

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5384 SLAB SB 322 (file 8) - (file 9)

We have enclosed alternative proposed language for the intent section.

2. It is incomprehensible that the legislature would even consider this bill unless changes are made which, according to responsible actuarial indications will save some money for employers. We have targeted an overall hard dollar savings of 15% as our goal for any meaningful legislation.

It is our understanding that the firm of Milliman and Robertson, the firm hired by the State and reporting to the Governor's Oversight Committee, is currently working on a proposed revision to the permanent partial impairment section of the bill, the section that revises 23.30.190, such that an overall savings of 15% could be realized. We urge you to include their recommendations in your bill when they become available. We understand that their work will be transmitted to Alaska in the next day or so.

3. The rehabilitation provisions, while being the area of most concern from both a cost and administrative viewpoint, is also the area where we believe inartful drafting leaves the way open to unnecessary litigation.

We have included with this letter, a proposed alternative draft of 23.30.041.

Its salient differences from the current draft are as follows:

a. Our proposal clarifies and limits the authority of the rehabilitation administrator. We do not believe it is necessary or appropriate that an essentially independent structure for rehabilitation be created in the division of workers' compensation. The rehabilitation aspects of a claim should be handled to the greatest extent possible in the context of the existing administrative adjudicatory structure, yet permitting use of specialists in the rehabilitation disciplines.

b. The procedure for obtaining initial eligibility determinations is greatly simplified. Our review indicates that the basic eligibility test in the proposed bill is a good one, but the procedure for determining the eligibility is unnecessarily complex.

c. It is vital that the formal and full evaluation process allow for the rehabilitation specialist to find that a plan may not be appropriate. Our draft includes a procedure for finding that no plan is warranted, even for those found preliminarily eligible, if the plan would not accomplish anything for the employee.

d. Another principle change deals with the process for resolving disputes over the rehabilitation plan. We are deeply concerned that the bill includes a provision giving the rehabilitation administrator absolute and non-reviewable authority to make decisions. The hearing officers who decide far more consequential issues do not have such authority.

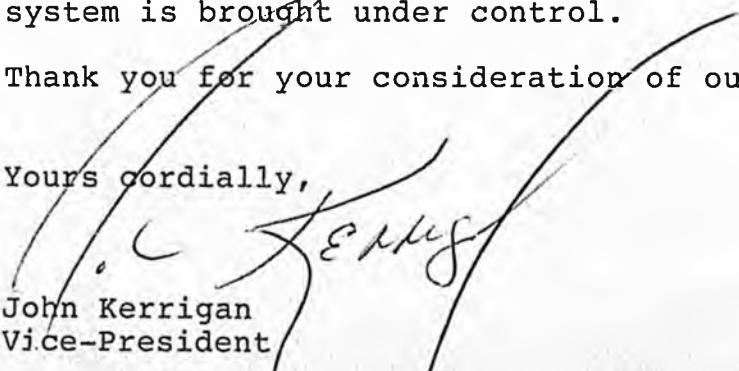
4. There is in the bill a much improved control over the medical delivery aspects of the workers' compensation system. We believe, however, that the independent medical examiner called for in the newly added 23.30.095(k) must be a medical doctor. We support the proposition that alternative health care providers should be allowed and paid for by the system to the extent they are efficacious, but the IME is called upon to make judgements that we believe ought not to be made by any of the several health care provider professionals that come under the act's definition of "physician". This one section should limit IME participation to "Doctor of Medicine".

Senator Kelly, there are several parts of the bill which we do not comment on because they are acceptable to us. In fact some are very important and if they were to be taken out would cause us to rethink our posture on the bill; the limit on stress claims, the two year limit on temporary benefits and the limits on medical costs and services are all important.

There are several changes favoring employees in the bill which were negotiated by the Ad Hoc Task Force and we are prepared to accept these changes if the overall cost of the system is brought under control.

Thank you for your consideration of our views.

Yours cordially,

  
John Kerrigan  
Vice-President

PROPOSED CHANGES TO INTENT LANGUAGE OF  
HB 352/SB322

Section 1 (b)

It is the specific intent of the legislature that the definition of rights and obligations under this act be strictly construed in accordance with the clear and unambiguous language of this act. If there is any ambiguity, it is the intent of the legislature that the act be interpreted so that there shall not be any change, extension or broadening of rights of the employees or obligations of the employers except by act of the legislature.

It is further the intent of the legislature that the system, including the process of administrative hearings for resolving factual disputes, be fair and afford due process, but expeditiously settle factual differences. Accordingly, unless specifically provided otherwise in the act, factual disputes that cannot be resolved by the weight of the evidence, should be resolved by according favor to the position of the injured worker.

PROPOSED CHANGES TO 23.30.041

23.30.041 (a) The department shall select and employ a rehabilitation administrator, who shall be a part of the Division of Workers' Compensation and who shall have such additional staff as required to carry out the purposes of this section. The rehabilitation administrator is in the partially exempt service under AS 39.25.120.

(b) The rehabilitation administrator shall implement the provisions of this section, and study the issue of rehabilitation, both physical and vocational, on a continuing basis.

(c) If an employee suffers a compensable injury that may permanently preclude an employee's return to the employee's job at the time of injury, the employee or employer may request the treating doctor of medicine or independent medical examiner selected pursuant to AS 23.30.xxx to determine what the physical capacities of the employee will be when the employee reaches medical stability. The only capacities which may be determined pursuant to this paragraph are those required to make the determinations under paragraph (d).

(d) An employee shall be eligible for a full evaluation pursuant to paragraph (f) of this section if the capacities of the employee at medical stability determined pursuant to paragraph (c) are found to be less than the physical demands as described in the United States Department of Labor's "Selected Characteristics of Occupations defined in the Dictionary of Occupational Titles" for:

- (1) the employee's occupation at the time of injury; and
- (2) other occupations that exist in the labor market that the employee has held within 10 years before the injury; and
- (3) occupations that the employee has held following the injury for a period long enough to acquire the vocational preparation required for those occupations as specified in the "Selected Characteristics of Occupations defined in the Dictionary of Occupational Titles".

(e) An employee is not eligible for an evaluation pursuant to paragraph (f) if:

- (1) the employer offers, or obtains for, employee remunerative employment the physical demands of which are not more than the physical capacities of the employee determined to exist at medical stability and the employment is in an occupation that generally exists in the labor market; or

(2) the employee has received rehabilitation benefits in connection with a prior industrial injury under this or any similar section of a Workers' Compensation Act, but, following the receipt of the benefits, was employed at the same or similar occupation as the occupation at the time of the prior injury.

(3) the employee has been paid any or all of his permanent impairment award pursuant to AS 23.30.190.

(f) When an employee is found eligible for and desires to have a full evaluation for rehabilitation the employee shall so notify the employer and the employee and the employer jointly shall select a rehabilitation specialist who shall provide a full re-employment evaluation, and, if appropriate, a complete re-employment service plan. If the employee and the employer cannot agree on a rehabilitation specialist, but not before thirty days after the employee notifies employer of his desire to have an elibility for an evaluation, either party may request the rehabilitation administrator to assign a rehabilitation specialist. The employer and the employee each have the right to reject the assignment by the rehabilitation administrator for cause and shall have the right to one pre-emptive rejection.

(g) The full evaluation and rehabilitation service plan must include the following:

(1) an inventory of the employee's technical skills, physical capacities, intellectual capacity, academic achievement, emotional condition and familial support.

(2) a determination of the occupation which the plan establishes as the goal.

(3) a finding that:

i. the occupation established as the goal for the plan is one for which adequate employment opportunity exists the labor market; and

ii. the employee's technical skills, physical capacities, intellectual capacity, academic achievement, emotional condition and familial support at commencement of the plan are such that the employee can reasonably be expected to satisfactorily complete the plan and perform in the new occupation; and,

iii. the plan can be completed within the time an cost limitations imposed by this section.

(4) a detailed description and schedule of the plan.

(5) the cost estimate of the plan including provider fees, the amount of tuition, books, tools, supplies, transportation, temporary lodging or job modification devices.

(6) the date the plan will commence.

(7) the time that the employee will be medically stable as determined by the treating doctor of medicine or independent medical examiner.

(h) [ (g) in the bill as currently drafted.]

(i) If the rehabilitation specialist finds that any one of the required findings in subsection (g) (3) is not true, then the employee shall not be entitled to a re-employment plan and the rehabilitation specialist shall provide a report to the employee and the employer stating that fact including the reasons and information upon which such finding is made.

(j) [ same as (i) in current draft of the bill.]

(k) The following time limitations shall apply to the entitlements and the obligations of this section:

(1) The reemployment plan must be scheduled so that it can be completed and the occupational goal achieved within two years from date of plan approval.

(2)-(6) [same as (2)-(6) in current draft of bill except change "reemployment services administrator" to "rehabilitation administrator" so that consistent terms are used throughout.]

(7) If the report or plan of the rehabilitation specialist is not approved by either the employer or the employee, either may petition the rehabilitation administrator for a modification of the report or plan in a manner set forth in the petition. If no petition is filed within ten days of submission of the report or plan to the employee and employer, the report or plan is deemed approved. If a petition is filed, the non filing party shall have ten days to file a response. The administrator shall conduct a pre-hearing conference with the parties to resolve differences. If the approval of both parties cannot be obtained at the pre-hearing conference, then the administrator shall prepare a report within ten days following the conference with a recommendation as to the report or plan that ought to be approved. The petition, response and report of the administrator shall be deemed the filing of a claim and notice of claim referred to in AS 23.30.110(a) and (b). The Board shall notice a hearing as provided in AS

23.30.110(c) and proceed pursuant to AS 23.30.110 to resolve the matter.

(1)-(m) [as (k)-(1) in the current bill.]

(m) In this section:

(1) [as (1) in current bill.]

(2) "labor market" means the geographic areas where the employee lived and where the employee worked at the time of injury, unless, subsequent to the date of injury, the employee permanently changed residence from Alaska to outside the state, in which case the labor market is also anywhere in the state of new residence.

(3) "physical capacities" and "physical demands" means the physical capacities and physical demands as those terms are used in the Department of Labor "Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles".

(4) [included with (3).]

(5)-(7) [as (5)-(7) in the current bill.]

(8) "occupation" means the generic classification of work as described in the Dictionary of Occupational Titles.

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2

SENATE CS FOR CS FOR HOUSE BILL NO. 177 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the second injury fund; and

7

providing for an effective date."

8

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

9

\* Section 1. AS 23.30.040(h) is amended to read:

10

(h) Administration expenses of the state under this section and

11

AS 23.30.205 must [SHALL] be paid from the second injury [GENERAL]

12

fund.

13

\* Sec. 2. This Act takes effect July 1, 1987.

WE ARE ADDING ALL OF

THIS VERSION TO THE WORKERS'

COMP BILL

Degree of Actual Impairment

Adjustment Factor

Degree of Actual Impairment

Adjustment Factor

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0.380  
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0.420  
0.440  
0.460  
0.480  
0.500  
0.520  
0.540  
0.560  
0.580  
0.600

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50% or greater

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0.700  
0.720  
0.740  
0.760  
0.780  
0.800  
0.820  
0.840  
0.860  
0.880  
0.900  
0.910  
0.920  
0.930  
0.940  
0.950  
0.960  
0.970  
0.980  
0.990  
1.000

IMPAIRMENT

50%

35%

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↓

102,800  
86,400  
58,200  
  
56,800  
57,600  
24,000  
14,400  
  
11,000

108,000  
96,000  
84,000  
  
69,800  
68,350  
32,000  
12,000  
  
11,850

SAME →

OFFICE OF THE COMMISSIONER  
Division of Insurance  
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ANCHORAGE, ALASKA 99503  
(907) 562-3626  
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TELECOPIER TRANSMITTAL SHEET

TO: JOHN RINGSTAD  
Sen. Kelley's office

FROM: PAUL FORJER  
Division of Insurance

NUMBER OF PAGES, INCLUDING TRANSMITTAL SHEET: 4

DATE: 2/19/88

TIME: 3:25 p.m.

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MILLIMAN & ROBERTSON, INC.  
CONSULTING ACTUARIES

WALTER S. BRADSHAW, F.C.I.A.  
DAVID H. GOTTSTEIN, F.C.I.A.  
JOHN F. EDWARDS, F.C.I.A.  
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CARL E. SELBY, F.C.I.A.

February 19, 1988

Mr. Paul Roller  
ALASKA DIVISION OF INSURANCE  
3601 "C" Street, Suite 722  
Anchorage, Alaska 99503

RE: MODIFIED PERMANENT PARTIAL DISABILITY AWARD SCHEDULE

Dear Paul:

M&R was requested by the Division of Insurance to test alternatives to the permanent partial disability award schedule contained in draft bills HB352 and SB322. Attached is our test alternative with the following characteristics:

1. We estimate that the attached schedule will develop approximately the same total dollars of permanent partial awards as the current Alaska workers' compensation law.
2. Combined with all other aspects of HB352 and SB322, we estimate that incorporation of the attached alternative schedule will result in an overall cost reduction of approximately 6%.
3. The proposed schedule is designed to smooth the award "adjustment factors" such that the factor becomes 1.000 at a 50% impairment rating. The awards begin to exceed those available under the current law at a 33% impairment rating.
4. The M&R cost estimate associated with this table assumes that the "whole man" value is maintained at \$250,000.

M&R has also evaluated an alternative schedule developed by David Gottstein. This table is similar to the attached; however, the "adjustment factor" reaches 1.000 at a 33% impairment rating. We estimate that this alternative would result in a 14% increase in permanent partial awards. Combined with all other aspects of HB352 and SB322, we estimate that this alternative schedule would result in an overall cost reduction of approximately 2%.

We emphasize that the cost estimates presented herein reflect only M&R's evaluation. We do not know to what extent the RCI evaluation may differ from our own.

FEB 19 '88 15:42 M AND R PASADENA

PAGE.03

Mr. Paul Rollar

-2-

February 19, 1988

Please contact me if you have any questions.

