

(Chairman: Mr. Diachuk)

(9 a.m.)

Industry Task Force

MR. CHAIRMAN: Good morning, ladies and gentlemen. This morning we have most of the morning allocated for the submission from the Industry Task Force representing some 11 associations. I would welcome whoever is the lead-off batter in this baseball season to do that. Later on we'll do some pitching back from here. You may want to introduce some of your colleagues that are seated behind you overlooking that you do your job properly and effectively. Don't hesitate to do that.

MR. BUCHANAN: Hon. Mr. Diachuk, I'll be the primary spokesman. As you indicated, today's presentation is on behalf of the total Industry Task Force, which ultimately ended up representing 13 organizations, primary associations within the province of Alberta and altogether representing about 81 per cent of the 1982 assessment base. The organizations are being represented in the presentation by four individuals: Orv McGowan on my immediate left, who's with the Alberta Meat Packing Industry; Chris Andersen on the far left, who's with the Alberta Forest Products Association; on my immediate right Kevin Mahoney, with the Coal Association of Canada; on the extreme right John Finlay, who's with the Association Management Centre and has worked with the Industry Task Force on the submission; and I'm Bob Buchanan, with the Canadian Association of Oil Well Drilling Contractors and chairman of the Industry Task Force. As you mentioned, a number of the associations of the 13 which are listed on the first page of our submission are also in attendance. We certainly appreciate their attendance today and the opportunity to meet with the select committee.

In terms of procedures, there are 53 recommendations that the Industry Task Force has developed. We'd like to concentrate initially in terms of working in the submission from pages 3 to 8, which are summary recommendations of the entire brief. The back-up pages after that are really expansions of each of the recommendations and the philosophy behind it. With that number of recommendations, we felt we'd like to try to concentrate our efforts in that area.

MR. CHAIRMAN: Bob, I wonder if possibly we could sort of have an understanding. Feel free to make your presentation. Today we will attempt not to interject, and maybe have — as one of my colleagues used a football term — a time out, and then we can return and enter the discussion. Would you welcome that way.

MR. BUCHANAN: That's the feeling we had. If we could get through all the recommendations, because so many of them are interconnected, there are two particular areas we'd like to return to in terms of the pension side of it and our area with regard to the experience rating system. We have a little more detailed presentation we'd like to have Chris and Kevin make just to clarify the industry position on that.

MR. CHAIRMAN: Good. Please proceed.

MR. BUCHANAN: Before we get into referring to each of the individuals, on a broad base we as a total industry group felt the appointment of the select committee to be one of the most important appointments that have occurred within government in 1983. The issue of WCB is viewed as an extremely important issue in this current year.

On a broad base, the \$101 million deficit the Board finds itself in is a concern to all of the industry, and it's a major reason why the associations worked together to try to address it. We've been working over the last five months, meeting in a concerted effort to try to reach a consolidated position within industry to bring to the select committee. We feel that a role we had to play was to try to identify the key issues, the key areas that had to be addressed to try to reduce that \$101 million deficit in the future. We feel that we've accomplished that in the submission and that a role of the select committee is to acknowledge where the major issues are and set in motion the process to try to resolve and reduce that deficit. A lot of those motions can't be resolved immediately. There has to be further investigation done, looking at the system in terms of where efficiencies and effectiveness can be improved, what the alternative methods of the existing system are, what the financial costs are and are they viable in terms of those alternatives?

We also feel that the industry's position is that there's a desire to be more involved in terms of the accountability. It was raised at yesterday's submissions. I'm sure it has been brought up in other previous submissions. Really, as shareholders within the WCB in terms of employers funding it, we desire an involvement and feel it's imperative that we have more involvement in it. I think the Industry Task Force is the start of that. We've organized. We want to have more involvement, and we feel it's a primary issue within the whole role of the select committee hearings.

We're also concerned about WCB moving away from the initial mandate of replacing cost income to workers for injuries sustained on the job and getting it back to the basic principles of WCB. We feel it's imperative that the select committee address or define what the basic objectives of the Workers' Compensation Board are and whether the Board is attaining those, or exceeding them in many instances, and whether we've gone too far in terms of the coverage of workers and the movement, as mentioned before, of the social consciousness of industry in exceeding the basic foundations.

On page 9 of our submission, the task force has listed the principles of the Workers' Compensation Board which we feel are very basic key issues to the role of the Workers' Compensation Board. I'd like to go through those, because this particular submission is really founded on those principles we've stated.

One, workers' compensation provides protection against loss of earnings and direct financial costs related to employment injuries arising out of and in the course of employment. It is paid by employers for the benefit of employees. It's not a social welfare program to serve the social conscience of industry and government.

Two, incorporating safety and accident prevention measures in business activities is a constant challenge to employers and workers. Reduction of accidents and improved productivity can be enhanced by financial incentives in the workers' compensation program and comprehensive training and safety education programs.

Three, workers' compensation is a supplement to other social service programs and not an exemption from them.

Four, workers' compensation provides reasonable income replacement and rehabilitation for claimants so they are not impoverished. Additional coverage through private insurance is available for high income earners who want benefits aligned to former income levels. Through workers' compensation employers are responsible only for insuring there is no undue financial hardship.

Workers' compensation strives for the claimant to return to productive employment and regain financial self-sufficiency where possible. It is not to be seen as a reward for having an injury or an incentive not to work. Employment covered by workers' compensation are those occupational activities in which a worker is engaged and directed by an employer at a worksite authorized by an employer.

Finally, the Workers' Compensation Board administers the Act as specified in the legislation and accordingly reports to government. WCB's funds are provided directly by

employers and, consequently, the Board is also accountable for all related activities to the employers.

Those are the basic principles. We feel that throughout the select committee hearings, and today, those are a number of principles that have to be kept in mind. I'm sure there are many, many more that would be evaluated.

I'd now like to turn it over to Orv McGowan. We've divided the summary recommendations between the four represented at the table here. Orv will start out with the summary recommendations on page 3.

MR. MCGOWAN: Thank you, Bob. Mr. Chairman, ladies and gentlemen of the select committee, one of the first issues we are concerned about is accountability to industry. Now, I'm going to give you a brief overview of a few of these issues. As I give you the issue, I'll tell you — in this case the detail is on page 10.

The spiralling cost of workers' compensation and the current \$100 million unfunded liability is ample evidence that the present system is not working and requires revision. Industry will continue to pressure the government for more accountability in the handling and disbursement of the funds derived entirely from industry. To achieve this we recommend, number one, that the existing advisory committee be replaced with a workers' compensation council. This new council would undertake reviews on its own initiative or as directed by the minister and could serve as a final appeal panel for Board decisions. Two, we recommend an annual review of the Board's financial position, such review to be carried out by independent actuaries. Three, we recommend a semi-annual meeting with the Board and staff to review such things as budgets and financial statements, actuarial reports, and regulations and procedures.

The second issue is governing by regulations, and you'll find the detail on page 11. The task force is strongly in favor of the Board being governed by the Act and regulations, and not by a policy manual, the contents of which are not readily available to industry. Therefore we recommend that compensation awards and operation of the Board be governed by regulation rather than policy. We further recommend that a joint industry, labor, and government committee be created to develop regulations and compensation qualifications. We realize that you do have to have internal policies on the Board, but we believe that this joint committee should have a look at existing policies or any change in policies before such new policies or changes are made.

We further recommend under this issue that section 12(4) of the Act, which currently reads:

Each matter shall be decided on the merits and justice of the case and the Board is not bound to follow any previous decision or ruling of the Board as a precedent in reaching its decision or making its rulings.

be amended to read as follows:

Each matter shall be decided on the merits and justice of the case according to the regulations and the Board is not bound to follow any previous decision or ruling of the Board as a precedent in reaching its decision or making its ruling.

The next issue is on budgets, and you'll find it on page 12. The administrative costs of the Board have increased by some 26 to 30 per cent annually over the past three years. Therefore we recommend that a detailed administrative budget based on accountable operational needs, with a comparison to the previous year's budget and actual performance, be available for public scrutiny. We further recommend that the Board prepare a five-year projection of their activities and, with it, a corresponding annual budget for evaluation of the upcoming workers' compensation programs and expenditure policies.

The next issue, under rate classifications, you'll also find on page 12. We recommend that individual industry groups meet with the Workers' Compensation Board staff to review the 1983 class position. In this same issue, we further recommend that the Workers' Compensation Board meet with employers' groups to discuss rates and any transition to a new rate system.

The next issue is funds investment. I'm just going to skip over this. The detail is on page 13, but as Bob indicated, Kevin Mahoney is going to dwell on this in detail later. So I'll just skip over. Our recommendations briefly are: scrutiny of the Board's investment strategy and performance; the Board should improve the rate of return of investments; and investments performance be part of the regular actuarial review. As I say, Kevin will get into that in more detail later.

The next issue is on rehabilitation, which is found on page 14. The task force commends the Workers' Compensation Board and you, Mr. Minister, for the present rehabilitation facilities run by the Workers' Compensation Board. However, like the presentation yesterday, we would recommend, number one, that before any changes or additions in space allocation of facilities are made, a cost/benefit analysis be conducted and circulated for comment; secondly, and this was alluded to yesterday also, that you assess the rehabilitation facilities of local hospitals to supplement the Edmonton facility and provide this therapy closer to the home of the injured worker.

The next issue is employer notification of award decisions, and the detail is found on page 14. We recommend that where any pension or lump sum payments are considered, the Board should notify the employer at least 30 days prior to any payment made, to allow the employer to present pertinent additional information that may have a bearing on the final decision.

The next issue is access to information, and you'll find the detail on page 15. In order to prevent aggravation of a previous injury, employers should have access to workers' compensation records showing the time, reason, and length of any previous compensation claim. Further, the employer should have access to all workers' compensation information and records related to compensation claims or for injuries charged to the employer's firm account number. Another recommendation: allow recognized industry safety associations to review all awards charged to that industry's account.

MR. BUCHANAN: At this point, I'll turn the presentation over to Chris Andersen.

MR. ANDERSEN: Thank you, Bob. Mr. Chairman, ladies and gentlemen, the first item in the section I'm dealing with relates to the experience rating system. I believe this has been covered by a number of earlier presentations. The task force recommends the elimination of the existing merit rebate/superassessment system as soon as a rate differential incentive system acceptable to employer groups can be implemented. We further recommend that a detailed analysis be done of an experience rating alternative, including merit rating and promotion/relegation systems in which individual employer rates for subsequent years are established by actual company cost experiences in a graduated rate schedule. We've prepared an example of this, and I'll be going into that in more detail before we take our time out.

With regard to assessment classes, the task force feels that if assessment classes are to be retained there should be no increase in the number of classes and, where possible, the number of classes should be reduced.

In the area of assessable and compensable earning ceilings, the task force recommends that the maximum ceiling on earnings be reduced such that the maximum weekly compensation equals the provincial average weekly wage. We have included information showing that the corresponding ceiling for 1983 would be in the range of

\$30,000 per year.

With regard to net earnings calculations, the task force feels we should revise the regulations to define net earnings based on regular earnings only, excluding voluntary overtime and supplementary allowances like vacation pay, isolation pay, and board and lodging. Further to this we recommend deletion of section 51(4), which reads:

The calculation of actual net earnings or average net earnings, as the case may be, shall be made separately in respect of each source of employment the worker had at the time of the accident from which he no longer has the ability to earn, or in which his ability to earn is impaired, due to the accident, regardless of whether the source of employment is in an industry to which this Act applies.

With regard to the compensation calculation, we feel that there should be an effort to reduce the ratio of compensation to net earnings from 90 per cent sufficient to offset any automatic income benefits such as lower income tax payments arising from non-taxable compensation.

With that I'd like to pass the presentation over to Kevin Mahoney, who will be dealing with the next section.

MR. MAHONEY: Mr. Chairman, ladies and gentlemen, just to continue on, Orv McGowan briefly touched on funds investment, we'll be getting back to that a little later. I'd just like to cover a few of the areas with regard to adjustment for supplemental and retirement income. We feel that when workers' compensation entitlements are handed out, there should be some consideration taken into account for any offsets given workers by either earning capabilities or pension or disability benefits under the Canada Pension Plan. Further, we feel that it should be directed that disability pensions from workers' compensation end at age 65 and that compensation for loss of retirement pension be integrated with CPP and old age security payments. I think you've probably heard that several times before in other proposals, and we're basically saying that same thing again.

As far as pension indexation goes, we also feel you should establish that when pension levels are reviewed or indexed, any increases approved which reflect inflation and increases in socio-economic conditions not be paid by the employer but paid out of the general revenue of the province. We feel that's getting into the area of social conscience and some of the principles we're basing our recommendations on.

As far as lump sum payments go, we also feel you should be required to consult with industry when you're considering making lump sum payments and, further, that there should be more lump sum payments made in areas where there are permanent disability awards where the amount and the terms are short. Also, we feel that you should make an effort to make lump sum payments to spouses with no children instead of the present system of giving five-year pensions. Further, we feel that lump sum payments should be made for permanent functional impairments according to a schedule established by regulations, much like Saskatchewan has under the functional impairment section of their Act.

I'll be going into more detail on these at a later point in the presentation. I'd like to turn things back over to Bob Buchanan.

MR. BUCHANAN: With regard to the employment and worksite qualifications, again this is a critical area that we feel has to be addressed and looked at by the select committee, because the definition of worksite and employment is a critical issue in terms of determining compensation. In recommendation 34, we'd like to see the amendment of section 1(1)(i), under the definitions of the Act, to read:

"employment" means work approved, directed or specified by

the employer in an industry, performed by the worker engaged in any occupation at a worksite under a contract of service or apprenticeship, written or oral, expressed or implied.

Under Recommendation 35, we'd like to add to section 1(1):

"worksite" means a location of employment approved, directed or specified by the employer where a worker engaged in any occupation performs work under a contract of service or apprenticeship, written or oral, expressed or implied.

Recommendation 36, which deals with the amendment of section 19, again is a very critical foundation section of the Workers' Compensation Board. We'd recommend that section 19(1)(a) read:

To a worker who suffers personal injury by an accident at a worksite, unless the injury is attributable primarily to the serious and willful misconduct of the worker.

Revisions to 19(2):

The Board may after investigation, pay compensation under this Act to a worker who is seriously disabled as a result of an accident, unless the injury is attributable primarily to the serious and willful misconduct of the worker.

Section 19(3):

If a worker is found dead at a worksite it is presumed that his death was the result of personal injury by accident arising out of and during the course of employment unless the contrary is shown.

And we'd recommend the elimination of 19(4), which is basically contained in the other three sections and is redundant.

In the section of disallowed claims, we recommend: disallow automatically claims that cannot be charged to specific employers or successfully appealed by the employer; require WCB to recover diligently as demand debt compensation paid for claims subsequently disallowed.

With regard to criminal activity: establish that any worker whose criminal act causes self-injury would not be eligible for workers' compensation.

In regard to short-term injuries, again the details of this are on page 33, we'd recommend: in consultation with employers, analyse further the potential cost savings to WCB of removing short-term injuries from the workers' compensation program in favor of looking at waiting periods before an individual receives compensation or where the employer is assuming the costs for a period of time before WCB assumes the cost.

