ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672 343
4771 HJUD SB 322 (FILE 2)

TABLE 9a. MAXIMUM BENEFIT PAYMENTS AND NUMBER OF WEEKS FOR SELECTED PERMANENT PARTIAL DISABILITIES (cont.)

Jurisdiction	Scheduled Injuries					Hearing		Non-Scheduled Injuries Total Amount
	Arm at Shoulder	Hand	Leg at Hip	Foot	Eye	Both Ears	One Ear	
Nebraska	50,625/225	39,375/175	48,375/215	33,750/150	28,125/125	6/	11,250/50	67,500
Nevada 1/	----------	----------	----------	----------	----------	----------	----------	----------
New Hampshire	110,250/210	99,225/189	73,500/140	51,450/98	44,100/84	64,575/123	15,750/30	No maximum
New Jersey 8/	100,736/330	61,191/245	96,158/315	51,062/230	38,425/225	29,886/200	5,100/60	192,000
New Mexico	54,194/200	33,871/125	54,194/200	31,162/115	35,226/130	40,646/150	10,839/40	135,485
New York	46,800/312	36,600/244	43,200/288	30,750/205	24,000/160	22,500/150	9,000/60	No maximum
North Carolina	85,440/240	71,200/200	71,200/200	51,264/144	42,720/120	53,400/150	24,920/70	106,800
North Dakota 9/	18,750/250	15,000/200	14,040/234	9,000/150	9,000/150	12,000/200	3,000/50	30,000
Ohio	86,625/225	67,375/175	77,000/200	57,750/150	48,125/125	48,125/125	9,625/25	10/
Oklahoma	43,250/250	34,600/200	43,250/250	34,600/200	34,600/200	51,900/300	17,300/100	86,500
Oregon 11/	27,840	21,750	21,750	19,575	14,500	27,840	8,700	32,000
Pennsylvania	154,570/410	126,295/355	154,570/410	94,250/250	103,675/275	98,020/260	22,620/60	188,500
Puerto Rico	10,000/300	9,000/200	10,000/300	7,875/175	12/	9,000/200	2,250/50	10,000
Rhode Island	28,080/312	21,360/244	28,080/312	18,450/205	14,400/160	18,000/200	5,400/60	No maximum
South Carolina	70,224/220	59,052/185	62,244/195	44,688/140	35,112/110	52,668/165	25,536/80	108,528
South Dakota	54,400/200	40,800/150	43,520/160	34,000/125	40,800/150	40,800/150	2/	No maximum
Tennessee	42,000/200	31,500/150	42,000/200	26,250/125	21,000/100	31,500/150	2/	84,000
Texas	46,200/200	34,650/150	46,200/200	28,875/125	23,100/100	34,650/150	2/	69,300
Utah	41,888/187	37,632/168	28,000/125	19,712/88	26,880/120	22,400/100	2/	69,888
Vermont	104,490/215	85,050/175	104,490/215	85,050/175	60,750/125	104,490/215	25,272/52	160,380
Virgin Islands	42,460/220	34,740/180	34,740/180	23,160/120	37,635/195	34,740/180	23,160/120	38,600
Virginia	68,800/200	51,600/150	60,200/175	43,000/125	34,400/100	34,400/100	17,200/50	172,000
Washington 13/	54,000	48,600	54,000	37,800	21,600	43,200	7,200	90,000
West Virginia 1/	----------	----------	----------	----------	----------	----------	----------	78,621
Wisconsin	58,500/500	46,800/400	58,500/500	29,250/250	32,175/275	25,272/216	4,212/36	117,000
Wyoming	35,271/150	28,687/122	31,744/135	23,514/100	22,103/94	18,811/80	9,406/40	No maximum
United States*:								
FECA.....	321,198/312	251,193/244	296,490/288	211,043/205	164,717/160	205,896/200	53,533/52	No maximum
LHWCA.....	192,492/312	150,538/244	177,684/288	126,477/205	98,714/160	123,392/200	32,082/52	No maximum

TABLE 9a. MAXIMUM BENEFIT PAYMENTS AND NUMBER OF WEEKS FOR SELECTED PERMANENT PARTIAL DISABILITIES (cont.)

1/ Ratings for compensation purposes are determined as a percentage of permanent total disability (California, Idaho, Kentucky, Maine, Minnesota, Montana, Nevada, and West Virginia).

2/ Monaural loss is determined as a percentage of binaural loss (South Dakota, Tennessee, Texas, and Utah).

3/ Florida: Benefits are paid based on a wage loss formula rather than on a statutory schedule.

4/ Maryland: The number of weeks of benefits is increased by 33 1/3 percent, if the number is at least 250.

5/ Massachusetts: Determined by multiplying the State average weekly wage by a certain number.

6/ Missouri: If the scheduled injury is total by reason of severance or complete loss of use thereof, the number of weeks of compensation allowed in the schedule for such disability shall be increased by ten percent.

7/ Nebraska: Loss of hearing in both ears constitutes permanent total disability.

8/ New Jersey: Where members are amputated, an additional 30 percent is added to the award.

9/ North Dakota: Benefits are increased by 25 percent if loss is to master arm or hand.

10/ Ohio: For non-scheduled injuries, weekly benefits are limited to 1/3 of the state average weekly wage for not more than 200 weeks.

11/ Oregon: Law provides for a payment of $145 for each degree of scheduled injury and $100 for each degree of unscheduled injury, in monthly payments.

12/ Puerto Rico: The manager of the State Insurance Fund determines the extent of an eye disability, based upon an expert report of an oculist.

13/ Washington: Law provides for payment of fixed sums for specified injuries in weekly, monthly, or lump sum payments, under certain circumstances.

* Federal Employees' Compensation Act. Longshore and Harbor Workers' Compensation Act.

BENEFIT FORMULAS

SCHEDULED PERMANENT PARTIAL DISABILITY

CESAR: % OF BODY PART IMPAIRMENT X MAXIMUM SCHEDULED AMOUNT =

GRANT: % OF BODY PART IMPAIRMENT X NUMBER OF MAXIMUM WEEKS X WORKER'S COMPENSATION RATE (UP TO MAXIMUM SCHEDULED AMOUNT) =

Body Part	Weeks of Compensation	Maximum Amount
Arm[1]	280	$59,000
Hand[2]	212	45,400
Thumb[3]	51	14,000
First Finger[3]	28	8,700
Second Finger[3]	18	5,700
Third Finger[3]	18	4,700
Fourth Finger[3]	7	2,800
Leg[1]	248	54,400
Foot[2]	173	39,700
Great Toe[3]	26	7,200
Other Toe[3]	8	3,000
Eye[4]	140	30,200
Hearing of One Ear	52	9,800
Hearing of Both Ears	200	37,800

HCS CSSB 322 (L&C): % OF BODY PART IMPAIRMENT CONVERTED TO % OF WHOLEMAN IMPAIRMENT X ADJUSTMENT FACTOR X $240,000 =

% OF IMPAIRMENT	ADJUSTMENT FACTOR	% OF IMPAIRMENT	ADJUSTMENT FACTOR
0 - 5	0	20	0.675
6	0.060	21	0.680
7	0.120	22	0.688
8	0.180	23	0.696
9	0.240	24	0.704
10	0.300	25	0.712
11	0.333	26	0.740
12	0.366	27	0.765
13	0.399	28	0.790
14	0.432	29	0.815
15	0.465	30	0.840
16	0.495	31	0.880
17	0.540	32	0.910
18	0.585	33	0.940
19	0.630	34	0.970
		35-100	1.000

HCS CSSB 327 (ZSC)

WHOLEMAN

10%	x	.300	x	$ 240,000	=	$ 7,200.00
20	x	.675	x	"	=	32,400.00
30	x	.840	x	"	=	60,480.00
40	x	1.000	x	"	=	96,000.00
50	x	1.000	x	"	=	120,000.00
60	x	1.000	x	"	=	144,000.00
70	x	1.000	x	"	=	168,000.00
80	x	1.000	x	"	=	192,000.00
90	x	1.000	x	"	=	216,000.00
100	x	1.000	x	"	=	240,000.00

ARM

Rating		WHOLEMAN %		FACTOR				
10%	=	6%	x	.060	x	$240,000	=	$ 864.
20	=	12	x	.366	x	"	=	10,541.
30	=	18	x	.585	x	"	=	25,272.
40	=	24	x	.704	x	"	=	40,550.
50	=	30	x	.840	x	"	=	60,480.
60	=	36	x	1.000	x	"	=	86,400.
70	=	42	x	1.000	x	"	=	100,800.
80	=	48	x	1.000	x	"	=	115,200.
90	=	54	x	1.000	x	"	=	129,600.
100	=	60	x	1.000	x	"	=	144,000..

LEG

10%	=	4%	x	0			=	$ 250.
20	=	8	x	.180	x	240,000	=	3,456.
30	=	12	x	.366	x	"	=	10,541.
40	=	16	x	.495	x	"	=	19,008.
50	=	20	x	.675	x	"	=	32,400.
60	=	24	x	.704	x	"	=	40,550.
70	=	28	x	.770	x	"	=	53,088.
80	=	32	x	.910	x	"	=	69,888.
90	=	36	x	1.000	x	"	=	86,400.
100	=	40	x	1.000	x	"	=	96,000.

MAXIMUMS: CURRENT LAW = $60,000.
HCS CSSB 322 = $240,000.

RATING	Wholeman Wkly Comp Rate	$200	$300	$400	$500	$600	$700	
10%	Prior to Hewing	6,000	6,000	6,000	6,000	6,000	6,000	(Percentage x $60,000 Maximum)
	Hewing	Varies By Claimant						(Based on individual's future earning capacity up to $60,000 max)
	HCS CSSB 322 (L+C)	7,200	7,200	7,200	7,200	7,200	7,200	(Percentage x $240,000 Maximum)
20%	Prior to Hewing	12,000	12,000	12,000	12,000	12,000	12,000	
	Hewing							
	HCS CSSB 322 (L+C)	32,400	32,400	32,400	32,400	32,400	32,400	
30%	Prior to Hewing	18,000	18,000	18,000	18,000	18,000	18,000	
	Hewing							
	HCS CSSB 322 (L+C)	60,480	60,480	60,480	60,480	60,480	60,480	
40%	Prior to Hewing	24,000	24,000	24,000	24,000	24,000	24,000	
	Hewing							
	HCS CSSB 322 (L+C)	96,000	96,000	96,000	96,000	96,000	96,000	
50%	Prior to Hewing	30,000	30,000	30,000	30,000	30,000	30,000	
	Hewing							
	CSSB 322 (L+C)	120,000	120,000	120,000	120,000	120,000	120,000	
60%	Prior to Hewing	36,000	36,000	36,000	36,000	36,000	36,000	
	Hewing							
	CSSB 322 (L+C)	144,000	144,000	144,000	144,000	144,000	144,000	

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

HCS CSSB 327 (ICC)

WHOLEMAN

10%	x	.300	x	$240,000	= $ 7,200.00
20	x	.675	x	"	= 32,400.00
30	x	.840	x	"	= 60,480.00
40	x	1.000	x	"	= 96,000.00
50	x	1.000	x	"	= 120,000.00
60	x	1.000	x	"	= 144,000.00
70	x	1.000	x	"	= 168,000.00
80	x	1.000	x	"	= 192,000.00
90	x	1.000	x	"	= 216,000.00
100	x	1.000	x	"	= 240,000.00

ARM

Rating		WHOLEMAN %		FACTOR				
10%	=	6%	x	.060	x	$240,000	= $	864.
20	=	12	x	.366	x	"	=	10,541.
30	=	18	x	.585	x	"	=	25,272.
40	=	24	x	.704	x	"	=	40,550.
50	=	30	x	.840	x	"	=	60,480.
60	=	36	x	1.000	x	"	=	86,400.
70	=	42	x	1.000	x	"	=	100,800.
80	=	48	x	1.000	x	"	=	115,200.
90	=	54	x	1.000	x	"	=	129,600.
100	=	60	x	1.000	x	"	=	144,000.

LEG

10%	=	4%	x	0			= $	250.
20	=	8	x	.180	x	240,000	=	3,451
30	=	12	x	.366	x	"	=	10,541.
40	=	16	x	.495	x	"	=	19,008.
50	=	20	x	.675	x	"	=	32,400.
60	=	24	x	.704	x	"	=	40,550.
70	=	28	x	.790	x	"	=	53,088.
80	=	32	x	.910	x	"	=	69,888.
90	=	36	x	1.000	x	"	=	86,400.
100	=	40	x	1.000	x	"	=	96,000.

HAND

RATING	WholeHand %	FACTOR			
10%	5 %	0			$ 250
20	11	.333	x	$240,000 =	8,791
30	16	.495	x	"	19,008
40	22	.688	x	"	36,326
50	27	.765	x	"	49,572
60	32	.910	x	"	69,888
70	38	1.000	x	"	91,200
80	43	1.000	x	"	103,200
90	49	1.000	x	"	117,600
100	54	1.000	x	"	117,600

FOOT

10%	3 %	0			$ 250.
20	6	.060	x	$240,000	864
30	8	.180	x	"	3,456
40	11	.333	x	"	8,791
50	14	.432	x	"	14,515
60	17	.540	x	"	22,032
70	20	.675	x	"	32,400
80	22	.688	x	"	36,326
90	25	.712	x	"	42,720
100	28	.790	x	"	53,088

MAXIMUMS: CURRENT LAW: $60,000.
HCS CSSB 322 - $240,000.

RATING	Wkly Comp Rate (Wholeman)	$200	$300	$400	$500	$600	$700	
10%	Prior to Hewing	6,000	6,000	6,000	6,000	6,000	6,000	(Percentage x $60,000 Maximum)
	Hewing	Varies By Claimant						(Based on individual's future earning capacity up to $60,000 max)
	HCS CSSB 322 (L+C)	7,200	7,200	7,200	7,200	7,200	7,200	(Percentage x $240,000 Maximum)
20%	Prior to Hewing	12,000	12,000	12,000	12,000	12,000	12,000	
	Hewing							
	HCS CSSB 322 (L+C)	32,400	32,400	32,400	32,400	32,400	32,400	
30%	Prior to Hewing	18,000	18,000	18,000	18,000	18,000	18,000	
	Hewing							
	HCS CSSB 322 (L+C)	60,480	60,480	60,480	60,480	60,480	60,480	
40%	Prior to Hewing	24,000	24,000	24,000	24,000	24,000	24,000	
	Hewing							
	HCS CSSB 322 (L+C)	96,000	96,000	96,000	96,000	96,000	96,000	
50%	Prior to Hewing	30,000	30,000	30,000	30,000	30,000	30,000	
	Hewing							
	CSSB 322 (L+C)	120,000	120,000	120,000	120,000	120,000	120,000	
60%	Prior to Hewing	36,000	36,000	36,000	36,000	36,000	36,000	
	Hewing							
	CSSB 322 (L+C)	144,000	144,000	144,000	144,000	144,000	144,000	

	WKly Comp Rate	$ 200	$ 300	$ 400	$ 500	$ 600	$ 700
70%	Prior to Hewing	42,000	42,000	42,000	42,000	42,000	42,000
	Hewing						
	HCS CSSB 322 (Lvd)	168,000	168,000	168,000	168,000	168,000	168,000
80%	Prior to Hewing	48,000	48,000	48,000	48,000	48,000	48,000
	Hewing						
	HCS CSSB 322 (Lvd)	192,000	192,000	192,000	192,000	192,000	192,000
90%	Prior to Hewing	54,000	54,000	54,000	54,000	54,000	54,000
	Hewing						
	HCS CSSB 322 (Lvd)	216,000	216,000	216,000	216,000	216,000	216,000
100%	Prior to Hewing	60,000	60,000	60,000	60,000	60,000	60,000
	Hewing						
	HCS CSSB 322 (Lvd)	240,000	240,000	240,000	240,000	240,000	240,000
—							
—							

MINIMUMS: CURRENT LAW: 212 WEEKS - $43,400
HCSCSSB 322: 54 % - $124,600

HAND

RATING	WKly Comp Rate	$200	$300	$400	$500	$600	$700	% OF WHOLESALE
10%	CESAR	4,540	4,540	4,540	4,540	4,540	4,540	—
	GRANT	4,240	6,360	8,480	10,600	12,720	14,840	—
	HCS CSSB 322 (LVC)	250	250	250	250	250	250	5%
20%	CESAR	9,080	9,080	9,080	9,080	9,080	9,080	—
	GRANT	8,480	12,720	16,960	21,200	25,440	29,680	—
	HCS CSSB 322 (LVC)	8,791	8,791	8,791	8,791	8,791	8,791	11%
30%	CESAR	13,620	13,620	13,620	13,620	13,620	13,620	—
	GRANT	12,720	19,080	25440	31,800	38,160	44,520	—
	HCS CSSB 322 (LVC)	19,008	19,008	19,008	19,008	19,008	19,008	16%
40%	CESAR	18,160	18,160	18,160	18,160	18,160	18,160	—
	GRANT	16,960	25,440	33,920	42,400	45,400	45,400	—
	HCS CSSB 322 (LVC)	36,326	36,326	36,326	36,326	36,326	36,326	22%
50%	CESAR	22,700	22,700	22,700	22,700	22,700	22,700	—
	GRANT	21,200	31,800	42,400	45,400	45,400	45,400	—
	CSSB 322 (LVC)	49,572	49,572	49,572	49,572	49,572	49,572	27%
60%	CESAR	27,240	27,240	27,240	27,240	27,240	27,240	—
	GRANT	25,440	38,160	45,400	45,400	45,400	45,400	—
	HCS CSSB 322 (LVC)	69,888	69,888	69,888	69,888	69,888	69,888	32%

FOOT: CURRENT LAW: 173 WEEKS - $39,700
HCSCSSB 322: 28 % - $53,088

		$200	$300	$400	$500	$600	$700	% OF WHOLESALE
	CESAR	3970	3970	3,970	3970	3,970	3,970	—
	GRANT	3460	5,190	6,920	8650	10,380	12,110	—
	HCS CSSB 322 (LVC)	250	250	250	250	250	250	3%
	CESAR	7,940	7940	7,940	7,940	7,940	7,940	—
	GRANT	6,920	10,380	13,840	17,300	20,760	24,220	—
	HCS CSSB 322	864	864	864	864	864	864	6%
	CESAR	11,910	11,910	11,910	11,910	11,910	11,910	—
	GRANT	10,380	15,570	20,760	25,950	31,140	36,330	—
	HCS CSSB 322	3456	3,456	3,456	3,456	3,456	3,456	8%
	CESAR	15,880	15,880	15,880	15,880	15,880	15,880	—
	GRANT	13,840	20,760	27,680	34,600	39,700	39,700	—
	HCS CSSB 322	8,791	8791	8,791	8791	8,791	8,791	11%
	CESAR	19,850	19,850	19,850	19,850	19,850	19,850	—
	GRANT	17,300	25,950	34,600	39,700	39,700	39,700	—
	HCS CSSB 322	14,515	14,515	14,515	14,515	14,515	14,515	14%
	CESAR	23,820	23,820	23,820	23,820	23,820	23,820	—
	GRANT	20,760	31,140	39,700	39,700	39,700	39,700	—
	HCS CSSB 322	22,032	22,032	22,032	22,032	22,032	22,032	17%

