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Mardi 27 février 2007

**Standing committee on
government agencies**

Agency Review:
Workplace Safety
and Insurance Board

**Comité permanent des
organismes gouvernementaux**

Examen des organismes
gouvernementaux :
Commission de la sécurité
professionnelle et de l'assurance
contre les accidents du travail

Chair: Julia Munro
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GOVERNMENT AGENCIESCOMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

Tuesday 27 February 2007

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*The committee met at 1002 in room 151.*AGENCY REVIEW
WORKPLACE SAFETY
AND INSURANCE BOARD

The Chair (Mrs. Julia Munro): Ladies and gentlemen, I'd like to welcome you all this morning to the standing committee on government agencies. By way of introduction, I would just ask you to identify yourselves for the purposes of Hansard. As you know, we have the two hours and you will have the opportunity to provide some remarks and then we will divide the time amongst the caucuses in rotation.

Mr. Steve Mahoney: Thank you very much, Madam Chair, and thank you for the opportunity to come before you here this morning. Let me begin by introducing the folks here with me. Jill Hutcheon is the president and CEO of the WSIB. On Jill's right is Malen Ng, who's our chief financial officer. On my left is John Slinger, chief operating officer. We also have our newly hired chief of prevention in the room, Tom Beegan, who's with us as well this morning. I'm also pleased, Madam Chair, to tell you that I have a number of members of my board who are in attendance this morning. We have Marlene McGrath from London and Loretta Henderson from Windsor. I think Ken Deane is here from the health care sector, working out of London now as well. Others may be joining us as the morning progresses.

As chair of the Workplace Safety and Insurance Board, I'm absolutely delighted to have the opportunity to appear before this committee on behalf of the 4,283 dedicated men and women who work diligently in Toronto and 14 regional offices providing a myriad of services to well over 200,000 employers. In 2006, the WSIB provided benefits and services to over 550,000 injured and ill workers, surviving spouses and children.

This organization is considered the third-largest group insurance company in Canada. It's a complex business that has a sound and stable financial base with a high standard of accountability to its stakeholders. The WSIB is also directly accountable to the Ministry of Labour in ensuring that it carries out and fulfills its mandate. The MOU between the minister and myself as chair establishes a number of requirements and standards, and therefore the WSIB does not self-regulate.

The WSIB manages over 350,000 claims a year, making over one million decisions a year and in 2005 paid out in excess of \$3 billion in claim payments. The WSIB's strength comes from its employees, who are proud and committed to service excellence; treating injured workers and their families with dignity and respect; and ensuring the WSIB is second to no other jurisdiction in the areas of service delivery, research, prevention and return to work.

Since I've been appointed—about eight months ago—I've had the opportunity to travel to each of our 14 offices across the province to meet with staff and stakeholders, and I can assure you that they are truly a dedicated group of men and women.

Since the creation of the board in 1915, the WSIB continues to serve Ontario workplaces by providing no-fault insurance that protects employers from litigation. With the addition of our prevention mandate in 1998, the WSIB also provides access to training programs, products and services. Our websites, our publications and our industry-specific educational material provide workers and employers with key information on health and safety awareness.

To be frank with you, the WSIB has had its share of difficulties in the past. It has been the subject of some pretty heavy criticism over the years from all sides, including me when I sat in the Legislature and wrote a report entitled *Back to the Future*. Of course, now that I'm in this job, I've asked everyone to shred that particular document.

But I must really emphasize the words "in the past." In 2004, following concerns expressed by stakeholders and the former Minister of Labour, the WSIB was the subject of a comprehensive and objective third party audit. All of our books were opened and a team of auditors reviewed our operating procedures and practices. Sixty-four recommendations were made and the WSIB developed a comprehensive and strategic response approach that included the mapping of tasks to address each recommendation. Under the leadership of our president, Jill Hutcheon, who also served for two years as interim chair, the organization took stock, identified opportunities for improvement and, frankly, began to turn the corner. We have moved forward, embedding sound management practices and financial controls, keeping in mind our fiduciary responsibilities.

This past summer, a follow-up audit was conducted to see how effectively we responded to the initial audit and

recommendations. I'm pleased to say that the report said that the WSIB had "established many business processes and controls that are adequate and appropriate to promote sound business practices," and that all of the recommendations have been addressed.

Since my appointment by the Premier in May of last year, I have had the opportunity, as I mentioned, to travel from Windsor to Ottawa, Thunder Bay to North Bay, and all points in between, and to meet with many injured workers, employer groups and many of our stakeholders, such as the CFIB, the Ontario Federation of Labour, the CAW, COCA etc., to hear first-hand their concerns and get their advice on how we can improve our system. I wanted to roll up my sleeves and get out there and listen to the people and what needs to be done. Frankly, with the greatest of respect to this city, my view is that this is not the province of Toronto and it was important that I go out and meet the people where they live and work.

In 2007, we were able to hold the line on premium rates while ensuring that injured workers' benefits and services were not being compromised. We also continue to manage the unfunded liability with a goal of eliminating that unfunded liability altogether by 2014, and I would add "ish" to that.

We continue to work with workers and employers to create a health and safety culture in workplaces across Ontario. Our goal is to change the behaviour and attitudes that allow people to believe that workplace accidents just happen. That's why we launched our hard-hitting campaign in October 2006 with the theme "There really are no accidents." I'm sure you saw some of the ads. This campaign has gotten people talking about workplace health and safety, and we've done it with an advertising budget that is equal to 0.12% of our total revenue. That's one-thirtieth, by the way, of what the LCBO spends or one-fiftieth of what a similar-sized publicly traded company spends on advertising. But, to me, what we're trying to achieve in terms of ensuring that workplaces are safe and all workers return home to their loved ones at the end of the day without injuries or illness is priceless.

Mass media is the most effective tool to send our messages and achieve results. We all know that television and, increasingly, the Internet make a big difference. Preliminary survey results indicate that 63% of employers and 64% of workers strongly agree that the ads caught their attention. This is more than in any previous year. More than ever before, employers are saying that they have made safety improvements in their workplaces.

In 2006, we provided benefits to almost 5% of Ontario's population, more than half a million men, women and children. Ensuring that workers and their surviving dependents receive the best possible service is one of our fundamental objectives, and this includes ensuring that injured workers' benefits are at adequate and secure levels and that injured workers receive what they are entitled to under the legislation which governs us.

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For instance, in 2006, we increased the allowance that injured workers receive to put clothing on their backs by

10%. Also, the adjudication best practices group, which is comprised of WSIB and external stakeholders, continues to meet regularly to identify ways that we can continue to be better, more efficient and effective for the workers of Ontario. Best practices improvements have been made in the areas of return to work, the use of medical evidence in adjudicating claims, maintenance treatments and extending time limits to appeals from six months to one year.

There have also been many benefit policy improvements made over the last few years to ensure injured workers and survivors are treated with dignity, fairness and respect, including:

- removal of the cap on burial expenses to ensure survivors are able to bury their loved ones as they see fit and not having to worry about WSIB cost restrictions;

- extension of monthly benefits for dependent children in school from 25 to 30 years of age to recognize, as many of us would know, that children today have a longer dependency on parents;

- changes made in the way the WSIB calculates benefits for workers and survivors who also receive CPP benefits, which has placed more money in the pockets of almost 4,000 workers;

- provide \$6.5 million in funding to the Occupational Health Clinics for Ontario Workers.

We continue to invest in primary research to improve the care and treatment that injured workers receive and to promote cutting-edge research into workplace health and safety. In 2006, this translated into \$2.4 million in research grants. Late last year, I participated in opening CREIDO, the third WSIB-funded centre of research expertise, where experts in the field will help reduce the long-term physical effects of injuries on Ontario workers by developing new treatments and rehab options. This kind of investment pays off by improving an injured worker's ability to return to safe and sustainable employment.

We continue to take a leadership role in the area of prevention with two other research centres of expertise, one at the University of Waterloo, which looks at primary prevention of musculoskeletal disorders, which currently account for 43% of claims registered at the WSIB. Our third centre is housed at St. Michael's Hospital, which is focused on the prevention and treatment of occupational disease, an issue that's going to become more and more urgent and important on our radar screen.

Getting back to work after an injury is important to workers, and not just for financial reasons. Getting back to work in a safe and timely fashion brings a sense of dignity and empowerment that benefits the worker, the worker's family and the employer's business. Treating all of our clients with dignity and respect is the cornerstone of our customer service approach. We developed an award-winning worker sensitivity training course to help our front-line staff enhance their ability to understand each worker's unique perspective. Providing workers with individualized support is a priority for the WSIB. We speak our clients' language literally, offering inter-

pretation and translation services in over 40 different languages. Many of our publications are also available in audio and Braille format and we have implemented outreach programs to ensure that the WSIB services are accessible to people with disabilities.

We meet regularly with worker support and advocacy groups, as I do personally as well, like Bright Lights and Women of Inspiration, to hear their concerns, understand the issues that are important to them, update them about our programs and services and find ways to reach out and resolve issues within our mandate.

We also actively participate in and organize stakeholder working groups to get input on how we prioritize and address their issues and concerns, as we constantly strive to communicate with our clients and seek their input. At the same time, our dedicated service delivery teams work with employers to provide specialized help with health and safety, workplace insurance, effective health care and return to work. For smaller firms, our small business services team provides one-on-one support for everything from filling out forms to implementing best practices that fit their very unique business needs.

I want employers to realize that WSIB is, in fact, a good deal. We offer no-fault, reliable benefits to their employees and a number of important services, including prevention initiatives and promotion, monitoring the quality of health care and return-to-work support and research. At the same time, we provide funding for 14 HSA health and safety organizations which provide training programs, products and services to Ontario employers and workers alike. The way I see it, the WSIB premiums are actually an investment in health and safety and an increase in the quality of life for a business's most valuable asset, its people. That, with the value added of our service and programs, not to mention the financial incentives for good health and safety performance, shows that WSIB belongs on the asset side of the ledger sheet.

We know that all of our efforts and initiatives are working because customer satisfaction levels have increased over the last few years. Since the first survey done in 1999, the number of employers who say that they are satisfied with our services has risen from 65% to 79% in 2005. Among injured workers, 69% say they are satisfied with our current service, compared with only 59% six years ago. Also, in 2005, the overall opinion of the WSIB as an organization went up for both employers and workers: It has increased to 84% for employers and 77% for workers. Frankly, we are more open and transparent than ever before. We're using our many different vehicles to communicate and consult with our stakeholders, and will continue to do so.

As an aside, I can tell you that in my day in this Legislature I found that the change in the atmosphere in MPPs offices and the communication that I get from many of you is night and day to what it was in the early 1990s, when frankly it was literally a nightmare.

To make things happen, I believe you need to strike a balance between what is right for workers and employers

and do it in a fiscally prudent and responsible manner. It's tough achieving consensus with diverse stakeholders who have different needs and different pressures at different times. We do our best to balance the interest of workers, employers and the workplace safety and insurance system. We consult and we listen, but everyone knows that sometimes, in trying to find the best possible solution, you simply can't please everyone; I don't think I need to tell you folks that. I can tell you, from where I sit, we are not afraid to make the tough decisions.

We may have differences of opinion from time to time, but we have common goals from which to build a good, solid foundation for the future. The complete eradication of illness, of injuries and fatalities in the province—zero injuries, zero illnesses and zero fatalities—is the only acceptable number when it comes to workplace injuries, illnesses and fatalities. The WSIB pays out billions of dollars in compensation for workplace injuries, illnesses and fatalities every year—that's another number that should be zero—and then, of course, there are the social and the human costs.

As chair, frankly I see myself, at least during my time in this position, as a custodian of the present who must ensure proper stewardship now and for the future. I want to do all I can to support the system in promoting health and safety in Ontario's workplaces. I want all of our system's partners and our stakeholders to become leaders in injury and illness prevention. I want to help employers reduce accident frequency and duration so they can put some of what they're paying in premiums back into their businesses. I want to ensure that every worker in this province receives the benefits they are entitled to without having to fight for them. I can assure you that in my time as chair, and I know I speak for the senior staff, we consider the injured worker to be our number one priority, our number one mandate, while managing in a fiscally responsible manner.

In wrapping up, the WSIB has and will continue to have a vital role to play in making a positive difference in the working lives of the people of Ontario, in making Ontario's workplaces the safest in the world and in encouraging future investment and growth in Ontario by making our workplace safety and insurance system a model for other jurisdictions. As chair, I'm keenly aware that this organization will continue operating long after I leave, and the board of directors and the senior management team and I all realize that the momentum must and will continue.

Thank you for the opportunity to make these remarks. I and my staff would be pleased to answer questions.

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The Chair: Thank you very much. We will follow yesterday's practice of a 10-minute rotation. This morning we'll begin with the NDP and Ms. Horwath.

Ms. Andrea Horwath (Hamilton East): Thank you for your comments. I'm very pleased to be here. A number of the remarks that you made were talking particularly about prevention of disease. I'm wondering if you have an understanding of how many claims the

WSIB is currently processing in regard to occupational disease.

Mr. Mahoney: I'll just get the actual statistics for you, if I might. I can tell you that in total processing—I'm looking for the actual number—we did analyze 100 random claims previously denied and found that only five were likely to be allowed under the articulated ODAP principles. We do know that it's increasing. We are meeting with the firefighters, as you would be aware, and we're aware that you have a private member's bill that deals with that particular issue.

Frankly, in 2005, we somewhat tragically had to bury 343 people in the province of Ontario. Eighty-four of those were from fatal incidents in the workplace and the rest were from occupational disease. You would know that there can be a very lengthy latency period involved in some of those that can last 20 and 25 years, perhaps even longer, when cancers finally end up taking the life of that worker. We know it's a very major problem.

Ms. Horwath: You were starting to look through your records, though. Do you have a handle on the actual figure of how many claims are currently being processed?

Mr. Mahoney: Approximately—

Ms. Horwath: But maybe I'll finish, because what I'm trying to get at is the numbers that are being processed. Within those being processed, how many are in the review stage or the appeal stage—do you see what I'm getting at?—to get an understanding of where things sit currently with occupational disease in the processing at the board.

Mr. Mahoney: I'm going to ask my staff to give me some help, but I can tell you that there are roughly 20,000 claims from 2005 under occupational disease. Exactly how many have been approved and how many are still in process or in adjudication, frankly I don't have that number. Do we?

Ms. Jill Hutcheon: John will answer that.

Mr. John Slinger: We actually received—and the numbers that Steve has quoted include our surveillance numbers which come in where there's been an incident of exposure but if there isn't necessarily a claim—I believe, 13,000 occupational disease claims in 2005 and about 14,000 in 2006. Generally, those claims are dealt with relatively quickly. I think 60% are dealt with within four weeks and 74% are dealt with within eight weeks.