With regard to out-of-province injuries: analyse the added cost of paying out-of-province injuries in Alberta and evaluate alternatives to reducing any such costs subject to interprovincial agreements.

With regard to non-resident workers of foreign employers: if an injury occurs to a non-resident while employed in Alberta by a foreign employer, make the worker ineligible for compensation under the Alberta Act and require non-resident employers of such workers to provide equivalent coverage before they start assuming work in the province.

With regard to third party liability: require WCB to recover, by legal action if necessary, the cost of compensation from third parties not covered by the Act and responsible for causing an injury.

With regard to the proprietorship issue, again this is another key area that was introduced a couple of years ago and, again, it has created a number of problems within industry in terms of the new system. Certainly the Board has recognized this in discussions we've had with them over the time period and still poses a problem to

industry. We therefore recommend the reinstatement of the pre-1981 definition of independent operators:

"independent operator" means a person who carries out or engages in an industry and who does not employ any workers in connection therewith

Recommendation 45: replace section 11 of the Act with the pre-1981 section 11 on persons deemed workers, and that pre-1981 recommendation is included in appendix IV.

With regard to generally the same issue of owner/operators: again this area is causing a great many problems for industry and the Board: implement an information system such as the prepaid or bonded independent operator card system, which is contained on page 39 of our details, which allows a representative of a company to immediately determine the current WCB status of an owner/operator or a registered company being contracted, if the card system's instituted; require owner/operators to be responsible for their own accounts except where contractors apply for a WCB order deeming them workers of a contractor. To achieve this with regard to the Act, we'd have to delete section 123 of the Act applying to liability of principals, contractors, and subcontractors.

With regard to safety education: make industry safety organizations with their own board of directors, staff, volunteers, and programs eligible for WCB funds assessed on all employer accounts in that industry at a rate negotiated for the purpose.

With regard to the medical aid situation, which again has been a key industry issue over the last four or five months: transfer fiscal responsibility for medical aid of basic health care related to occupational injuries to Alberta health care insurance plan, and the exemption of workers' compensation cases for medicare be removed.

With regard to back injuries: require that all claimants with back injuries lasting two weeks or more be required to be treated by a WCB-approved back specialist.

Hospital and specialty services: direct that workers' compensation claimants receive high priority by medical specialists in hospital services.

The last recommendation, regarding industrial diseases: permit employer representatives to have an opportunity to consider any proposed changes to regulations concerning industrial diseases.

Our request at this point would be to go back, if we could, to the position of funds investment and allow Kevin the opportunity to go into greater detail, because in terms of the deficit position, we feel that's a critical area that has to be addressed to try to reduce that deficit position.

MR. CHAIRMAN: Kevin, you're going to go to page 13 now?

MR. MAHONEY: Yes, page 13. Basically, the compensation board's investments are handled by the Provincial Treasurer under the authorization of the Financial Administration Act. That seems to be all fine and well, but we're not totally sure and clear on who actually controls the investment strategy, what the investment strategy is, who has input to it, and why the Board would allow the funds to be used to finance public projects at rates that are far below what they could get if they were invested elsewhere. We're basically targeting in on the fact that we're not totally happy with the way the fund itself is performing and the way it's being invested. We're encouraged by the fact that you've gone from a 1 per cent asset mix in equities to 4 per cent over the last year, '82 over '81. But when you look at private pension plans as an example, a very conservative asset mix of 30 per cent in equities is quite common. The spread between 4 per cent and 30 per cent is quite large. It appears to us that the Board is allowing the funds to be invested in an extremely conservative manner for no real strong reason that we can see. We're not suggesting that you take the money out and buy lottery tickets

with it or anything like that, but we feel there has to be a more aggressive approach on behalf of employers for the funds that are basically sitting there.

We also feel that a large part of the reserves that have been set aside for future liabilities of the Board could be freed up and reduce the deficit of the Board substantially just by changing your assumptions on your rate of return, from an extremely conservative number of 2 per cent to even going as far as 3 per cent or 2.5 per cent. We're talking about an \$800 million pot of money here that isn't being invested and accounted for in what we feel to be a fiscally responsible manner. We're basically going by the information we can glean out of your annual report. That's sort of another bugbear with industry: we really don't have access to a lot of information on what's being done with the money. The past policy regarding the investments, as I said, has been very conservative. We still feel that you have to safeguard the money. We're not going to hedge on that one, but we're quite convinced you could be a little more aggressive in your approach to your investment.

Another thing we're quite happy with is your fully funded approach. I think there was a submission yesterday that some people felt that perhaps public employers should be allowed to pay as you go, so to speak. We feel that that creates a lot of potential for getting really stuck in a bad year. We are happy with the approach the Board has taken in trying to run fully funded. The problem that comes in revolves around your assumptions in terms of rates of return. Those very conservative assumptions make fully funding virtually impossible without a large cost impact to the employer. If you could look at adjusting your assumptions in certain areas on rates of return, look at your asset mix, and be a little more aggressive, I think we could perhaps achieve a fully funded status without having these large deficits hanging over our heads.

We basically have several recommendations in this area, three, that we feel very strongly about. Since we don't have access to the information, we feel that the Board should be required to provide us with their investment strategy and that the performance of the Board's funds be open to public scrutiny. I think the only way we could be totally convinced that that was being done properly is if it were done by an outside third party and that we be allowed access to reports.

Just to highlight the fact that there seems to be some internal confusion about what's being done with the funds, I would refer you to your draft '82 report. The Auditor General for the province of Alberta points out that he was

unable to determine the adequacy of the reserves detailed in Statement 5 or the adequacy of the estimated liability for unfinalled claims referred to in Note 2 to the financial statements.

I put to you, Mr. Chairman, that if the Auditor General can't figure out what's going on, who else would know? There is definitely something not quite right there, if the Auditor General is hedging his comments on the adequacy of the information available. We are very concerned about that when you're talking about the vast amount of money that's being invested here. That also was in your 1981 report, so it's not something that's just come up.

We also feel that the Board may or may not have an investment strategy on its own; they may be relying on the Provincial Treasurer for that. But we feel that the Board should have a stronger hand, along with industry, in determining the investment objectives of the Board and to marginally improve your rate of return. You show a rate of return of slightly over 12 per cent for 1982. On its own, it looks fine and well, but any good actuary or financial investor would tell you that a one-year rate of return doesn't mean beans; you have to look, at the very least, at a four-year moving average. I would suggest to you, Mr. Chairman, that the performance of this fund, compared with private-industry investment, is well below the median; it's probably in the third quartile, if that.

That's just not acceptable to us as an industry and, again, the large amounts of money we're paying into it.

Also, we feel that the rate of return used in capitalization calculations should be part of regular actuarial review, and take into account how the fund is doing before you determine how much money you are going to pay out. Naturally, if the fund has a bad year, it falls back on the employer to make up the difference. We feel there are a lot of things determining the amounts of money we have to put in here that we have no control over. I am quite convinced that that's not the intention of workers' compensation, to penalize employers for things they have no control over. I think there has to be some consideration given to that as well.

I would also like to continue with a few comments on page 28, on adjustment for supplemental and retirement income. We again go back to the principles that were laid out at the onset of our presentation. We are very convinced that employees should not suffer vast losses for injuries sustained while working for the employer. We are also equally convinced that the employer shouldn't be putting his employee in a position of benefiting from being injured. We would like to see some adjustments made where there is money coming from other sources. When a worker can return to some form of work, we don't have any problem with compensation covering shortfalls from his previous earning capacity, but we don't like to see employees making 120 and 130 per cent of earnings by virtue of permanent partial disabilities or whatever.

Also on retirement, we feel very strongly, as most industries with private pension plans do, that the pension has to be integrated with other funds on retirement, such things as Canada pension and old age security pensions. I am sure you've heard that presentation before. Correspondingly, we feel that the Board should establish compensation entitlements for earning losses that they take into account and are offset by earning capabilities of workers who can return to work and any other benefits received from Canada Pension. Further, we feel that it should be directed that disability pensions from workers' compensation end at age 65 and compensation for loss of retirement pension be integrated with CPP and old age security. We feel those are the principles the Board was established on and seems to be swaying away from. I think the basic principle of indemnity should prevail. We are trying to keep the employee virtually whole, but we sure as heck don't want to put him ahead of the game for being injured.

I would like to go on to pension indexation, on page 29. We have reviewed the Act, and we can't find anywhere in the Act or the legislation that provides for indexation of permanent pensions, yet the Board historically has funded on a basis of full CPI. We are a little bit at a loss to understand why that approach is taken, because over the last three years, I think it would be a fair statement to make that the Board hasn't given full CPI adjustments on pensions even though they have made some ad hoc increases. We feel that the fact that you are going with an assumption of full CPI is costing us approximately — well, by ignoring CPI it could save us approximately 35 per cent of the assessments that we're being charged now. That's something that we don't have any control over and, again, is putting us in the position of being the social conscience of the worker, and that's not the intention.

We feel that the effect of inflation on pensions is beyond the control of the employer. The burden of inflationary increases should not be borne by us, rather by society. As we say, it's nothing that we can control. We can only accept responsibility for current-day costs of pensions, just as we do with other supplemental employment benefit plans. I think, again referring to private pensions — government pensions, of course, are quite different — there are very few pensions that are fully indexed with CPI, and when they are, they are usually referred to as a Cadillac plan. I don't think we're in the business of providing a Cadillac plan for employees on pension.

As I mentioned earlier, the effect of the overall assessment levels of the WCB's

inflation protection was estimated by an outside actuary that we had work for us. Based on the '81 annual report, he estimated that we could have reduced the assessments by 35 per cent. When you're talking 585, or whatever the assessments were, \$100 million, 35 per cent of that is quite a large chunk. I just want to demonstrate the large amounts of money we're talking about when you take 35 per cent. The net assessments were \$273 million, and 35 per cent of that would look good in anybody's bank account. We just don't feel that it's something we should be responsible for. It's a very, very significant cost that we're being forced to pay, and nowhere in the legislation is there a requirement that we do that.

We have an example on page 29 of the effect of capitalizing pensions, assuming a 10 per cent return. You can see the dramatic differences between capitalizing with indexing and capitalizing without. I suggest to the chairman and the select committee that the farthest right-hand column was clearly the intention of the legislation, because there was no provision for full CPI indexing. We're also not even sure which CPI index people are using to go through this procedure. We have no access to the Board's mortality assumption tables, so we used the standard insurance mortality tables. I understand the Board has its own mortality tables that they use, based on the experience of disabled workers.

Basically it boils down to a recommendation that we feel that the Board should establish, that when pension levels are reviewed or indexed, any increases approved which reflect purely inflation and increases due to socio-economic conditions should not be paid by the employer but should be paid by the general reserve fund of the province. I think that leaves that one for now; there's not too much more that can be said on that.

I would like to carry on to page 30, on lump sum payouts. I think everybody would be quite willing to admit that capitalization of pensions is quite costly, and in a lot of cases it may be unnecessary. There is probably less concern for the need for continuous, steady income where the award is small and the term is short. In those cases, we feel that lump sum payouts would be acceptable to both the employer and workers. I think we can refer to the Saskatchewan example in this case. We feel that they have made great strides towards easing the burden on the employer and making virtually everybody happy with the lump sum payout system.

We are not saying that an employee with a permanent partial disability gets nothing, but we are suggesting that in most cases they return to work and earn their full earnings. They are basically kept whole and should not be on a pension, but we have no problem with them getting some form of a lump sum for pain and suffering, or whatever you want to call it. We feel that, much as Saskatchewan has done, the Board should consider establishing a schedule for lump sum payouts so everybody knows the rules of the game, and no one employee would get more for the loss of a finger than any other employee, regardless of where they work. As long as they are returning to their previous job and earning their full wage, the payout should be the same. It should be a lump sum, and it shouldn't be a pension.

Corresponding with that, we have three recommendations. We feel that there should be more consultation with industry with regard to lump sum payouts. We should have a very serious look where there is a permanent disability involved. Over a short term, there should be more consideration given to a lump sum. Again, the argument comes up about social conscience. We are not putting ourselves in a position where we want to be the social conscience of the employee, of the province, of the government, and of everybody else. We are trying to be fair with this, and we feel that in most cases where an employee can come back to work and be gainfully employed, there should be some money paid but definitely not to put him in a position of earning more than the guy he's standing beside just because of the fact that he's got a missing finger or whatever.

We also feel that your policy of making five-year pension payments to spouses with

Select Committee on
Workers' Compensation Act and
Occupational Health and Safety Act

September 8, 1983

11

no children again really goes away from the intent of the Workers' Compensation Board. We feel that you should be looking at lump sum payments in those cases as well. Further, we feel, as I mentioned before, that you should strongly consider making lump sum payments for permanent functional impairments, according to a schedule much like Saskatchewan has, established in regulation, so there's no guessing about what you get for what, and everybody, as I say, knows the rules of the game.

I think with that, I will hand it back to Bob and Chris. Thank you.

MR. BUCHANAN: If I could turn it over to Chris in terms of presentation on the experience rating system.

MR. ANDERSEN: Mr. Chairman, if I could ask the select committee to turn to page 16 of the information we've provided. At the top of page 16, we have some preamble regarding the experience rating system. I don't believe I'll go through this in detail now. I would just like to point out the fourth paragraph, which reads:

The present system is cumbersome, requiring as it does, large payments in advance and long waits for rebates and demands for extra payments after the fact. At present, the ratio of merit rebates to super assessments is 23:1 which has the effect of penalizing the good performers to subsidize the poor performers. For the present system to have been "Fair", the amounts paid in rebates should have balanced the amount collected in super assessments.

That ratio of 23:1 was based on 1981 data. If we look at the 1982 report, we will find that that has deteriorated to a ratio of almost 28:1. So that's just a bit of an update on the situation there.

The recommendation that the task force came up with was the elimination of the existing merit rebate/superassessment system as soon as a rate differential incentive system acceptable to employer groups can be implemented. We had a second recommendation, to analyse in detail experience rating alternatives. We have taken the liberty of providing one such alternative for the committee to consider.

This is the same information on page 17. The preamble in this case is slightly different from what you have, but it's simply an earlier draft. What we have tried to do here is come up with some fixed costs that the Board is having to deal with. The final number, the 22.37 per cent, that we have for you is probably irrelevant. It's the concept that I think is important here. We feel that in order for a merit system to work, before we can get into the application of merits or superassessments, excess cost assessments, we have to take off the fixed costs. These are given costs; they are not dependent on your performance. One of the shortcomings of the present system is that we are working on the assumption that all costs are variable.

What we did here — this was the 1981 report — was take the total assessments plus interest, to come up with total revenue. From that, we deducted what we considered to be fixed expenses; namely, administration, accident prevention, and provision for reserves. From these we deducted penalties, rental income, and miscellaneous income. As you will note, I have put an asterisk there because it was not exactly certain whether this in fact should be deducted. I believe it should be, but possibly someone that understands the reporting system somewhat better than I do may be in a better position to decide that. Using this approach, we came up with the conclusion that fixed costs accounted for 22.37, or if we round it off, 22 per cent of total assessment.