1/5/88

RATING

	WKly Comp Rate	$200	$300	$400	$500	$600	$700	% OF WAGES
70	CESAR	31,780	31,780	31,780	31,780	31,780	31,780	—
	GRANT	29,680	44,520	45,400	45,400	45,400	45,400	—
	HCS CSSB377	91,200	91,200	91,200	91,200	91,200	91,200	38%
80	CESAR	36,320	36,320	36,320	36,320	36,320	36,320	—
	GRANT	33,920	45,400	45,400	45,400	45,400	45,400	—
	HCS CSSB377	103,200	103,200	103,200	103,200	103,200	103,200	43%
90	CESAR	40,860	40,860	40,860	40,860	40,860	40,860	—
	GRANT	38,160	45,400	45,400	45,400	45,400	45,400	—
	HCS CSSB377	117,600	117,600	117,600	117,600	117,600	117,600	49%
100	CESAR	45,400	45,400	45,400	45,400	45,400	45,400	—
	GRANT	42,400	45,400	45,400	45,400	45,400	45,400	—
	HCS CSSB377	129,600	129,600	129,600	129,600	129,600	128,600	54%
—								
—								
1/1/88								

	$200	$300	$400	$500	$600	$700	% OF WAGES
CESAR	27,790	27,790	27,790	27,790	27,790	27,790	—
GRANT	24,220	36,330	39,700	39,700	39,700	39,700	—
HCS CSSB377	32,400	32,400	32,400	32,400	32,400	32,400	20%
CESAR	31,760	31,760	31,760	31,760	31,760	31,760	—
GRANT	27,680	39,700	39,700	39,700	39,700	39,700	—
HCS CSSB377	36,326	36,326	36,326	36,326	36,326	36,326	22%
CESAR	35,730	35,730	35,730	35,730	35,730	35,730	—
GRANT	31,140	39,700	39,700	39,700	39,700	39,700	—
HCS CSSB377	42,720	42,720	42,720	42,720	42,720	42,720	25%
CESAR	39,700	39,700	39,700	39,700	39,700	39,700	—
GRANT	34,600	39,700	39,700	39,700	39,700	39,700	—
HCS CSSB377	53,088	53,088	53,088	53,088	53,088	53,088	28%

MAXIMUMS: CURRENT LAW: 280 WEEKS - $59,000

HCS CSSB 322 60% - $144,000

ARM

RATING	Wkly Comp Rate	$200	$300	$400	$500	$600	$700	% of Wholeman
10%	CESAR	5,900	5,900	5,900	5,900	5,900	5,900	
	GRANT	5,600	8,400	11,200	14,000	16,800	19,600	
	HCS CSSB 322 (L+C)	864	864	864	864	864	864	6%
20%	CESAR	11,800	11,800	11,800	11,800	11,800	11,800	
	GRANT	11,200	16,800	22,400	28,000	33,600	39,200	
	HCS CSSB 322 (L+C)	10,541	10,541	10,541	10,541	10,541	10,541	12%
30%	CESAR	17,700	17,700	17,700	17,700	17,700	17,700	
	GRANT	16,800	25,200	33,600	42,000	50,400	58,800	
	HCS CSSB 322 (L+C)	25,272	25,272	25,272	25,272	25,272	25,272	18%
40%	CESAR	23,600	23,600	23,600	23,600	23,600	23,600	
	GRANT	22,400	33,600	44,800	56,000	59,000	59,000	
	HCS CSSB 322 (L+C)	40,550	40,550	40,550	40,550	40,550	40,550	24%
50%	CESAR	29,500	29,500	29,500	29,500	29,500	29,500	
	GRANT	28,000	42,000	56,000	59,000	59,000	59,000	
	HCS CSSB 322 (L+C)	60,480	60,480	60,480	60,480	60,480	60,480	30%
60%	CESAR	35,400	35,400	35,400	35,400	35,400	35,400	
	GRANT	33,600	50,400	59,000	59,000	59,000	59,000	
	HCS CSSB 322 (L+C)	86,400	86,400	86,400	86,400	86,400	86,400	36%

4/6/00

LEG CURRENT LAW: 248 WEEKS - $54,400

HCS CSSB 322: 40% - $96,000

	$200	$300	$400	$500	$600	$700	% of Wholeman
CESAR	5,440	5,440	5,440	5,440	5,440	5,440	
GRANT	4,960	7,440	9,920	12,400	14,880	17,360	
HCS CSSB 322 (L+C)	250	250	250	250	250	250	4%
CESAR	10,880	10,880	10,880	10,880	10,880	10,880	
GRANT	9,920	14,880	19,840	24,800	29,760	34,720	
HCS CSSB 322 (L+C)	3,456	3,456	3,456	3,456	3,456	3,456	8%
CESAR	16,320	16,320	16,320	16,320	16,320	16,320	
GRANT	14,880	22,320	29,760	37,200	44,640	52,080	
HCS CSSB 322 (L+C)	10,541	10,541	10,541	10,541	10,541	10,541	12%
CESAR	21,760	21,760	21,760	21,760	21,760	21,760	
GRANT	19,840	29,760	39,680	49,600	54,400	54,400	
HCS CSSB 322 (L+C)	19,008	19,008	19,008	19,008	19,008	19,008	16%
CESAR	27,200	27,200	27,200	27,200	27,200	27,200	
GRANT	24,800	37,200	49,600	54,400	54,400	54,400	
HCS CSSB 322 (L+C)	32,400	32,400	32,400	32,400	32,400	32,400	20%
CESAR	32,640	32,640	32,640	32,640	32,640	32,640	
GRANT	29,760	44,640	54,400	54,400	54,400	54,400	
HCS CSSB 322 (L+C)	40,550	40,550	40,550	40,550	40,550	40,550	24%

RATING	Wkly Comp Rate	$200	$300	$400	$500	$600	$700	% of Wholesale
70%	CESAR	41,300	41,300	41,300	41,300	41,300	41,300	
	GRANT	39,200	58,800	59,000	59,000	59,000	59,000	
	HCS CSSB 322 (L+C)	100,800	100,800	100,800	100,800	100,800	100,800	42%
80%	CESAR	47,200	47,200	47,200	47,200	47,200	47,200	
	GRANT	44,800	59,000	59,000	59,000	59,000	59,000	
	HCS CSSB 322 (L+C)	115,200	115,200	115,200	115,200	115,200	115,200	48%
90%	CESAR	53,100	53,100	53,100	53,100	53,100	53,100	
	GRANT	50,400	59,000	59,000	59,000	59,000	59,000	
	HCS CSSB 322 (L+C)	129,600	129,600	129,600	129,600	129,600	129,600	54%
100%	CESAR	59,000	59,000	59,000	59,000	59,000	59,000	
	GRANT	56,000	59,000	59,000	59,000	59,000	59,000	
	HCS CSSB 322 (L+C)	144,000	144,000	144,000	144,000	144,000	144,000	60%
—								
—								

	$200	$300	$400	$500	$600	$700	% of Wholesale
CESAR	38,080	38,080	38,080	38,080	38,080	38,080	
GRANT	34,720	52,080	54,400	54,400	54,400	54,400	
HCS CSSB 322 (L+C)	53,088	53,088	53,088	53,088	53,088	53,088	28%
CESAR	43,520	43,520	43,520	43,520	43,520	43,520	
GRANT	39,680	54,400	54,400	54,400	54,400	54,400	
HCS CSSB 322 (L+C)	69,888	69,888	69,888	69,888	69,888	69,888	32%
CESAR	48,960	48,960	48,960	48,960	48,960	48,960	
GRANT	44,640	54,400	54,400	54,400	54,400	54,400	
HCS CSSB 322 (L+C)	86,400	86,400	86,400	86,400	86,400	86,400	36%
CESAR	54,400	54,400	54,400	54,400	54,400	54,400	
GRANT	49,600	54,400	54,400	54,400	54,400	54,400	
HCS CSSB 322 (L+C)	96,000	96,000	96,000	96,000	96,000	96,000	40%

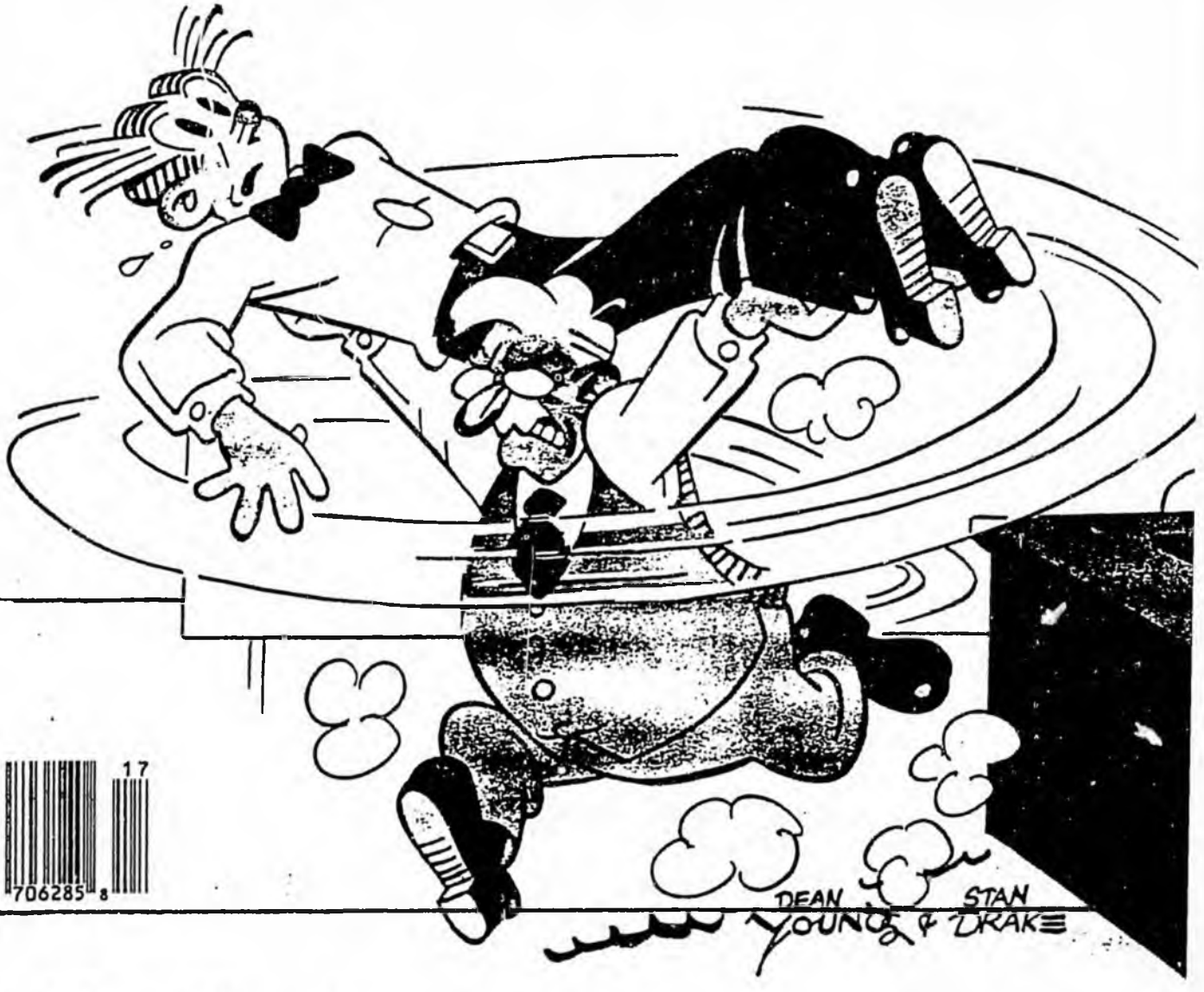
4/15/88

Lives of Slow Suicide

Newsweek

Stress on the Job

What You and the Boss Can Do About It



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Stress on the Job

It's hurting morale and the bottom line. How can workers and bosses cope?

For Robert Hearsch, it was a nightmare that wouldn't end. For four years Hearsch had been a successful supervisor for Hughes Aircraft. Then General Motors took over the company—and his career took a nose dive. As part of the restructuring, he was put in charge of buying pens and pencils. He found orders backlogged and records in disarray. He spent most of his days appeasing angry secretaries. He stayed on gamely, arriving early, leaving late, working through his breaks. But, as Hearsch tells the story, things only got worse. His supervisors hinted that his position might be phased out. They ignored his diligence and recorded small mistakes into his file. They even left him off the guest list for the department office party.

The pressure took its toll. Hearsch lost 20 pounds. His marriage hit the skids. He suffered a minor nervous breakdown. The strain got to his colleagues as well. One day, Hearsch says, a co-worker showed up at the office brandishing a handgun. Hearsch finally filed a workers' compensation claim, blaming his health and emotional problems on Hughes. Last week he accepted a $20,000 settlement from the company, which refuses to comment on the case. The money, he says, is small consolation. "I lost my wife, my house and my career."

If the 1970s were the Me Decade, the 1980s have been the Work Decade. Kids graduate from college yearning not to save the world but to scamper up the corporate ladder. Dress for success is the byword of fashion. Even pop culture celebrates the work ethic. After doing deals all day, where do young careerists go? Home to watch their TV alter egos on shows like "Moonlighting" and "thirtysomething." Yet amid the bustle of power breakfasts and Filofax appointments, there's a dirty little secret in the Age of the Office: stress. *Our jobs are killing us.*

For all its action and glamour, today's business world has generated corrosive ways to wear down bodies and spirits. The buzz around the modern water cooler is full of anxiety and paranoia. *The company is downsizing. The bean counters are out to get us. The boss has programmed the computers to monitor our phone calls.* No one can be sure when the dreaded takeover will strike. *A corporate raider has his eye on the firm. Pretty soon we'll all be working for the Japanese.* As the tension mounts, energies flag, blood pressures rise and that extra drink or two at the end of the day becomes more tempting. Across the office floor, fed-up workers hide behind closed doors, furtively updating their résumés . . .

Recognize the symptoms? You've got a lot of company. According to a survey by the advertising agency D'Arcy Masius Benton & Bowles, three-quarters of Americans now say their jobs cause them stress. In a 1985 study by the National Center for Health Statistics, more than half of the 40,000 workers surveyed reported experiencing "a lot" or "moderate" stress in the past two weeks. But numbers alone hardly tell the story. A Newbury, Mass., gas-station attendant does it better. He recalls a young professional in a three-piece suit who, apparently late for work, came barreling into the station one day recently and screeched to a halt at the pump. "Can you fill it up?" the young man yelled frantically. "Can you fill it up NOW?" Asked to wait for a minute, the Yuppie pounded the steering wheel, yelled that a minute wasn't fast enough and went tearing back onto the street. Moments later he was back at the pump, having realized he couldn't get far on an empty tank. "People are so stressed out," muttered one observer, "they're just crazy."

No 'bounce back' time: It's not just the frequency of stress that's increasing; it's the duration. At a time when mergers and acquisitions are rampant, executives must handle many tasks at once—on shorter deadlines. Atlanta therapist Geneva Rowe believes the pace of modern decision making has become so rapid that managers don't have enough time to decompress or recharge. "Twenty-five years ago, we had more intermittent stress," Rowe says. "We had a chance to bounce back before we encountered another crisis. Today, we have chronic, unremitting stress. Our bodies have eroded."

Stress is also eroding the bottom line. The toll on corporations runs from hobbled productivity to absenteeism and spiraling medical costs. While exact figures are hard to come by, some experts put the overall cost to the economy as high as $150 billion a year—almost the

LESTER SLOAN—NEWSWEEK

Robert Hearsch
Supervisor

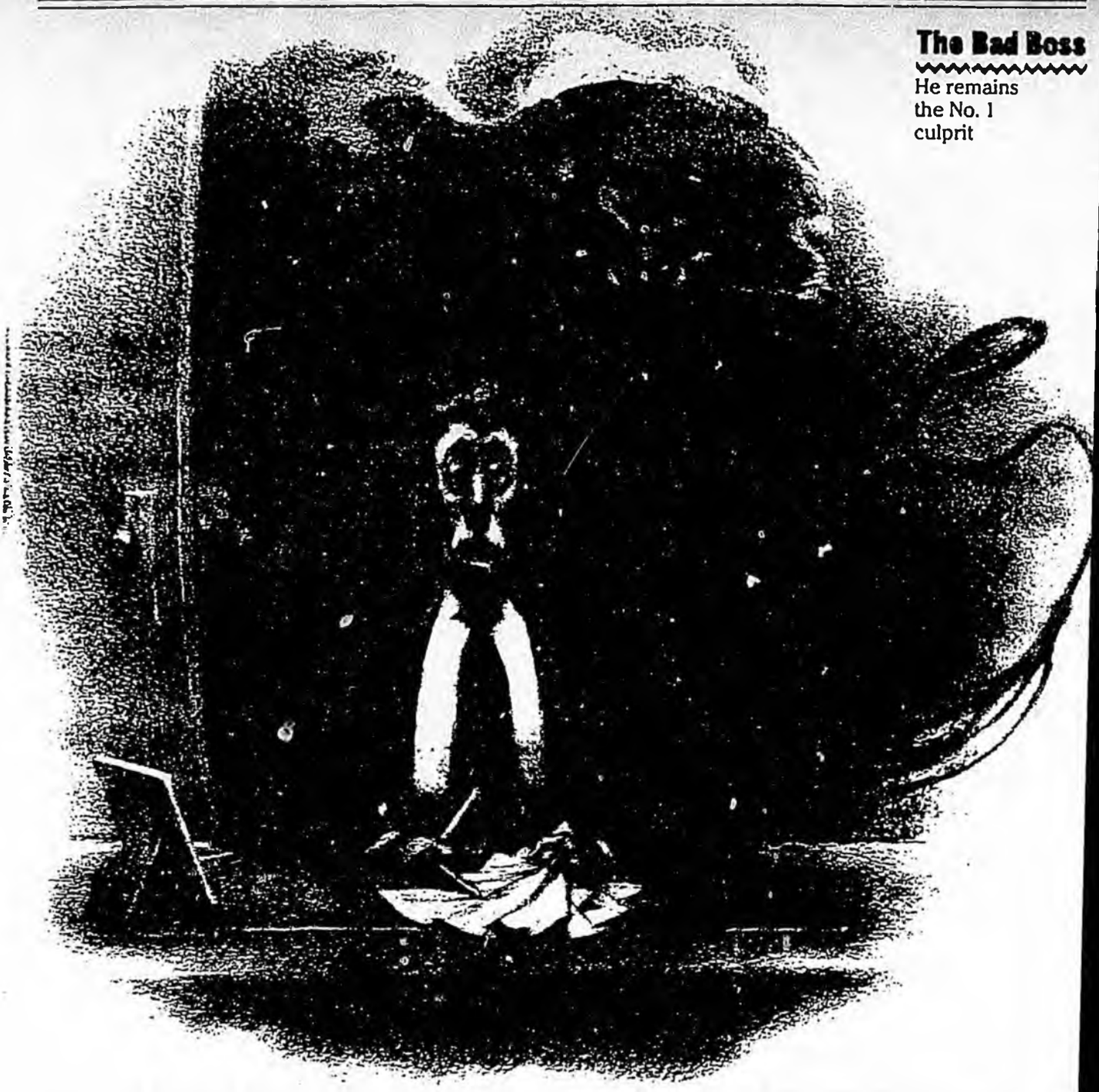
Symptoms: After Hughes Aircraft was taken over, he was demoted. He suffered a mild nervous breakdown, and his marriage split.