However, as you may know, our challenges come from those that in fact go longer. Typically, the challenging cases for us are the cancer claims and the cases that in fact, as Steve has mentioned, have long latency periods. As a result of those long latency periods, the disease doesn't actually appear in some cases until long after the exposure and long after the employer even existed where that exposure occurred. Those are the cases that we are challenged with, because obviously we need to look at the occupational history, we need to look at the history of exposure, we need to look at the medical history and the non-medical history—other, non-work-related factors can result in disease—and we also need to

look at the science. I will say that those are our most challenging cases. While there are cases that we deal with relatively quickly, the most challenging cases do take longer. Certainly we have several clusters that have occurred in this province, and some of those cases we are still resolving—the most complex few cases that remain.

Ms. Horwath: So of the 25%, the ones that take longer than the 60% which were about four weeks and the 74% which were eight weeks—the tough ones, if you want to call them that—what would be the average length of processing for those kinds of claims? Is there one? What would be the mean, the median?

Mr. Mahoney: We can certainly get that information for you, but I don't have that readily available to me.

Ms. Horwath: Madam Chair, can I ask, then, that that particular information be provided?

The Chair: Certainly, and we'll circulate it to all the members of the committee.

Ms. Horwath: All right. Is there any particular one that stands out? We see the statistics increasing in Ontario and in Canada, across the world, in fact, around particular occupational diseases. I'm speaking of cancer specifically; not specific to firefighters, though, just overall as a growing occupational disease or a growing issue that's related to occupational disease. I'm wondering, is there one particular case that stands out as being, "Here's the longest case we have on record; everybody knows this case, it's been around forever and it's been through so many CEOs or so many chairs of the board where this case continues to be outstanding."

Mr. Mahoney: I might just add to that, and maybe John has something he wants to mention here, as opposed to a specific case, that the issue around asbestos clearly has been the biggest problem, the longest latency period, where we continue to see people suffering from asbestosis and other forms of cancer that were incurred. In fact, in Ontario, as I'm sure you know, asbestos mining is no longer done; it is in the province of Quebec but it's not in this province. So we can hope that we're going to see a reduction in the number of new cases. But even with that there will continue to be, I'm sad to tell you, hundreds of workers who will come down the pipe over the next number of years as the disease grows and as they wind up dying, frankly, from the cause of that.

Ms. Horwath: I realize that this is a big issue. Of course, I became more familiar with it through the Bill 111 process and dealing with some of the firefighter issues. I found out in those situations that there are claims that are sometimes 10 years outstanding, even longer, where claimants are waiting still, or their survivors are waiting still, to find out whether the claim is eventually going to be approved. How many claims would you say exist, firefighters and others, that are beyond the 10-year period currently?

Mr. Slinger: I can't actually tell you that I'm aware of any that have gone beyond 10 years, at least in terms of initially being adjudicated. I can say that there are pockets of cases within some of the clusters we've done. For example, of the 850 occupational disease claims that

came out of Sarnia in the late 1990s, there is a handful of those cases. I can think of a number that were heart disease cases, and the issue was around heat stress and the contribution of heat stress to those cases. I think there are about 18 of those.

We have done a number of scientific studies and we've looked at those cases, but we've also reached agreement in some cases with the union involved; for example, with the CAW. If in fact we are at the end of gathering the information and we would be disallowing the claim, we have reached agreements with several unions, including the CAW, to give them additional time to respond. In other words, if they'd like to gather additional information, they can, and that extends some of those cases longer.

I mentioned the situation in Sarnia, where there's still a handful of cases. You're probably familiar to some extent with the Dryden situation, where those claims were coming to us probably between 2003 right up to until 2006. We still have a number of those cases. For example, there are 13 neurotoxicity cases where we have had real challenges getting effective medical assessments done. We have now found the specialist who we believe would best be able to assess those cases. So far, we have simply had insufficient medical assessments to really resolve those cases. Our decision is around do we deny those cases and say we can't find information that would support them or do we continue to look for information? In that case, we have continued to look for the best possible medical assessment. Those cases are now all being seen at McMaster University. So there are pockets of cases that for various reasons take longer to resolve.

Mr. Mahoney: I might just add very briefly that beyond the adjudication period there could be an appeal period. I have actually heard from injured workers—not a lot; in one case in Thunder Bay, as a matter of fact—where it took seven years to get a decision through the appeal process. The decision turned out to be favourable, which made it even that much more frustrating for that worker. Our average time of appeal is less than six months, but every once in a while we run into these terrible stories and, frankly, we want to try to eradicate that because it's just simply unfair to have people waiting for decisions that length of time.

1030

Ms. Horwath: I just have one last question on this line and then I'll move on. We all know about the report that Mr. Racco presented to the minister, and at the end of that report, in tab 3, there's a reference to a report, which was expected in the winter of 2006, that was commissioned to review the links between firefighting and the 14 types of cancer. It's reported in the tab. It says that you're expecting that to come in the winter of 2006, and I'm wondering if you've received it yet.

Mr. Slinger: We haven't yet received the report and we were having scientific reviews done on 14 different cancers that had been identified as top priorities from the firefighters.

Ms. Horwath: Is it expected any time soon?

Mr. Slinger: Yes, it is. It's expected shortly, but I don't believe we've received it yet.

The Chair: Thank you very much. We'll move to the government caucus.

Mr. Mario G. Racco (Thornhill): Thank you, Chairman Mahoney, and let me welcome your team here at Queen's Park. We appreciate your being here.

I have a number of questions. The first one is, how is the WSIB different from a traditional insurance provider, and which provides better value?

Mr. Mahoney: I've been saying, as I travel around the province, that one of my goals is to have the employer community, if they had a choice of buying coverage of this nature from five or six different companies, which of course they don't—but if they did, they would choose the WSIB. One of the most important things we provide that others would not is the agreement with the workers that they will not sue. So the right to litigation is not on the table. Frankly, I believe that's a huge benefit to the employer community and a major concession on behalf of workers. As you would know, this social contract, if you will, was put into place in 1914, when the system was funded. It was visionary then, but I think it's extremely important.

The other ways that I think we're very different—the consultation. I've somewhat jokingly said that if we decide to change the size of the paper clips we use, we're going to consult for six months. That's obviously a bit of an exaggeration, but there is a tremendous effort on the part of the entire organization to consult with injured workers, with stakeholders, with health and safety organizations, with employer groups, and there are, as I said in my opening remarks, many, many different groups with diverse interests and opinions and views, and sometimes it's hard to get a consensus. But we work very hard at trying to consult and listen to people, and I think it shows in our policies.

Mr. Racco: What is the mandate, the role and the purpose of the WSIB?

Mr. Mahoney: The mandate is to provide a system of no-fault health insurance, return to work and benefits where required to workers who are injured or become ill on the job site. But I think our mandate has grown somewhat even though it may not be official in writing, and our mandate is basically characterized by our current campaign, which we call the Road to Zero. The fact that we continue to lose 100 people every year, on average, in fatal incidents in this workplace in Ontario would shock people in other parts of the world if you told them that. With a province this modern, with the technology, with the knowledge, the education capabilities that we have, people simply wouldn't believe it.

I really believe that our number one mandate is to serve the injured worker, to eliminate fatalities in the workplace and to drive—it's not rocket science, as I've often said; if it were, I likely wouldn't be the chair—the number of incidents down. Our goal is zero, and people have said to me that that's not realistic. Well, I say to them it is. I can take you to many companies—I can take

you up to Thunder Bay, to Bombardier—who have driven their injury rates down and eliminated their fatality rates; I can take you to places all across the province where they have successfully done that.

So the mandate is simple in terms of what we are legally required to do, but it's much more complicated because we have a strong commitment, both socially and fiscally, to serve the injured worker and to succeed in our Road to Zero.

Mr. Racco: Another question: You provide funding for a specific purpose. To which institutions does the WSIB provide funding?

Mr. Mahoney: We fund 14 what are called HSAs, health and safety associations, to the tune, I believe, of \$86 million every year. We provide several million dollars for research organizations. Three of them I named: one at the University of Waterloo, another one in the city of Mississauga, and another one at St. Mike's hospital. Research is really important so that we can try to find new ways to get workers back to work, and preferably to prevent the injury from occurring in the workplace in the first place.

I've met with injured workers, and it is heartbreaking when they have to lie on the floor because they can't sit or stand for more than five minutes. I'm sure you've all experienced that in your constituencies, and I really believe it's important that we continue to fund proactively organizations that are going to deliver training, products and services to employers to help them get on board our program, get on the Road to Zero, and understand that prevention is the key.

Mr. Racco: Okay. And why do we need a workers' compensation system in Ontario?

Mr. Mahoney: I go back to my time in the Legislature, Madam Chair, when I had a full-time staff person who did nothing but WCB issues. Some of you may still have that, but my sense from those of you I've heard from is that it's less so today, that the WSIB is providing a service of good-quality health care. By the way, we're running some health care pilot projects to try to determine how we can better serve injured workers. You should know that we spend almost half a billion dollars a year on health care, and it's not through the Canada Health Act exclusively. Our number one mandate, again, when the injury occurs, is to get people rehabilitated and back to work.

The protection of employers from lawsuits—you can imagine particularly small business. We often hear from some small business organizations that we're a burden to them in terms of bureaucracy, and I understand that. I'm a small business man myself. We don't want to be a burden; we want to be a partner. That's why we provide one-on-one service to the small business community to sit down and assist them in filling out forms. As simple as that may sound, when you're busy trying to keep the wolf away from the door, another form from another level of what is perceived as government can be very frustrating.

We're not there yet. We've met with the minister, Harinder Takhar, to discuss how we can better put a

package together to serve small business, because, generally speaking, the large businesses take care of these issues. They can afford to have full-time staff on board who are health and safety specialists.

But in answer to your question, why do we need it? We need it to protect all the business community from litigation. We need it to protect injured workers from being ignored and simply thrown on the garbage heap when they get injured, or being left out of a job. We need it to help provide labour market re-entry.

I know there are problems in those areas, and I don't want to sit here and come before you and say that we don't have issues at the WSIB. This afternoon you will hear from stakeholders who I'm sure will tell you of some of their concerns. We recognize those concerns. But I can assure you, Madam Chair, that we're working very hard to work with those stakeholders to resolve those concerns.

We need it for the health of the economy and the health of the injured worker. That's why we need a WSIB.

Mr. Racco: The last question: What would you like to see, Mr. Mahoney, as your legacy as chair of the WSIB?

Mr. Mahoney: I'm not that old, you know. Like my former boss, Prime Minister Chrétien, used to say, I'll leave legacy decisions to other people. But let me just say some of the things I'd like to accomplish.

When I came into this job, I saw myself as an incrementalist, someone who could identify a problem, solve it, move the floor, solve it, move the floor, and keep moving along. I've since discovered some things. If I might beg your indulgence and tell you just a very brief story, it goes back to 1934 in Sault Ste. Marie, when the government had given out a contract to build the locks to join Lake Superior and Lake Huron to allow for shipping to pass. There was a fellow by the name of William Wallace Currie who went underwater that day to blast rocks out. Lightning struck, there was an explosion, and he was killed. He left a widow, Josephine, for 30 years on WCB survivor benefits. He left a daughter, 15-year-old Annie, the youngest of five, on survivor benefits. It turned out, and I did not know this story until I became the chair of the WSIB, William Wallace Currie was my grandfather; Josephine was my Grandma Jo, who was the matriarch of my family; and Annie is my 86-year-old mother, alive and well and living in Mississauga.

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So I went and talked to my mom about it, and she told me her story and the impact it had on the family of being 15 years old and not having a dad come home after work at night. It really changed me, frankly, from simply being an incrementalist to realizing that there's a vision that needs to be strived for here. That vision is the Road to Zero, particularly to eliminate fatalities, and to keep working on prevention to get those numbers as close to zero and ultimately to zero if we can.

Can I do that in three years, with two and a half left? Probably not. But I can certainly put in place—and who knows? Maybe this government or some other govern-

ment might see fit to ask me to continue in this role; we'll deal with that when the time comes. But I believe these are goals that all future WSIB chairs and senior management staff should strive to achieve. If that becomes a legacy, so be it, but it's much more important than simply a legacy.

The Chair: Thank you very much. We'll move on. Mr. Martiniuk.

Mr. Gerry Martiniuk (Cambridge): Thank you, Madam Chair. Thank you very much, Mr. Mahoney. I enjoyed your excellent presentation. I'm pleased that you emphasize the fact that our first concern should in fact be injured workers who need our assistance. That's the whole concept of the plan.

You have, obviously, some experience and background as an MPP and in your present position. I understand there have been ongoing consultations by the ministry regarding improvements to the present legislation and policies, I would assume. No doubt they have come to you and asked for a consultation with you and you've made certain recommendations to them about possible legislation.

My question is very simple: What recommendations have you made to the government regarding any changes to the present legislation? What obstacles do you see that are between the board and a better service to our needy injured workers?

Mr. Mahoney: Well, let me just say that I've enjoyed my relationship with the minister. He's been very candid and very open. One of the first things he asked me to look at was how we could make life better for injured workers, and we have certainly done that. I must tell you, though, that as an OIC appointment to what effectively is a provincial crown corporation—we're actually a trust—I think it's important that I hold my counsel between me and the minister, as I would do with any government that was in place that would ask me to do this job. Let's just say that we have had discussions about the impact; that's very important. If we're going to do improvements, it's important that we see those improvements and what they would cost.

I do know that the minister has been quoted as saying, actually—to Ms. Horwath's point earlier—that he in principle supports presumptive legislation in the case of firefighters. I'm pleased to see that, because we all know what heroes our firefighters are and we want to find ways to better serve them.

I have been asked for my views. I can tell you I've been asked for my views on something such as deeming. I've been asked for my views on a couple of other issues. Some of those issues are in that document I asked you all to shred earlier. But in any event, we're giving him the best possible advice we can on the financial impact of any changes that occur.

As far as impediments to it, I'm not a lawmaker any more. We operate under the system that is provided in the act, and we have responsibilities to do so. Whatever changes the government makes, this government or future governments, if I'm still involved, I can assure you

and I have assured the minister that we will endeavour to deliver on that mandate.

Mr. Martiniuk: Okay. I didn't mean to ask what discussions you've actually had with the ministry. I'm asking you, as the overseer of this organization, what you perceive are the weaknesses that have to be overcome to better serve the needy injured workers in Ontario.

Mr. Mahoney: We all know that there have been several bills that have impacted WCB and WSIB over the years, and frankly all three parties in the Legislature have had the opportunity to deliver a bill that made major changes. The government I was part of, when Greg Sorbara was the Minister of Labour, delivered Bill 162 and made some changes. If you go back in time, for example to the issue of indexation, you will find that, previous to the 1990s, indexation was based on 100% of CPI. There were changes that were brought in by the government of the day in 1994 that brought in the Friedland formula, which put in place a formula where indexation was 75% of CPI minus 1% with a cap of 4%. In 1998, the then government of the day changed that to a modified Friedland to make it 50% minus 1% with a cap of 4%.

