

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

1089 SCOMM 33 : WORKERS COMPENSATION. 1979-1982 1089

TAPE 1, SIDE 1 cont'd

Stimson cont'd

that we plan on taking a lunch break from 11:45 to 1:15 so folks can just plan on that.

The first item we've put down on our agenda is the future meeting dates. Before we get into that I would like to give Representative Rogers an opportunity to make a few comments and share with you some of his perceptions with the task force.

Rogers

Thank you Senator Stimson, just for a little bit of background in 1979 during the interim the House Labor and Management Committee did some work on Worker's Compensation trying to figure out what some of the problems were, we did retain Richard Fineberg and he prepared a report on some of the Worker's Compensation problems during the 1980 session. We did take care of a couple of those problems. Probably the most distressing one was the Alaska hearing examiner and in the budget bill this year we did add hearing examiners for Anchorage and Fairbanks to try and speed up the process.

In addition, the Governor in his capitol budget did ask for an automated claims processing system, in hopes that would reduce the delay problem and bring the paperwork under control. In addition we felt that the issues surround Worker's compensation were going to take longer and what we really had time for in the 1980 session as a result created this study commission, to try and come up with legislation for 1981 session. One bill did pass providing Workers Compensation for work study students and part of the revisor statutes bill passed late in the session was the Workmens Compensation act now the Worker's Compensation Act and all future reference to it in the statutes and the legislature

TAPE 1, SIDE 1 cont'd

Rogers cont'd

will be Worker's Compensation. Which will conform with federal practices. There were a couple of bills introduced in the 1980 legislature, by the Governor and one by the House Labor and Management dealing with the Second Injury Fund, the bill passed for the Second Injury Fund is in difficulty. I expect that will be one of the areas we may want to look into during the work study commission. I think I will leave it at that and let Terry, go on with the overall plan of the study commission.

Stimson

Thank you Brian, it is our intent that we give some thought to forming sub-committees with the thought being we're probably going to have a tremendous amount of work, we're going to try to accomplish in a relatively short period of time and we've come up with some tentative dates that we would like to propose to you as possible future meeting dates and then as we progress through the day and begin to identify some of our sub-committees and establish times they would like to meet.

It is our suggestion that we have Saturday meetings and the proposed dates we have at this time are Saturday, September 20, 1980 and each meeting we'd like to hold as a teleconference but have one geographic area designated as a vocal point for the hearing, and the September meeting we're suggesting possibly it will be held up in Fairbanks. Then November 15, in Anchorage and our intent on the 3rd meeting is to try to uphill the meeting with an orientation for legislators in Juneau, we think that will be approximately the 2nd week in December, so we're suggesting December 13th in Juneau and you may have to view that as tentative since we don't know for sure of the date. Any discussion on those dates, Brian.

TAPE 1, SIDE 1 cont'd

Rogers

Just one additional comment, the final meeting of the study commission would be at the beginning of the legislative session in Juneau with wrap-up by the end of January and to present the report to the Labor and Commerce Committees and Legislature.

One comment, please identify yourself as this is a teleconference so that the people at the other end will know who you are.

Stimson

Do those dates appear to be satisfactory.

Debra in Juneau

Everything is satisfactory down here, we do not believe that we have any teleconferences scheduled on those days.

Stimson

Very good thank you.

Well lets go ahead then with giving each member of the commission an opportunity to express some of their concerns. We could go in any order you like, or just go round robin. Chancy, would you like to start off.

Croft

Thank you, the first thing I would like to say is, I would like to thank the legislature for having created this commission. I told somebody the other day that my experience in the legislature was that few legislative subjects provided are without any legislative history being available that was done mostly, and that was the end of the discussion. The theory is to provide quick compensation for workers. They give up substantial rights. I would say there are five concerns in my mind we need to address:

- 1) The board violates the Alaska Statutes
- 2) Rehab/re-employment (not amount but rehab)
- 3) P.P.D. 60,000, no relation to statute or anything else

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Croft cont'd.

- 4) Serious physical injury not addressed
- 5) The premium cost re-evaluation of cost, technical amount, long overlap for the cost of workers compensation in Alaska

I know there is little or no coordination between the Division of Insurance or Department of Commerce and the Worker's Compensation Board. Possibly the commission could look at the overlap, language and technical amount for the cost of workers compensation.

Stimson

Thank you Chancy I might mention that we do have a representative from the Division of Insurance in Juneau attending the teleconference Don Koch and John Geroge they're are listening in. Also representing the Worker's Compensation Division is Jan Hansen, as Jackie could not come.

Swalling

Without going into detail with the problems that Chancy has already addressed I think that every study that has been done by the legislature or privately has indicated that the Worker's Comp. Act has got some severe deficiencies in it. Amended over a period of time in a piece meal fashion and it has never been really studied thoroughly and objectively. Any fractions that have been made have been made from a shotgun approach and the task that's been outlined for the commission I think is pretty formidably. It is going to be difficult to come up with a completed study. I think that this preliminary commission will not be finished before this session. The problem with slow payments are cumbersome, administrative procedures relating to workers compensation are administrative in nature and high premium costs are of course something else. Benefits to injured workers, cost to the employers ultimately are passed on to the consumer, all of those problems have to be addressed.

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Maloney

I'm Dennis Maloney, I cannot add to much to what's been said by Chancy Croft and Mike Swalling other than the fact I have some additional concerns in the area of what can be drafted in the legislative fashion relating to the apparent misinterpretation of the law that has been made by our cohorts.

Opening and extending benefitis to workers. The prime example was a worker at a camp who riding a motorcycle into town to cash his check on Sunday, was considered to have been on the job. We might get into some debates amongst ourselves over whether or not that should or should not have been covered. Some other clearing examples that I think could be addressed by the commission in its study.

We also should look at the area of rehabilitation. In particular we should take a look at the interest of the party to actually be rehabilitated prior to an award being granted. I have had some personal contact with the matter that has come up, where it appears to me that the individual does not want to seek rehabilitation prior to award. Admiditly this is a conflict with the idea of giving the individual immediate payment.

There is also a problem with the amount of and method of studying reserves that I have had some concern with. In the past I think that the method used to set reserves is unrealistic in todays world, rather than having a total expected payment over a long period of time. I would think that looking at a persons value approach to the amount that may be due is more realistic.

We also have some concern with minimizing the millingering and volume of claims. The report that was issued last year in the case, that there's not really been any study of that, there may not be any way to look at it. I think all of us

TAPE 1, SIDE 1, cont'd.

Maloney cont'd.

have had occassion to look at cases where there has been millinging and where there is definitely fraud, which has been perpetrated. It is extremely difficult to figure out a way to handle this and I'd like the commission to at least take a look at some method to help us in that area.

Carlson

Senator and Representative Rogers, I want to commend the both of you and the Legislature for establishing this Commission as you know the State AFLCIO worked hard to get it established. I'd like to join with the remarks of Mr. Swalling, though my experience in Worker's Comp. has been about fourteen years and my feeling is that, if we're headed towards some goal by the end of four meeting we'll be very fortunate. I'm not very optimistic that we'll be able to recommend legislation by the end of that time, I am hopeful that we can show progress. We can come before the Legislature and ask for an extension.

One of the problems I think Senator Croft, just touched on was that in previous hearings and controversy over changes caused to Worker's Comp. have been almost a total lack of statistical data. When the legislators have had to make decisions based on information given at a time and given in good faith, unfortunately, that data hasn't proven to be factual, after the laws have been enacted in six months down the pike.

The cost factors come about, hopefully, this has been corrected with the money that you mentioned Brian, that will allow us to get computerized. I think the legislature though is going to have to watch closely, with all this data tied together not only from the Workers Compensation Division but the DOSH and the Divsion of Insurance all have input. I

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Carlson cont'd.

understand that the chips are about to be processed. It was delivered I think to the office in Juneau, Wednesday. The information they are talking about for our perusal from the employers side and from our side to see about information. We need to find where these accidents happen, where there's a particular carpenter trade, construction industry or mechanics causing some of the problems in the air industry, so we can probably set up training programs to stop industrial accidents.

I've talked I think for four years, is trying to get funding for this. We didn't get into it to much last, but I think money is available. I would like to see the State bring in an outside actuarial that's, Johnson, Higgins or someone of this stature to completely go through the figures and data available. There will be more available once we get computerized, to set up the cost factor and I think the retention reserves mentioned is a legitimate complaint from employers. I don't know that retention is valid, I think there are other areas that would cut down the cost without reducing benefits to people.

It becomes a normal flow of things, there are arguments, you raise benefits and you raise the cost, so the employer side normally wants to lower the costs by reducing benefits. There has to be other approaches to this problem. I think Senator Croft touched on some of the problems in the benefit area. I think that all of the employers and all of us are concerned about the high cost so, hopefully, we can jointly come to some resolution of these problems.

O'Keefe

My background is about seventeen years, involved in Worker's Compensation. Primarily this exposure has been on the insurance part of it so, hopefully, this will add a balance

TAPE 1, SIDE 1 cont'd.

O'Keefe cont'd.

to the committee. Activity in terms of some of the difficulty that's seen by one of the delivery mechanism's and I think that being the insurer, to what problems we face in implementing the laws that's now instructed in Alaska. I hope to be able to be a coordinator between the National Council which does some of the statistical data gathering for Alaska. The Worker's Compensation Classification Rating Committee along with the wealth of information which should be available for this study from the insurers in this state, so that people making decisions here today and the Legislature in the future will know how, from a claims standpoint the mechanisms succeeded and failed.

I think it's important to point out in this state there has been two reports, one of them is the Fineberg report, there is another, Mr. Block has a report pointing out some concerns as well. There's nationwide and all fifty states commending many reports that are brought up concerning worker's compensation. Perhaps as many as 200 recommendations, these can all be boiled down.

TAPE BREAK

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Rasley

I'm the operating engineers union business agent. I've been with them for about thirteen years in Fairbanks. I've seen quite a few of our members who have had worker's compensation claims in job connected injuries. In some cases the people where there claims were handled relatively soon and they were satisfied with the results, but they were also many cases where that was not the case and they were practically starved out and had lost a great deal of their family possessions and in cases even their family broke up, over the

TAPE 2, SIDE 1 cont'd.

Rasley cont'd.

loss of the earning power of the member. So I'm concerned with the cost of a good program through the employer. I think my first intent for being on this committee is that I hope that the intent of this study group will help the legitimately injured worker on a timely basis, at a reasonable cost to the employer.

I think that the system itself certainly needs over-hauling. The Fineberg report indicated that there are quite a few states in the lower forty-eight that have had a recent over-hauling of their worker's compensation system. I think that it's time that Alaska did the same thing. At the same time it might be beneficial to us to try to get some of the data collected by these other states. If that is possible, to see where they went with their system and what kind of results they have had with their programs they've instituted.

Probably, in the cost area; I think as far as the cost to the employer goes, I would think that one of the problems is with claims. Many times its cases that I have talked to our members about, they go into the hearing or either the attorney from one side or the other has filed a statement of readiness; then when they get to the hearing they are not ready. This wastes everybodys time, it runs up the attorneys fees. I believe on both sides and these are all calculated into the costs of the insurance through the carrier or through the employer. I think that's an area that needs looking at.

I think another area that needs to be looked at is possibly an independent state investigative unit, as was stated here earlier. I think that's an excellent idea. It would be an unbiased type of organization that would give a much better idea of what legitimate claimants are.

TAPE 2, SIDE 1 cont'd.

Rasley cont'd.

Theres many areas that I think that need to be looked at and when we get down into sub-committee meetings, I hope that we can get into these areas and come out with a really good study that will be beneficial to the workers who are injured on the job. I'm somewhat skeptical that we can do this in the short time that is allotted to us. It just may take more time then what has been allotted to us, to come up with something that will be comprehensive and in the best of all parties concerned. Thank you.

Chapados

I'm a small employer in the transportation industry and I should indicate that as an employer I am really interested in seeing good worker's compensation laws and good benefits.

I am also concerned about costs, but I think there has to be some position that we can all arrive at to provide a good program for Alaska workers, as well as to keep in mind the cost of a program. I think the studies that have been introduced, the Fineberg report and Dick Blocks really have established something from which we can work from. I think prior to the creation of these studies we have a situation where many people were not able to refer to any statements of information that would generally be acceptable.

I think we can go from there, using these studies to proceed with, perhaps, making alot better evaluation then we would otherwise.

I agree with Dwayne and Dave on the matter of timing and the time that we are going to be able to spend with it. It seems to me that a number of us, at least I know in my case are going to have to do a lot of studying to acquaint ourselves with these bills. Generally speaking, I know something

TAPE 2, SIDE 1 cont'd.