We then proceeded on the assumption that in order to have a meaningful merit assessment or excess cost assessment system, we should work on the variable cost portion only. From that we go into several examples, starting out with the assumptions

on page 18. I will just run through them here. We are basing our calculation on 78 per cent of assessments. So if we assume a base of 100, we're talking about 78. The merit rebate and superassessments are dispensed with. They are replaced by merit assessments and excess cost assessments. Assumption three: the system will use the last three years of experience. This will prevent extreme changes in assessments. So it's an averaging system. There is a typo there; it should be "N.B.", not "N.D." The example below uses one year only for simplicity.

Assumption four: the calculations are used to set the rate for the following year; that is, 1980, 1981, and 1982 — and a typo again — "data" is used to set the 1984 rate. In this way actual audited data can be used to calculate rates, and the rates will still be known in advance of application.

Our recommendation number five — and I think this one is quite critical — is that no one occurrence will be allowed to affect the rates of any one account by more than 25 per cent. We have put this in in order to try to protect the small account holder. If we look at an individual account holder who may have one or two employees, one severe accident could drastically affect his costs. The same type of accident would have a relatively minor effect on a large company. So in order to try to protect that small operator, we have recommended that no one occurrence be allowed to impact the rate by more than 25 per cent. Again, 25 per cent is a debatable number. The Board, in its wisdom, may decide that it should be 20 or 30 per cent, but we think there should be a specified ceiling put on it.

We are suggesting that the minimum merit assessment possible is 60 per cent of full assessment and that the maximum excess cost assessment be limited to 250 per cent of full assessment. Further, we are suggesting that when an account is assessed at 250 per cent, the WCB require the following: one, an investigation of the organization with the account by Occupational Health and Safety; two, a safety program which has been approved by Occupational Health and Safety; and three, quarterly progress reports submitted to Occupational Health and Safety. Finally, we are suggesting that if an acceptable plan is not forthcoming or is ineffective, the WCB should have the ultimate power to close the account, and this would effectively terminate the operation.

We have then gone through some examples of how this would work out. The first example is when costs are below 78 per cent. A merit assessment will be calculated. For each 1 per cent of costs below 78, 1 per cent will be reduced from the next year's assessment, down to a minimum of 60 per cent of full assessment.

Example (a), if we have full assessment of 100, actual costs are 78, and if next year's assessment is 100, minus 78, minus 78 — in other words, they will just reach the break-even point — then the next year's assessment will be 100 per cent.

In the second instance, where full assessment is 100 per cent and actual costs are only 60 per cent, the next year's assessment would be calculated using the formula of 100 minus 78, minus 60, which would mean that the following year's assessment would be 82 per cent. The minimum would be if your actual costs only come up to 38 per cent of your full assessment. Then your following year's assessment would be calculated based on 60 per cent. Of course if you were down to 20 per cent, it would still be the 60 per cent level; that would be the minimum.

The reverse situation would be when we have costs that are above 78 per cent. An excess cost assessment would be calculated. The same rules apply for each 1 per cent of costs over 78 per cent: 1 per cent will be added to next year's assessment, up to a limit of 250 per cent.

So we have the example of full assessment of 100, actual costs, 78. Really what we did was break even, so the next year's assessment would be at 100 per cent. In a situation where full assessment is 100 and actual costs are 100, because of the impact of fixed costs and overhead, we would be into a superassessment situation. The next year's

costs would be calculated on the formula shown, and we would end up at 122 per cent of assessment, and so on down to the higher assessments.

We have one final recommendation in this regard; that is, anyone opening an account for the first time would be required to pay 125 per cent of average industry rate until they established an experience rating. Historically, new operators have a poor accident record and, therefore, higher costs. I would clarify that just slightly. We have indicated that we suggest working on a three-year average. I believe the question has been raised as to whether 125 per cent is fair for that length of time. The approach could be used that if after one year the individual has had a good record, you could then average two years at 125 and one year at 60, which would mean in the second year he could be down to 103 per cent, and in the third year he could already be down to less than 100 per cent. So by using this rolling three-year average, you could work that down quite rapidly. But I think it is fair to say that new operators tend to have a poor experience. I think that is also borne out by other insurance things, such as automobile insurance, whereby the first time a fellow takes out automobile insurance he usually ends up paying a fairly healthy premium.

We've then gone one step further, for the committee to consider the possibility of a promotion relegation system. We have outlined this on page 20. A promotion relegation system would be implemented whereby the present industry-based class system would be dropped. Instead, a graduated rate structure with intervals of 20 per cent would be implemented, as follows. There is a small table there which simply goes through all the various rates with 20 per cent increments. The theory here would be that if any account holder is at the maximum excess cost or maximum merit assessment for three consecutive years, they would automatically move to the next rate, thus adding additional incentive for good performers and deterrents for bad performers.

If the Board were to decide to go this way, it would want to look at the previous recommendation of 60 and 250 per cent, because with this type of system, particularly the 250 per cent may be very high. What would happen is that costs charged against all incomes and class balances are superseded by individual account results to be used for rate adjustment. The complete rate schedule is increased or decreased proportionately to maintain appropriate income levels.

What would be important is the overall position of the Board and its financial reserves in total. Based on whatever policy is adopted governing financial reserves, the overall rate scale would be slid up or down as reserves vary from the desired level. Such adjustments should be very small as, by in large, increases in wages and salaries should offset increases in operating costs. For example, if it has been decided that an eight-month operating reserve is desirable, then it could be legislated that if the reserve drops to the four-month level, there would automatically be a 2 per cent increase in the entire rate scale. Conversely, if the operating reserve reached the 12-month level, the entire scale would be dropped by 2 per cent.

Such a system would require a computerized record-keeping system with a capability to develop statistics for each individual account. It has the advantage that each account's rate reflects the account's performance.

The theory here is that any given industry would no longer be restricted by the parameters set for that class. It could slide up and down over the entire scale, based on its performance. This would add greatly to the incentive to be a good performer and to the penalty for being a poor performer.

Bob, I think that covers the areas I was going to elaborate on. The other things I touched on in the earlier resume, I would leave for specific questions, if there are any.

MR. BUCHANAN: This concludes the summary of recommendations. As mentioned, there is a great deal of detail in the remainder of the report, which goes into the

philosophy behind each issue. We felt the intent was to try to concentrate today on the specific issues — and certainly a number of the issues require a great deal of study — but at this point, if it's permitted, to turn it over to a question and answer period or take a break, Mr. Diachuk.

MR. CHAIRMAN: I think that, as agreed, we would take about 10-minutes time out to allow us to get a coffee, and then get back to it. Okay?

MR. BUCHANAN: Thank you very much.

(The meeting recessed at 10:05 a.m. and resumed at 10:20 a.m.)

MR. CHAIRMAN: Possibly at this time — if there is anyone in the gathering in the auditorium that wasn't here yesterday and is a businessman or an employer, please indicate that you're present. If at the end of this morning you wish to make some contribution or even an oral presentation, we would welcome it. If there's a claimant here or an employer that has a particular problem with his or her own account, my executive assistant is available to resolve that. We had a couple of them yesterday, and we would rather do them that way than have claimants making submissions. It isn't a hard and fast rule if somebody still wants to. But if there is anybody here, you can indicate whether you have an interest at the end of this morning and then I'll be able to judge the time frame. Is there anybody present that wants to make their own presentation? Very well.

Gentlemen, I wonder if we could now follow your summary, starting possibly with page 3. Or would you prefer to go to the detail, members of the committee?

MR. NELSON: It doesn't matter, because we can always relate to . . .

MR. CHAIRMAN: It doesn't matter? The detail starts on page 9. Right, Bob?

MR. BUCHANAN: On page 10, actually.

MRS. FYFE: I think it depends whether we go through each recommendation or whether we skip around.

MR. CHAIRMAN: Let's try to go through the recommendations, and then leave it open for comments that any member of the committee may want. Let's start off with the title, accountability to industry. Any members of the committee have any . . .

MR. MARTIN: We're just going to go through each one of the recommendations?

MR. CHAIRMAN: I would like to direct it that way. It will make it easier and leave it open for discussion.

MR. MARTIN: Just a question, more than anything, about replacing the advisory committee with the workers' compensation council. What do you see as the main advantage to this in terms of the operation of the Board?

MR. BUCHANAN: Could we refer it to each individual who covered those topics before?

MR. CHAIRMAN: Yes, please.

MR. McGOWAN: Ray, if you really look at compensation matters totally, in the end the consumer pays. But most directly concerned with compensation itself is the employer who pays the funds and the worker who receives those benefits as a result of injury. So it's only logical to me that those two people, the employers and the workers, should have input as to how the funds are administered.

MR. CHAIRMAN: Could I ask a supplementary to Ray's question. Have you looked at an example in your industry, or have you had experience from other provinces? Also, at the same time, in some other provinces they don't go the select committee route that Alberta — the previous government and this government — now has, with elected people reviewing it on a regular basis. Have you compared this? Is there such a format in another jurisdiction that you could alert us to, such as a . . .

MR. McGOWAN: Yes, very definitely. Saskatchewan.

MR. CHAIRMAN: And their advisory committee . . .

MR. McGOWAN: The whole Board is a balanced Board. They have industry, labor, and what I would call a neutral chairman. Just recently they added an individual who is about as neutral as you can get: Dick Moody, an ex-Lutheran minister.

MR. CHAIRMAN: It's pretty hard for a Catholic to top that. Sorry, Orv. I had to . . .

MR. McGOWAN: It's all right; I'm a Presbyterian. I always sit in the back row.

MR. FINLAY: Mr. Chairman, if I could add to that. Also in Saskatchewan — since you referred to the select committee process — the review process that has happened in Saskatchewan, at least over the last four years, is a review committee appointed by the Minister of Labour, or the minister responsible. That review committee is a tripartite committee, and in the past two years, 1980 and 1982, has been headed by a judge from Moose Jaw.

MR. BUCHANAN: Muir.

MR. FINLAY: So that the periodic review has been conducted by a tripartite group, as well as the fact that the Board itself has a tripartite representative.

MR. CHAIRMAN: But there's no provincial advisory committee or, as you referred to it, a council as you recommend?

MR. BUCHANAN: If I could comment on that; within the province of Alberta you have a similar equivalent on the occupational health and safety side. So in envisioning it, we had similar type visions in terms of an expanded mandate, where a council of that nature could look at any issues within the committee itself, as opposed to the existing advisory committee, which is really restricted primarily just to the indexation side.

MR. MARTIN: Basically, then, you see the council having much more power, if I could put it that way, than the advisory committee.

MR. BUCHANAN: More power and, again, it relates back to that accountability as a formal vehicle for industry to formally have a relationship with the Board and more input.

MR. CHAIRMAN: My only concern is that in your presentation you did say "as directed by the Minister".

MR. BUCHANAN: Certainly there's that liaison as well.

MR. NELSON: Mr. Chairman, I don't know which gentleman would like to get in on this one. First of all, I'd like to ask: how many members would you propose would make up this council you've suggested?

MR. BUCHANAN: Again, those are some evaluations that would have to be conducted. Obviously, a group of that nature would have to be representative of industry and labor, and representatives from the Board. At the same time, you don't want it so large, to represent all groups, that it's cumbersome and can't work as a group. I believe the size of the workers' compensation council in — Joe, I believe the number is 12?

MR. CHAIRMAN: The Occupational Health and Safety Council is 12.

MR. BUCHANAN: Occupational Health and Safety is running with about 12 individuals.

MR. CHAIRMAN: Following Stan's question, have you given consideration that, as we have in Alberta, the Occupational Health and Safety Council would carry this role and we wouldn't have an advisory committee?

MR. BUCHANAN: I think the position would be . . .

MR. CHAIRMAN: You appreciate that the advisory committee came in after the '74 review.

MR. BUCHANAN: There are two different segments within the Board and with Occupational Health and Safety, and I think our position would be looking at a separate council specifically geared to the issues of WCB.

MR. NELSON: You've moved in too fast, because I was going along a similar track. In the respect that seeing as the employer is paying both shots, and should it be decided that it continue in that fashion — and I notice you have recommended, as I understand your submission, that you want it split away, where much of the occupational health and safety area would be borne by the taxpayer. Should the system remain intact as it is at present, with the employers paying the shot, would you not feel that a council made up of people from industry and labor, and maybe even unbalanced to an extent because industry is paying the shot — would it not be prudent to have a council that would overview or oversee both operations, so that you do have some control, and the bureaucrats as such, if you want to use that term, which I use quite frequently, would have some accountability to that council in total?

MR. BUCHANAN: Again, I think those are the evaluations that have to be made in terms of the cross representation. Certainly some of that accountability and the ability to have input exist on the Occupational Health and Safety side. Where we strongly feel it isn't available on the Workers' Compensation Board side, and perhaps there are some feasibilities — the initial reaction is in terms of two separate issues and having individuals with the expertise in those areas to address the two specific areas.

MR. CHAIRMAN: Myrna, and then John.

MR. THOMPSON: Not on this.

MR. CHAIRMAN: If we could continue with the accountability of the Board.

MR. CHAIRMAN: Myrna.

MRS. FYFE: Thank you. I was just wondering if the suggestion of a workers' compensation council is not sort of a second tier to try to resolve the frustration that industry feels. If we have the Board at one level and then a second level above it as an appeal body, is there not an alternative: one, if the Board were more representative of industry or, secondly, elimination of the Board so that the Board becomes simply a management body, with the policy being set at a council level?

MR. BUCHANAN: In addressing that, in terms of accountability I think there are a number of levels where industry has to be involved at the Board level, through industry representation. We're suggesting a workers' council, which doesn't exist, that has the ability to draw upon industry expertise. We've also suggested further accountability at lower levels in terms of just the assessment meetings that occur each fall with employer groups, that there's also further accountability back to specific employer groups.

So the input isn't going to be totally resolved just by establishing one committee; it's got to happen at the Board level. We're suggesting there's a void there in terms of an industry committee that can monitor it. We're also suggesting increased accountability at the rate assessment meeting level and with the individual employers.

MRS. FYFE: I'm not sure my concern has really been answered, and maybe I haven't articulated it very well. I'm concerned about duplication, but I'm also concerned about a toothless body. Advisory councils play a role. They provide assistance; they provide a sounding board. But I think that your basic thrust is accountability, and unless the council is set up with real teeth I don't think it will really provide that role.

The other aspect in this is what the minister has already mentioned — "as directed by the Minister" — and that would be the appointment of people to such a council. The Workers' Compensation Board now is at arm's length from government. It's at arm's length from industries. It may be at arm's length from everyone; that's part of your concern. I guess as an MLA getting complaints from workers usually that they haven't been treated fairly, I know how difficult it is to have any decision changed, because it is at arm's length. I don't think that that should change. I don't think it should be directly under government.

So coming back to the question of how persons would be selected for the council, you would see them suggested by industry and labor, and appointed by an Order in Council?

