



Legislative Assembly of Alberta

The 27th Legislature
Fifth Session

Standing Committee
on
Public Accounts

Workers' Compensation Board

Wednesday, February 8, 2012
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Standing Committee on Public Accounts

MacDonald, Hugh, Edmonton-Gold Bar (AL), Chair
Goudreau, Hector G., Dunvegan-Central Peace (PC), Deputy Chair

Allred, Ken, St. Albert (PC)
Benito, Carl, Edmonton-Mill Woods (PC)
Calahasen, Pearl, Lesser Slave Lake (PC)
Chase, Harry B., Calgary-Varsity (AL)
Elniski, Doug, Edmonton-Calder (PC)
Fawcett, Kyle, Calgary-North Hill (PC)
Forsyth, Heather, Calgary-Fish Creek (W)
Groeneveld, George, Highwood (PC)
Kang, Darshan S., Calgary-McCall (AL)
Mason, Brian, Edmonton-Highlands-Norwood (ND)
Rodney, Dave, Calgary-Lougheed (PC)
Sandhu, Peter, Edmonton-Manning (PC)
Vandermeer, Tony, Edmonton-Beverly-Clareview (PC)
Woo-Paw, Teresa, Calgary-Mackay (PC)
Xiao, David H., Edmonton-McClung (PC)

Workers' Compensation Board Participants

Laurent Charron	Corporate Controller
Guy Kerr	President and Chief Executive Officer

Office of the Auditor General Participants

Jeff Dumont	Assistant Auditor General
Jeff Sittler	Principal

Support Staff

W.J. David McNeil	Clerk
Shannon Dean	Senior Parliamentary Counsel/ Director of House Services
Robert H. Reynolds, QC	Law Clerk/Director of Interparliamentary Relations
Giovana Bianchi	Committee Clerk
Corinne Dacyshyn	Committee Clerk
Jody Rempel	Committee Clerk
Karen Sawchuk	Committee Clerk
Rhonda Sorensen	Manager of Corporate Communications and Broadcast Services
Melanie Friesacher	Communications Consultant
Tracey Sales	Communications Consultant
Philip Massolin	Committee Research Co-ordinator
Stephanie LeBlanc	Legal Research Officer
Rachel Stein	Research Officer
Liz Sim	Managing Editor of <i>Alberta Hansard</i>

8:30 a.m. Wednesday, February 8, 2012

[Mr. MacDonald in the chair]

The Chair: Good morning, everyone. I would like to call this meeting of Public Accounts to order. My name is Hugh MacDonald, from Edmonton-Gold Bar, and I would like to welcome everyone in attendance.

Please note that our meeting is recorded as usual by *Hansard*, and the audio is streamed live on the Internet.

If we could quickly go around the table and introduce ourselves, starting with the hon. Member for Dunvegan-Central Peace.

Mr. Goudreau: Thank you, Hugh. Hector Goudreau, Dunvegan-Central Peace.

Dr. Massolin: Good morning. Philip Massolin, committee research co-ordinator, Legislative Assembly Office.

Mr. Rodney: Good morning. Dave Rodney, Calgary-Lougheed.

Mr. Groeneveld: George Groeneveld, Highwood.

Ms Calahasen: Pearl Calahasen, Lesser Slave Lake.

Mr. Kang: Good morning, everyone. Darshan Kang, Calgary-McCall.

Mr. Chase: Good morning. Harry Chase, Calgary-Varsity.

And in what I view as a frustratingly dark, closed organization, I want to recognize three bright lights – Kathleen Ruelling, Keri Grainger, and Doug Palmer – whose service to their injured clients is exemplary.

The Chair: Well, that was quite an introduction of yourself, Mr. Chase.

Mr. Charron: Good morning. My name is Laurent Charron. I'm with the Workers' Compensation Board.

Mr. Kerr: Guy Kerr, president of the Workers' Compensation Board.

Mr. Sittler: Jeff Sittler with the Auditor General's office.

Mr. Dumont: Good morning. Jeff Dumont, Assistant Auditor General.

Mrs. Forsyth: Hi. I'm Heather Forsyth, and I'm the MLA for Calgary-Fish Creek. Thanks for coming.

Mr. Elniski: Good morning. Doug Elniski, the MLA for Edmonton-Calder.

Ms Bianchi: Good morning. Giovana Bianchi, committee clerk, Legislative Assembly Office.

The Chair: Thank you.

May I have approval of the agenda? Thank you. Moved by Ms Calahasen that the agenda for the February 8, 2012, meeting be approved as distributed. All in favour? Thank you.

Approval of the minutes from the December 7, 2011, meeting as circulated?

Mr. Goudreau: I'll so move.

The Chair: Okay. Moved by Mr. Goudreau that the minutes of the December 7, 2011, Standing Committee on Public Accounts

meeting be approved as distributed. All in favour? None opposed. Thank you.

Of course, this takes us to our meeting today with officials from the Workers' Compensation Board. We are dealing specifically with the reports of the Auditor General from 2011, April and November, and the annual report of the Workers' Compensation Board from 2010.

I understand the 2011 calendar year annual report is not yet completed and published. That will be coming later this spring. Is that correct, Mr. Kerr?

Mr. Kerr: That's correct.

The Chair: Okay. For the attention of all members, please, we are also dealing with the annual report of the Department of Employment and Immigration 2010-2011, only the references to the Workers' Compensation Board, which are included in the back of that annual report, and, of course, the annual report of the government of Alberta 2010-11, the consolidated financial statements and the Measuring Up document as well.

I would remind everyone of the briefing materials prepared by the LAO research staff for us.

Please proceed, Mr. Kerr. Thank you.

Mr. Kerr: Good morning. Thank you for inviting us here today to talk about the WCB of Alberta. We do have a presentation that I think was circulated in advance. Did everybody get that? If not, I have paper copies that I'd be happy to hand out to you. Okay.

My name is Guy Kerr, president and CEO. I'm joined today by Laurent Charron, WCB's corporate controller.

Slide 2. WCB provides no-fault disability insurance for workers at a fair cost to employers. We are fully funded by employer premiums, which provide no-fault protection for covered workers and employers. As the neutral and independent administrator of the workers' compensation system we provide one of the highest rates of compensation in the country at the lowest average premium rates.

Our 10-member board of directors holds the organization accountable to Albertans through its oversight role. The board employs a governance model grounded in the core beliefs that the organization must be financially secure; people must be treated with dignity; communication must be open, honest, timely, and defined; there must be fair and equitable compensation for workers; there needs to be a fair assessment of employers; and that a healthy, energized, and informed staff enables the organization to be effective and agile. The board of directors adheres to these beliefs and holds us accountable for achieving a system that is balanced and fair for all of its stakeholders.

Slide 4 shows you that overall 2010 was a busy year for the workers' compensation system, with coverage protection extending to over 139,000 employers and more than 1.7 million workers. The results confirm that even with ongoing economic challenges, workers and employers have a stable, affordable, effective, and fair workers' compensation system.

Slide 5 shows that what matters most to us is helping injured workers get back to work safely and appropriately through compensation and rehabilitation support while encouraging employers to create safe workplaces and to practise good disability management. When we do all of these things well, the result is a balanced and stable system that serves both workers and employers. The research is clear. The longer a worker is off the job, the more likely it is that he or she will never return to work, and that's really an unacceptable outcome. Science has proven that time is our biggest enemy and that proactive injury manage-

ment is our best tool. In collaboration with the medical community WCB Alberta has developed very effective treatment protocols and return-to-work plans.

Slide 6 shows you that the results have been a remarkably strong number of injured workers who work through rehabilitation and achieve a level of fitness to return to work safely. And not just any work. Almost all injured workers return to the job with their date-of-accident employer. In a few cases where that is not possible, with vocational assistance they find new opportunities with new employers.