Chapados cont'd.

about the worker's compensation procedures and laws. In addition, I am also an employer and Chairman of the Alaska Trucking Association, Casualty Insurance Program and we provide worker's compensation coverage for our members and to those who participate in our programs.

We did participate in helping with the Block study. We do have some funds that we can use for this sort of activity and will probably in the future and hope that I can offer some help maybe, on those lines. I'd like to see the Block report made available to the committee members. I'm sure there is no objection to that. It was a good report, probably a few of our view points differ but you can balance them one against the other.

Our group of employers in the transportation industry for the most part, are in the regulated industry. For that reason we are more concerned about the cost then the average employer, because we cannot pass on our additional costs with justification and considerable amount of effort, clearer presentation to the AGC the RACC and the other agencies that regulate our rates. Usually, when our cost becomes effective, it takes about six months before we can get a change in our rates and it's very difficult to get this sort of change or get it amended right at the same time the rates are increased. This is an area that perhaps, we could give some thought too.

There may be other agencies or businesses that are regulated state-wide but I doubt it, within transportation and incidently we've considered this desirable, its part of the franchise that we have as an industry and when our rates are regulated the public interest is projected in that way.

There are some inequities that need to be considered that we

TAPE 2, SIDE 1 cont'd.

Chapados cont'd.

are well acquainted with. How they have been considered in the past. It's my understanding that within the labor organizations for example; you have a group of employees that are employed by contractors and so on, who belong to the agencies that have different types of contracts and our company for example has a year round type of contract with many benefits, vacations and sick leave. I think, the AGC has sick leave but I do not think they have the vacation. The sick leave is the one I wanted to comment on. I feel that there is an inequity there between these two groups and as far as an employer goes we find ourselves with an injured worker. We are not only paying him sick leave that he receives but on top of that he gets worker's compensation payments. I think, that could be considered excessive but I'm not sure that, that's fair to all employees within the state. I think that's something we ought to take a look at.

Stimson

Before we ask for public input, do the members have any further comments they would like to make.

Chapados

Like I say, I might not have all my facts correct but it does wind up where an employee gets the double dip and is a heck of a lot better not working.

Carlson

I don't think its timely now but it's a matter that the employers want to get into depth on and also we'll want to discuss negotiated agreements as opposed to benefits due under the law in exchange for not having the tort action.

I think, there are two separate distinct things and that's the employer prerogative at the bargaining table. The other

TAPE 2, SIDE 1 cont'd.

Carlson cont'd.

area of concern which was brought up; where the worker ends up with more take home pay while he is on temporary disability and that area is definitely an area to look at. It depends on the area where the employee has been working for the last twenty years and how much he is making. Often his experiences are a tramatic decrease in his take home pay.

Maloney

I would like to comment on some of the things that have been said. I think that almost all of us have commented on how we about the time that's been laid out for the meetings. I think one thing is we are willing to devote more of our time to this subject. Perhaps, we should discuss the schedule and maybe get a little open discussion in the direction that the study could take.

Esentially, what has been stated by Mr. Chapados and Mr. Rasley that there have been other states studying worker's compensation and there have been recommendations from all of those studies including; Mr. Blocks, Fineberg and the National Commission Study. It would seem to me that the starting point should be to: list all of the various recommendations (50 to 100) that have been made in the past addressing the specific area that we should be interested in, they should be broken down by those areas that affect the benefits, titlements, administration and rehabilitation. We should then have additional suggested recommendation which would come either from the public or from this group. Add those then methodically, go through all of them so that we in fact made a comprehensive study rather then something which does'nt address all of the problems. If we are going to take a complete look at this, we should take a complete look. Although this means more of my time, I'm certainly willing to devote that time. Another matter that some of us are concerned with are the Saturday meetings. If we

TAPE 2, SIDE 1 cont'd.

Maloney cont'd.

raise our hands and take a vote on that I think there might be a change of day.

Rogers

I would like to comment on that. It happens that the Chairman teaches school and he would be unable to attend meetings that would be scheduled during the week and the Chairman should be here for the meetings. This is why we have scheduled the meetings for Saturdays and also taking into consideration that many of you may not be able to attend meetings during the week also.

Maloney

I was under the impression, that they get ten days a year for personal leave.

Croft

I would like to comment on a couple of things. I am certainly willing to attend additional meetings but I personally prefer the Saturdays. I think its important that we have some mechanism for gathering up the accurate statistics. Dennis, mentioned that some injured workers are receiving more money on top of compensation. I don't think or find that, that is true but rather than us arguing back and forth, it is going to be hard for us to find any case showing that someone is getting more money than he/she should have.

Debra in Juneau

We are having a hard time hearing who ever is speaking at the moment.

Croft

One other thing I would like to see and I mentioned that to Licia for Senator Stimson, when she came by. I would like

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Croft cont'd.

for maybe the year 79', be able to get statistics from the Worker's Compensation Board as to the total number of cases they handle, the number of cases that were solely medical benefits, the number of cases that involve just temporary benefits, the length of time, the average payment of compensation, the number of cases that were permanent disability, the average amount of compensation payments. Maybe, something that would indicate the extremes as well. The number of times that minimum benefits were payable at \$65.00 a week. I do think that we need alot of information in that regard. Otherwise, we are going to sit here and probably argue, about I remember a case such and such or somebody else remembers this example or we are going to have a real problem of getting an overall picture about that type of information.

Rogers

One comment I would like to make reference to, "the scheduling". In setting up that schedule we did intend that there would be a fair number of sub-committee meetings between now and the next meeting in September. This first period of time would be used to compile a list of recommendations in those areas we should look at. The second major area would be, to find out what portions of data and statistics that people are going to want. Either get that from the insurance industry, from state agencies or through the House Research Division which can help us in this area. In addition the committee does have money available to hire people to develop that data which we feel is necessary. My feeling is that by the next meeting we will have blocked out the major areas we may want to go into. Hopefully, we can put the sub-committees to work. It is a very tight time schedule.

Stimson

Any other comments from the members?

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Rasley

One other comment concerning a specific area that I think needs work and probably one of the more important ones is the disagreement of the interpretation of the word "compensation" and what it means. In the Act itself, ten different people can read that Act and get ten different interpretations of what "compensation" means. It if it means medical compensation or disability compensation. We need to show exactly what we mean by "compensation" throughout the Act. It is not clear in the Act and many times you get into a case and the employer will be arguing that, that particular area is not covered or that the compensation does not apply to that area. Yet, there has been court decisions on it and the courts and supreme courts, have said, this particular area needs to be defined, so that they have a clearer understanding when a case appears before them. I think this is an area that really needs to be looked at and it would help clear up any disputes in the Act itself.

Thank you.

Stimson

Any other comments? I would like to now ask for public comment. Dick, you indicated that you wanted to talk, why don't you come up front.

Block

Senator Stimson and Representative Rogers, I'm Dick Block. I am with the firm of Ely, Guess and Rudd. Ely, Guess and Rudd is representing here today a group called the Worker's Compensation Committee of Alaska. Worker's Compensation Committee of Alaska was formed about two or three months ago. I would say, just prior to the end of the legislative session, out of a very real concern that the employers have had for the high cost of worker's compensation and for what they perceive to be a variety of inequities in the system. Worker's Compensation Committee of Alaska includes in its

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Block cont'd.

support and representation, a broad spectrum of Alaska industries. It includes: support from AGC trucking industry, retailing and merchandising industry, from airline and air carriers and a wide degree of support representing a broad base of Alaskan employers.

Obviously, history of worker's compensation legislation has been the internal labor management struggle, trying to raise benefits up and lower benefits as the case may be. Perhaps, without a lot of regard for the impact it has on the other. I think that the Worker's Compensation Committee of Alaska, today takes in a realistic view. That is the worker's compensation is a system which has a proven history of success and benefits to maintain. A free stream of commerce without the barriers to commerce that a court system would present and provides or should provide a properly structured and fair compensation mechanism for those people who are injured, as a result of commercial activity in the state or in the area.

It is therefore, their objective not simply to recommend reduction in benefits for the purpose of reducing benefits but rather that the benefit structure along with all of the other components with the worker's compensation system. Many of which were with the insuring mechanism rating system, data system the reserving practices and the court. Determination of all of these be harmonized in order that we can maximize the efficiency of the system. It seems to me that worker's compensation pays a benefit to the injured worker that benefit

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The injured worker is receiving more from his injury than

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Block cont'd.

than what he was receiving prior to his injury. I don't think it would be all that difficult but I would point out to this commission that not only are you to be concerned with the dollar to dollar relationship which is obviously important and deserves your concern; but I think you need to concentrate on particularly, if you're going to adopt Chancy Crofts five principles of concern, one of which is realization.

You need to concern yourselves with the impact, that the total benefits he's getting after the injury. What it has on his mental attitude as far as getting back into the work stream. If the amount he is paid or the total benefits are either from compensation plus an employer is providing for continued benefits puts him in a position where he is unconsciously receiving more benefits by not working then working. Then rehabilitation systems no matter how carefully you design it, may not be as effective as you want it to be.

I guess, what you need to concern yourselves with is looking at the benefit structure from this standpoint, reserving the incentive to do what I believe is an objective of worker's compensation, is to get the injured worker back into the work stream.

Now, I think if this task force has kind of a historic perspective of the worker's compensation law in this state. Many of you have been involved indirectly in this development of history and so what I give you is not new. Just for the record and for the benefit of those who are less involved in it over the last five or six years. Maybe, it will be relevant to see where we are today. The worker's compensation law, I think we would all agree, through about 1970 or 1971 nation-wide including Alaska was not living up to its intended purpose of worth for the benefit of the injured worker.

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Inadequate benefits, it is true as everyone has said, Chancy and Dwayne that the trade off in court law for sick benefits. Once the system was put into place very little thought was given keeping the sick benefits in pace with the demands of the cost. That's what led to the creation of the National Commission of Worker's Compensation. This was a study group appointed at the federal level to include: representatives of labor, management, insurance industry and other related groups. It studied this system thoroughly. There were a lot of areas which at the conclusion of their report, that they didn't have time to look at or still unstudied areas. They looked at it very carefully and presented one of the most comprehensive analogies of the Worker's Compensation system.

From this study came eighty-four recommendations on how the system could improve. Those eighty-four recommendations included: a gambit of concerns, descriptions of who should be covered by compensation, entitled to benefits, changes in the administration and how the insurance mechanism could perform better. These eighty-four recommendations were presented with nineteen of them as being regarded as efficiently essential. That the federal government should become involved if they were not adopted at the state level.

As a result, the period from 1971 - 1975, I would say, all of the states considered and many of the states adopted, many if not all of the nineteen essential recommendations and that is essentially what took place in Alaska in 1975. The bill was adopted, which brought Alaska compensation benefits essentially up to speed. It also did some things which whether deliberately or whether it was inadvertantly without recognizing what was happening. It went a little beyond that, particularly from the perspective of death benefits, but in any event Alaska was brought up current.

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Block cont'd.

There was at that time the not to well recognized phenomenon. I don't think the impact on compensation was recognized. We were in the middle of a 7.8 billion dollar construction work project. Employing at any one time fifteen thousand to twenty-seven thousand people who were working, driving up the cost of labor, driving up payroll rates and also driving up the injury frequency rate. This new impact was providing the rapid increase of our economy. These changes not only had a tremendous affect on worker's compensation for the pipeline but unfortunately, because of a rating system, insurance system and alot of other systems it affected all employees and affected them all disadvantageously.

Incidently, I will acknowledge up front what Chancy says, is true. That when the legislature deliberated on these things they use the best data available at the moment they have to make a decision. I am positive everybody operates in good faith but I'm also positive that the data at the time that a hearing is going on or a vote is being taken is grossly inadequate. You operate with the best that you have. Now, geting back to the subject at hand.

It is for that reason that I think the legislature would probably advise the cost impact. I don't recall now whether it was going to be around 25% to 30%. History has shown us that it has resulted in a cost impact and we're approximating an 80% increase as we measure it over time.

The response to that in 1976 and 1977 was to make the legislative changes which were regarded as having both a sufficient favorable cost impact on worker's compensation, with a minimum adverse impact of the legitimate rights of injured Alaskans. That was the provision dealing with reducing benefits.

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For those who leave the state a phase out of the death benefits putting the \$60,000 cap on permanent partial. I'm saying all of 76' and 77'. The only thing that was done in 76' was the exportation provision. 77' was the phase out of the death benefits, \$60,000 cap and social security offset. Now, accumulative impact on rates of 1976 and 1977 changes, was nominal rate reduction, when I say nominal the annual rates were actually reduced by accumulative of 28%. Ten percent in 1976 and about eighteen percent in 1977. I say nominal because, like anyone of these reate increases or decreases, they are a best guess as to what you think is going to happen.