Response: He sought therapy, then filed a workers' comp claim and finally settled for $20,000.

ILLUSTRATIONS BY CARTER GOODRICH

The Bad Boss

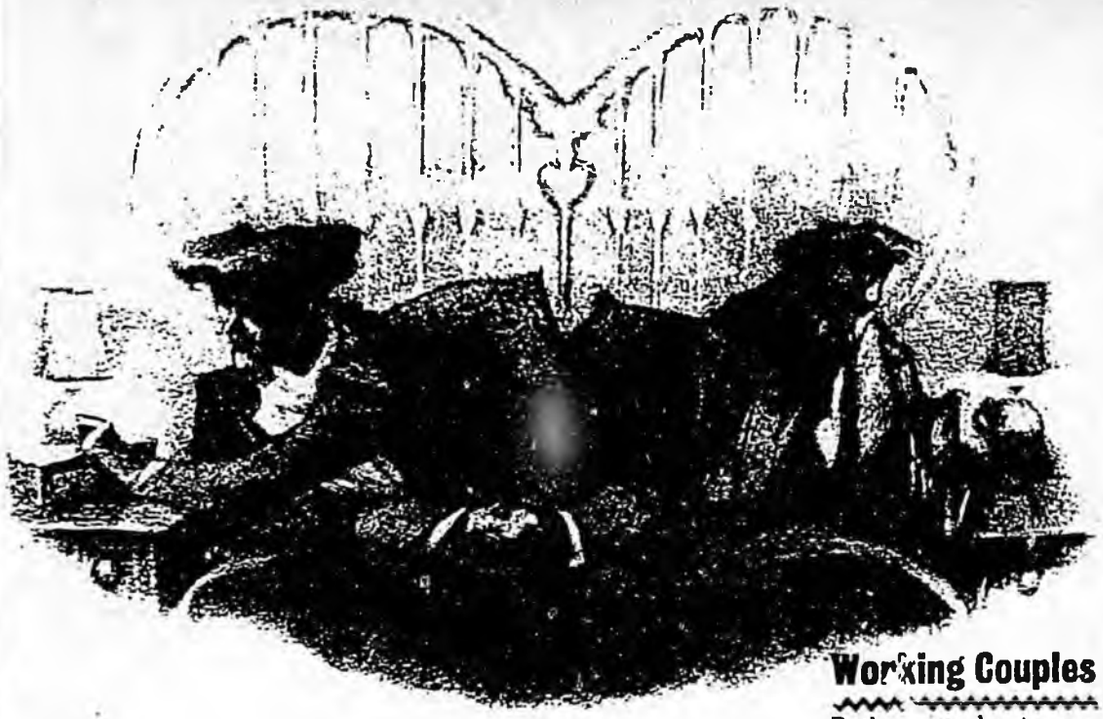
He remains the No. 1 culprit



size of the federal deficit. Dr. Kenneth R. Pelletier, a specialist in executive health at the University of California, San Francisco, notes that many large corporations spend more than $200 million a year on medical benefits for their employees. The surgeon general's most recent report, meanwhile, indicates that two-thirds of all illnesses before the age of 65 are preventable. Compared with treating stress, Pelletier says, attempting to prevent it would be "relatively speaking, low cost."

Medical bills aren't all that's worrying employers. So are legal costs. Americans filed a record number of stress-related workers' compensation claims last year, citing everything from surly supervisors to unsafe offices. In all, they accounted for 14 percent of occupational-disease claims, up from less than 5 percent in 1980. In California, where the number of cases has increased fivefold since 1980, the complaints range from the tragic to the bizarre. A female deputy sheriff in the state recently claimed chronic psychiatric disability on the ground that her personality wasn't suited for police work. An assistant probation officer said he suffered acute tension because he could not adjust to interviewing angry and emotionally disturbed clients. "It used to be that if you were angry at your boss, you went home and kicked the dog," says Mory Framer, a California psychologist who is an expert on workers' comp. "Now if you have a problem at home, you leave it at home and come in and kick your boss."

Many aggrieved employees are kicking the boss where it hurts most—in the wallet. Take the case of Dondi Gonzalez, the manager of a Palm Springs, Calif., furniture-rental store. As Gonzalez describes it, her stress was induced by a hostile supervisor intent on blocking her rise in the company. While auditing the showroom for the first time in several years, the supervisor gave her bad marks for a dead cricket she found on the floor and blamed her for another



Working Couples
Both worry about handling it all

store's long-distance phone bills. After suffering a mild stroke while on the job, Gonzalez filed a workers' compensation claim charging that stress contributed to her illness. More than a year of hearings followed, and Gonzalez settled out of court for roughly $50,000.

Other frazzled workers take the law into their own hands. A Pacific Bell employee in Riverside, Calif., recently became so distressed over the loss of his retirement benefits that he took hostages and destroyed $10 million worth of the company's telephone equipment. An editor for Encyclopaedia Britannica in Chicago sought revenge for his dismissal by sabotaging the company's computer system and trying to rewrite history. Before he was caught, the man had substituted the names of Britannica employees for historical figures, and Allah for Jesus in numerous passages of the encyclopedia.

Cashing in: With billions at stake, companies are starting to take action. Dozens now provide workers with "stress management" programs—help that includes everything from group counseling to hypnosis. A host of entrepreneurs are also angling to cash in on the trend. One is Theodore Barash, founder of Stresscare, a Long Island company that provides customized regimens for frayed employees. Like a corporate speculator talking about plastics 20 years ago, Barash predicts bullishly that "in the next 10 years, stress can be a $15 billion industry."

One reason that both workers and managers are so baffled by stress is that it's not always clear what causes it. At one level, the phenomenon is purely physiological. It's an outgrowth of what scientists call the "fight or flight" response, a primitive reflex that prepares humans for conflict. When confronted with possible danger—or a testy co-worker—the body secretes adrenaline and hydrocortisone. The hormones help the body turn off some functions—including parts of the immune system—and turn on short-term energy reserves. In today's working world, that can be a problem. The same mechanism that helped cavemen ward off their predators interferes when a situation calls for a long, sustained response—like putting up with a demanding boss. "We're still carrying the same physiology our ancestors had in prehistoric times," says Dr. Reed Moskowitz, medical director of New York University Medical Center's new Stress Disorders Medical Services Unit. "The problem is that it's the same response that gets triggered in the office, where you can't reach through the phone and strangle the person who sets it off."

Sometimes the reflex can boost productivity, even creativity. But it can quickly turn counterproductive. In their attempt to motivate, companies tread a fine line between getting employees' adrenaline flowing and making them nervous wrecks. "That's why you see so many people doing a great job at work, performing like crazy, but they're highly stressed," says Randall Dunham, a professor of business at the University of Wisconsin at Madison.

Fight-or-flight response is not the only thing the modern business world has in common with the Cro-Magnon era. A study by Stanford University researcher Robert Sapolsky suggests what many employees have always suspected: in dealing with subordinates, bosses act like baboons. Sapolsky studied the animals, which live in highly structured groups, for clues about the nature of hierarchies. He found that dominant members in a stable hierarchy turn stress responses on and off faster than lower-ranking ones. They also have stronger immune systems and safer cholesterol levels. Sapolsky's conclusion: being on top in the pecking order is less stress-producing than being at the bottom. Only in unstable hierarchies do high-ranking baboons have worse problems than their subordinates—a fact to which any executive caught in a takeover battle could testify.

At least baboons only have to worry about animal attacks and where to find the next banana. The corporate jungle isn't so simple. The trend toward downsizing and restructuring has introduced a host of new workplace tensions. At the top of the list: job insecurity. Witness the case of Wayne Pritchard, a 21-year veteran of Meredith Corp. in Des Moines, Iowa. Ten months ago Pritchard lost his job in a work-force reduction at Meredith's printing plant. Although he sent out 250 résumés and spent eight months searching for work, employers repeatedly rejected him as "overqualified." Then, in February, one day before his 56th birthday, Pritchard shot himself through the heart. In a suicide note, he blamed Meredith's corporate executives for his plight. "He truly loved his job," says Pritchard's wife, Deloris. "He thought something like this could never happen to him."

Slave driver: Even for those whose jobs are spared, the tension can be enormous. The most vehement complaints usually involve tyrannical bosses. In her new book, "Never Work for a Jerk," Patricia King tells the story of Marlene Miranda, a secretary in the treasurer's department of a large packaged-goods company. A relentless slave driver, Miranda's boss often called her at home to dictate reports so she could get to work early to type them, King writes. On a winter night, Miranda was driving her usual route home from work. It was cloudy, and the roads were very dark. Miranda sensed that someone was following her. The car overtook her and forced her off the pavement. She started to panic. Then she reco

How to Tell If You're Stressed—And What to Do About It

Only recently have consultants and psychologists begun to study workplace tension in depth. They've discovered the most trying professions are those involving danger and extreme pressure—or that carry responsibility without control. The symptoms of stress have been found to range from frequent illness to nervous tics and mental lapses. The most common tips for dealing with it focus on relaxation. But sometimes the only answer is to fight back—or walk away.

10 Tough Jobs

- Inner-city high-school teacher
- Police officer
- Miner
- Air-traffic controller
- Medical intern
- Stockbroker
- Journalist
- Customer service/complaint department worker
- Waitress
- Secretary

Warning Signs

- Intestinal distress
- Rapid pulse
- Frequent illness
- Insomnia
- Persistent fatigue
- Irritability
- Nail biting
- Lack of concentration
- Increased use of alcohol and drugs
- Hunger for sweets

Ways to Cope

- Maintain a sense of humor
- Meditate
- Get a massage
- Exercise regularly
- Eat more sensibly
- Limit intake of alcohol and caffeine
- Take refuge in family and friends
- Delegate responsibility
- Stand up to the boss
- Quit

SOURCES FOR THE 10 TOUGHEST JOBS: THE NATIONAL INSTITUTE ON WORKERS COMPENSATION; AMERICAN INSTITUTE OF STRESS

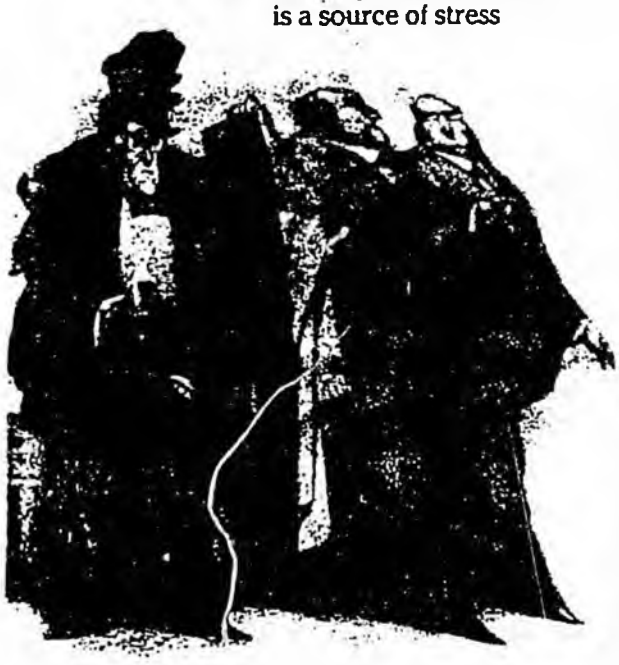
nized her boss. When she rolled down her window, he barked: "Take a letter."

It's not only neurotic bosses who put workers in the pressure cooker. Sometimes it's the office itself. Poorly designed work stations and the trend toward computer monitoring are two growing sources of tension. Last year the U.S. Office of Technology Assessment estimated that computers are being used to keep tabs on 6 million working Americans. The most ominous tactic is to use an employee's own computer to spy on him. Managers measure productivity by recording the number of keystrokes operators make per minute, and count breaks by tracking computer downtime.

Big Brother's presence can have devastating effects. In one case, a United Airlines flight reservationist claimed she suffered a nervous breakdown because of "bathroom-break harassment." She says she was permitted only 12 minutes to go to the bathroom during each seven-and-a-half-hour work period. One day, she claims, she spent 13 minutes over her allotted time, and a supervisor threatened to fire her if she did it again. United officials decline to comment on the case except to say that bathroom-break time is at the discretion of supervisors.

The Corporate Pawn

His very powerlessness is a source of stress



When it comes to stress, not all jobs are created equal. Just ask Eric Proctor. As a Howard County, Md., firefighter, Proctor has a window into some of life's most gruesome scenes. In August 1986 he was dispatched to a head-on auto accident where a mother and her seven-year-old daughter lay critically injured. The two later died. But for Proctor the worst was still to come. He couldn't erase the vivid images of death from his mind. He cried. He could not sleep or eat. Not until he sought counseling at a stress-management program for emergency-services workers did his anguish subside.

Ed Edmondson, a 41-year-old bus driver for the Los Angeles Rapid Transit District (RTD), was also a victim of posttraumatic stress. In his 13-year career, Edmondson has endured fare jumpers, rude customers and testy supervisors. He has seen bus drivers slapped, stabbed and spit upon. But it was an incident three years ago that finally caused him to crack. One day in May 1985, he noticed a man standing on tiptoe on a curb ahead of the bus. An experienced driver, Edmondson slowed down but kept in his lane to avoid sideswiping other vehicles. Just before the bus reached the corner, however, the man suddenly jumped in front of it, flinging himself against the windshield. In the aftermath of the suicide, no driver was sent to relieve him, so he continued on his route. For weeks afterward, he became increasingly weepy and unable to function. Eventually he was admitted to L.A.'s Barrington Psychiatric Center, where he was treated for "posttraumatic stress syndrome." "I felt like somebody put a gun in my hand, pointed it at his head and pulled the trigger," he says.

Control factor: Psychologists say jobs like Edmondson's—ones that carry a lot of responsibility but little power—are among the most trying. The National Institute on Workers Compensation cites secretaries, waitresses, office managers and laborers as being particularly stressed-out. The American Institute of Stress in Yonkers, N.Y., adds police officers, newspaper editors,

medical interns and stock brokers. Rick Gilkey, an associate professor of organizational behavior at Emory University's School of Business Administration, says studies of race-car drivers suggest that control may be an even more important factor than danger when it comes to provoking tension. The studies showed that drivers were most unnerved not when speeding at 200 miles per hour, but during pit stops, when the work crew controlled things. The same holds true of corporate managers whose companies are being acquired, Gilkey says. When a takeover robs them of assurances, it's like sending them to the pits.

JOHN FICARA—NEWSWEEK

Eric Proctor
Firefighter

Symptoms: High-pressure rescue duty and repeated exposure to human trauma caused him to lose his appetite and suffer periodic crying episodes.

Response: He enrolled in a stress-management program for emergency-service personnel.

Two broader types of workers are especially vulnerable to stress. One is the older manager who, after years of expecting his company to look after him, wakes up to find that it suddenly doesn't need him anymore. Atlanta therapist Rowe says the decline in corporate loyalty can be stressful in itself. As the system breaks down, she says, people who have devoted their whole lives to a firm are forced to find entirely new identities. Another high-stress category is the younger, "free agent" manager, or, as Atlanta psychologist Bob Bleke calls it, the "corporate vagabond." Well trained and upwardly mobile, the free agents go from firm to firm, seeking the biggest challenges and the highest salaries. But they run the risk of getting caught in a shakeout and finding themselves with little to fall back on. They haven't had time to lay down roots and have often sacrificed family life to mobility and ambition. Says Bleke: "It's quiet desperation."

The trend toward two-career households and single-parent families has only compounded the strain. After years of scrambling to launch her own firm, single mother Susan Silver of Alameda, Calif., became an anxiety-ridden workaholic. To ease the strain, she bought a lap-top computer to use away from the office and started unwinding with reading and aerobics. Northwestern University professor Jeanne Brett and her colleague Sara Yogev say women like Silver are often more able to cope with such conflicts than their male counterparts. The pair recently completed a study of 86 upper-middle-class working couples with kids. They studied the differences in the stress levels of men and women when faced with the prospect of restructuring their jobs to accommodate children. The women surveyed cut down on hours and travel and made more sacrifices than their husbands but seemed to take the changes in stride. The men, on the other hand, made fewer changes but had difficulty managing the conflict.