Best regards,

Michael A. McMurphy

MAN:cap

FEB 19 '88 15:43 M AND R PASADENA

PAGE 04

Exhibit 1

Degree of Actual Impairment	Adjustment Factor	Degree of Actual Impairment	Adjustment Factor
0%	0.000	26%	0.620
1	0.000	27	0.640
2	0.000	28	0.660
3	0.000	29	0.680
4	0.000	30	0.700
5	0.000	31	0.720
6	0.060	32	0.740
7	0.120	33	0.760
8	0.180	34	0.780
9	0.240	35	0.800
10	0.300	36	0.820
11	0.320	37	0.840
12	0.340	38	0.860
13	0.360	39	0.880
14	0.380	40	0.900
15	0.400	41	0.910
16	0.420	42	0.920
17	0.440	43	0.930
18	0.460	44	0.940
19	0.480	45	0.950
20	0.500	46	0.960
21	0.520	47	0.970
22	0.540	48	0.980
23	0.560	49	0.990
24	0.580	50% or greater	1.000
25	0.600		

OFFICE OF THE COMMISSIONER  
Division of Insurance  
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301 C STREET, SUITE 722  
ANCHORAGE, ALASKA 99503  
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TELECOPIER TRANSMITTAL SHEET

TO: JOHN RINGSTAD - 465-3822  
Sen. Kelley's office

FROM: PAUL ROLLER  
Division of Insurance

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John,

I decided to go ahead &  
send. Pls call when you  
have it.

*Spencer*





Bruce N. Smith, Ph.D.  
Senior Clinical Psychologist  
561-1361

4001 Dale Street Suite 101 Anchorage, Alaska 99508

# ALPA Ψ ALASKA PSYCHOLOGICAL ASSOCIATION

p.26 1. 14 and c) that the work related stresses resulted in a stress related disorder as diagnosed by a psychiatrist who is licensed as a physician in the state and certified, or eligible for certification, in psychiatry by the American Board of Psychiatry and Neurology; or a psychologist or psychological associate licensed under AS 08.86.

A M E N D M E N T

Offered in the SENATE

By Kelly

TO: CSSB 322(L&C)

Page 3, after line 2:

Insert a new bill section to read:

"\* Sec. 5. AS 23.30.030 is amended by adding a new paragraph to read:

(8) The premium paid for the insurance <sup>shall</sup> ~~may~~ be paid biannually, <sup>after notification</sup> if requested by the insured."

Renumber remaining bill sections accordingly.

Page 27, line 28:

Delete "sec. 5"

Insert "sec. 6"

~~THAT~~  
INSURERS SHALL NOTIFY ALL INSURED  
THAT

Page 27, line 29:

Delete "20"

Insert "21"

Page 28, line 5:

Delete "secs. 5, 18, 20 and 22 of"

Insert "secs. 6, 19, 21 and 23,"

THE PRECEDING DOCUMENT(S) MAY NOT FILM  
LEGIBLY BECAUSE OF POOR QUALITY OF THE  
ORIGINAL.

UNIT COMPANY  
3101 OLD SENARD HIGHWAY  
ANCHORAGE, ALASKA 99513

TELEPHONE NUMBER 907-346-6888  
FAX NUMBER 907-342-3384

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TIME 1:00 PM

TO  
COMPANY Seares/Roebuck Dept. &  
Commerce  
ATTENTION John Blaisdell

FROM  
UNIT COMPANY  
CONTACT Dick Campbell

COMMENTS

I will send a hard copy of this material and a copy of our changes to 041 in a pouch through legislative affairs.

MANAGEMENT/LABOR AD HOC COMMITTEE

RESPONSES TO

MEMORANDUM FOR POINTS OF DISCUSSION  
DATED FEBRUARY, 5, 1988

We have examined the concerns raised in the above referenced memorandum. For ease of comparison, our replies follow the same sequence as that used in the memorandum.

1. We are also concerned about the "any evidence" standard and have asked that John Lewis provide some direction as to the standard used in other jurisdictions. The concern of both management and labor is with the overly broad interpretation the courts have applied to the "substantial evidence" standard currently in effect. We will hopefully have a recommendation by February 12.

2. Our language was drafted and reviewed by attorneys knowledgeable in the constraints imposed by the courts. It is their opinion that the language will withstand a constitutional challenge.

3. For the system to operate as designed, it must be fair to both the injured worker and the employer. Therefore, providers to the system must provide services free of bias for or against either party. It is our desire that the regulations should allow for a bias free system and providers that exhibit bias will not be allowed to provide IME's or rehabilitation services. Health care providers could still continue to operate in the system if chosen by the employee or employer even if they were not on the list of IME providers.

4. We think that the standard for knowingly making a false statement is sufficiently strict that it will be difficult to abuse by an employer. If an employee withholds information from an employer for any reason, he could be endangering himself or others since he does not know what duties might be called for on a given job. We think that this section is important to the bill.

5. We have recommended to the board that the lists be maintained on a geographical basis to remove a certain amount of the unnecessary expenditures. We are concerned however that if we deal with the concerns expressed, we are losing sight of the needs of the injured worker, and instead place the travel costs of the rehabilitation specialist upon the needs of the worker.

6. Under the present system, it is estimated that approximately 90% of those that have been rehabilitated have gone back to their prior occupation. It is our belief that when this occurs, it is not necessary to rehabilitate someone for yet another job should they receive a subsequent injury. They have already received the training necessary to compete in a new occupation and we would encourage them to enter that labor market.

The concerns about the minimum threshold of 60% of pre-injury wages fail to recognize that this is the minimum threshold and it would represent an entry level wage. As skills improve, it would be anticipated that salary levels would increase.

7. Dispute resolution language was omitted by legislative drafting. We have included a rewrite of Section 64 which deals with that and other problems.

8. We have modified the time for the eligibility determination from 56 days to 90 days. The time frames are now consistent with the current statute.

9. We have attempted to remove the rehabilitation section from the litigation process. To accomplish this we have put the injured worker in control of his plan and we have given the administrator the authority to quickly resolve disputes. Since the administrator reports to the board, the board can review his performance on an ongoing basis and accordingly modify the general approach to the job when it does not conform to the guidelines of the board. We believe that this approach is in the best interests of the worker and the system.

10. Employment in this economy is a difficult standard to achieve. Employability is better in that it defines the time when the person is available and prepared to work, and it additionally puts some of the responsibility for the acquisition of a job on the worker.

11. The opposition to the labor market definition is based on misunderstandings. We have established a priority which starts with the area of residence, then the area of last employment, then the State of Alaska, and finally other states. We do not understand the concerns.

12. We have modified this section to include Certified Rehabilitation Counselors. It is the desire of the committee that these specialists be professionals in the area of vocational rehabilitation. That is not the case currently and as a result, both the employee and the employer suffer.

13. See number 1 above.

14. It is the desire of the committee to see that the employee is provided the quality medical care in a timely, economical manner. Abuse can easily result in the system and we believe that our

language will remedy many of the problems. We think that the suggestion that we allow no more than one change within each speciality does not eliminate the problem. The treating physician can still refer the patient to specialists as necessary.

The concerns regarding the definition of treating physician are inappropriate as the concept is part of the current law and does not cause a problem.

15. See 14 above and 16 below.

16. This section of the bill requires that a treatment plan be submitted if continuing and multiple treatments are prescribed. It seems reasonable that both the employee and employer should know what the physician is intending to do and what he anticipates will happen. The limits on the number of visits was based on the recommendations of experts, but we provided a exception when needed. All the physician would need to do is document the need for additional services. Again we were attempting to deal with abuses to the system.

17. The current statute has no limits at all, therefore we have restricted the frequency of the employer IME. We have modified our recommendation to every 90 days thereafter. It should be acknowledged that the employer is restrained by the costs of such IME's which must be borne by the employer. It should also be remembered that in the case of a dispute, the board's IME will determine the outcome.

18. While no one on the committee was aware of any problems in this area, we have added language which should deal with the concerns expressed. We suggest that when medically appropriate, the IME physician should use already existing diagnostic data to make his determination.

19. Our proposal suggests the adoption of a usual and customary fee schedule. Such schedules are normal in health care plans and under the Social Security System. It does not envision a separate schedule for an employee's physician and an employer's physician.

20. This language merely gives the board the authority to administer the act by hiring experts, be they Alaskans or not.

21. We were concerned about the supreme court giving the presumption to the treating physician in cases where evidence clearly suggests that they were in error. Since the board selected IME will be independent, we believe that giving his opinions greater weight is appropriate.

22. We have a few more provisions in the language. We do not believe that a 90 day period is an appropriate standard and the inclusion will be subject to change.

23. We do not understand the constitutionality question on this issue. We believe that this standard is legal.

24. See #1.

25. See #2.

26. See #11.

27. It is our belief that if a person has skills which can be used in the job market, they are not a permanent total disability.

28. We have added language which will clarify our intent. We are suggesting that after two years, a person be tested to determine their degree of impairment and given a lump sum settlement.

29. It is our desire to pay more money for severe injuries and less money for less severe injuries. We have attempted to do so without increasing the overall costs of this act.

30. Medical stability in this act is essential to determine the rating and the degree of permanent injury. The benefits are not limited and will continue for the duration of the injury.

31. This section currently exists as section 248 of the Statute. We merely moved it to section 300 since it now only applies to that section.

32. We did not receive Attachment D. do we are unclear as to their concerns.

33. Vested benefits were used to make this section manageable and to recognize that a worker have no legal right to "unvested" benefits. Vesting has nothing to do with union membership.

34. Workers' compensation was created to deal with work related injuries and should not be seen as the vehicle to address other social goals. The items outlined represent issues that are adequately addressed in other State and Federal statutes.

35. See #33 above.

OTHER ITEMS

1. Our agenda for 1988 includes a review of the Division of Workers Compensation. We are particularly interested in the timely resolution of a workers' compensation claim and will examine both the delays caused by the system and those caused by the employers or employees attorneys.

2. We believe that our proposal will include system modifications which will result in cost savings of at least 10%. We hope the insurance community will concur and ask for a rate reduction effective July 1.

3. Issues regarding the insurance industry were not addressed in this bill because of the complexity of the problem. We will be addressing these issues in 1988.

4. This problem is particularly difficult since the courts have held that the contractors insurance carrier is liable when the sole-proprietor has a work related injury. The insurance company takes the position that they need no collect premiums to cover the risk and accordingly charge the contractor.

5. Final Billing after audit is necessary to make sure that adequate premiums are collected for the actual wage exposure. Quotes given at the initiation of the policy are based on the employers estimates of wages by classification, and if accurate will result in no additional premiums. Unless insurance companies are given the ability to audit payroll records, everyone will underestimate payroll and the system will become even more chaotic.

6. We will examine this when we examine the insurance company, but an 'all states rider' does not eliminate the death rates. They will be charged during the audit on the policy. We believe that the problem comes from misrepresenting and misclassifying payroll and the insurance carrier not catching the problem at audit.

7. We would have no problem with such an amendment to the unemployment law.

PROPOSED CHANGES TO LEGISLATION

- Page 2, Line 4 The Department shall (may) adopt (identical)
- Page 2, Line 7 , and shall (may)
- Page 13, Line 5 commencement of such
- Page 13, Line 25 board When medically appropriate, the JME  
physician should use already existing diagnostic data to make his  
determination.
- Page 14, Line 22 board In no event shall the injured worker be  
responsible for any fees in excess of those determined by the  
board.
- Page 15, Line 4 treatment, the ability to enter a new  
employment.
- Page 15, Line 16 trauma or gross incompetence.
- Page 15, Line 23 or death for a recipient could not be  
state!
- Page 19, Line 7 wages if the employer can verify that the  
employee's average weekly wage is less than \$154, the employer  
can pay the lesser amount without board order.
- Page 19, Line 26 cost of living index of the state (locality)
- Page 19, Line 29 cost of living index of Alaska (the state)
- Page 19, Line 32 if the gross (average) weekly earnings exceed
- Page 20, Line 5 for Alaska (the state) and other Alaska  
(localities)
- Page 20, Line 15 the state of Alaska or the state of
- Page 21, Line 27 percent. If an injury cannot be classified  
of the American Medical Association Guides, the Manual for  
Orthopedic Surgeons may be used.
- Page 21, Line 33 supplemental responsible schedule
- Page 21, Line 19 stability, unless otherwise provided under  
AS 23 30 141.1
- Page 27, Line 4 and 21. this

## MANAGEMENT/LABOR AD HOC COMMITTEE

## RESPONSES TO

MEMORANDUM FOR POINTS OF DISCUSSION  
DATED FEBRUARY, 5, 1988

We have examined the concerns raised in the above referenced memorandum. For ease of comparison, our replies follow the same sequence as that used in the memorandum.

1. We are also concerned about the "any evidence" standard and have asked that John Lewis provide some direction as to the standard used in other jurisdictions. The concern of both management and labor is with the overly broad interpretation the courts have applied to the "substantial evidence" standard currently in effect. We will hopefully have a recommendation by February 12
2. Our language was drafted and reviewed by attorneys knowledgeable in the constraints imposed by the courts. It is their opinion that the language will withstand a constitutional challenge
3. For the system to operate as designed, it must be fair to both the injured worker and the employer. Therefore, providers to the system must provide services free of bias for or against either party. It is our desire that the regulations should allow for a bias free system and providers that exhibit bias will not be allowed to provide IME's or rehabilitation services. Health care providers could still continue to operate in the system if chosen by the employee or employer even if they were not on the list of IME providers
4. We think that the standard for knowingly making a false statement is sufficiently strict that it will be difficult to abuse by an employer. If an employee withholds information from an employer for any reason, he could be endangering himself or others since he does not know what duties might be called for on a given job. We think that this section is important to the bill.
5. We have recommended to the board that the lists be maintained on a geographical basis to remove a certain amount of the unnecessary expenditures. We are concerned however that if we deal with the concerns expressed, we are losing sight of the needs of the injured worker, and instead place the travel costs of the rehabilitation specialist above the needs of the worker.

6. Under the present system, it is estimated that approximately 90% of those that have been rehabilitated have gone back to their prior occupation. It is our belief that when this occurs, it is not necessary to rehabilitate someone for yet another job should they receive a subsequent injury. They have already received the training necessary to compete in a new occupation and we would encourage them to enter that labor market.