MR. BUCHANAN: Again, those are the areas that have to be evaluated. But certainly from industry's perspective, I think we as industry groups would desire to have that ability to appoint the individuals that we would like representing industry, who have the expertise, who are being selected by industry. That they're not political appointments I think is a key issue. Again, when I think in terms of the whole area, rather than getting into the details of composition of committees, et cetera, we recognize there's a major void there. You mentioned in terms of industry having some teeth, and that's what we desire in terms of it at the Board level — in terms of if a committee is established, in terms of a council — that it is given some teeth. In terms of the existing advisory committee, it doesn't have any clout. With the rate assessment meetings that occur in

the fall, it tends to be after the fact in terms that the financial reports are already completed, the recommendations have already been made back to the industry, and then you're reacting rather than proacting to situations.

MR. THOMPSON: Mr. Chairman, on number two on this one, as I understand it at present the Board has an independent actuarial review on a five-year basis. Maybe you could expand on the reasons you feel that it should be on an annual basis instead of on a five-year basis.

MR. MAHONEY: The same provincial government that does a five-year review on workers' compensation has legislation that requires private funds to be done at least every three years. In a lot of cases it's a great cost to the employer to do that on the private side, and the larger funds traditionally do them every year. When you're looking at a fund the size of the workers' compensation investment portfolio, to ignore something like that for five years is virtually criminal. It's something that should be looked at at least every year. You're talking about a 1 per cent shift in investment earnings in millions of dollars in terms of increase and decrease. If you leave it alone for five years, you could be in such poor shape by the time you find out about it that it would be too late to do anything. I think you have to have the information very current so you can respond to it and change your investment portfolio as required.

MR. CHAIRMAN: Kevin, further to John Thompson's question, in your presentation you indicated you had some actuary do some work for you. Could we receive the report and also the name of the firm? I am advised that the field of actuaries is very limited

MR. MAHONEY: The fellow that did our work for us was a consulting actuary to the Saskatchewan Board for about eight years, so he's quite well up on Board matters. I can provide you with the name of the firm and a report, if you wish.

MR. CHAIRMAN: We'd welcome it, because as John Thompson pointed out, the Act requires that no less than once in five years, the Board may carry out . . .

However, for your information, if you're possibly not aware, the Board has an actuary on staff, and a lot of the ongoing annual work is carried out by an actuary that they had to retain because of the fund being . . .

MR. MAHONEY: So large.

MR. CHAIRMAN: Yes. So it's only — what? Three or four years ago, Al?

MR. RUNCK: I would say about three years.

MR. CHAIRMAN: Three years ago that they had an actuary on staff. But again, on the question of an actuary I'm advised by some consultants that there are actuaries and there are people who believe they're actuaries.

MR. MAHONEY: Oh yes.

MR. CHAIRMAN: In one of the meetings with a group of employer representatives about two and a half years ago, I asked for some suggestion and it never did come forward. That's why I'd welcome it if you'd send that to us.

MR. MAHONEY: Yes, I'm sure if your people talked to this fellow they'd be very

impressed with him. He does have a vast experience with compensation boards.

MR. CHAIRMAN: Okay. The next one is . . .

MR. R. MOORE: Could I ask one . . .

MR. CHAIRMAN: Yes. Sorry, Ron. You were hidden by Mrs. Fyfe.

MR. R. MOORE: Mr. Buchanan, on this workers' council — Mrs. Fyfe touched on it — I realize that it would improve communication, and there seems to be a lack of communication between various parties here. It would also give you some input into the budgeting process if you're going to consider budgets and financial arrangements. I can see that. But really it doesn't mean a thing unless there's some compulsion or some area where your recommendations must be considered or put in place. How do you foresee that? Do you foresee you being the authority, and saying our recommendations are these, and then they will be acted on? Or are you just being a sort of outside consulting setup that can make your recommendations and they can take them or leave them, or forget them and go the way they were? How do you foresee that area?

MR. BUCHANAN: Again, I think that's where in terms of direct involvement and whether the mandate of the Workers' Compensation Board is changed to be meeting with industry, and that there's actual representation on the Board — those are certainly feasibilities. In regard to the issue of accountability to industry, I think it's clearly an issue that, in terms of all the recommendations, is not going to be resolved immediately in terms of through the select committee report. I think it's an area where extreme evaluation has to be done with industry/government joint task forces being appointed to look at that particular issue. It's being raised on our side in terms of a critical issue, that we desire more input as employers funding it. Certainly we want the recommendations we make to be in a position where they're being adopted and implemented, and presumably the individuals representing industry are truly representative of industry and have the expertise to represent industry.

In terms of this area, I think that's a perfect example where it's not going to be resolved over the next month. It has to be implemented that it's initiated that a task force be appointed to start addressing those issues: how does industry increase its teeth and impact, and we desire it. This is one particular area in terms of the council that we feel could be immediately instituted to start that process in action.

MR. CHAIRMAN: Maybe you detected that I smiled when you were answering Ron Moore's question, and that is to share with you the fact that even industry representatives sometimes aren't attuned to the rest of their colleagues in industry. When the advisory committee met in the summer of '82, they recommended an 8 per cent increase in benefits for 1983. I declined that. I didn't recommend that to cabinet, because they couldn't come up with a solution where only the minimums could be increased, not the maximums. I could see myself being the most unpopular minister if I had increased the ceiling by 8 per cent.

MR. BUCHANAN: This is certainly where we as industry feel there is ongoing — even with industry in terms of co-ordinating within our own bodies. The institution of the Industry Task Force is probably a first step in terms of industry co-ordinating itself to consolidate its position, and certainly we'll be continuing to do that in the future. Perhaps there is a vehicle there for liaison between industry and government to address an issue of this nature.

MR. CHAIRMAN: Yes. As possibly most of you know, but just to repeat, you've only been organized as a task force some five or six months now. So it's welcome.

We'll move on to the next area, governing by regulations. Questions on it? If I may kick it off, I guess in the brief you're more concerned about the policies the Board has and have no difficulty with the regulations, because the regulations are gazetted. It's policy that you have difficulty with. But you've put it under the title of "governing by regulations". Am I right?

MR. BUCHANAN: Again, there are a couple of issues here. Right now, in terms of the Workers' Compensation Board, there are regulations, but those regulations are a total of about 15 or 16 pages, which deal with the very broad issues relating to the mandate of workers' compensation boards. Beyond that, in terms of adjudication of claims and decisions being made, it's through internal policies within the Board upon which those decisions are made. Again, from industry perspective, the rules of the game and how claims are adjudicated — there isn't the consistency.

In terms of change of philosophy or expansion of the social consciousness, we find that social consciousness is expanding through internal policy without any critique by industry, whereby reverting to more regulation, where regulations expanded, then it puts change into the forefront of public scrutiny and, in terms of scrutiny, by our elected representatives. It also establishes the rules within legislation, so that if change is going to occur on major matters, it is handled in a formal way as opposed to internal policies, which are at the whim of people in senior positions of the Board.

MR. NELSON: Mr. Chairman, just one. Bob, in dealing with that issue, are you not indicating that possibly these regulations and policies are open to an individual interpretation and that they're not hard and fast, where you can understand what the actual happening might be if . . .

MR. BUCHANAN: That's a critical issue in terms of that interpretation of policy and how it's applied to the adjudication of a claim.

MR. NELSON: So therefore it possibly gives the Board too much leeway insofar as individual interpretation, and leaves you in a very uncomfortable position.

MR. BUCHANAN: We feel that, and also as industry. If the responsibility is there on the part of industry to appeal a claim and if we know the broad guidelines of how a particular case is going to be interpreted, as industry we can react in terms of the appeal process, whereas many small employers and even large employers are mystified in terms of whether they should appeal a claim, because they're not exactly too sure how it's being interpreted right from off the bat by the Board itself.

I was going to expand in terms of certain policies and procedures. A manual is being worked on by the Board and has been worked on for a number of years, and it's still not available to industry. I'm not too sure exactly how far along it is in the process of completion, but my understanding is it's not very far along in the process of being available to industry.

MR. R. MOORE: Mr. Chairman, my question is basically along the same lines as Stan's. How do you deal with concerns related to policies? You have a lack of knowledge of what the various policies are. Suddenly they're sprung on you or you come to a situation and suddenly somebody says: well, this is our policy — which you had no previous knowledge of. Does that happen?

MR. BUCHANAN: Certainly policies exist, but it's often difficult to get hold of them. Or if there are, policy is often based on previous cases as precedents, and many cases have been ruled in different manners. I think one of the primary concerns is in the development of new policy: how is that developed, is it following the mandate of the Workers' Compensation Board, and has that been one of the causes of moving away from the basic mandate of workers' compensation in terms of expanding its parameters of what its coverage should actually be.

MR. R. MOORE: You know there's always a danger with regulation. It's in stone there; you've got to go by it. And policy is nice. You can adjust according to the situation and the time and, as time goes on, year after year. So I have a little concern about writing everything down in regulation black and white. Then we have the individual who says, this is the line. They don't deviate left or right and don't apply it realistically, and then you have the same problem again.

But there's one question I'd like to ask. Do you find policies being applied inconsistently, applied one way in one area and then another way in another area? Do you find that? Is that a problem?

MR. BUCHANAN: We find that there are some inconsistencies. The other area — and I don't think it's contradictory, because industry often says: we'd like to see less regulation; we're overregulated continually. I think the other position, though, in terms of the Workers' Compensation Board is at the other extreme, where you have very little regulation on major issues. It's to the extreme other side and has to be moved back more into a governing position. Chris?

MR. ANDERSEN: If I could comment in that regard a bit. I think the normal procedure under most government Acts is that you have the Act, the regulations, and the policy, which relates to the regulations. It appears that in this instance, under the Act we have some very broad regulations, but in many cases we have policies which in no way have any regulation governing them. Where industry has found itself at quite a disadvantage is to try to pre-empt what policies are going to be and how they are going to be interpreted, because a lot of these things are not published. There's no way you can get hold of them. It is being worked on. It seems to be almost a secretive thing to the extent that if you look at the Act, section 149 even states:

Notwithstanding the Regulations Act, no order, ruling, decision or direction of the Board made under this Act needs to be published in The Alberta Gazette.

So these things can be formulated and be in existence, and nobody knows about them. We feel that a lot of the major policies should in fact be regulations with policies then being under those regulations.

A very broad area that there are no regulations governing is road-related accidents. What is covered, what is not? There are a great many policies that have evolved — I think some of them go back 15 years or more — but there's nothing in the regulations, nothing that has ever gone through the Legislature, as to how these things should be. So what we have is policies developed by the Board and by the civil service, without input from either the Legislature or industry. If they were regulations, they would at least have to go by the Legislature.

MR. BUCHANAN: Just to comment on that as well, road accidents accounted for about one-third of the total fatalities that went through the Board last year.

MR. MARTIN: I think John wanted to clarify something that was brought up. Perhaps he should, because I'm sort of . . .

MR. CHAIRMAN: John, do you want to say something for clarification?

MR. WISOCKY: No, not at this point. I'll wait.

MR. MARTIN: Just to follow up. I do not agree with Ron Moore. I think my experience is that when you write regulations down, you create more problems. I think you're well aware of that, and I was a little surprised. I think perhaps the first part of your accountability would be a more effective way to deal with what you're attempting to get at. When you're dealing with human beings and the types of cases that even I as an MLA get, I think it becomes very hard to write out a bible of regulations that you can just turn to at any point. I would have that concern about it, and I'm sure you people do.

The question I would ask following from that is: do you really believe it is possible, in something as complicated as what we're talking about, to actually have regulations that are going to follow for each case and that would satisfy the needs you are talking about here?

MR. BUCHANAN: I don't think the intent is to have regulations for each case and try to have it covered by regulations, but in terms of the major issues and major policies that are dealt with within the Board to start getting some of those incorporated in regulation. Again, this is where we've recommended an ongoing process to have industry, the Board, and government establishing groups to start that process of how extreme the regulations should be, but the feeling is that they should be more comprehensive than the 15 pages that exist at the present time.

MR. FINLAY: Could I also add, just to reflect on the task force deliberations, they've indicated great satisfaction with the development of regulations under the Occupational Health and Safety Act. If you look at the binder of occupational health and safety regulations, they are quite comprehensive, quite extensive, quite detailed. But they've been developed in consultation with industry, and there is general satisfaction from employers to operate under that scheme of things.

MR. MARTIN: You're using that as an example.

MR. FINLAY: As an example, the development of the mine safety regulations under the Occupational Health and Safety Act.

The other point I would mention that the task force deliberated is that the one regulation they definitely would like to see is a regulation on the process of establishing policies. There's nothing to govern how policies are established. At least a regulation like that, that would determine what is an orderly procedure, an orderly form of consultation with industry and labor prior to the institution of policies, can be cast in stone.

MRS. FYFE: I liked that last comment. The point I was going to make, Mr. Andersen, was that you used the comment about policy being passed by civil servants. I don't mean to split hairs, but the Board are not government employees. That's the concern I have. What you're saying seems to move this closer to government. I just have to crystallize in my mind that this is really what you want. Occupational health and safety is directly responsible through the minister — that's part of his ministerial responsibilities — where the Board is a liaison. He's responsible for the legislation but not for the employees

Select Committee on
Workers' Compensation Act and
Occupational Health and Safety Act

September 8, 1983

23

directly. You're asking for more accountability, but in the same breathe I hear you saying you want it closer to government. I'm just a bit confused about which way you really would like to see it go.

MR. ANDERSEN: I think possibly my choice of words, civil service, was incorrect. Maybe I should have stuck with the bureaucracy that you've used. I guess technically members of the Board are not civil servants.

MR. CHAIRMAN: Neither are the staff.

MR. ANDERSEN: Right. Not a civil servant, just a bureaucrat.

MRS. FYFE: Also, regulation is government. By publishing policy, you may be able to accomplish the same thing without moving this whole area closer to government.

MR. ANDERSEN: Going back to a comment you made before, probably what you are sensing to some degree is the frustration we are experiencing in not having input into the thing, saying that at present the bureaucracy within the WCB can establish policies without referring either to the Legislature or the industry which funds it. We're very uncomfortable with that, so we're trying to come up with alternatives. Perhaps we are somewhat contradictory, but I think perhaps this is where the select committee is going to have to sift through some of these things and see which of these alternatives will work the best.

MRS. FYFE: One of the things I did want to preface my original remarks with is by saying that I do really compliment the task force for this brief. It's not just critical; it's providing alternatives, and to have alternatives to consider is extremely helpful to this committee.

Specifically, if I just can clarify this, going back to number one, you would prefer to have more accountability and representation on whatever council or board is setting the policy. You would not necessarily want regulation to be passed by cabinet, although you want something written in stone that would establish how that policy is passed, and you certainly want to be made more aware of those policies. Those policies should be printed. Would that summarize what you've said in point two?

MR. BUCHANAN: I think so, in terms that there still is an expansion in terms of how the policy is developed and also the major items within WCB that are really standardized in terms of policy and can be set in stone. The point that you made, Myrna, in terms of who the Board is responsible to, it's responsible to Bill in an indirect way, in terms of Mr. Diachuk being the minister responsible, but again it's not a direct liaison and the same with industry. They're not directly responsible to us. Who are they responsible to? The Board has really been running with responsibility to no one.