If there is anything that would, to me, present obstacles, it would be unnecessarily lifting up the roots, if you will, of the tree, and continually re-examining it. There are some changes that can be made by regulation. We've discussed that with the minister. There are some changes that may indeed need your participation in the Legislature, and we've discussed those. So really, it's going to be up to the lawmakers to decide exactly what changes they want to make in this regard. We will certainly support that.

I would encourage legislators to take a look at some of the things we're doing in the area of prevention and health care, some of the pilot projects we're doing, and let us get on with these jobs. Return to work would be another one. We're doing a lot of consultation in that area. These are things that we can do without legislative changes or improvements, and let us get on with the job to make this a very modern company, to best serve injured workers and the people of this province.

Mr. Martiniuk: Thank you. I just have one last question, and my friend has a question. Are you aware of when the legislation amending the act will be tabled?

Mr. Mahoney: I don't even know if there is such a thing. It's up to the government to make that decision. I'm only aware of the fact that my office is on the 17th floor, down on Front Street, and I go there with some regularity and travel the province. From time to time I get asked for opinions on specific issues by the minister. I know that my staff get asked for opinions on specific issues from time to time by staff in the Ministry of Labour. Whether or not there is a clear-cut amendment coming forward or legislation coming forward, with the greatest of respect, I would have no knowledge of that.

Mr. Martiniuk: Thank you, Mr. Mahoney.

Mr. John O'Toole (Durham): Thank you very much, Mr. Mahoney, and congratulations and good luck in your

challenge as chair. For many years in the real world, I worked for General Motors, and I did spend some time in the labour relations area and return-to-work initiatives, which I think are important. Early return to work, I think, is widely supported, and I suspect it's an integral part of what you do. I have really two questions. That's one, and one is a systemic question with respect to barriers that we as legislators could address on this return-to-work policy. We see people in our constituency offices—I'm sure, as you did as well, and probably do even today—and your heart goes out to them because their life is altered. Trying to determine, in some legal sense, the liability issues, puts up another barrier. I would consider myself, as I'm sure most MPPs are, an advocate. Our staff do tend to work with them—and lots of letters from you to the minister.

One of the barriers that I saw in the real world was, when a person is being asked to return to work—and don't take this the wrong way—it's an environment where there's a negotiated contract. There's a seniority provision, of course, which is critical to the whole structure of the contract issue, yet they don't qualify for what I would call a light-duty job, because of seniority. Do you have any comment on that? Do you understand what I'm saying? Seniority is the entire issue of collective agreements; totally. If the union is any—and I see that Pat Dillon is a member on your board; I know Pat quite well. That would be a strong signal of the partnership between the union, the company and you. Do you have any comment on that?

Mr. Mahoney: Jim O'Neil is also a member from the CAW. I just want to add briefly, by the way, that I want to stress that it's early and safe return to work, but too often that word "safe" gets left out because, with respect, what happens in too many cases is a worker is put back to work prematurely, when they're not necessarily back to full health or mobility or rehabilitation or whatever. It can only exacerbate the situation, and then they wind up with another injury. They get accused of being a malingerer. I think it's really vital that we make sure that we provide the kind of health care services and rehab services that make sure that when a worker does go back to work, whatever the problem was is fixed.

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I have relationships with a number of major labour leaders. Some of them are a little angry at me right now because I lumped them into the group that is collectively responsible, along with employers and workers and you folks and us and everybody, to succeed in prevention. But aside from that, I would not presume to interfere in the collective bargaining process. That's a process that is well in place, well entrenched in our society and by and large works extremely well. If there are instances where there's something in a collective bargaining agreement that I think is a deterrent to early and safe return to work, I would be frankly happy to phone up the particular labour leader and have a discussion about that, but it would be inappropriate of me to interfere in their bargaining.

Mr. O'Toole: I appreciate that you are in a position—I just want it on the record, Mr. Mahoney. I think it's important, to be innovative today in the kinds of employment and relationships the employer, employee and their representatives have, that a certain percentage of the workforce could be set aside as work hardening. Most often they don't conform in any way. To get back to work, quite frankly, it may not mean eight hours. It may mean two hours. Just getting up, getting dressed and getting there would be the job, and they should get paid for four hours. You have to be innovative to get them back. If you don't, they're on drugs; they're on pain medications, and they're completely stupefied after about two years. I see them; I work with them. I see them in the constituency office. If they're on pain medication, good luck with getting them back.

The Chair: Thank you very much.

Mr. O'Toole: I have one more question, with the indulgence of the committee.

The Chair: We are in rotation, Mr. O'Toole. It will come back to you.

Mr. O'Toole: But I won't be here, unfortunately. I have to go to an 11 o'clock meeting. I seek unanimous consent for one more question.

Mr. Brad Duguid (Scarborough Centre): Well, if you take five minutes out of their next turn.

The Chair: Okay. We will continue.

Mr. O'Toole: Thank you very much for that.

I'm most concerned, having worked on the reform by Cam Jackson back in 1996, I believe it was. The big issue at the time—I thank the researcher, Carrie Hull, for the very good background document here. On page 6 is the unfunded liability. This, ultimately, is the other major challenge. That paragraph in there indicates that, between 1984 and 1996, the liability went from \$2.7 billion to \$10.5 billion—huge problem. This is crowding out entitlements to future injured employees, as well as employers' liability. The other part is that if you look at the fund management between 1996 and 2001, the fund went almost to half of that, which I think indicates there was some success, without making it political.

My question to you is: You have a goal by 2014 to eliminate that. If you look at all pension issues, not just WSIB liability, there are huge, unsolvable issues. Almost every pension is in huge liability—almost all. Look at the reports from the federal government and you'll see. What is your commitment to reducing or eliminating the liability and what is the consequence if you fail to achieve that—not you, but the board and all the employers?

Mr. Mahoney: Yes, I understand. When I arrived in the job, I was aware of a dispute going on in the business community with the date 2014, and I tried to find out what was magic about that date. The only thing that I could find was that it was the 100th birthday of the founding of the compensation system. There didn't appear to be anything else and there didn't appear to be any financial justification for it.

Having said that, I also found out in briefings from Malen Ng—who may want to respond to this question when I'm finished here—that if we in fact did eliminate the unfunded liability, we would be in a position to actually reduce premiums by as much as one third, or a combination of reduced premiums and increased benefits, which might be the more sensible way to go. So there was a pretty major impact. Fully one third of the premiums that are paid go to the unfunded liability.

I should tell you that we had what I would only describe as quite a spectacular year in terms of the productivity of our investments. This company has about \$16 billion invested in insurance funds and pension funds. We enjoyed a return of 16.2% on our investments this year, which has allowed us to really turn the corner and to, for the first year in many, many years, see a major reduction in the unfunded liability. So we're going in the right direction.

Prior to asking Malen to add to these comments, I do want to say that in my position I don't want to see the tail wagging the dog. If in fact there are some things we need to do to make the system sustainable, to improve the system, to make it work for the benefit of all the stakeholders involved, and it means that we have to move the magic date of 2014 by six months or eight months or 12 months, I don't have a hang-up about that. As long as the goal is there, it's still a good goal. I believe it's achievable. Malen has given us the reports that show it's achievable.

All of that, of course, is bearing in mind that we don't face another SARS or some other kind of catastrophe that could have a serious impact on the economy. So I would like this to be on the record as well, if I might: that we're committed to 2014, but it's not at any cost. We have to go on an annual, year-by-year basis as a board to make sure that we're fiscally prudent, financially responsible and able to deliver the services that we need to to injured workers.

Malen, do you have anything you'd like to add to that?

Ms. Malen Ng: No, I thought that covered a lot of it. The other thing I just want to say is that one of the major reasons why we're so focused not only on prevention but also on return to work is because, at the end of the day, an early and safe return to work is actually going to be what is reducing the financial pressures to the system. Prevention efforts actually stop those costs from rising in the first place. So by working on these two levers—and we have actually worked out some sensitivity—they have some truly dramatic impacts in terms of reducing the cost to the system.

At this point in time, as the chair has said, 2014 remains quite achievable. I think very much depends on how much focus, collectively, all health system partners put on actually working on improving return to work and prevention.

Mr. O'Toole: Thank you very much.

Mr. Mahoney: Could I very briefly add something? I think it's important that you understand what we're facing. We have found with the interventions that have

been made on prevention that the lost-time injuries have gone down but our costs are going up. There are two reasons for that: one is the persistency of the people in the claims, that they're on the system too long; the other would be the major health costs that of course we face and everybody faces in that particular system. So we're focusing on reducing the length of time that people are on but also tying that in to early and safe return to work using our health care system to get them better and fixed and back to work as safely and quickly as possible. That will help us in achieving our goal of 2014.

The Chair: Thank you very much. Now I'd like to move on to Ms. Horwath.

Ms. Horwath: I wanted to follow up just a little bit on the benefits issue. I understand the things you've already put on the record in terms of your reticence to share anything that's not appropriate from your perspective in terms of conversations with the minister. But at the end of last year, in November 2006, I had asked the minister specifically about increases to benefits for injured workers. He clearly stated in his response to my question that he was seeking advice from you. So that is on the record, actually, in the Hansard, that he was seeking advice from you specifically about improvements to benefits of injured workers. In your opening remarks, you talked about some of the more minor adjustments around the 10% increase in the transportation allowance etc. But the nub of the issue is the formula and the indexation, which you've already talked a little bit about.

So not only has the minister already indicated that he has thrown that ball into your court, but the Premier has also indicated in remarks previously that he was interested in seeing a more fair system of compensation for injured workers and that the current indexing model was in fact broken and needed to be fixed. I'm wondering if you can share with us, perhaps not the content of any recommendations but a clear understanding, if you've made some recommendations to the minister, about changes to the formula for the indexation.

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Mr. Mahoney: Certainly. I'll try to be as forthcoming as I can, respecting the fact that, once again, we don't make the laws, we simply deliver on the mandate that's given to us. But we would like to see improvements to the most vulnerable and disadvantaged workers. We've given that advice to the minister and the ministry. But any changes that occur in indexation, as they did in 1994 by the government of the day and as they did again in 1998 by the government of the day, would have to occur by the government of the day once again. We have identified possible options for changing this system. We have costed them, and we have provided that data to the minister and to the staff.

One of the things that we did do—and by the way, where we can do things without regulation change or legislative change, we have tried to do them. You mentioned some of them, the clothing and the travel and things of that nature. As an aside, we set up a way of helping injured workers, not necessarily on benefits, where we

established clinics in Peterborough, in Sarnia, where we found these occupational disease issues were a serious problem. In the case of the Dryden folks, there are nine people left on the list. We're going to fly them down to Hamilton to get their appointments and have them taken care of. So we continually look for ways to try to do that.

We also adopted the CPP method to calculate the annual indexation factor, which has resulted in higher LOE benefits than what injured workers would have received using the usual CPI indexation. Despite the current use of the modified Friedland, which I would argue has effectively de-indexed pensions, given where we are in terms of the economy, various groups of workers do continue to receive full CPI indexing, such as the survivors and those receiving 100% wage loss.

As you would know, Madam Chair, we operate under at least three different benefit systems: pre 1990, and then the different legislative bills that came along and changed it. It is very complicated.

Ms. Horwath: Which is why we don't do it any more in our offices. We leave it to the legal clinics.

Mr. Mahoney: Exactly. They're very helpful, I know, to many of the injured workers, and I've met with them.

We'll continue to provide support to the minister and the ministry on these kinds of issues. There are some things that can be changed within the purview without—in our view, we've provided the impacts, and we think they're manageable. But it is, I want to stress again, strictly a government initiative, and it's up to the government of the day.

Ms. Horwath: Absolutely. I guess my final question around that is about whether you got any sense from the minister that we might be able to expect some change this year, before the end of this legislative term. Any hints?

Mr. Mahoney: Let me just say that when I met Minister Peters before it was announced that I would be chair, we had some chats. Philosophically, this minister would very much like to find ways to help injured workers in a more proactive way. He very, very much indicated that, and he and I agreed on many, many things.

Ms. Horwath: Okay. Can I ask, then, if you've done any work in your analysis of what the options might be in terms of indexation, did part of the work entail an analysis of where some of the worse-off injured workers are in terms of their economic situation? For example, do you keep stats about whether or not the injured workers currently are living at a level of low-income cut-off or anything like that? Have you done an analysis of workers on benefits and where they sit in terms of economic scale?

Mr. Mahoney: Mine would have been anecdotal, I have to admit: The worker who, when we met with the Bright Lights Group—there were probably 100 of them in the room at the time—read a letter that came from the WSIB, which was somewhat embarrassing, I must admit, proudly telling him that he was getting a 0.1% increase in his pension. That was not a particularly high-water mark in my first eight months. I have sympathy, and frankly a

little bit of empathy, in understanding how he would be upset by that. Whether or not we've categorized it in terms of the question, I'm not sure. John, do you—

Ms. Horwath: Do we have those stats?

Mr. Slinger: We've looked at earnings under the different schemes. We've looked at average lost-time earnings for partial disabilities. We have looked at those numbers.

Ms. Horwath: So looked at them, though, in terms of the worker as an entity and the extent to which their household income is below the poverty line or—

Mr. Slinger: No, strictly the comparisons of what benefits they were receiving relative to benefits being received by earlier generations of workers.

Ms. Horwath: All right. So not in the context of their purchasing power, their ability to pay rent or to sustain their families or to sustain themselves in today's economy.

Mr. Slinger: No.

Ms. Horwath: Do you think that's useful information? Do you think that information would be useful in informing decisions around, for example, indexation? I know Mr. Gravelle's got a private member's bill. I have a private member's bill as well. Do you think that information is at all important or useful in determining where we should go with indexing of benefits?

Mr. Mahoney: The president was just suggesting through the Institute for Work and Health that we could perhaps in our research efforts take a look at some of those numbers to see if they might help us, because they well might. I do know that there are workers literally all over the map. We even have some workers on all three systems because they've had subsequent injuries that have occurred, and trying to keep it all straight is close to a nightmare. But I think you raise a very good point and we can certainly get our folks to do some research on that and try to ensure that injured workers are receiving at least enough to survive.

Ms. Horwath: Do you know if there are many injured workers who are receiving CPP disability benefits?

Mr. Slinger: I'm sorry?

Ms. Horwath: Do you know if there are many injured workers who are receiving disability benefits that have been deemed employable by the WSIB, so they're employable from your perspective but in fact the CPP disability is providing them benefits because, from that system, they're not considered to be employable? Do you see what I'm getting at?