The experience factors adjusted up and down go over five and as you get into your study of how the rates are made or how they are made; generally, you'll find that the law change factor is only one part of the rate, the experience adjusts it. You really, don't know how much experience change may be a miscalculation of that 28%. In any event, no matter how you view, we tend with a substantially increase net cost to worker's compensation from the period of 1975 to 1980.

Now the problem is not so much a dollar to dollar increase in cost. The problem particularly for the employer is that because compensation is a percentage of the payroll. If the payroll goes; the, you expect the absolute rate of compensation costs to go up. The percentage of payroll or percentage of cost dollars that the employers put out for compensation has been brought up considerably. Not only has it gone up but because of the rapid fluctuating impact on an employers cost, which makes it difficult to predict what his payroll burdens will be.

If you're in the general contracting business and your bidding on a job, which may go over the six months or one

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year period or longer and if you don't know what rate changes are going to take place during that interim, it's very difficult either to predict the cost or to hedge for an increase in cost. which may put you out of the bidding race. It's a very difficult thing to deal with and that makes it difficult to the Alaskan contractor.

The rapid increase cost has direct burden on some high risk industry and I'm sure Chancy will remember, fondly, the testimony of the Alaska Air Carrier Association. While their testimony may have been rather emotional, the problem was real and genuine. That was their most significant cost to worker's compensation insurance. Obviously the air carriers are an important part of our economy. Unfortunately, the worker's compensation benefits structure and the changes to it not only, have an adverse impact on employers but it has an adverse impact on the insurance industry.

Keep in mind something that I have said for a long time. If the benefits structure goes up, the cost and the frame costs go up, the insurance industry increases their premiums.

It flows through more cost so the insurance industry rides on a higher bank roll. That's knid of nice, up to a point. Where you have rapidly fluctuating rating changes in the benefit structure, like you have had over the last four years, by these people, where the cost cannot be accurately predicted. The cost rate mechanism lies behind the cost. Where you have such rapidly, what do I want to say, such indefinitely determinations of our law you can possibly predict the cost in claims, you have some serious adverse impact from the insurance companys.

It may very well be, that employers or even as representatives

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of labor, the response is that, so what after all they are big boys. They are big boys but their response could be we will make less market available. We will have to hedge it with higher premiums. You will have to do things that have an adverse impact on the whole system. These impacts that you have on the insurance industry by statute are an integral part of the worker's compensation system. This has to be considered by the staff.

It has had also defective claims that Dwayne has pointed out on the Division of Workers's Compensation. They have new laws. They have to cope with statistics. To garner that which is clearly not garnered is a burden on them and becomes increasingly a problem.

Now, I am somewhat concerned by listening to the comments around the table that this work may go on well past the legislative session. Let me tell you why, if newspaper accounts are correct, the impact of Alyeska from the period of 1973 to 1977 will be dwarfed by the impact of the gas pipeline, which should come on stream in another year. It is my understanding that, that project is in the 15 billion dollar bracket on the Alaska side. If all of the bonded projects and if all of the public works activities have been funded either directly by the state or by prior approved bonds or will be approved for another several million dollars of work coming on stream within the next 24 to 36 months, we should see another substantial economic boom in the state.

I think, this is healthy and I think we should anticipate it and desire it. I do think that if worker's comp has been adversely impacted on. Anybody because, of these substantial booms and lack of adequate considerations, perhaps this committee has the responsibility of anticipating that problem

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again and setting up the compensation law so that we don't have those kinds of problems during the next peak period. It would occur to me to connect legislative session at the proper time then introduce whatever legislation is necessary to implement it or put it in place and be ready for this activity when it gets underway.

Croft

Can I ask a question in that regard. I understood from a representative of the Division of Insurance that Alyeska had obtained special ratings with regard to the Trans-Alaska Pipeline that contractors were working for Alyeska, were granted an extension for their worker's compensation premiums.

Block

That is partially correct. Let me see if I can clarify that for you. The rating I think that you are saying is, does there activity impact on the rate by the other employers.

Croft

That's the second part of the question on the other hand I understood that our accident rate in the State of Alaska is confused with this compensation rate for all other employers, but what I'm leading to, I'm not trying to decide for you, was that Alyeska contractors never had the effect of their injury premium effecting their premiums; but every other employer in the State of Alaska pays for the injury rate. I'm not going to argue with you, if that's true I think your concerned about the effect of the gas pipeline, could very well be conditionally free to bribe contracts and the rates go up.

Block

I don't know. I'll make it the Chairmens progrative whether

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he would want an explanation in answer to Chancy's question. The second half of his conclusion was basically correct. The first half is correct but has no relevance. Perhaps, I need to explain that. Do you want me to do that now.

Stimson

Please do.

Block

Ok

Block

I guess, I have to go back and set the stage for how rates are made in the State of Alaska. The rates are determined by the insurance carrier and filed for approval by the Division of Insurance. The carriers utilize the National Council on Compensation Insurance, as there statistical agent for making that possible. Now, the National Council arrives at its statistical data from which there rates are determined from two principle sources. Two kinds of data go in the National Council. One of those is called the Unit Statistical Reporting Data. In effect each insurance company sends to the National Council a little card for everyone insured. That lists the premium, how there premium is calculated, also lists every claim and it shows the development of claims. They're timed and those cards go in six months and every year thereafter.

Anyway there are three or four reports that go in after the close of that follow cases showing the developments of those claims on that risk. Those unit statistical report cards are then used to determine a number of things. A computer can tell them when a loss development is growing, whether a loss occurred in 1970 or growing larger than what they thought they were going to be in 1970, shows the experience by risk,

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shows the experience by job classification, by identification, oil rigging losses by this and losses so much. This information goes in and now that information is used, I think two ways. One of them is to determine the relativity of cost among job classifications. For example: from the data they determine that oil rigging is two times more risky than trucking. So whatever rate is stuffed, this rate will be twice this one. The second way that the data is used, is to determine what is called the experience modification for the risk.

Under the rating structure are a number of things that impact on the annual rate. I don't think, anybody, in the state pays the annual rate. It is a starting point and one of the time experiences from the manual rate is the experience modification.

That is a look at the last. They look at the last 3 years of the last 4 years of the risk experience and determine that his risk losses are better or worse than the average level of losses for his classification. A trucker for example: they have zero accidents even though the industry of this kind have accident, so instead of his paying the manual premium he gets an experience modification rating which will be 85% or 15% off something like that.

Croft

For him too.

Block

That is exactly what it was designed for is an incentive for safety, he would get a regulatory provided credit or debit. It could work either way.

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O'Keefe

Wanted to elaborate a little on that. You are right on target but let me just add two more elements to it. In the rating mechanism itself, there are some limitations into the employer impact in terms of a specific loss. The system takes into consideration the frequency which is the more controllable element in severity in this regard. What I'm saying is when an employee has 22 eye injuries of a low magnitude the system says there are more preventive medicine available in this area than the one eye injury that one employee got, in which the severity is much more severe. Additionally the system takes into consideration from a small employers standpoint, the predictability on the credibility of the zone result from (3 of the last 4 years) is such, that a small employer with a premium development of \$1,000 hasn't got the accountability in terms of the statistical evidence. As a multimillion dollar employer and his mechanism.

Block

Let me go on Chancy and finish this structure and perhaps, you'll see where I'm going. One of the sources of data that the National Council uses is the Unit Stat Report that helps determine relativity among job classifications and helps you formulate the experience modification. The second major source of data which the National Council uses is what is called, the Call data, the National Council requires all insurance companies to submit aggregate loss premium data, by company for example. In this state, Industrial Indemnity, the Alaska Pacific, Providence Washington, quarterly send a large report, that says we have generated this much premium, we have incurred this much loss and made this much dollars and its stated in the aggregate. This information is accumulated or aggregated for the State and it is from this data which the National Council determines the note level which needs to go up or down. In other words the losses, the percentage. They also report the payroll. As a percent

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of the payroll is higher or lower than what is called the permissible level of losses per rate for losses. So that's the basic structure.

Now back to your question, what the impact at Alyeska. What we discovered was that the unit statistical reporting data were the contractors involved in the Alyeska project or I should say as a result of their Alyeska losses. There were contractors that were engaged in nonAlyeska projects and Alyeska projects, but the Alyeska portion of those unit statistical reports were not sent to the National Council. The aggregate loss data and premium data became part of the quarterly or semi-annual call, included the Alyeska losses and the Alyeska premiums. Now the impact of that is this. If both sets of data had gone in then what you would have had was a general indication that the losses were exceeding the permissible loss rate. You're driving the rates up but as a result of the unit statistical reporting system you would have learned that the substantial share of cost is distributed to the heavy contracting industry involved in the Alyeska project and driving the aggregate contractor rates up. If neither had gone in you have in affect totally eliminated the Alyeska experience and shopkeepers and everybody else would have had there own rates, generating their own experience. When you have the loss data going in an aggregate driving the aggregate cost up, the inner statistical parts do not go in until the costs don't get distributed more heavily towards those contractors classes, the natural impact, is impacted on everybody else.

What you say technically, it needs to be modified a bit. The impact of what you say is essentially correct. Now this was discovered, we knew something was wrong when I was with the Division. It was a little tough to pin it down but we

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kept probing and probing, finally along around the end of 1978 in a discussion with the Alaska Sea and Arctic we finally figured out what was going wrong because, these rate increases kept coming. The rate filings kept saying we need more money. We knew they didn't though we couldn't quite figure out why their statistics kept coming out this way. When we found this out we required the National Council to go back in and totally redo the data and I forgot how. They had to go back and totally reconstruct their data base excluding from the experience call. All of the Alyeska premiums and losses, in effect it went back and took the option of taking everything out and the result was just as we suspected. There was need for an additional increase of rating and this is the way it was done, I think towards the end of 1978.

So yes there was a problem, I think one of the things, that if you take a look at, in the Richard L. Block Report. One of the recommendations in that report is that if we have another one of these projects, if the project has a unitary policy as the Alyeska project did. That again at least up front not after the fact that should be totally excluded from the experience consolation but it does have an adverse impact on retailers.

Croft

Normally there's a control in any event. That is that the individual employer has the incentive to keep his rates down. I think to make more money and so there's an incentive on his part to run as safe a job as possible. With regard to Alyeska, those big contractors were all on top, plus totally reimbursed by Alyeska.

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Let the record show I'm shaking my head yes.

Chapados

Something we have to take into consideration is that fact that the employers that were contractors on that pipeline had to bid those contracts. Mostly in part, they were based on the percent of the involvement. They were reimbursed for the percent that their profits came from, a percentage on labor and that sort of thing. In order to bid, they had to take it into consideration the fact they were getting that compensation. The worker's compensation is not costing them any money so they reduced their bids accordingly. I think that actually, they didn't have an advantage over the employers outside of the Alyeska project.

One of the things perhaps, you may want to discuss is the impact of the average weekly wage. I believe it is a result of that construction project with the large wages and that sort of thing, that really did in fact raise the cost to all employers as well as to Alyeska.

Stimson

It's really important you identify yourself.

Block

There is no doubt that the driving up of the average weekly wage would be padding premiums in worker's compensation because of the of the changes made in the 1975 legislation, incidently, was taken right out of the National Commissions recommendations. The maximum benefits for workers were driven by the states average weekly wage. But not only that, the state adopted a recommendation which was one of the eighty-four, but not one of the nineteen, that the maximum benefits be a matchable of the average wage. That

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is to say, I forgot what the schedule was, but it went up from 80%, 101%, 132% to 200%, so that, right now, I think , we're at the level where the average weekly, in the state, is something like \$390.00 approximately. The highest average weekly wage for the total United States, our maximum benifits is \$650.00.

Carlson

I'd like to comment on the statements regarding the average weekly wage driving up the cost. I might add, if if hadn't been without that ceiling on it, that wasn't a plus that was a ceiling, the cost would have been considerably higher. The law reads you should get 66 2/3 of your earnings. Subject to the maximum. So, without this, the cost would have been considerably higher, rather than the other way around.

Maloney

I had a couple of question on the rate setting. My understanding is that London doesn't provide paperwork on their statistics.
Is that correct?

Block

Well, with one exception, London doesn't provide for the workers compensation in the state. The reason for that is the law in the State of Alaska is that worker's compensation insurance must be provided to do business here and London is not admitted. The one exception that has been allowed in the state is the worker's compensation on air carriers. The reason for that is that the admitted carrier in the state have totally refused to fight it; so, that really is not a significant factor in the overall.

However, it is true that the London statistics traditionally

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have not been submitted. An effort was made by the Division in 1976, at the time the rate law was being reviewed in a bulletin. The bulletin is on the books. I don't know to what extent it is still being followed. It required London to provide a required surplus of line brokers in the state, business to accumulate and provide some statistical data so we could evaluate the London rate.