MRS. FYFE: Would you rather have them responsible directly to the minister, as occupational health and safety?

MR. BUCHANAN: Partially, and certainly in terms of keeping it as an industry employer group, our preference would be to have greater responsibility to employers.

MR. CHAIRMAN: Could I then supplement or ask a further question to Mrs. Fyfe's. Would you look at the Quebec approach as a favorable one? I hate to put you on the spot.

MR. BUCHANAN: Bill, you'd have to expand on that Quebec situation for me.

MR. CHAIRMAN: They've disbanded the board, and it's a commission responsible to the legislature. John?

MR. WISOCKY: In the Quebec situation a judge is appointed chairman or president of a commission, and they have six labor representatives and six industry.

MR. CHAIRMAN: It's not that he's a judge. The title in their legislation gives a chairman of the commission the title of judge.

MR. WISOCKY: So that's the way that works. They're working it like a corporation.

But if I may, Mr. Minister, there has been a lot of talk about accountability, policies, and regulations. Just for a point of clarification, I appreciate what is being said and feel that Mr. Andersen has hit the nail on the head: frustration. I can assure you that the Board is accountable. We are accountable to the Legislature through the minister. We are administering an Act, a law. The Board does not take liberties in interpreting and coming up with policies that are contrary to law. When you've done your homework and research, you've found that in the early days of workers' compensation, many, many of the decisions — in fact 50 years worth of decisions — interpretations were decided by the courts, so we are guided by those types of things. I could go on, but really I see your point.

I feel a policy manual is a good start. Naturally there will be disagreements, but at least it will catalogue and describe the policies of the Board, and these policies will be available to interested parties. I guess I take a little comfort in the fact that injured workers are dissatisfied with us and industry is dissatisfied with us, so I assume we must be on the right track.

MR. MCGOWAN: In summary, referring to what Myrna says, what kind of teeth has this so-called council — I would be remiss if I did not say that industry's been gumming this situation for years. We've arrived at a new era. Industry has developed little fangs. We intend to be heard, and we intend to be heard in a very constructive manner. We want to help you, Mr. Minister, and we want to help the Board. We think we have the kind of input that will assist you to get the discontents off your back.

MR. RUNCK: Mr. Minister, I'd like to make one point for clarification here. The comment was raised that a policy manual was being written in isolation without input from industry and so on. The present writing of the policy manual does not attempt to introduce anything new. It's considered a first step, and the first step is to put in readable form the policies that have been followed over the years. Eventually when that is publicized, we will be expecting input and so on, saying we agree with this policy or disagree with it or whatever. That's where we are now, and there will be some of that available in the not too distant future.

MR. CHAIRMAN: Okay. Let's move along to the next item, budgets. Any questions from the committee? Rate consultations?

Can I just ask, because you all experienced for the first time last fall that a member of the Board sat in on rate meetings. There was a concern raised that that member may be in a conflict when an appeal by an employer group would be made to the Board. I felt strongly that the benefit of a member sitting in on the rate meetings was advantageous to both the Board and the employers. Any comments on that procedure? Was it appreciated, or should we enlarge on it in any way?

MR. BUCHANAN: In terms of the total Industry Task Force, it wasn't something that we addressed in terms of that particular representation. Speaking specifically for the class we represented, we felt it was a worthwhile process.

MR. CHAIRMAN: It was?

MR. BUCHANAN: And I'm speaking in terms of our particular class. Perhaps other individuals would want to comment on it.

MR. MCGOWAN: We found it beneficial for ours too, Mr. Chairman. We'd like to see it continued, and that's what we're recommending.

MR. CHAIRMAN: Good. Funds investment?

MR. MARTIN: This is totally an area I hadn't thought about, and I was interested in what you're saying. Before I ask any questions, I would like some quick clarification about how the funds are administered right now with regard to what Mr. Mahoney was saying. Could you give me a brief . . .

MR. RUNCK: I'm not sure what your question is.

MR. MARTIN: Well, who makes the investment decisions? Are there rules that you can only invest in certain portfolios? How does it go?

MR. CHAIRMAN: Let me try to kick it off, here. Kevin was onto it. As of the '74 report, the fund is now administered by Treasury, with representation of the executive director of finance on a committee. Therefore the provincial Treasury Department invests the fund that is set up for the capitalization of pensions by the WCB in conjunction with all the rest of their investments. So other than that, the participation of an executive director is there. I don't believe any Board member sits on that, because it's within the Treasury legislation.

MR. MAHONEY: It's under the Financial Administration Act.

MR. CHAIRMAN: That's right. You touched on it. Ray, questions?

MR. MARTIN: So basically it has nothing to do with the Board, then. It's the Provincial Treasurer that . . .

MR. MAHONEY: It does and it doesn't. It's out of their control to a large degree, but it's their funds.

MR. WISOCKY: If I may, Mr. Minister, you're quite correct in what you say. The Board does approve the final strategy, assumptions, or objectives that we want to achieve, and that Treasury will on our behalf. Generally speaking, we are trying to get them to be more aggressive, using your term, with our funds and get a higher return, as you want and as we want, sincerely. But the strategy per se is generally in the hands of the experts. They handle multitudes of moneys even greater than the Board's investments, which are substantial, but we have to rely on that expertise. That was a change that was introduced, as the minister says.

MRS. FYFE: Are you suggesting that the funds should be invested through the Board, then, and taken out of the auspice of the Financial Administration Act?

MR. MAHONEY: I don't think we particularly care who the actual person is that's doing the investing. I think it's more the approach to the investments that we're concerned with. The Board has the right to review the portfolio and the strategy for investment and, if I understand you correctly, I think the Board has the right to insist that they do take a more aggressive approach to it. That's what we're asking the Board to consider. I think for anyone that knows investment of funds, the equity portion of your asset mix is terribly low. It's a great waste of money. You'd probably do just as well depositing it in a Treasury Branch. It seems to be a real waste of an opportunity to make a good return on the money.

MRS. FYFE: I can't comment on the return, because I haven't studied that in the report. Did you want to make a comment, John, before I go on?

MR. WISOCKY: Just a comment. It's only in recent years that the financial situation became as volatile as it has, and I think you'll all appreciate this. It's only in recent years that even other major investors of private funds have come up with a different strategy. As you appreciate, there are also risks. For the Board to say, change this assumption, get more money in this area, or go into riskier areas, is a heck of a responsibility. You have to be very careful in that area, but I understand what you're saying.

MR. RUNCK: I'd like to make one comment, if I may. One thing you have to take into consideration is that much of the money in those funds is committed to long-term investment, and this commitment was made way back in the past. What Treasury has been doing is studying the cost/benefit, if you want to use that term, of turning those over to something with a higher rate of return. If you're stuck with something at 6.5, 7.5, 8.5 per cent, then before you can simply throw that out the window and go for something that's 12.5 or 15 per cent, you have to take the long range. If I do that, how much do I lose?

If you're turning over an 8.5 per cent bond, for example, at this day and age and the thing is running for another 10 or 15 years, you're probably going to command something like maybe 72 per cent or 61 per cent of face value. Then what happens is that you weigh that against how long it's going to take you to recover that loss. So there's some of that stuff that I think Treasury has rightfully had to say: I guess we have to go to bed with this, because if we don't we take a loss.

When you look at the growth of the Board's investment funds, it's true that if you look at the recent portion, you can say there's only so much invested in equities. This is true, because most of the fund was generated before the recent changes that have taken place. Trying to make these conversions and get these things over, this is part of the reason. I just thought I'd throw that out as background, Mr. Minister.

MR. MAHONEY: Just as a response to that, Mr. Chairman, the investment portfolio grew in 1982 over '81. In 1981, it was \$595 hundred million or whatever, and it went to \$804. I'm sure that new injection of money didn't have to be put into long-term investments. There's a lot of new money coming into that investment portfolio that could be used more aggressively. I do admit that they did go from 1 per cent in equities to 4 per cent in that period, but in our opinion that still doesn't show an aggressive enough approach to it with the new money coming in.

MR. CHAIRMAN: I think we're going to study that, and I'll get back to Myrna. I would welcome that, so I can refer it to the Provincial Treasurer. Please send it on to me, because you refer to some review you've carried out.

MRS. FYFE: Just two very brief comments. This question, of course, is always asked members of the Heritage Savings Trust Fund committee also. Studies we did comparing our fund to other comparable funds, large pension funds in North America, showed that we were certainly in the 75 percentile as far as results. Because of the amount of money that's invested, long-term strategy would not be made available. The Provincial Treasurer would not make that strategy available, because it can have significant impact on the market.

So I think the alternative is removing the funds from the Financial Administration Act, if that's a possibility, and I don't know that that's a good move. But I think what we could do on the specific one is to ask for a specific response from the Provincial Treasurer to explain the reasons for the investments under the Financial Administration Act and give any information that he can. I think it's important enough that you should have a direct response regarding this matter, maybe in a bit more detail than we can provide this morning.

MR. CHAIRMAN: It's possible that when you send that, in I can then try to get a response.

MR. MAHONEY: I could also provide you with a copy of a Wood Gundy report that measures in excess of \$50 billion in private company pension money. It shows the median and the quartiles. If you stack your workers' compensation money against that, you'll find yourself in the third quartile.

MR. CHAIRMAN: Send it in.

MRS. FYFE: It's a very complex area, and you have to ensure that you're measuring exactly the same thing.

MR. MAHONEY: Apples to apples.

MRS. FYFE: That's right.

MR. NELSON: Mr. Chairman, I know we're running out of time and have a long way to go here, so I thought I'd slip this one in.

MR. CHAIRMAN: Is it still on investments?

MR. NELSON: Oh, it's on investments, certainly. You haven't mentioned in the brief regarding an investment in a new facility here in Edmonton. I would like to know whether you feel that is a good investment in this day of restraint and what have you, and the necessity for same?

MR. BUCHANAN: Are you talking about the new Board facility?

MR. NELSON: Yes.

MR. BUCHANAN: Perhaps someone else would like to respond.

MR. CHAIRMAN: That will be the next item. Why don't we just move onto it.

MR. NELSON: I thought it might be under investment.

MR. CHAIRMAN: It's the next item, rehabilitation, so you're right into the next item.

MR. NELSON: It really is a very large investment, Mr. Chairman, that the employers have to foot the bill for, notwithstanding some other comments that have been made.

MR. CHAIRMAN: Please feel free to respond, then, as part of the item on investment and rehabilitation facilities.

MR. BUCHANAN: Where the two are tied in and there's an investment decision to make there, our feeling is quite strong. Certainly under existing economic times we have right now, that has to be strongly evaluated as an investment decision. We've indicated that we feel, in terms of cost/benefit, utilization of existing facilities should be evaluated in terms of a cost analysis. Certainly in terms of the rehab centre, we feel that there certainly is upgrading that has to be done in terms of the rehabilitation system. But perhaps the ideal of totally new facilities has to be foregone under the existing economic conditions within this province. Industry has certainly had to forego many ideals we wanted to institute, and we feel it probably is an incorrect investment strategy at this point, especially when the Board has a current deficit position of over \$100 million.

MR. NELSON: Just to ask Myrna's question, have any of the task force members of the industry visited the rehabilitation facility in Edmonton?

MR. BUCHANAN: Many of the task force group have visited. I've been through it personally. Certainly we appreciate some of the concerns in terms of some of the upgrading that has to occur, but is the timing correct in terms of other facilities and the ability to use other existing facilities, in terms of decentralization to areas? Certainly points were brought up yesterday in terms of allowing patients to go into their local communities for service. It's something that has to be evaluated.

MR. NELSON: Considering the fact that the government is expending considerable dollars in taxpayers' money in new facilities throughout the province, maybe they can be utilized in a more efficient manner for some rehabilitation.

MR. BUCHANAN: We strongly feel that it has to be re-evaluated under current economic conditions within the province and that the basis for that building was made a number of years ago in terms of conditions that existed at that time. Those economic conditions within the province have changed, and the financial projections of the Board to finance such a project have changed.

MR. CHAIRMAN: John, you want to provide some information?

MR. WISOCKY: Yes, just an historical perspective in the sense that the minister himself very wisely appointed an interdepartmental committee in '81, consisting of representatives from major government departments, on the feasibility of the Board eliminating its facility and using facilities throughout the province. It was quickly recognized that anywhere from 95 to 97 per cent of all treatment, physiotherapy and so forth, and general rehabilitation, primarily in the physical/medical field, was being provided by community, private, hospitals, and so forth. What was lacking out there

were facilities for the vocational aspect, and even more lacking was the fact that there were inadequate assessment facilities out there.

Generally speaking, doctors do a great job with a great majority of workers, but there's a small minority where they just can't get to the bottom of things and welcome the opportunity of referring this type of patient to the WCB, which must make the difficult decision of deciding just how much disability there is and how much of it is related to the industrial accident. This committee was unanimous in the fact that this Board should continue with its own facility.

The problem at our facility at the moment, besides some of the common problems in terms of antique facilities in some areas, is the fact that we have insufficient work assessment, vocational assessment, and conditioning facilities in order to do proper assessments. It is for this reason that the Board wanted to upgrade its facility, which in itself would cost substantial dollars. This was the reason there eventually was a decision made that maybe what we needed to do was build a new facility.

So I wanted to get the point across that we don't deal with the great majority of cases, as do some other provinces, but the minority, the difficult cases that medicine as a rule no longer knows what to do with.

MR. BUCHANAN: Again, I think in response to it, certainly you're dealing with an ideal situation in terms of a new building, a new facility. I think the strong feeling is that perhaps until things start to turn around in this province, there's a compromise position that has to be instituted to address or upgrade some of the facilities or services as they exist right now. But in terms of going to the extreme of a totally new facility, new upgraded systems are probably the ideal, and we can achieve that at this particular time.

MR. CHAIRMAN: It may be of interest that that study was done by an interdepartmental committee of people that were referred by about half a dozen other ministers, and they came through with this review following the 1980 report. But at the same time, I was asked by the Board back in 1981 whether it should spend between \$8 million and \$10 million to upgrade the present rehab facility. I leave that to you, because for the last year my office has been getting complaints from workers, the claimants that are unhappy with the facility. That's why the question is there. Some of you have seen it, and I know that a portion of that building was built in 1952 or so and is very antiquated.

MR. BUCHANAN: I think that's where it relates back to Stan Nelson's comment in terms of it having evolved into an investment decision as well now, not just in terms of increases of services. I think that has to be taken into critical aspect.

One point I was going to ask, Bill, was whether we'll be terminating at twelve.

MR. CHAIRMAN: We hope to. That's why I am trying to push it along.

Employer notification of award decisions. Any questions? That 30-day notification would mean that when the Board has arrived at a decision, before a payment is made to the claimant, the employer has 30 days to consider that. So that means the claimants may be delayed even more than 30 days before they get that award.

MR. BUCHANAN: In terms of allowing an appeal process, right now in terms of paying the employee, if the employer appeals it and the appeal is valid, then the Board has the position of going back and trying to recollect the moneys.

MR. CHAIRMAN: Bob, what's in place now is that the employer gets a copy of the letter that goes to the claimant, to the worker, saying, here's your cheque.