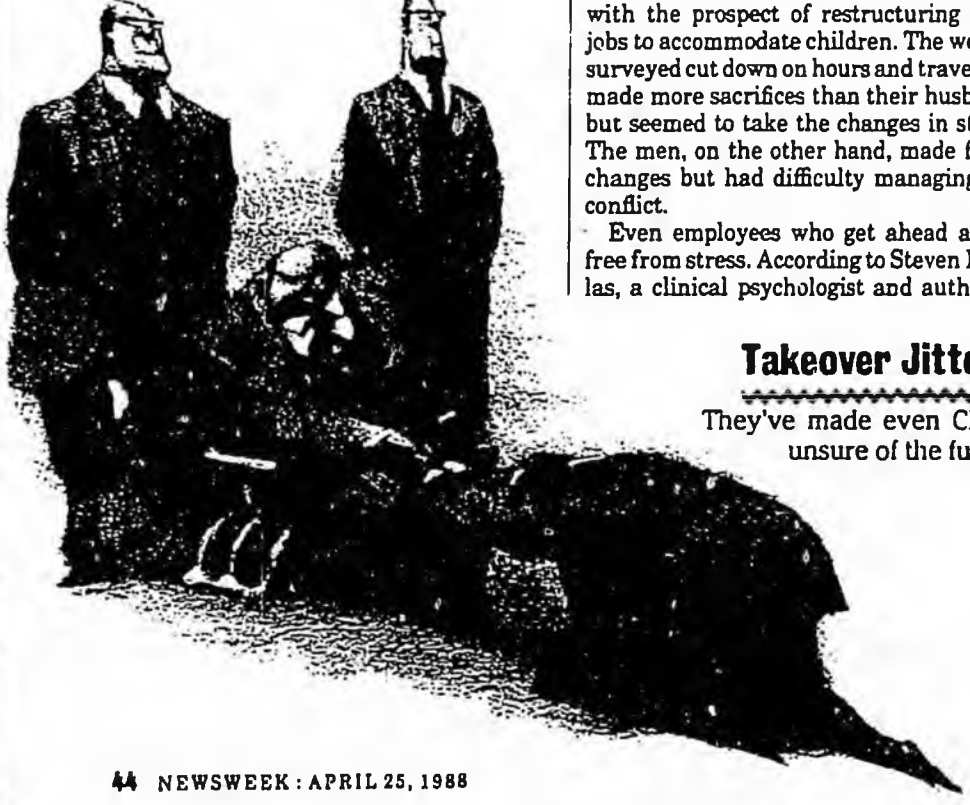
Even employees who get ahead aren't free from stress. According to Steven Berglas, a clinical psychologist and author of "The Success Syndrome," period following a promot can be intensely angst-rid Many driven careerists "successful failures" who basically unhappy and that achievements only ad their sense of burden. T tend to have difficulty trans ing business success into sonal rewards. One Bos workaholic came to Berglas cause he regretted sacrific his family for his business suggested that he start by go to church with his famil Berglas recalls. "But instea sitting in the pew with his w he became a deacon. Again, had used success to substitute for a pers al relationship."

Can stress on the job be curtailed bef it damages morale and performance? I belated scramble to preserve their m precious resource, dozens of corporati are betting that it can. Many teach stre reduction techniques as part of more cc prehensive "wellness" programs. Th usually consist of short lectures, offe during lunch hours, on how to maint healthier diets, manage time better a stop smoking.

Psychological profile: Most effective p grams begin with a "stress audit," desig to identify sources of tension. At the Ae bics Center in Dallas, an organizati founded by exercise expert Dr. Kenne Cooper, participants fill out a 12-page p chological profile that attempts to isol the causes of their problems. Among t questions: "If I were to disagree with boss, I'd probably (a) keep it to mys (b) uncertain, (c) come out and say so." ("If I were called in by my boss, I'd (a) afraid I had done something wrong, (b) between, (c) make it a chance to ask something I want."

After analyzing the problems, comp nies take a variety of approaches to ta ling them. Cambridge Research Lab in B ton offers a class in the Oriental art of chi to help its workers blow off steam. T Long Island Lighting Co. spends $200,00 year for a biofeedback consultant. St other firms have instituted progra aimed at restoring a sense of contro employees' lives. Beth Israel Hospital Boston has launched a program that allo nurses to chart and monitor patient ca themselves, without the constant surve lance of physicians.

Laughter can also be a weapon in the w against stress. Companies like Manvil Corp., Safeway Stores and Northweste Bell Telephone have instituted "humo programs to help employees unwin Teaching workers to take their jobs le seriously is also a favorite tactic of

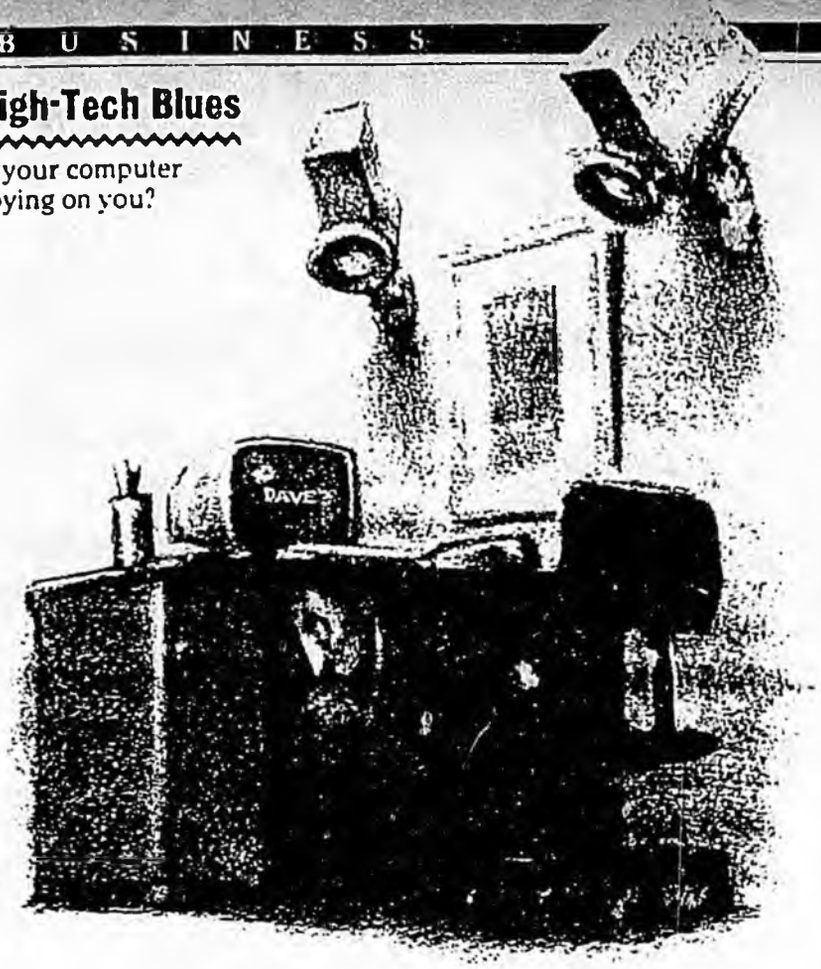


Takeover Jitters

They've made even CEO's unsure of the future

High-Tech Blues

Is your computer spying on you?



new breed of "stress consultants." One such practitioner is Dr. Steve Allen, physician and son of entertainer Steve Allen, who travels the country conducting executive workshops. In one exercise, he has managers juggle brightly colored scarves. "In laughter there is healing power," Allen says.

Inevitably, a number of enterprising companies are trying to find a market for antistress *products*. Enlighten, an Ann Arbor, Mich.-based computer-software company, has developed a program called Chuckle Pops to relieve what it calls "terminal boredom." The software allows users of IBM and IBM-compatible computers to call up a series of jokes while they work. Biodot International of Indianapolis has introduced "biodots," temperature-sensitive adhesive devices that workers can attach to their hands to determine their stress levels. The 1980s equivalent of mood rings, the dots may be far from sophisticated. But Biodot officials say they can register decreased blood flow to the extremities—a common sign of tension. Chrysler Corp. began distributing the dots this year as a way of encouraging its employees to participate in stress-management courses.

Just how well do these programs really work? Many corporations cite figures showing increased productivity. But a survey of 1,700 companies by the U.S. Department of Health and Human Services found that only 4.2 percent reported reduced health-care costs. Some experts attribute the inconclusive results to the haphazard manner in which most stress-management programs are selected and implemented. "If [corporate executives] used such bad judgment buying typewriters," asserts Pelletier of UC, San Francisco, "they'd probably never turn out a letter."

Companies can do little, experts also point out, unless workers are receptive. Dr. Herbert Benson, a cardiologist and assistant professor at Harvard Medical School, tries to encourage his patients to take advantage of the programs. He likes to invoke what's known as the Yerkes-Dodson law of job performance. Decades ago two Harvard professors, Yerkes and Dodson, conducted studies that showed that stress stimulates productivity up to a point—then causes it to fall off rapidly.

It's one thing to convince workers that stress is harmful; it's another to help them recognize signs in their own behavior. Dr. Daniel Macken, a cardiologist who counsels stress sufferers, uses business terms to paint the picture. He compares patients to depreciating assets. "If you blow it by continuing habits that are not healthy," he says, "you are becoming a very expensive commodity to your corporation."

'Imaging' techniques: For employees who want to learn how to decompress, experts recommend several forms of relief. Allen Elkin, program director for Stresscare, suggests abdominal breathing, meditation and "imaging" (conjuring up mental pictures that convey warmth, for example). He also recommends "perceptual restructuring"—a fancy term for not sweating the small stuff. When it comes to dealing with daily obstacles, he says, "we have a tendency toward catastrophizing and awfulizing."

How well workers deal with stress may also depend on how honest they are with themselves. Karen Ivory, a 30-year-old former TV producer, has learned the lesson only too well. A natural at her job, Ivory rose quickly through stations in smaller markets like St. Louis and Philadelphia. Then she landed a job with WCBS-TV in New York. The work was exciting, but agonizing. In the control room during broadcasts, Ivory was consumed with fear that a live remote would go dead or a show would run too long. Finally, one winter day in 1986, she took charge of her life. She left New York, trading her network career for a more tranquil life in public relations at a small Pennsylvania college. She may have mastered perhaps the most overlooked stress-management tool of all: knowing when to walk away. Not all of us can quit so easily. But with the help of counseling and common sense, we can learn when to fight back, when to walk away from office problems—and when not to sweat the small stuff.

ANNETTA MILLER *with* KAREN SPRINGEN *in Chicago,* JEANNE GORDON *in Los Angeles,* ANDREW MURR *in Atlanta,* BOB COHN *in Washington and* LISA DREW *and* TODD BARRETT *in New York*

JAMES D. WILSON—NEWSWEEK

Susan Silver

Real-Estate Broker

Symptoms: After years of scrambling to launch her own firm, she had become an anxiety-ridden workaholic.

Response: She cut her hours, bought a lap-top computer to use away from the office and started unwinding with reading and aerobics.

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STUART A. ROBERTSON, F.S.A.
CHAIRMAN EMERITUS

April 25, 1988

Representative John Sund
P.O. Box V
State Capitol
Juneau, Alaska 99811

Dear Representative Sund:

Milliman and Robertson, Inc. (M&R) was retained by the House Judiciary Committee to conduct an analysis of the latest version of Senate Bill 322 (i.e., as of April 20, 1988) and to evaluate the potential impact on workers' compensation insurance rates in Alaska. This letter presents the results of our analysis.

1. Estimated Impact on Cost Levels

We estimate that the proposed law will reduce benefit costs by slightly more than 6%, relative to current benefit levels. Table 1 below shows how this reduction was estimated.

TABLE 1: ESTIMATED CHANGE IN BENEFIT COSTS

	Fatal	Permanent Total	Permanent Partial Temporary	Permanent Partial Award	Temporary Total	Medical	Total
A: Cost under Current Law	3.0%	13.4%	20.1%	30.1%	5.1%	28.3%	100.0%
Proposed Law Change							
B: Revision to PP Award	1.000	1.000	1.000	0.867	1.000	1.000	
C: Weekly Benefit Maximum	0.996	0.999	1.000	1.000	0.995	1.000	
D: Out-of-State Claimants	0.950	0.950	0.950	1.000	0.950	1.000	
E: Overall Impact (BxCxD)	0.946	0.949	0.950	0.867	0.945	1.000	
F: Cost Under Proposed Law (AxE)	2.8%	12.7%	19.1%	26.1%	4.8%	28.3%	93.8%

As can be seen on Table 1, our estimates explicitly recognize the impact on costs of three provisions of the proposed law; i.e.,

1. The revised method by which permanent partial awards are to be calculated using the American Medical Association (AMA) disability guides and the whole man concept.

2. The reduction of the maximum weekly benefit to $700.

3. The reduction in benefits to out-of-state claimants to recognize higher living costs in Alaska.

In addition to these three "hard dollar" provisions, we believe there are many "soft dollar" provisions of the proposed law that have the potential to significantly impact costs. For example, strict adherence to the letter and spirit of the administrative provisions of the proposed law, emphasis on workplace safety, successful implementation of the "independent medical evaluation" concept, and effective implementation of more stringent controls on the vocational rehabilitation program should result in additional efficiencies. On the other hand, there are some aspects of the proposed law that could have a negative impact on costs. For example, under current law many claimants settle for a lump sum with a compromise and release agreement. Under the proposed law, permanent partial cases are to be automatically settled with a lump sum without the need for a compromise and release agreement. It appears that under the new law there is the potential for greater frequency of reopenings.

We were able to obtain data to estimate the likely magnitude of the "hard dollar" savings. In addition, our judgments of these savings were influenced by potential "soft dollar" savings. However, we believe there is the potential for significant "soft dollar" savings beyond those anticipated in our estimates, provided the proposed reforms are fully and successfully implemented.

2. Impact on Rate Levels

If current rate levels are adequate, we estimate that the proposed law would justify an overall rate reduction of 6%. However, the following should be recognized:

1. Our earlier analysis conducted for the Alaska Department of Insurance indicated that current rate levels may be inadequate; i.e., insufficient to sustain costs under the current benefit structure.

2. We believe that there is a general perception within the insurance industry that the current rate level in Alaska is inadequate.

3. While the proposed law will reduce costs in the short term, it is likely that costs will begin to rise again before the January 1, 1990 rate reduction

expiration date, due to medical inflation and the long-term trends towards greater benefit utilization.

The proposed law mandates a temporary rate reduction for the period July 1, 1988 through January 1, 1990 of at least 6%. It is not clear to us if the proposed law anticipates a rate freeze at 6% below current levels, or that any subsequent rate filing must reflect a 6% offset to recognize the proposed law.

We would advise strongly against implementing a rate freeze for a number of reasons:

1. Given the perception of current rate inadequacy, a rate freeze may precipitate market availability problems.

2. We believe it is in the long-term interests of all parties that rates reflect costs. Major problems have developed in states that have not adhered to this principle (e.g., Maine).

3. Rate reviews will measure the impact of all aspects of the proposed law as actual losses under the new law emerge. Frequent review will enable any required adjustments to rates and, if necessary, to administrative procedures, statutory provisions, etc., to be implemented before a crisis develops.

4. We believe there is the potential for savings significantly in excess of 6% if certain of the administrative provisions of the proposed law are successfully and strictly implemented. If such savings materialize, they should be reflected in the rates as soon as possible.

We suggest that the proposed law be revised to include an immediate reduction of rates of at least 6%, and a provision specifying that future rate filings (e.g., after December 31, 1988) must fully reflect the impact of the new law. This latter requirement should not be limited to the period July 1, 1988 through January 1, 1990. We would anticipate that the original estimated impact on costs of 6% would be gradually revised in future rate filings as actual data becomes available.

To assure that subsequent rate filings do fully reflect the impact of the new law, the Department of Insurance may want to consider special reporting requirements and enhanced actuarial analyses pertaining to emergence of costs under the new law.

We also note that the term "rate" used in the proposed law is somewhat ambiguous. It is not clear if the drafters mean the overall Statewide rate level or the rate charged each individual insured.

3. Estimated Impact on Benefits

As can be seen on Table 1, permanent partial award benefits are the most affected by the proposed law.

Permanent partial award benefits are typically paid to a partially disabled worker who has recovered sufficiently to return to work. The benefit is intended to compensate for loss of work ability and future earning capacity, and is paid in addition to temporary total benefits.

Exhibit 1 provides a comparison of estimated benefits under the current and the proposed law for "average" cases of different injuries.

4. Assigned Risk Surcharge

Although not part of the current version of SB322 provided to us for analysis, we have been provided with a proposed revision impacting the assigned risk surcharge; i.e.,

"(c) An insurer may not impose a surcharge for assigned risk pool insurance unless the insured has received an experience modification debit. After the insured has received an experience modification debit, the insured may impose a surcharge if the percentage of the surcharge does not exceed the percentage applied as an experience modification debit or 25 percent of the premium developed after application of the experience modification factor, whichever is less."

While we have not had time to request data to analyze this proposal in detail, we have the following comments.

The proposal is likely to lead to a reduction of premium collected for assigned risks. This is because of small risks and new risks with poor loss potential do not have enough credible experience to produce a high experience rate modification. For these risks, the new law could substantially reduce the effective assigned risk surcharge from the current value of 20%.

Any reduction in assigned risk premiums will partially offset the indicated cost savings of 6%. For example, assume that assigned risks currently account of 15% of the total earned premium. Further assume that the proposal reduces the effective surcharge from 20% to 15%. The resulting overall statewide premium will then be reduced by about 0.6%. Thus, only 5.4%, rather than 6%, is available for an overall rate reduction.

In any case it should be recognized that reductions in assigned risk premium levels can only be accomplished at the expense of the voluntary market.

Before changing the assigned risk surcharges and risking

market dislocations, we recommend further study of relative rate adequacy of the assigned risk pool versus the voluntary market. This analysis should be extended to include the various segments of the assigned risk pool in which problems are perceived to exist (e.g., small risks, new risks, etc.). We therefore suggest postponing revision of the assigned risk surcharge at this time.

Methodology

This analysis is an extension of our earlier study for the Alaska Department of Insurance described in our report "Cost Analysis of the Alaska Workers' Compensation Program" dated February 10, 1988.

Our cost estimates are based on a modified version of the model developed by the National Council of Compensation Insurance (NCCI). The NCCI model was based on both countrywide and Alaska data. We have modified the model to reflect additional local Alaska data available from the Alaska Workers Compensation Insurance Handling System and also from the NCCI unit statistical plan for Alaska.

All the data was accepted for analysis without audit.

Variability

The proposed law represents a very significant revision to the Alaska workers compensation program. It must be recognized that there is significant variability in any actuarial estimate of future workers' compensation costs, and that variation from the estimates presented in this report are likely.

We welcome the opportunity to discuss this analysis in greater detail as the need arises.

Sincerely,

Michael McMurray /s

Michael A. McMurray, F.C.A.S., M.A.A.A.

Mark Crawshaw

Mark Crawshaw, F.C.A.S., M.A.A.A.