Mr. Slinger: Yes, I do, and I think when our chair talked about the changes in the policies to the CPP offset to provide a formula that benefited injured workers—I think we benefited about 4,000 injured workers at that time. So those would have been 4,000 injured workers who were receiving loss of benefits from the WSIB and CPP disability benefits as well. So the number is about 4,000.

Ms. Horwath: But then there would still be some who are completely not receiving WSIB any more—right?—but who are still considered to be not employable through CPP.

Mr. Slinger: I would not know if there is such a number. I mean, ordinarily, if you were suffering a work-related disability you would be receiving an award of some kind for loss of earnings.

Ms. Horwath: That would be assuming, though, that you were successful in your claim and that everything ended up in a situation where you were actually receiving benefits, but—

Mr. Mahoney: Is your question, if a worker was turned down for WSIB and then subsequently received a disability pension from CPP—

Ms. Horwath: Absolutely. Is there any tracking of those kinds of—

Mr. Slinger: It is possible, but we wouldn't have a way of quantifying that.

Ms. Horwath: I'm going to go back on this kind of line of questioning in another context a little later on. But I guess the issue becomes: To what extent is the WSIB fulfilling its mandate in terms of providing income to injured workers, and to what extent are other systems perhaps filling in when the WSIB system is not fulfilling its mandate? And I'm not saying that that's the case; I'm saying, do we have any understanding of the extent to which other systems are impacted when the WSIB is perhaps not providing the benefit? That comes up, of course, when you look at some of the studies. I know I'm running out of time, so I'll expand on that a little later. But when you look at some of the studies, for example, of where the costing of medical assistance and medical attention is coming from, is the WSIB appropriately absorbing those costs or is some of the burden of the cost of workplace injuries and disease being borne by, for example, the broader health care system?

Mr. Mahoney: That would only occur if in fact they were refused benefits from our end, and I suppose it's entirely possible that someone who went through the system, was turned down, went through the appeal and eventually lost at appeal, if they still had a health problem, they would have full access to the health care system the same as you and I. So I suppose that could occur. But we certainly don't look to or rely on the Canada Health Act to deliver health care to the injured workers who are indeed approved to receive that particular health care. In fact, as I mentioned, we spend very close to half a billion dollars a year. We pay substantial amounts of money, millions of dollars, to hospitals to reserve MRIs. Some have suggested we overpay; I won't get into that debate here.

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Ms. Horwath: No, and I'm talking more about the situation, for example, where there is a failure to report injuries, so they're not in the system. That's a whole other issue that I'm going to—it's a little bit more detailed than just tagging it onto the end of this.

What I was trying to get at, though, in terms of the CPP disability, is that it seems to me that if there are people who are coming to the WSIB because of a work-related injury or a disease—mostly injury—they go through the process and their injury or their situation or

their inability to work is not perceived to be work-related. Then they end up going to another agency and the agency says, "Well, yes, you're obviously unable to work," and then there's a discrepancy between whether they're unable to work because of a work-related issue or not, either way; or, for example, they have an injury, they go through a return-to-work process, eventually they return to work, but then they find they can no longer maintain that work. The WSIB says, "We considered you employable. You've had your opportunity to retrain or to be placed in more appropriate work." The worker continues to have difficulties with work, decides WSIB is simply not cutting it, goes to CPP and says, "I can't work. I'm really having a difficult time. I've run my course with WSIB," and then CPP says, "Well, yeah, you're not able to work so you can go on CPP disability benefits."

Do you see what I'm saying? To what extent does that occur? Do you keep any statistics on that or do you have any understanding of whether that's an issue or not?

Mr. Mahoney: The first part of the question, failure to report, is against the law. We see that in that light very clearly, black and white. I know there are folks in the labour movement, some in the room, who would say that that happens too often. All I can say is that wherever we find it, we deal with it, and we deal with it very firmly with very substantial fines if there is in fact a failure to report. We're also doing everything we can to communicate to the employer groups that they have this legal obligation to do so. Are we doing enough in that area? Perhaps not.

As you would know, the ministry hired 200 new inspectors who, of course, the WSIB pays for—happily, sort of. They are out there in the workplace doing their job and hopefully helping us to find people who violate it. When I speak to some employer groups, I get the question about fraud in the system, and when I speak to labour groups, I get the same question. I think there is some fraud on both sides and we don't tolerate it if we find it, if we see it. It's certainly not the focus of my mandate, but it's something that's very important.

If they're using other systems like CPP, I'm not sure, John, if we would even be aware that they were doing that, that they were going to CPP on their own.

Mr. Slinger: CPP or private insurance—we wouldn't know. Again, there are a variety of disability plans that have different definitions of disability as well. We also know that the portion that we specifically cover is work-related disability. Certainly there are people who receive CPP disability benefits who may have not just a work-related but also a non-work-related disability. There is a whole variety of scenarios that could play out and some of those would certainly never come to our attention.

The Chair: Thank you very much. We're ready to move on. Mr. Racco.

Mr. Racco: When I was appointed PA to Minister Peters, one of his assignments was that I make a PA tour to speak to people about, unfortunately, the accidents that have taken place in Ontario and also the number of

people who die on the job every year. My question to you is—and I know that you've got some programs in place—what are those programs that you have in place to recognize employers who have good health records so that we make sure we stimulate everyone to the maximum so that we can get those numbers down and eliminate them as soon as possible?

Mr. Mahoney: This is a controversial area in terms of some stakeholders who feel that providing incentives to employers is the wrong way to go. It's been suggested to me that the right way to go is enforcement and penalties. Where we find violations, we certainly do invoke penalties, and there are many examples. In fact, I saw a couple on my desk this morning before I came here. But we do have incentive programs. You may be familiar with NEER. You're all going to ask me what these acronyms mean and I'm going to have to look at the staff, but NEER is an experience rating that basically is the broader employer section. CAD7 is the construction industry, and then there's MAP, which I'm—

Ms. Hutcheon: Small business.

Mr. Mahoney: Small business is MAP; there you go.

The basic principle of them is that if your numbers go down, your rebates will go up. One of the most successful—and I notice John Milloy is here. He was at a meeting I spoke at the other day. The manufacturer group was there and they talked about the success of the safety programs. We've established safety groups around the province where companies get together collectively and share best practices. I referred earlier to Thunder Bay and Bombardier to Mr. Gravelle. They actually go out to small businesses in the community of Thunder Bay and invite them into their place to share some of their best practices. They do this voluntarily, not looking for any kind of a rebate. I would like that to go on the record because I think they need to be recognized for that kind of proactive view of things.

One of the reasons, though, and one of the successes that we've seen is that it's starting to come from the top down. We're starting to reach the CEOs and CFOs. In the past, in my view and in my experience both as a member of this Legislature and as a business person, I have experienced that, generally speaking, the people on the shop floor get it; the people in the unions get it. They understand the importance.

Too often, what happens is they'll have to go upstairs to the CFO or the CEO to get funding for a particular program of health and safety. The best example of that would be WHMIS. If any of you have ever taken a WHMIS training program in a classroom, it's very much like sticking pins in your eyes. There have been other programs that have been made available, interactive software programs and the like, that cost money. The message that comes too often from the CFO to the health and safety person who's coming up and looking for the money is, "Are we meeting the minimum obligations that we're required to meet under the act?"—that is, classroom education—"Yes, we are." "Fine. Go back to work," and a little pat on the head.

We're starting to see some changes. We have a CEO charter. Duncan Hawthorne at Bruce Power is just a fabulous person for health and safety. His firm, a private sector power firm, is among the safest in all of North America in a very dangerous industry. He deserves full recognition and credit for the work that he has done. He has helped us establish a CEO charter. I think over 225 companies' CEOs have signed on to this charter, and there is a list of commitments within the charter that they will do in their workplace to make it safer.

In 2007, we are launching from my office what we're calling a community charter, where we're going to be going to municipal governments, to mayors and councillors, and talking to them about how they can get more actively involved in promoting health and safety, not only within their corporation but within their community. There are many examples of huge amounts of money that municipalities, both in terms of the municipal corporation and in terms of the broader community, are losing every year in their economy because they're not paying enough attention to the issues of health and safety. I'm recommending that every municipal council assign one of their councillors to actually sit on the health and safety committee and ensure that they report back through either their general committee or their council on a monthly basis, providing statistics, success stories, new products and services, showing the mayor and council, and thereby showing the broader community, what they've done. We're asking them to go out to the boards of trade and the chambers of commerce, along with me and with our staff, to talk to them about how we can improve health and safety and better educate the community.

It is my contention that we all have a responsibility in society to recognize the serious problem of fatalities and of injuries, both from an economic point of view and, quite frankly and more importantly, from a social policy point of view, and the impact that it has on working people and their families in this province.

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The Chair: Mr. Gravelle.

Mr. Michael Gravelle (Thunder Bay–Superior North): Welcome, Mr. Mahoney, Ms. Hutcheon and members of the senior management team. This is a great opportunity for us to ask a number of questions and have a discussion. I suspect I'll run out of time here because there are a lot of areas I'd like to get into. Certainly, as you would know, every MPP is pretty actively involved in a number of cases where injured workers in their ridings—

Mr. Mahoney: None more than you, Mr. Gravelle.

Mr. Gravelle: Well, I'm not particularly surprised to hear that.

Mr. John Milloy (Kitchener Centre): He says the same thing to me.

Mr. Gravelle: Yes, exactly. I'm grateful for the response that we get. It's challenging sometimes. These are very difficult and complicated cases, and it's increasingly difficult for us in our constituency offices to actually get involved in the in-depth way we perhaps used to be able

to. We do use the legal aid clinics; they're wonderful and extraordinarily helpful. But there are a number of areas.

As Ms. Horwath pointed out, I do have a private member's bill related to a cost-of-living adjustment. On a couple of occasions, I found your comments earlier helpful. We know how the system changed in 1994. It began under the NDP government, and then under the Conservative government there were some more adjustments. Now we're in the modified Friedland formula.

I understand you can't be specific about any recommendations you may have made to the minister or advice you've given, but can you tell us in some fashion at least what would be the impact if we had full indexation based on the CPI? What would be the impact in terms of the unfunded liability or just the impact on a financial basis?

Mr. Mahoney: Two point three billion dollars.

Mr. Gravelle: Two point three billion dollars.

Mr. Mahoney: That would be added simply to the unfunded liability, and the numbers were mentioned earlier. Not to put too much emphasis on retro thinking here, I seem to recall that in my time in the Legislature the unfunded liability was approximating \$13 billion. It's now \$6.7 billion, and at the end of this year, Malen, we're going to be at—

Ms. Ng: We're expecting 2006 to come in at around \$6 billion.

Mr. Mahoney: —around \$6 billion. So we're going to be \$700 million off of that this year as we head toward our target of 2014. But full CPI, based on the CPI today, which I think is about 2.7%, we said would be about \$2.3 billion or \$2.4 billion.

Mr. Gravelle: I ask that question because I think it's an important question to ask and it's one that most people would know about. It in no way impacts on my feeling about the issue because, as you pointed out too, essentially the way the system is now set up—the modified Friedland formula—there's virtually no benefit.

I also get copies of the letters that the workers get at the end of every year saying 0.01% increase in benefits, which is extremely upsetting to them. But we will do your lobbying in that regard, and I appreciate that that's what you would expect us to do.

I work very closely with the Thunder Bay and District Injured Workers Support Group. Back in the mid-1990s, after I was first elected, despite some of the anger we felt at the way things were moving or changing in the system, we decided to be very positive, and I brought forward a private member's bill at that time to bring health and safety programs to Ontario students. It was very much part of the work that came from working with the district injured workers' group. We brought the legislation forward and, as a result—and it may not be fair to ask you, Mr. Mahoney, but hopefully there will be someone who can respond to this—there was a significant committee that was set up to actually work with the injured workers' groups across the province and others as well. I think it is fair to say that there has been a significant reduction in workplace accidents and fatalities in terms of young workers, and I think everybody who's involved in it should take some credit for it.

But can you give us some sense of how things have changed in terms of how the WSIB approaches that? We thought it should be in every classroom and people should have certain training, although it would vary according to the part of the province. The committee that was set up, I think, was relatively successful in having an impact, and I just wanted to ask you a question on that.

Mr. Mahoney: I appreciate that question, and I think it should be core curriculum. In some places in the province it is, and in others it isn't. So there are some inconsistencies there.

Let me tell you, though, that we are launching once again a young worker awareness advertising campaign. I must admit, looking around the room, with one or two exceptions, that most of you may not see it, as I wouldn't, because it's going to be on media, Internet and things that the kids go to. You can go there, but chances are we're not going to go there as it's not necessarily part of the Globe and Mail, although we are looking at running some ads in the Globe to try to tell parents about what we're doing on YouTube or wherever else the kids spend their time these days. It's a wonderful, wonderful campaign, and I'm very excited about the fact that I think we're going to reach these kids. The beauty of the campaign, to paraphrase the advertising executives who presented it to us, is that this is not about the man telling the kids they need to be safe; this is the kids telling the kids they need to be safe and carrying that message. So I think we're going to see even better results.

I want to tell you about one really exciting thing that we're doing, though. This came from our staff. I talked about our staff. One of our Sudbury staff came up with the idea of developing a children's book. If any of you have grandchildren, you would know of the success of some of the books that these kids devour—the Baby Einstein situation that my grandchildren look at all the time. Initially, the idea was that we were going to develop a book. When I was out making a speech, much to the chagrin of the staff, I announced that we were going to develop a series of books. So they of course all swallowed hard and ran back to the office.

This is going to be great stuff, because if you want to really get the message out, start young, start in elementary school. Get these kids when they're six, seven, eight years old, because think of some of the things we've succeeded at. What does a seven-year-old do when they go to ride a bike today, first thing? They put a helmet on. If you or I put a helmet on and went to the schoolyard when we were kids, we would have been laughed out of the place. Now, not only do they put a helmet on, but they turn around to Mom and Dad and say, "Come on, Mom, come on, Dad, put your helmet on." So we have succeeded. We haven't totally eliminated problems in drinking and driving, but we've had an impact, with Mothers Against Drunk Driving and with the help of municipal and provincial governments and even the federal government, in driving home the responsibility that we all have.

I want to see us do the same thing with health and safety. Make this part of the bigger picture, where every-

body in society realizes that nobody should get that knock at the door that says that your son, your daughter, your wife, your husband has just been killed in a work-place incident.

Mr. Gravelle: That's a very encouraging response, I must admit, particularly your reference to it being core curriculum. It certainly is a lot more in the school system now. That was one of the goals of the committee that was formed, and I think it's been quite successful. That was the goal of the private member's legislation we were working on with the injured workers' group in Thunder Bay, to recognize this. There's been a lot of progress.