Alyeska was not prevented from self-insuring from the best of my knowledge. The problem that you have with Alyeska is during construction, Alyeska didn't have the payroll. It was really the payroll of several hundred contractors. In affect, Alyeska purchased an insurance policy to cover the contractors working on the project. Self-insurance really wasn't particularly a relevant issue. In other words, you could not, Alyeska could not even in theory, self-insure other employers.

Debra in Juneau

Mr. Chairman, Don Koch in Juneau would like to make a comment if he may.

Stimson

Go ahead Don.

Koch

Thank you Mr. Chairman. In reference to Mr. Block's comment about the rate making in the two levels of statistics going in to develop the rates. I did want to make it clear that the problem with the Alyeska statistics was caught in the time before any rate filing actually went into force. The problem was discovered at the time of a rate filing. Later it was required to be changed. Previous rate filings had included that data. I just wanted to make sure that was clear. Thank you.

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Stimson

Thank you Don, I think may it's an appropriate time for me to see if the folks want to continue on at this point. I don't know what we've got in the way of people who want to speak. Also, I don't suppose its any surprise that you've gone over 15 minutes.

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TAPE 2, SIDE 2

Block

It was the questions that did it.

Stimson

Yes, let me just ask the audience here and the teleconference sites if they want to. It was not my intent to stop him altogether. There will be other opportunities to speak. Dick how much more time do you think you'll need?

Block

Mr. Chairman, what I originally wanted to do was to provide you with some suggestions on how you might proceed and give some ideas to where you might get some information for some kind of a procedural approach. This I haven't begun to discuss. I might go through that rather briefly and then be available for questions at your pleasure.

Stimson

Dwayne, you want to ask your questions first?

Block Mr. Chairman perhaps, I can skip a few of these notes and go on and make a recommendation to this commission as to what it ought to look at and how it should proceed. Frankly, this part of my comment can be very much abbreviated.

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I think each member of the commission have already discussed in part, alot of the things I was going to suggest you look at. Obviously, you need to take a look at a total spectrum of the system not just benefits, not just administration. I think those, plus, Rehab, plus the administration, plus insurance types of things. All deserves your review.

There are areas you have not mentioned. In the area of benefits such as, how do you calculate individual worker's wage for purposes in determining what is 66 2/3? I think you do need to look at such things as, the arbitrary dollar amount, scheduled and non- scheduled benefits in the area of administration. The whole area of claim adjustment practices, procedures used by the Division of Worker's Compensation, attending hearings, who should have hearings and whether or not there should be an interim appeal. All of these need your review; as well as, expediting settlement procedures.

I know Dwayne Carlson, has been arguing for as long as I've been in the state the need for statistics and a proper computer process facility in the Division. As long as he has been arguing, I've been agreeing, that it's vital. It needs to be done.

I was unaware of the funding before this morning. Whatever it is, that is a critical thing that needs to be done. There has not been mentioned today, in the area of insurance alternatives, things other than additional insurance would be valuable; such as, coordination of other benefit structures that are provided by the employer and already in place. These add up, validity of what a person should get in the event of his injury. The greater utilization of self-insurance and the utilization of alternatives for the insuring mechanism need to be reviewed. All of these things, I think, are there. How can you reduce the cost, still preserve

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an answer to these expenses and still be appropriate and legitimate of the rights of the Alaskan worker?

Now I would like to point out something that has been basically eluded. Much of your work has already been done. Every single thing has been discussed. Every single recommendation has been made and could possibly be made by you. I think you might be able to make them. It's already been reviewed, researched, studied and backed by evidence and data in the extent such is available.

Assembled by a document is the National Commission's report of 1971 which essentially, says there are eighty-four things you need to do to improve the system primarily from the stand-point of the injured worker. Subsequently, with the report and the research work that has been done by the interagency task force, which is a federal joint agency report, has a tremendous amount of research and study. It has a number of recommendations, paralleling and somewhat amplifying the National Commission report.

In more recent years, there have been a number of studies done in a number of states by commissions, study groups, with a balanced representation; such as, this group. In particular, was the State of Florida whose studies recommended and were implemented at the legislative level, a wage loss approach. This addresses the kinds of problems of permanent partial disability, unscheduled, scheduled problems that Chancy, was talking about. Whether or not wage loss is the answer for Alaska, I'm not prepared to recommend. I'm telling you that the study is done and there's legislation in place. You may look at that and the preliminary statistics on how it works.

In the State of Minnesota, a very comprehensive worker's

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Block cont'd.

compensation analysis was made. Minnesota is an interesting place to study, because it's one of the few states that has its own rating bureau. Possibly, reviewing and checking up on the National Council activities. They made some interesting recommendations in the area of rating. They also studied and reviewed certain things, that we don't ultimately recommend and object, which, very frankly, Richard L. Block does recommend. What you get then is two views of contrast.

In the State of Oregon they are currently concluding or have concluded a report in the last couple of weeks. This a very comprehensive study of one part of the compensation system, particularly in addressing permanent partial.

In the State of California, there is an organization called "California Worker's Compensation Institute", which is sort of a study group. They are funded and essentially guided by insurers and employers. They have done numerous studies with litigation analysis. Also they've done alot of things that go into the area of rehabilitation claim handling, hearing procedures. They sometimes concluded recommendations. In any event, a wealth of material has been done.

In the State of Alaska you have two reports, Fineberg report and my reprot. In addition to that, you should be aware of the fact that Legislative Affairs in 1976 or 1977, I've forgotten now, did a very comprehensive study on the State Fund. They also did a study of the National Council rating mechanism. I don't know where those reports are today but Legislative Affairs should have them. My recommendation, as a means to proceed is this: I believe, that if you can take these various reports and I will be happy to provide the committee at a later date with a bibliography. Take these reports and digest them, take all the recommendations categorize them by subject matter, in some logical fashion, you then have

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a basis to begin debate.

Let me point something out if I may. Essentially, you could assume there is need for alot of statistical data and evidentiary kind of support that's needed in order to decide what to do. Indeed, you should have background that helps you make logical and intelligent decisions, that will properly impact the state. Also, to a large degree, we are talking about fundamental public policy issues. It's either right or wrong to do this, or whatever you're going to do, and those boil down to public policy decisions. With the recommendations, you may have one degree or another, statistical or evidentiary reports from the reports, from which you get these recommendations.

I would suggest, that you have more committee meetings with a confirmed schedule. Especially, set one of your hearings to take up a block of these recommendations dealing with administration, for example.

Take these recommendations, accept testimony, or hearings from the board or opposition. Do that. I believe, from there, you will have much of your work done and much of the background needed to formulate what public policy you wish to recommend to the legislature.

I believe, that your work should start with a bill, a series of bills can be handed to the legislature which can adopt the public policy view point you've established here. Hopefully, they'll include the best that this committee can come up with.

I would like to offer a couple of suggestions if I can. I do believe, you do have a formidable responsibility in front of you. I think that it is a large task. Much of the paces

TAPE 2, SIDE 2 cont'd.

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underlined have already been clarified by a variety of organizations. Your job is to take that data and instill it. Perhaps, what you really need is to address the question of having additional staff available to help you go through this material, digest it and present it to you in some kind of useful fashion. Again, I would urge, that if perhaps you are going to take this approach, you need to have additional hearings and opportunities for your committee, as well as those affected by your work, to provide you with additional information about your work as it goes along.

I'm delighted to see that Tom is here because I was going to recommend that you were going to need legislative council staff here from the onset; so that, the guy isn't reinventing the wheel when he gets the bill which Stimson got. I'm delighted to see Tom.

I would make one final comment and that is a request for data. One thing that you can do, which would very effectively strap your ability to conclude anything is to continue to ask for a tremendous amount of data. One of the things that I have included in my report, which Fineberg has concluded in his report, and that all of us collectively feel as one of our problems is an inadequate data base. There is not alot of good data available. I think what you have to do is recognize that you're going to have to take what is available and do the best you can with it. I have been struggling now for a year to get the kind of data I need. The National Council may impact in a certain way. It is very difficult. Some of the reasons are very legitimate. Some of them may not be so legitimate. Its just tough to do and if you are going to wait to get a whole lot of data, the project won't be completed. I think you have to recognize the desirability of taking what you have with what you can get in a short term doing the best you can. Thank you very much Mr. Chairman.

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Stimson

Thank you, questions?

Carlson

Mr. Chairman, there is one particular statement. An employer now pays a dollar twenty-five or a dollar thirty. Is that an employer with an injury or is that an employer in total. Could you explain on that a little?

Block

I am really speaking in the aggregate. The employer community at large is paying. I suppose I can demonstrate it more with statistics. There's probably one hundred million dollars in this state that delivers about seventy to seventy-five million dollars in credit, probably. Unfortunately, I don't have the statistics in front of me. I'm guessing that it's about seventy-five.

Carlson

Maybe, Mr. Chairman, it is time we take a harder look at the State Fund. I just want to comment briefly Dick when I discuss this employer benefits should be in an amount to give an incentive to go back to work. The lesser the benefits the greater incentive to go to work is that correct?

Block

I think the answer to that is a little complex. I think the logical extension of your assumed conclusion is that if you pay them nothing it's really the best incentive. I don't think there's anyone at this table including myself who would recommend that. I think the person has to have an adequate continuation of his finances to meet his needs and everybody's needs to go up, as his basic salary levels go up. The approach that generally speaking, that's reasonable 66 2/3 of the guys wages is probably not an inappropriate arbitrary

TAPE 2, SIDE 2 cont'd.

Block cont'd.

measure of what that is. On the other hand when you realize that the worker's compensation benefits is tax free, as opposed to the fact that his wages are taxable. When you compound that with the fact that in many cases, many workers are receiving sick leave benefits. Depending as you said, this morning, depending on the terms of the labor contract or maybe where they are receiving medical benefits from a medical policy or from the group medical provision of their employer. Where they're receiving some other kind in a volume which takes it beyond the 66 2/3, which in many cases you have created a situation where the person, so long as the compensation continues and so long as these other entitlements are received, his advantage is not working.

I would have to go one step further and that is I think you have to look at employees not by what they get but by what their attitudes are. Most people want to work simply because, that's how they were raised and trained and you could not pay them enough not to work. They are not abusing the system. I think what you have to do when you engage and it seems to have been evident over the last couple of years, is where you have a large group of workers who are really out maximizing. The return from their effort is, they really have no incentive to work. There's another alternative to work and that being has been demonstrated. Unfortunately, I'm not sure it can be demonstrated statistically. I'm not sure that looking at the benefits can make it conclusive, reducing the benefits five percent or ten percent isn't going to fix that. I have made in my report a recommendation that I think does not violate the benefit structure but it tries to address that problem.

Carlson

Mr. Chairman, I think that's a danger in making general statements. Mr. Croft pointed out, we need data we don't

TAPE 2, SIDE 2 cont'd.

Carlson cont'd.

need a statement, "that people are abusing the system". We need data and the law currently takes care of those who are doing it. I think there's a real danger in us just accepting statements, as they are brought back. One of them is the air carriers taxi, and I might ask is Mr. Koch still on the line.

Debra in Juneau

Yes he is.

Carlson

Thank you. Maybe Don you can follow along and correct me when I'm in error. One of the main items of controversies and the enactment of the changes in the law, was the air carriers. Later when it came about, their costs went up so substantially. They were the claim pushers and the reduction especially in death benefits.

The problem with just making a statement, that's their greatest cost of doing business while that may be factual. When Mr. Cook was Director and physically going over myself and going through the files, I went back I think it was ten years if I remember right. Out of the ten years seven years of that, they had contributed over fifty percent of the industrial accidents and accidental deaths in the State of Alaska. In some years and I think it was two, they were over sixty percent. Then in one year eighty percent. They contributed eighty percent of industrial deaths, however, they only employed less than one percent of the people. Now that meant the contractors in our construction industry were picking up some of the costs for those industrial deaths. That time they asked if they could form a pool. The law if you recall said, that they were allowed to do this, to form their own pool. They didn't choose to do that. I don't know what the answer is for the air carriers, it is a

TAPE 2, SIDE 2 cont'd.

Carlson cont'd.

real problem. It contributes substantially to the cost of living in the bush, the cost of transportation, bringing out their goods. Because, most of it has to be delivered, but maybe this is a place for a State agent to subsidize a pool or something but just to say that benefits might have been the cause of it, that isn't true, it's part of the fact. On the same token they contributed eighty percent. This portionment here of industrial accidents, which drove up the cost and it's hard to find those figures as you stated. They weren't available. We had to dig them out physically and present them. Don are those figures basically correct?

Koch

This is Don Koch in Juneau, you are pretty close to right on!