MR. BUCHANAN: Exactly. So once that payment is made and the employer appeals it, you've got the problem of recollecting the money.

MR. CHAIRMAN: Am I right, Al?

MR. BUCHANAN: We are saying if there is a waiting period, then you have the ability to allow the employer to appeal and, hopefully, if the payment isn't valid, stop it rather than sending the cheque out first.

MR. WISOCKY: As I understand it, the employer also gets a copy of the appointment letter, so the employer knows that Mr. Joe Smith is going to be seen by the Board on such a date. So it is a further alert, as well as the notice outlining how the award was arrived at.

MR. BUCHANAN: We're certainly aware of those processes. But still, John, you must admit that there are circumstances where the cheque has gone out, the appeal process is instituted, and we have to go back and reclaim the cheque from the employee.

MR. CHAIRMAN: Okay, access to information. That's part of some of the discussion we had yesterday on confidentiality. Any questions?

I think the next one is the one that committee members would welcome: experience rating. Questions?

MR. MARTIN: I need a computer here. I think this will take a fair amount of time. But I am just curious. You've come up with a very detailed proposal. The 1981 figure of revenues is \$292 million. Have you put this through any computers to know, in a general sense, what sort of revenue you would come out with later on, if we bought your system totally, let's say? All of a sudden tomorrow we have the system that you advocate. I know you're saying we should look at each nuance. But I'm looking at the total revenue. What would that mean to the Board? Do you have any ideas?

MR. ANDERSEN: One thing it would do — and I don't have the numbers right in front of me — for instance, what is happening now, I believe this year there was something like \$80 million paid back in merit rebates, in that general range. Under this system, that \$80 million would never be collected, so industry would have that \$80 million at their disposal rather than having paid it into the Board and sometime later getting it back.

As far as trying to do a computer run on what the overall impact would be, we haven't. For one thing, we are missing an awful lot of information as to which classes, which assessment rates, what the timing is, and so on and so forth.

MR. CHAIRMAN: Not all classes have a merit rebate.

MR. ANDERSEN: That's right. So there are a great many variables there. Without a great deal of information, it would not be possible for us to do that type of an analysis.

MR. MARTIN: So basically you're saying, just take a look at the idea . . .

MR. ANDERSEN: That's right.

MR. MARTIN: . . . more than the figures

MR. ANDERSEN: There was, I think, a very strong feeling amongst industry that the idea of paying money up front and having the Board hold it for some 18 months and then paying it back to you, was an idea that was extremely distasteful. What they were looking for was a system that would identify the good performers and the poor performers and set their rates accordingly, so they would pay along the line of what their final costs would be, as opposed to paying a whole bunch extra to start with and then the majority of people getting some back.

MR. CHAIRMAN: I have been made aware, Chris, that there are certain sectors of industry that even budget for a one-third refund.

MR. ANDERSEN: Certainly, yes.

MR. CHAIRMAN: Before the year even starts.

MR. ANDERSEN: Yes, our company does. Our budget is all set up based on 66 per cent.

MR. CHAIRMAN: What happens if you have the accidents? You're out of budget.

MR. ANDERSEN: Yes, they're not budgeted. But the thing is, historically, we're safe.

MR. MARTIN: The safety director is fired.

MR. CHAIRMAN: The safety director is fired.

MR. R. MOORE: Mr. Chairman, I just have a comment to make. I would say that every submission that has come before us doesn't agree with the present merit rebate system; it isn't working to their satisfaction. That seems to be the message we hear consistently. I want to compliment your group on coming up with a realistic alternative. It puts us in a different light, and actually it gives us as a committee something to work with that's realistic and practical. I would just like to compliment you on that.

UNIDENTIFIED SPEAKER: Thank you very much.

MR. CHAIRMAN: Stan, after that.

MR. NELSON: Just maybe a little question relevant to your investment in the system. As you know, if you make a late payment, you're charged a considerable penalty. On your investment of overpayment, because of the merit rebate that is given you, do you receive investment on that insofar as an interest rate is concerned, or do you just get back the money you paid in?

MR. ANDERSEN: I believe -- and possibly you could correct me, John -- we get back what we paid in.

MR. RUNCK: What happens is that the interest that's earned on that money goes into the classifications to help the class balances.

MR. NELSON: So as an employer, I'm investing X number of dollars that I'm going to have returned to me. Rather than having the ability to invest that money the way I would like to invest it, I have to pay the Board, and I get no return on that investment.

MR. BUCHANAN: That's exactly right.

MR. CHAIRMAN: Other than the benefit of being in the class.

MR. BUCHANAN: That's certainly one of the critical things that came through in terms of paying funds in and then no return in getting a maximum of one-third of that back.

MR. NELSON: But at the same time, if I make a late payment I'm penalized for it, even though I may get the money back. Terrific.

MR. WISOCKY: I guess the other side of the coin is that you have an assessment rate — and this is just for information — which covers many subcategories, including a merit rebate. So you are paying a dollar amount, as I do my insurance premium for my car, to cover many subpoints, including merit rebate.

MR. NELSON: At the same time, though, as has been identified many times, the good performer is still paying for the bad performer. So the bad performer is getting gravy train, and the good performer is losing his investment material.

MR. CHAIRMAN: Okay, we will move on to classes. Any questions?

Can I ask the committee, in your recommendation on the reduction of the number of classes and then your model promotion relegation system, that's . . .

MR. ANDERSEN: That's contradictory.

MR. BUCHANAN: They're contradictory.

MR. CHAIRMAN: Yes, that's what I thought.

MR. ANDERSEN: If we did not address the number of classes, we would have to assume that the Board was going to adopt our suggestion of a promotion relegation system. Because we felt it might be a bit presumptuous to assume it was going to accept it holus-bolus, we thought we should also address the question of classes.

MR. CHAIRMAN: You wanted to have both birds in the hand.

MR. ANDERSEN: To cover both angles.

MR. MCGOWAN: We wanted to give you an option.

MR. CHAIRMAN: Can you tell me how, under the relegation system, you would be able fund an educational program, as you recommended in another area, similar to Ontario?

MR. ANDERSEN: The division of industry into classes for purposes of opening new accounts, for purposes of statistical analysis and comparison, would have to be maintained to some degree. I think you would still have to be able to say that the construction industry is separate from office/clerical, so people would have some bench marks. So if a new company came along and said, we are company XYZ, we have no experience with compensation, we're opening an account for the first time, please assign us a rate, then you have to have some way of picking a rate. There would have to be a method of saying: yes, by and large these people belong into these pigeonholes.

What the promotion relegation system would do is allow people to better their position once they have started or, conversely, to have their position deteriorate. So you would still have to have some form of categorizing people so that you would have a starting point, so that if you wished to have assessments for such things as an educational program, you could say it applies to this group — and a number of reasons such as that.

MR. CHAIRMAN: Is it an original idea, or is it copied from some other jurisdiction?

MR. ANDERSEN: It's relatively original. It's based on some discussions that we had with Jim Thomson. The task force came and Jim Thomson outlined some ideas that he had been made aware of in this regard. Based on his discussion, we applied some verbiage to it and came up with something that we felt might work.

MR. CHAIRMAN: So the committee wouldn't have any place that they could . . .

MR. ANDERSEN: No, there's no base document that this is taken from.

MRS. FYFE: So would an industry only be able to move so far? There would be sort of a general class, you said.

MR. ANDERSEN: No, the perception we have is that you would start within that class. But if you had an exceptional record, either good or bad, you could move 20 per cent at a time per year in either direction, and you would continue to move there until your three-year average no longer hit the limits.

MRS. FYFE: I understand that part. I'm thinking more of the new accounts.

MR. ANDERSEN: The new accounts would be slotted according to classifications established for that type of industry.

MRS. FYFE: That's what I said. That classification would stay there as a bare-boned structure.

MR. ANDERSEN: Yes. But I think that classification could be much broader. Right now you have 57 classes, and many of them have almost, if not the identical rate. So you could probably reduce that to 12 or 15 classes to get the people started.

MR. MCGOWAN: You could separate industry at any time by prefixed numbers to the firm number. You could get any figures for any industry by a prefixed number tied to the firm number.

MR. ANDERSEN: So if any association came and said, how is our industry doing as a whole, it should be possible to pull that association's membership out of there, based on prefixed numbers.

MR. BUCHANAN: The other basic concept that it deals with is that eventually you're starting to pay rates in terms of your experience as opposed to the industry rate. And people are being compared on other accident frequencies.

MRS. FYFE: Yes, I was just concerned about the new accounts and how you were going to were going to plug them back into the system.

MR. BUCHANAN: Correct. And that's, as I said, where you would have to retain some sort of identification.

MR. CHAIRMAN: Myrna hopes to be an employer when she finishes.

MR. NELSON: I already am, and I've paid.

MR. CHAIRMAN: Which pigeonhole are you in?

Okay. Compensable earnings ceiling. Any questions from any of the members? Can I ask the committee: one of the concerns — and this all came about in the 1980 report, the last select committee — was the fact that in Alberta at about the end of '79, we were covering only about 63 per cent or 64 per cent of the workers at their full income on that \$22,000 ceiling. Our recommendation was no ceiling.

What do you see as a percentage? No Act will ever cover all the earnings of the workers. But I was advised that there was sort of an understanding that around 90 per cent to 95 per cent of the workers should be covered at their full earnings. Have you deliberated at all where we could look at this, because of the concern you have? We had one representation yesterday — people representing the public sector that some of you overheard — that said not to increase the ceiling but to maintain it.

MR. ANDERSEN: We didn't discuss it in the form of a percentage of people covered. What we did do is looked — we were obviously searching for a bench mark too — at what is recommended by the Association of Workers' Compensation Boards of Canada. That is where we have come up with the \$30,000 recommendation, working back. Their recommendation is that the maximum weekly compensation should approximate the average earnings. So people that are at an average level or below average would get full coverage; people that are above average would get something less than full coverage.

I think it may be very desirable to raise that, but again it's a question of cost. I think right now, in this province, we can't afford to go much higher than that. So what we're looking at is based on the position taken by the Association of Workers' Compensation Boards of Canada, where they are recommending that the average worker get 100 per cent coverage. Above that, you get something less. Of course, you have the option above that, if you want to take out additional insurance to cover any shortfall. That's the individual's prerogative.

MR. BUCHANAN: Just to expand on that, on page 24 it gives a breakdown in terms of those. Chris mentioned the 100 per cent level; Alberta is running at 123 per cent. There is a comparative chart there of all other provinces. As well, the International Association of Industrial Accident Boards and Commissions also has that same standard of 100 per cent.

MR. CHAIRMAN: If you base it on the average?

MR. BUCHANAN: Correct.

MR. MARTIN: Just to follow up, I think it comes back to one of your principles. I guess it's who you're looking at when you say "workers' compensation provides reasonable income replacement". This is what this is referring to. I guess it depends on who you are, what is reasonable. There are going to be differences of opinion about this, I am sure you would agree.

MR. BUCHANAN: We agree with that, and this is one of the reasons, in terms of the

submission, we started looking externally in terms of what are some standards set by bodies that investigate that. And that's what we found with the Association of Workers' Compensation Boards and international organizations. They are looking into what is the definition of reasonable. At least it gives a bench mark for reference in terms of what other organizations consider reasonable, as opposed to us just coming up with a recommendation and saying we think it's 20 per cent or 30 per cent, with no foundation.

MR. CHAIRMAN: Any questions on net earnings calculation?

MR. ANDERSEN: I thought it might be interesting to say that the international group that Bob was quoting has come up with a suggestion that compensation rates that give a substantial protection against loss of earnings, should be provided: This may be achieved by compensation payable on either 66 2/3 per cent of an employee's gross wage or 80 per cent of an employee's expendable earnings. So that's one standard that has been adopted by the international body.

MR. MARTIN: I would just ask you to react to this, on 25 there. I know what you're saying, net earnings based on regular earnings only, and we can perhaps skip over overtime. The supplementary allowances that we talk about, for instance isolation pay, just to pick one out. It seems to me that one of the reasons that a worker may do this — because let's face it, the reason that there is isolation pay is that people are isolated — is generally to make some money so that in the future they can perhaps start their own business or whatever. That's the reason many people would. They would say that if you didn't include that — I am just throwing out what people might say — they were doing undesirable work for a short time for the company because the company needed that. Why should they be penalized because they were injured on the job? That should be part of what they were doing at the time, otherwise there shouldn't be a need for isolation pay to begin with.

MR. ANDERSEN: I guess my response would be that I am assuming that if the person were receiving isolation pay — and let's take the example of a rig worker up north. If he's injured, he's probably going to come back home. So he's no longer in isolation; he's at home collecting compensation. While he's at home collecting compensation, why should he be getting isolation pay?

MR. MARTIN: The point I'm trying to make is that while he was injured, he was getting isolation pay for the reason that the company deemed that they needed him.

MR. ANDERSEN: But when he went home, that reason disappeared.

MR. MARTIN: No, I understand that. Part of the reason he was doing it . . . He lost that income, and he was doing an undesirable job. It's a philosophical difference, I would agree.

MR. ANDERSEN: Yes, I suppose so.

MR. MARTIN: But I think that person could make a valid case on that point.

MR. ANDERSEN: I guess I would feel that if he stayed at the rig site, remained isolated, and convalesced at the rig site, he should be getting his isolation pay. If he went home and convalesced there, he's no longer isolated.

MR. CHAIRMAN: Yes, I can see your board and lodging and all that. You have a valid concern. That's why I'm glad Ray asked about the isolation pay, because it is pay. Overtime, I know we have some problems with that.

MR. MARTIN: That's at least voluntary.

MR. CHAIRMAN: Okay. Compensation calculation?

Adjustment for supplemental retirement income? I think we've had some good discussions on it.

Pension indexing.

MR. MARTIN: It's not that we're not interested, but you will appreciate that we have talked about a lot of these.

MR. CHAIRMAN: With some of your colleagues, yes. Lump sum payouts.

MR. THOMPSON: On this one — and I'm not discussing the principle of lump sum payouts — in your submission, there was nothing mentioned about a worker's right to take one or the other type of thing. Do you feel that should be a mandatory thing, or do you feel there should be a certain discretion there to allow a worker, if he wishes, to use the monthly payments instead of the lump sum payments?

MR. BUCHANAN: Certainly in that regard, we felt that there was a movement towards greater lump sum bases. Right now in terms of under 10 per cent disability, where the employee must take the lump sum base, that could be extended to a greater lump sum system. Again we refer to the Saskatchewan system, where there is more of a philosophy towards lump sum payments as opposed to the capitalization side. We feel again that there is a major investment decision here. If you are going on the basis of capitalization, there is that future projection of carrying those pensions, there is also the administrative position of carrying those pensions for extended periods; where through lump sums, if there is a greater movement towards lump sums, you're achieving two things. In terms of dealing with the claimant in paying it off, there's less risk in terms of future projection and you're not carrying that individual.

MR. CHAIRMAN: But Bob, answering John's question, do you believe it has to be mandatory?

MR. THOMPSON: Or optional?

MR. BUCHANAN: We feel the terms of the mandatory area have to be expanded beyond the 10 per cent right now.