I don't know how much time I have left, but I want to ask a few things about the north. There are two members here from the north, certainly the northwest of the province. There are different accident rates in the north because of different occupational realities. Is that the case? Do you have statistics to bear that out or can you help me with that at all?

Mr. Mahoney: I think we have stats in the mining and the lumber industry, certainly construction overall, and motor vehicle, by the way, all over the province. We've launched a co-operative program with the province, with the feds, with WSIB. We even had Cam Woolley out, God bless him. We did a big media launch for the impact of this thing to try to, again, make people aware of what's going on and where these incidents are occurring.

Do you have northern Ontario stats?

Mr. Slinger: I don't, specifically. We certainly keep records by all industry types and all rate groups, but I don't have a geographical breakdown. We could certainly see if we could get that breakdown for you.

Mr. Gravelle: I'd like to see that, if you could. I'd be curious to see it.

Mr. Mahoney, I really appreciated your comments about Bombardier earlier—you made reference to it twice—because it's a great story of an employer working with their workers and the workforce there as well. I guess the question then leads to, are we seeing improvements in all the major sectors, perhaps not comparable to Bombardier? I do think attitudes are changing.

The reason I asked about the north was probably specifically about forestry and in terms of mining as well, and whether there would be a reduction in rates as a result of that different approach being taken by the companies.

1130

Mr. Mahoney: There are some very, very good proactive people in both forestry and in mining. In the mining area, there is a mine rescue team out of Sudbury, whom we met with. In fact, I thought they were going to leave me. They took me 2,200 feet below the surface in Timmins in a gold mine for five hours, and I thought that was an incredible experience. Some of the things they've done—in a very dangerous business, obviously, because mining, for all our modern technology, is still a guy with a drill and a pick at a couple of thousand feet below the surface. It's still a high-risk industry. But they are improving.

Our LTIs, our lost-time injuries, have gone down right across the province, as I've said before; our problem is, the length of time that they're on and the severity of those injuries have not. So we've got a bit of a problem in that area. We're striving on health care and we're striving on early and safe—an emphasis on safe—return to work, so that we can get the persistency figures down.

The health and safety associations that we work with—there are 14 of them—all have regional data. We can provide you with that information for your community. I have to tell you, with the greatest of respect for the many wonderful parts of the province, that there is probably not a more active area than Thunder Bay when it comes to organizations trying to deal with health and safety, trying to deal with injured workers. It's an area where there's some good work being done. We can say that in many parts of the province, but I do single that particular area out for some of the people we've worked with.

Mr. Gravelle: I would appreciate the—

Mr. Mahoney: I should add that we've just had a meeting with Steve Mantis. We're launching a very interesting program with Steve, working co-operatively with him, on what happens to injured workers as they go on, after the injury, the impact on their family, doing some research work with him. What's interesting about Steve Mantis is that he was around when I was around, so we both go back a long way. We're hopeful that we're going to get some good data from working closely with him.

Mr. Gravelle: I worked very closely with Steve as well. It was Ross Singleton who, I may say—I'd like to put on the record—was very involved in the health and safety initiatives towards young people and people just entering the workforce. It has been a very active group for some time.

I would appreciate the information. If you could gather that for me, that would be great.

Mr. Mahoney: Sure.

Mr. Gravelle: Thank you very much.

The Chair: We'll move on. Mr. Martiniuk.

Mr. Martiniuk: I'll share my time with my colleague Ms. Scott.

I want your help, because you were an MPP and I get confused with your organization at times.

Mr. Mahoney: You should work in it.

Mr. Martiniuk: It's pretty good on the employee side. In our region we have the employee advisory group, who, I have found, are overworked and unfortunately understaffed but do an excellent job. I have received very few complaints over the past 10 years about their workmanship. The only complaint is the slowness. Quite frankly, I've discussed that with members of that organization, and they are understaffed. We have a very fast-growing region, as you know, and a very low unemployment rate. Because of our growth, they're always a little bit behind, which is understandable, but unfortunately it does not help many of the injured workers in need.

However, on the employer side—and the reason it came to my attention, and I don't know whether as great

an emphasis is placed—we have a letter that has been filed with the committee from Umbra Ltd., which, unfortunately, like a lot of businesses in Ontario, has closed up 93% of their business in Ontario and moved their manufacturing jobs to another location outside of Ontario. They feel they've been aggrieved and are getting the runaround. Fortunately, you have become personally involved, according to the letter. I don't know whether you should be; I'm not in any way criticizing you. However, we do have, as I understand—because the last time I wrote to the board, to yourself, I also copied an employer advisory group within your organization, which has contacted me. I'd like you to outline for me the workings, from an MPP standpoint, of the employer advisory group. I understand how you became seized of the matter, because it came up at a public meeting, and I congratulate you for taking the time and your interest. However, why were they not directed originally to the employer advisory group and why aren't MPPs even aware of that organization within workplace compensation? I've been involved for 10 years and I really was not aware that there was an organization that would help employers in addition to employees.

Mr. Mahoney: On the Umbra file, let me tell you that John Slinger, our chief operating officer, and my executive assistant, Mark Tyler, met with the Umbra folks last week at my request to go through it.

When I say I got involved—I think to say that I seized control of the issue is probably an overstatement, but having served in political office for 26 years at every level, I'm not beyond understanding what bureaucracy is like and how it can frustrate people. It sometimes may be a different view from a different level or to just review the thing. I've done that in a number of instances; I've done it with injured workers. I have to recognize and realize that my job is somewhat at 30,000 feet, as the chair of the organization, and that my responsibilities are not to get into adjudication matters and things of that nature. Perhaps my president would not happily admit this, but I have been known to stir the pot if I see something that I think is unfair or unjust. Perhaps that comes from my experience as an MPP.

Why they were not referred or chose not to go to the OEA, I really have no idea. We work very closely with the Office of the Worker Adviser and the Office of the Employer Adviser. There are more groups involved, from a stakeholders' perspective, in trying to help more people than you could ever imagine. People say to me all the time, "Do you miss politics?" I say, "You've got to be kidding. I'm the chair of the WSIB. It's probably the most political job I've ever had."

But having said that, if I can help out by cutting through the tape or getting someone to take a quiet look at this thing—I have even gone to the extent, much to the surprise of one employer, who I won't name, where letters came in complaining and I got in the car and went and knocked on his door, walked into his boardroom and said, "I've got to talk to you because I don't understand what the problem is." We wound up resolving his par-

ticular issue, not totally in his favour, by the way, because he wasn't absolutely accurate in what his concerns were, but he did come to understand that we had a position and that it was a legitimate position.

Perhaps, though, I'll ask John, as much as he can, given privacy rights and things of that nature, just to give us an update on the meeting he had with Umbra and with Mark Tyler.

Mr. Slinger: Certainly in a system as large as ours—you can imagine receiving 354,000 claims a year and administering 225,000 employer accounts—we make a tremendous number of decisions. In the course of a year, we estimate we make over a million decisions. Having said that, certainly we have procedures in place that enable parties who are unhappy with decisions to go through an appeal process and to have their cases heard. Of course, we have legislation and we have policy to guide us and we gather information and make decisions.

I think there are circumstances that we have all seen where applying the strict letter of a policy doesn't always result in an appropriate decision. I think we are always challenged in an organization of our size to ensure that our staff exercise appropriate discretion in appropriate cases. I could simply say that this is a case where the black letter law and the area of discretion were challenged. I think we had an excellent meeting and we're certainly looking at ways of resolving that case. Again, as Steve has indicted, there will always be exceptional cases that we need to look at in exceptional ways.

1140

Mr. Mahoney: I might just add, though, if you look at the body of the letter, the claim would be that due to the WSIB, they moved 180 out of their 189 staff to China. I have some difficulty with suggesting or accepting the premise that the WSIB would be solely responsible for such a major decision. In fact I go back many years ago, and I often tell this story, where I saw a sign outside of Joe's garage, Anywhere, Ontario, that said, "Our price includes the PST, the GST, the EHT, the MPT, the UIC, the WSIB and the CPP," and at the bottom it said, "We would have included profit, but we ran out of room." So there are a lot of regulatory requirements for business in our society today. We are simply one of them.

I would also add that we provide litigation protection, which I think is huge for Umbra or anybody else doing business in Ontario. I think we do deliver added value. However, we have accepted the invitation. We are going to go to the place of business. We're going to revisit the issue with them and try to be as fair as we can.

Mr. Martiniuk: Excuse me, just to make sure for the purpose of the record, because I did not read the letter in, it states that they moved "98% of our assembly to China when the exchange rate became a failure." So I don't know whether they're blaming the WSIB. They were talking about an exchange rate.

Mr. Mahoney: Well, they are to us, but that's okay.

The Chair: Thank you very much, and we'll move on to the—

Mr. Martiniuk: We have time yet.

The Chair: No. I'm very careful. We have gone beyond 10 minutes, I think all the way around now, and we have a few minutes left. I would move on to the NDP.

Ms. Horwath: I wanted to ask a little bit about your comments earlier about prevention and about getting to zero accidents, zero workplace injuries. I wanted to specifically ask you about your authority, or the WSIB's authority, under the act to certify members of health and safety committees in the workplace and to make sure that their training requirements are set and fulfilled. I guess every workplace with more than 20 people is supposed to have at least one certified employee on their health and safety committee. I'm wondering about the extent to which you've got records on how many workplaces in Ontario are not fulfilling the requirement to have a trained, certified health and safety worker rep on committee. Do you have that statistic?

Mr. Mahoney: If we find that someone is not obeying the law, if that's the question, certainly—

Ms. Horwath: No. I'm asking if you're keeping stats on the number of workplaces that do not have a certified health and safety rep on the joint committee.

Mr. Mahoney: What we're just huddling about here with this question is that it's one of the grey areas of who's responsible, between the Ministry of Labour and us. We are currently looking at the issue and having discussions with the staff. The fact is that the ministry is the enforcement arm. Notwithstanding the fact, as I said earlier, that we pay for the inspectors and all of the systems that are in place, they are the ones who actually go out and enforce and would lay a charge, if that's required—something along those lines. So they would likely have those stats, but we certainly don't have them within our shop.

Ms. Horwath: Would it make sense, though, if the goal of the board and your stated goal as the chair is to bring those numbers down, that the best way to do that is to have certified, trained worker reps on the joint health and safety committee so that they're identifying where the problems are and identifying where the solutions need to be made so that those injuries are not occurring?

Mr. Mahoney: It's a very good point, and we are looking at the issue. But I think you raise the point that really fits well with my comments earlier about our outreach in the municipal sector to try to ensure that they have active health and safety committees that are reporting on a regular basis. There should be certified members on them at the municipal level. I'm suggesting there should be a politician on it as well to try to highlight or increase the awareness of the thing. But we'll take that under advisement.

Ms. Horwath: So then the requirement for monthly inspections of the workplace by the committee, for example—you wouldn't keep statistics on whether that happens; you're saying the ministry staff do that?

Mr. Mahoney: In the municipal sector—

Ms. Horwath: I mean in all sectors, in the workplace—

Mr. Mahoney: Okay, in all sectors.

Ms. Horwath: You mean you're responsible, the board's responsible, for all workers who are currently covered, and I'm not going to ask about the Brock Smith report. That's another issue.

Mr. Mahoney: You can if you want to.

Ms. Horwath: I know the answer, so there's no point in wasting my time on it.

The question is, though, that in all workplaces in Ontario, if we're really serious about getting injuries down, if we're serious about making workplaces safe, there are a couple of things that can be put in place. One is making sure that the instruments that exist under current legislation are actually utilized and that there's an accountability mechanism to make sure that they're being utilized: first, whether that's certification of the worker at the workplace who's a member of the joint health and safety committee, at least one certified worker; second, then, making sure that they're doing their job as required under the act to make their monthly inspections of the workplace, report findings and actually get to the solution stage so that we can get those numbers down. To what extent is the WSIB participating in realizing some of those goals?

When I look at your stated objective—maybe it's not going to be your legacy, but hopefully it will be somebody's legacy over time—the only way we're going to get there is if we're really serious about these kinds of activities. To what extent do you participate in that right now, and do you see the WSIB as having a role in the future in terms of making those things happen?

Mr. Mahoney: My understanding is that it's primarily a Ministry of Labour function at the moment, but I do believe we should be participating in it more. I'm told by Jill Hutcheon that the staff are having staff-to-staff discussions about this type of thing, about how we can make it a tool. We have a new chief of prevention who has joined us, Tom Beegan, who comes to us from Ireland, where he was the head of their national health and safety program. Hopefully, with Tom we can look at that being one more tool. I think it's a good idea, and we'll be prepared to take your suggestion to heart.

Ms. Horwath: So at this point, then, you, the board, wouldn't have any understanding of how many workplaces actually fulfill that requirement of having a trained, certified worker on the joint health and safety committee?

Mr. Mahoney: I don't believe that as an organization we would have that kind of data within our mandate currently. There is a little bit of push and pull that occurs between a Ministry of Labour and what is effectively a provincial crown corporation. We have certain responsibilities which we've talked about around prevention, around return to work, all of those kinds of things. Enforcement and inspection, that type of area, is done primarily by the Ministry of Labour. So there could be some overlap, and we'd be quite prepared to look at that, because it actually may be information that would be more helpful to us than them.

Ms. Horwath: Again, I might be misinformed, but it's my understanding that the Workplace Safety and

Insurance Act actually is the piece of legislation that enables the certification of the worker. Is that not true? Or is it the Occupational Health and Safety Act?

Mr. Mahoney: That was the Occupational Health and Safety Act.

Ms. Horwath: Is it the Occupational Health and Safety Act, as—

Ms. Hutcheon: But we will go back and get you that information.

The Chair: Thank you very much—

Ms. Horwath: Madam Chair, I'm sorry, but I had less than five minutes. The previous question—

Mr. Martiniuk: It's a new rotation.

Ms. Horwath: Well, I'm sorry, but I barely had even five minutes on that rotation. You had a good 10 minutes on your rotation.

The Chair: Excuse me, I have kept track. I'm quite prepared to let you know. I was just finishing up. We were at almost equal time because of the fact that there was an unequal distribution earlier in the morning. If you wish one more question, I'm prepared to entertain that.

Ms. Horwath: I just have one very brief one.

Mr. Martiniuk: Excuse me, Madam Chair—

The Chair: Excuse me, we do have time.

Mr. Martiniuk: On a point of order, Madam Chair: We did a rotation for 10 minutes, and it's gone around twice. We were the last on the 10-minute rotation. We're now at a five-minute rotation. We're supposed to finish at 12. There is just time for two five-minutes left, the Liberals and ourselves.

Ms. Horwath: Excuse me, but I didn't even have a five-minute rotation that time.