File: SOA Date: 04/25/88 07:36:16
Title: Alaska Workers Compensation
Estimated Average Permanent Partial Awards Under Current Law And Under SB 322 (As Of April 20, 1988

	SCHEDULED MINOR PP	(1) Average % Loss	(2) AMA Rating	(3) Estimated PP Award Under Current Law	(4) Estimated PP Award Under Proposed Law
Thumb:	1 Phalange	100	16.0	$8,132	$21,600
	2 or more	100	22.0	12,625	29,700
	Loss of Use	25	4.0	4,197	5,400
Ind Finger:	1 Phalange	100	6.0	4,525	8,100
	2 or more	100	12.5	7,476	16,875
	Loss of Use	32	3.2	2,951	4,320
Mid Finger:	1 Phalange	100	5.0	2,918	6,750
	2 or more	100	7.5	4,853	10,125
	Loss of Use	29	2.4	1,705	3,240
Ring Finger:	1 Phalange	100	3.0	2,853	4,050
	2 or more	100	4.5	4,296	6,075
	Loss of Use	31	1.6	1,836	2,160
Litt Finger:	1 Phalange	100	1.0	1,148	1,350
	2 or more	100	2.5	2,099	3,375
	Loss of Use	36	0.8	820	1,080
Great Toe:	1 Phalange	100	4.0	4,164	5,400
	2 or more	100	6.5	6,460	8,775
	Loss of Use	26	1.6	2,230	2,160
Other Toes:	Disenbarment	100	0.8	2,328	1,080
	Loss of Use	29	0.0	754	250
Other:	Hearing: One Ear	6	2.0	6,066	2,700
	Arm	13	8.0	11,936	10,800
	Hand	13	7.0	9,050	9,450
	Leg	18	8.0	10,334	6,750
	Foot	13	4.0	7,378	5,400
	Eye	15	4.0	6,886	5,400
	Hearing: Both Ears	17	6.0	11,149	8,100
	AVERAGE - ALL INJURIES			$6,690	$6,515

File: 80A Date: 04/25/88 07:36:16
Title: Alaska Workers Compensation
Estimated Average Permanent Partial Awards Under Current Law And Under SB 322 (As Of April 20, 1988

UNSCHEDULED MINOR PP	(1) Average % Loss	(2) AMA Rating	(3) Estimated PP Award Under Current Law	(4) Estimated PP Award Under Proposed Law
Head	6	4.8	N/A	$6,480
Back	10	8.0	N/A	10,800
Hernia	7	5.6	N/A	7,560
Heart Attack	12	9.6	N/A	12,960
Neck	11	8.8	N/A	11,880
Mental	11	8.8	N/A	11,880
Multiple Injuries	11	8.8	N/A	11,880
Other General	8	6.4	N/A	8,640
AVERAGE - ALL INJURIES			$14,049	$10,379

File: BOA Date: 04/25/88 07:36:16
Title: Alaska Workers Compensation
Estimated Average Permanent Partial Awards Under Current Law And Under SB 322 (As Of April 20, 1988

	SCHEDULED MAJOR PP	(1) Average % Loss	(2) AMA Rating	(3) Estimated PP Award Under Current Law	(4) Estimated PP Award Under Proposed Law
Arm:	Above Elbow	100	58.5	$53,580	$78,975
	Below Elbow	100	55.5	53,580	74,925
	Loss of Use	53	25.6	42,202	34,560
Hand:	Dismemberment	100	54.0	41,710	72,900
	Loss of Use	56	24.0	33,611	32,400
Leg:	Above Knee	100	38.0	49,383	51,300
	Below Knee	100	32.0	49,383	43,200
	Loss of Use	53	16.8	38,038	22,680
Foot:	Dismemberment	100	28.0	36,234	37,800
	Loss of Use	51	11.2	26,430	15,120
Eye:	Enucleation	100	24.0	29,135	32,400
	Loss of Use	88	16.8	27,413	22,680
Other:	Hearing: Both Ears	57	20.0	30,233	27,000
	AVERAGE - ALL INJURIES			$35,414	$28,147

File: BOA Date: 04/25/88 07136116
Title: Alaska Workers Compensation
Estimated Average Permanent Partial Awards Under Current
Law And Under SB 322 (As Of April 20, 1988

UNSCHEDULED MAJOR PP	(1) Average % Loss	(2) AMA Rating	(3) Estimated PP Award Under Current Law	(4) Estimated PP Award Under Proposed Law
Head	46	34.0	N/A	$49,680
Back	41	32.8	N/A	44,280
Hernia	53	42.4	N/A	57,240
Heart Attack	46	36.8	N/A	49,680
Neck	40	32.0	N/A	43,200
Mental	45	36.0	N/A	48,600
Multiple Injuries	47	37.6	N/A	50,760
Other General	44	35.2	N/A	47,520
AVERAGE - ALL INJURIES			$51,113	$46,633

DAVE GOTTSTEIN

04/12/88

Members of the House Judiciary Committee;

As you know the house Labor & Commerce Committee recently passed their version of the workers compensation reform package. Although the labor management task force that made most of the recommendations endorses the bulk of the legislation, we strongly feel there now exists some significant limitations and deficiencies in the legislation in the form it now takes. We would like to address those with you and ask that you strongly consider curing the problems.

Our first concern is with Sec.2 21.89.015. This section attempts to give benefit to those who have safety programs in place. We feel this is an admirable idea, but that the legislation as currently drafted, will have little or no real effect. For this program to work, it will require that every employer looking for savings have a safety inspection, every year. This is likely to be very expensive, and won't necessarily insure low injury rates. Fortunately there already exists incentives for employers not in the assigned risk pool to provide safe work places as safety practices ultimately reduce costs and therefore premium rates. For thoses in the assigned risk pool however, that logical system breakes down. We would recommend to the commitee that they strongly consider placing participants in the assigned risk pool into one of two pricing categories. Those first entering the pool would be charged according to appropriate industry higher risk rates. However, after three years of experience, employer premium charges should be modified to reflect their own history of injuries. Unsafe employer rates would go up, and safe employer rates would go down.

We are most concerned about changes to Section 18 23.30.095 (k) as it corrupts our attempts to install an effective IME process that results in an informed board making informed decisions. We feel it is critical that the board have wide latitude in obtaining outside expertise in critical medical information. This section, as passed by Labor & Commerce in an attempt to satisfy the chiropractic community, requires that the boards chosen IME be of the same specialty as the attending physician unless the board unanimously determines otherwise. There are several siginificant problems that are inherent with this approach. First of all the board, generally all being non-medical professionals, often asks that a panel of experts of varied professions, including medical doctors, orthopedic surgeons, psychiatrists, chiropractors, etc., counsel them on the physical and mental status of individuals. Limiting them to only specialties of the attending physician greatly limits their ability to gain the widest possible perspective in making decisions in complicated areas outside of their own expertise. The Labor & Commerce approach would suggest that less information is better than more. We know how this would directly benefit individual medical providers, but we don't see how this could possibly be to the benefit of the injured worker.

Secondly, for anyone familiar with professional people, there is a reluctance to challenge brother professionals. By limiting only to

an attending physicians specialty negates a large portion of the effective review process the task force had in mind. We all felt strongly that a medical provider would take greater care in evaluating a patients needs if they knew there was the potential for scrutiny down the road by a non "club" member. It was felt the board needed the flexibility to select, on a case by case basis, the profession, or professions, it felt it needed help from in order to make informed decisions. Our approach does not limit the board from using the same profession as the attending physician for its IME, it just expands it. The critical thing to remember about the IME process as envisioned by the task force was that the IME would only advise on the physical and mental condition of a patient, and the appropriate medical treatment to be persued. It is not the boards responsibility to admonish a medical provider for a prior course of treatment.

Finally it seems odd to us that if the Labor & Commerce Committee felt that the attending physician should be protected from outside scrutiny, which we think is off the mark from the issue at hand, that it do so by requiring a unanimous vote on behalf of the board to change professions. First it points to a weakness certain professions must feel about their own positions if they need a unanimous vote to allow for objective review. Secondly, and perhaps a bit philosophically, if you think of it, where else in our democracy do we require a unaminous vote, with no opportunuty for challenge. Not in making changes to our constitution, not in setting death as the penalty for certain crimes, not even in going to war. Not in anything but whether a workers compensation board in Alaska has the authority to expand the scope of information it has available to it in trying to make it's determinations, if the House Labor & Commerce committee has its way. We would strongly recommend that consideration be given to changing the language so that it is consitant with the Senate version of the bill.

I would like to make one brief comment about charges by some that this bill drastically limits the frequency and lenghth of medical care. Let me make a categorical and definitive statement in order to set at rest many fears brought about by all sorts of scare tactic misinformation. SB322 requires the employer to provide complete lifetime medical care to an injured worker for as long as that care promotes recovery, whatever the frequency.

Another area management has a problem in is section 27, 23.30.155(m). It requires additional information regarding the cost of workers compensation. We do not generally have a problem with this section except when it comes to defense attorney fees and expenses. All the other information is pertinent to determining the cost effectiveness of the system. It seems highly inappropriate though to require the reporting of defense costs. The reason claimant costs are gathered is because someone other than the claimant pays for them. We should not give a blank check to anyone to spend somebody elses money. However, since in most cases the burdon of proof lies with the defendent, the greatest legal costs are usually incurred by the defendents. It seems to us an ominous threat to suggest that there be limits or standards on how much someone can spend in their own defense. This is not to say that abuses in frivolity should not be

scrutinized and dealt with accordingly. However, for example a firm may decide to spend hundreds of thousands of dollars to defend a case it views as precedent setting in which a loss could ultimately cost millions of dollars. We believe this specific language gets off the mark of what is truly important and appropriate. We would recommend deleting the language regarding legal and litigation costs as they would apply to employers or insurers.

I know some of you have some thoughts about how strict the mental stress section of the bill is. Let me first say that this ominous and frightening cost element has the potential of making our current crisis look cheap. Not dealing with this area at this time, given the trend of what is happening across the country, would be like wishing away the ozone depletion problem. The task force felt that in order to be able to guarantee the other benefits we all felt were so important to maintain, we had to clearly define for the courts how stress could be addressed fairly and affordably. Both labor and management feel that the bill fairly and appropriately compensates for unusual work related stress.

Finally, there is one more change to the bill that may need to be addressed. It involves the cost of Permanent Partial Disability payments. The set of goals outlined by the task force when it crafted this section of the proposal was to break even on the cost of PPD payments, and to shift the payments somewhat from the least to the most injured workers, while not affecting the lower levels too negatively. We thought we had accomplished those goals. It appears now however that we went too far. In otherwords by raising the maximum benefit from $60,000 to $240,000, we wound up raising the cost of the PPD section signigicantly, and lowering the low injury benefits too much. It is obvious that an adjustment will have to be made here if we are to go to the whole man concept that the task force has embraced as a more progressive approach. If we can't come to terms on a new formula, we may have to abandon our hopes of solving the PPD problems this year. Milliman & Robertson has been retained to develop and cost out a new formulation, and we hope to have a fix to this problem in a day or two.

I don't have to remind you that we are currently in a cost crisis. The purpose of the Labor-Management Task Force on Workers' Compensaiton was to find a way to cut costs in a way that remains fair to the injured worker, and promotes recovery. Assuming we resolve the issue I mentioned, we believe we have accomplished that. The Labor & Commerce bill, along with the changes I have recommended, will get the bill back into a balance that most thought was not possible to accomplish.

Thank you for the opportunity to present our views.

David Gottstein

APR 12 1988

Pursuant to Rep. Navarre's request, the following is a written submission of my public testimony offered by teleconference March 24, 1988, regarding SB 322.

As set out in Section 1(a), Legislative Intent, this proposed bill is interpreted to assure quick, efficient, fair, and predictable delivery of benefits to the worker at a reasonable cost. Section 1(b) declares workers compensation laws must not be construed by the courts in FAVOR (emphasis added) of any party.

There is a recognized problem with the existing workers' compensation law, and everyone seems anxious to do something about it. However, the decision should be based on informed and complete knowledge and I feel the Legislature is not so completely informed of all facts and in their zeal to resolve the problem, they will satisfy the "quick" part of the Legislative intent, but the legislation, if passed, will not be "fair". Efficiency is apparently the streamlining of overall procedure. Fairness, however, is another matter, and without fairness, your predictability will be wrong.

Section 1(b) in essence also says, the laws must not be construed by the courts in DISfavor of any party; it therefore is a matter of equity and equality. If you fail to provide equality, you will be practicing discrimination.

Case in point. Section 14(c), lines 16 through 27 (AS 23.30.095(c)) has written into it inequality, inequity and is discriminatory by content against both the injured worker and Chiropractic physicians.

Chiropractic management of spinal injury by its nature requires the patient to submit to a program of treatment which calls for both repetitiveness and time to treat, stabilize and return the

The premise of reducing the potential frequency of Chiropractic treatments to 20 in the first 60 days may sound appealing and maybe perceived as a way to reduce the overall expenditure, but in fact will ill serve the injured worker and puts constraints on one type of primary health care provider - specifically Chiropractic - without stating so and without placing similar restraints on other primary health care providers.

Whatever the frequency of treatment, it should be determined by the physician of record - in this case the Chiropractor. It may well be less than 20 visits in 60 days, but may just as well be more than 20. This is determined by a combination of factors, the severity of the injury, availability of the patient for care and the patient's response to care.

It is known fact that the majority of care is condensed and provided within the first 60-90 day period, when the patient's symptoms are at their worst.

During my two terms as President of the Alaska Chiropractic Society and twice Chairman of the Peer Review Committee, the question of over-utilization of care or abuse seldom presented itself. During this time, I testified before the W.C. Board and meet on occasion with the WCCA. While in testimony before the WC Board, it was first brought to my attention concerning utilization abuse in that a Chiropractor had rendered 390 treatments in a two-year period of time. Also during this presentation, it was

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

APR 12 1988

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Chiropractic management of spinal injury by its nature requires the patient to submit to a program of treatment which calls for both repetitiveness and time to treat, stabilize and return the

worker to pre-injury status, giving some assurance that the worker does not have to fear re-involvement. Doctors of Chiropractic do not dispense drugs and Chiropractors do not perform irreversible spinal surgeries which are both very expensive to the program and fail with great regularity and in the process contributes greatly to the costs of temporary total and permanent partial disabilities.

Statistical information which has been compiled which compares the effectiveness and cost of Chiropractic management when compared to medical management of similar worker's back injuries, clearly shows that workers' disability time, compensatable time loss and overall treatment costs were half of that of the medical practitioners.

This information is and has been, disregarded by insurance underwriters, the WCCA, and apparently, the Legislature thus far. It is readily available from the offering authorities, the Department of Labor and Industries or Department of Worker's Compensation in the States of Oregon, California, Montana, Wisconsin, Florida, and Kansas.

Chiropractic care is simply more effective and less costly than any alternative mode of treatment for spinal injury and I am certainly in opposition and resistant to any change which would lessen the opportunity for the injured worker get well quicker, to save the State money, and to allow the practice of Chiropractic to function and provide its services unimpeded.

The premise of reducing the potential frequency of Chiropractic treatments to 20 in the first 60 days may sound appealing and maybe perceived as a way to reduce the overall expenditure, but in fact will ill serve the injured worker and puts constraints on one type of primary health care provider - specifically Chiropractic - without stating so and without placing similar restraints on other primary health care providers.

Whatever the frequency of treatment, it should be determined by the physician of record - in this case the Chiropractor. It may well be less than 20 visits in 60 days, but may just as well be more than 20. This is determined by a combination of factors, the severity of the injury, availability of the patient for care and the patient's response to care.

It is known fact that the majority of care is condensed and provided within the first 60-90 day period, when the patient's symptoms are at their worst.

During my two terms as President of the Alaska Chiropractic Society and twice Chairman of the Peer Review Committee, the question of over-utilization of care or abuse seldom presented itself. During this time, I testified before the W.C. Board and meet on occasion with the WCCA. While in testimony before the WC Board, it was first brought to my attention concerning utilization abuse in that a Chiropractor had rendered 390 treatments in a two-year period of time. Also during this presentation, it was

noted that there were abuses in 2%-3% of all claims treated by Chiropractors.

Very recently, a speaker for the current WCCA and contributor and promoter of the current legislative changes told me he was shown by a past WC Board member a case in which a Chiropractor had billed for 400 treatments in a two-year period of time. I suggest that both examples were one in the same. Perhaps you have been made aware of this one example, also.

On the positive side, 97% to 98% of all claims filed by all Chiropractors were deemed non-abusive. If the non-abusive cases were broken down, I believe you would find that in the majority of cases there were in excess of twenty treatments rendered in the first sixty days. Therefore, the concept of forcing Chiropractors to render less service when the injured worker most needs treatment, is unfair to the patient population and inequitable to the injured worker and compromises the Chiropractor's authority to render services to match the injury in most cases.

I do not condone abuses or excessive treatments as it would apply to any Chiropractor or any other healing discipline, but to put the example being touted into perspective, 400 treatments x $30.00 per treatment is equal to $12,000 or the equivalent of one back surgery.

I am hopeful that you will look long and hard at the facts before you support the proposed changes in this Section.

Section 15(e), line 3, line 6-14, page 16 (AS 23.30.095(e).

The issue of IME's has long been a concern of all parties involved with workers' compensation cases.

There are basically five specialties who treat back injuries. Four are medically-orientated: orthopedists, neurologists, osteopaths, and psychiatrists/psychologists, and then there are Chiropractors.

The patient, however, may enter the system by first visiting his/her general medical practitioner, who may initiate conservative care in the form of medication and bedrest for symptomatic palliative care and/or refer the patient to one of the specialties.

It is a known fact, no matter how unfortunate, that legislators, the public, and medical providers do not understand exactly what it is that Chiropractors do, nor why they do what they do, and why they are successful at what they do. This is particularly true of the medical physicians and, apparently, the insurance companies. They do not want to recognize the Chiropractic profession and have advertised their opinions over the years to anyone they felt they could influence. The medical profession has been caught in their efforts to influence others and has successfully been sued in the Seventh Circuit Court of Appeals in Chicago and found guilty of anti-trust and restraint of trade for amongst other things, opinion peddling by making false and

malicious statements to influence public opinion about the Chiropractic profession, its abilities, and its effectiveness of treatment and professional education.

I bring this into my testimony at this point to illustrate that unless you have had the benefit of a first-hand experience with a Chiropractor, your opinion, like those of your colleagues and those of the authors of this proposed legislation, is based on acquired opinion, rather than acquired knowledge.