Slide 7 shows you that fairness is an essential component of our focus on return to work. We believe the right claim and benefit decisions lead to the best outcomes and the right case plans help our clients understand why we have made the decisions we've made. Each year we survey a statistically valid representative sample of clients, both workers and employers. Our client feedback confirms we are focusing on the right direction. Workers expressed almost 90 per cent satisfaction with key service plans. Through the independent surveys we also measure overall satisfaction of workers and employers regularly. These satisfaction levels remain consistently high. The majority of our clients indicate they feel our decisions are fair. These measures are important. Our clients may not always agree with our decisions – fairness doesn't mean you always get what you want – but they do get a fair hearing, an impartial decision that's clearly explained, and the benefits they're entitled to under the Workers' Compensation Act.

Slide 8 shows that we're dealing with a very large volume of information and that we make decisions every day that affect people's lives. In making these decisions, we work hard to be consistent, fair, and accountable. If our clients do not agree with the decisions, we welcome questions and the opportunity to discuss their concerns.

Slide 9 shows you the multiple levels of the appeal process that allows workers and employers to question decisions and at the final level have a completely independent review of decisions. Less than 1 per cent of the claims ever go on to a formal appeal, but the system is balanced by this extra level of review. The results confirm the organization is on the right track and that the services and benefits provided to both workers and employers are making a difference.

Slide 11 shows that in 2010 WCB paid out over \$722 million in claims benefits for workers. Claims costs and the costs to administer the system are covered by employers, whose premiums are set to cover all of the costs while encouraging accountability for safety and disability management. Employers in our province pay premiums that reflect their performance. Those who have embraced and invested in good safety and disability management see the positive results in the premiums they pay. Employer rates can include surcharges in excess of 200 per cent for sustained poor performance and discounts of up to 60 per cent for good performance.

Slide 13 is a great one because it shows you two employers and what a difference performance makes. If we use 2012 industry premium rates, one employer would pay over 750 per cent more than the other employer even though they're the same size, same number of employees, and same insurable earnings. This system is set up so that good performance is really recognized.

8:40

Slide 14 shows our operating results for 2010. They're very strong. The results mean worker benefits are secure and employer benefits continue to reflect employer performance, making ours a stable and balanced workers' compensation system.

Our goal is to be financially stable, and that means having fair and predictable premium rates, having reserves set aside to meet long-term obligations to severely injured workers, and making sure we stay fully funded. By law we have to be fully funded at all times. By policy we set a higher standard to protect workers' benefits in the long term and to provide stable rates for our employers. Our funded position is set to be between 114 and 128 per cent, and it is a measure of our net assets, or our obligation to workers. Our funding level at the end of 2010 was just over 129 per cent after issuing a dividend of \$230 million to covered employers as directed by our funding policy.

The bottom line is that we are and will continue to be here when workers need us. We have the right programs and partnerships to be successful. The proof is in our results, slide 16. But while we're proud of our results and our accomplishments, we know there is room to improve. We need people like you to help us find ways to do things better, and I hope you find we're always willing to listen. The system provides lots of opportunity for our stakeholders to be heard through the appeals process and through the oversight provided by the Ombudsman, the Auditor General, and the Privacy Commissioner.

Through policy and process we've expanded our options available to ensure our stakeholders, particularly our clients, have a voice in the system. If a worker is unhappy with a decision, the worker has access to a customer service team, then a formal, multilevel appeal process, which includes access to a completely independent review. If the worker chooses to appeal, we offer free advice and assistance and even advocacy services for injured workers or their dependants through the office of the appeals adviser. Through this free service we offer immediate access to experienced advisers who help injured workers navigate the appeals process.

When a worker seeks your help, we invite you and all MLAs to address issues with our government relations team. They are always there to work with you and our case management teams to help resolve issues.

When research shows us that a change in policy is needed, we have a robust policy consultation process which asks for and incorporates feedback from the public to ensure that all opinions are taken into perspective. Our senior management team regularly participates in public meetings to allow our clients and stakeholders to voice concerns. We welcome their questions because communication just makes the system better. These opportunities give WCB and all of its partners a chance to hear and understand each other and make efforts to improve the way the system works.

You know, I've never been part of an organization that's more willing to try to get things right. We have strong processes in place to review and change practices when we make an error, and we're zealous about fixing mistakes. WCB is here for the long term, guided by our beliefs and our values. Our focus on return to work remains unchanged, and we're determined to always look for ways to do things better. We're open, we're listening, and we continue to do everything we can to help injured workers get back to the job.

Thank you for the opportunity to meet with you today. We're happy to answer questions.

The Chair: Thank you very much, Mr. Kerr.

Mr. Dumont, do you have anything to add at this time on behalf of the office of the Auditor General?

Mr. Dumont: Sure. I'll add a few brief comments. Mr. Chairman, for WCB's fiscal year ended December 31, 2010, we completed two engagements. These included our audit of the financial state-

ments included in the WCB annual report and a review of five of the 26 measures, including the WCB's 2010 Accountability Framework: Supplementary Measures Report. Our reports in both cases were unqualified.

On page 87 of our November 2011 report we assessed two recommendations that relate to information security controls as implemented; therefore, we currently don't have any outstanding recommendations for WCB.

On page 160 of our November 2011 report we also included an outstanding recommendation to the Department of Human Services to improve its systems to issue certificates of recognition. The WCB is a key partner in the certificates of recognition program as a certificate is a requisite for receiving a partners-injury-reduction rebate on the employer's WCB premiums. The WCB also supplies the department with information to accurately report workplace safety data to the public.

We'd be pleased to answer any questions you may have of us.

The Chair: Thank you very much.

We'll proceed now to questions, and we will start with Mr. Kang, followed by Mr. Elniski.

Mr. Kang: Thank you, Mr. Chair. In the adoption of international financial reporting standards on page 33 of the WCB annual report you mention that an independent external adviser was hired to help with the WCB's transition to IFRS. How much did this external adviser cost?

Mr. Kerr: I don't have that information with me. Laurent, do you recall?

Mr. Charron: It was roughly \$40,000.

Mr. Kang: Okay. Have you evaluated the effectiveness of the external adviser's participation in the process, and what are the results from that?

Mr. Charron: I'd be happy to answer that. The results of that independent review validated many of the accounting policy choices that the WCB was putting on the table at that time.

We have also collaborated with our peers across Canada. The other workers' compensation boards meet regularly, and we discuss the implementation of IFRS. So we validated those choices with feedback from them as well. We've also shared all of our accounting policy choices, the ones that we were preparing, with the office of the Auditor General, and they had opportunity to comment on those as well.

Mr. Kang: So that money was very well spent in your opinion?

Mr. Charron: Yes, it was.

Mr. Kang: Thank you, Mr. Chair.

The Chair: Thank you very much.

Mr. Elniski, please, followed by Mrs. Forsyth.

Mr. Elniski: Thank you very much, Mr. Chair. Good morning, gentlemen. It's a pleasure to have you with us this morning.

My question revolves around your funded position, which I understand for the previous year was at 129.4 per cent. As I go back and look in your financials, I see that your 2010 investment revenue on page 23 of your report was \$326 million. I'm curious as to – really, it's a two-part question. One is: what's your target with respect to your overfunding of your liabilities? Second of all is: if you were in a lesser position, what would you be doing in

terms of – well, just answer the first question first, and we'll see where that goes. So what's your target with respect to the overfunding of your liabilities?

Mr. Kerr: As we know, by law we're required to be 100 per cent funded. Then in order to have long-term security for worker benefits and to ensure premium stability, we have to set a target of between 114 and 128 per cent of liabilities. So we simply measure the amount of liabilities, and then the assets are guided to be between 114 and 128 per cent above that.

Mr. Elniski: Okay. Good. Thank you very much. That actually kind of answers my second question.

Now, I couldn't find the other thing that I looked at your report for because I think the data is a little bit aggregated. I'd like to talk briefly about Millard Health. Millard is an organization that's resident, of course, in my constituency. As I look through some of your metrics here with respect to worker days, duration from injury to return to work from 2007 till 2010, I see you've gone from 33 days to 36.1 days. We both agree that the longer the worker is away, the less likely it is that they'll return to full and gainful employment. Given the investment in Millard and the rehabilitation services that go on there, why are we moving that metric in the wrong direction?