The concerns about the minimum threshold of 60% of pre-injury wages fail to recognize that this is the minimum threshold and it would represent an entry level wage. As skills improve, it would be anticipated that salary levels would increase.

7. Dispute resolution language was omitted by legislative drafting. We have included a rewrite of Section 041 which deals with that and other problems.

8. We have modified the time for the eligibility determination from 60 days to 90 days. The time frames are now consistent with the current statute.

9. We have attempted to remove the rehabilitation section from the litigation process. To accomplish this we have put the injured worker in control of his plan, and we have given the administrator the authority to quickly resolve disputes. Since the administrator reports to the board, the board can review his performance on an ongoing basis and accordingly modify the general approach to the job when it does not conform to the guidelines of the board. We believe that this approach is in the best interests of the worker and the system.

10. Employment in this economy is a difficult standard to achieve. Employability is better in that it defines the time when the person is available and prepared to work, and it additionally puts some of the responsibility for the acquisition of a job on the worker.

11. The opposition to the labor market definition is based on misunderstandings. We have established a priority which starts with the area of residence, then the area of last employment, then the State of Alaska, and finally other states. We do not understand the concerns.

12. We have modified this section to include Certified Rehabilitation Counselors. It is the desire of the committee that these specialists be professionals in the area of vocational rehabilitation. That is not the case currently and as a result, both the employee and the employer suffer.

13. See number 6 above.

14. It is the desire of the committee to see that the employee is provided good quality medical care in a timely, efficient manner. Abuses currently exist in the system and we believe that our

language will remedy many of the problems. We think that the suggestion that we allow no more than one change within each speciality does not eliminate the problem. The treating physician can still refer the patient to specialists as necessary.

The concerns regarding the definition of treating physician are inappropriate as the concept is part of the current law and does not cause a problem.

15. See 14 above and 16 below.

16. This section of the bill requires that a treatment plan be submitted if continuing and multiple treatments are prescribed. It seems reasonable that both the employee and employer should know what the physician is intending to do and what he anticipates will happen. The limits on the number of visits was based on the recommendations of experts, but we provided an exception when needed. All the physician would need to do is document the need for additional services. Again we were attempting to deal with abuses to the system.

17. The current statute has no limits at all, therefore we have restricted the frequency of the employer IME. We have modified our recommendation to every 60 days thereafter. It should be acknowledged that the employer is restrained by the costs of such IME's which must be borne by the employer. It should also be remembered that in the case of a dispute, the board's IME will determine the outcome.

18. While no one on the committee was aware of any problems in this area, we have added language which should deal with the concerns expressed. We suggest that when medically appropriate, the IME physician should use already existing diagnostic data to make his determination.

19. Our proposal suggests the adoption of a usual and customary fee schedule. Such schedules are normal in health care plans and under the Social Security System. It does not envision a separate schedule for an employee's physician and an employer's physician.

20. This language merely gives the board the authority to administer the act by hiring experts, be they Alaskans or not.

21. We were concerned about the supreme court giving the presumption to the treating physician in cases where evidence clearly suggests that they were in error. Since the board selected IME will be independent, we believe that giving his opinions greater weight is appropriate.

22. We have added gross incompetence to the language. We do not believe that misrepresentation is an appropriate standard and its inclusion will lead to litigation.

23. We do not understand the constitutionality question on this issue. We believe that this standard is legal.

24. See #1.

25. See #2.

26. See #11.

27. It is our belief that if a person has skills which can be used in the job market, they are not a permanent total disability.

28. We have added language which will clarify our intent. We are suggesting that after two years, a person be tested to determine their degree of impairment and given a lump sum settlement.

29. It is our desire to pay more money for severe injuries and less money for less severe injuries. We have attempted to do so without increasing the overall costs of this section.

30. Medical stability in this section is essential to determine the timing and the degree of permanent impairment. Medical benefits are not limited and will continue for the duration of the injury.

31. This section currently exists as Section 210 of the Statute. We merely moved it to section 200 since it now only applies to that section.

32. We did not receive Attachment 3, so we are unclear as to their concerns.

33. Vested benefits were used to make this section manageable and to recognize that a worker have no legal right to "unvested" benefits. Vesting has nothing to do with union vs nonunion.

34. Workers' compensation was created to deal with work related injuries and should not be seen as the vehicle to address other social goals. The items outlined represent issues that are adequately addressed in other State and Federal statutes.

35. See #30 above.

## OTHER ITEMS

1. Our agenda for 1988 includes a review of the Division of Workers Compensation. We are particularly interested in the timely resolution of a workers' compensation claim and will examine both the delays caused by the system and those caused by the employers or employees attorneys.

2. We believe that our proposal will include system modifications which will result in cost savings of at least 15%. We hope the insurance community will concur and ask for a rate reduction effective July 1.

3. Issues regarding the insurance industry were not addressed in this bill because of the complexity of the problem. We will be addressing these issues in 1988.

4. This problem is particularly difficult since the courts have held that the contractors insurance carrier is liable when the sole-proprietor has a work related injury. The insurance company takes the position that they need to collect premiums to cover the risk and accordingly charge the contractor.

5. Final billing after audit is necessary to make sure that adequate premiums are collected for the actual wage exposure. Quotes given at the initiation of the policy are based on the employers estimates of wages by classification, and if accurate will result in no additional premiums. Unless insurance companies are given the ability to audit payroll records, everyone will underestimate payroll and the system will become even more chaotic.

6. We will examine this when we examine the insurance company, but an "all states rider" does not eliminate the Alaska rates. They will be charged during the audit on the policy. We believe that the problem comes from misrepresenting and misclassifying payroll and the insurance carrier not catching the problem at audit.

7. We would have no problem with such an amendment to the unemployment law.

SUGGESTED CHANGES TO LEGISLATION

X Page 2, Line 4 The department shall [may] adopt [identical]

X Page 2, line 7 , and shall [may]

? Page 13, Line 5 commencement of such ...

X Page 13, line 24 board When medically appropriate, the IME physician should use already existing diagnostic data to make his determination.

23.30.030  
MAXIS  
REDAUNDANT  
ITX

X Page 14, Line 22 board. In no event shall the injured worker be responsible for any fees in excess of those determined by the board.

X Page 15, Line 4 treatment, the ability to enter a re-employment services plan.

X Page 15, Line 16 fraud, or gross incompetence.

X Page 18, Line 29 or death [for a recipient residing in the state]

X Page 19, Line 7 wages. If the employer can verify that the employees spendable weekly wage is less than \$154, the employer can pay the lesser amount without board order.

X Page 19, Line 20 cost of living index of the state [locality]

X Page 19, Line 21 cost of living index of Alaska [the state].

X Page 19, Line 23 if the gross [average] weekly earnings [wage]

X Page 20, Line 5 for Alaska [the state] and other states [localities]

X Page 20, Line 19 the state of Alaska or the state of residence.

X Page 21, Line 27 percent. If an injury cannot be rated by use of the American Medical Association Guides, the Manual for Orthopedic Surgeons may be used.

[X Page 21, Line 28 supplemental recognized schedule. EXISTING LAST SENTENCE CONTRADICTS

X Page 23, Line 19 stability, unless otherwise provided under AS 23 30 041.]

X Page 27, line 4 APPLICABILITY. Except for sections 5, 18, 20, and 21, this ..

PROPOSED CHANGES

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

2

SENATE BILL NO. 322

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

7

8

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

9

\* Section 1. LEGISLATIVE INTENT. (a) It is the intent of the legislature that AS 23.30 be interpreted so as to assure the quick, efficient, and predictable delivery of indemnity and medical benefits to injured workers at a reasonable cost to the employers who are subject to the provisions of AS 23.30.

INTENT IS TOO  
FLEXIBLE FOR  
ADMINISTRATION

INSIST  
"FAIR"

14

(b) The legislature declares that the workers' compensation laws must not be construed by the courts in favor of any party. It is the specific intent of the legislature that workers' compensation cases be decided on their merits, except when otherwise provided by statute. It is also the intent of the legislature that the board possess the greatest possible authority in the exercise of its fact finding responsibilities and that the board's decisions be conclusive if supported by [any] evidence.

(b)  
AS 23.30  
LINES  
SUBMITTED  
BY CHLWD

21

(c) It is the intent of the legislature in amending AS 23.30.175 regarding benefits payable to recipients not residing in the state to

CLEAR & CONVINCING; SUBSTANTIAL  
OR NO INTENT

23

(1) recognize the levels of workers' compensation benefits brought about by the high cost of living that exists in the state as compared to other localities;

26

(2) reduce disincentives to return to work; and

27

(3) remove obstacles to the utilization of vocational rehabilitation that may be brought about by the payment of workers' compensation benefits at the high levels provided by the Alaska workers' compensation

1 law to individuals residing in localities with living costs lower than  
2 those in Alaska.

3 \* Sec. 2. AS 23.30.005(h) is amended to read:

4 (h) The department may adopt identical rules for all panels, and  
5 procedures for the periodic selection, retention, and removal of  
6 rehabilitation specialists or physicians under AS 23.30.041 and 23.-  
7 30.095, and may adopt regulations to carry out the provisions of this  
8 chapter. Process and procedure under this chapter shall be as summary  
9 and simple as possible. The department, the board or a member of it  
10 may for the purposes of this chapter subpoena witnesses, administer or  
11 cause to be administered oaths, and may examine or cause to have  
12 examined the parts of the books and records of the parties to a pro-  
13 ceeding that relate [WHICH RELATED] to questions in dispute. The  
14 superior court, on application of the department, the board or any  
15 members of it, shall enforce the attendance and testimony of witnesses  
16 and the production and examination of books, papers, and records.

17 \* Sec. 3. AS 23.30.005 is amended by adding a new subsection to read:

18 (m) If a regulation adopted by the department and approved by a  
19 majority of the full board is determined to be invalid by the state  
20 supreme court, the department shall immediately adopt new regulations  
21 that conform to the department's statutory authority as interpreted by  
22 the court.

23 \* Sec. 4. AS 23.30.020 is amended by adding a new subsection to read:

24 (b) An employee who knowingly makes a false statement as to the  
25 employee's physical condition on an employment application or preem-  
26 ployment questionnaire may not receive benefits under this chapter if

27 (1) the employer relied upon the false representation and  
28 this reliance was a substantial factor in the hiring; and

29 (2) there was a causal connection between the false

1 representation and the injury to the employee.

2 \* Sec. 5. AS 23.30.040(b) is amended to read:

3 (b) If an employee suffers a compensable injury that results in  
4 temporary total disability, temporary partial disability, permanent  
5 partial disability, or permanent total disability, the employer or  
6 insurance carrier shall contribute to the second injury fund. The  
7 contribution shall be made annually at the time of the report filing  
8 required by AS 23.30.155(m) [BY ONE YEAR FROM THE DATE OF THE INJURY  
9 OR ON TERMINATION OF THE EMPLOYEE'S CLAIM, WHICHEVER IS SOONER. IF  
10 THE CLAIM IS NOT TERMINATED WITHIN ONE YEAR, SUBSEQUENT CONTRIBUTIONS  
11 SHALL BE MADE YEARLY UNTIL THE TERMINATION OF THE EMPLOYEE'S CLAIM].  
12 The amount of the contribution is the product of the compensation to  
13 which the employee is entitled for temporary total disability, tempo-  
14 rary partial disability, permanent partial disability, or permanent  
15 total disability and the applicable contribution rate set out in  
16 column A of this subsection. Payment need not be made to the second  
17 injury fund if the total contribution under this subsection is less  
18 than \$20. By December 15 of each year the commissioner shall deter-  
19 mine and make available to the public the applicable contribution rate  
20 for the following calendar year according to the reserve rate of the  
21 second injury fund in column B of this subsection:

22	Column A	Column B	
23	Second Injury Fund	Reserve Rate	
24	Contribution Rate	At Least	But Less Than
25	(Percent)	(Percent)	(Percent)
26	6	0	50
27	5	50	75
28	4	75	100
29	3	100	125

1	2	125	150
2	1	150	175
3	0	175	

4 \* Sec. 6. AS 23.30.041 is repealed and reenacted to read:

5 ~~Sec. 23.30.041. REHABILITATION OF INJURED WORKERS.~~ (a) The  
6 board shall select and employ a reemployment services administrator.  
7 The board may authorize the reemployment services administrator to  
8 select and employ additional staff. The reemployment services admin-  
9 istrator is in the partially exempt service under AS 39.25.120.

10 (b) The reemployment services administrator shall perform the  
11 following functions:

12 (1) enforce regulations adopted by the board to implement  
13 this section;

14 (2) recommend regulations for adoption by the board that  
15 establish performance and reporting criteria for rehabilitation spe-  
16 cialists;

17 (3) enforce the quality and effectiveness of reemployment  
18 benefits provided for under this section;

19 (4) review on an annual basis the performance of rehabili-  
20 tation specialists to determine continued eligibility for delivery of  
21 rehabilitation services;

22 (5) submit to the department, on or before January 1 of  
23 each year, a report of reemployment benefits provided under this  
24 section for the previous fiscal year; the report must include a gen-  
25 eral section and sections related to each rehabilitation specialist  
26 used under this section; the report must also include for each section  
27 a statistical summary of all rehabilitation cases, including

28 (A) the estimated and actual cost of each active  
29 rehabilitation plan;

1 (B) the estimated and actual time of each rehabilita-  
2 tion plan;

3 (C) a status report on all individuals completing or  
4 terminating a reemployment services program including a return to  
5 work date;

6 (D) the cost of reemployment services;

7 (6) maintain a list of rehabilitation specialists who meet  
8 the qualifications established under this section;

9 (7) promote awareness among physicians, adjustors, injured  
10 workers, employers, employees, attorneys, training providers, and  
11 rehabilitation specialists of the reemployment program established in  
12 this subsection.

13 (c) If an employee suffers a compensable injury that may perma-  
14 nently preclude an employee's return to the employee's occupation at  
15 the time of injury, the employee or employer may request an eligibil-  
16 ity evaluation for reemployment benefits. The reemployment services  
17 administrator shall, on a rotating basis, select a rehabilitation  
18 specialist from the list maintained under (b)(6) of this section to  
19 perform the eligibility evaluation.