I was glad to see the clarification of the language which exposes the term "employer" to reveal that the employer is really the insurance underwriter or insurance adjustor, those entities whose business it is to protect the premiums paid by the real employers and that it is they who request the IME.

So when the adjustor requests an IME, they are hypothetically doing so to acquire a truly independent evaluation of the current status of the injured worker. That in itself is fine, but here lies the fallacy of the IME concerning patients of Chiropractic. The standard, written request which accompanies the worker also asks the medical, and I stress <u>medical</u>, examiner to comment on current therapy and the necessity of continued current therapy in his recommendations. The adjustor knows full well that when a patient of a Chiropractor is sent to most medical specialists for an IME, the response is nearly, always the same and predictable and states that Chiropractic therapy is, or was ineffective and should be discontinued or needs no further Chiropractic care.

This prejudicial opinion allows the adjustor to immediately controvert - with cause - any further treatment by the attending Chiropractor and stops further benefits to the worker. At this point, if the worker maintains he is still injured, will request another, hopefully favorable IME to substantiate his claim for continued benefits.

I can testify that in my sixteen-plus years in practice in Alaska, dozens of my patients have had IME's done by medical physicians and only on one occasion did the examiner remand the patient for continuation of treatment for thirty days after which he said the patient would be well and would need no further Chiropractic therapy.

During this same period of time, I have never been requested to do an IME on the patient of a medical doctor. Why? For obvious reasons: medical patients will always be evaluated by their medical peers pure and simple. Both adjustors and medical doctors decry that Chiropractors could not possibly understand what medical doctors do and why they do it and that Chiropractors are not medically competent to render a valid opinion. So why should a medical doctor perform an IME on a Chiropractic patient?

I will reiterate to you that medics do not know what Chiropractors do, or why they do it, and are not competent to render a Chiropractic opinion.

I support an amendment to this bill which would establish a program of ICE's or Independent Chiropractic Examinations. Why shouldn't Chiropractic patients be examined by the peers of the treating Chiropractor. They are similarly trained, similarly examined by the State, and understand what it is that each other is doing, why they are doing it, and what can be expected to transpire.

Contrary to popular belief, the nemesis of the medical community is the mechanical back problem associated with the common sprain-strain complex involving the patient's neuromusculoskeletal system where as Chiropractors almost solely treat this type of injury. Chiropractors understand Chiropractic patient management procedures better than medical doctors know Chiropractic procedures, so let Chiropractors do IME's or ICE's on Chiropractic patients and please include this concept in this Bill.

An added benefit may well be appreciated in the form of additional savings. I believe that evaluations performed by Chiropractors can be performed for much less than the rates charged by medical doctors.

Lastly, I would like to address an item not found in the current proposal. There are very few statistics maintained concerning the budge breakdown - if they are available, I have never seen them.

The total cost of the worker's compensation budge for FY86 was $150 million, of that 38% was appropriate for all aspects of health care cost, of $57 million. Of this $57 million, what portion was paid directly to hospitals, to rehabilitation services, and to medical services? Of those monies paid out for medical services, how much was paid to medical providers and medical specialties, such as orthopedic surgeons, neurologists, osteopathic doctors, psychiatric or psycholcgic services, and Chiropractic doctors. By injury classification, what percentage of the injuries involved the spinal column? What portion of the medical costs were directly related to spinal injury treatment? And what percentage of that was paid to each provider group and what was the total monies paid to each group of providers?

It is precisely this type of information I would expect every legislator to know before voting on the proposed Bill, and there should be an amendment to the Bill to provide that a breakdown such as mentioned above be prepared each year for the Legislature's review.

Respectfully submitted,

DATED: 4-7-88

Jon J. Godfrey, D.C.

JON J. GODFREY, B.S., D.C.

cc: Rep. Navarre
Rep. Donley
Rep. Sund
Rep. Ulmer
Rep. Cotten
Rep. Davidson
Rep. Furnace
Alaska Chiropractic Society
Rep. Gruenberg
Rep. Barnes
Rep. Taylor
Rep. Koponen
Rep. Boucher
Rep. Ellis
Rep. Menard

WCCA CONTRIBUTORS

A & B Tool
Acme Fence
Alaska Airlines
Alaska Business Insurance
Alaska Cleaners
Alaska National Insurance
Alaska Oil Marketers Association
Alaska Pulp
Alaska Sales and Service
Alaska State Medical Association
Alaska Timber Insurance Exchange
Alyeska Air Service
Anchorage Refuse
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ARCO
Arctic Foundations
Arctic Slope Region, Inc.
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Bailey's Rent All
Carr Gottstein
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Cimarron Holdings
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D.J.'S Alaska Rentals
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Spenard Building Supply
Standard Alaska Production
Steel Fabricators
TOTE
Udelhoven
Universal Motors, Inc.
UNOCAL
Usibelli Coal
VECO

April 22, 1988

The Honorable John Sund
Chairman
Judiciary Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Chairman Sund:

The Joint Management/Labor Task Force has reviewed the committee work draft dated April 20, 1988 and would like to share our concerns and comments with you and your committee.

After your ordeal of the past month, you will probably agree that Workers' Compensation is an extremely complex issue and one to which changes in one section can result in positive or negative changes in other sections of the statute. After more than a year of analysis and negotiation, the Task Force presented a compromise bill to the Senate and House Labor and Commerce Committees which was designed to result in significant reductions in workers' compensation premiums paid by employers while at the same time increasing benefits to injured workers.

The draft presented to the House Labor and Commerce Committee had been estimated to result in a 5.7% reduction effective July 1, 1988. Due to an error in the calculations of our Task Force, we presented suggested modifications to the draft legislation on April 15, and at that time Milliman and Robertson indicated that the recommended changes--when placed in the Senate version of the bill--would result in a 6% premium reduction. The Task Force believes that the cost savings are potentially greater than that proposed, but because of the difficulty in pricing many of the sections of the bill, we believe that such savings will not be realized until future experience verifies or repudiates our opinions.

With this perspective, the Task Force has reviewed the committee work draft of April 20 to determine if the modifications will likely result in changes to the costs of the legislation or changes in the labor/management balance. For the most part, we believe that the modifications proposed will not affect prices or tip the labor/management balance. We do, however, believe that the following provisions will increase the costs of the legislation and reduce the potential savings of the bill.

1. Section 13, page 15, lines 19-23.

This section modifies our proposal to control the frequency of medical visits by establishing suggested limits which could be exceeded when documented by the physician. From 1983 to 1986, medical costs for workers' compensation increased from 23% of $75 million in costs to 37.5% of $153 million. To control this item, we attempted to deal with both the price and utilization of medical services. The proposed modification would effectively neutralize our attempt to control utilization and reduce the savings resulting therefrom.

We understand the committee's reluctance to legislate limits on medical visits, and accordingly we would propose that this section be modified to allow the Workers' Compensation Board to adopt such guidelines by regulation. In this manner the abuses could be controlled and the system would maintain the flexibility needed to react to changes in conditions and practices.

2. Section 25 and Section 26.

These sections increase the penalties associated with the failure to promptly pay compensation under the act. We understand the desire to punish employers or carriers that willfully or flagrantly fail to promply pay their claimants, but we believe that the proposed modifications are extreme and deal with a relatively insignificant problem. We are worried that such an increase in penalties in the absence of a recognized problem sends a message to the insurance industry that we are not willing to provide a mutually supportive environment for them.

We further believe that the size of the proposed penalties will lead to more controversions by employers as they attempt to avoid the penalties. We foresee this section serving to fuel further litigation as it provides an additional economic incentive to dispute and hence will drive up the costs of the system.

We would propose that the current practices remain as they currently exist except that he Board could increase the penalties to 50% when they deem that the employer or carrier flagrantly and willfully failed to pay claimants promptly. In this manner we would penalize the abusers of the system while still allowing the current penalties for tne relatively infrequent failures to pay in a timely manner.

3. Section 28, lines 23-25.

We would propose that this section be deleted as it relates to issues beyond the scope of workers' compensation.

4. Section 33(c), pages 26-27.

This section should have been removed when the permanent partial impairment schedule was reduced from $240,000 to $135,000. It was originally placed in the proposal to minimize the impact of the adjustment factors on the relatively minor injuries, but elimination of the adjustment factors removed the need for this section.

5. Section 44, page 32, lines 1-5.

We believe that the proposed modifications to the statute will result in reductions in the cost of workers' compensation and believe that the insurance industry has made a good faith effort to acknowledge those reductions when they proposed a 5.7% reduction effective July 1, 1988. We do not support a mandated roll-back since it will have little impact on the rate structure and might potentially encourage some carriers to withdraw from the Alaska workers' compensation market. We believe that a mandated rate reduction offers little long term economic gain and could cause irreparable harm to the workers' compensation insurance marketplace and consequently lead to higher, not lower costs.

We strongly support the work draft with our modifications and urge you to move the bill to the Finance Committee as quickly as possible. Your concerns and questions have been helpful and the bill is better because of the time your committee has invested in the issue. We are concerned, however, that the bill could be lost in the closing days of the session and, if so, employers and employees would be the true victims of such a consequence. For employees the legislation represents an improvement in benefits, and jobs. For employers it means a reduction in premiums and survival.

Very truly yours,

Robert Anders
Co-Chairman

Mary Pierce
Co-Chairman

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January 11, 1988

Senator Tim Kelly
Capitol Bldg., Room 101
Juneau, Alaska 99803

Dear Senator Kelly:

First of all, I would like to thank you for providing me with a copy of the draft legislation regarding the Alaska Workers' Compensation Act. I have reviewed this legislation in detail, and attached is a memorandum that I have done in regard to the changes. This memorandum was principally designed to identify the changes for myself and my clients. There are some comments as to what I perceive to be problem areas within the legislation.

As I mentioned to you on the phone quite some time ago, I am principally concerned with trying to obtain an amendment to the Act that would require disability benefits to be calculated upon the employee's wages at the time of the injury. To that effect, I have drafted a change to AS 23.30.220, which is attached. The definition of spendable weekly wage remains the same. The change is based on how to calculate the gross weekly earnings of the employee.

If the employee has worked for the employer in excess of forty weeks, his actual wages during the prior forty weeks will be divided by forty to determine his gross weekly earnings. This provision would eliminate many of the disputes that are now encountered in determining the compensation rate. In addition, the computation of disability benefits based upon the employee's wages at the time of injury would seem to more accurately reflect what the employee needs to survive on during the duration of his disability. Computing benefits in this manner would also follow the economic trends in the state of Alaska. During a down swing, benefits would drop, but during upswings, benefits would tend to increase. In addition, insurance carriers compute the premium to be paid based upon the actual wages paid.

Under the present system, it is not uncommon at all to find an employee who is making $10 an hour when he was injured receiving disability benefits that amount to $12 or $14 an hour or more. Under such a system, the employee has no economic incentive to return to work. In addition, the carrier is then faced with paying for a loss that he did not and could not anticipate when

he wrote the insurance policy.

The proposed legislation goes on to provide provisions for employees who have not worked for forty weeks, and have irregular paychecks. For those working overtime hours, the amount of overtime hours will be computed and added into the gross weekly earnings. The same is true for commissions for salesmen or other people that get paid based upon the actual amount of work performed. Monthly salaries are to be divided by 4.3 to determine the weekly wage.

The current provisions regarding minors or trainees is retained. The only difference is that there is a limitation so that the compensation rate of the employee does not exceed his actual spendable weekly wage at the time of his injury.

The current provision regarding ambulance attendants, policemen or firemen is retained.

I have inserted here the language regarding contributions by an employer to pension or profit sharing plans that was added to AS 23.30.265(15).

I do not represent any particular insurance company or adjusting company in regard to this proposed legislation. It is my own idea, and one that I have harbored for quite some time. I do believe that it will result in a more equitable situation for both the employee and the employer. In some cases, it will result in lesser benefits for the employee, but in other cases, it will result in more benefits. The major benefit that will be derived by both the employer and the employee is that there will be little room for dispute as to what the compensation rate shall be.

In order to present this concept to your committee, I would appreciate it if you could schedule me to testify to the committee for at least thirty minutes. In addition, I would appreciate the opportunity to address some other issues that are contained in the proposed amendments to the Act. If I could obtain an additional thirty minutes of time before the committee, I would certainly appreciate that opportunity. I will be available on both January 19 and 20 to testify. I will come by your Senate offices on January 18. Thank you very much for your cooperation, and if I can answer any questions or otherwise be

of help, please do not hesitate to give me a call. My home phone number is 694-9520.

Sincerely,

MASON & GRIFFIN

Robert B. Mason

RBM:mrm
Enclosures

MEMORANDUM

RE: Proposed Amendments to Workers Compensation Act

DATE: 1/11/88

This memo is intended to provide a brief overview of the significant changes in the proposed workers' compensation legislation that will be considered this session. This memo is not intended, nor does it purport to cover all aspects of the proposed changes. The section numbers referred to below refer to the sections of AS 23.30 and not the sections as identified in the Senate bill. There are several groups and committees who have reportedly drafted provisions/amendments that differ significantly from the ones presented here.

Section 1.

-- Workers' compensation cases are to be considered and decided upon the merits and the Act is NOT to be construed in favor of any party. The obvious exception to this is the presumption of compensability contained in Section 120.

-- The Board is to have virtually exclusive fact-finding responsibilities and decisions will be conclusive if supported by "any evidence."

Section 5.

-- The Department of Labor is empowered to adopt lists and procedures for selection, retention and removal of vocational rehabilitation counselors and/or physicians under Sections 41 and 95 of the Act.

Section 20.

-- If an employee makes a false statement regarding his physical condition on an employment application or questionnaire, he is not entitled to any benefits under the Workers' Compensation Act <u>if</u> the employer relied upon the false representation and that reliance was a substantial factor in hiring the employee, <u>and</u> there was a "causal connection" between the false representation and the injury. It is unclear what would constitute a substantial factor in the hiring and what would constitute a causal connection between the false representation and the injury. I would anticipate a substantial amount of litigation on these issues to determine their meaning and the result would be an application of a test to the facts in each and every case. The concept is good, but language could be

inserted in the Act to clarify the intent.

Section 40.

-- Requires the contribution to Second Injury Fund be made at the time of the report filed with the Department of Labor as required by Section 155(m).

Section 41.

-- There are substantial changes in the rehabilitation provisions within the Act. In addition, there seems to be a change in intent from "rehabilitation" to "reemployment."

-- The reemployment services administrator (RSA) has numerous responsibilities, including an annual report that is aimed at determining the cost of providing rehabilitation services. These reports should be distributed to interested parties.

-- Within 60 days of filing of the notice of injury, the employee may request an evaluation to determine whether he is eligible for reemployment benefits. The RSA will select the counselor to perform this eligibility evaluation from a rotating list which will deprive the carrier from having an input as to who they will hire for rehabilitation services. The counselor performing the eligibility evaluation is not necessarily the counselor that will provide rehabilitation services through the course of the claim.

-- The RSA has the authority to extend the 60-day period if he determines that "unusual and extenuating physical limitations of the employee preclude the employee from making a timely request." Thus, it would seem that the employee must request the rehabilitation counseling within 60 days of his injury; however, the employer can also request that such an evaluation be made. It is unclear whether the employee would waive his right to rehabilitation if he does not make the request within 60 days.

-- The eligibility evaluation is to be performed and apparently the report filed within thirty days following the initial referral. The RSA can grant an additional thirty days.

-- The employee shall be eligible for rehabilitation upon the employee's written request and if a physician determines or predicts that the employee will ultimately have physical capabilities that are less than those required to perform the job as described in the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles," for the employee's job at the time of the

injury, and for any other job that the employee has held within ten years before the injury, or employment following the injury that has been sufficient enough to establish the employee's ability to function in that labor market. Thus, the employee has to make a written request for rehabilitation, and a doctor has to determine that he has a physical impairment that will preclude him from his normal occupation or occupations that he has had in the past. This is very significant when coupled with the definition of reemployability. Further, the burden of requesting reemployment benefits lies with the employee.

-- The employee is not eligible for rehabilitation if the employer offers him a job within his physical capabilities at at least 60 percent of his "gross hourly wages at the time of injury," and there is a labor market for those skills.

-- In addition, the employee is not eligible for rehabilitation benefits if he has been previously rehabilitated in a workers' compensation claim and returned to work "in the same or similar occupation in terms of physical demands." This does not require the same occupation, but only an occupation that requires the same physical capabilities.

-- Once eligible, the employee can select his own rehabilitation specialist. If the employer disagrees with the employee's choice, and the disagreement is not resolved, then the RSA shall assign the case to a third rehabilitation specialist. The employer and employee each have one right of refusal of the counselor selected by the RSA.

-- The reemployment plan requirements are essentially the same as they were before.

-- The priority of retraining is the same as it was before.

-- Non-cooperation will result in a termination of benefits as of the date of the non-cooperation. Non-cooperation is defined to mean failure to keep appointments, maintain average grades, attend programs, maintain contact with the counselor, cooperate in developing a plan and participating in activities relating to reemployment, comply with the requirements of the plan, or comply with the request of the RSA.

-- Benefits, which presumably includes disability benefits, will not extend past two years from the date of the acceptance of the plan.

-- The employer and the employee have ten days after it has been determined he is eligible for reemployment benefits to select a rehabilitation specialist. There are no provisions to determine how this will work or what happens if the ten days lapses, or who has to make the first choice. I can see some disputes developing here, although they should not be major ones.

-- The reemployment plan must be formulated and approved by the parties within 90 days of the determination of eligibility. I feel that this 90 day requirement is going to be impossible to meet in many cases, and there are no provisions for an extension of this time. It would seem that if the parties would agree to an extension of time there would be no problem. In addition, I would suspect that the RSA could extend the time within his reasonable discretion. This 90 days would expire within the first 180 days after the injury if the other time requirements are met. In some cases, six months is not long enough for the doctors to determine what the employee's physical capabilities will be, and the Plan cannot be formulated until that is determined.

-- The plan shall be initiated when the physician determines that the employee is physically able to engage in the plan. There should be a provision for extending the 90-day limitation added to this clause.

-- If a plan cannot be agreed upon, either party may submit a plan to the RSA. The RSA shall approve or deny a plan within fourteen days after it is submitted, and within ten days of that decision, either party may seek a review of the decision by hearing pursuant to Section 110. The Board shall uphold the decision of the administrator unless there is an abuse of discretion. This puts a great deal of power in the hands of the administrator. In addition, it opens up the rehabilitation field to employee and employer oriented firms. The natural prejudices of the individual counselors involved will be hidden under the guise of impartiality, but it is quite clear to me that the battle lines will be drawn within six months. This will put too much control in the hands of one person, whose personal beliefs and philosophies can cause a great deal of dispute. The abuse of discretion standard should be changed.