Carlson

Thank you. I think that's about all I have Mr. Chairman. Looking at the total picture here again, I think I would disagree, we can attack in that length of time the problems, with the pipeline coming up and a bill that would make it. I think that the Division of Insurance has a larger role to play in making recommendations in this committee and their expectations with the experience over the past pipeline.

I think there are some things, I hope, we can take a look at that need to be addressed this session. The Second Injury Fund particularly. Part of the problem is a lack of expertise by legislators and others in worker's compensation. They were afraid to properly address a bill for amendments being attached. So I think we need to take a look quickly at the Second Injury Fund. I think that's in serious jeopardy and I think it affects the injured worker in getting back to work and it's going to have an impact on the future rates of the employers. I think that needs to be one of the first

TAPE 2, SIDE 2 cont'd.

Carlson cont'd.

things we address. The other is a controverted plan. The number of controverted claims in the State is out of porportion and I think we need to take a look to see why this has happened. I hope that we hear from attorneys from both sides, both claimants and the insurance industry. Why they feel the large number of claims are controverted.

Rasley

I have a couple of questions for Mr. Block concerning the Florida experience and their new program. Do you recall when that was instituted? When their program went into effect?

Block

I don't recall the exact dated Mr. Rasley, its been in effect for about a year as I recall, it might be a little longer than that.

Rasley

Is there any statistical data available yet, that anyone could look at and say, yes that system is working. It seems to me, that would be a little early to tell whether their system they devised is beneficial.

Block

I'm sure there is some information that is coming out that would be useful but I would also agree with you, that you need to take a two year after the fact look to really know the impact

Rasley

One other question I have concerning the incentive to go back to work. One of the things that I see that seems to be a problem, is if an individual goes for rehabilitation training, my understanding at the present time is that,

TAPE 2, SIDE 2 cont'd.

Rasley

his benefits are cut just about in half. It would seem to me that would certainly take away the incentive for the individual to get training. It would seem to me that the amount of his benefits should be continued until such time he can go into some useful employment. Because, if he can draw \$600.00 and that amount is going to be cut in half, the training period would be for a period of six months. What incentive is there for the guy to be retrained. I don't understand the reasoning behind that.

Block

Well I'm not sure that, that's factually correct. My understanding is while a person is on an approved rehabilitation program they're receiving their temporary disability benefits. I would have to understand what facts you are relying upon to be able to comment more specifically. Obviously, if his wage continuation is cut in half, that would rather be a significant disincentive to rehabilitate. I don't think that's really the case.

I think another thing you need to consider on the rehabilitation program is perhaps, reorienting the objectives of a rehabilitation program. One of the things that I think is a disturbing factor is that the rehabilitation program seems in many cases to be utilized to recreate the individual in a new image. Taking someone who has certain skills in a particular job which he may not be able to continue because, of a disability, a permanent disability and substantially reorienting him, retraining him in an entirely new profession and maybe, a new academic or professional level. At some time in some extent without there being a real expectation that he can get a job in that field.

There have been cases unfortunately, I've got to say, I know

TAPE 2 SIDE 2 cont'd.

Block cont'd.

of a case, which Chancy doesn't want to do but sometimes it's useful. Where a person who is involved in a manual labor type of job, retrained as a computer programmer. When he returned to Alaska fully equipped, there were not computer programming jobs. There was nothing in terms of getting him back into the work stream. It seems to me that the rehabilitation process should not be, to go to the highest state of the art of rehabilitation to make people into something they weren't before. But to utilize the highest state of the art to get the individual back into a productive work stream in the shortest period of time. I think this is my concern about rehabilitation and where I think a lot of emphasis needs to play.

Stimson

Thank you Dick.

Carlson

You feel that can be addressed in legislation Dick and then have it left to the board and the counselors. I don't know how in the world you would address this in legislation.

Block

Let me point something out, at least my report which I prepared includes thirty-four recommendations, I don't think more than six or seven are legislative recommendations. In other words to answer more specifically Dwayne's questions, I think there is a lot of things that should be done and can be done which really legislation cannot address. Some of its going to require regulatory changes and some of its going to require a change in practices in accordance with existing laws. I guess what I'm saying Dwayne is nonetheless, those points need to be brought out. Attention drawn to them and then if there is legislative prohibitions for one reason or another or legislative incentives or counter

TAPE 2 SIDE 2 cont'd.

Block cont'd.

incentives that would prevent it from being done that should be addressed.

Stimson

Anything else for Dick? Thank you very much, you are going are going to be with us for the rest of the day, as we may have occasional questions.

Block

I have some meetings to attend but if the committee wants me to be present I will be able to attend for a portion of the afternoon.

Stimson

Thank you. We have other people in the room who would like to testify. I'd like to ask various teleconference sites if there is anyone else who wishes to testify at this time. Juneau, is there anyone there who would like to speak.

Debra in Juneau

No comments in Juneau at this time Mr. Chairman.

Stimson

Thank you Juneau, Fairbanks do you have anybody there. Apparently Fairbanks, has signed off. Dwayne.

Carlson

I'd like to ask another question of the Division of Insurance if they are still there? Did you people with the Division of Insurance have input on to what's going onto the computer as far as worker's compensation information?

Koch

Yes we did.

TAPE 2 SIDE 2 cont'd.

Carlson

I'm glad to hear that Don. As you know it has always been my feeling that there has never been proper coalition of the facts between OSHA, Division of Worker's Compensation and the Division of Insurance and one of the things we testified for. I've been working for six years to force that coalition of information. Do you feel that's being done with the computer as it is now being set up?

Koch

Yes I do. I will add that the communications and the activities between the two Divisions in the past six months have proved far beyond what has existed before.

Carlson

I won't comment on that.

Rogers

I would like to follow that up Dwayne. What changes do you feel should come out of it.

Koch

Unfortunately, I'm not the best one to respond to that. I've been in contact with the Division making sure that some of the things we wanted to have in the system were there but to tell you precisely what will come out of that, I think you really need to talk to somebody in the Division of Worker's Compensation.

Stimson

Thank you Don. We do have Jan Hansen with us and Jan, I don't want to put you on the spot but is that a question you could deal with for us. Why don't you join us up here.

Hansen

I'm Jan Hansen with the Worker's Compensation Division. The

TAPE 2, SIDE 2 cont'd.

Hansen cont'd.

computer program is very much in the early design stage. In June a committee including people from Research and Analysis Division of the Department of Labor and I traveled to three states to look at their computer systems. To try to learn what we thought were good features for a basis to start designing our program. My understanding, from Jackie McClintock a couple of weeks ago was that the request for proposals have just been submitted to the committee and have just gone out. So the status of the program, is a target date of January 1, 1982 for implementation of the program. I don't know whether that will be realized but that is the target date as far as I know at this time.

With regard as to what this system will do. I can tell you some of the things we want it to do and it will do. When new claims come into the Division they will be rapidly, hopefully, the same day or next day. They will be entered onto the computer. There will be terminals in the various field offices and the field officers will be able to pull up information on specific claims if questions come in about that particular claim. The data on each claim will be entered, as to the nature of the injury, amount paid, average weekly wage, permanent partial disability paid. Everything that is relevant to paying a worker's compensation claim.

Some things that DOSH wants to know about wher the injury occured, what kind of injury, the nature of employment, those things will be there. There will be reporting capabilities so that you will be able to pull out reports, about the number of accidents in particular industries, severities, amounts of money. Basically, most of the concerns I have heard expressed here today about the needs of data in various area, should be answered by the computer system.

TAPE 2, SIDE 2 cont'd.

Croft

What information is available now, though what you're talking about isn't going to be any help to us, not for the next year.

Hansen

There is some information available for example research and analysis. Those reports show basically how many injuries have occurred in certain areas for example; construction, forest projects. They have like a growth figure of how much has been paid, they count the number of deaths, they count the number of controverted claims and the number of claims. The problem with that is that the data which has been put in is somewhat unreliable. In other words its been spotty, so you might get some kind of figures but as to the reliability of those figures nobody knows.

Croft

Well there's got to be some figures available or there's got to be some method of coming up with them. Rather than argue the points that Dick Block mentioned, that fact, that somebody might get more in compensation so there wouldn't be a need to go back to work. I'm serious, what percentage of the compensation claims say the year 79' were paid the maximum compensation rate.

Hansen

I can't tell you for sure if they can pull that data out I don't think so, but I'm not certain on that. To be able to tell you for example; how many were overpaid, not overpaid but received more than they should have received, shall we say, let's put it that way, that would be impossible short of going file by file.

Croft

How can we find out the number of people that got the maximum

TAPE 2, SIDE 2 cont'd.

Croft cont'd.
of compensation.

Hansen

As I told you, I'm not sure if they can pull that out. If they did not and it's not on the report they've been doing already, they have to look at file by file by file.

Croft

How many open files say were there in 1979 approximately?

Hansen

I don't know.

Croft

Less than a thousand, less than ten thousand?

Hansen

It would be more than a thousand but I don't know what the relationship would be.

Croft

Instead of going through all of them. One of the things the committee could do is just take a sampling. If there is a thousand files you could go through every fiftieth file. It's better to do that than spend a day or two getting information that probably will misrepresent everything, at least it gives us some information. Then just say we can't do it all or were not going to have any information.

Hansen

Yes, that can be done the problem there, someone would have to physically go into the files and look at files and be aware that the files that the board has may not contain all of the relevant information anyway.

TAPE 2, SIDE 2 cont'd.

Croft

Sure, but anyway at least we could proceed from the final reports that are on the file by the carrier. We might take those with a certain reservation. But at least it gives us more information then what we would have if we didn't make the effort.

Hansen

Right, and those files are in Juneau in the Boards office.

O'Keefe

I would like to interject on behalf of the insurance industry. Our expertise as it might be in the use of computers, I believe there are no utopias. You have to realize that each company sets up there computers based on there particular needs, primarily dictated by government needs for statistics usually its federally oriented. These programs you can't just go into the wealth of information in the computer and bring out the kind of information you want unless it's programed in the system. Once you start with programing and changes you are into the soft word changes. The compatibility of the states computer all fifty states, two thousand insurance companys and I want to at this point, tell the committee many times when this type of an organization, the insurance company becomes the heavy in terms of why can't the industry provide us with this simple question, of how many maximum, minimum etc., the industry takes sometimes a bum rap. We would like the same information but we are limited by the same extremes with the system. I would like to make sure that you in your organization, Don Koch and his organization give as much lead time and cooperate as much as possible. Particularly, with the National Council and with the Alaska Insurers to make sure that the compatibility that you have available is utilized that you are not asking requests that would require complete system changes in these parts. They are not accomplished in a short bit of time.

TAPE 2, SIDE 2 cont'd.

Croft

Mr. Chairman, I would like to add just one thing. I appreciate the problems with regard to gathering the information but unless we set up some mechanism for providing some statistics of what we are doing, I don't think there is any chance at all of legislation being passed in the next session of the legislature. There well may be problems with getting the information but it seems to me without some statistical basis for our work we are going to get back to what has happened in the last twenty years in the legislature. That is when you've got eleven votes in the Senate and twenty-one votes in the House and they move and the other side has eleven and they move then it's a stale mate. I can appreciate there is some problems getting the information but I think we have come a long way. It's not going to be specific recommendations this committee comes up with but the information is going to be necessary for getting the information. From my point of view I would rather have a sample and that wasn't 100% accurate but at least gave us some ball park figures.

Carlson

I would first like to comment to the employers that are at the table. This just points out the problem. I've talked about this for fourteen years, I've been observing. The statistical data is just not available, other than the information I have personally gone down to the Division of Worker's Compensation as you say, dig it out physically. The Division has always been good about giving staff to help you do it. That a matter of going through every file down there and digging that out at this point, it is just not available. We could probably get a survey. Jackie McClintock the Director might have some of those that are updated now. I don't know how there're proposing to feed that into the computer but Mr. Koch, can correct me, the Division of

TAPE 2, SIDE 2 cont'd.

Carlson cont'd.

Insurance does not have the data, they have to go to the Division of Worker's Compensation. I don't think the Division of Insurance could give you statistical data that would help you.

Koch

We don't have the kinds of statistics you have been talking about except through what we are able to draw from the insurance carriers, there Mr. O'Keefe could probably give you a better insight, even I couldn't.

Chapados

I'm a little disappointed. I kind of expected, we would find the statistics we really needed and that sort of thing. Apparently they are not available to the extent we need them. I agree that the statistical information probably, is the basic information that we need to make the good hard decisions. I understand, that the committee does have some resources. I would suggest.

END OF TAPE 2, SIDE 2

TAPE 3, SIDE 1

Chapados

As I said, I think we certainly should consider engaging some firm or individual who is qualified to take a look at the statistics that are available now and based on such information that we follow up under and have questions on. Let's do a job with the available information that they provide us with that's available at this time. I think that if we leave it up to the governmental agencies, they have a lot of other things to do and I think we should get someone who really knows what they are doing to dig into this area. I would suggest that we consider this as one of the steps we

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TAPE 3, SIDE 1 cont'd.