20 (d) Except as provided in (e) of this section, an employee shall  
21 be eligible for benefits under this section upon the employee's writ-  
22 ten request and by having a physician predict that the employee will  
23 have permanent physical capacities that are less than the physical  
24 demands of the employee's job as described in the United States  
25 Department of Labor's "Selected Characteristics of Occupations Defined  
26 in the Dictionary of Occupational Titles" for

27 (1) the employee's job at the time of injury; and

28 (2) other jobs that exist in the labor market that the  
29 employee has held within 10 years before the injury or that the

ROTATING LIST  
MIGHT BE MORE EASILY  
LESS PRACTIC

1 employee has held following the injury for a period long enough to  
2 obtain the skills to compete in the labor market, according to specif-  
3 ic vocational preparation codes as described in the dictionary of  
4 occupational titles.

5 (e) An employee is not eligible for reemployment benefits if

6 (1) the employer offers employment within the employee's  
7 predicted post-injury physical capacities at a wage equivalent to at  
8 least 60 percent of the worker's gross hourly wages at the time of  
9 injury and the employment prepares the employee to be employable in  
10 other jobs that exist in the labor market; or

11 (2) the employee has been previously rehabilitated in a  
12 former workers' compensation claim and returned to work in the same or  
13 similar occupation in terms of physical demands.

NEEDS  
DEFINING

14 (f) When an employee is found eligible for reemployment benefits  
15 and desires to use these benefits, the employee shall select a re-  
16 habilitation specialist who shall provide a complete reemployment  
17 services plan. If the employer disagrees with the employee's choice  
18 of rehabilitation specialist to develop the plan and the disagreement  
19 cannot be resolved, then the reemployment services administrator shall  
20 assign a rehabilitation specialist. The employer and employee each  
21 have one right of refusal of a rehabilitation specialist. The reem-  
22 ployment plan must include the following:

23 (1) an occupational goal in the labor market;

24 (2) a plan to acquire the occupational skills to be employ-  
25 able;

26 (3) the cost estimate of the reemployment plan, including  
27 provider fees; the amount of tuition, books, tools, and supplies;  
28 transportation; temporary lodging; or job modification devices;

29 (4) the estimated length of time that the plan will take;

1 (5) the date the plan will commence; and  
2 (6) the time of medical stability as predicted by the  
3 physician.

4 (g) Reemployment benefits shall be selected from the following  
5 in a manner that ensures remunerative employability in the shortest  
6 possible time:

- 7 (1) on the job training;
- 8 (2) vocational training;
- 9 (3) academic training;
- 10 (4) self-employment; or
- 11 (5) a combination of (1) - (4) of this subsection.

12 (h) The employee, rehabilitation specialist, and the employer  
13 shall sign the reemployment services plan.

14 (i) After the injured worker has elected to participate in reem-  
15 ployment benefits, noncooperation by the worker shall result in the  
16 termination of reemployment benefits on the date of noncooperation.

17 ~~Noncooperation~~ means failure to

INSERT "REASONABLY"

- 18 (1) keep appointments;
- 19 (2) maintain average grades;
- 20 (3) attend designated programs;
- 21 (4) maintain contact with the rehabilitation specialist;
- 22 (5) cooperate with the rehabilitation specialist in devel-  
23 oping a reemployment plan and participating in activities relating to  
24 reemployability on a full-time basis;
- 25 (6) comply with the employee's responsibilities outlined in  
26 the reemployment plan; or
- 27 (7) participate in any planned reemployment activity as  
28 determined by the reemployment services administrator.

29 (j) Reemployment benefits are subject to the following time

INSERT  
ADVANCE  
NOTICE  
REQUIREMENT  
EMPLOYEE

1 limits:

2 (1) benefits related to the reemployment plan may not  
3 extend past two years from date of plan acceptance, at which time the  
4 benefits expire, except at the discretion of the employer;

5 (2) election of the eligibility evaluation by the employee  
6 for reemployment benefits must occur within ~~30~~ days of the employer's  
7 notice of injury unless the reemployment services administrator deter-  
8 mines that unusual and extenuating physical limitations of the em-  
9 ployee preclude the employee from making a timely request;

INCREASE THIS  
#  
BE ALLOWY  
EXTEN U A TIME  
CIRCUMSTANCES

10 (3) the determination of the employee's eligibility for  
11 reemployment benefits shall occur no later than 30 days following the  
12 date of evaluation referral, except under circumstances that are  
13 determined to be unusual and extenuating by the reemployment services  
14 administrator, who may grant up to an additional 30 days;

15 (4) within 10 days after the employee has been determined  
16 eligible for reemployment benefits, the employee and employer shall  
17 select a rehabilitation specialist to deliver reemployment services;

18 (5) a reemployment plan must be formulated and approved by  
19 the parties within 90 days of the determination of eligibility;

20 (6) the reemployment plan shall be initiated when the  
21 employee is considered physically able to engage in the plan by the  
22 employee's physician;

23 (7) if the employer and employee fail to agree on a reem-  
24 ployment plan, either party may submit a reemployment plan for ap-  
25 proval to the reemployment services administrator; the reemployment  
26 services administrator shall approve or deny a plan within 14 days  
27 after the plan is submitted; within 10 days of the decision, either  
28 party may seek review of the decision by requesting a hearing under  
29 AS 23.30.110; the board shall uphold the decision of the administrator

1 unless evidence is submitted supporting an allegation of abuse of  
2 discretion on the part of the administrator; the board shall render a  
3 decision within 30 days after completion of the hearing.

4 (k) The cost of the reemployment plan incurred under this sec-  
5 tion shall be the responsibility of the employer, but may not exceed  
6 \$10,000. If an employee reaches medical stability before completion  
7 of the plan, temporary total disability benefits shall cease and  
8 permanent impairment benefits shall then be paid at the employee's  
9 temporary total disability rate. If the employee's permanent impair-  
10 ment benefits are exhausted before the completion or termination of  
11 the reemployment plan, the employer shall provide wages equal to 60  
12 percent of the employee's spendable weekly wages but not to exceed  
13 \$525, until the completion or termination of the plan. A permanent  
14 impairment benefit remaining unpaid upon the completion or termination  
15 of the plan shall be paid to the employee in a single lump sum. The  
16 fees of the rehabilitation specialist or rehabilitation professional  
17 shall be paid by the employer and may not be included in determining  
18 the cost of the reemployment plan.

19 (l) Only a rehabilitation specialist may accept case assignments  
20 as a case manager and sign eligibility determinations and reemployment  
21 plans. A person who is not a rehabilitation specialist may perform  
22 rehabilitation casework if the work is performed under the direct  
23 supervision of a rehabilitation specialist employed in the same firm  
24 and location.

25 (m) In this section

26 (1) "employability" means possessing the ability but not  
27 necessarily the opportunity to engage in employment that is consistent  
28 with the employee's physical status imposed by the compensable injury  
29 or disease;

1 (2) "labor market" means a geographical area that offers  
2 employment opportunities in the following priority:

3 (A) area of residence;

4 (B) area of last employment;

5 (C) the state;

LOSS BENEFITS IF WORK IS  
AVAILABLE ANYWHERE

6 (D) other states;

7 (3) "physical capacities" means objective and measurable  
8 physical traits such as ability to lift and carry, walk, stand or sit,  
9 push, pull, climb, balance, stoop, kneel, crouch, crawl, reach,  
10 handle, finger, feel, talk, hear or see;

11 (4) "physical demands" means the physical requirements of  
12 the job such as strength, including positions such as standing, walk-  
13 ing, sitting, and movement of objects such as lifting, carrying,  
14 pushing, pulling, climbing, balancing, stooping, kneeling, crouching,  
15 crawling, reaching, handling, fingering, feeling, talking, hearing, or  
16 seeing;

17 (5) "reemployment benefits" means eligibility determina-  
18 tion, plan development, and plan cost not exceeding \$10,000, exclusive  
19 of provider fees;

20 (6) "rehabilitation specialist" means a person who is a  
21 certified insurance rehabilitation specialist for a person who has  
22 equivalent or better qualifications as determined under regulations  
23 adopted by the department;

24 (7) "remunerative employability" means having the skills  
25 that allow a worker to be compensated with wages or other earnings  
26 equivalent to at least 60 percent of the worker's gross hourly wages  
27 at the time of injury; if the employment is outside the state, the  
28 stated 60 percent shall be adjusted to account for the difference  
29 between the applicable state average weekly wage and the Alaska

1 average weekly wage.

2 \* Sec. 7. AS 23.30.055 is amended to read:

3 Sec. 23.30.055. EXCLUSIVENESS OF LIABILITY. The liability of an  
4 employer prescribed in AS 23.30.045 is exclusive and in place of all  
5 other liability of the employer and any fellow employee to the em-  
6 ployee, the employee's legal representative, husband or wife, parents,  
7 dependents, next of kin, and anyone otherwise entitled to recover  
8 damages from the employer or fellow employee at law or in admiralty on  
9 account of the injury or death. The liability of the employer is  
10 exclusive even if the employee's claim is barred under AS 23.30.-  
11 020(b). However, if an employer fails to secure payment of compen-  
12 sation as required by this chapter, an injured employee or the em-  
13 ployee's legal representative in case death results from the injury  
14 may elect to claim compensation under this chapter, or to maintain an  
15 action against the employer at law or in admiralty for damages on  
16 account of the injury or death. In that action the defendant may not  
17 plead as a defense that the injury was caused by the negligence of a  
18 fellow servant, or that the employee assumed the risk of the employ-  
19 ment, or that the injury was due to the contributory negligence of the  
20 employee.

21 \* Sec. 8. AS 23.30.095(a) is amended to read:

22 (a) The employer shall furnish medical, surgical, and other  
23 attendance or treatment, nurse and hospital service, medicine,  
24 crutches, and apparatus for the period which the nature of the injury  
25 or the process of recovery requires, not exceeding two years from and  
26 after the date of injury to the employee. However, if the condition  
27 requiring the treatment, apparatus, or medicine is a latent one, the  
28 two-year period runs from the time the employee has knowledge of the  
29 nature of the employee's disability and its relationship to the

1 employment and after disablement. It shall be additionally provided  
2 that, if continued treatment or care or both beyond the two-year  
3 period is indicated, the injured employee has the right of review by  
4 the board. The board may authorize continued treatment or care or  
5 both as the process of recovery may require. When medical care is  
6 required, the injured employee may designate a licensed physician  
7 inside the state where the employee resides to render the care. The

8 employee may not make more than one change in the employee's choice of  
9 attending physician without the written consent of the employer.

10 Referral to a specialist by the employee's attending physician is not  
11 considered a change in physicians [EXCEPT IN CASES WHERE, IN THE

12 JUDGMENT OF THE BOARD, CARE OR TREATMENT OR BOTH CAN BEST BE ADMINIS-  
13 TERED BY THE SELECTION OF ANOTHER PHYSICIAN]. Upon procuring the

14 services of <sup>ATTENDING</sup> a physician, the injured employee shall give proper noti-  
15 fication of the selection to the employer within a reasonable time

16 after first being treated. Notice of a change in the attending physi-  
17 cian shall be given before the change [IF FOR ANY REASON DURING THE

18 PERIOD WHEN MEDICAL CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO  
19 ANOTHER PHYSICIAN, THE EMPLOYEE MAY DO SO IN ACCORDANCE WITH REGU-

20 LATIONS ADOPTED BY THE BOARD].  
21 \* Sec. 9. AS 23.30.095(c) is amended to read:

22 (c) A claim for medical or surgical treatment is not valid and  
23 enforceable against the employer unless, within 14 days following

24 treatment, the physician giving the treatment or the employee re-  
25 ceiving it furnishes to the employer and the board notice of the

26 injury and treatment, preferably on a form prescribed by the board.  
27 The board shall, however, excuse the failure to furnish notice within

28 14 days when it finds it to be in the interest of justice to do so,  
29 and it may, upon application by a party in interest, make an award for

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1 the reasonable value of the medical or surgical treatment so obtained  
2 by the employee. A claim for a course of treatment requiring con-  
3 tinuing and multiple treatments of a similar nature is not valid  
4 unless the treatments are carried out under a written treatment plan  
5 prescribed before the commencement of treatment, completed and signed  
6 by the attending physician, and mailed to the employer within one week  
7 of the beginning of treatment. The treatment plan must include objec-  
8 tives, modalities, and frequency of treatment. The initial treatment  
9 plan may not include more than 20 visits in the first 60 days. If  
10 more than 20 visits are required within the first 60 days, or more  
11 than four visits a month after the first 60 days, the physician shall  
12 document the need for services in excess of the guidelines in the  
13 written treatment plan.

14 \* Sec. 10. AS 23.30.095(e) is amended to read:

15 (e) The employee shall, after an injury, at reasonable times  
16 during the continuance of the disability, if requested by the employer  
17 or when ordered by the board, submit to an examination by a physician  
18 or surgeon of the employer's choice [AUTHORIZED TO PRACTICE MEDICINE  
19 UNDER THE LAWS OF THE STATE IN WHICH THE EMPLOYEE MAY BE FOUND],  
20 furnished and paid for by the employer. An examination requested by  
21 the employer not less than 14 days after injury, and every 30 days  
22 thereafter, shall be presumed to be reasonable, and the employee shall  
23 submit to the examination without further request or order by the  
24 board. Facts relative to the injury or claim communicated to or  
25 otherwise learned by a physician or surgeon who may have attended or  
26 examined the employee, or who may have been present at an examination  
27 are not privileged, either in the hearings provided for in this chap-  
28 ter or an action to recover damages against an employer who is subject  
29 to the compensation provisions of this chapter. If an employee

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1 refuses to submit to an [ANY] examination provided for in this sec-  
2 tion, the employee's rights to compensation shall be suspended until  
3 the obstruction or refusal ceases, and the employee's compensation  
4 during the period of suspension may, in the discretion of the board or  
5 the court determining an action brought for the recovery of damages  
6 under this chapter, be forfeited. The board in any case of death may  
7 require an autopsy at the expense of the party requesting the autopsy.  
8 An autopsy may not be held without notice first being given to the  
9 widow or widower or next of kin if they reside in the state or their  
10 whereabouts can be reasonably ascertained, of the time and place of  
11 the autopsy and reasonable time and opportunity given the widow or  
12 widower or next of kin to have a representative present to witness the  
13 autopsy. If adequate notice is not given, the findings from the  
14 autopsy may be suppressed on motion made to the board or to the supe-  
15 rior court, as the case may be.

