, I am requesting your boards permission to exceed your normal 5 minute limit by a few minutes if that is o.k.? We are seeking your support to try and correct some injustices with your current workmen's compensation system

After your long day-thank you for your time. Today is just another a bad day for my husband Tom and me. When we awake each day we just try to find the strength to make it through this day.

I wish I could be there in person today so you could look into my face, the face that others in our small town now try to avoid. Just seeing me is painful to others, ducking down a different isle at the grocery store to avoid me. I imagine it is the same reason that law makers don't return my emails or phone calls. Distraught mothers are down right hard to deal with, how do you pacify them.

There are 3 issues I would like you to consider on future meeting agenda's.

1. Increasing your state worker's compensation death benefit to an equitable level. Would you be satisfied with a \$5,000 death benefit if your child was killed at work due the negligence of others.
2. Abolishing the exclusive remedy provision of your work. Comp. statute in death cases involving negligence
3. Support of retroactive legislation to negate the 2004 amendment to the worker's compensation law that extended the exclusive remedy to the contractor and project owners. How can the work compensation statute exclusive remedy provision apply to entities that aren't even providing the worker's comp. insurance? What kind of system of justice allows these now exempt entities to sue the subcontractor-employer for their losses in relation to an employees death, but prohibits the victims from suing?

Tyler was our only child. He suffered through many physical adversities as a child and grew to be a very respectable and responsible young man. He was our life, not only cherished by our family but our whole community. In this small Wisconsin town of 3,500 people, over 1, 000 filed past his casket, many more turned away because we simply ran out of time.



LAWS OF ALASKA

1968

Source

Chapter No.

SB 247

12

AN ACT

Providing for the payment of compensation to dependent mother and father for death of wage earner.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.30.215(a)(4) is amended to read:

(4) If there be no surviving wife or dependent husband or child or children, then for the support of father, mother, grandchildren, brothers and sisters, if dependent upon the deceased at the time of injury, 35 per cent of the average weekly wage of the deceased to such beneficiaries, share and share alike, not to exceed \$20,000 in the aggregate;

Approved by governor: February 22, 1968
Actual effective date: May 22, 1968

Audit Report

DEPARTMENT OF LABOR AND
WORKFORCE DEVELOPMENT
DIVISION OF WORKERS' COMPENSATION

October 31, 1999



Audit Control Number:

07-4601-00

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

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DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent joint committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs of agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Juneau, Anchorage, or our web site <http://www.legis.state.ak.us/legaud/web/default.htm>.

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(907) 465-3830, Juneau
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Recommendation No. 2

DWC's director should propose legislative changes to improve balance in the workers' compensation laws.

As stated in the Report Conclusions section of this report, the 1988 comprehensive rewrite of the workers' compensation laws was intended to arrive at a balance between the injured workers' interests and the employers' rising insurance costs. Over the intervening period, the policy objective of lowering workers' compensation rates has been achieved. However, in achieving this goal, circumstances have developed that shift the balance between injured workers and employers to the disadvantage of the injured workers.

To reiterate our concerns regarding deficiencies, we identified the following areas where, in our view, the Workers' Compensation Act, as administered currently and in today's economy, works to the disadvantage of injured workers.

1. Fixed benefit amounts have not kept pace with the inflation and cost of living. Some examples of fixed benefit amounts that have not changed since the act came into law in 1989 include compensation for permanent partial impairment, death benefits, and rehabilitation plans. In the case of an impairment partial in character, but permanent in quality,³⁸ and not resulting in a permanent total disability, the compensation equals \$135,000 multiplied by the employee's percentage of permanent impairment of the whole person.

In the case of death, compensation known as a death benefit includes reasonable and necessary funeral expenses not exceeding \$2,500. Finally, the reemployment plan is paid on an expense incurred basis and may not exceed \$10,000. Based upon the consumer price index, the value of today's dollar has decreased 40% since 1988. Therefore, the value of the 1988 whole body compensation of \$135,000 would equal \$189,662 in today's dollars. Furthermore, with regard to reemployment plans, the average cost of tuition at the University of Alaska has increased by over 150% between 1988 and 1999.

2. Overtime and premium pay is excluded in the determination of spendable weekly wage. For employee's earnings that are calculated by the day, hour, or by the output of the employee, overtime and premium pay is excluded in the determination of spendable weekly wage.³⁹ As an example, an hourly employee injured while working on the North Slope is likely working an unusual work week, which would encompass overtime and shift differential pay. The compensation could include hazard pay as well. Any overtime or premium pay would not be included in the compensation calculation, yet may be an integral component of what the worker relies upon in each paycheck. The statute

³⁸ See AS 23.30.190.