Mr. Kerr: If you look at that, that's a province-wide metric that you're talking about in terms of average duration. If you look at Millard's contribution to that, of course what they do is work with the most severely injured workers who have challenges in getting back to work. The average duration is really a measure of how long people spend on short-term benefits. If you look at the things that actually drove up average duration the couple of days that it did, it mostly has to do with the availability of modified work. In that time period the economy was not as good as it was before, and employers were challenged with finding modified work.

Just a little bit of historical context. If we go back to 2002, the average duration was over 58 days, so we've had a significant reduction in that. I think we're kind of at a bit of maybe a more stable norm now. We'll hover around those couple of days, around that level.

Mr. Elniski: Okay. Good. Thank you very much.

The Chair: Thank you.

Mrs. Forsyth, please, followed by Mr. Groeneveld.

Before we get to Mrs. Forsyth, the chair would like to recognize and welcome both Mr. Benito and Mr. Mason. Good morning, gentlemen.

Mrs. Forsyth: It was interesting listening to your speech, the way you talked about how you're open and listening and wanting to get results. You mentioned fairer assessment, fairer and balanced and things. I get that. Yet probably one of the most heart-wrenching calls that we get into the office are on WCB. You know, when you're an MLA as long as me and you happen to know a constituent fairly well and you can see that they definitely have injuries from the workplace yet they've been denied their claim, et cetera, you sometimes wonder what's going on.

8:50

I have several questions, but one of the things I need to say and get on the record is that all of the questions that I'll be asking today are questions that have come from constituents from Calgary-Fish Creek and others that have some frustration with WCB. The first question I've been asked that I'd like to ask you, if

I can, Mr. Kerr, is: are bonuses still given for the medical service providers for return to work following treatment plans?

Mr. Kerr: Return-to-work providers are compensated in a couple of ways. One, we negotiate fees with all of them across the province, and for some of them we have incentive payments for achieving sustained return to work. So, you know, we can use different words to call it, but what we look at and what we're all interested in is having meaningful and short return to work, right? We want people to get back to work. One of the ways we focus our providers on that is to have incentives for them to achieve those results.

Mrs. Forsyth: May I? Just so I understand because I'm the health critic for the Wildrose and I've been involved with health professionals, doctors, and nurse practitioners: why would we need an incentive for a medical practitioner to encourage someone to go back to work when they sign an oath that their practice is to ensure that that patient is healthy and well enough to be able to return to the workplace? I can understand them getting a fee if they're taking care of, but I'm struggling with the idea that you would like to provide them a bonus. To me that's like saying: "Okay. They're not really well, but get them out of here so that I can get my bonus."

Mr. Kerr: Just to be clear, we're talking about people who are providing rehabilitation and those kinds of services. Those are the professionals we're talking about that have these kinds of things. What it does is it makes sure they understand that for all of us the best outcome is return to work. So I think it incents the right thing. It's guided in the right direction. Of course, there are checks and balances and controls on that to make sure people aren't doing the things that you say. They aren't sending them back to work too early; they aren't sending them back to work inappropriately. I think there's a good system of checks and balances in there to make sure that that doesn't happen. You know, you're right. Those people have an obligation to look after the best interest of their clients, and I think they do that.

The Chair: Thank you.

Mr. Groeneveld, please, followed by Mr. Chase.

Mr. Groeneveld: Thank you, Chair, and thank you, gentlemen, for appearing here this morning. When I got this job eight years ago, I guess it was probably a warning: wait till you start to deal with the workers' compensation problems. I'm happy to report that I haven't had very many problems with workers' compensation, and the ones I have had, we've dealt with quite expediently. I'm from Highwood. Maybe it's because of where my constituency is, but they've been relatively light, any problems we've had.

When I go through the book, I dig up some questions out of the book. Looking at page 99 of the 2010-2011 Employment and Immigration annual report, could you please explain in further detail the other cash benefits line that the WCB staff receive and specifically the performance awards?

Mr. Kerr: Sure. I'm just going to find that. I'll let Laurent speak to what individual elements make that up, but the performance awards are the pay for performance we have for all staff. We have corporate objectives that we set around fairness and return to work – and they're part of our balanced scorecard – and if we achieve those objectives, then staff are eligible for some pay at risk of 8 per cent. So that's what that number is made up of in terms of that.

You know, it's a program we've had for a number of years. It's been reviewed many times by many people. I remember back years ago when the Auditor General indeed looked at these kinds of pay for performance programs and identified the things that made sense and the kinds of elements you'd want to have in those kinds of programs, and we have all of those. So I'm pretty comfortable it's the right system and it makes sense.

Mr. Groeneveld: So the Auditor General's concerns had been addressed further back, then.

Mr. Kerr: And it wasn't a concern. It was more that through the Canadian Coalition for Good Governance they just looked in a general nature for all of Alberta at: what are the things that should make up a good pay for performance program? When we compare that to what we do, they're very similar.

Mr. Groeneveld: Further down there, on what basis did virtually all senior positions, like the president and CEO, receive salary and benefit increases from the previous year?

Mr. Kerr: The human resources and compensation committee of our board makes a recommendation, and that's approved by the board. It's based on a compensation philosophy that looks at a peer group of like employers and pegs the pay for the senior administration at the 50th percentile plus five, so it puts us mid-pack. It's driven mostly by what happens in the market for competitive employers, so as the general market moves up, so do the salaries.

Mr. Groeneveld: In ratio.

Mr. Kerr: Yeah.

Mr. Groeneveld: Yeah. Okay.

The Chair: Thank you.

Mr. Kerr, before we proceed to the next question, did you say it was 8 per cent?

Mr. Kerr: Eight per cent, correct.

The Chair: Is that 8 per cent of salaries and employment benefits for 2010, which would total \$126 million?

Mr. Kerr: It's 8 per cent of salary, not of the full amount. Yes.

The Chair: I'm looking at page 68. I'm looking at the report for 2010.

Mr. Kerr: It's just on the salaries portion of that, not on the benefits.

The Chair: What is the salaries portion of that?

Mr. Charron: It's roughly a hundred million dollars.

The Chair: A hundred million dollars. Thank you very much.

Mr. Chase, please, followed by Ms Calahasen.

Mr. Chase: Thank you. George Groeneveld noted satisfaction with the WCB, and I would point out that George is in a rural constituency. Unfortunately, farm workers aren't covered under WCB, and that may be what the lower traffic in your office is due to.

"Clarity of decisions... demonstrate our commitment to fairness by making appropriate and easy-to-understand decisions for both injured workers and employers." That's a quotation that comes from the WCB 2010 accountability framework, page 3.

WCB claims to have achieved 91 per cent quality. That's from page 13, WCB 2010 annual report. First question. In the 2010 Accountability Framework: Supplementary Measures Report, page 3, the figures are given as 82.7 per cent satisfaction for employers, 89.9 for workers. Please explain this difference, and why the percentage of satisfied employers and employees has gone down constantly over the past three years.

Mr. Kerr: Two questions there. I guess, really, the difference in satisfaction: you know, each of them has different criteria that drive what their satisfaction is. We could talk about that, but I think they've been relatively consistent over the past number of years. So you see a slight downward trend for that particular three-year period that is identified there. If you took a longer term view and included more current data, you'll see that it actually varies a little bit, but it stays within a fairly narrow range that's pretty consistent for what you see here. It's a little bit misleading to look just at that short time period.

I think, you know, those numbers, if you compared them across Canada, would be leading every other WCB in terms of satisfaction for both workers and employers. It's something we can always improve, but I think we've done a pretty good job of that.

Mr. Chase: Following up on a comment from Heather Forsyth in Calgary-Fish Creek, if you were to gather any group of MLAs, I think you would probably find that there was a consensus that complaints about the WCB rank among the most regular communications they receive from constituents. These are workers who are not satisfied with the quality of communication in key decision letters. What is the WCB doing to target the very significant number of clients who are not satisfied with WCB decisions?

Mr. Kerr: Well, I think there are lots of things that we've done, especially over the past couple of years, to address that satisfaction with the quality of decisions. You know, we have a specific scorecard initiative. It's one of the top two things we work on in the Workers' Compensation Board, about driving up the level of satisfaction with those. If you look at, again, the long-term history of that number, that's gone up significantly over the past number of years. So we've done a lot to improve.