16 \* Sec. 11. AS 23.30.095(f) is amended to read:

17 (f) All fees and other charges for medical treatment or service  
18 [ARE LIMITED TO THE CHARGES THAT PREVAIL IN THE SAME COMMUNITY FOR  
19 SIMILAR TREATMENT OF INJURED PERSONS OF LIKE STANDARD OF LIVING AND]  
20 shall be subject to regulation by the board but may not exceed usual,  
21 customary, and reasonable fees for the treatment or service in the  
22 community in which it is rendered, as determined by the board.

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23 \* Sec. 12. AS 23.30.095(j) is repealed and reenacted to read:

24 (j) The board may appoint a medical services review committee,  
25 or contract with an existing organization in the state or another  
26 state, to assist and advise the board in matters involving the appro-  
27 priateness, necessity, and cost of medical and related services pro-  
28 vided under this chapter.

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29 \* Sec. 13. AS 23.30.095 is amended by adding a new subsection to read:


1 (k) In the event of a medical dispute regarding determinations  
2 of causation, medical stability, degree of impairment, functional  
3 capacity, the amount and efficacy of the continuance of or necessity  
4 of treatment, or compensability between the employee's attending  
5 physician and the employer's independent medical evaluation, a second  
6 independent medical evaluation shall be conducted by a physician or  
7 physicians selected by the board from a list established and main-  
8 tained by the board. The cost of the examination and medical report  
9 shall be paid by the employer. The report of the independent medical  
10 examiner shall be furnished to the board and to the parties within 14  
11 days after the examination is concluded. The opinion of the indepen-  
12 dent medical examiner shall, in the absence of clear and convincing  
13 objective evidence to the contrary, be presumed to be correct. A  
14 person may not seek damages from an independent medical examiner  
15 caused by the rendering of an opinion or providing testimony under  
16 this subsection, except in the event of fraud.

17 \* Sec. 14. AS 23.30.105(a) is amended to read:

18 (a) The right to compensation for disability under this chapter  
19 is barred unless a claim for it is filed within two years after the  
20 employee has knowledge of the nature of the employee's disability and  
21 its relation to the employment and after disablement. However, the  
22 maximum time for filing the claim in any event other than arising out  
23 of an occupational disease shall be four years from the date of in-  
24 jury, and the right to compensation for death is barred unless a claim  
25 therefor is filed within one year after the death, except that if  
26 payment of compensation has been made without an award on account of  
27 the injury or death, a claim may be filed within two years after the  
28 date of the last payment of benefits under AS 23.30.180, 23.30.185,  
29 23.30.190, 23.30.200, or 23.30.215. It is additionally provided that,

1 in the case of latent defects pertinent to and causing compensable  
2 disability, the injured employee has full right to claim as shall be  
3 determined by the board, time limitations notwithstanding.

4 \* Sec. 15. AS 23.30.120 is amended by adding a new subsection to read:

5 (c) The presumption of compensability established in (a) of this  
6 section does not apply to a mental injury resulting from work-related  
7 stress. 

8 \* Sec. 16. AS 23.30.125 is amended by adding a new subsection to read:

9 (f) Subject to an employer's or employee's burden of proof, a  
10 finding of fact made by the board as a part of a compensation order is  
11 conclusive if supported by any evidence.

12 \* Sec. 17. AS 23.30.130(a) is amended to read:

13 (a) Upon its own initiative, or upon the application of any  
14 party in interest on the ground of a change in conditions, including,  
15 for the purposes of AS 23.30.175, a change in residence, or because of  
16 a mistake in its determination of a fact, the board may, before one  
17 year after the date of the last payment of compensation benefits under  
18 AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.215, whether  
19 or not a compensation order has been issued, or before one year after  
20 the rejection of a claim, review a compensation case under [IN ACCOR-  
21 DANCE WITH] the procedure prescribed in respect of claims in AS 23.-  
22 30.110. Under [IN ACCORDANCE WITH] AS 23.30.110 the board may issue a  
23 new compensation order which terminates, continues, reinstates, in-  
24 creases, or decreases the compensation, or award compensation.

25 \* Sec. 18. AS 23.30.155(c) is amended to read:

26 (c) The employer shall notify the board and the employee on a  
27 form prescribed by the board that the payment of compensation has  
28 begun or has been increased, decreased, suspended, terminated, re-  
29 sumed, or changed in type. An initial report shall be filed with the

1 board and sent to the employee within 28 days after the date of issu-  
2 ing the first payment of compensation. If at any time 21 days or more  
3 pass and no compensation payment is issued, a report notifying the  
4 board and the employee of the termination or suspension of compen-  
5 sation shall be filed with the board and sent to the employee within  
6 28 days after the date the last compensation payment was issued. A  
7 report shall also be filed with the board and sent to the employee  
8 within 28 days after the date of issuing a payment increasing, de-  
9 creasing, resuming, or changing the type of compensation paid. If the  
10 employer fails to notify the board and the employee within the 28 days  
11 prescribed by this subsection for reporting, the employer shall pay a  
12 civil penalty of \$100 for the first day plus \$10 for each day there-  
13 after that the employer failed to give notice. Total penalties under  
14 this subsection [SECTION] may not exceed \$1,000 for a failure to file  
15 a required report. Penalties assessed under this subsection are  
16 eligible for reduction under (m) of this section. ] DELETE

17 \* Sec. 19. AS 23.30.155(d) is amended to read:

18 (d) If the employer controverts the right to compensation the  
19 employer shall file with the board and send to the employee a notice  
20 of controversion on or before the 21st day after the employer has  
21 knowledge of the alleged injury or death. If the employer controverts  
22 the right to compensation after payments have begun, the employer  
23 shall file with the board and send to the employee a notice of con-  
24 troversion within seven days after an installment of compensation  
25 payable without an award is due. When payment of temporary disability  
26 benefits is controverted solely on the grounds that another employer  
27 or another insurer of the same employer may be responsible for all or  
28 a portion of the benefits, the most recent employer or insurer who is  
29 party to the claim and who may be liable shall make the payments

1 during the pendency of the dispute. When a final determination of  
2 liability is made, any reimbursement required, including interest at  
3 the statutory rate, and all costs and attorneys' fees incurred by the  
4 prevailing employer, shall be made within 14 days of the determina-  
5 tion.

6 \* Sec. 20. AS 23.30.155(m) is repealed and reenacted to read:

7 (m) By March 1 of each year the employer shall file a verified  
8 annual report on a form prescribed by the board stating the total  
9 amount of all compensation by type, medical, and related benefits,  
10 vocational rehabilitation expenses, legal fees, and penalties paid on  
11 all claims during the preceding calendar year. If the annual report  
12 is timely and complete when received by the board and provides accu-  
13 rate information about each category of payments, the commissioner  
14 shall review the timeliness of the employer's reports filed under (c)  
15 of this section. If the employer filed at least 99 percent of the  
16 reports on time, the penalties assessed under (c) of this section  
17 shall be waived. If the employer filed at least 97 percent of the  
18 reports on time, 75 percent of the penalties assessed under (c) of  
19 this section shall be waived. If the employer filed 95 percent of the  
20 reports on time, 50 percent of the penalties assessed under (c) of  
21 this section shall be waived. If the employer's reports have not been  
22 filed on time at least 95 percent of the time, none of the penalties  
23 assessed under (c) of this section shall be waived. The penalties  
24 that are not waived are due and payable when the employer receives  
25 notification from the commissioner regarding the timeliness of the  
26 reports.

27 \* Sec. 21. AS 23.30.175 is repealed and reenacted to read:

28 Sec. 23.30.175. RATES OF COMPENSATION. (a) The weekly rate of  
29 compensation for disability or death for a recipient residing in the

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1 state may not exceed \$700 and initially may not be less than \$110.  
2 However, if the board determines that the employee's spendable weekly  
3 wages are less than \$110 a week as computed under AS 23.30.220, or  
4 less than \$154 a week in the case of an employee who has furnished  
5 documentary proof of the employee's wages, it shall issue an order  
6 adjusting the weekly rate of compensation to a rate equal to the  
7 employee's spendable weekly wages. If the employee's spendable weekly  
8 wages are greater than \$154, but 80 percent of the employee's spend-  
9 able weekly wages is less than \$154, the employee's weekly rate of  
10 compensation shall be \$154. Prior payments made in excess of the  
11 adjusted rate shall be deducted from the unpaid compensation in the  
12 manner the board determines. In any case, the employer shall pay  
13 timely compensation.

14 (b) The following rules apply to benefits payable to recipients  
15 not residing in the state at the time compensation benefits are pay-  
16 able:

17 (1) the weekly rate of compensation shall be calculated by  
18 multiplying the recipient's weekly compensation rate calculated under  
19 AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.215, by the  
20 ratio of the cost of living of the locality in which the recipient  
21 resides to the cost of living of the state;

22 (2) the calculation required by (1) of this subsection does  
23 not apply if the recipient is absent from the state for medical or re-  
24 habilitation services not reasonably available in the state;

25 (3) if the average weekly wage of the recipient and the  
26 resulting compensation rate is determined under AS 23.30.220(a)(2),  
27 the calculation required by this subsection applies only to the por-  
28 tion of the recipient's weekly compensation rate attributable to wages  
29 earned in the state;

1 (4) application of this subsection may not reduce the  
2 weekly compensation rate to less than \$154 a week, except as provided  
3 in (a) of this section.

4 (c) The board shall provide by regulation for the determination  
5 of living costs for the state and other localities in which recipients  
6 reside and for the annual redetermination of these costs.

7 \* Sec. 22. AS 23.30.180 is amended to read:

8 Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total  
9 disability adjudged to be permanent 80 percent of the injured em-  
10 ployee's spendable weekly wages shall be paid to the employee during  
11 the continuance of the total disability. Loss of both hands, or both  
12 arms, or both feet, or both legs, or both eyes, or of any two of them,  
13 in the absence of conclusive proof to the contrary, constitutes perma-  
14 nent total disability. In all other cases permanent total disability  
15 is determined in accordance with the facts. In making this determina-  
16 tion the market for the employee's services shall be

17 (1) area of residence;

18 (2) area of last employment; and

19 (3) the state.

20 \* Sec. 23. AS 23.30.180 is amended by adding a new subsection to read:

21 (b) Failure to achieve remunerative employability as defined in  
22 AS 23.30.041(m)(7) does not, by itself, constitute permanent total  
23 disability.

24 \* Sec. 24. AS 23.30.185 is amended to read:

25 Sec. 23.30.185. COMPENSATION FOR TEMPORARY TOTAL DISABILITY. In  
26 case of disability total in character but temporary in quality, 80  
27 percent of the injured employee's spendable weekly wages shall be paid  
28 to the employee during the continuance of the disability. Temporary  
29 total disability benefits may not be paid for any period of disability

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1 occurring after the date of medical stability. ~~Approx. total dis~~  
2 ~~ability benefits may not be paid for more than two years regardless of~~  
3 continuance of the disability. *TIME NEEDED TO RE-EXTEND*  
*OR ROOM FOR EXCEPTIONS*

4 \* Sec. 25. AS 23.30.190 is repealed and reenacted to read:

5 Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL IMPAIRMENT.

6 (a) In case of impairment partial in character but permanent in  
7 quality, and not resulting in permanent total disability, the compen-  
8 sation is \$240,000 multiplied by the employee's percentage of net  
9 permanent impairment of the whole person, and payable in a single lump  
10 sum, except as otherwise provided in AS 23.30.041, but the compensa-  
11 tion may not be discounted for any present value considerations. Net  
12 permanent impairment is to be determined by multiplying the employee's  
13 actual degree of permanent impairment by the appropriate adjustment  
14 factor, as follows:

Degree of Actual Impairment	Adjustment Factor
0 - 5 percent	0
6 - 10 percent	0.2
11 - 15 percent	0.4
16 - 20 percent	0.6
21 - 25 percent	0.7
26 - 30 percent	0.8
31 percent and greater	1.0

23 (b) All determinations of the existence and degree of permanent  
24 impairment shall be made strictly and solely under the whole person  
25 determination as set out in the ~~American Medical Association Guides to~~  
26 the Evaluation of Permanent Impairment, except that an impairment  
27 rating may not be rounded to the next five percent. The board may  
28 adopt and use a supplemental schedule only for injuries that cannot be  
29 rated by the use of American Medical Association guidelines.

1 (c) An employee with an actual permanent impairment as deter-  
2 mined under (b) of this section may not receive less than \$250 for the  
3 impairment.

4 (d) The impairment rating determined under (a) of this section  
5 shall be reduced by a permanent impairment that existed before the  
6 compensable injury. If the combination of a prior impairment rating  
7 and a rating under (a) of this section would result in the employee  
8 being considered permanently totally disabled, the prior rating does  
9 not negate a finding of permanent total disability.

10 \* Sec. 26. AS 23.30.200 is amended to read:

11 Sec. 23.30.200. TEMPORARY PARTIAL DISABILITY. In case of tempo-  
12 rary partial disability resulting in decrease of earning capacity the  
13 compensation shall be 80 percent of the difference between the injured  
14 employee's spendable weekly wages before the injury and the wage-  
15 earning capacity of the employee after the injury in the same or  
16 another employment, to be paid during the continuance of the disabili-  
17 ty, but not to be paid for more than two [FIVE] years. Temporary  
18 partial disability benefits may not be paid for a period of disability  
19 occurring after the date of medical stability, unless otherwise pro-  
20 vided under AS 23.30.041.

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OR 23.30.200  
MED. STABILITY

21 \* Sec. 27. AS 23.30.200 is amended by adding a new subsection to read:

22 (b) The wage-earning capacity of an injured employee is deter-  
23 mined by the actual spendable weekly wage of the employee if the  
24 actual spendable weekly wage fairly and reasonably represents the  
25 wage-earning capacity of the employee. The board may, in the interest  
26 of justice, fix the wage-earning capacity that is reasonable, having  
27 due regard to the nature of the injury, the degree of physical impair-  
28 ment, the usual employment, and other factors or circumstances in the  
29 case that may affect the capacity of the employee to earn wages in a

1 disabled condition, including the effect of disability as it may  
2 naturally extend into the future.