³⁹ Alaska Statute 23.30.220(4)(A) states that "if at the time of injury, the employee's earnings are calculated by the day, hour, or by the output of the employee, the employee's gross weekly earnings are the employee's earnings most favorable to the employee computed by dividing by 13 the employee's earnings, not including overtime or premium pay, earned during the period of 13 consecutive calendar weeks within the 52 weeks immediately preceding the injury."

oners, and providing the necessary expenses of performing such duties, and in the prosecuting of all crimes denounced by Territorial laws the costs shall be paid the same as is now or may hereafter be provided by act of Congress providing for the prosecution of criminal offenses in said Territory, except that in prosecutions growing out of any revenue law passed by the Legislature the costs shall be paid as in civil actions and such prosecutions shall be in the name of the Territory."

DISPOSITION OF TERRITORIAL FUNDS.

The funds of the Territory have been deposited with various banks, and interest is being received upon them at the rate of two per cent. per annum, the funds being deposited as "open accounts." The banks of deposit have in all cases given bonds to the Territory for the safeguarding of the moneys in their hands.

TERRITORIAL MINING LAW.

The Territorial mining law (Chapter 74, Session Laws of 1913) has been and still is, a subject of much discussion for and against. It is urged by some that this law is confiscatory in some of its provisions and therefore should be repealed; others assert with equally strong convictions that the law is sound in principle and should be retained with some minor amendments. You come direct from the people and your course should be guided by what you believe will confer the greatest good upon the greatest number. Mining is the leading industry of the Territory and every legitimate encouragement should be afforded it. To handicap any industry by unjust or repressive restrictions is inimical to development, and upon the development of its resources will depend the growth and prosperity of the Territory and the consequent welfare of its people.

The report of the Territorial Inspector of Mines will be submitted to you, together with a number of recommendations, including amendments to the act relating to the inspection of mines in the Territory, and making the payment of wages to miners more secure and certain.

WORKMEN'S COMPENSATION.

What are known as workmen's compensation or employers' liability laws have been enacted by the Federal government and in many states, and are being favorably considered everywhere. Whether the time has come when this Territory should provide legislation for such compensation

for industrial accidents, as may be considered just to both labor and capital, employer and employe, is a matter worthy of consideration, in view of our limited industries and the cost of administration that such law would entail. Of its advantages there can be no doubt, however, for in this way alone can the unfortunate employe, and sometimes the equally unfortunate employer, be protected from those who speculate upon the misfortunes of others. The subject must be approached in a spirit of fairness, with broad views of the dignity and importance of the laborer, aside from the labor that he performs, and also with a true conception of the rights of capital in its relation to industrial affairs. Each to a great extent, under our system of government, is dependent upon the other, but we must never forget the human equation. Money is for the use and support of the man; not to rule him. It is merely a measure of value, and those who have much of it should never be permitted to use it in such a way as to control the man, or the government which is established by him for his use and advancement.

AN EIGHT-HOUR DAY.

A law passed by the First session of the Legislature provides for an eight-hour day in all hard-rock and coal mines. This law I believe has been generally observed and has proved generally satisfactory. Under its operations placer mines are excepted, but there would seem to be no legitimate reason why the eight-hour day should not be extended to all kinds of underground and other mining. Speaking by and large, experience has demonstrated that a man who works eight hours a day will do as much work as he who works ten hours, and he will probably do it better.

ELECTIONS.

The need of a modified form of the Australian ballot system is imperative in this Territory. Under the present method many kinds of ballots are now used and it is frequently impossible for the voter to cast an independent ballot and maintain his sovereign right of citizenship. A simple, practical law that will meet present requirements is recommended. A law for the registration of voters in Territorial elections in all incorporated towns would be a logical concomitant of an improved ballot law.

In this connection I may be permitted to point out that a corrupt practices act would tend to promote purity of elections. Fortunately Alaska has been comparatively free from corruption in elections, but it has not been unknown.



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Joey Merrick

President

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Laborers Local 341

Feb 1, 2017

The Honorable Rep. Andy Josephson
Alaska State House of Representatives
Juneau, Alaska
99801

Kevin Pomeroy

Vice President

District Council

Business Manager

Laborers Local 942

**Re: HB 38 Worker Compensation Amendment on
Death Cases and PPI Injuries**

Dear Representative Josephson;

All Alaskans should indeed thank you for the common decency that HB 38 protects for families of Alaskan workers killed on the job; and for Alaskan workers suffering permanent injuries.

Specifically, Section 4 corrects the embarrassing neglect of prior Legislatures for Death cases wherein the worker was single, yet had grandchildren, parents, or siblings dependent on them. For over 40 years- since 1968 – this Death benefit has languished at the insulting \$20K for the loss of human life. Sadly, a number of Alaska families have been subject to this insulting statute. For example, the families of Alaskans such as 1). Kerry Brookman killed while working for our AKRR by an avalanche, 2). Tyler Kahle a construction worker killed in Nome, and 3). Anchorage Laborer Samuel Damn killed by a truck – sadly received this outdated, substandard \$20k for the death on the job!

Secondly, section 2 also corrects an outdated statute that unfairly impacts Alaskans disabled from workplace accidents. Specifically, the Worker compensation amount for a Permanent Disability in A.S. 23.30.190 has not been adjusted since the year 2000- and thus has eroded by inflation! Your HB 38 Bill rightly corrects this inequity for injured Alaskans.