One of the things was that we adopted the Andy Sims model. I think you're all familiar with Andy Sims. He helped us develop a model for effective communication with workers. We've now incorporated almost every single written communication we have to employers into that model. They're all audited to a very strict standard. It's not just about whether the grammar is correct or the i's are dotted or the t's are crossed. It's about: does this communicate a really good return-to-work plan, is the return-to-work plan realistic, and does it make sense to the reader? I think we've really put an incredible focus on this. If there are people who are still dissatisfied about that, I'd sure like to be able to have our folks talk to them and see what we can do to help them understand.

9:00

The Chair: Ms Calahasen, please, followed by Mr. Mason.

Ms Calahasen: Thank you, Mr. Chair. In the 22 years I've been here – almost 23 now; that's a long time – I've seen WCB change a lot. I remember when I first came that, like the member, we really experienced a lot of frustration, a lot of angst from our constituents regarding the resolution of claims from WCB. I look at some of the annual reports, and I see some of the things that have been happening. I still get a lot of concerns but not as much angst. There are still some; I won't say that there are not. There

have been some real concerns about what happens with the dollars that they pay into WCB and why they don't get resolution of their concerns.

When I look at page 52 of the 2010-2011 employment and immigration annual report, the first bullet point is actually a little wordy and does not quite say what's happening there. My question for that one is: can you explain specifically what you've done with the operating surplus of \$141 million and where that has gone and how that has helped come to some resolution for people who need help?

Mr. Kerr: Sure. I'll get Laurent to help me out with this, but just as a base point we should understand that all of the revenue that the Workers' Compensation Board gets come either from employer contributions or through investment revenue. Of course, we know that workers don't contribute financially to the revenue of the Workers' Compensation Board, so the numbers you're seeing here are, again, either contributed by employers or through investments.

The operating surplus of \$141 million I'll get Laurent to talk about. At the end of the year that goes into our fund balance. Remember, we talked about that fund balance of between 114 and 128 per cent. If we have an overage in revenue, that goes into the fund balance and contributes to the long-term stability of the system. So it's quite clear. It goes directly there, and then we have a funding policy that deals with what happens if we get over or if we get under. That's specifically where it goes.

Do you have anything to add, Laurent?

Mr. Charron: Well, the makeup of the \$141 million, if you'd like further details, is on page 19 of our annual report and probably on page 53 of the copy that's in the employment and immigration annual report. It breaks down why the surplus arose. Part of it came from the additional premiums we received, part of it came from surplus investment revenue we received, and part of it came from adjustments in the claim benefit liabilities. I'd say that those were the three highlight areas.

Ms Calahasen: The fourth bullet on page 52 as well states that total claims costs increased nearly \$390 million from the previous year due to a variety of different factors. Was this substantial increase budgeted for, and where would those dollars come from? Is it exactly what you were talking about earlier in terms of identifying where it would be and where it would go?

Mr. Kerr: In fact, that was budgeted for. And 2009 was a bit of an anomaly year, so the fully funded claims costs were quite a bit less than we would have expected for that year because of actuarial adjustments. The actuaries make estimates of the future liabilities. We had a big adjustment that year. When we got to 2010, it got back to more normal numbers, what we would expect, so that was about what we had budgeted.

Then what we clearly do each year is that we try to make the revenues from employers and the investments match up with the claims costs we book for injured workers. We really try to run a break-even operation, and we try to match up those two things. If we think claims costs are going up, then we need to make sure revenue from employers covers that. That's really one of our fundamental principles.

Ms Calahasen: You have really great lawyers in many instances, and those lawyers try their best to make sure that they recover the costs, whatever happens, in different areas. I know that the lawyers have a lot of workload. I'm just wondering: how do they, then, get something out of these kind of increased costs or even

identifying where the surplus would go? Do they even get any dollars out of that as lawyers?

Mr. Kerr: Our own internal lawyers?

Ms Calahasen: Yes.

Mr. Kerr: No. They would be paid regular salaries. Just to be clear, the only activity they have in recovering funds for the accident fund comes from third-party, mostly motor vehicle accidents that involve people who aren't covered under the system. So it's not a significant contribution in terms of the billion dollars a year we take in in revenue.

Ms Calahasen: Thank you.

The Chair: Thank you.

Mr. Mason, please, followed by Mr. Rodney.

Mr. Mason: Thanks very much, Mr. Chairman. Mr. Kerr, I want to follow up on a question that you responded to from Mrs. Forsyth. In your answer you stated that your primary objective is getting everybody back to work. I guess I'm wondering if the objective of getting people healthy first is an objective of the WCB. How is that expressed in terms of your policy statements and in terms of your incentive structure?

Mr. Kerr: Right. In order for someone to go back to work, they have to achieve a level of health or fitness to be able to do that. If you talk to any physician in the province, most of them would tell you that as part of the healing process returning to work is a very important element of that. We know that staying job attached is important. We know that if somebody is injured, if they have some capacity to go back to work even if they aren't fully recovered, then that's the best thing for them. In our view, returning to work is part of the journey to wellness that they should take, so we have a real focus on that. If you think of the health care dollars we spend, the rehabilitation dollars we spend, the vocational dollars we spend, it's hundreds of millions of dollars every year. We are firmly committed to that.

Mr. Mason: One of the things that I notice is that if WCB cases aren't the biggest number that we deal with in our constituencies, they're certainly one of the most intense. People feel that they're caught. They're very emotional about it and sometimes become obsessed for years with trying to get what they see as some justice. It's kind of heart wrenching. I think that being treated with dignity while they're under the process of being evaluated is very important. They feel that they are bounced around. They have to go see your doctor because you don't believe their doctor, and then they've got to go see somebody else. It seems like everybody is trying to find a way out of paying or compensating them in the same way that you might expect from a private insurance company.

My question goes back, also, to what Mrs. Forsyth said. You're incenting health care professionals in a way that may contradict their professional responsibilities. Have you ever gotten a legal opinion as to whether or not you're placing health care professionals in a conflict of interest through that policy?

Mr. Kerr: All of the contracts that we would have with our providers would have been run through our legal department. So, yes.

Mr. Mason: Can we see it?

The Chair: We're going to move on if you don't mind, please.

Mr. Rodney, please, followed by Mr. Kang.

Mr. Rodney: Thank you very much, Mr. Chair. Thank you, gentlemen, for being here. My first question has to do with page 57 of the 2010-2011 annual report, which states that administration costs, or expenses, came in at \$2.8 million under budget "due to effective expenditure management." I know that there was some discussion of this, but I'm hoping that you can provide a little bit more detail as to what that means exactly.

9:10

Mr. Kerr: Well, sure. When we look at the administration expenses, we understand that employers are paying for this and that they expect really good value for their dollars. We pay very close attention each year to making sure we're maximizing how efficient we are, how effective we are, and we look always at how we can do things more effectively for less money.

A good example is that years ago – I've talked about this before – we put in a system for automating direct employer clearances. If we had to do it the same way we did years ago, manually, we'd have to have a staff of 50 or 60 more people. We're constantly looking at innovation and technology to help us reduce administration costs. When we can come in, you know, spending less than our budget, I think I'm pretty pleased with that.

If you go back over the longer term, the last 10 or 11 years, our rate of increase of administration has been much less than inflation, and the number of folks we have working for us has barely changed over that time, so I think we've done a really good job of managing that piece of the business.

Mr. Rodney: Thank you.

A few pages later, on page 62, there's the statement that "every year, WCB collects approximately one billion dollars in premium revenue and distributes or reserves a similar amount for claim benefits and administrative costs." I'm not questioning that, but I am wondering and I know some of my constituents have been asking: how much of this actually distributed amount is used to cover administration?

Mr. Kerr: The number is summed up in the report, and we break it into claim administration and general administration. I'm not sure of the percentage.

It's about 16 per cent in total, is it, Laurent?

Mr. Charron: Yeah.

Mr. Kerr: About 16 per cent of the costs are administration costs. That covers all of the admin costs for all of our staff here in Edmonton and in Calgary, from information technology to case management to everybody.

Mr. Rodney: Thanks.

The Chair: Thank you.

Mr. Elniski, please, followed by Mrs. Forsyth.