3 \* Sec. 28. ~~§ 28-30-20(a) is amended to read:~~ *GO BACK TO OLD WAY*  
4 *BASED ON HISTORICAL WAGES*

5 (a) The spendable weekly wage of an injured employee at the time  
6 of an injury is the basis for computing compensation. It is the  
7 employee's gross weekly earnings minus payroll tax deductions. The  
8 gross weekly earnings shall be calculated as follows:

9 (1) The gross weekly earnings are computed by dividing by  
10 100 the gross earnings of the employee in the two calendar years  
11 immediately preceding the injury.

12 (2) If the employee had no earnings during the two calendar  
13 years preceding the injury or was voluntarily absent from the labor  
14 market for 18 months or more of the two calendar years preceding the  
15 injury [THE BOARD DETERMINES THAT THE GROSS WEEKLY EARNINGS AT THE  
16 TIME OF THE INJURY CANNOT BE FAIRLY CALCULATED UNDER (1) OF THIS  
17 SUBSECTION], the board shall [MAY] determine the employee's gross  
18 weekly earnings for calculating compensation by considering the nature  
19 of the employee's work and work history, but compensation may not  
20 exceed the employee's earnings at the time of injury.

21 (3) If an employee when injured is a minor, an apprentice,  
22 or a trainee in a formal training program, as determined by the board,  
23 whose wages under normal conditions would increase during the period  
24 of disability, the projected increase may be considered by the board  
25 in computing the gross weekly earnings of the employee.

26 (4) If the employee is injured while performing duties as a  
27 volunteer ambulance attendant, policeman, or fireman, the gross weekly  
28 earnings for calculating compensation shall be the minimum gross  
29 weekly earnings paid a full-time ambulance attendant, policeman, or  
fireman employed in the political subdivision where the injury

1 occurred, or, if the political subdivision has no full-time ambulance  
2 attendants, policemen, or firemen, at a reasonable figure previously  
3 set by the political subdivision to make this determination but in no  
4 case may the gross weekly earnings for calculating compensation be  
5 less than the minimum wage computed on the basis of 40 hours work per  
6 week.

7 \* Sec. 29. AS 23.30.225 is amended by adding a new subsection to read:

8 (c) If employer contributions to a qualified pension or profit  
9 sharing plan have been included in the determination of gross earnings  
10 and the employee is receiving pension or profit sharing payments,  
11 weekly compensation benefits payable under this chapter shall be  
12 reduced by the amount paid or payable to the injured worker under the  
13 plan for any week or weeks during which compensation benefits are also  
14 payable. The amount of the reduction may not in any week exceed the  
15 increase in weekly compensation benefits brought about by the inclu-  
16 sion of employer contributions to a qualified pension or profit shar-  
17 ing plan in the determination of gross earnings.

18 \* Sec. 30. AS 23.30 is amended by adding a new section to read:

19 Sec. 23.30.247. DISCRIMINATION PROHIBITED. (a) An employer may  
20 not discriminate in hiring, promotion, or retention policies or prac-  
21 tices against an employee who has in good faith filed a claim for or  
22 received benefits under this chapter. An employer who violates this  
23 section is liable to the employee for damages to be assessed by the  
24 court in a private civil action.

25 (b) This section may not be construed to prevent an employer  
26 from basing hiring, promotion, or retention policies or practices on  
27 considerations of the employee's safety practices or the employee's  
28 physical and mental abilities; nor may this section be construed so as  
29 to create employment rights not otherwise in existence.

1           (c) This section may not be construed to prohibit an employer  
2 from requiring a prospective employee to fill out a preemployment  
3 questionnaire or application regarding the person's prior health or  
4 disability history as long as it is meant to either document written  
5 notice for second injury fund reimbursement under AS 23.30.205(c) or  
6 to determine whether the employee has the physical or mental capacity  
7 to meet the documented physical or mental demands of the work.

8 \* Sec. 31. AS 23.30.265(15) is amended to read:

9           (15) "gross earnings" means periodic payments, by an em-  
10 ployer to an employee for employment before any authorized or lawfully  
11 required deduction or withholding of money by the employer, including  
12 compensation that is deferred at the option of the employee, and  
13 excluding irregular bonuses, reimbursement of expenses, expense allow-  
14 ances, and any benefit or payment to the employee that is not fully  
15 taxable to the employee during the pay period, except that the total  
16 amount of contributions made by an employer to a qualified pension or  
17 profit sharing plan during the two plan years preceding the injury,  
18 multiplied by the percentage of the employee's vested interest in the  
19 plan at the time of injury, shall be included in the determination of  
20 gross earnings; the value of room and board if taxable to the employee  
21 may be considered in determining gross earnings; however, the value of  
22 room and board that would raise an employee's gross weekly earning  
23 above the state [ALASKA] average weekly wage at the time of injury may  
24 not be considered;

25 \* Sec. 32. AS 23.30.265(17) is amended to read:

26           (17) "injury" means accidental injury or death arising out  
27 of and in the course of employment, and an occupational disease or  
28 infection which arises naturally out of the employment or which natu-  
29 rally or unavoidably results from an accidental injury; "injury" [,

1 AND] includes breakage or damage to eyeglasses, hearing aids, den-  
2 tures, or any prosthetic devices which function as part of the body  
3 and further includes an injury caused by the wilful act of a third  
4 person directed against an employee because of the employment; "in-  
5 jury" does not include mental injury caused by mental stress unless it  
6 is established that (A) the work stress was extraordinary and unusual  
7 in comparison to pressures and tensions experienced by individuals in  
8 a comparable work environment, and (B) the work stress was the predom-  
9 inant cause of the mental injury; the amount of work stress shall be  
10 measured by actual events rather than misperceptions by the employee;  
11 a mental injury is not considered to arise out of and in the course of  
12 employment if it results from a disciplinary action, work evaluation,  
13 job transfer, layoff, demotion, termination or similar action, taken  
14 in good faith by the employer;

15 \* Sec. 33. AS 23.30.265 is amended by adding a new paragraph to read:

16 (34) "medical stability" means the date after which further  
17 objectively measurable improvement from the effects of the compensable  
18 injury is not reasonably expected to result from additional medical  
19 care or treatment, notwithstanding the possible need for additional  
20 medical care or the possibility of improvement or deterioration re-  
21 sulting from the passage of time; medical stability shall be presumed  
22 in the absence of objectively measurable improvement for a period of  
23 45 days; this presumption may be rebutted by clear and convincing  
24 evidence.

25 \* Sec. 34. AS 23.30.210 is repealed.

26 \* Sec. 35. TRANSITIONAL PROVISIONS. Notwithstanding AS 23.30.040(b),  
27 as amended by sec. 5 of this Act, and AS 23.30.155(m), as amended by sec.  
28 20 of this Act, on or before March 1, 1989, each employer that is subject  
29 to those sections shall file a report and make the appropriate contribution

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1 for all claims existing as of December 31, 1988. The period covered in the  
2 report shall be from the date of the termination report or the last an-  
3 niversary report filed, if one has been filed, through December 31, 1988.

4 \* Sec. 36. APPLICABILITY. This Act applies only to injuries sustained  
5 on or after July 1, 1988.

6 \* Sec. 37. This Act takes effect July 1, 1988.

\* Sec. 3. AS 23.30.005 is amended by adding a new subsection to read:

(m) If a regulation adopted by the department and approved by a majority of the full board is determined to be invalid by the state supreme court, the department may adopt new regulations that conform to the department's statutory authority as interpreted by the court.

These new regulations shall apply both retrospectively and prospectively.

\* Sec. 5. AS 23.30.041 is repealed and reenacted to read:

Sec. 23.30.041. REHABILITATION OF INJURED WORKERS. (a) The board shall select and employ a reemployment services administrator. The board may authorize the [reemployment services] administrator to select and employ additional staff. The [reemployment services] administrator is in the partially exempt service under AS 39.25.120.

(b) The [reemployment services] administrator shall perform the following functions:

(1) enforce regulations adopted by the board to implement this section;

(2) recommend regulations for adoption by the board that establish performance and reporting criteria for rehabilitation specialists;

(3) enforce the quality and effectiveness of reemployment [preparation] benefits provided for under this section;

(4) review on an annual basis the performance of rehabilitation specialists to determine continued eligibility for delivery of rehabilitation services;

(5) submit to the [Department of] Labor on or before January 1 of each year, a report of reemployment benefits provided under this

REV. 2/8/88

section for the previous fiscal year; the report must include a statistical summary of all rehabilitation cases, including

(A) the estimated and actual cost of each active rehabilitation plan;

(B) the estimated and actual time of each rehabilitation plan;

(C) a status report on all individuals completing or terminating a reemployment services program including a return to work date;

(D) the cost of reemployment preparation services;

(6) maintain a list of rehabilitation specialists meeting the qualifications established in this section;

(7) promote awareness among physicians, adjusters, injured workers, employer, employees, attorneys, training providers, and rehabilitation specialists of the reemployment program established in this subsection.

(c) If an employee suffers a compensable injury that may permanently preclude an employee's return to the employee's occupation at the time of injury, the employee or employer may request an eligibility evaluation for reemployment benefits. The employee must request an eligibility evaluation within 90 days after the employee gives the employer a notice of injury unless the [reemployment services] administrator determines the employee has unusual and extenuating physical limitations that prevent the employee from making a timely request. The [reemployment services] administrator shall, on a rotating and geographic basis, select a rehabilitation specialist from the list maintained under (b)(6) of this section to perform the eligibility evaluation.

(d) Within thirty days after the referral by the administrator, the rehabilitation specialist shall perform the eligibility evaluation and issue a report of findings. The [reemployment services] administrator may grant up to an additional 30 days for performance of the eligibility evaluation upon notification of unusual and extenuating circumstances and the rehabilitation specialist's request. Within 14 days after receipt of the report from the rehabilitation specialist, the [reemployment services] administrator will notify the parties of the employee's eligibility for reemployment preparation services. Within 10 days after the decision, either party may seek review of the decision by requesting a hearing under AS 23.30.110. The hearing shall be held within 30 days after it is requested. The board shall uphold the decision of the administrator except for abuse of discretion on the administrator's part.

(e) An employee shall be eligible for benefits under this section upon the employee's written request and by having a physician predict that the employee has permanent physical capacities that are less than the physical demands of the employee's job as described in the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles" for

- (1) the employee's job at the time of injury; and
- (2) other jobs that exist in the labor market that the employee has held or received training for within 10 years before the injury or that the employee has held following the injury for a period long enough to obtain the skills to compete in the labor market, according to specific vocational preparation codes as described in the dictionary of occupational titles.

(f) An employee is not eligible for reemployment benefits if

(1) the employer offers employment within the employee's predicted post-injury physical capacities at a wage equivalent to at least 60% of the employee's gross hourly wages at the time of injury and the employment prepares the employee to be employable in other jobs that exist in the labor market;

(2) the employee has been previously rehabilitated in a former workers' compensation claim and returned to work in the same or similar occupation, in terms of physical demands, as the employee held at the time of the prior injury; or

(3) at the time of medical stability no permanent impairment is identified or expected.

(g) Within 10 days after the employee receives the [reemployment services] administrator's notification of eligibility for services, the employee shall notify the employer in writing of his selection of a rehabilitation specialist who shall provide a complete reemployment services plan. If the employer disagrees with the employee's choice of rehabilitation specialist to develop the plan and the disagreement cannot be resolved, then the [reemployment services] administrator shall assign a rehabilitation specialist. The employer and employee each have one right of refusal of a rehabilitation specialist.

(h) Within 90 days after the rehabilitation specialist's selection in (g) of this section, a reemployment plan must be formulated and approved. The reemployment plan must contain at least the following:

- (1) an occupational goal in the labor market;
- (2) a plan to acquire the occupational skills to be employable;

(3) the cost estimate of the reemployment plan, including provider fees; the amount of tuition, books, tools, and supplies; transportation; temporary lodging; or job modification devices;

(4) the estimated length of time that the plan will take;

(5) the date the plan will commence; and

(6) the estimated time of medical stability as predicted by the physician.

(i) Reemployment benefits shall be selected from the following in a manner that ensures remunerative employability in the shortest possible time:

(1) on the job training;

(2) vocational training;

(3) academic training;

(4) self-employment; or

(5) a combination of (1) - (4) of this subsection.

(j) The employee, rehabilitation specialist, and the employer shall sign the reemployment services plan. If the employer and employee fail to agree on a reemployment plan, either party may submit a reemployment plan for approval to the [reemployment services] administrator; the [reemployment services] administrator shall approve or deny a plan within 14 days after the plan is submitted. Within 10 days after the administrator files the decision, either party may seek review of the decision by requesting a hearing under AS 23.30.110. The standards and time periods allowed for review are the same as those in (d) of this section.

(k) Benefits related to the reemployment plan may not extend beyond two years from the date of plan acceptance or approval, at which time benefits expire. If an employee reaches medical stability before completion of the plan, temporary total disability benefits

shall cease and permanent impairment benefits shall then be paid at the employee's temporary total disability rate. If the employee's permanent impairment benefits are exhausted before the completion or termination of the reemployment plan, the employer shall provide wages equal to 60% of the employee's spendable weekly wages but not to exceed \$525, until the completion or termination of the plan. A permanent impairment benefit remaining unpaid upon the completion or termination of the plan shall be paid to the employee in a single lump sum. The fees of the rehabilitation specialist or rehabilitation professional shall be paid by the employer and may not be included in determining the cost of the reemployment plan.

(1) The cost of the reemployment plan, not including the fees of the rehabilitation specialist or the benefits provided in (1) of this section, shall be the responsibility of the employer, but may not exceed \$10,000.

(m) Only a rehabilitation specialist may accept case assignments as a case manager and sign eligibility determinations and reemployment plans. A person who is not a rehabilitation specialist may perform rehabilitation casework if the work is performed under the direct supervision of a rehabilitation specialist employed in the same firm and location.