-- The cost of the plan cannot exceed $10,000, which apparently does not include disability benefits.

-- If the employee becomes medically stationary before completion of the plan, the carrier will begin paying PPD as opposed to TTD. However, if PPD benefits are exhausted before the completion or termination of the reemployment plan, the employer must pay up to 60 percent of the employee's spendable weekly wages, not to exceed $525, until the plan is completed. At the end of the plan, any PPD benefits remaining unpaid shall be paid in a lump sum.

-- The fees of rehabilitation counselors are paid by the employer, and this would include the cost of the one hired by the employee, and are not included in the $10,000 limitation of the cost of the plan. Thus, in many cases, there will be three rehabilitation counselors hired to assist the employee, not

counting the eligibility evaluation.

-- There is a limitation placed upon who can perform rehabilitation work, and if he is not a rehabilitation specialist, he must be employed by a firm that is. There should be a distinction drawn between rehabilitation specialists and job developers.

-- Employability means having the ability to engage in employment that is consistent with the employee's physical capabilities, "but not necessarily the opportunity." This would mean that once the person is retrained and has marketable skills, he is employable. This definition applies only to the rehab section. Once the employee becomes employable, rehab benefits would cease, as would temporary total disability benefits.

-- Labor market means the geographical area where the employee resides, the area of last employment, the state, other states. This provision does not limit the labor market that would be used in determining the employability of the injured employee. I can foresee some difficulties and intense litigation in the case where the employee moves to an economically depressed area and says "this is my area of residence." The definition of employability does not include the opportunity, but a labor market survey in the area of residence would indicate that there are very few skills that would provide a job opportunity for the injured employee. I am not sure what was intended by defining the labor market area in this manner, and it would appear to me that this section of the Act will cause a great deal of litigation and clarification is needed.

-- Physical capacity means "objective and measurable physical traits" such as lifting, carrying, etc.

-- Physical demand means the physical requirements of the job.

-- Reemployment benefits that are limited to $10,000 would include the cost of the eligibility determination and the plan development, but would not include provider fees. It does not say this, but it is quite clear that this would also not include PPD or TTD.

-- Rehabilitation specialist is defined to mean somebody who is a "certified insurance rehabilitation specialist" or someone with equal or better qualifications, as determined by the Board.

-- Renumerative employability means having the skills to allow a worker to earn wages equivalent to at least 60 percent of the worker's wages at the time of injury. If the employment is found out of state, it shall be adjusted to reflect the difference between the average weekly wages of the two states.

It is important to note that this is a comparison of the wages after return to work to the wages at the time of injury, and not necessarily the wages used to determine the compensation rate.

Section 55.

-- Deals with the exclusive remedy provisions, which stay essentially the same. The liability of the employer is exclusive even if the employee's claim is barred because of a misrepresentation on his job application.

Section 95.

-- In regard to medical care, the employee is to designate a physician inside the state where he resides, and cannot make more than one change in his choice of attending phyicians without the written consent of the employer. Referral to a specialist is not a change. Notice of changing attending physicians will be given before the change. There is nothing in here that states the penalty or repercussions for multiple changes or failing to provide notice of a change beforehand. It must be assumed that the employee would not be entitled to have his medical benefits paid if he does not comply with the statute. If he provides notice of the change after the fact, I would assume that the employer would be responsible for medical costs after notice of the change is received.

-- Where a course of treatment requires multiple treatments of a similar nature, a claim for the cost of those treatments is not valid unless the treatments are carried out pursuant to a written plan detailed and prescribed <u>before</u> the commencement of such treatment. In addition, the plan must be signed by the physician and mailed to the employer within one week of the beginning of the treatment. Again, there are no provisions as to what happens if this is not complied with. I would assume that the employer would not have to pay for any treatment up until the time the plan is received. If the plan is not developed before the treatment starts, the employer would presumably be only liable for treatments within the plan after the plan is completed.

-- The plan must include the objectives to be reached, the frequency of the treatment, and the method, manner and means of the treatment. The treatment plan cannot include more than twenty visits within the first 60 days, or four visits a month after the first 60 days. If this is not sufficient, the physician must document the need for services in excess of the guidelines contained herein. This sounds good, but it is not going to affect long range treatment plans, particularly by chiropractors. They will simply have a standardized plan drawn up and put inside their computerized typewriters. They will be

punched out with new names and some slight changes. I suspect there will be some litigation over this issue.

-- Specific penalties and repercussions for failure to comply with the above provisions should be delineated. If not, it will require Board interpretation to determine what happens, which will result in extensive litigation.

-- The employer can request an IME no sooner than 14 days after the injury, and every thirty days thereafter. Requests for an IME shall be presumed to be reasonable, and the employee should submit to the examination without dispute. If he refuses, his rights to compensation shall be suspended until the refusal ceases.

-- Fees charged for medical treatments are currently limited to "charges that prevail in the same community." Fees will be subject to the regulation by the Board "and may not exceed usual, customary, and reasonable fees for the treatment or service in the community in which it is rendered, as determined by the Board," pursuant to the change.

-- The Board is authorized to appoint a medical services review committee or to contract with somebody to provide such services as necessary to assist and advise the board in medical issues.

-- If there is a dispute regarding causation, medical stability, degree of impairment, functional capacity, the necessity of treatment, or compensability between the employee's attending physician and an IME doctor, a second IME shall be conducted by a physician selected by the Board. The cost of such IME shall be paid by the employer. The opinion of this doctor shall "in the absence of clear and convincing objective evidence to the contrary" be presumed to be correct. In other words, the IME as directed by the Board will in essence be conclusive. I can foresee a significant battle in identifying and determining which doctor will provide the IME. The battle lines of defense and plaintiff's doctor, which already exist, will be emphasized even more with this provision. Since neither party can object to the appointment of a physician, it would appear that the Board would have a great deal of control over who should perform the IME.

-- This doctor is protected from liability, except in the case of fraud.

Section 120.

-- The presumption of compensability does not apply to mental injuries.

Section 155.

-- When benefits are controverted solely because of the last injurious exposure rule or that another employer/carrier are responsible for whatever reason, the most recent employer or insurer who is a party to the claim and who may be liable is responsible to make the TTD benefit payments until the case is resolved. Upon a final determination, reimbursement is required to the prevailing party of the benefits paid, including interest and costs and fees. This payment shall be made within 14 days of the decision.

-- The statute does not specifically provide for the payment of attorney's fees to a prior employee who is brought in by a subsequent employer. However, it is safe to assume that what is good for the goose is good for the gander, and that costs and fees will become an expense to be awarded to the prevailing employers in a last injurious exposure rule claim.

Section 155(m)

-- Provides for the filing of annual reports and a reduction in the amount of penalties assessed for late filing of reports.

Section 175

-- The maximum compensation rate has been established at $700. The minimum compensation rate, initially, may not be less than $110. However, if it is determined that the employee's spendable weekly wage is less than $110 per week, "or less than $154 per week in the case of an employee who has furnished documentary proof of the employee's wages" the minimum compensation rate will be adjusted to equal the employee's spendable weekly wages. If 80 percent of the spendable weekly wages are less than $154, the employee's compensation rate shall be $154. I am not sure why there is a distinction between wages computed to be $110 a week pursuant to Section 220 and where the employee furnishes proof of $154 a week wage. In any event, the minimum comp rate has been changed to equal the employee's actual spendable weekly wages, or if the spendable weekly wages are greater than $154, and 80 percent of that figure is less than $154, the compensation rate shall be $154.

-- Overpayments will be deducted from unpaid compensation "in the manner the Board determines." This would indicate that in each situation, if the parties cannot agree, then they must go to the Board to determine how to recover the overpayment. The 20 percent deduction, now in effect, would seem to be the appropriate method to accomplish this.

-- For injured employees who reside out of the state of Alaska, their compensation rate shall be determined by multiplying the ratio of the cost of living in that state divided by the cost of living in Alaska. In theory, if the cost of living in the state where the injured employee resides is greater than Alaska, his comp rate could be increased.

-- In any event, the minimum comp rates will apply.

Section 180.

-- The definition of permanent total disability has not changed. However, in making the determination of whether the employee is permanently and totally disabled, the labor market to be considered is the area of residence, area of last employment, and the state. This would appear to mean that the first labor market considered is where the employee is currently residing, be it in Alaska or out of Alaska. The second area to be considered, in that priority, is the area of last employment, and the third is the state of Alaska. There are no provisions to state at what point you can change priorities, and therefore, it must be assumed that it would be based upon the reasonable probabilities of obtaining employment in each separate area.

-- Inherent in this provision is the concept that you can force an employee to move to accept employment or terminate his PTD benefits. It is unclear to me as to what this particular provision in this section and other sections is intending to accomplish. It should be defined in more definite terms. Failure to meet the wage goals as established in the rehabilitation provisions, that the employee have the skills that would allow him to earn wages that equate to at least 60 percent of his wages at the time of the injury (reduced proportionately if he is residing outside the state of Alaska) does not in and of itself constitute permanent total disability.

-- I am concerned that the establishment of the priorities for the labor market in this and other sections will be interpreted by the board and/or the courts to mean that you must rehabilitate the employee so that he has skills that would allow him to return to work in his area of residence. If that cannot be accomplished, and the employee is not willing to return to his area of last employment or to relocate to another portion of Alaska or the state where he currently resides, that he will be found to be unemployable. Again, the provisions listing the labor market throughout this proposed legislation should be explained in more detail.

Section 185.

-- TTD is to be paid based on 80 percent of the employee's spendable weekly wages for a maximum of two years, "regardless of the continuance of the disability." In addition, TTD benefits will not be paid after the employee is determined to be medically stable. At that point, PPD benefits kick in.

Section 190.

-- The concept of permanent partial disability has been completely revised, and it is entirely based upon a schedule with a presumed loss of wage earning capacity. In some cases, this will greatly increase the amount of benefits one person will receive without the need for such benefits, and greatly reduce the amount of benefits that another would receive when he is in dire need of such benefits. A journeyman carpenter and an attorney will receive the exact same amount of money for the loss of an arm, where it would have little impact on the attorney's ability to return to his prior employment, while precluding the carpenter from doing so. I have always favored the idea of permanent partial disability benefits being paid based upon the actual loss of wage earning capacity suffered by the injured employee. The use of a schedule will reduce the amount of dispute and litigation stemming from permanent partial disability, but it will result in some inequity in the system, and in some cases, a severe inequity.

-- PPD is based upon a total payment of $240,000, to be multiplied by the "percentage of net permanent impairment of the whole person." The payment is to be made in a lump sum and will not be discounted for present value.

-- Net permanent impairment is determined by multiplying the actual degree of permanent impairment as determined by the AMA Guide times the adjustment factor listed in the statute. A person with a 5 percent disability of the whole person would receive no permanent partial disability benefits. The factor increases with each 5 percent of impairment by .2. Thus, an employee with a 6 percent impairment rating for the whole man would receive 1.2 percent of $240,000, or $2,880. A person with an impairment of 30 percent would receive $57,600. For any impairment in excess of 30 percent, the employee would receive that percentage times $240,000. Thus, an individual with a 31 percent disability rating would receive $74,400.

-- The AMA Guides will be used to determine the impairment rating and the impairment rating is not to be rounded off to the nearest 5 percent. The board may adopt a supplemental schedule for injuries that cannot be rated by these guidelines.

-- The minimum payment for a permanent impairment is $250.

-- The percentage of impairment as determined under this section will be reduced by the percentage of permanent impairment that existed before this compensable injury. However, this reduction of an impairment rating will not preclude finding the employee to be permanently and totally disabled.

Section 200.

-- For temporary partial disability benefits, payments will be made based upon 80 percent of the difference between the employee's spendable weekly wages before the injury and the wage-earning capacity of the employee after the injury, for a period of not more than five years. This should be changed so that you are comparing the employee's actual weekly wages before the injury to the wage-earning capacity after the injury, as has been done in other sections.

-- TPD benefits are not to be paid after the employee has reached medical stability.

-- There is a contradiction in this statute where the proposed language says that TPD benefits will not be paid for more than two years regardless of the continuance of the disability. This is inconsistent with the five year period stated above.

-- The wage earning capacity is to be determined by the actual spendable wage if that figure fairly and reasonably represents the wage earning capacity of the employee. The board may use other factors if it does not fairly and reasonably represent the wage earning capacity of the employee. This is likely to cause some dispute, and it would seem, as noted above, that the actual wages before the injury should be compared to the actual wages after the injury.

Section 220.

-- The spendable weekly wage at the time of injury is the basis for computing compensation. This would equal the gross weekly earnings minus payroll tax deductions. Gross weekly earnings are computed by dividing the gross earnings in the two prior calendar years by 100.

-- If the employee has no earnings during the two calendar years or was voluntarily absent from the labor market for 18 months or more of the two calendar years, the board shall determine the gross weekly earnings by considering the nature of the employee's work and work history, but the compensation may not exceed the employee's earnings at the time of injury. This does not mean that the gross weekly earnings cannot exceed it, it means that the compensation rate cannot exceed it. Therefore,

in cases of a declining economy, it would not be unusual for an employee to have a compensation rate that equals his actual earnings at the time of injury.

Section 225.

-- If employer contributions to a pension or profit plan have been included in determining the gross earning and the employee is receiving pension or profit sharing payments, benefits are reduced by the amount so paid or payable. The amount of this reduction may not exceed the increase in compensation benefits caused by the inclusion of these contributions.

Section 247.

-- The employer cannot discriminate against a person who has filed a claim for workers' compensation. This is not to be construed as prohibition for an employer to require the completion of a preemployment questionnaire or application regarding the prospective employee's health or disability history, so long as this document is meant to either document written notice for the Second Injury Fund or to determine whether the employee is physically capable of doing the job. This statute should go further and allow employers to require prospective employees to fill out such a form. Many employees are refusing to fill out questionnaires.

Section 265(15).

-- The definition of gross earnings has been revised to include the total amount of contributions made by an employer to a pension or profit sharing plan during the two plan years preceding the injury, multiplied by the percentage of the employee's vested interest in the plan at the time of injury.

Section 265(17).

-- Injury does not include mental stress unless it is established that the work stress was extraordinary and unusual and the work stress was a predominent cause of the mental injury. The amount of work stress shall be measured by the actual events rather than the misperceptions of the employee. Mental injury does not arise out of the course and scope of employment if it results from a disciplinary action, work evaluation, job transfer, lay off, demotion, termination or similar action taken in good faith by the employer.

Section 265(34).

-- Medical stability means that point at which further objectively measurable improvement is not reasonably expected to be achieved from additional medical care or treatment, notwithstanding the possible need for additional care for the possibility of improvement or deterioration resulting from the passage of time. Medical stability shall be presumed in the absence of objectively measurable improvement for a period of 45 days. This presumption can be overcome only by clear and convincing evidence.

1. AS 23.30.220 is repealed and reenacted to read:

Section 23.30.220. Determination of Spendable Weekly Wage. (a) The spendable weekly wage of an injured employee at the time of an injury is the basis for computing compensation. It is the employee's gross weekly earnings minus payroll tax deductions. It is the intent of the legislature that the gross weekly earnings be computed as closely as possible to reflect the actual wages the employee was earning at the time of his injury. The gross weekly earnings shall be calculated as follows:

(1) If the employee has worked for the employer for a period of time in excess of forty weeks, the gross weekly earnings will be computed by dividing the total wages and/or commissions earned and dividing by forty. In the absence of clear and convincing evidence to the contrary, this shall be the employee's gross weekly earnings.

(2) The gross weekly earnings will include wages received for overtime hours. If the employee is working overtime hours on an irregular basis, an average of such overtime hours and the corresponding wages will be used to determine his gross weekly earnings. This average will be computed by determining the number of overtime hours per week worked in the twenty weeks immediately preceding the injury. If the employee has not worked for that employer for twenty weeks, then the number of overtime hours will be determined by first the number of overtime hours worked by the person that the employee replaced, or secondly, the number of overtime hours worked by employees of the same employer in the same job function.

(3) If the employee receives commission based on sales achieved or the amount of work performed, such commissions will be included in the determination of his gross weekly earnings. The average of such commissions will be computed by determining the number of commissions received in the twenty weeks immediately preceding the injury, or if the employee has not worked for that employer for twenty weeks, by determining the reasonable amount of such commissions to be earned by the employee over a twenty week period and dividing by twenty weeks.

(4) If the employee is being paid based upon a monthly salary, regardless of whether payments are made on a weekly, bimonthly or other basis, the gross weekly earnings shall be the monthly salary divided by 4.3.

(5) If an employee when injured is a minor, an apprentice, or a trainee, as determined by the Board, whose wages absent such injury would automatically increase during the period of disability, the projected increase will be included in computing the gross weekly earnings of the employee. This increase will be limited so that the compensation rate of the employee will not exceed his actual spendable weekly wage at the time of the injury.

(6) If the employee is injured while performing duties as a voluntary ambulance attendant, policeman or fireman, the gross weekly earnings for calculating compensation shall be the minimum gross weekly earnings paid a full time ambulance attendant, policeman or fireman employed in the political subdivision where the injury occurred, or if the political subdivision has no full time ambulance attendants, policemen or fi[illegible]n, at a reasonable figure previously set by the political subdivision to make this determination, but in no case may the gross weekly earnings for calculating compensation be less than the minimum wages computed on the basis of forty hours per week.

(7) Gross weekly earnings will include the amount of contribution made by an employer to a qualified pension or profit sharing plan, to be computed on a weekly basis. The gross weekly earnings will be increased by the amount of such contribution on a weekly basis, multiplied by the percentage of the employee's vested interest in the plan at the time of injury.

(b) The Commissioner shall annually prepare formulas that shall be used to calculate an employee's spendable weekly wage on the basis of gross weekly earnings, number of dependants, marital status, and payroll tax deductions.

2. Section 23.30.225 is amended by adding a new subsection to read:

(c) If employer contributions to a qualified pension or profit sharing plan have been included in the determination of gross earnings and the employee is receiving pension or profit sharing payments, weekly compensation benefits payable under this chapter shall be reduced by the amount paid or payable to the injured worker under the plan for any week or weeks during which compensation benefits are also payable. The amount of the reduction may not in any week exceed the increase in weekly compensation benefits brought

about by the inclusion of employer contributions to a qualified pension or profit sharing plan in the determination of gross earnings.