Mr. Elniski: Thank you very much. I'd like to go back to your strategic themes and corporate objectives again and your metrics. I'm particularly interested in modified work. I am a fundamental believer that there's a tremendous amount of personal self-respect attached to a steady paycheque for most people and that having someone sit at home and, you know, wallow in their own sorrows as it were, whether they feel fairly treated or not, is really a very, very significant problem.

Modified work. I see that you've actually entered into employer negotiations in about, for argument's sake, let's say, 37 per cent of the time with these cases. Is that a formal process? As a former IR guy we used to do that all the time. We would often find alterna-

tive work for people. Could you describe for me, please, what it is that you're doing with respect to modified work that is quite as formal as you mention in the document?

Mr. Kerr: Sure. I think you're talking about page 12 on the scorecard, where we talk about proactively negotiating modified work.

Mr. Elniski: I am indeed. Yes.

Mr. Kerr: This is an objective we put in not too long ago. The point of it is that when case managers are working with injured workers and their employers, in the past we haven't been active in asking the employer: do you have modified work available for this worker? Unless the employer volunteered it or somebody somehow knew, it might not happen.

We said that it's probably the role of a case manager to say: "Hey, let's talk about this. This is an effective return-to-work technique. Let's actually measure and monitor how people are doing that and encourage our staff to do that." That's the formal program we put in place to have case managers, when they're working with employers and workers, formally reach out and ask for modified work to keep the worker's job attached.

Mr. Elniski: Great. Which kind of feeds into my next question rather nicely. When the employer has an employee who goes on to modified work, oftentimes the employer's goal, frankly, is to eliminate the lost-time injury claim, which we do all the time because on industrial construction sites a poor WCB rating or a poor core score, particularly around lost-time injury claims, is actually a significant detriment to employers getting work.

With that, however, a lot of small employers and, in fact, frankly, even some mid-sized employers have a great deal of difficulty navigating the compensation system either in the best interests of their own company or primarily in the best interests of the injured employee. What do you do or what are your thoughts with respect to increasing the level of access to resources specifically for employers so that the employer can manage some of these claims themselves before, frankly, we get into this situation where we're looking for modified work 20 days after the guy got hurt?

Mr. Kerr: Well, I guess, there are a couple of answers to that. The first is that the case management teams, no matter what the size of the employer, would be actively looking for that. I agree that there are challenges for smaller employers where it's pretty tough to find modified work. But we've seen some amazing success stories from smaller employers, so it's often helpful to either talk to case managers or account managers or even the safety associations because they have lots of good information on that.

The second is just the resources of the account managers. It's a dedicated group in WCB that is specifically tasked with helping employers on those very things, on helping find modified work, on best practices for disability management. That group is fully staffed up, and I think we have the right level of folks to help out. If the need arose, we'd commit to making sure we have the right level of staff to do that. We always do that.

Mr. Elniski: Good. Thank you very much.

The Chair: Thank you.

The chair would like to apologize to Mr. Kang. You were next on the list, and I made a mistake and overlooked that, so if you could proceed now with your question.

Mr. Kang: Thank you, sir. My questions are regarding the Appeals Commission. The Appeals Commission is an external independent body responsible for hearing and deciding appeals for WCB decisions. My first question is about the WCB reports on decisions overturned by the Appeals Commission. Can you tell us what percentage of WCB decisions are appealed, and how does this rate compare to the rates in other jurisdictions?

Mr. Kerr: Our rate of appeal, I said in my presentation, is that less than 1 per cent of all claims ever go on to be appealed at the formal final level of appeals, which is the Appeals Commission. I do not have data on how that compares to other jurisdictions, and I'm not sure if it's published on the AWCBC website. The AWCBC is the Association of Workers' Compensation Boards of Canada. That association publishes a great number of comparative statistics for WCB. I just don't recall if that – Laurent is on the committee that looks at that. He says that that's not a published statistic. I would suggest it compares favourably, but that would be just my speculation.

Mr. Kang: Thank you. Usually when injured workers, you know, go through the appeal process, they feel that that body is not really an independent body. That's the feeling we get from them. Usually 29 per cent, almost 30 per cent, of the appeal decisions are overturned by the Appeals Commission, and this number has been constantly increasing for the past three years. How can you explain this? How are you trying to reduce the number of overturned decisions? Are you trying to do something to make sure that the appellants, injured workers, are satisfied with those decisions?

I know from experience. I know this lady; I've known her since 1975. She was injured at work, and she has become just a wreck, and she is still fighting with the WCB. You know, it sometimes makes you wonder who is making those decisions for her. Is it in the interest of the WCB, or is it in the interest of the injured worker? She is still fighting. She's been fighting for, I don't know, maybe a decade, and she's not getting anywhere. How are you handling all that? There are lots of injured workers that are falling through the cracks here.

Mr. Kerr: Well, the Appeals Commission, as you say, is independent. That was one of the changes that came out in the early 2000s, to in fact make the Appeals Commission truly independent. It has nothing to do with us, and they make their own independent decisions.

The overturn rate, while it has gone up a little bit in the last little while, if you look historically, it varies between about 25 and 30 per cent. It's gone back down again since this annual report was published. I think when it stays in that range, we're pretty comfortable.

I've learned over the years that, you know, the value of the independent Appeals Commission is in its independence. When they overturn something, if they say, "you know, we have a different view of the evidence; we changed that decision," then it's our responsibility to go ahead and make that happen. We're really good about doing that. We have a legislated time frame to do that. I think in the past we used to get upset about that, and now we just say, "No. It's a responsibility of ours to go ahead and make that decision happen."

Then, of course, what we do is analyze all the Appeals Commission decisions and say: is there something we can learn from that, where we can do better? We're always interested in resolution with people. We'd like it if nobody had to go on to the Appeals Commission, and we'd like it if the overturn rate was zero, but,

you know, I think that's the function of its independence. I'd be concerned as a stakeholder if the overturn rate was zero. I'd be concerned that they weren't doing their appropriate job.

For sure we have people who are interested in making the right case management decisions. I can guarantee you that. People have the best intentions. Sometimes the evidence is going to be looked at differently, and I think that's important that they're able to do that. We pay a lot of attention to that.

The Chair: Thank you.

Briefly, please.

9:20

Mr. Kang: I'm coming back to the same thing again. The feeling out there is that the WCB or whoever is cutting those injured workers off is getting a bonus. You know, is this a perception, or is it reality? You admit that they're incenting on that. How are we going to control that? How are we going to make sure that the injured workers are getting fair help from the medical profession or the caseworkers or whoever they are dealing with?

Mr. Kerr: Let's be clear. There are no bonuses for cutting anybody off. Clearly, there are not. There is a variable pay for performance program that goes to our core objective, which is fairness and return to work. You know, if the things that those people are accusing us of or suggesting were true, there'd be evidence that the number of appeals would be way higher. There would be way more overturns. There'd be lots more people in your offices instead of fewer, as there are now. I understand that some people are frustrated, and they get decisions that maybe they don't agree with. I think that's why the government in its wisdom set up this truly independent Appeals Commission. They have the medical panel office, which is also independent, for that final medical review. So there are lots of mechanisms to have that looked at if somebody feels they haven't been dealt with fairly. The Ombudsman is another one.

Mr. Kang: How about just putting it in plain words?

The Chair: No. We're moving on, please.

Ms Calahasen, please, followed by Mrs. Forsyth.

Ms Calahasen: Thank you very much, Mr. Chair. I was looking at some of the information that you provided in your annual report on what you were doing. I think that the WCB has certainly done some things that have been of interest to many of the people that I know I deal with. You have the interest of stakeholders and ensuring sustainability of your system, yet there is a commitment to safety and disability management for those who are injured, I'm sure.

Now, there have been a few people who have had experiences with trying to make sure that they got back to work, but then they run into – I was trying to find it here, and maybe you can identify it – this situation where they've run through every appeal, yet they have problems going to work. I'm just wondering: what is the percentage of those individuals that have run the gamut of the appeals and don't have any other way to be able to go for further help? Can you tell me what percentage of the people who have applied under WCB are dealt with in that way?