MR. MAHONEY: I think you'd have to put a definite ceiling on it. In Saskatchewan's example, they put a ceiling of \$15,000. An employee still has the option to go to a private carrier and buy an annuity if he wants. There is nothing stopping him from doing that. So he can still get a pension if he wants.

MR. THOMPSON: If you make lump sum settlements mandatory, then what you're saying is that there should also be a ceiling on the mandatory area.

MR. BUCHANAN: Correct.

MR. CHAIRMAN: But you would replace that with not having permanent partial pensions.

MR. BUCHANAN: That's correct.

MR. NELSON: Mr. Chairman — maybe Kevin — we had a submission in another jurisdiction from a union representative that was against much of this lump sum payout, basically because they felt that the worker does not have the ability — and I'm talking now about the worker having the option to obtain lump sum payouts. They felt that the worker did not have the ability to make that decision, considering the long-term disability that he may have and that he might just want a lump sum payment to blow it or what have you.

What I would like to ask is, firstly, do you feel that this is a valid concern? Secondly, do you feel that through the corporation or the employer and workers' compensation boards, they could deal with this with the worker, to explain to him how he can deal with this lump sum payment by annuities, et cetera, in such a fashion that it would be to his benefit, as well as the employer, to obtain this?

MR. MAHONEY: I think, Stan, that's a good point. You should make very certain that you spell out the facts when you do a lump sum for an employee, because it's not everybody is knowledgeable on annuities and things they can do. But I think if you make an effort to force someone to a pension, there is a flip side to that. A lot of people may not want a pension. They may want the money now, for other reasons. I think you should let them decide, give them the money. If they want to go out and get an annuity, that's their choice. Provide them with the information when you give them their cheque, and let them make their own decision. Let's not become the social conscience of every employee in Alberta.

MR. NELSON: Beautiful. Thank you.

MR. CHAIRMAN: One question, before we move on.

MR. MARTIN: I think that was misread a bit, what the union person said, as I recall. I think the other problem they brought up is perhaps more significant. I agree that the information is there, and the person has to make that decision. The other problem that's been brought up about lump sum payments from the other end, from what I've heard, is: what happens if you accept a lump sum payment and have recurring problems from the injury five years later on, let's say. If you have accepted a lump sum, could you come back? How would you see that operating?

MR. ANDERSEN: I don't feel it would be handled any differently from any other injury. Right now, if a person has a leg injury or a back injury, they may go to the doctor and be off for three weeks. He may say: fine, you are cured; you can go back to work; you are available for regular duties; no further compensation required. If there's a complication six months down the road, he goes back. I think the same thing would apply to a lump sum payout. If the doctor felt initially that he had a 10 per cent disability, he was awarded a lump sum payout based on a 10 per cent disability, and five years down the road it developed that his disability had deteriorated and he now had a 20 per cent disability, it would be reopened the same as your back pension.

MR. BUCHANAN: That's not the end of it.

MR. MARTIN: That was one of the concerns, that it would be final if he accepts it.

MR. ANDERSEN: No.

MR. MARTIN: Okay, good.

MR. NELSON: I think the consideration here should be that the worker should have the availability to use his brain to make that option himself.

MR. CHAIRMAN: Okay. Employment and worksite qualifications. Any questions?

Disallowed claims? On your recovery, have you any feeling for the amount of money you're talking about on this "recover diligently"?

MR. BUCHANAN: Again, this was information that we had requested from the Board and, again, we are unable to give details.

MR. CHAIRMAN: So you don't have the figures.

MR. BUCHANAN: We don't have it.

MR. CHAIRMAN: Okay.

MR. BUCHANAN: But I think that's certainly an area that we would request, if the Board could investigate for the select committee, to obtain that information.

MR. CHAIRMAN: Mind you, if there were a waiting period — as you had recommended earlier — of 30 days, there may not be that many of these overpayments

MR. BUCHANAN: It would certainly help.

MR. CHAIRMAN: Criminal activity?

MR. MARTIN: I am curious about this one. I guess for information, is a worker who is involved in a criminal act eligible?

MR. CHAIRMAN: Have you got some examples for us?

MR. ANDERSEN: Impaired driving.

MR. BUCHANAN: An impaired driver.

MR. ANDERSEN: A fellow that gets drunk, gets into a company vehicle, and drives downtown and smashes into a light pole gets compensation.

MR. MARTIN: While he's on the job.

MR. BUCHANAN: Sure. A fight at a worksite, two individuals go at it.

MR. CHAIRMAN: I've got a case that's even more difficult to accept; that is, a driver driving a gravel truck for an employer, charged with impaired driving, convicted. But in the meantime, a worker was killed. The people are really unhappy because the driver was collecting compensation, and they had to even suffer the consequences of their child

being buried. So that's the area you're looking at, mostly impaired driving?

MR. ANDERSEN: Well, any criminal act.

MR. CHAIRMAN: No, but we would be interested about other examples. John, have you got any other examples?

MR. WISOCKY: No, just a little historical perspective. I agree that it is a very difficult area, and through the years the courts, have had difficulty in even interpreting that. But I guess in simplistic terms, unless it's proven that drinking was the sole cause of the accident, then the Board has difficulty. I suppose one of the things that enters into the equation is the fact that it has been employers who knew that drivers were drinking but, in spite of that, didn't do anything about it. So disciplinary action on the part of the company comes into play.

But certainly if the rules are very clearly that you shall not drink on the job and they are enforced and so forth, and in spite of that he violates them, drinks and causes an accident, then the Board must look at that and give it serious consideration, except if there is serious disablement, and that's in the legislation. In other words, if he is killed, well that's where . . .

MR. BUCHANAN: Again, this is an area that we feel in terms of a movement of the Board in terms of where eventually does more employee responsibility take part — if that individual is engaged in a criminal act, which is against the law, even if the company does not have a policy of drinking on the job, surely civil law is applicable to that particular situation.

MRS. FYFE: This recommendation would apply only to the worker that is guilty and not the effects of this accident on a co-worker.

MR. CHAIRMAN: No.

MR. BUCHANAN: No. If he killed somebody else and that employee is part of another group, then certainly he'd receive the pension.

MR. CHAIRMAN: Short-term injuries. How many days are you looking at? You remember we recommended in the last report that the worker remain on income the first three days. Have you got any days for us, that you're looking at?

MR. BUCHANAN: Again, as the Industry Task Force we reviewed the position in terms of the initial recommendation of a three-day period that came forth in 1980, and industry actually opposed that at that particular time period. In terms of when the industry group met, there were still variances in terms of whether there should be a waiting period with no compensation paid or whether you extend that for three days, five days, or 14 days. There were variances. But where the Industry Task Force was in agreement was that perhaps there is room for re-evaluation of that particular point.

If you look at page 34 of the submission, we did a breakdown in terms of the number of claims — and this was obtained from the Workers' Compensation Board — in terms of compensation days, the number of claims. You can see, in terms of the number of claims, that 32,193 of the total 75,000 claims are zero compensation days, and one through four days accumulates another 16,000 compensation days. So we feel there's potential here in re-evaluating that system and either going with a base where there's a waiting period where individuals don't obtain compensation or the employer is taking the

responsibility for those first few initial days.

MR. CHAIRMAN: Questions?

MR. ANDERSEN: There would be a complication in this type of thing in that I don't know who would pick up the medical costs during that period.

MR. THOMPSON: On this table, could you maybe explain a little better your first number?

MR. CHAIRMAN: You're talking about page 34?

MR. THOMPSON: That's right. You've got a zero with a star beside it, and you go over here and the compensation paid was \$294,000. Do you mean that if he doesn't lose any time on the job, he still gets compensated to some degree?

MR. BUCHANAN: That's where you're dealing with medical aid costs and an injury that's actually less than a 24-hour time period.

MR. CHAIRMAN: That's got to be medical aid or glasses or something like that.

MR. FINLAY: We also have a code that relates to compensation payments in the cases of fatalities. There are certain expenditures that are included in this categorization by the Board.

MR. CHAIRMAN: Okay. Out of province injuries: a little more clarification. I had some concern. I couldn't understand what your concern is here.

MR. BUCHANAN: In terms of the relationship of where an injury is occurring, if they're working in many jurisdictions or many provinces, many employers will take their coverage in Alberta because it's the most lucrative coverage for their employees. So we're recommending, in terms of the Alberta government, to evaluate that in terms of — our feeling is that a person should be covered under the jurisdiction where he resides and not necessarily where the injury occurred. We bring it to your attention because Alberta probably has one of the most lucrative systems, and many people will migrate to this province for the coverage.

MR. CHAIRMAN: Let me use this example. Company employers here have work forces in the Northwest Territories, and their residence is here. They're there two weeks and a week back, or whatever system they have. Their residence is really in Alberta. Do you say that that worker should remain covered by the Alberta coverage or still have the option of either one?

MR. BUCHANAN: Our recommendation is that on a broad base, it should go under the jurisdiction where the person resides. Again it's sort of a catch-22 position because, right now, Alberta happens to be in the position of having the most lucrative system, so people devolve to here. If Alberta didn't have the most lucrative set-up, then employers may migrate to some other province. We're pointing out right now that many employers take advantage of the position that Alberta's in, and we feel it would be of benefit to this province to re-evaluate those interprovincial relationships.

MR. NELSON: Even though it costs them more money?

MR. BUCHANAN: Even though it costs who more money?

MR. NELSON: The employer more money for their benefits.

MR. ANDERSEN: I think possibly, Bob, you should have been relating somewhat to the employees. You were saying the employers tend to migrate here and make their claims.

MR. BUCHANAN: Sorry. The employee will migrate back to this province.

MR. CHAIRMAN: John, can you help us on this?

MR. WISOCKY: Just a preliminary. If that's the recommendation, then it would cost you more than it does now under the current system. Out of province gets a little complex. But the simple rule is that if a worker is hurt in a certain jurisdiction, that is generally the deciding factor as to where he claims. In other words, take the Northwest Territories the minister alluded to. Clearly if this worker went up there to work and that's the permanent job, and is hurt there, that person claims there and has no recourse to claim in Alberta. But if you as an Alberta firm send him to the Northwest Territories for a short term, a contract, or something like that, and the person is hurt there, then there's a right of election and he gets into the area you are alluding to. And then there are other variables to this. But that sort of crystallizes it.

MR. ANDERSEN: The other example that was raised at the task force was the type of situation — say trucking firms, for instance, which run interprovincially, and the fellow develops a sore back. Then it's usually developed in Alberta.

MR. CHAIRMAN: Not on the border.

MR. ANDERSEN: Not on the border.

MR. MARTIN: Does it have something to do with the roads, or what?

MRS. FYFE: But are you suggesting that would not necessarily be a resident of Alberta, then?

MR. McGOWAN: No. He could be Ontario-based, but he claims at the Alberta rate because it's more advantageous to him.

MR. BUCHANAN: He will claim the accident occurred in Alberta to take advantage of this particular system.

MR. MARTIN: So no matter where they reside, if they were in three or four provinces, driving back and forth, they could claim it happened in any one of those provinces. Is that correct?

MR. WISOCKY: Provided the employer has some operations in that province.

MR. MARTIN: Most trucking firms would.

MRS. FYFE: What about the situation such as off-shore rigs, where the company is an Alberta-based company?

MR. MARTIN: Who owns off-shore?

MR. CHAIRMAN: It's off-shore coverage, Myrna.

MR. BUCHANAN: We're suggesting again that it devolves to the place of residence.

MR. CHAIRMAN: That's what it is.

MR. MARTIN: We don't know whether that's Newfoundland or Canada.

MR. CHAIRMAN: You don't?

MR. THOMPSON: Have you fellows got any hard statistics in this area on how much this affects the payments? I can see a certain balance in here, back and forth, one way and the other. Is it a real — you know, we're going through all this stuff. Is it a grave area? Is it a priority item? Is it just a few people that it affects? Does it affect the whole system to any great degree? That's the type of thing I'd like to find out.

MR. BUCHANAN: Again, this was an area where we had requested specific back-up data from the Board and were unable to obtain the detailed information. In terms of the scope, our reaction is that it has a potentially large financial impact but, again, we were not able to obtain all the financial information.

MR. CHAIRMAN: Bob, in your group, a response to John Thompson would be that the most identified, the ones affected the most, would be the Alberta Trucking Association. Is there a gentleman here from the Alberta Trucking Association? Can you answer John Thompson, sir? How do out of province injuries affect your association?

MR. RUBAK: It's hard to determine. It's as the member said: the employee elects where he will get the compensation from, depending on what type of injury it is.

MR. CHAIRMAN: But is it significant enough in numbers that we should address it?

MR. RUBAK: I don't have any statistics.

MRS. FYFE: You don't know whether it affects your rates for the trucking classifications compared to other provinces?

MR. RUBAK: No.

MR. WISOCKY: I guess up to recently — January 1, 1982, I believe — boards did have a cost-sharing agreement between provinces. If an accident happened there, they were partially responsible for it or contributed to it: there was some cost-sharing. But over the years we've found that it sort of evened out, and what you had was that you paid administration costs to sort of do this cost-sharing. Al Runck specifically did a study within the last year of the number of cases involved and the potential costs. As far as Alberta is concerned, the amount that we would recover from other provinces is very, very nominal.

MR. BUCHANAN: In terms of that report, could we obtain a copy of that? Again it's something we'd requested from the Board, and we weren't able to obtain information.

MR. WISOCKY: Who did you request it from?

MR. CHAIRMAN: Take a look at it, Al. We'll try to get back to you.

MR. ANDERSEN: I think the other way to solve the problem is that if we go back down to a \$30,000 maximum ceiling, then it won't be nearly so lucrative to claim in Alberta, and the thing will basically balance out.

MR. CHAIRMAN: Okay. Non-resident workers of foreign employers.

MR. BUCHANAN: You're dealing with a similar situation. Specifically we're referring, as an example, to the Amoco blowout situation at Lodgepole. You've got a group of individuals that came into Canada. There were two fatalities. With the accounts, they only had a maximum of about \$8,000 they'd paid to the Board. The maximum that group can be superassessed is a third of that: about \$3,300. The costs of those two claims is running over \$500,000 total.

In terms of the regulations right now, there are provisions in terms of international truckers being exempt from coverage under Workers' Compensation Board, and we're suggesting that should be extended to other foreign workers working temporarily in Alberta.

MR. CHAIRMAN: Is that by regulation, John, that in the trucking industry, international drivers — or how is it? Al?

MR. RUNCK: This particular one he's referring to here is the fellows who were on that well blowout.

MR. CHAIRMAN: I know. But I'm referring to Bob's reference. It's in the regulations, exempting . . .

MR. BUCHANAN: On page 14 of the regulations, as a group exempt, it's got:

Trucking conducted by an employer based outside Canada if
the employer does not have an ordinary place of business in
Alberta or does not employ workers resident in Alberta;

They are exempt from workers' compensation. In this particular area, it's isolated to the trucking industry. We're suggesting it should be expanded in terms of looking at many industries that are operating temporarily in the province.