Chapados cont'd.

take during the study.

Rogers

Are there any other questions for Ms. Hansen or the audience.

MacArmour

My name is Robert MacArmour. I represent Orientation for Victims of Industrial Accidents. Number one, I believe that Mr. Block and I read Mr. Block's report and he is very impressive in speech but I feel that two-thirds of what he has written is entirely against the working man. Mr. Chapados if your suggestion in the future will be to employ Mr. Block for a poor report like this, I suggest the committee disregard it. Concerning the question.

Rogers

Excuse me, is this prepared testimony? I thought we were receiving questions for Ms. Hansen. If you have a question for her, otherwise we would rather wait for her to finish.

MacArmour

Question, no I don't.

Rogers

Could we wait? Ms. Hansen could you give us a brief understanding of the Second Injury Fund?

Hansen

I'll admit right now that I'm not the expert in the Division about the Second Injury Fund but I will say simply that it's in critical condition. Jackie McClintock told me, that it will probably be bankrupt as of February, unless additional funding is brought into it. There have been some proposals that have been submitted this past legislative session by

TAPE 3, SIDE 1 cont'd.

Hansen cont'd.

Worker's Compensation Division that were drafted with input of the Division. I think they will give you what our point of view is on it and what the Division would like to have done.

I was going to ask if I could at least address a couple of important issues. The Second Injury Fund is primarily the problem right now. It will be bankrupt and there are a number of people who are technically, workers who receive benefits ultimately from the Second Injury Fund are paid directly by the insurance carriers. The insurance carriers are reimbursed by the Second Injury Fund. In most cases there are a few exceptions, but there are many, many workers who are receiving their benefits from the Second Injury Fund. Through the intermediary of the insurance carrier, so it will impact on a number of people, so that needs to be addressed if nothing else is done this next session, that must be addressed. If nothing else is done this next session that must be addressed.

Croft

The Second Injury Fund serves two purposes. One allocates the risk amount the insurance carriers as to somebody who has been injured that goes back to the job and may suffer a aggravation or a reinjury of that injury. Secondly, it does provide rehabilitation benefits as well. So it serves a dual purpose. Frankly, not only are the insurance carriers unfairly and adversely affected if the fund doesn't have any money, it offers injured workers themselves who do not get some assistance with regard to tuition and maintenance for their own rehabilitation. It really hurts everybody when that fund is not properly adequate.

Hansen

That's what I meant when I said, that some payments are direct

TAPE 3, SIDE 1 cont'd.

Hansen cont'd.

while they are not direct to the employee in the since, well that's not entirely true either. A small amount up to \$100.00 a month may be paid to an employee, may be retrained but also the Second Injury Fund pays up to \$5,000 per worker for tuition fees, books retraining etc. So the Second Injury Fund has a significant impact on rehabilitation and retraining as well as, as Chancy put it, look into the Second Injury Fund that's very critical. I might just mention a couple of other things.

Chapados

I'm just curious just what source of funds are directed toward the Second Injury Fund? Where do they come from? A direct corporation or are they investments and that sort of thing, that might be gathered and put into this fund.

Hansen

Ok, basically whenever an insurance carrier pays permanent partial disability to an injured worker it also pays eight percent of the amount of that permanent partial disability payment to the Second Injury Fund, also if a worker dies and has not dependants the carrier pays \$10,000 into the Second Injury Fund.

I would like to mention very briefly that there have been many administrative problems with the Division and I can give you one example, there are many but I will just take one. The Act provides for several penalties for late payments of compensation benefits for example, for failure of the carriers, self-insured to file notice of final payment. Basically the Board or the Division has done nothing about enforcing those penalties, although the authority is there in the law. It hasn't been done because, of lack of personnel that's one good example.

TAPE 3, SIDE 1 cont'd.

Hansen cont'd.

There are many other problems in the administration of the Act, that are being addressed now and will be addressed but it is going to take sometime. I just wanted you to be aware of that. The present Director is working very hard to solve some of these problems and we are interested in input and suggestions in helping us in way that might help us do that. There is progress in that regard it may not be apparent yet but things are improving.

Also the Act in several places gives the Board specific authority to make rules and in some places general authority to make rules that are necessary and the Board has made almost no rules. My impression is that the Board.

TAPE BREAK DID NOT USE SIDE 2 OF TAPE 3

TAPE 4, SIDE 1

Hansen

about is possibility of sort of a rush to judgment. We are the people who have to administer the things, and we've had some very hard times administering things in the past. When a certain section was changed without regard to how it would impact on the rest of the Act. I think there was a mention this morning that piece meal legislation has been a problem. Of course one of the things you want to address is comprehensive reform if that is necessary, or at least look at the Act in a comprehensive fashion. We would just like to encourage you to do that and if you intend to have legislation ready in the session in 1981 that you spend the time necessary to do it. That's all I have.

Stimson

Thank you, questions of Jan?

TAPE 4, SIDE 1 cont'd.

Rogers

Just a comment, it may be we end up doing a little bit of both. In January we should take care of the Second Injury Fund.

Hansen

That is one thing we need to have you fix.

Carlson

Mr. Chairman, in regards to that besides funding has there been corrective recommendations as to why the fund got in this position?

Rogers

The Division of Worker's Compensation did present a proposal to the legislature in this regard and they were funded in part.

Stimson

Ok, Robert you want to come up and make your presentation.

MacArmour

This is Robert MacArmour again, representing Orientation for Victims of Industrial Accidents. As I said, I have studied Mr. Blocks report entirely and I really gave it no validity however, since its the major issue here and Mr. Block is almost ordering the board to come within a decision in January, paying absolutely no attention to the work to the people it concerns rather its to figures. I suggest the board take time, whatever time and what ever information that needs to be gathered from whatever State for example Florida is unproven and it's being on Salt Water, on men that are crossing the ocean right now. Most of it is.

There are many states that are taking care of the worker's compensation law alot better than Alaska and since the

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TAPE 4, SIDE 1 cont'd.

MacArmour cont'd.

formation of worker's compensation sixty-seven years ago, there has never been a counter organization to be able to find out how much insurance companies make. Everything has been mentioned here except what are the profits of insurance companies. I think before any premiums can be established for the businessman I think, I honestly believe, we should know first what are the profits of the insurance companies. A monitoring system which will tell who are the lawyers, who represents the working man, who represents the doctors that are big guns for the insurance companies, doctors that are pro victim doctors that are riding the fence making it very difficult for the Board to make their decisions. Some doctors are truly objective.

A monitoring system that will give immediate information for John and Company paid the insurance company for example; \$20,000 in 1979, how much of the insurance that the carrier pays out 400, what was their profits? I think this will help the businessman as well as the working man. What I am strongly against is two-thirds, I can't believe that Mr Block wrote this report. I honestly cannot and I hope you take this into consideration. Many, many things I was about to bring out, but you will see this quite clear for yourselves after you study it in depth.

Thank you very much Mr. Chairman.

Rogers

I would like to ask you a couple of questions, first of all what on your perspective in working with victims of industrial accidents, is the biggest problem now in the system.

MacArmour

Pressure, alot of pressure. Detectives chasing men and women constantly, and depends upon what background we have, how much we can take. Now insurance companies have a Standard

TAPE 4, SIDE 1 cont'd.

MacArmour cont'd.

Operating Procedures. There is not an organization in the United States of America, anywhere else that knows how to counter this. They know the laws backwards and frontwards and anything you make, anything you write tomorrow they will be able to work around it. It's very, very simple but there is an organization that is strong enough to point out constantly how the insurance works both to the businessman as well as to the working man. I think we need a better system here in Alaska. Everywhere else in the United States insurance companies cut off victims of industrial accidents whenever they please frequently, putting pressure on their families as Mr. Rasley mentioned, many families are dissolved because of this.

I think a lot of men would be a lot better off if they were treated right from the beginning rather than the pressures. I am mentioning pressures because, I am speaking of personal history and of the men I've been contacting the last three years. Basically there has to be a revision of the system. Not by any particular order of anyone here especially, because you have paid over almost a \$100,000 dollars for this report that is totally bias.

Yes, almost a \$100,000 for this report which is totally bias. I still don't believe he could have possibly written this. It's just to bias. That's all I have. Thank you very much.

Chapados

Mr. MacArmour, would you care to mention, I mean to comment on your organization. The number of members? Are there particular classes of victims of industrial accidents statewide or national?

TAPE 4, SIDE 1 cont'd.

MacArmour

Two States. I organized in Los Angeles, California which I have the ex-president of the Lawyers Association of California and in San Francisco, who is the ex-president of the Trial Lawyers Association of the United States. I don't think we want to go into any history did we?

Chapados

How many people in industrial accidents do you represent and what are the classifications of their accidents?

MacArmour

There are almost eight hundred men and women that have been a part of this organization in Alaska.

Rasley

Mr. Chairman, Mr. MacArmour when you say there has been eight hundred people, does that mean eight hundred people whom your organization has helped through the process of worker's compensation claims? I think Mr. Chapados is left with the impression that these people are actually part of your organization or where they people whom your organization helped.

MacArmour

No. They are part of the organization, not the amount of people we have helped.

Rasley

Might I ask how many people you have helped through worker's compensation claims in Alaska?

MacArmour

Between Anchorage and Fairbanks, approximately 150 to 160 people, both men and women.

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TAPE 4, SIDE 1 cont'd.

Rasley

Ok, how is your organization funded?

MacArmour

We were funded by Ceta for a very short period of time; however, pressures were put on Ceta because of our organization and two girls decided to quit because of that pressure. They withdrew. Presently, for the last three years, I have put up most of the funding. I even sold most of my things to keep going; so, I have a very personal feeling towards insurance companies and have learned in three years the basic system of the carriers.

Rasley

Thank you.

MacArmour

Did I answer your question?

Rasley

Yes you did.

Stimson

Are there other questions for Mr. MacArmour? Thank you very much. Did we have any other members of the audience who wanted to speak or address Mr. MacArmour? How about in Juneau? Is there anybody there who would like to speak to the committee?

Debra in Juneau

No comments from Juneau at this time.

Stimson

Ok, thank you. I think we will break for lunch now. We will reconvene at 1:30.

TAPE 4, SIDE 1 cont'd.

Stimson

If I can have your attention, I think, we will start the meeting. I would like to emphasize that we are making transcripts of this meeting. They will be available to committee members. It is very important that we do identify ourselves. Could we have Gill Johnson join us?

Johnson

Mr. Chairman and members of the Commission. I didn't intend to testify but I feel that I should, at least, give you a little insight into the application of the worker's compensation law. From the view point of a practicing claimant worker's compensation attorney. So, I have no actual prepared text.

For a background, I have been in the worker's compensation business for the past twenty continuous years, with the Alaska Department of Labor and the last fourteen years in the general practice of law here in Anchorage, with a speciality in worker's compensation. I carry a caseload of about two hundred and twenty-five cases per year now.

I first, would like to give you some of the problems as I perceive them and then I do have some suggestions that may be of some help to you. I'm most disappointed in the overall approach to worker's compensation at a time, when a person, rather a man or woman needs help, when they are hurt and find they cannot get it. Most of the time, they are treated like they are a second class citizen. The reason they are in my opinion, is that we brand them as crooks immediately. Because we are going to pay them part of what they used to earn, if they have anything of a serious nature or injury of a serious nature, they lose all of their union benefits which is most unfortunate. I've asked the unions many, many times to freeze benefits. If the party can go back to work he doesn't lose; for example eight years of pension benefits.

TAPE 4, SIDE 1 cont'd.

Johnson cont'd.

I could never understand, frankly, why we talked about two-thirds pay and getting a fellow back to work. Apparently, that's supposed to be his incentive. However, I also noticed, we continually talk about a sixty-five percent or two-thirds pay and Dwayne Carlson earlier pointed out that, that's misleading. There is a limit on all of this. The average skilled workman today comes into my office, after he has been injured, has been making upwards of \$30,000 a year and in some cases of course, fifty and sixty and what he gets depends on how long he has worker, he will probably have an average of \$500.00 per week. All of a sudden, his income is cut in half or two-thirds more. The tax break you get is not enough to make up for the loss in wages. I don't think the reduction in benefits gives him that incentive to go back to work.

A fellow that comes into my office; for example, has fifteen or twenty years in his occupation, generally speaking, a skilled occupation that he wants to go back to. He has his lifestyle set at twenty, thirty, forty, fifty or whatever thousand a year he is making. That's where he wants to go. Now, here's where he gets into trouble. He gets awfully discouraged because of what he perceives as the insurance company not treating him fairly. I don't defend the insurance companies. I make a good living suing them. However, most of the insurance that I have dealt with, all of them do the very best job they can. I will not home rap them. They do the best they can. They've got the same problem the Department of Labor has. They'll do their work and they are faced with alot of problems.