Mr. Kerr: I'm not sure what you're asking. Are you asking for the percentage of people whose claims are denied?

Ms Calahasen: Yeah. You only have so many appeals you can make to WCB, right?

Mr. Kerr: Well, any time you have new information, you can always have a new appeal. Ultimately, after the independent Appeals Commission has decided on an issue, that's it for that issue. There's no further recourse other than going to the Ombudsman after that. There are about a thousand people who go to the Appeals Commission every year. We know what the overturn rate is. You know, some of those people come back with new issues, new injuries, new information, so we'll always look at that. But I think that's the number.

Ms Calahasen: A thousand people amongst all the different groups that would go through the gamut of that?

Mr. Kerr: About a thousand a year.

Ms Calahasen: About a thousand a year. So the percentage of the injured that do go through, what is that percentage of everybody?

Mr. Kerr: Well, in terms of the total number of claims at no lost time, it's about 185,000 claims we look at each year. I think it was 25,000 lost-time claims this year. Laurent?

Mr. Charron: Yes.

Mr. Kerr: Remember, when you have an appeal of those thousand, they're just not necessarily claims from this year; they could be claims from any time. They can appeal it from, you know, many years ago. So it's not exactly comparable.

Ms Calahasen: Thank you.

I'll come back after.

The Chair: Okay. Thank you.

Mrs. Forsyth, please, followed by Ms Calahasen.

Mrs. Forsyth: Thanks. Mr. Kerr, you talked about physicians and healing as part of the process and part of the journey in getting back to work. I don't think anybody disagrees with you on that particular statement. I can tell you that my health care provider isn't paid for her program performance. I hate to be harping on this particular point, but I can tell you that it's a big issue. I want to know who monitors those people, then. Is there anybody that monitors them to make sure that they're making the right decisions? That's my first question.

Mr. Kerr: You're talking about the health care providers. Well, ultimately, I guess, they're monitored by their professional bodies. I think another indication of their success or whether they are doing the appropriate things is the level of appeals. Are those cases or findings being overturned at the appeal level? Again, there's no indication from there that that is presenting any kinds of difficulties or problems.

Mrs. Forsyth: Does the worker know, for example, that there is a professional body that they can make a complaint to? Say, if they don't like the answer from the College of Physicians & Surgeons or the physiotherapist association et cetera, are they told that?

Mr. Kerr: I'm sure it's part of their training. It's part of belonging to the association.

The other thing that we have is a great group of health care auditors in our own shop who go out and routinely audit those providers, audit their results, audit what they're doing. So that's another level of oversight that happens there.

Mrs. Forsyth: I want to ask you another question if I may. We all know that WCB and occupational health and safety work hard to

be hand in hand even though they're two independent identities. The 10-point plan in July 2010 was to achieve, you know, some accountability and some transparency. Where are you on that 10-point plan?

[Mr. Goudreau in the chair]

Mr. Kerr: You're talking about the minister's 10-point plan?

Mrs. Forsyth: Yes.

Mr. Kerr: I can't really comment on the minister's 10-point plan. I can just say that, you know, you're correct in assessing that we have a close working relationship with workplace health and safety, and we offer whatever help we can to help them achieve that.

It's the minister's plan. I think he'd be best to talk about it. But we certainly believe in the ideals of it, and we contribute in any way we can to help out.

Mrs. Forsyth: I understand it's a ministry plan, but WCB is deeply involved in it, as is occupational health and safety, so you have to be working together on the particular plan. So, I mean, where are you on that plan? Implementing updated compliance and enforcement procedures, all of those things, posting safety records of all Alberta companies, et cetera: all of that is stuff that you're involved with and, I guess, have been directed or been told to do. Where are you in that process?

Mr. Kerr: Well, actually, on those two particular things, those are . . .

Mrs. Forsyth: I know, but I'm just giving you that as an example.

Mr. Kerr: We'd have to look at that plan again. I don't believe there were any of those 10 specific things that were addressed at WCB. We certainly contribute the information to the release of the employer safety records. But, you know, honestly, I don't think that there were any of the 10 points that specifically addressed things that we need to do independently. We could take a look at that, but I'm pretty sure of that.

The Deputy Chair: If I may ask, Mr. Kerr, it's my understanding that there are some monies being transferred from WCB to the government to do those kinds of things, and that's basically the end of that particular relationship. Then it's up to the government to take over and do the 10-point plans. Am I right?

Mr. Kerr: Yeah. A perfect example is the increased number of inspectors they hired. That money is collected from employers in Alberta. We collect it for the ministry and send it over so that they can fund those positions. That would be the extent of our involvement.

The Deputy Chair: Ms Calahasen.

Ms Calahasen: Thank you. That's fast. Nobody else wants to ask? Well, that's good.

On page 12 of your annual report I'm looking at your vision, and I see the focus on return to work. I like the commitment, which is "helping our clients succeed following a work injury or illness." Now, when I deal with my constituents who have had some real concerns, who have been injured and then they go to Millard or wherever else that they have to go to at least get rehabilitated, in some instances some of them have been sent to work earlier than they should have been, so there's a reoccurrence of their injury. I was looking on page 13 as to how you achieved

your actual return-to-work rate. I'm just wondering: of that percentage how many people would be coming back because they have been reinjured as a result of being sent back to work too early?

Mr. Kerr: Clearly, it's not our goal to send somebody back to work too early to be reinjured. That just is counterproductive, and we end up with file back anyway. So it's really not in our best interests or anybody's interest. It doesn't happen that frequently. I don't have the data, but it would be a very small percentage of people who don't achieve a sustained return to work.

9:30

Ms Calahasen: I do have some that I get, so I don't know if they're all in my constituency and nowhere else. I'm not exactly sure. Maybe that's not being counted. I guess I'm trying to figure out – and maybe you can identify it – when they go back and they've been reassessed or they have to prove that they've been reinjured with the same kind of injury, what happens in that case? Do you then send them back to Millard, or how, then, do you reassess them?

Mr. Kerr: Well, it completely depends on the injury. If someone is injured and they go to Millard and get some sort of fitness to return to work and they get reinjured, they would then go back to their case manager to assess where the case is at. They would have their physicians involved to determine the nature of the injury and then what the best protocol is going forward to get them back to work. So their physicians are involved, and it starts the process over again. They don't automatically get sent back to Millard, because we have to see if they need to go back there first.

Ms Calahasen: Thank you.

The Deputy Chair: Mr. Chase, followed by Mr. Mason.

Mr. Chase: Thank you. Claims administered, ineligible claims, where it was decided that the injury or illness did not arise in the course of employment. In 2010 the number of ineligible claims for lost-time claims was 2,060, up from 1,910 in 2009. Given the nature of these claims what is the likelihood that having been turned down now, they will come back down the road as occupational disease claims, which the WCB identifies as a significant liability risk?

Mr. Kerr: If they've been denied now, what's the chance of them coming back as an occupational disease? If we look at occupational disease, most of those now are from exposures that happened dozens of years ago, so trying to predict, you know, what the percentage would be – it would be very low because if you think about the kinds of injuries we have, occupational disease as a percentage is very low. Most of them are traditional injuries that you'd think of as opposed to exposures like that. So I expect it would be nominally a very small number.

Mr. Chase: The 2010 annual report summary of claims administered, page 76, clearly shows a recurrence in the nature of injuries, sprain or strain and superficial wound, as well as a recurrence in the parts of the body: back, fingers, and hands. What are you doing to prevent these injuries?

Mr. Kerr: Well, from our point of view a couple of things. One is that we know that the prevention mandate is clearly within the ministry – that's the workplace health and safety responsibility under the Ministry of Human Services – so they have direct responsibility for safety and education programs in the province.

We see our role as twofold. One, we help educate employers and workers about the nature of the injuries that are happening in their workplaces so that they can do something about it and work directly with individual employers to say: hey, Employer A, you're having injuries in this type of situation or for this type of worker. So we work actively with them.

Of course, the thing I talked about in my presentation is that if employers have poor performance records, we make them pay significantly through higher premium rates. We really attach a high price so that if you're choosing to not do something about safety or disability management, you're going to pay for it. You know, we saw that difference. It was two employers: one paid \$26,000 in premiums, and the other paid \$224,000 in premiums. The same size of company. That's what that pricing does.