(n) After the employee has elected to participate in reemployment benefits, noncooperation by the employee shall result in the termination of reemployment benefits on the date of noncooperation.

Noncooperation means <sup>NOT INCLUDED</sup> [but shall not be limited to,] failure to

- (1) keep appointments;
- (2) maintain at least average grades;
- (3) attend designated programs;
- (4) maintain contact with the rehabilitation specialist;

(5) cooperate with the rehabilitation specialist in developing a reemployment plan and participating in activities relating to reemployment of a full-time basis;

(6) comply with the employee's responsibilities outlined in the reemployment plan; or

(7) participate in any planned reemployment activity as determined by the reemployment services administrator.

*1055010  
A1000*  
If the employer believes the employee has not cooperated, it may terminate reemployment services and wages under (1) of this section. However, upon the request of either party, the reemployment services administrator shall decide whether the employee cooperated. A hearing before the administrator shall be held within 30 days after it is requested. The administrator shall issue a decision within 14 days after the hearing. Within 10 days after the administrator files the decision, either party may seek review of the decision by requesting a hearing under AS 23.30.110. The standards and time periods allowed for review are the same as those in (d) of this section.

(o) In this section

(1) "employability" means possessing the ability but not necessarily the opportunity to engage in employment that is consistent with the employee's physical limitations resulting from the compensable injury.

(2) "labor market" means a geographical area that offers employment opportunities in the following priority:

- (A) area of residence;
- (B) area of last employment;
- (C) the state;
- (D) other states.

(3) "physical capacities" means objective and measurable physical traits such as ability to lift and carry, walk, stand or sit, push, pull, climb, balance, stoop, kneel, crouch, crawl, reach, handle, finger, feel, talk, hear, or see.

(4) "physical demands" means the physical requirements of the job such as strength, including positions such as standing, walking, sitting, and movement of objects such as lifting, carrying, pushing, pulling, climbing, balancing, stooping, kneeling, crouching, crawling, reaching, handling, fingering, feeling, talking, hearing, or seeing.

(5) "rehabilitation specialist" means a person who is a <sup>C</sup>certified <sup>I</sup>insurance <sup>R</sup>rehabilitation <sup>S</sup>specialist, a <sup>C</sup>certified <sup>R</sup>rehabilitation <sup>C</sup>counselor or a person who has equivalent or better qualifications as determined under regulations adopted by the department.

(6) "remunerative employability" means having the skills that allows a worker to be compensated with wages or other earnings equivalent to at least 60 percent of the employee's gross hourly wages at the time of injury, if the employment is outside the state, the stated 60 percent shall be adjusted to account for the difference between the applicable state average weekly wage and the Alaska average weekly wage.

\*Section 18. AS 23.30.155(c) is amended to read:

(c) The carrier or independent adjuster [EMPLOYER] shall notify the board and the employee on a form prescribed by the board that the payment of compensation has begun or has been increased, decreased, suspended, terminated, resumed, or changed in type. An initial report shall be filed with the board and sent to the employee within 28 days

after the date of issuing the first payment of compensation. If at any time 21 days or more pass and no compensation payment is issued, a report notifying the board and the employee of the termination or suspension of compensation shall be filed with the board and sent to the employee within 28 days after the date the last compensation payment was issued. A report shall also be filed with the board and sent to the employee within 28 days after the date of issuing a payment increasing, decreasing, resuming, or changing the type of compensation paid. If the [EMPLOYER FAILS TO NOTIFY THE] board and the employee are not notified with the 28 days prescribed by this subsection for reporting, the carrier or independent adjuster [EMPLOYER] shall pay a civil penalty of \$100 for the first day plus \$10 for each day thereafter that [THE EMPLOYER FAILED TO GIVE] notice was not given. Total penalties under this subsection [SECTION] may not exceed \$1,000 for a failure to file a required report. Penalties assessed under this subsection are due and payable and eligible for reduction under (m) of this section.

\*Section 20. AS 23.30.155(m) is repealed and reenacted to read:

(1) On or before March 1 of each year the carrier or independent adjuster shall file a verified annual report on a form prescribed by the board stating the total amount of all compensation by type, medical and related benefits, vocational rehabilitation expenses, legal fees and penalties paid on all claims during the preceding calendar year.

(2) If the annual report is timely and complete when received by the board and provides accurate information about each category of payments, the commissioner or his designee shall review the timeliness of the carrier or independent adjuster's reports filed during the

preceding year as required by (c) of this section. If the carrier or independent adjuster timely filed at least 99% of the reports for the preceding year, the penalties assessed under (c) of this section shall be waived. If the carrier or independent adjuster timely filed at least 97%, of the reports for the preceding year, 75% of the penalties assessed under (c) of this section shall be waived. If the carrier or independent adjuster timely filed 95% of the reports for the preceding year, 50% of the penalties assessed under (c) of this section shall be waived. If the carrier or independent adjuster's reports for the preceding year were not timely filed at least 95% of the time, none of the penalties assessed under (c) of this section shall be waived. The penalties that are not waived shall be due and payable within 28 days after the Commissioner of Labor mails the notice of the penalties due.

(3) If the annual report is not filed by March 1 of each year, the carrier or independent adjuster shall pay a civil penalty of \$100 for the first day plus \$10 for each day thereafter.

*OKLIE  
1/25/88*

(4) If the payment under (2) of this subsection is not paid timely, the carrier or independent adjuster shall pay a civil penalty of 20% of the penalties due plus interest at the rate prescribed by AS 45.45.010.

\*Section 21. AS 23.30.155 is amended by adding a new subsection to read:

(n) If the employer does not have a carrier or independent adjuster, (c) and (m) of this section apply to the employer.

NOTE: ALL SUBSEQUENT SECTIONS SHOULD BE RENUMBERED.

additional possible amendments to 322

- ✓ 1) all states rider
- ✓ 2) adjustment to permanent partial impairment schedule
- ~~3) mandatory rate reductions~~
- ✓ 4) level of evidence required

A M E N D M E N T

Offered in the SENATE

By Kelly

TO: CSSB 322(L&C)

Page 3, after line 2:

Insert a new bill section to read:

"\* Sec. 5. AS 23.30.025 is amended by adding a new subsection to read:

(c) An insurer extending coverage required under this chapter by including an all states endorsement or other similar endorsement with the insurance policy shall provide notice to the department under AS 23.30.085."

Renumber remaining bill sections accordingly.

Page 27, line 28:

Delete "sec. 5"

Insert "sec. 6"

Page 27, line 29:

Delete "20"

Insert "21"

Page 28, line 5:

Delete "secs. 5, 18, 20 and 22 of"

Insert "secs. 6, 19, 21 and 23,"

A M E N D M E N T

Offered in the SENATE

By Kelly

TO: CSSB 322(L&C)

Page 28, after line 4:

Insert a new bill section to read:

"\* Sec. 37. Notwithstanding AS 21.39.030, an insurer providing workers' compensation insurance in the state shall provide at least a 10 percent reduction in the premium rate charged within the state for workers' compensation insurance, for the period beginning July 1, 1988, and ending January 1, 1990."

Renumber remaining bill sections accordingly.

Page 28, line 5:

Delete "and 22 of"

After "22":

Insert "22, and 37,"

23.30.130  
 MIDDLETOWN  
 AM  
 APPROVED  
 BOARD  
 APPROVED  
 11/15/70  
 THEN GIVE

ON LUMP SUM - GIVE ONLY 10-15% THEN GIVE  
 BALANCE @ WEEKLY TOTAL RATE

WHILE PTD BECOMING PTD - DEVELOP OFFSET PLAN  
 TO BE APPROVED BY BOARD  
 TO GO BACK TO DATE OF PERMANENCY REPORT  
 PPD GET 80% WEEKLY - NOT SETTLEMENT  
 NET SUPPOSED TO GET BOTH - PPD IS OESH TO DO IT

FOR EMPLOYEES  
 EMPLOYEES  
 EMPLOYEES  
 EMPLOYEES  
 EMPLOYEES

FOR EMPLOYEES IT IS ASSUMED TO HAVE EXISTED  
 PPD L6 APPROXIMATELY - JP POSITIVE CONTRIBUTION  
 FOR EMPLOYEES

TO KILLER THIS OR WED  
 TO ELIMINATE GAPS & NET  
 ACCOUNTING ON FIXING SCHEDULE

ACCOUNTING ON FIXING SCHEDULE  
 TO ELIMINATE GAPS & NET  
 TO KILLER THIS OR WED

DISBURSE  
 2  
 THIS IS NOT  
 FOR THE STATE

<(1) - IN THE STATE RATHER THAN OF THE ST  
 PPD 25 - IN THE STATE & OTHER AREAS IN  
 WHICH RECIPIENTS RESIDE  
 <(11) - WHERE THE RECIPIENT LIVES [LOCALITIES]

OUT OF STATE RECIPIENTS  
 IF COURT DETERMINES THAT RECIPIENT HAS THE BOARD  
 CAN PUT IN NEW DRESS  
 CONSIDER RETROSPECTIVE NEW RECS

JOHN LEWIS

LEWIS - 305-885-3129 - FAX #

P.1, L.20

ANY EVIDENCE  
NO INTENT FOR NO APPEAL  
US SUPREMO HAS INTERPOSED THIS - NOT MUCH  
DIFFERENT THAN SUBSTANTIAL

ARTHUR LARSON - CHANCEY WROTE HIM FOR HELP -  
GUY OF US SYSTEMS COMP SINCE '65

- 1) PFD - SAID HE WOULDN'T GET INVOLVED
- 2) ANY EVIDENCE - A.L. SUPPORTS THIS WORDING  
TO GIVE MESSAGE TO COURT

JACKIE HAS SET OF LARSON -

VOL. 3 SEC. 80.10

P426.307 SUBSTANTIAL IS NOT LARGER THAN ANY

ANY POSSY T DENY RIGHT OF APPEAL

Paul Roller

\* REHAB BILLS C/B ON EXPENSE BASIS, NOT  
ON LUMP SUM UP FRONT

10% DECREASE ? MORATORIUM IS GOAL  
6% IN WROVE MAN SCHEDULE

BILL ONLY ADDRESSES 44% OF COST  
- ATTORNEY FEE  
IME  
PROFITS  
BOARDS  
ETC  
} AREAS FOR NEXT YEAR

DON KOCH

ALL STATES ENDORSEMENTS

POLICY NAMES THE STATE IT IS GOOD IN  
INCLUDES ALL STATES ENDORSEMENT - NO CHARGE -

WHEN AL IS ADDED AS A PLACE OF WORK  
RATES W/B INCREASED

IF EMPLOYER DOESN'T NOTIFY INSURER, AUDIT  
MIGHT FIND IT - OR CLAIM

"DON'T REMOVE ALL STATES ENDORSEMENT"  
MAY LEAVE EMPLOYEE W/ NOTHING

MILK F  
IS DRAFTED  
AMERICAN  
~~AMERICAN~~

REQUIRE INSURANCE CO. TO NOTIFY D. OF LABOR  
WHETHER AN ALL STATES ENDORSEMENT FOR AL  
LABOR THEN CAN FLAG & FOLLOW

SB

322

(FILE 9)

\* ORIGINAL  
 \* SENT: 02/12/88 TIME: 16:20  
 \* FROM: LIOCDV  
 \* SUBJECT: S+H L&C; WORK'S COMP; FS; 2-12-88  
 \* PRINT DATE: 02/12/88 TIME: 16:20  
 \*

\*\*\*\*\*

\*\*\* FINAL TELECONFERENCE STATISTICS \*\*\*

DATE: FEBRUARY 12, 1988  
 SITE: ANCHORAGE  
 SPONSOR: SENATE AND HOUSE LABOR AND COMMERCE  
 SUBJECT: WORKER'S COMPENSATION  
 LOCAL MODERATOR: DAVID

\*\*\*\*\*

TESTIFIED:

NAME REPRESENTING	ADDRESS	PHONE #
SENATOR KELLY	3111 C STREET ANCH	99503
SENATOR HEHLING	"	"
REPRESENTATIVE DONLEY	"	"
REPRESENTATIVE COLLINS	"	"
REPRESENTATIVE FURNACE	"	"
REPRESENTATIVE ELLIS	"	"
GEORGE ERICKSON	741 SESAME ST ANCH	561-1725
FARL W DAVIS	815 W INT APT ANCH	562-2414
DON SASSER	PO BOX 670055 CHUG	99587 688-2814
MIKE MCMURREY	251 SO LAKE ST PASA., CA 91011	(818) 5771144
BRUNO KAPPEL	4500 MARYBELL ANCH	99516 345-7288
GIGI LINBLOM	700 ARLENE ANCH	278-3341
ERIKA MAHANEY	PO BOX 671495 CHUG	99567 337-8269
RODNEY FULTS	6311 DEBARR RD ANCH	333-2576
LARRY BOSWELL	1890 E 58TH AV ANCH	99507 561-0722
G. RAINWATER	NO ADDRESS OF PHONE # GIVEN	
JERRY BRINKLIN	4106 NORTHWOOD ANCH	248-0266
RICK LAGARDE	4300 ARCTIC #2 ANCH	561-8785
STEVE REHNG	8230 PIONEER ANCH	337-4698
JAMES CHAPMAN	7000 DICKERSON ANCH	337-3984
DENNIS JOHNSON	3501 DENALI #102 ANCH	99503 563-5014
MARK MULVANEY--NCCI	7235 E HAMPTON DENV, COL	98121 (503) 228-4173
GARY R MASOG	6114 E 22ND AVE ANCH	99509 338-1300
JOHN LEWIS	BOX 330550 MIAMI, FLA	(305)-443-8111
BONNIE NELSON	HC 78 BOX 2708 CHUG	688-3017
MICHAEL THOMAS	550 W 7TH AVE WASI	277-6693
LARRY NICHOLZ	HC 32 BOX 6651 WASI	376-3671
CHARLES MCKEE	538 E 12TH AVE ANCH	272-0697
JAMES CASTLELY	2240 SENTRY ANCH	344-2061
PAUL ROLLER	3601 C STREET ANCH	99503 562-3626