We appreciate your work for passage of this Legislation for Alaska families!

Sincerely;

Dennis Moen

Sincerely;

Joey Merrick

Sincerely;

Kevin Pomeroy

Date: August 25, 2016
Resolution: 01-2016
Submitted by: Alaska AFL-CIO

TITLE: RESOLUTION CONCERNING ALASKA WORKER COMPENSATION
STATUTE IMPROVEMENTS

WHEREAS, there are inequities in the Alaska Worker Compensation Act that adversely hurt Alaska workers and their families, and;

WHEREAS, Alaska Labor should work to protect injured workers from such inequities in our Alaska law,

THEREFORE, the Alaska AFL-CIO is committed to work for the following improvements in the Alaska Worker Compensation Act:

1. The definition of "Employer" in Section .005 (who are shielded from lawsuits from injured or killed workers) should honestly be limited to Employers only, and thus the legal loophole created in 2004 should be repealed;
2. The death benefit provided to surviving families of single workers in Section 215(a) 4, which has not been adjusted since 1968, should, at minimum, be adjusted for inflation to \$125,293.00 from the current \$20,000.00 and automatic adjustments thereafter;
3. The PPI whole person index amount for disabled workers should be adjusted for inflation to \$224,088.00 with automatic adjustments thereafter;
4. Prospective premium credits should be provided to all Employers who adopt effective Safety Programs which include regularly scheduled mandatory employee safety meetings;
5. Reinstate the 5th Edition of the AMA guidelines due to multiple problems with the 6th Edition;
6. Consider adopting the Oregon Return-to-Work Program to provide incentive to employers to rehire injured workers.

ACTIONS:

August 25th: Adopted by Legislative Committee.

August 26th: Motion to accept Resolution 1 by Tom Brice, Laborers Local 942

Seconded by Nadine Lefebvre, Juneau Central Labor Council

Adopted by Alaska AFL-CIO Convention by Unanimous Consent

Respected Representatives of our great Alaska State
and members of the House Labor and Commerce committee,

I want to express my unequivocal support for HB 38, which was initiated because of my daughter's death- Abigail Caudle on June 20th, 2011, due to her being put in-avertedly on live wire as a new electrical apprentice.

OSHA cited the employer, Raven Electric, with 5 citations, 4 of which contributed to my daughter's death. Because of the Citations and the contents of the Safety Narrative report in the OSHA file, it is deemed a Gross Negligent accident, tho NOTHING has happened to the employer in regards to her accident because of the protection of Worker's Comp "no liability" and "exclusive remedy" clauses.

There was also NOTHING given for my precious daughter's life- in the prime of her life, but \$10,000 for FUNERAL COSTS to the funeral home. It was as if her and her life were worth Nothing, yet she left behind many, many family members, friends, church members, youth that she helped at church, and others who were devastated by her death.

I have therefore, been seeking justice for her life thru a Worker's Comp Claim, #201108827, The Appeal, #14-022 and now this last year, my case has been at the state Supreme Court, case #S-16137.

I will, as I'm sure you would, NOT STOP until justice is gained for my daughter's life, killed needlessly by a "no consequence/liability" work environment system due to Worker's Comp and current state laws.

There is, therefore, a poor safety environment over these years due to no liability and no larger sum payout for death in the work place, esp the single person who has no dependents- Nothing is paid for their lives.

The State laws of SB 323 and 303 passed in 2004 that took away my right to sue for gross negligence in Civil Court, which could have given me justice. As it is, I have only been able to go up thru the Worker's Comp system, but now, am at the Alaska Supreme Court. I hope to get justice there, but it's still a long shot because of current legislation.

I urge you, therefore, to look carefully at the problems that this Senate Bill addresses so that people like my daughter, are not killed needlessly and then their life is thrown aside with a no-compensate legal system!

I do NOT believe that our US Constitution would approve of these laws because there has been NO justice for Abigail and no due process for her life, tho the state system tries to make it look like there is justice and due process...There is NOT.

I welcome your feedback. If you have ANY questions, please feel free to call me during the day at 907-727-7043.

Thank you so very much,

Marianne E Burke.

HB 38 addresses these issues:

1. The Value of Life (death benefit) will be raised to the current economic dollar value of \$255,854, rather than the current year 2000's figure of \$177,000.
2. In cases of injury, the injured worker will get a larger piece of the pie (depending upon his impairment percentage) of \$255,854 rather than the current \$177,000.
3. There will be better notification to the family regarding benefits upon the death of their loved one.
4. **ANYONE killed in the workplace will be given Value (a death benefit) for their life to family members, as Abigail was, with no dependents.**

The attached Bill shows that amount to be 50% of \$255,85 or \$127,927 in their honor.

5. The death benefit amount is to be updated by the State yearly (so we don't end up 17 years behind in dollar value for those injured or killed in the workplace as we currently are).

May God's HAND be upon this BILL to change it for the people's benefit and in honor of our sweet Abigail.

Thank you so very, very much,

Marianne E Burke, mother of Abigail E Caudle