Again, the average workman probably has had three or four injuries in the past, perhaps a lot of accidents by the time the medical results are into the insurance adjuster, and I put myself in the same place. When he comes into my

TAPE 4 SIDE 1 cont'd.

Johnson cont'd.

office, we've got three or four conflicting medical opinions. You would have to believe in the tooth fairy to think that the insurance company is just going to pass out money, which it feels could be a lot of money but not necessarily. Most of the time, the guy has an injury and thinks that he is giving him trouble but the fact is the problem is from another area.

I don't like to feel that we have, like a woman will point out, one of the problems that's unique. It happened yesterday. A skilled workman, twenty-one years with the same employers, a local employer, with a back injury. The employer will not have him back. The doctor suggested to him to return to work and try but they won't have him back. Now that's entirely up to the employer. They don't have to have them back. Part of the problem, I believe, is that most employers, don't know for example, that one of the functions subsequently of the Second Injury Fund, is that, that employer won't have to pay benefits. Assuming he pays them for three or four weeks, then the Second Injury Fund helps pay for the children. So, there is an incentive to rehire.

There are many types of injuries as we all know. I'm an employer, during the height of the pipeline, with sixty-four people. Now, we are ten. I'd like to have my rates reduced too.

I lend my support for whatever good it is to this gentleman that testified before lunch. I hope this is not a commission to reduce necessarily the pulse of compensation. Perhaps compensation should decrease it's discouraging always to feel that the way we are going to save a dollar is to take it away from the injured guy. I don't think that's the proper course to take. There are many areas that can be improved. The employer may not get a reduction but, at

TAPE 4, SIDE 1 cont'd.

Johnson cont'd.

least, it will be a little while before his rates go up again. I believe, Mr. Swalling indicated that we should take a look at reserving. I heartily second that. I may be wrong, but I think this is an area that lends itself to improper use. I suppose I should say very candidly, if you talk to a lot of defense council, they would scratch it off the record. True or not, I don't know.

The feeling is that that claims are paid from reserve interest. I have no notion if that is right or not. It certainly lends itself to certain amounts of loss ratio. I think that should be looked at. I'm speaking now as an employer, because I'd like to know that my case is properly handled.

Now the average compensation worker, gets the case a year after the accident has been established. We aren't. The individual comes in because he feels the adjustor is playing games with him or in most instances the insurance company has a controverted claim. Now, at that point, according to the Act, that's when we get paid by the insurance company. Up until that point the individual wants to hire us. He has got to pay us, as a matter of practice. I don't think any defense councilor takes that business and charges it. I think they mentioned that it's discouraging when an application for an industrial claim and the statement of readiness is filed and set for hearing and then we decide to take it off. I believe she feels this is encouragement. It does not, on behalf of the workmen.

We get our minimum fee. It doesn't matter if we work fifty hours or fifty days. I have no knowledge of what the insurance attorney gets, which is another area which troubles me.

I am one of those attorneys who is regulated by the worker's compensation board. The only fee that I am aware of that's

TAPE 4, SIDE 1 cont'd.

Johnson cont'd.

ever got to be approved in worker's compensation is the fee of the claimant's attorney. The defense council speaks only to his boss. We know, that the doctor charges whatever he charges. The physical therapist charges what he charges. Chiropractors charge what they charge. The pain clinics charge what they charge. The only people who have got to stand up and be counted is the claimants compensation attorneys. Let me assure you, we are paid what the minimum law allows, twenty-five percent of the first \$1,000, ten percent thereafter.

I feel there is a way to save money, help injured workers and be accomplished if you have a look at the following: Take for example, a case gives us a great deal of trouble. It's called a small case. The Supreme Court said, "that if I want to produce the medical report that we have for the client and the opposing objects, I have to make that doctor available" for cross examination. Now, when is that objection made? It's made at hearings. Here's a case when some of the board is ready to go and now the objection comes in. Then I have to produce this doctor. Do as I did. Go down to California, Redding, Oregon and for going to California except the pleasure of the trip. The doctor down there will get \$500.00 for his report. The court reporter gets \$180 or \$200.00. The defense attorney, I guess, is not going down for free. Again, everybody gets paid but the claimants attorney.

Now the difficulty here is getting an injured worker, who has been out of work for a year is broke, and has mentioned here losing his house and wife, lost many things because his cost of living and style of living is geared to \$60,000 or whatever and now he is getting less. I have to go to him to get the money; otherwise, I'm out. That's a terrible injustice. It's just unfair what's worse is the Supreme Court told the Department of Labor to withdraw regulations concerning this.

TAPE 4, SIDE 1 cont'd.

Johnson cont'd.

How many regulations have been drawn in the past four years concerning the small claimant? Not many, zero. The legislature has done a great deal of good this last time, by allowing, I believe three or four hearing officers. That sounds really great and the whole thing is improving.

As of last April, I was getting decisions and cases that I had tried in December. That doesn't sound too bad, not talking about December of 1979 but December of 1978. Thirteen and fourteen months it took to get those decisions down. In the meantime, my client expects getting nothing, can't get social security, which is another story.

I recommend that professional hearing officers be on the board, not Joe Blow and Sam Sneece, with all due respects to Jan Hansen. Jan is a trained professional. She has been in the business many, many years. I simply think we're wrong when we have different people on the board. Everytime I go to a hearing, not because they don't know what they are doing but because they do things differently. I have been told everytime I go to the board, the different applications this particular board is going to make up the rules. That is discouraging because you think you know what you are doing when you get down there and then within an hour or two you find out how well you knew what you were doing in front of another hearing officer. That is a real bad situation. I had hearing officers say they are not going to follow the Supreme Court and they will make their own rules. If I don't like it, I can appeal. Well, that's great if he doesn't like me but that's not so hot for the worker.

Another improvement. I think, we all know the rules and regulations, by the way they apply, not only to small workers but to alot of cases. We have just got to take the time to

TAPE 4, SIDE 1 cont'd.

Johnson cont'd.

utilize professional hearing officers.

Another area would be, and I think this will assist the guy or gal before they even see people like me. They have got to have some place to go at the Department of Labor, get an order from that department to go to the Department of Labor in any State around here and have them say, yes, well, it looks like you need help alright, that you should get a lawyer or you can set it for a hearing and how long does it take us to get a hearing - three to six months. The department now is improving. They are getting the decisions down and how long does that take? It averages sixty light days. We could easily sit from five months to a year before we could even get a decision, of any kind. It takes forever to get it.

The U.S. Department of Labor might be an area to look at. The U.S. Senate Commissioner may take a look at the medical report and he does this. I represent a workman in front of the U.S. Department of Labor who will then indicate to the insurance carrier that perhaps compensation should be started. Let me assure you that, that's precisely what will get done and quickly. There isn't an insurance company going, that is going to ignore, about ten times, an order for a compensation claim from the Director of Worker's Compensation when he's told to do something.

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Croft

Are you talking about the Longshoreman and Harbor Worker's Act?

Johnson

Yes, I am sir. The speed I think, is prompt and is the most important thing. It's a very ticklish problem we

TAPE 4, SIDE 1 cont'd.

Johnson cont'd.

have now. That's not the Department of Labors fault. They need help.

Vocational rehabilitation is a very important aspect of worker's compensation. We try and run everybody we can through the Department of Vocational Rehabilitation, at least to have a look and see whether or not they need to be retrained or should be slightly retrained for; such as a carpenter etc. The Department of Vocational Rehabilitation does an excellent job but the victims have three months before they even see them. They simply can't do it fast enough. Then when they decide if he is or is not eligible, it's been about three weeks of testing and its discouraging for him, for the employer, and for the insurance company. I don't know what the magic solution is there. There are two private rehabilitation groups operating in Alaska, the Rehabilitation Associates and the Collins.

I think from the notes that I took during the morning session here, I did want to comment on the fact that when people are being retrained, they sometimes, cut the money in half. Section 191 of the Act, which does allow for half benefits, while in training. When other grounds are not available, at least, part of the problem is that the individual worker should get full temporary total disability, while in retraining, and that has been our position.

I think the board is changing. One great help to compensation attorneys would be for the board to write it's own rules and regulations; so, at least, we know what they are going to do, and so does the insurance companies attorney. If we don't know what the board is going to do, all we can really do is go in and take our chances. We can settle many, many more cases if we got that somehow.

TAPE 4, SIDE 1 cont'd.

Johnson cont'd.

There is one thing that alarms me about this and of which you should be aware. I believe somebody mentioned, maybe Chancy, the 10,000 files. I think the last I heard we were having injuries, about 42,000 time-loss injuries, in this State. I think it's time we opened the files. I agree with what you are talking about and a sample of that.

I have nothing further and would be happy to answer any questions you may have.

Stimson

I would like to ask a question regarding section 191. Does the board have the latitude to interpret whether an individual receives half the benefits or could be receiving full benefits?

Johnson

The board has and does. The local board has consistently, or I'd say in the last year, said that full benefits are to be paid, full T.P.D. I don't know how they are doing it in Fairbanks. That's another reason I make a plea for the rules and regulations to be formulated; so that, if I go to Fairbanks, I know what that board is going to do.

Stimson

I was visiting with Jackie McClintock the other day and she explained that they were trying to get some common understanding for the board and officers.

Johnson

we have a lot of good worker's compensation board members, but you've got to remember, that all of these people that I know have jobs. I believe they are paid fifty dollars a day while they're working. That is amounting to now to almost half the total of time. Most of those people, it's

TAPE 4, SIDE 1 cont'd.

Johnson cont'd.

very difficult for them to spend that amount of time. Another reason we should at least, have hearing officers should be the same ones, time after time and they should be trained for professionally trained to handle claims.

Carlson

Mr. Chairman, I'd like to comment. We've heard this mentioned about three different times and I think the board should, I think later in our hearings you will hear testimony to this. I hate to see the claim labeled before we make any decisions. I think those recommendations should be submitted to the board for their approval or disapproval or adding to it. I think the initiative must come from the Department and the board should set up the adoption of regulations and procedures. I think it needs to be changed from a board being called to a department that is working with the board. I think also that you are going to have the Department of Law cross involved 1 cause, the Department of Labor thinks that we don't have any lawyers to help claimants with court proceedings probably, you will have to include both.

Croft

I'm sure that the average lay member of the board needs at least one full week every month and probably more to handle their caseload.

Swalling

Mr. Johnson do you have any idea of how many or what percentage of cases out of the 42,000 addressed that occur per year? How many go through the appeals or hearing procedure?

Johnson

I can give you I think a pretty good idea. I think you are looking at around 2,200 in total. Now remember this, if you say go through the appeals proceudre many, many of these cases

TAPE 4, SIDE 1 cont'd.

Johnson cont'd.

are set for hearing and as they say. are settled at the court house steps. I think Jan can probably tell you much more. I think in this area you are looking at 1,200 cases that have been actually tried per year.

Somebody is going to think that I'm the buddy of the insurance company, but I'm not. I think, it would be well for the board, maybe this would be an answer, half from anybody who wants to, but have a look at those cases and see what the people involved are facing. Start with the individual and his attorney, the defense attorney or the adjuster and, in turn, the worker's compensation.

For example, what good would it do to investigate a case, where you have six or seven conflicting medical opinions. It resolves nothing. That's my problem. If it would resolve something, I would be all for it. If anything could speed up the process, it's going to make it cheaper on Mr. Chapado's people and me.

I pay for the same compensation that you people do. So, as an investigative commission, I don't think it would do any good. What you might do is have an intermediate appellate sort of board or commission.

Now, for example, when we get a decision from the board and we don't like it, we can appeal it. About a year and a half later, we've got our decision. This could be speeded up. I haven't given this alot of thought. I believe they are doing this in the State of Washington. I'm not sure if there's some place we could go for the worker's compensation board and get, I guess you call it an appeal conference group or whatever investigative body, they're quick, that would do us alot of good. I think the insurance people will tell you sometimes, to their advantage but, generally speaking,

TAPE 4, SIDE 1 cont'd.

Johnson cont'd.

if a fellow isn't handled promptly, it's gonna cost the insurance company more. I think that's the case.

Carlson

If a claimant has his benefits in controversion, is that automatically granted him? Do the payments stop, or does the board hear them? Is it automatic in every case, that if a claim is controverted, the payments stop?

Croft

It's up to the carrier. They're so indecisoned, as to whether or not, to continue a claim.

Carlson

I would like to follow that Mr. Chairman. When you are talking about data. The claimant, at that point, has to prove his validity or whatever other reasons, to continue the claim I guess, that at no point does the carrier have to prove his reason for controverting. There must be some rational reason for doing this. It seems to be a problem. There is no advantage to the claimant to controvert a plan, if it's just monitoring the disadvantage or efforts to settle a claim.