The Deputy Chair: Mr. Mason, followed by Mr. Kang.

Mr. Mason: Thanks very much, Mr. Chairman. Mr. Kerr, I want to ask about the application of policies by the WCB to temporary foreign workers. As you are no doubt aware, it is illegal for a temporary foreign worker to change jobs while in Canada. They have a specific visa for the job that they are hired to do. If a temporary foreign worker is permanently disabled, your policy requires them, like other workers, to take another job, perhaps a desk job or something that is within the scope of their abilities, yet they can't do it. They are caught in a catch-22. Do you have any policies or plans for policies that would address this serious problem?

Mr. Kerr: I think this is a federal and provincial responsibility at its nature. What we've done, as a couple of things, is to work with both of those bodies to make sure that when employers bring in temporary foreign workers, they make allowances in their application for temporary work so that if someone is injured, they are allowed to do other duties. That's something they can do in the application process.

The other thing we're doing as a national association, because we know this is not just an Alberta issue, is working with the federal government to see about how we can work within those rules to not have that situation.

Mr. Mason: Can you give us some indication of what those approaches might involve and where we're at with that?

Mr. Kerr: I'm not that involved with the initiative nationally. I know the discussions are ongoing, but I couldn't tell you where they are right now.

Mr. Mason: Perhaps you could get back to the committee through the chair with an answer. Thank you.

The Deputy Chair: Mr. Kang.

Mr. Kang: Thank you, Chair. My questions are regarding carpal tunnel syndrome. That's on the WCB document. What policies or procedures are in place to decide whether a workplace injury is covered or not covered under WCB? An example is carpal tunnel in a government office.

Mr. Kerr: Well, every injury is adjudicated under the same set of policies and act. The injury, in order for it to be assessed as work related, has to arise out of and during the course of employment. Our rules are really clear about that. If the injury arises out of and occurs during the course of employment, then it's covered. If it's not seen to be arising out of those two things, then it's not

covered. The adjudication of that claim is the same as any other claim. The same standards are applied.

[Mr. MacDonald in the chair]

Mr. Kang: Okay. My second question. Knowing that carpal tunnel syndrome, CTS, is extremely painful and in the end can become debilitating, how is it that your own internal document states that

tasks characterized by a high frequency but low force (like computer key pad use) do not appear to be important precipitating factors for CTS.

There is a lack of consistent and valid scientific studies that address the causal role of other putative occupational risk factors.

What do you say to the thousands of government employees who are in pain every day due to CTS? How does refusing to pay for this injury not go against your own mandate?

Mr. Kerr: Well, I can't comment on the number of people who may or may not be suffering, but I can tell you that the research is clear. This is not our research. This is independent research that we use to guide our decisions on work relatedness. I think that what the piece you're quoting there suggests is that those kinds of injuries generally come from a different kind of exposure than simple repetitive, low-strain kinds of movements. The research is there, and we follow what best practice is for the medical community.

The Chair: Thank you.

We're going to move on, I'm afraid. Mr. Chase, please.

Mr. Chase: Thank you. Based on the numerous injured workers who have come through my office seeking help, it would appear that when it comes to a longer return to work, there is an assumption on the WCB's part that workers are attempting to defraud the system malingering. The WCB then pays out thousands of dollars on surveillance activities, as opposed to compensation for the workers, trying to catch them. What is the yearly cost of surveillance to your organization, and can you provide us with the budget numbers for surveillance for the past five years?

Mr. Kerr: Yes. We can provide that number. It's not a large number. I don't have it with me right now, but I can certainly get it to you.

Just as a point of clarification, clearly, our staff does not work on the assumption of malingering. It does not work on the assumption that people are not telling the truth. If we look at surveillance as an investigation tool, less than 1 per cent of all claims are ever investigated at all, and only 20 per cent of those ever get surveillance, so it's a very, very small number. It's controlled by professional bodies who look after those investigators. The vast majority of surveillance is initiated because of tips that we get from people about workers and employers who are doing something that's not appropriate.

You remember that one of the changes we had, oh, say, five years ago is that we're very open about disclosing surveillance. So if we surveil somebody, it goes on the file. Everybody knows about it. You know, lots of times it supports that the worker indeed has the injury they talked about, or it's neutral. It's not a commonly used technique. It's not used to control claims or to adjudicate. It's used primarily to protect the accident fund from inappropriate activity. It's a small number.

9:40

Mr. Chase: Given that small number I don't know how my office ended up with every single individual who came through on a claim who was under surveillance.

Is this cost of surveillance directly charged to employers? If so, how is it affecting the employers' rates?

Mr. Kerr: Surveillance is directly charged to the accident fund, and that, of course, is paid by employers. I'm not sure if it affects their experience rating or not.

Do you know?

Mr. Charron: That's exactly what it does.

Mr. Kerr: It would. So it's directly attributable to that employers' costs.

Mr. Chase: Thank you.

The Chair: Thank you.

Mrs. Forsyth, please, followed by Mr. Goudreau.

Mrs. Forsyth: Thanks. Mr. Kerr, one of the things that we hear frequently in our offices and in the number of calls that we get is about the length of time for the applications. We need to ensure, I think, that the process is streamlined without affecting the service of the front-line workers when they're dealing with the applicants. I'm wondering if you are coming up with any ideas or any suggestions on how you're going to streamline the application process.

Mr. Kerr: You're talking about application for benefits?

Mrs. Forsyth: Right.

Mr. Kerr: Yeah. Well, in fact, if you look at the statistics, one of the most important measures we have is the time from the date the accident is first reported to the time the first payment goes out. Our goal is to really make sure we get that out within the normal payment cycle. Our standard now is that well over 80 per cent of applicants who make that first report of injury get their first paycheque within two weeks. That number has gone up dramatically in the last number of years. It's been stable for a while, but if you go back in history, it was quite a bit lower than that.

I think you could see from the AWCBC data that, in fact, we lead the country in terms of how quickly we get our first payment to workers. I think we do a good job on that. The challenge is that, as you know – I don't have to tell you this – some of the cases are more complex, and they take more reporting. That's why we're not at 100 per cent, but I think we do a really good job on getting that first payment out.

Mrs. Forsyth: If the average duration from injury to return to work has increased four days since 2008, do you have any statistics on why?

Mr. Kerr: I don't have statistics, but I have a pretty good analysis of why that happened. Almost all of it is attributable to the challenges in modified work. A big part of our return-to-work piece happens because employers offer modified work so that workers can go back. During tougher economic times some employers are more reluctant to offer that. Either they just don't have the capacity or they don't have the work for it. When they don't have that modified work, it makes it tougher to achieve that number. I'd say that substantially all of that difference is attributable to modified work.

Mrs. Forsyth: I just want to say thank you because I have to leave. So thank you.

The Chair: Thank you very much.

Mr. Goudreau: Mr. Kerr, about 10 days ago I was in Grimshaw at a meeting, and sitting across from me was an individual that had been injured about 10 days prior to that. He sort of indicated to me, not in a complaining way, that although he had gone to the doctor and they filled out the report, his employer was very, very reluctant to do his part. It seems to me that for a lot of small injuries employers are discouraging the employees from moving forward. They might even say, "Well, stay home for four or five days, and then come back to work" rather than documenting those kinds of things. Do we have an idea of how extensive that might be?

Mr. Kerr: Right. What you're talking about is, in fact, illegal. An employer encouraging an employee not to report a workplace injury is, in fact, against the law. That's one of the good things about our system, that a claim in our system can be triggered by any one of the three reports, whether it's from the doctor, the worker, or the employer. If the employer chooses not to report, we're going to get the other reports, and we'll initiate a claim and do the investigation.

One of the things that the Auditor General talked about a couple of years ago was making sure that we had the right level of resources when we go out and do our claims audits. That's when we visit employer sites randomly, unannounced, and it's targeted to some of the people that we know have challenges to look and make sure: are there claims happening? We actually even take employees off-site confidentially and interview them and say: "Is there something going on here? Are you being encouraged not to report?" We have a robust team that goes out and visits a great number of employers. I think that, thanks to the Auditor General, we made sure that we, in fact, have enough inspections going on.