Mr. Martiniuk: But you just had it.

Ms. Horwath: I did not. I have my watch and I was watching my watch.

The Chair: Excuse me. I have offered you one more question time. We will continue.

Mr. Martiniuk: Are we going over the 12 o'clock noon then?

The Chair: No, we're not. I don't want to waste time.

Mr. Martiniuk: Madam Chair, I'd like a ruling. Are you going over the 12 o'clock?

The Chair: I'm going to allow an opportunity for the rotation to finish. If you take time now, that means it will go overtime. Continue.

Ms. Horwath: Just very briefly, then, on the same issue of training: This is training particularly in terms of your front-line staff. In the beginning of your remarks you indicated that your front-line staff were receiving sensitivity training around injured-worker issues. Do your front-line staff also receive occupational health and safety training so that they have a good understanding of both pieces of legislation and how they work together?

1150

Mr. Mahoney: Well, I know the adjudicators certainly do in terms of about a six-month in-depth training program, but perhaps you could answer, John, regarding the rest.

Mr. Slinger: There is some occupational health and safety training provided, but I know there have been suggestions given to us in some of our working groups that our adjudicators should in fact be certified. We don't train to that extent.

Mr. Mahoney: Perhaps one of the reasons for the debate over time is that I'm too long in my answers, but, Madam Chair, if I might just read a section that comes under "Functions of the board" in relationship to the question, which I don't think was appropriately answered by me, one of our requirements is "to develop standards for the certification of persons who are required to be certified for the purposes of the Occupational Health and Safety Act and to approve training programs for certification." So it's trying to work together, but it's the Occupational Health and Safety Act that we develop the standards for.

Ms. Horwath: Thank you.

The Chair: Mr. Milloy?

Mr. Milloy: Thank you very much, Madam Chair. In the interests of time, I'm going to go right to the heart of the question, and I thank Mr. Mahoney for being here. But I hear from both injured workers and employers, so I'm going to try to lump it all together into two separate categories and start with injured workers.

It's amazing that their number one complaint isn't about all the different issues that you would think about. It has to do with the way they feel they're being treated by people at the WSIB and the fact that there almost seems to be a supposition that they're guilty of something as opposed to trying to work with it.

Then, moving on, one of the more specific complaints involves the whole LMR program and the fact that they're sent off for training, and I've heard some pretty hair-raising stories of being sent to sort of fly-by-night providers, of a poisonous atmosphere, questions about individuals who do have serious injuries who are not even given a proper chair or a proper place in order to complete the training program and take that into account, the fact that they are threatened that if they're late or if they miss a session due to illness, they might be thrown out. And at the end of the program, they're finding out that these operators, as I say, are nothing better than fly-by-night operators and that the certificates they're getting are not meeting the requirements.

So I guess just a comment both on the general and then on the specific with the workers.

Mr. Mahoney: It would not be surprising to know that the calls that you get would be of a complaint nature, as opposed to phoning you to say that everything is okay. But having said that, 83% of our decisions are made in four weeks, and 97% are made in eight weeks.

The sensitivity training: When I hear from people, and I get complaints as well in my office now, it's usually from people who feel they have been mistreated or they haven't been respected or whatever the case may be. We do look at those complaints very carefully. We also have a third party that they can go to, an ombudsperson, if you will, that they can file an appeal to before getting—I

mean, they can go through our internal appeals system. They can then go to WSIAT to appeal. But they can also go to Laura Bradbury, who will take a look independently, and she reports directly to me, right to my office. She has identified some problems, I might add, in some of the areas of occupational disease that I think are very legitimate points that we want to hear about.

So we try to respond. We try to work with the Office of the Worker Adviser. I quite agree with Mr. Martiniuk's comments about them being understaffed and underfunded. In any event, we try to work with them. But it's not unlike most systems, that old 80-20 rule: 80% of the decisions are generally made fairly quickly, people are back to work and the problem is solved. We refuse about 5%. The remainder are the ones that are the difficult cases to deal with. Sometimes they're very legitimate in their complaints about how they've been treated, and we take that very seriously.

Mr. Milloy: And in terms of the LMR?

Mr. Mahoney: I'm glad you asked that, because I had actually made a point. Many of you will recall that we used to do a lot of the rehab internally and things of that nature when we had Downsview, and then that was sold off and things changed and a lot of stuff came inside the operation. We actually have a system where we have seven main providers of LMR who then go out and hire the actual service delivery companies. We're currently looking at putting out an RFP to allow those actual on-the-ground companies that do the training to bid directly. The reason for doing it with the seven umbrella groups was primarily to reduce administrative costs and to try to smooth out the decision. We are concerned that too often a worker may be trained or attempt to be trained for a job or a position that doesn't exist and won't exist—and that goes to the heart of the deeming issue, something I hold near and dear—or that, due to language or educational levels etc., it's just not a practical course for them to take. When we do see these things, we try to respond to them, to see if there's a better way of getting them back into the labour market than simply, for example, trying to train a 55-year-old bricklayer to use a computer. It doesn't make a whole lot of sense in many instances, and we need to be more sensitive to that.

The Chair: Thank you very much. We've run out of time and I'd like to go to the opposition, then. Ms. Scott.

Ms. Laurie Scott (Haliburton–Victoria–Brock): Thank you very much for being here today and for the information that's been provided.

Just quickly, I agree with a lot of what Mr. Milloy said, from calls into my office in Haliburton–Victoria–Brock, a very rural riding. We certainly have some challenges. One is travelling to doctors, backlogs of travel cheques getting to them. We're hearing eight to 12 weeks, and we're talking people in some serious financial situations, so that means a lot to them. But it's also going back to work. The example that I hear often is weight: "I could lift 50 pounds before, but I can only lift 20." We don't have as many job opportunities for them to go to, so there are difficulties within it.

But I guess the question is the backlogs. I spoke about travel backlogs and the challenge we have in the riding, but for them to see specialists is difficult. I know Ms. Horwath asked a question about backlogs and where people are in the process right now. Is there a statistic that you could maybe share?

I don't have much time, so I'll leave that with you, on several topics.

Mr. Mahoney: That's okay. I think John has—

Mr. Slinger: I don't have a statistic, but certainly one of the reasons we created the position of nurse case manager a few years ago was specifically so that we would have someone from the health care community with expertise and experience who could help identify opportunities to expedite health care in some fashion, and sometimes that might mean going to a different jurisdiction. In fact, that is an issue for us, especially in the north. Where those waits are going to be too long, we will try to find some available specialist a little further. In order to expedite that service, we will try to be as flexible as possible and look to assist injured workers in doing that. By and large, while we are all stuck with certain waits, we do look for ways of expediting those cases.

Ms. Scott: So there's no three-, six-, nine-month wait list that you have?

Mr. Slinger: It would really depend on the area and the nature of the specialty. Of course, we have, I believe, 16 specialty clinics ourselves, so we actually have areas of expertise and specialities that are for the most part placed in teaching hospitals, and we always have the option—in fact, our first option in those cases, for those specialties covered, is to bring them to our specialty clinic. Those turnaround times, of course, are very fast. But for other things not covered by our specialty programs, that would really depend on the individual community and the individual specialty.

Mr. Mahoney: I might add that the nurse case practitioner program has been very successful from Windsor to Thunder Bay and all over the province. I've heard nothing but really positive comments about that, and hopefully that's one area where we can get at these people quicker.

The Chair: Thank you very much. Our time has expired. We certainly appreciate that you were able to come today and look forward to seeing you again on Thursday morning at 11 a.m.

Mr. Mahoney: Thank you very much.

The Chair: This committee stands recessed until 1 p.m.

The committee recessed from 1201 to 1303.

The Chair: I'd like to welcome everyone back to this afternoon's session of the standing committee on government agencies, particularly the review of the Workplace Safety and Insurance Board.

Ms. Horwath: On point of order: I'm just noticing the people who are presenting this afternoon, and I'm wondering if it's in fact not a bit of a conflict of interest to have an organization that's almost completely funded by the WSIB as one of the stakeholders to committee. I'm

obviously subbing in; I've not been part of this process before. The fourth presenter down is almost fully funded by the WSIB. In fact, members of the board of that organization are staffers at the WSIB. It seems to me a bit of a conflict.

The Chair: Just a second.

Ms. Horwath: Can I ask who it was who called that agency in particular as a stakeholder?

The Chair: Yes, I just am reminded of the actual invitation that went out from the committee and it says, in the second paragraph, "as a stakeholder affected directly or peripherally by the WSIB, the standing committee would like to provide you with the opportunity...." So I think we've established that kind of precedent in providing that kind of invitation.

Ms. Horwath: Because it's two-thirds funded by the WSIB, I guess it would be very directly affected by the WSIB. Can I ask you who it was who called this particular agency?

Mr. Martiniuk: It wasn't us.

The Chair: It was the government.

Ms. Horwath: Thank you.

ONTARIO FEDERATION OF LABOUR

The Chair: Now if we can just return to the agenda, I would like to ask Mr. Wayne Samuelson, the president of the Ontario Federation of Labour, to come forward. As you may know, we have 30 minutes, and you are free to use that 30 minutes in the manner you wish. However, if you leave time for the individual caucus questions, the time will be divided equally amongst them.

Mr. Wayne Samuelson: Thank you very much. Let me begin by thanking you for the opportunity to say a few words. But let me first of all disappoint you. I'm not going to bring any slides or graphs. I'm going to try to avoid talking about percentages and numbers. Instead, I'm going to try to talk about my experiences as a labour leader in the province of Ontario and, frankly, as a worker in a manufacturing facility for about 20 years of my life.

I must say, I did listen intently to the presentation by the board this morning and I am, just as all of you are, really pleased that the chair gets to travel around, give lots of speeches and talk to people. I guess I should add that I'm not surprised that when you put a politician in that job, he sees the job as political. I really hope that the board and the chair can find more time to deal with the real problems that affect workers.

As I said, I worked for 20 years in a manufacturing plant. I've been injured on the job, like many workers. I was once a few feet away from somebody who was killed at work. Every single day, workers who worked in the facility I worked at are dying because of exposure to chemicals in the workplace. I came from the rubber industry in Kitchener. We have literally hundreds of claims backed up at the Workers' Compensation Board.

So, for me, a lot of these issues are incredibly personal, and I can tell you, as someone who deals on an

almost daily basis with injured workers and people who are trying to change a terribly distressed system, it's important to stay away from all the talk about numbers and percentages and try to make it real.

In the crowd today, for example, are Barb and Jean, who are from Victims of Chemical Valley in Sarnia. They don't care about big, long, thick documents that are produced. They don't care about this range of acronyms. They just want two simple things: They want to be able to file a claim, get it through the system and have it dealt with fairly, not drag on for 20 years. And, interestingly enough, they are also committed to real prevention, to making sure that other families don't have to go through the incredible suffering that they've gone through over the many years.

So I'm going to try to talk to you about some of the issues that you may have heard about this morning from the people who fly at 30,000 feet, about what I've seen in a workplace and about the people I talk to.

Let me deal first of all with this experience rating scam. What you have here, just so everybody understands, is a system that basically encourages bad practices. You have a system that encourages employers to lie and cheat so they can get money back on their WCB claims, in many cases literally millions of dollars. You're going to hear people talk about, "This has decreased and so many injuries over here have decreased." Let me tell you, in the real world what's going on is that employers are not reporting incidents because they know that if they don't, they can get money back from the workers' compensation system. If the system was really and truly interested in preventing injuries and ensuring that people have a safe workplace, they would not be paying liars and cheaters. What they would have is a system that provides money for investment in prevention and return to work. That's what you would see. Unfortunately, that's not the case right now.

You know, I sat here and I couldn't believe the blank faces on the board when somebody asked them about certification. Let me explain to you, as the board representatives pointed out, clearly there are provisions in the Occupational Health and Safety Act that lay out what a certified worker is. For those of you who don't know, the cornerstone of the internal responsibility system in our workplaces is making sure that workers and employers have joint responsibility in terms of inspecting the workplace and ensuring that it's safe. Key to that is making sure that people are certified and understand the act, their responsibilities and, more importantly, how to make sure their workplace is safe.

The Workers' Compensation Board is the organization that actually certifies these people. They provide the certification. Surely, the group that actually sends the card out, that receives the information when people go through the training, should know how many people are certified. More importantly, they should be absolutely sure that every single workplace under the law that's required to, actually has a certified person working there. It's not hard to do. We have computer programs; they can

just cross-reference. For crying out loud, they could even send out a survey and make sure that the certifications are in place, because they ultimately have the responsibility for the training.

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I wouldn't be surprised if somewhere between 30% and 50% of workplaces in this province don't actually have a functioning health and safety committee with certified workers. If you really care about preventing injuries, then the best thing you could do would be to put in a process to immediately make sure that every single workplace in this province is living up to the laws and has a certified worker. If you don't do that, all the rest of this becomes the subject of graphs and charts that people manufacture to meet their own goals.

Let me talk about an issue that is probably one of the most important issues for a lot of injured workers—and I know many of you have heard of this; you certainly know our position on it—and that's the issue of cost-of-living increases. You may or may not know this, but the Premier, just before the last election, sent me a letter. In the letter, he pointed out that the government had a plan—they're working on it—to index pensions. If you don't know this, an injured worker over the last 10 years has lost 26% of his income because of inflation. In four years, neither the board nor the government—whoever's dealing with this—has been able to figure out a way to make sure that those workers at the very least are made whole, but also clearly have a kind of income to make sure that they can feed their families. In contrast, I can't help but point out that it took you eight days to figure out how to give yourselves a 25% increase. Surely we can find some way to deal with that. Frankly, if the board isn't going to do it and the government isn't going to raise the issue and make sure it happens, then we all know that it'll never happen. I want to ask this committee to try and force the Premier to live up to his commitment and force the board to actually develop the strategies to implement it.

In closing, let me leave you with one more comment, because I'd actually rather have some time to have conversation with you, and that's the issue of coverage. You may or may not know this, but workers in all kinds of institutions that weren't in place in 1915 aren't covered by the Workers' Compensation Act. The previous government, to their credit, did a pretty comprehensive study on the issue of coverage. They issued a report, and the board endorsed the report. It said that there's something wrong when a woman like Maryam Nazemi works in a school that's not covered under the act and basically turns her life into a situation of complete turmoil and pain, only to find out that because of some quirk in the law she doesn't have the benefits and the access to the workers' compensation system and finds herself suffering daily because of it. That goes on.