SITKA FAMILY HEALTH CLINIC
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1 SB 322

APR 21 1988

April 12, 1988

John Sund
State of Alaska
House Judiciary Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Sund;

I am writing you regarding the newly proposed workers' compensation bill (H.B. 352/S.B. 322). I find there are a lot of difficulties with this as well as the present system that we are under. One of the provisions is to limit the number of visits for the first two months to 20 unless a treatment plan is provided. In most cases this is no problem because the number of visits in a two month period is usually substantially less than this. However, if the patient is hospitalized, this number of visits will be exceeded and I would think that a summary or hospitalization should be sufficient to supply information about what is going on. I think that the provision that has to do with forcing the worker to see the employers' doctor if requested every 2 months does constitute a way of harassing the patient.

The proposed bill would allow the patient to change physicians once. Unfortunately even now I have seen insurance companies use this to the patient's detriment. For example if I send the patient down to Seattle to have some type of orthopedic surgery done the patient should be continuing care in Sitka with me for follow up treatment. However at least two insurance companies have tried to consider surgeons either in Seattle or someplace outside of Sitka such as Ketchikan as the only treating physician so that the patient had no recourse for follow up treatment of their problem in Sitka. This situation I'm sure is common everywhere in Alaska outside of major towns which have orthopedic surgeons. Under the proposed revision of the law this could become an even more difficult problem.

I am also very negative about the practice of sending the patient down to the lower 48 for an exam by a biased group picked by the insurance company to basically give the answer that the insurance company wants. For example I recently had a patient who had been hired in a job. At the time she was hired she was free of back pain. Her job consisted of very frequent lifting. In the coarse of lifting she developed a back pain. No pre-employment back films were taken before this patient was hired and the back pain which had never been present before developed during the coarse of lifting at work. She was sent South by the insurance company to an evaluation group who in their wisdom determined that the patient had osteoarthritis and supposedly that was the reason for her back pain not the lifting which she was doing on the job. I would consider this and many other determinations basically cheating the patient out of medical care and other benefits which they were due.

If you really want to save money in workers' compensation insurance there are two areas of improvement. I know of one place that seems to consistantly hire people for heavy lifting without regard to the type of bone and muscle build that the person has. People hired for this type of lifting should have heavy bones and good musculature. No such selection is done and so as far as I know no pre-employment back films are taken. I think that it is important for companies to hire a person who is physically able to do the work if it involves heavy physical exertion of any sort.

The other problem that I see is that often workers will be injured repeatedly and a piece of equipment which is responsible for these injuries will not be fixed until two or three people have already had accidents. I think that companies that do this should be penalized and their insurance rates raised.

Yours truly,

J. Paul Lunas, M.D.

JPL/ty

cc: Judiciary Committee Members
Finance Committee Members

APR 21 1988

DATE: April 15, 1988

TO: House Judiciary Committee RE: CS, SB322 Workers' Compensation

FROM: Larry Smith, Fritz Creek, 99603, (907)235-7199, 7879

I am not associated in anyway with a labor organization, employer, or any business that profits from compensation. I am the Director of the Carpenter's Co-Op, a local group. I serve on the Bradley Lake Steering Committee established by the City of Homer and funded by the Alaska Power Authority to advise on socio-economic impacts of the project. Years ago, I served on the State Council of Carpenter's Safety Compensation Committee and as Chairman of the Anchorage Central Labor Council Industrial Safety Committee. Until his retirement in 1976, I worked with Pete Lannen, Executive Secretary/Treasurer of the State Council. Pete represented 32 workers before the Board, all of them successfully. It is no wonder that the industry caused a bill to be introduced forbidding representation except by attorneys. As Pete was the only non-attorney representing workers in those years this bill was called the Lannen Exclusion Act. What struck us was that these cases were only a small portion of many valid claims that had been rejected wrongfully, and we concluded, deliberately. I know of one questionable claim that was not only accepted, but over-paid, within days of filing. A claim by the president of a construction union local, who, ever after, could be heard advising rejected claimants that there was not point in pressing their claims against a

system that chose to err on the side of generosity. Some of these took Pete's advice instead and had their claims validated by the Board. Not one of the 32 decisions was appealed. Our impression was tha valid claims were routinely rejected to take advantage of the good and trusting nature of people unlikely to argue with a determination.

I have been a little dismayed to hear no echo from the institutional memory of the alternative which has most appealed to me since territorial days: the establishment of an exclusive state fund for workers' compensation. The experience of Alaska and other states where simple regulation of private insurance carriers is the method of choice, is grossly inferior to that of states and provinces with exclusive or partial state funds if the criteria are; the percentage of premiums that go to benefits, cost of program, and prompt and full treatment and rehabilitation of insured workers.

It may be reasonable to offer the benefits of a state fund with the option of pooling or self-insurance. We can predict the anguished whining of those who will call this unfair government competition. Hopefully, these pitiful laments will not emanate from the same sources appealing for state tax breaks and bail outs. I would a lot rather see the state administer a comprehensive not-for-profit health, welfare, workers' compensation and pension system then get us into competition with the private sector by gifts to extractive industries or their front companies.

It may be that, from time to time, a private insurance pool like the Alaska Timber Trust could compete with a state fund. Some pools for fishing vessels are pretty amazing; enclosed are the accountant's review and financial statements for the United Marine Fund. Membership requires the endorsement of three present members. The vessel owner who supplied the report paid 2/3 of the lowest non-pool alternative for identical coverage in 1987. His dividend from the pool amounted to 85% of premium. His net expense was 1/9 of the alternative. This fisherman has belonged to the pool since 1985. He anticipates a dividend in excess of premium by 1990. Past experience has been the pool paying fishermen to belong to it after five years of membership.

It is time to renew and make functional te social contract for workers' compensation. The parties to the contract have let us drift seriously off course in Alaska. The state has never made a decent effort to enforce the occupational safety code -- using standard methods of reporting compare our rate of death and serious injury with other states. The last time I read a National Safety Council report our rate for construction was 2 1/2 times the national average and 1 1/2 times the second worse state, Montana. Organized labor and business associations have failed to conduct meaningful safety programs. Safety complaints by unions are more frequently a tool used in unrelated disputes, while serious safety problems go untended. In

30 years at the carpentry trade I have rarely seen construction projects without serious, multiple code violations. There is good enforcement of the hard hat and notice posting regulations, but improperly maintained and operated heavy equipment, unshored ditches, defective scaffolding, and operating too close to powerlines is the rule. It is no accident when these gross violations produce injury and death; it is an accident that more people aren't hurt. Under the present system the insurance/medical/legal industry has no motive to reduce costs. It is hard to conceive incentives that would make the industry less immoral. Attempting to achieve the results by regulation is an enormously expensive and problematic undertaking given ability and willingness to litigate.

At the base of this pyramid of profit is the worker and his willingness to risk injury to make a living. It is profoundly correct for breadwinners to make sacrifices for their families. The exploitation of that instinct is a pervasive evil in the workplace. Made worse when work is scarce. In this boom and bust society we have trained our labor force to choose between risk and unemployment. It will take years of sustained effort to reverse the situation. To begin requires generous incentives and draconian penalties: a choice between cash bonuses or criminal sanctions. Making it worth the employers while to send a new and opposite message to employees: safety violations will cost you your job. To enforce regulations, effectively, requires something we have never come close to in Alaska:

a well-trained, well-organized, well-paid Division of Occupational Safety led by professional, not political, appointees. Code violators should pay the full cost of the enforcement effort related toa n offense. Short of making agents, lawyers, doctors take the pace of injured workers I don't know how to engage their interests in reducing the cost of patching up the job-wounded. It is surely time to reduce profits taken at the expense of too many injured breadwinners. An Alaska fund could accmplish this.

I have enclosed a chapter from the book USEFUL TOIL, edited by John Burnett, Penguin Books, 1984. On pages 286 and 287 is an account of carbon monoxide poisoning on the job that could have easily occurred in 1988 as in 1820. These days the most common temporary heat source for construction projects, hangar and shop heating and the like is a diesel burning unit that looks somewhat like a jet engine. In violation of the code these are commonly used unvented. In the construction of the new Homer High School 4 workers were hospitalized after sharing a confined space with a heater in place to warm a concrete pour. So poorly is our code enforced that forbidden hardware is readily fund for sale in Alaska's hardware stores. Stilts for drywall installation and scaffold lifts and brackets are examples. The grade of lumber required fro scaffold planks is almost impposible to come by in our lumber yards. All to the point that the code may be strict, but enforcement is all but non existant.

Larry Smith

Sirs:

As I tried To testify last Saturday the 16th of April, I became So stricken with grief and anger, I had to stop short of what I really wanted To say. That is; that the system that allow this ruthless treatment of helpless Claimants will never be free of Carriers or self insuring Corporations that profit by brutalizing harrassing and defrauding their victims.

I have seen the human suffering and despair in so many others as well as having Endured so much personally. I want to recommend again as I did in '83 to please run the Comp system as the state runs Unemployment - leaving Private Carriers out of the picture completely. let the state collect premiums and care for the disabled and adjust Claims and buy

annuities. It would be so much more humane (and lots cheaper) in the insurance game, Each claim is a Tug of War. On one side are multi million dollar Corporations - with teams of lawyers - some doctors, maybe even public officials. On the other end of the rope a helpless - confused often suffering + destitute claimant who doesn't stand a chance of being treated fairly.

No one can expect any thing of any carrier except the WORST and none of them will ever play fair when they profit by beating the claimant down completely. Please scrap the system and put the carriers out of business.

774 Smallwood
Frbks 99712

Sincerely
Diane Johnson

Anchorage, Alaska
April 13, 1988

To: Judiciary Committee
State of Alaska House of Representatives

Subject: SB 322

My name is Robert P. Clark, Jr. I am a member of Local 367 of the Plumbers and Steamfitters Union.

It is my opinion that the Insurance Industry in Alaska has mislead the joint labor and management legislative task force and the legislature by arbitrarily increasing insurance premiums on workman's compensation. I am convinced of this after learning of the major lawsuit by several state governments against several insurance companies for excess profiteering.

Admittedly the current Alaska Workers' Compensation Act needs some up-dating, however with proper enforcement of the Act we would have a better situation than if SB 322 were passed into law.

It is my recommendation that an independent audit be made of the insurance industry in Alaska and the results be made public before we decide to cut the benefits of the Alaskan worker in these inflationary times.

It is my hope that the judiciary committee and the House of Representatives will defeat SB 322 and delay amending the current law for a minimum of one year. Meanwhile obtaining more accurate information from insurance companies and more public input from injured and disabled workers. All of which should create a more livable atmosphere for employer and employee.

Thank you.

Robert P. Clark, Jr.

Robert P. Clark Jr.

NARPPS

National Association of Rehabilitation Professionals in the Private Sector

APR 21 1988

ALASKA CHAPTER

April 19, 1988

House Judiciary Committee
Representative John Sund, Chairman
Representative Max F. Gruenberg, Jr.
Representative Robin Taylor
Representative Fran Ulmer, Vice Chairman
Representative Mike Navarre
Representative Ramona Barnes
Representative Sam Cotten

RE: WORKERS' COMPENSATION REFORM LEGISLATION (SB 322)

Dear Representative:

I addressed the House Judiciary Committee during the public hearing on April 13, 1988, and I learned after my testimony that nearly all of the Committee Members had left the room prior to my testimony. Knowing now, that the Committee did not hear my comments, I am submitting a written version of my testimony and I certainly hope that you will take the time to read this.

My comments are made in behalf of the Alaska Chapter of the National Association of Rehabilitation Professionals in the Private Sector. Our Association Members consist of Nurses, Job Placement Counselors, Therapists, and Vocational Rehabilitation Counselors, who work in the private sector. As such, we have worked to a large extent within the Workers' Compensation system as service providers and we have an obvious interest in the structuring of the vocational rehabilitation provisions within that system. We have encouraged our membership to be individually active in expressing concerns and providing input and many of our members have done so. Additionally, we have attempted to poll our membership in order to define areas of common concern. We find a diversity of opinion among our membership in many areas in regard to the Workers' Compensation Bill, although there have been certain areas that have been addressed by a consensus of our members. We presented testimony to the Senate and House Labor and Commerce Committees on February 12, 1988, summarizing those findings. I will briefly reiterate those comments.

The most commonly stated area of concern focuses on the initial stages of the rehabilitation process. The Bill requires an injured

worker to submit a request for evaluation in writing within 90 days of the date of injury. Rehabilitation professionals are highly skeptical of the practicality of this. Injured workers are typically not ready or psychologically prepared to face the possibility of needing vocational rehabilitation until several months post-injury. Also, injured workers are typically not well versed in procedural matters and are dependent upon information supplied to them by adjusters, state agencies, employers, or whomever. Even when information is provided, confusion can be expected as a result of the injured workers entering into a system that seem intimidating. In short, we predict a great deal of difficulty in the early stages as a result of the proposed system. Rehabilitation providers feel that the injured worker should have the choice of whether or not to participate in vocational rehabilitation services, but that an initial evaluation should be mandatory at 90 days post-injury if it has not been done earlier. Beyond that point, at which time the worker will be more well informed of the benefit for rehabilitation, the worker should be allowed the choice of continuing with rehabilitation or not.

The eligibility criteria described in Section 10 (e) has also caused concern among our membership. According to this subsection, the physical demands representative of the employee's job at the time of injury will be extracted from the Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles for the employee's job at the time of injury and any jobs held within the last ten years. This becomes a theoretical assessment not requiring on-site job analysis of the specific job of injury and would not take into account any unique circumstances relevant to that particular job. The stipulation that all jobs held within the last ten years be considered seems arbitrary. In the practice of vocational rehabilitation as it is generally applied in the Workers' Compensation arena, employability is based upon an evaluation of the "whole person" which takes into account not only transferable work skills, but also considers such factors as other noninjury related medical or psychological factors; social, personal, and family variables; and labor market considerations. The concern of our membership is that the eligibility criteria currently listed in the Bill are based upon theoretical analysis and may not represent an actual and valid evaluation of the worker's employability. Our recommendation is that the ability to return to previous employment be evaluated according to actual on-site job analysis of that specific job. A second criteria for eligibility should a determination of whether or not the injured worker is likely to benefit from a Rehabilitation Services Plan, taking into consideration all of those factors previously indicated.

Rehabilitation providers are particularly sensitive to the need for regulatory guidelines pursuant to any statutory language. We strongly feel that the existing problems with rehabilitation result from the lack of clarity of existing statutory language. This leaves the system open for various interpretation and is a breeding ground for dispute and litigation. Whatever form the rehabilitation provisions take, we emphasize the need for very clearly stated and precise parameters defining the limits of rehabilitation. Our membership generally agrees that the proposed bill does a better job of this than the current one, but we also feel compelled to emphasize the need to expeditiously promulgate clear and precise regulations pursuant to any bill passed. We also want to emphasize the need for ongoing review and evaluation of procedures and processes within the Workers' Compensation system and we would hope that those people involved in the provision of these services become an integral part of that review process.

Sincerely,

Dennis J. Johnson, M.Ed., C.R.C., C.I.R.S.
President, Alaska NARPPS
3501 Denali Street, Suite 102
Anchorage, AK 99503
(907) 563-5014

DJJ/pjm

cc: Representatives:

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H.A. (Red) Boucher	Mike Davis
Mark Boyer	Johnny Ellis
Ka Brown	Steve Frank
Bette Cato	Walt Furnace
Virginia Collins	Peter Goll
Ben Grussendorf	Alyce Hanley
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April 20, 1988

Representative John Sund
Chairman of the House Judiciary Committee
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear John:

As you know, for many years I have represented insurance companies in various capacities, including the defense of workers' compensation claims. It is perspective gained from that experience that causes me to write. I want to emphasize that this letter is not written on behalf of any client and is intended solely as comment by an interested citizen.

I understand that the current version of the proposed workers' compensation legislation contains a provision for a mandatory rate rollback. As of this date, I understand that a 6% rollback is in the bill and there is talk of increasing the number to 10%. It is my belief that adoption of such a provision is shortsided and the result is anti-consumer in nature. Adoption of such provision will surely result in a withdrawal of many carriers from the Alaska insurance market. While some carriers will remain in the business, competition will unquestionably be reduced. At the conclusion of any mandatory rate reduction, new rates will be adopted which reflect the realities of the marketplace and that will be a marketplace that has fewer competitors.

The Division of Insurance is charged with the responsibility for reviewing proposed rates and determining if proposed rates are justifiable. That mechanism should be sufficient to insure that insurance companies are not allowed an unfair rate of return. If it is not, the Division's practices and procedures should be reviewed. I cannot understand why the legislature would consider going beyond that

regulatory process in a fashion which would almost certainly decrease competition.

A reduction of competition in the insurance markets could have sweeping ramifications. It is my belief that stiff competition among workers' compensation insurance carriers in a fairly regulated market results in better claims handling and encourages carriers to offer more attractive total insurance packages which include various types of coverage. Legislation should foster rather than undercut that type of market.

I would like to add further comments regarding a proposal to require the Workers' Compensation Board to review and approve defense attorney fees. The proposal apparently arises from the fact that the Board is required to review and approve fees charged by plaintiff's attorneys. However, a comparison between defense and plaintiff attorney fees is not appropriate in this context. It is only in rare circumstances that the plaintiff's attorney is compensated as a result of a fee agreement with his client. Rather, the insurance carrier is ordinarily required to pay the plaintiff's attorney. There is no fee agreement between the carrier and the plaintiff's attorney and thus, an independent arbiter such as the Workers' Compensation Board is required to review and approve the fee. In rare circumstances the plaintiff's attorney is paid directly by his client and the paternalistic philosophy of the Compensation Act is reflected in the provision that requires the Board to approve such a fee, apparently to insure that the plaintiff's attorney does not unfairly take advantage of the injured worker.

The defense attorney is, of course, compensated under a fee agreement negotiated between the attorney and the insurance company. There is no paternalistic philosophy embodied in the Compensation Act that would require the Board to protect the insurance company from unfair charges by the attorney. More importantly, insurance companies are sophisticated consumers of attorney services and are fully capable of negotiating reasonable fees. The economics of the insurance industry compel carriers to limit litigation costs and thus, there is already significant pressure on carriers to keep fees at a minimum.

I understand that the legislative goal in adopting new workers' compensation language is to reduce the overall costs to the system. If the Workers' Compensation Board was granted power to cut back on the amount of litigation expense incurred