So it happens, but I'm confident that it's being well controlled.

Mr. Goudreau: Okay Is there a series of penalties? I'm not sure what the repercussions are to the employer if he or she discourages injuries from being reported.

Mr. Kerr: If they were found and it was proven and they were convicted, I think it's a criminal conviction for it. It doesn't happen very often because for most people we look first at: let's educate them and get them into compliance knowing their responsibilities. Most employers, when you talk to them, will do this. It doesn't happen very often, but there are fines.

Mr. Goudreau: Thank you.

The Chair: Thank you.

Mr. Kang: My questions, sir, are about the cost-of-living increases. WCB gave workers zero per cent cost of living in 2011 and .5 per cent in 2012, and employers were given back refunds and operating surpluses of \$141,411. My question is: how is it determined that the employers are continuing to have the rebates, and how is that impacting the workers?

Mr. Kerr: Sure. There are two different things. The safety dividend that you're talking about to employers comes from our partnerships in injury reduction program, and that's based on improving performance. It goes to employers who have either improved their performance or are leading industry.

When we look at our cost-of-living increases for workers, that's driven by a formula that's based on the consumer price index for Alberta. It's a number that's just derived nationally, I think, from Statistics Canada. We take that number and apply it, and that automatically goes into the benefits. While it was low in previous years, if you, again, go back in history, there have been times where it has been 4 and 5 per cent. I think in the long term it balances out and makes sure that workers are kept whole in terms of what's happening with price inflation. We simply take that number that is given to us by Statistics Canada and apply it as a formula.

Mr. Kang: That kind of answered my second question, too, but if you want to shed more light on it. I mean, it's not really justified that workers didn't get a cost-of-living increase last year and everybody else did. You know, it's minimal in 2012, so it's not really going to cut it for many of the workers.

The Chair: It might be interesting, Mr. Kang, that in this report is an amount, \$230 million I believe, that was returned to employers at this time.

Mr. Kang: Thank you, sir.

The Chair: Okay. Mr. Chase, please.

Mr. Chase: Thank you. Frustration with the WCB comes not just from injured workers; employers are similarly frustrated. The WCB has a policy, 05-02, that provides employers with cost relief in various situations where a worker's disability period and, thus, increased claim costs are due to factors unrelated to the employment hazard such as a worker's PEC, delays in hospital admission, worker error in judgment. In the past year WCB staff have been told to not apply this policy unless specifically requested to do so. Many employers believe the WCB follows its own rules and applies its own policies in the situations where applicable.

First question: doesn't the WCB have an obligation to apply the policies approved by the board of directors whether specifically requested to or not? It seems like a don't-ask, don't-tell type of situation.

Mr. Kerr: No. We have an obligation to abide by the policies and legislation as they're prescribed.

Mr. Chase: Where is the reporting on the cost for policy changes in the audit report?

Mr. Kerr: Cost for policy changes that we would have made through the year? I don't think they're identified separately within the annual report.

Mr. Chase: Thank you.

The Chair: Mr. Chase.

Mr. Chase: I'm allowed a second set of questions?

The Chair: There's no one on the list, sir, so please proceed. We've got lots of time.

Mr. Chase: Okay. Thank you. This question has to do with insurance coverage. ICP with a cost relief option forcibly removes cost relief insurance from employers if the majority of the industry votes in favour of the program. This voting process does not consider the insurance needs of individual employers. WCB implemented ICP without any policy consultation, and the board of directors did not recognize that ICP is contrary to sections 113

and 137 of the WCB act. The WCB amended policy 07-02 without advising employers that they were going to lose an entitlement cost relief that they had for several decades. First question: if WCB can remove critical insurance coverage without a policy consultation, why bother having policy consultation at all? What other policies have been changed without consulting with workers or employers?

9:50

Mr. Kerr: Well, in fact, policy consultation is something we do on virtually all policy changes. The one you're talking about specifically was just a clarification on something we had consulted extensively on. What was clear from employers and what happens through the voting process – and this is a democratic process that employers can vote for or against, and, you know, we only proceed in instances where employers as a group vote for it. Clearly, there was a lot of policy consultation on this policy in its summary form, and the only way we implement it is when industries vote for it.

Mr. Chase: How much cost relief was granted, and what are its effects on the compensation system?

Mr. Kerr: You know, I don't have the numbers in front of me. I can get those to you.

Mr. Chase: Thank you.

The Chair: Thank you.

Mr. Kang, please. You have another question at this time. This will be the last one. We are running out of time.

Mr. Kang: Thank you, Mr. Chair. On page 20 of the 2010 annual report it states that "relatively high wage escalation . . . was tempered by a slight decline in Alberta employment, resulting in an increase of 5.2%." On page 36 it states that "average weekly earnings rose by 4.6%" and that this increase in weekly earnings is "due to the rise in the number of hours . . . rather than actual increases in hourly wages." It goes on to say that "the average negotiated [hourly] wage increase from January through October of 2010 was 1.6% in Alberta." How do you explain these obvious discrepancies?

Mr. Kerr: I think you're talking about the discrepancy between that and the cost-of-living increases?

Mr. Kang: Yeah.

Mr. Kerr: They are two very separate and distinct things. One represents wages; the other represents cost of living. That's one of the determinations the board of directors made in its cost-of-living increases, that it's based on the actual cost that workers face to carry on their lives as opposed to what's happening with wages in the province. It was specific and deliberate, and again if you go back over the long term, there have been times when the COLA rate has exceeded the wage increase. We're looking at a specific period in time when it's above, but it's not always. I think over the long term it averages out.

Mr. Kang: My second question is: what was the increase to injured workers' benefits based on 2010 stats, what was the increase for WCB employees, and what were each of these based on?

Mr. Kerr: Well, they're based on two completely different things. We talked about what the worker increased COLA was based on. The WCB employee staff is based on a similar formula that's used

for the executives. It's based on a broad cross-section of like employers, like jobs, and what happens with the market drives that up. They are completely separate, independent. Again, I can say that there have been times when the increases to the staff have been very small or nothing when the COLA has gone up. Again, it averages out. It's difficult to look at it in isolation for just a couple of years.

Mr. Kang: In your opinion has it been fair for the injured workers and employees?

Mr. Kerr: Over the long term, yes.

Mr. Kang: Thank you.
Thank you, Mr. Chair.

The Chair: Thank you.

That concludes our questions this morning. Mr. Kerr, I would like to thank you and Mr. Charron for your time and attention this morning and for your co-operation in getting this meeting set up. We really appreciate that. Thank you very much. While we conclude the agenda, you're free to go.

Thank you.

Mr. Kerr: Thank you.

The Chair: Okay. Now, other business. The committee report on our activities from 2011: a copy of the draft annual report of the committee's 2011 activities has been distributed for your consideration. As chair I will be tabling this report in the Legislature in the next couple of weeks. Does anyone have any additions or changes at this time, or would you bring them to us next week if you do?

Mr. Goudreau: On the committee reports?

The Chair: On the committee reports.

Okay. Now, certainly, the spring session of the Assembly is now on, and a meeting schedule has been distributed for everyone's information. All members will recall that these suggestions were provided by the members themselves at the December 7, 2011, committee meeting. We have a schedule in place through until the middle of March, and if there is a longer session than that, please let us know if you have any agencies, boards, commissions, or departments that you would like to see come before us.

I would also like to note for the record that we've received written follow-up responses from all the meetings held during the fall 2011 session. In accordance with our usual practices these responses are available on our public website and will be attached to the committee minutes as well. We did get responses – and I hope hon. members have had a chance to read them – from the AGLC meeting, the Alberta Gaming and Liquor Commission meeting.

Any questions or suggestions at this time? Okay.

The date of our next meeting, of course, will be next Wednesday, February 15, with the Health Quality Council of Alberta here at the usual time, 8:30.

If there are no other items, can I have a motion to adjourn, please? Moved by Mr. Chase that the meeting be adjourned. All in favour? None opposed. Thank you very much. I appreciate that.

We'll see you next Wednesday, and thank you.

[The committee adjourned at 9:56 a.m.]