## OBSERVED:

NAME REPRESENTING

ADDRESS

PHONE #

NAME REPRESENTING	ADDRESS	PHONE #
RONALD JORDON	3444 #A SEPPALA ANCH	248-5444
RALPH MINGO	PO BOX 102092 ANCH	99510 333-2311
KEN MILLARD	815 W INT APT RD ANCH	99502 562-2414
PAUL EVANS	2200 GAMBELL#347 ANCH	783-3474
BILLY E JONES	1414 W 26TH AVE ANCH	277-1186
MIKE MEISWONGER	PO BOX 774807 E.RIV	99577 694-2546
FRANCES EKHOLOT	3546 LATOUCHE ANCH	563-3145
LYNN PHILLIPS	3339 SEPPALA ANCH	243-4417
PAT REEVES	3140 CHESAPEAKE ANCH	562-4669
JAN HANSEN	3301 EAGLE #302 ANCH	264-2424
JACQUELINE MCCLINTOCK	1111 8TH AVE JUN	99811 465-2790
STEPHEN FIELDS	4524 LINDEN DR ANCH	243-4951
DICK CATTANICH	8101 OLD SEWARD ANCH	349-6666
ROBERT ANDERS	3310 W 78TH AVE ANCH	243-4951
KEVIN DOUGHERTY	2501 COMMERCIAL ANCH	276-1640
CALVIN I TAYOR	PO BOX 90881 ANCH	243-1208
BECK STONE	14610 ELMORE ANCH	522-1003
D. RETNWALD	ANCHORAGE TIMES ANCH	99501 263-9181
BARBARA LINDON	2121 4TH AVE SEA, WA	80231
	(206) 729-5262	
STAN SPARKS	ONE SW COLUMBIA, PORT, ORE	98121
	(503) 228-4173	
CYNDI MCADAMS	3605 ARCTIC BLVD ANCH	
JED WHITTAKER	618 1/2 E 14TH AVE ANCH	
CA LANDERS	SR 192A MYRTLE DR ANCH	99577 694-0520
BILL MILLER	4706 HARDING DR ANCH	248-3030
CARL STMS	1341 KRSTEN ANCH	344-2853
IRENE F. BALES	4859 WESLEYAN ANCH	333-5454
KEITH LEAFDALE	PO BOX 101668 ANCH	561-0335
MICHAEL R STOLLE	14020 JARVI DR ANCH	753-2596
HAI INGALLS	6000 A STREET ANCH	562-2312
BRUCE SMITH	15231 SNOWFLAKE ANCH	345-4075
BOB NESTEL	EASY STREET E.RIV	99577
CHUCK LANGDON	SENATOR KELLY'S STAFF	

\*\*\*\*\*

TESTIFIED: \_\_\_\_\_30\_\_\_\_\_

OBSERVED: \_\_\_\_\_32\_\_\_\_\_

TOTAL: \_\_\_\_\_62\_\_\_\_\_

START TIME: \_\_\_9:00AM\_\_\_

END TIME: \_\_\_4:00PM\_\_\_

\*  
 \*\*\*\*\*  
 DATE: FEBRUARY 12, 1988  
 SPONSOR: JOINT HOUSE AND SENATE LABOR AND COMMERCE COMMITTEE  
 SUBJECT: WORKERS' COMPENSATION  
 SITE: KODIAK L.I.O.  
 MODERATOR: LORNA STEELMAN

FINAL STATS

\*\*\*\*\*  
TO TESTIFY

\*\*\*\*\*  
TO OBSERVE

NAME/REPRESENTING ADDRESS PHONE #

1. DYCK ROHRER, PO BX 2219 KODIAK 99615, 486-5835

TESTIFIED: 0  
 UNABLE: 0  
 OBSERVED: 1  
 TOTAL: 1

START TIME: 3:17 PM  
 END TIME: 4:04 PM

\*\*\*\*\*  
 \* FROM: LIOCOLG \*\*  
 \* SUBJECT: JT.H&S LC;FS;WORK.COMP.2-12 \*  
 \* PRINT DATE: 02/12/88 TIME: 16:12 \*  
 \*  
 \*\*\*\*\*

DATE: FEBRUARY 12, 1988 9 A.M. AND 2 P.M.  
 SITE: DILLINGHAM, LIO  
 SPONSOR: JT, H AND S LABOR AND COMMERCE  
 SUBJECT: WORKERS COMPENSATION  
 MODERATOR: ANNA MAY SORENSEN

FINAL STATS

OBSERVED:  
 NAME-REPRESENTING ADDRESS PHONE#  
 1. DALIAS NELSON, D.C., BOX 741, DILLINGHAM, AK. 99576 842-2300

TESTIFIED: 0  
 UNABLE: 0  
 OBSERVED: 1  
 TOTAL: 1

START-END TIME: DILLINGHAM DIALED IN AT 9:55 A.M., UNTIL  
 11 A.M.  
 DID NOT DIAL-IN FOR THE AFTERNOON AS  
 PART. WAS UNABLE TO ATTEND

\*\*\*\*\*

\* DELIVER TO: LJOCSHN

\*

\*

\* ORIGINAL

\* SENT: 02/12/88 TIME: 16:14

\* FROM: LJOCSHN

\* SUBJECT: JT L&C;FS;WK COMP;2-12-88

\* PRINT DATE: 02/12/88 TIME: 16:14

\*

\*\*\*\*\*

NOME HAS NO PARTICIPANTS FOR THE T/C ON WORKMAN'S COMPENSATION HB  
355 AND SB 322.

THANK YOU AND HAVE A NICE WEEKEND. "HAPPY VALENTINES DAY"

RITXANNI-NOME

\*\*\*\*\*

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*****
*
* DELIVER TO: L10CSHN
*
* ORIGINAL
* SENT: 02/12/88 TIME: 16:12
* FROM: L10C0JT
* SUBJECT: JTLAC;FS;WORK,COMP;2-12-88
* PRINT DATE: 02/12/88 TIME: 16:12
*
*****

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DATE: FEBRUARY 12, 1988
SITE: DELTA JUNCTION
SPONSOR: JOINT LABOR AND COMMERCE COMMITTEE
SUBJECT: WORKMAN'S COMP
MODERATOR: LTZ SARVER

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FINAL STATS

TESTIFIED	ADDRESS	PHONE #
NAME/REPRESENTING		
NONE		

OBSERVED	ADDRESS	PHONE #
NAME/REPRESENTING		
NONE		

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TESTIFIED: 0
UNABLE: 0
OBSERVED: 0
TOTAL: 0

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START/END TIME

\*\*\*\*\*

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*****
*
* DELIVER TO: LIOC SHN
*
* ORIGINAL
* SENT: 02/12/88 TIME: 16:31
* FROM: LIOCELA
* SUBJECT: L&C;FS;WORKERS'COMP;2-12-88
* PRINT DATE: 02/12/88 TIME: 16:31
*
*****

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FEBRUARY 12, 1988  
 JOINT LABOR & COMMERCE COMMITTEES  
 WORKERS' COMPENSATION  
 SITKA  
 MODERATOR-ELAINE SUNDE

FINAL STATS

```

*****
TO TESTIFY
NAME/REPRESENTING ADDRESS PHONE #
1. DAVE BARNES, MCDONALD'S RESTAURANTS IN ALASKA, BOX 2967,
   SITKA, AK. 99835 747-8709
2. RICK WOLLENBERG, ATTORNEY-AT-LAW, REPRESENTING SELF, 408 OJA WAY
   SITKA, AK. 99835 747-3257

```

```

*****
TO OBSERVE
NAME/REPRESENTING ADDRESS PHONE #
1. CANDY BARNES, PO BOX 2967, SITKA 747-8709

```

-2-TESTIFIED  
 -0-UNABLE  
 -1-OBSERVED  
 \*3\*TOTAL

9-12, 2-4 P.M. START/END TIME

\*\*\*\*\*  
 \*  
 \* DELIVER TO: LIOCSHN \*  
 \* \*  
 \* \*  
 \* ORIGINAL \*  
 \* SENT: 02/12/88 TIME: 16:31 \*  
 \* FROM: LIOCKOT \*  
 \* SUBJECT: JT. H.&S. L&C;FS; WORK COMP OT \*  
 \* PRINT DATE: 02/12/88 TIME: 16:31 \*  
 \* \*  
 \*\*\*\*\*

DATE: 2-12-88  
 SITE: KOTZEBUE  
 SPONSOR: JT. HOUSE AND SENATE LABOR AND COMMERCE COMMITTEES  
 SUBJECT: LEG. PUBLIC HEARING: WORKERS COMPENSATION  
 MODERATOR: KAREN JOHNSON

FINAL STATS

TESTIFIED			
NAME/REPRESENTING	ADDRESS		PHONE #
1.			
2.			
3.			
4.			
5.			
6.			

OBSERVED			
NAME/REPRESENTING	ADDRESS		PHONE #
1. JERRY NEWTON, BGX 988, KOTZEBUE AK., 442-3067			
2.			
3.			
4.			
5.			
6.			

TESTIFIED: 0  
 UNABLE: 0  
 OBSERVED: 1  
 TOTAL: 1

START/END TIME: 2:00 PM - 4:30 PM

```

*****
*
* DELIVER TO: LIOCSHN
*
* ORIGINAL
* SENT: 02/12/88 TIME: 16:32
* FROM: LTCCSOL
* SUBJECT: FS-AM-PM;WORK COMP;2-12-88
* PRINT DATE: 02/12/88 TIME: 16:32
*
*****

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2-12-88  
 JNT LAB & COM  
 WORKMENS COMP  
 SOLDOTNA  
 VESTA

FINAL STATS LIST

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*****\
TO TESTIFY
NAME/REPRESENTING ADDRESS PHONE #
1.DR. WALT FAILOR BOX 4109, SOLD 2629117
2.KATHI BROONER BOX 2675, SOLD 2625505
*****\
TO OBSERVE
NAME/REPRESENTING ADDRESS PHONE #
1.KATHI BROONER BOX 2675, SOLD 262-5505
2.DALE R. MCGAHAN RT 1 BOX 760, KENAI 776-8266
3.HANK BROONER BOX 2675, SOLD 262-5505
4.WILLIAM R. IRVINE BOX 4109, SOLD 262-9117

```

2 TESTIFIED  
 0 UNABLE  
 4 OBSERVED  
 6 TOTAL

10:23AM/NOON AND 1:56PM/4:10PM START & FINISH

```

*****
*
* DELIVER TO: LIOC SHN
*
*
* ORIGINAL
* SENT: 02/12/88 TIME: 16:12
* FROM: LIOC DLG
* SUBJECT: JT.H&S LC;FS;WORK.COMP.2-12
* PRINT DATE: 02/12/88 TIME: 16:34
*
*****

```

```

DATE: FEBRUARY 12, 1988 9 A.M. AND 2 P.M.
SITE: DILLINGHAM, LIO
SPONSOR: JT. H AND S LABOR AND COMMERCE
SUBJECT: WORKERS COMPENSATION
MODERATOR: ANNA MAY SORENSEN

```

FINAL STATS

```

OBSERVED:
NAME-REPRESENTING ADDRESS PHONE#
1.DALLAS NELSON,D.C.,BOX 741, DILLINGHAM, AK.99576 842-2300

```

```

TESTIFIED: 0
UNABLE 0
OBSERVED: 1
TOTAL 1

```

```

START-END TIME: DILLINGHAM DIALED IN AT 9:55 A.M., UNTIL
11 A.M. DID NOT DIAL-IH FOR THE AFTERNOON AS
PART. WAS UNABLE TO ATTEND

```

\*\*\*\*\*

```

*****
*
* DELIVER TO: LIOC SHN
*
* ORIGINAL
* SENT: 02/12/88 TIME: 16:38
* FROM: LTCCGLN
* SUBJECT: H&S L&C;FS;WORK.COMP;2-12-88
* PRINT DATE: 02/12/88 TIME: 16:38
*
*****

```

```

DATE: FEBRUARY 12, 1988
SITE: GLENNALLEN
SPONSOR: JT H & S LABOR & COMMERCE
SUBJECT: WORKER'S COMPENSATION
MODERATOR: CATHY MACKINNON

```

FINAL STATS

OBSERVED	NAME/REPRESENTING	ADDRESS	PHONE #
1	RICHARD NALOS, SEND,	INT. BOX 369, GLENNALLEN	822-3291

```

TESTIFIED: 0
UNABLE: 0
OBSERVED: 1
TOTAL: 1

```

```

START/END TIME
START TIME: 9:10 A.M.
END TIME: 10:00 A.M.

```

\*  
\* DELIVER TO: LIOCROG \*  
\* \* \* \* \*  
\* ORIGINAL \*  
\* SENT: 02/12/88 TIME: 16:16 \*  
\* FROM: LIOCKTN \*  
\* SUBJECT: H&S L&C;FS;2-12-88 \*  
\* PRINT DATE: 02/12/88 TIME: 16:16 \*  
\* \* \* \* \*  
\*\*\*\*\*

DATE: 2-12-88  
SPONSOR: HOUSE AND SENATE LABOR AND COMMERCE COMMITTEE  
SUBJECT: WORKERS COMPENSATION  
SITE: KETCHIKAN  
MODERATOR: DORIS CROCKETT

\*FINAL STATISTICS\*

TO OBSERVE: 1. ROGER CARLSON, 433 MAIN, KETCHIKAN, AK  
99901,225-4908  
TESTIFIED: 0  
UNABLE: 0  
TOTAL: 1

9:00-10:20

\* SUBJECT: H/S,FS,WORKERS \*\*\*\*\*  
\* PRINT DATE: 02/12/88 TIME: 16:39 \*  
\* \* \* \* \*  
\*\*\*\*\*

DATE: FEBRUARY 12, 1988  
SITE: BETHEL  
SPONSOR: JOINT HOUSE/SENATE LABOR AND COMMERCE COMMITTEES  
SUBJECT: WORKERS COMPENSATION  
MODERATOR: WALLY RICHARDSON

\*\* FINAL STATS \*\*

I DID NOT HAVE ANY PARTICIPANTS FOR EITHER THE MORNING SESSION OR THE AFTERNOON SESSION.

TESTIFIED: -0-  
UNABLE: -0-  
OBSERVED: -0-TOTAL:  
-0-

I DID NOT CALL-IN, NO START/END TIME.