Croft

A big point in the overall cost of the system is that, at least, in terms of the impact of the insurance, most doctors charge somewhere between \$100 and \$120 dollars an hour and I know of others that have driven the cost up to \$1,000.00 an hour and will be just to get interested, one doctor and maybe several doctors will raise the cost of the system \$1,500 to \$2,000.00.

TAPE 4, SIDE 2

Stimson

Dennis, you want to go ahead?

Maloney

I have a question for Mr. Johnson. Of the 800 cases you handle a year, how long did it take for payment, approximately?

Johnson

Ah, everyone of them?

Maloney

How many would that be, approximately?

Johnson

You mean total or just in my own practice?

Maloney

Your practice?

Johnson

Well, for example, presently, I have about 225 cases. Everyone of those have been controverted. I don't get a change, normally, unless it's controverted. Not controverted, the individual is either getting paid or has accepted whatever the adjuster has told them and is on his way. It's only the people that are disatisfied that have changes.

Maloney

How many of those 225 cases? Do you pay all of them?

Johnson

Basically speaking, that's correct.

Maloney

How many of those were you openly successful in getting paid?

TAPE 4, SIDE 2 cont'd.

Johnson

Probably, an average of 92 to 95%. The vast majority of cases, well, I don't like to say we win the vast majority of them. That isn't really what it is but, far and wide, most of the do get more money.

Maloney

Is that the higher controverted amount? or is it a portion of it?

Johnson

No, it's generally more. See, the controversion can come down as, I think, transive, for any reason, any reason whatsoever. I tell my clients. They can stop your payments because, they don't like the way it's put on there. That is really, literally true. No reason given and there is no penalty, basically speaking.

Maloney

No penalty, basically speaking, for any claim penalty at all?

Johnson

Yes, generally speaking, a penalty can be assessed if the carrier violates a board order.

Maloney

What about a pat-made solution to this?

Johnson

I doubt if in sixteen years, I've really seen a pat-made solution. I really don't think I have. There are many, many reasons, but pay for visible pay. I don't think that I have. Excuse me. It doesn't happen with me.

Maloney

I have one other question and comment. You indicated that

TAPE 4, SIDE 2 cont'd.

Maloney cont'd.

help in dealing with, you're not receiving sufficient compensation? Is that correct?

Johnson

That's correct. That's why there are only a handful of us in the business. The only way a lawyer can make any money at all having worker's compensation. That's why we're in business just like everyone else is to make a living. The only way you can do it is have a lot of cases. Individual cases simply can't do it.

Maloney

I have one other question. You also indicated that you wondered what the insurance council got compared to you. Isn't it true that the insurance companies controverted cases pays that fee to you?

Johnson

Absolutely. I didn't, at least I hope I didn't mean to say I wonder what the insurance council gets compared to me. I don't care what he gets. I don't care what the doctor gets. I don't care what the physical therapist gets. I just don't like to have to have my fee authorized when I'll bet a \$1,000 dollars I'm the lowest paid of the bunch.

Stimson

Any further questions? Frank?

Chapados

Johnson mentioned something that I was wondering if he could explain a little further about. I find him losing his union benefits and receiving compensation benefits. What triggers that?

TAPE 4, SIDE 2 cont'd.

Johnson

Lack of paying into the trust fund. I think Dave could probably explain it much better than I. For example: Before pension benefits are invested, you must have so many hours paid in on your behalf and you pay alot of them. A fellow gets injured and can't go to work and I believe this varies, union to union. An average guy has got to pay in 400 hours a year or he is just flat out. He has a bank of hours that is drawn. If he has a major injury, he loses all of it, until and unless he can get back in and can get those benefits paid in again. The problem's of course, when these fellows can't go back to that because the employer won't have them back.

Chapados

But, this leads into the next question about the employer required to take an injured employee back. I can see where it would be certainly a desirable thing to do but I know that if an employer is concerned about an aggravated injury, it would then make his situation even more infallible, as far as cost. A man comes back not completely healed. Then, he, as a result of that situation, becomes injured again. There is a nature hesitancy to take a man back. I think there could be another side to it. That's one of the reasons, I think, the employer is concerned about. On the other half, I agree that a man who has worked for you for twenty years and is a good employee and you want to help him but you have more concern then about the kind of liability you are protecting yourself with to do it? Maybe this is something we ought to look at.

Johnson

Frank, it's even worse than that, frnakly. In Alaska an aggravation of the pre-existing commission was the equivilent of the new injury. If I've got a bad back and I've been working for Dwayne Carlson (pretending). Then, after I recover,

TAPE 4, SIDE 1 cont'd.

Johnson cont'd.

I go to work for Frank Chapados and if, for whatever reason, that back goes out, (I'll call it that). There's no problem if I fall out of my truck, even though I've been hurt, but if it goes out again and then I have to go to Chancy Croft or someone to represent me, what they'll do is file an action against Dwayne Carlson, his carrier, and against Frank Chapados, with no compensation insurance. I've been aggravated by working for you. It's going to cost you money and I understand the employer's stand-point. It's a real tough thing to hire an injured workman. There's some protection built into the Act but perhaps there should be more built into it. I don't know. I know the second injured one is broke, no money really anyway.

Chapados

One last question. How do you qualify a special hearing officer?

Johnson

I don't know. I suspect, Frank, what you do is take a person like Jan Hanson, been in the business, I believe, ten years and who now, as a matter of fact is going to law school. You don't have to be a lawyer to be a professional hearing officer. I don't mean to imply that at all. It's got to be somebody that be somebody that's learned, at least, in worker's compensation. Worker's Compensation is a different world. For example: I'll go and mak a third party Act. It's about even. Fault is part of it, as a matter of fact. It's difficult, actually, for a lawyer to grasp and I don't blame them. Somebody trained like that. The adjustors, I think probably adjusting would be a good background. I wouldn't trust them.

Chapados

In other words, some background in worker's compensation,

TAPE 4, SIDE 2 cont'd.

Chapados cont'd.

perhaps, a legal background or an equivalent?

Johnson

I think background in Worker's Compensation is most important and legal background is second. There's nothing that's more disconcerting than going to a hearing and having (do I have to say, insurance is sitting over there) to give and bring in evidence and I object. The hearing officer says you're objection is noted, proceed. Everything I wanted to keep out comes flowing in. That is, not only disconcerting, it's an injustice to the client. If a fellow isn't trained in some of this stuff, it keeps coming in.

Maloney

Can I ask you one more question?

Stimson

Dennis, go ahead.

Maloney

The comment about the union and the possibility of losing the retirement fund, isn't it possible that the union trust fund, approximately paid in could have a provision for a disability? Continued payment or provide an instant investment for these cases of disability?

Johnson

I think probably Dave Rasley and Dwayne could answer you on that. It think it could.

Maloney

I think that the employer plan, it seems to me that first of all, men in the plan, it's been changed in the last few years, who paid in eight years, once his fee's working, would have an additional eight years to get back to work.

TAPE 4, SIDE 2 cont'd.

Maloney cont'd.

Technically, any plan can provide revesting benefits upon disability.

Carlson

Mr. Chairman. Dwayne Carlson. I can't give an exact figure. Some of the trust do provide for different periods of time at least on a pension plan. It's a different matter. That's part of the problem. I think, as Representative Rogers mentioned, we tried to get some protection for the worker who had unemployment disability. That's even more of a problem. Losing those benefits under the health plan, taken off worker's compensation, say in November and he's been working most of the fall on construction, and also lost his eligibility for unemployment benefits, so he can't go back to work.

Maloney

The point I was trying to make is that if unions wanted workers not to do the (interrupted)

Carlson

The joint trust

Maloney

It's the joint trust.

Carlson

I'm going to ask you, uh, that's come of the data I'd like to see in our facts rather than general statements, Mr. Chairman.

Stimson

I'm going to ask that you have your comments posted to the chair, please. It would be real interesting to know who made that statement down the road away. Are there any

TAPE 4, SIDE cont'd.

Stimson cont'd.

further questions for Gil? Ok.

Rasley

I don't have any further question at the moment but I'd like to elaborate on that statement just a little bit, for the benefit of the committee maybe. Dennis is absolutely right when he says that under the recent law, which is in effect now, that however many years you have in the pension plan, you have that many years to repay it. In other words, if the ten year investment period and you had eight years in, then you could be out of that for seven years and not work. Then, if you worked, for at least 250 hours in the eighth year, then you would repay what you had before.

Also, Dennis commented about some of these funds being flush. That's true in some crafts because of the fact that they have what they call a great deal of breakage. People come in and they work in these particular crafts for maybe four or five years. Then, they go on to do something else. Consequently there's a lot of breakage. In fact, here a few years ago, the Laborers Union - the retention rate in the Laborer's Union was only about 20%. Therefore, they had quite a surplus of funds and were able to increase their pension benefits but the Operating Engineers, with the Electrical Union and with the Plumbers Union, that's not true. Basically, our retention rate in the Operating Engineers is about 97%; so, consequently, we have very little breakage from that factor and people who tend to get into our union, stay there and work it straight. So, the fund isn't as flush as some people may think.

However, the other point that he raised there concerning the trust fund being able to waiver, if someone is on worker's compensation the trust fund being able to waiver, if someone is on worker's compensation. I have helped members petition

TAPE 4, SIDE 2 cont'd.

Rasley

our trust people who sit on our trust fund and asked them for a waiver in outlining the circumstances of the individual, particular petitions. In most cases, if it's a valid claim, the trust fund will waive that time period until the individual is ready to go back to work again. So, it can definitely be done but I know that all trust funds do not do that but I know that ours does.

Stimson

Dennis?

Maloney

My point primarily (interrupted)

Rasley

Mr. Chairman? May I respond to that?

Stimson

Ok. Let's let Dwayne go first.

Carlson

Mr. Chairman. I think we have to be very careful at this meeting. While there are those of us who represent organized labor, there is a great segment of the population that is not represented. I think any legislator that's been down there the thirty years I've been there, should try with all his might to protect the unorganized as well. While the unions can in their joint trusts, offer certain protections, we have others out there, probably a larger segment that doesn't have it. So, I think that any laws that are made on worker's compensation, we're talking about compensation for a worker that's been injured on the job, should include all. So I think we have to be very careful and possibly an exclusive way to vote that will represent it.

TAPE 4, SIDE 2 cont'd.

Rasley

This is Dave Rasley. That was the exact point that I wish to make. There are a great many people out there whom we, of this study commission, are representing and we're not just representing union members. I hope that I'm here to represent all the people of Alaska, all the working people of Alaska, not just my union members because this is something that effects every working person in this state.

Stimson

I'd like to move on unless you guys feel that this is really something that we need to continue discussion on.

Johnson

Mr. Chairman. I have two more comments to make. They both apply to this discussion. One is that it is customary in court to rend a judgment. For instance, an insurance company and worker's compensation controverts a claim. Whatever money it has in reserve most - interest is on that. When we're lucky enough to get a judgment and win the money for a client, no interest is paid. We would like to see that an injured workman gets interest on whatever one he has coming. I don't know if I wuld induce cost quarters or not. I'd like to see it done.

Then, earlier in the day somebody, I believe, Mr. Chapados, was curious about the definition of compensation. I would request that you tread cautiously there. Compensation now, matter of fact, Dwayne Carlson, this, put it in the definition as medical, for a very definite purpose. Many, many, many, times, an individual has his controverted. No lawyer, that I know of, will represent many of those in brief, no provision, other than calling that medical compensation. Then, we are allowed our usual permission, so to speak. That's another

TAPE 4, SIDE 2 cont'd.

Johnson cont'd.

area that should be looked into.

Stimson

Thank you. Dennis?

Maloney

I said, at one time, it is my understanding that a workman can represent himself.

Johnson

That's absolutely correct. However, on behalf of payments compensation attorneys, I think that anyone that represents himself is pretty foolish. You can bet your bottom dollar that the insurance company is going to have a high priority.

Rasley

This is Dave Rasley again. I was the one who made that comment and that was my point this morning, of defining compensation. I think it covers the area that it should cover as written in the statute and it would cover the think that you're talking about, Gil. It would definitely cover a controverted medical claim to where the attorney would be paid according to the statute; so that, I think, is one of the problems now. In some cases, the carriers and the employers are arguing if that is not covered by the statute. That's one of the problems. It needs to be covered and my point was, broadening the scope of compensation; so that, it does cover the areas of these things to where it would not be open to controversy.

Stimson

Thank you very much. Gil I appreciate your testifying. We have Richard Fineberg in Fairbanks and I'd like to hear from him now unless there's something else. Ok, Brian?