The board, I should tell you, interestingly enough, approved this, I think, two or three years ago in a secret report that remained hidden in the Ministry of Labour until Andrea Horwath's office managed to get it under

freedom of information, which actually recommended that we should move on this coverage issue. Since then, we've seen nothing. I know that today you're going to hear presentations from employers, from people representing injured workers, from the IAPA representing themselves. But at the end of the day, all I can ask you is, please do not get caught up in all of these numbers and facts that people give you. Just rely on what you hear when you talk to people. When you talk to injured workers—or if you've got two minutes, go and talk to the victims of Chemical Valley about what they're going through. If you can do anything at this committee to get away from this focus on media spin, a focus where we actually have the chair of the board say that the best way to prevent injuries is to run ads—I can give you the quote: "The most effective way"—that's what he said—"is to run ads." What I would suggest to you is, the most effective way you could do this would be to make sure, within the context of the Workers' Compensation Board, that you're doing everything to enforce your ability to make sure employers live up to the laws. If you don't have people living up to the laws, at the end of the day we will increase the amount of injuries, suffering and pain for our workers and their families.

Thank you very much.

The Chair: Thank you very much. We'll begin our rotation with the government. Mr. Racco.

Mr. Racco: Yes, I hear what you're saying. The Premier has never committed to restoring COLA to the injured workers, just for clarification. On the issue of the advertisement, I'll leave it to all of us to make a decision, but certainly we have to do everything possible to prevent people from getting injured. I guess we've got to find the best way to deal with this matter.

My question to you is this. I understand that you receive funding from the WSIB. What do you use these funds for?

Mr. Samuelson: We use funding from the board directly to do training of workers around how to access the system. It's a comprehensive program run out of our office which deals with everything from ensuring that workers have access to basic training—and employers, I would add—in workers' compensation, how to navigate the system, how to deal with the terms. As part of the funding, we actually do an analysis of the impact it has on ensuring that the claims are processed through the system much quicker and more efficiently.

I'd be pleased to have any MPP who wanted to come up and have a look at it and see what we do. I should tell you that we don't have any big, palatial offices. It's pretty crowded and cramped, and people work a lot of hours a day. I think the key to it is that, while we get money from the board, we use literally hundreds of union activists whom we train, who go and then train people in everywhere from church basements to union halls all over the province.

Mr. Racco: The objective being to make sure that we minimize or we eliminate injuries?

Mr. Samuelson: Obviously, the relationship between actually having claims dealt with and their prevention is

clear; employers then make the connection much quicker. But I think it has a lot more to do with ensuring that workers can navigate the system effectively and make the system more efficient so that in the end it costs a lot less money to operate.

Mr. Racco: Okay. Another question, if I may—

Mr. Samuelson: Let me deal with your first question.

Mr. Racco: That was more of a clarification, not a question.

Mr. Samuelson: No, in your first question, did I hear you say that the Premier never said he had a plan for—

Mr. Racco: The Premier has never committed to restoring COLA to injured workers. That is a matter of public record.

Mr. Samuelson: That's in your briefing note?

Mr. Racco: No, that is my understanding.

Mr. Samuelson: Okay; it's wrong.

Mr. Racco: Well, okay. I guess we will—

Mr. Samuelson: He wrote me a letter on June 4, before the election.

Mr. Racco: The other question for you—we can double-check that—

Mr. Samuelson: Yes. I'll send it to you.

Mr. Racco: The question is, why did your organization support the 2005 decision by the board of directors to raise the employers' premium rate?

Mr. Samuelson: Why?

Mr. Racco: I'm not questioning; I'm just asking you. I'm not disagreeing with that. I just want to hear your views on it.

Mr. Samuelson: Because we believe that the administration of the system required the increase in the rates. I would go a step further, to say that I would much rather be supporting an increase for injured workers who can't pay their rent, are visiting food banks and are suffering every single day. But it was pretty simple why: We looked at the finance of the board and it just seemed to make sense and be a responsible thing to do.

But you know what? We could prevent a lot of these increases if we got rid of this experience rating scam that's writing out these million-dollar cheques to these companies.

Mr. Racco: Thank you.

The Chair: We'll move on to Mr. Martiniuk.

Mr. Martiniuk: Thanks, Mr. Samuelson. You can educate me as to this experience rating. I take it it's a type of incentive that would encourage, hopefully, businesses big and small to be concerned—well, I'm sure they're always concerned with their employees and their well-being, but by providing a monetary incentive in addition to that, one would hope that injuries and loss of lives have been prevented. Are you saying that they haven't been, due to these incentives?

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Mr. Samuelson: Yes, I'm saying that the experience rating system is set up where you tell me how many accidents you had and then I decide, based on what you tell me, how much money I'm going to give you back. It's kind of like, Gerry, you're driving from Cambridge.

You jump on the highway and you drive to Toronto. When you get to Toronto, somebody stops you and says, "Did you speed?" and if you say, "No, no, I only went the speed limit," they give you a thousand bucks. What are you going to do? What are most people going to do, even if they did speed? The system is set up to encourage that kind of behaviour.

I'll give you a good example. We all read in the paper this week, under a big headline, that the city of Toronto is in a high-risk category. There are two reasons why the city of Toronto could be in a high-risk category. One reason is because they could have a lot of accidents. The other reason is because they're not only having accidents, but they're actually reporting them all because they have a union there that forces them to report them.

If you haven't talked to injured workers who have been in this situation, I'd be surprised. I worked in a factory. Someone could break their arm and they'd sit them in a corner there for six months if they had to rather than put them off on compensation, because they do the math and at the end of the day it's cheaper. And that happens every single day right across this province, all under the radar. It's all based on a system that rewards employers for doing those kinds of things.

If you're really serious about it, if you wake up tomorrow morning and you really want to make a difference and you want to put incentives in place, you put them in place for proactive measures that will actually make the workplace safer, whether it's return to work or a range of other things.

I'm not trying to be melodramatic here, and what I'm talking to you about are experiences I've had, so I don't put a lot of faith in those people who give me graphs and charts, because they sure don't balance off with what I see.

Mr. Martiniuk: What's a proactive step?

Mr. Samuelson: Well, let's say that if an employer actually has an effective and co-operative return-to-work program, we put some kind of incentive in there. I'm prepared to look at that.

I've got a question for you. Do we even know if anybody who got a rebate under the experience rating system actually has a functioning health and safety committee, has a certified worker? Have we bothered to check? I would argue that if you were to go and check those ones that are high-risk, you may often find in fact bad practices. I'll bet you there are some people who are at the very top of the sphere, and if you went and checked them effectively, you'd probably find they have equally bad practices; they've just found better ways of hiding them.

The world is changing, right? In your community, the workplaces that were there 20 years ago aren't there. There's a constant evolution in where we all work and the kind of work we do, but it's really hard to get the system to respond to those changes and to recognize, especially with a system that's been in place for 20 or 30 years, that it has evolved over time to become increasingly unfair.

Mr. Martiniuk: Thank you.

The Chair: Okay. Any further questions?

Ms. Horwath: Just really quickly, what percentage of the OFL budget is covered by WSIB funding?

Mr. Samuelson: Oh, God, I don't know the percentage. I don't know how much it is—probably 10% or something like that. I don't know.

Ms. Horwath: Okay. And how many members of your board, the OFL kind of executive, are staffers of WSIB?

Mr. Samuelson: My board? None.

Ms. Horwath: Thanks.

The internal responsibility system and how it breaks down, in terms of the comments you were just making on the experience rating process and all of that, makes me really concerned, because when I asked the question specifically of the chair when he was in the seat it made it sound like I was somehow mistaken in asking about certification of workers and trying to relate that to the possibility of using that system to get some more accountability for workplaces, to get more opportunity to actually reduce injuries.

It makes me concerned because I see the board undertaking other initiatives, one of which is piloting in my own community—in the industrial sector, anyway—and that's the early and safe return to work pilot project. I've been talking to my Steelworkers local that is involved in this project. I've also received an initial draft response from ONA and their remarks to the WSIB on their early and safe return to work. There doesn't seem to be a commitment to making sure that there are certified workers who are making sure that workplaces are safe. Then, when we're talking about initiatives like early and safe return to work, it seems to me that there might be another agenda afoot that's not really about safe return to work but rather about reducing costs. I'm wondering if you could comment on that.

Mr. Samuelson: I think this is one area where there actually could be, if we all work on it together, a benefit on both sides because it's obviously in the interest of a worker who has been injured to get back safely to work and there's an obvious interest to the employer. So there are some opportunities. The challenge for us is to be bold, frankly. I would argue that just as we have certified, trained workers to deal with workplace injuries, we should have certified, educated people to deal with return to work. That's part of the work we do with our project. There are some opportunities.

It has been the case, when I worked in a factory, that they would drag people back to work often long before they were ready simply because of the rates. People would re-injure, and there are all kinds of consequences far beyond the monetary consequences on people's lives and their families.

I think the short answer is, there are some opportunities there. There are some mutual benefits. But there are some huge perils for workers if we don't deal with this effectively, and I'm talking about perils that affect their life and their ability to, for example, lift up their

child when they go home at night and all the things that many of us take for granted. I think it's an area where we need to be really concerned as we move forward.

Ms. Horwath: Do I have time for another quick one?

The Chair: A quick question.

Ms. Horwath: You had raised the issue of coverage in the Brock Smith report that was taken off the shelf and brought into light not too long ago. What's your understanding of the industries or the areas of the economy that are currently not covered by the WSIB, and what would you think would be the reason for the government to be resistant to expanding coverage to those industries?

Mr. Samuelson: First of all, let me explain why. When the act was put in place in 1915, many industries that exist today didn't exist then; therefore, they're not included in the act, so as a result they're exempt. As well, there are corporations that fall under federal jurisdiction which aren't covered, so it covers everything from private schools to banks to insurance companies.

In light of, as I said, the very comprehensive study done by the Conservative government and the report that was prepared by Brock Smith, it makes a pretty compelling argument for why we should have coverage. I think the only reason that we don't have the coverage is because the government of the day doesn't have the guts to stand up to that small group of employers that don't want to fall under the act.

I've got to tell you, if you're really concerned about prevention and you're really concerned about return to work and the role that the board plays, then you should make sure that every worker has access to it, not just those who happened to fall into some slot in 1915.

The Chair: Thank you very much for coming here today. We appreciate the opportunity—

Mr. Samuelson: It's been my pleasure. I was really excited. I'm disappointed Mr. O'Toole isn't here because he provides some real energy and excitement to the committee. To tell you the truth, if I'd known he wasn't going to be here, I probably would have passed on the opportunity to speak to you.

The Chair: Thank you very much.

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CANADIAN MANUFACTURERS AND EXPORTERS, ONTARIO DIVISION

The Chair: I would like to now call on Ian Howcroft, the vice-president of the Ontario division of Canadian Manufacturers and Exporters.

Good afternoon, and welcome to the committee. We have 30 minutes, and you may wish to divide the time. Whatever time is left over will be divided amongst the three caucuses.

Mr. Ian Howcroft: Thank you very much, Chair and members of the committee. We're very pleased to be here. My name is Ian Howcroft. I'm vice-president of the Ontario division of the Canadian Manufacturers and Exporters. With me is Maria Marchese, who is CME

Ontario division's workers' compensation and health and safety policy director.

We'd like to thank the standing committee on government agencies for this opportunity to provide input in your evaluation of the operation and performance of the Workplace Safety and Insurance Board. Before I talk about the substantive issues, I think it's important to highlight a few things about CME and about manufacturing in Ontario.

Canadian Manufacturers and Exporters is the voice of the manufacturing and exporting community in Ontario. Our member companies produce about 75% of the province's manufactured output and are responsible for about 90% of the province's exports. CME represents a broad variety of industry sectors including automotive, plastics, steel, pharma, food, resource-based and high-tech industries. It's important to note that a significant portion, about 85%, of our members are small and medium-sized enterprises. Consequently, CME is well equipped to represent the voice of manufacturers and exporters here in Ontario.

Manufacturing comprises about 20% of the province's gross domestic product and contributes approximately \$300 billion to the province's economy. Further, the manufacturing sector provides employment to over one million Ontarians directly, and a little-known fact is that almost two million more Ontarians have jobs that are indirectly dependent on manufacturing.

We've all read the stories in the paper and heard the news on the radio and on television concerning the challenges facing manufacturers. Over the last two years, in Ontario, we've lost over 100,000 of those highly coveted, well-paid manufacturing jobs and we've experienced about 300 plant closures. Increasing competition, the high dollar, skill shortages and rising input costs have all contributed to the challenges that we face.

CME has been a long-standing participant in the debate and discussions surrounding workers' compensation and the workers' compensation system. In fact back in 1914, CME—we were known then as the Canadian Manufacturers' Association—participated in and provided input to Mr. Justice Meredith as he designed Canada's first workers' compensation system.

At the agency and government levels, CME has participated in many standing committee presentations, task forces and royal commission initiatives involving the workers' compensation system. Workers' compensation remains a top-priority issue for our members. In fact, we have two committees dedicated to these issues: our workers' compensation committee and our occupational health and safety committee.

With respect to the issue of the operation and performance of the WSIB, we wish to begin by saying that we're very pleased that the position of the chair was filled last spring with the appointment of Mr. Steve Mahoney. Mr. Mahoney has made great strides in improving communication with the employer stakeholder community. CME has always had access to the senior levels of the WSIB, but with the chair's appointment,

we've been able to build on this access. The issues of access and communication are crucial.

The most important and financially significant decisions about the system are made at the senior management levels, and it is vital that this group is aware of the significant impact which their decisions have on the employers and, ultimately, the economy of Ontario. CME recognizes that significant resources and time commitments go into granting access to senior management and that the effort is appreciated. I should note that CME did make a presentation to WSIB's senior management, team year that dealt with our 2020 initiative, the future of manufacturing. We're very concerned with these challenges, and over the last couple of years we have been very involved in soliciting input from our members. We've called that initiative Manufacturing 2020: What do we have to do now to ensure that we have a vibrant, growing manufacturing base in Ontario in the year 2020?

We thought it would be very useful for the WSIB to hopefully better understand one of their major client bases, and we're very pleased with the opportunity to present to them. Notwithstanding this accessibility and the communications at the senior levels, there seems to be at times a disconnect which prevents our message from resonating down to all levels within the WSIB. I'll discuss this in a few minutes.

Last year, Mr. Mahoney announced that the average premium rate for 2007 would remain unchanged from its 2006 levels. We view this as an acknowledgement that there were inconsistencies between the increasing WSIB premium rates in previous years and the successes that had been achieved by employers in improved health and safety in their workplaces, which had been evidenced by an ongoing decline in lost-time injury rates.

We're also pleased to hear that Mr. Mahoney has indicated that another freeze is even possible for 2008.

We feel, however, that there are a number of areas where progress is still needed. Communication problems continue to plague us, both as an association and our members specifically. First, our members continue to list lack of communication from the board regarding the adjudication and management of their lost-time claims as their number one service delivery issue. Whether it's finding out about the status of a new claim and why it would have been allowed or learning about labour market re-entry programs which their workers have been approved for without their knowledge or input, it's of great concern. Lack of communication continues to exist for some of our members.