MR. RUNCK: What that refers to, Mr. Chairman, is that quite often you'll have a truck belong to a firm in Ontario, Manitoba, or wherever, and all they do is haul goods across the country. They have no warehouse. They have no operations in the province of Alberta; none whatever. They simply come into Alberta and drop off the goods. They don't hire anybody here. And this excludes their driver while he's in Alberta. If he's injured in an accident in Alberta, he's not covered, because the employer really has no operation here. But if the employer had a warehouse here or if the employer had an operation under the Alberta Act, then he would be covered.

MR. CHAIRMAN: What about a U.S. employer? I'm more interested because the title is "foreign". Ontario is not foreign.

MR. NELSON: Oh yeah?

MR. MCGOWAN: I think it is.

MR. RUNCK: It's the same thing. We use that word "foreign" quite broadly, because we say "foreign to Alberta". We take U.S. as the same thing, Mr. Chairman.

MR. CHAIRMAN: I accept that.

MR. RUNCK: If he has a business operation in the province of Alberta, he's covered. If he has no operation whatever in the province of Alberta and just travels through or in and out, then he's not covered.

MR. BUCHANAN: The point we're bringing to light is that — the example we have used is the Lodgepole incident. Where they're in on temporary employment, they have no business residence established here. The employees that worked on the site were American citizens. We're saying that in terms of that expansion, it's another area again where the Alberta system is paying that cost for somebody who is temporarily coming in and obtains coverage through this Board.

MRS. FYFE: Could they not be covered through the firm that contracts them?

MR. RUNCK: This is what happens.

MRS. FYFE: So they're paying an assessment, though.

MR. BUCHANAN: Yes. Sorry, could you . . .

MRS. FYFE: The firm that contracts them would be paying that assessment.

MR. BUCHANAN: Okay. The firm that contracted them — there are a number of ways to go back and try to superassess that company. A problem and reaction we've had from the Board is we've got into an awful lot of trouble chasing after somebody in the U.S., and the likelihood of ever being able to recover those moneys. Right now there is an appeal process ongoing, and it is being dealt with, again, in terms of where those two particular fatalities should be charged, whether it's a well control specialist, the oil company, or the drilling industry. So this particular issue has not been resolved at this point. But the point we're trying to raise, even irrespective of the Lodgepole situation, is that Alberta compensation is covering temporary workers in this province, and we don't feel the Alberta system should be doing that.

MR. RUNCK: Actually, I think what he's getting at — the problem seems to be that a firm in the U.S. will take a contract to come up here to work on this wild well or whatever. Before they start they may open an account with the Board, because once they begin doing that in the province of Alberta, they are operating in an industry which is under the Act. So they open an account when they come in here. They may be here a week, a month, or whatever — however long it takes — and if they're killed on the job, then the total industry in Alberta has to pay that cost, whereas these people are not really employed for more than a week or a few days in Alberta, and they're in and out and gone. So there's really no assessment obtained from the parent firm in the U.S.

MRS. FYFE: So there should be a minimum coverage that would cover that.

MR. CHAIRMAN: They're asking for exclusion.

MRS. FYFE: One or the other, though. A minimum of three months or six months, or . . . Because there must be a fair number of firms that do come in.

MR. MARTIN: It's such a high-risk thing. It's probably better to (inaudible)

MRS. FYFE: I think the other example that was used and that was given to us as a problem was the exhibition group that came in and hired a young local boy. The nail went through his eye, and he wasn't covered. So this was a local person hired who had no coverage.

MR. RUNCK: Mr. Chairman, to carry Mrs. Fyfe's point further on this. One other thing they seem to have recommended in here is that rather than these people taking coverage — and correct me if I'm wrong here — under the Alberta Workers' Compensation Act, they be required to take some alternative form of insurance to cover these people. Is that . . .

MR. MCGOWAN: That's correct. Our experience with it is that when you bring into it . . . We had an incident in Ontario — that foreign country — where a German millwright or expert came into the Ontario zone to work on a piece of equipment that was built in Germany. There were problems. He was killed. My experience over a lot of years is that it is whoever brings that person in has the responsibility to be sure that that person, whether he's German, American, or whatever, has liability insurance for that person's life . . .

MR. CHAIRMAN: Accident insurance.

MR. MCGOWAN: . . . and that it should not be borne by the province in which he's engaged. If he doesn't have that, and the employer doesn't do that, that employer is responsible. It's his responsibility to see that that . . .

MR. CHAIRMAN: I understand the concern. I had the same concern when I found out. There's another area that I raised with members of the committee — and some of you may be aware. That's the two examples we had in Edmonton, when the Tegler Building was detonated. The expert came from New York, and he would have been covered if he had had a short fuse there. But he collected his fee and left. I appreciate the concern.

My only question to the task force is: why haven't firms in Alberta contracted this coverage out? When you contract somebody coming in, why don't you have it in the contract: thou shalt have your own accident insurance and you will not be covered by the Workers' Compensation Act of Alberta? Have you had a legal opinion on that? What's happened?

MR. FINLAY: The reason is that the Workers' Compensation says you cannot exclude.

MR. CHAIRMAN: Oh. Okay.

MR. FINLAY: So we're saying: change the Act so we can.

MR. CHAIRMAN: So that you can exclude them. Okay. Good.
Third party liability.

MR. MARTIN: I thought we had this already.

MR. CHAIRMAN: Yes, we've touched on that.

MR. MARTIN: Yes. So this is already done.

MR. CHAIRMAN: Proprietorship.

MR. BUCHANAN: I think the Board and Mr. Minister are certainly aware of the problems that the proprietorship issue has created. Our recommendation is to go back to the pre-1981 definitions of independent operators.

MR. CHAIRMAN: But also the card system, the prepayment.

MR. BUCHANAN: And also going to a card system, which we defined in the owner/operators' position to have prepayment of Workers' Compensation Board assessments.

MR. ANDERSEN: There is a typographical error on page 39, under Independent Operator Card, item (c). The last sentence should be deleted. That last sentence under item (c) would nullify the validity of the whole program. What we're trying to come up with is that if the fellow shows his card and the employer records that he's prepaid up to a certain date, that's that; he can't go back and turn in his card. So that last sentence is in error and should be omitted.

MR. CHAIRMAN: You're really looking at no cancellation of that coverage.

MR. ANDERSEN: Let's say an owner/operator prepaid three months and then, for some reason, was unable to carry out. If it was deemed necessary that some mechanism be there for him to get his money back, then that could be done after the time period has elapsed.

MR. CHAIRMAN: We presently have no cancellation for 30 days.

MR. ANDERSEN: Yes. So it could be for three months.

MR. CHAIRMAN: A minimum of 90 days.

MR. ANDERSEN: Yes.

MR. CHAIRMAN: Safety education. Are you satisfied that your associations could undertake all these safety educations? We have been interested in the approach in Ontario. Do you have some concern?

MR. BUCHANAN: I think the industry position is in terms of individual industry groups or associations representing the employees utilizing the industry: people who develop training and safety programs. Again, throw that responsibility back on industry, and we're prepared to do it.

MR. CHAIRMAN: I am advised that the third report in Ontario is fairly critical of the Paul Weiler report of the Cadillac safety educational programs, Orv. Any comments?

MR. MCGOWAN: There was an awful stir there. It would take all afternoon to read it. I think, unfortunately, if I may say that the IAPA — and I think Brian, if he's back there, can confirm this — have done one hell of a good job. And for whatever political interference has taken place — they're trying to disrupt it — I hope it doesn't take place.

MR. NELSON: Mr. Chairman, we've run this one through a few times now, but possibly just one quick question. When you're talking about your reassessments of your merit rebates and so on, and penalizing those companies that are the bad actors, don't you feel that the industry will be self-policing in the area of safety education amongst themselves? In other words, if you have a bad actor that gets penalized by a great amount, he's going to wake up a little bit and do the right thing.

MR. BUCHANAN: Certainly that's a direct financial incentive for improving your safety record. At the same time, we see some need to have funds available for major industry associations to act as leaders to develop safety programs, and hopefully the rest of smaller industry within those classes will pick up on those programs. By going through the WCB, it also allows spreading those total costs among an entire industry group. It also provides some consistency of funding so that in a time period such as now, with an economic recession, safety and training programs can be maintained where they might very well likely be scrapped if funds had to come totally from an industry association or the employer.

MR. CHAIRMAN: Okay. Medical aid. I did raise with some of your colleagues yesterday the question of medical aid being charged back in other provinces where they have no premiums. Here you have the argument that you're paying the premium; why should you be paying. Then in the province of British Columbia there's now a 35 per cent surcharge on all WCB medical costs.

MR. BUCHANAN: Again, I think our major concern there is in terms of within Alberta, the commitment that was made to employers and indications that those costs would be borne by Alberta health care, and that there's been a total reversal on that position. We feel it's a responsibility, particularly of this select committee, to go back and evaluate the select committee report of 1980 as to whether the intent was actually for Alberta health care to bear those costs. There's a differentiation between two government departments in terms of what the intent of that recommendation is, and we'd like to see this particular select committee re-evaluate and define what the intent was. It has been a reversal, and it's opposite to what was told to industry, publicly and in meetings.

MR. CHAIRMAN: Has any member of the task force ever looked at why this was excluded back in '68-69, or exempt from the national health care program? Possibly you're too young for that, Bob, but maybe some of your colleagues are . . .

MR. MCGOWAN: I know we've been thumping to get OHIP in Ontario to pay for it, but Bill Davis is in trouble there in his medical plan too, so he won't give.

MR. CHAIRMAN: I've wrestled — and I think I've shared it with Bob and John briefly. How did this start? Have any of the employers' representatives, back when the national health care program came in, in the late '60s . . .

MR. FINLAY: I haven't analysed the debate at that time period, but if you go back 50 or 60 years in the history of workers' compensation, the one thing that comes through is that once workers' compensation was established, it was something never to be touched.

It was sort of an exclusive ground covering a very special situation. It removed the whole tort system. It's the idea that it was a very special thing and you don't relate it to or interact it with any other of society's programs or schemes. I suspect — and that's why it's only when you come to the medicare issue — that when universal medicare came in, they said: oh, we can't touch workers' compensation; it's this exclusive preserve.

MR. CHAIRMAN: But you haven't found out who said that.

MR. FINLAY: No. I suspect that's the thinking.

MR. BUCHANAN: But I think the issue, the concern we have, is in terms of what was indicated to employer groups in 1980. Part of our acceptance at that time, and justification of going to the \$40,000 ceiling — part of the argument given back to us was that many of the medical aid costs would be transferred back to Alberta health care. Now we've got a reversal of both having a \$40,000 ceiling plus the additions of medical aid costs. There are also control factors. If that continues, how is it going to be monitored between the Board and Alberta health care in terms of the amounts that are transferred? Also the point was raised yesterday in terms of the position of double cost to employers, where employers are already paying Alberta health care premiums for employees and then having to pay it again through reassessment to the Workers' Compensation Board class accounts.

MR. CHAIRMAN: Particularly the independent operators, who pay both.
Back injuries. Any questions?
Hospital and specialist services, and industrial disease. No questions?
Anything in general questions?

MR. MARTIN: Yes, just a general question. Over the discussions, certainly the idea of accountability from the Board to employers has been raised, and access to information — various things. I'd like to throw it out to you people, because we're going to have to make some major decisions along the way. In terms that all of you are major employers — and a lot of you have organized workers; some don't — has there been any discussion with unions or workers in the various areas before you brought this to this task force, so there's been a feed-in, if you like, on accountability and access to information the other way too? It would seem to me that that would make some sense both in terms of your relations, I guess, (inaudible) and all the rest of it. I wonder if there hasn't been some discussion at that level with people; if they've had some feed-in to the brief and that sort of thing?

MR. BUCHANAN: In terms of liaison with labor, there hasn't been in terms of this submission. Certainly in terms of individual . . .

MR. MARTIN: I didn't mean labor as a federation. I meant with your own individual . . .

MR. CHAIRMAN: Your own work force.

MR. BUCHANAN: No, in terms of own labor.

MR. MARTIN: Yes.

MR. BUCHANAN: Certainly in terms of feedback back to our individual groups, there has been that reaction. But there has to be that continued liaison and relationship

further. As we mentioned, this task force has only been going for five months, and we view that as some of our future role.

MR. MARTIN: Just to follow up, I would take this to be very important. So you'd be saying that this is a brief that we had; they would go through it and make recommendations to you or to us, or whatever, on it?

MR. BUCHANAN: Certainly in terms of distributions to all employer groups, this report is being extended and reviewed by boards of each of the individual associations and distributed to every member company within each of the associations, looking for feedback and encouraging them to make individual submissions on their own on their concerns.

MR. MARTIN: And to the various unions involved, then.

MR. BUCHANAN: That's correct.

MR. NELSON: I think that at the same time compensation is not a labor/management negotiating tool, and you want to be very careful in how you deal with this issue of compensation. I don't think that we should be examining this along the lines of a labor/management negotiating tool because, if you do, you're going to end up with other problems. I think this is a package to ensure that an injured worker has sufficient income to not create a hardship to his normal style of living. But at the same time, I think it should be understood that this is not to be used as a labor/management negotiating tool. I hope that's what you're saying.

MR. BUCHANAN: I think that's very clear in that WCB is really an insurance scheme. It is not a labor negotiating tool.

MR. MARTIN: I didn't suggest it as a negotiating tool. We're talking about information sharing.

MR. BUCHANAN: Yes.

MR. CHAIRMAN: Okay. I want to thank you for the extensive discussions. I know we'll be seeing some of you at some of our future discussions. I know we'll be seeing some of you at some of our other future hearings, and welcome any other input.

As I indicated earlier during the break, if there are any claimants present — they haven't indicated it to me. I trust my executive assistant has looked after it.

Thank you for all of your participation and deliberation and for being present. I look forward to further dialogue.

MR. BUCHANAN: We would like to thank the committee for listening to our submission. Because of the consolidation and effort that's gone into it to put forth a consolidated position, we feel it's extremely important that it be taken extremely seriously by the committee. We look forward to future input through individual submissions throughout the public hearings. Certainly if our group can provide any assistance or background information, we'd like to continue it as a pursuit of communication between the two groups. As I said, we certainly look forward to taking part in future submissions and to monitoring your final report, and the continuing relationship.

MR. CHAIRMAN: I could share with the committee here — possibly it's of interest; it's no secret. As you're aware, Executive Council of government will be looking at a new chairman for the Board. There will be a search committee announced shortly, and a number of applicants and nominees have been presented to that search committee through my office. Now that you've finished your busy task on the submission of the brief, we would look forward to industry further considering submission of people for the government to consider.

At the same time, Clive Chalkley's term on the Occupational Health and Safety Council is expiring. He has represented industry in the Calgary area and has requested not to be reappointed. I will be welcoming any suggestions from industry from the Calgary area to replace Clive Chalkley on the Occupational Health and Safety Council. As you know, Clive was one of the members on the Gale task force and has been a member of the council all this time.

So there are two appointments that we will be looking forward for input from industry. The Occupational Health and Safety Council is about one day a month presently. The chairmanship of the Board to be considered is full-time.

Thank you very much.

(The meeting adjourned at 12:20 p.m.)