Employers have a right to know about any and all decisions made and claims that they are both individually and collectively liable for. This would not, however, appear to be a value held by some of the decision-makers. As a consumer, it is their right to know and not a privilege which the WSIB grants or withholds. We believe that for communication to improve, there must be more accountability expected from those decision-makers.

The implementation of service delivery expectations is a first step to improving communication. Decision-

makers must be accountable for ensuring that service delivery expectations are met.

As an association, we are also disappointed with the lack of communication as to policy initiatives, program changes, pilot projects undertaken, or other board-initiated reviews either under way, being considered or already approved for implementation in many cases. We have recently had the situation where we learned about a pilot project of potentially significant financial importance through a member of ours who was apparently involved in the pilot but had no idea of the pilot's existence or details. In this instance, the WSIB confirmed that they had provided no communication with the employer association, other than to one government agency.

At one time, the WSIB had a consultation advisory group which consisted of employer associations and worker representatives. The WSIB has not reconvened that group in over three years, despite our requests to do so. Today, only major policy initiatives are communicated at any great length with employer associations.

CME recommends the immediate re-establishment of a vehicle to update employer stakeholders on all of its initiatives and advise how employer participation can occur.

We are also of the view that improvements are necessary from the perspective of financial responsibility and accountability. CME has been a long-standing advocate of a legislative requirement that all WSIB initiatives be costed out to understand the full import and impact that they will have on the system. In fact, we feel that our position is enshrined in the purpose clause of the WSIB act. Section 1 states that the purpose of the act "is to accomplish the following in a financially responsible and accountable manner..."

Again, we feel that section 161, particularly subsection (2), suggests a strong and clear obligation to cost out new programs. Subsection (1) directly incorporates the purpose clause into a board function; that is, to perform its operational functions in a financially responsible and accountable way. The duties of the board are clearly spelled out under subsection (2), where it states:

"Duty to evaluate proposed changes

"(2) The board shall evaluate the consequences of any proposed change in benefits, services, programs and policies to ensure that the purposes of this act are achieved."

Despite this legislative requirement, we continue to see initiatives, pilots and proposed policies come through without any indication as to the cost of what these proposed changes will be or the impact that they'll have on the system.

The most recent consultations on early and safe return to work are an example of this failure in the system. CME had been asking for a costing of the proposed policy since the consultation began about two years ago. To date, the consultation period ended in February, and no costing details have been provided. Costing data is vital as cost impacts employers directly in the premiums which they pay and through their experience rating

adjustments and indirectly through their collective liability responsibilities, as that shows up in the unfunded liability.

Transparency in the financial details is also vital, but it too is absent from the discussions. We believe that the employers who fund the system have a right to know how proposed or already implemented changes will impact them financially.

We recommend that the WSIB provide cost estimates for all policy programs, pilots and any other changes being recommended or considered. This information should be made available at the time the proposed changes are tabled for discussion and for consultation. No policy or program changes should be approved or moved forward without this information.

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Experience rating has been a long-standing system enshrined in legislation as a program of the WSIB. However, changes to the program have continually contributed to the financial erosion of the plan as a merit program, and hence the impact it can have to improve health and safety. At one time, the WSIB sought the advice of its experience rating working group prior to implementing any changes. That group, in our view, has become disbanded. The WSIB may not have formally disbanded this group, but in reality it has not been called or met in about three years. From a communication perspective, we believe the WSIB and employers would be better served to have us at the table to discuss these proposed changes. We would like to stress our continued support for experience rating and for the safety group program that exists at the WSIB. Safety groups is one of the most successful programs that we've seen, and we feel it still has a great deal of potential to improve health and safety throughout the province of Ontario.

We also believe that the WSIB must begin to make better use of technology. Although electronic mail has become the norm for business, the WSIB has not seemed to follow suit. Mail and faxes are the main communication vehicles used. We believe the WSIB must move forward to keep pace with businesses in the manner in which it communicates with its clients.

Also vital for the workplace compensation system is the better collection and analysis of the vast amounts of data that exist. CME finds as a source of unlimited frustration the extent to which information which we believe should have been collected is, unfortunately, not collected. Early and safe return to work is an example of data which should be collected and either is not collected or will not be realized in details required by the employer community.

The last point we'd like to comment on is that of revenue leakage. The WSIB has been grappling with options for dealing with revenue leakage for a long time, particularly in the construction industry. CME supported the Council of Ontario Construction Associations' proposal of a named insured system. Action on this item has been slow in coming, but we again think there is a great deal of potential. We urge the government and the WSIB

to move forward on this proposal and begin to take steps to ensure that all employers who are required to contribute to the workplace compensation system do so. It's unfair to those who are paying their fair share to have others not pay.

There are a good many people at WSIB, and we want to reiterate our desire to work with them to improve the system in a positive and constructive way. The WSIB, like Ontario manufacturers, faces many challenges, but that's the nature of doing business in 2007. We won't be judged on the magnitude of the challenges that we face, but rather on the implementation of the solutions to deal with those challenges.

Maria Marchese and I would be pleased to answer any questions or hear any comments that anyone on the committee has. Again, thank you for the opportunity.

The Chair: Thank you very much. We'll go now to Ms. Scott.

Ms. Scott: Thank you for your presentation here today. You've brought up a lot of topics. A good reason why we're here and reviewing the WSIB agency is to see how we can make it better and to get inputs more on record, for us to have the opportunity to be more educated on the process.

The last point that you did make, the proposal for a named insured system: I wonder if you could expand a little bit, within the time frame we have, about what types of steps you would like to see brought forward with that.

Mr. Howcroft: I'll ask Maria to provide some more details, but right now, employers pay their workers' compensation premiums on their payroll. There's no list of who actually is covered. There was an initiative by the Ministry of Labour last year to deal with some of those people who are independent operators or who claim to be independent operators and should actually be covered by the system. A named insured system would be one way of dealing with that. You would know who premiums are being paid for and who should be covered under the system. All private insurance companies would have named insureds. They wouldn't be insuring just a global bloc of workers or individuals who may come forward with a claim at some point in the future. That potential or possibility, inevitability, exists right now because of the current system—again, particularly in the construction industry—and there has been a lot of debate and examination of how to deal with that. There was a proposal by the ministry to look at including under coverage those who are considered independent operators who are in fact employees.

Maria, is there anything you want to add on that?

Ms. Maria Marchese: Just that, since a lot of employers already have a process in place for dealing with extended health care, it would be something that would be doable.

Ms. Scott: With the early and safe return to work, there seems to be a lot of data collection, but, as you say, it doesn't seem to be—the information isn't deciphered as to what are the stats on early and safe return to work. I have a lot of people in the riding who just can't seem to

find the right job to go back to. Do you have any further explanation or initiative that you'd like to see there?

Ms. Marchese: From the perspective of data collection, the WSIB collects an awful lot of data, but it isn't data that we can use as an employer community. What we think would be useful would be for them to sit down with us and say, "What are your needs, particularly in the return to work?" The WSIB just finished up their consultation on early and safe return to work in February. It's a consultation that began more than two years ago, actually. One of the things we found missing from the document beginning two years ago and the current document was the research really in support of the proposed changes.

Ms. Scott: Can you give me an example of a proposed change?

Ms. Marchese: Policy deals with a number of changes.

Ms. Scott: Okay, there's nothing specific, then.

Ms. Marchese: There are a number of changes that the policy paper goes through as far as how to amend policies to what the board says improves their return-to-work process.

Ms. Scott: You were saying that you'd like to see more of a consultative process exist within the industry—CME and everyone involved—about the costing that would occur. Can you name a pilot project that maybe has been done that you would have liked to see? Can you give me an example?

Mr. Howcroft: I think we'd like to see all pilot programs and all initiatives costed to find out what that impact would be. It would be part of the consultation process. The WSIB, when it does consultations on initiatives, would often provide some background information or a discussion paper to start the consultation. We think it's essential, as part of that, that there be some cost and financial information, to know what that impact will be, to allow the board and the employers to provide input to them in making that decision.

Ms. Scott: So who would, say, project the costs?

Ms. Marchese: That would be the WSIB, and that would be what we see as part of the process when they develop a paper for consultation. At the very least, when it goes to the board of directors, I would expect that the board of directors would be asking for that same information. So at some point it should be released, and we're saying that we'd like to see it when the paper comes out for discussion to begin with so we can also have input as to the cost side of this.

Ms. Scott: So you take their numbers to start with and just do a comparative—

Ms. Marchese: Well, to have, in fact—

Ms. Scott: Feedback. Okay. I appreciate that. It sounds like a good initiative that would be certainly clear on both sides and could be moved forward on. Those are all the questions I have.

The Chair: We'll go to Ms. Horwath.

Ms. Horwath: Just kind of following in the same vein in terms of costing things out, has the Canadian Manu-

facturers and Exporters organization done any studies and costing out of what kinds of cost threats you would have if there was no WSIB system? For example, have you done any studies yourselves or are you aware of any studies that would indicate what cost impacts the manufacturing sector would have if there was no insurance system like the WSIB in terms of private suits?

Mr. Howcroft: We haven't done any costing of that. As I mentioned, we were involved in this back in 1914, and we continue to support a publicly funded workers' compensation system. We think that is the best way to go, particularly since there is a \$7-billion to \$8-billion unfunded liability in existence. What we want to do is make changes to support the retirement of that debt by 2014. We have members who have operations in other jurisdictions in the United States, and the input and feedback we get is that the Canadian system, notwithstanding some of the challenges, is still a better way to go, a better process to have, than being subject to a partial public system and a private system and subject to lawsuits and uncertainties as to what those costs would be. So, notwithstanding the challenges and frustrations that we feel, we are still supporting a publicly funded workers' compensation system.

Ms. Horwath: Okay, that's great. Can I just ask you if you are aware of any studies that indicate that there is a significant number of injuries that go unreported in Canada? There was one study recently published that indicated that 40% to 50% of work-related injuries in Canada go unreported. I'm wondering if you've got any awareness of that or if you could provide any understanding to me from a manufacturer's perspective, or from the perspective of an organization that has manufacturers as members, what the disincentive would be to report accidents? Why would there be so many accidents in the workplace that would go unreported?

Mr. Howcroft: Our view is that we don't think there are that many that go unreported. I'm not familiar with the study that you have. Mainly when I've heard of that, I've just heard of allegations and claims that there are a lot of unreported incidents or accidents. I missed the former presentation by the OFL, but I've heard them often say that experience rating is an incentive for employers to hide claims. That has not been our case; that has not been our experience. Anybody who's hiding claims or not reporting as they should be subject to the penalty provisions of the act. We take our role very seriously, educate our members as to what the requirements are and provide them assistance. We want them to report everything that they should be reporting. Our goal is to help them eliminate the accidents so that they don't have to report an accident because there wasn't one, not because they're trying to hide something.

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Ms. Horwath: You mentioned in your report, on page 3, that there is a significant project that you had not been consulted on, but you don't name what that pilot project was. You said it suddenly became clear because one of your members actually indicated that they were part of

that pilot project without even really knowing very much about it.

Ms. Marchese: It's the pilot project that the board is conducting in the Hamilton area on the non-economic loss, the permanent impairment project.

Mr. Howcroft: We found out about that because a member contacted us to inquire about it. We weren't aware of it and had to look into it to find out the details.

Ms. Horwath: Sure. You talked a little bit at the end of your presentation about the concern about making sure that all employers who are currently required to contribute actually do. Do you have an opinion about the expansion of coverage to all employers in the province of Ontario? There are currently many workplaces that are not covered by WSIB. You might not have been here, but the chair indicated earlier today that the board certainly supports the idea of having all employers, all workplaces and therefore all workers covered by WSIB. Have you considered that issue at all? Do you know anything about that? Would you be supportive of having that complete coverage?

Mr. Howcroft: We looked at this a few years ago when the ministry was conducting one of its initiatives on coverage. At the time, we thought, where appropriate, more workers should be covered. But in our view, it didn't necessarily make sense just to cover everybody at large. If they were already receiving insurance coverage that was at a similar level to what the WSIB would provide, and they could prove that demonstrably, then we didn't necessarily support the expanse of the coverage. Maria, do you—

Ms. Marchese: No. That was it.

Mr. Howcroft: That's still our position. So we haven't supported blanket coverage for everybody, but there are certain industries, certain positions and certain workers who we know are not covered. It makes no sense that they aren't covered, and they should be covered.

Ms. Horwath: Like those in construction?

Mr. Howcroft: Well, yes. If you are a worker in construction, not an employer, a true independent operator, then you should be covered. But there are other anomalies too, because the jobs that didn't exist back in 1914 aren't covered now, and they would have been had that job existed in 1914. It makes sense to cover them.

We weren't convinced at the time that the banks needed to be covered, because they were providing coverage. If the banks could demonstrate that they were providing that similar level of coverage, then we said there was no need to cover them. But that's up to the banks to be able to show, which they were doing at that time.

Ms. Horwath: Thank you.

The Chair: We'll move on to Mr. Milloy.

Mr. Milloy: Thank you very much for the presentation. We actually had a chance to talk last week when Mr. Mahoney spoke to your organization in my community.

I just wanted to start with a somewhat simple question. As a group that represents a large segment of the em-

ployer community, what are the thoughts of your membership, your association, on the issue of benefits that are paid to workers? You've heard today a number of presentations. Mr. Samuelson just spoke about a cost-of-living increase or increasing the benefits. I'm just curious what the employer side of the equation's position is.

Mr. Howcroft: We think the system should be providing a fair level of benefits for workers, but we also think that the system does provide a fair level for most workers. There are probably some anomalies or situations where a worker doesn't get the benefit that they should, and we should be able to have that addressed. But just increasing the benefits up to, say, 90% of net, where it was before—we saw many cases where people were actually earning more money to stay home, off employment, because they were getting more money from the workers' compensation system. You shouldn't be getting more to stay home. But we support a fair compensation system. The last time that we looked at this and discussed this, we felt the current levels did provide that.

Mr. Milloy: Okay. We only have a second so I'm going to jump around to other subjects. As we heard from the chair this morning, as well as its role as an insurance provider, the WSIB also works, in terms of health and safety, with employers such as the ones you represent. What's been the sense in the last few years of their success in helping you as an organization bring down the accident rates?

Mr. Howcroft: I think we've seen a lot of success in the accident frequency rates in the province. Over the last 10 years we've seen a dramatic decline in frequency. We agree that the board should have a prevention focus to eliminate accidents in the first instance. So we support that. We've partnered with the WSIB in a variety of initiatives to try to help realize that. There are probably some improvements that could be made to better coordinate and streamline some of the activities that do take place in prevention to better delineate the roles and responsibilities among some of the players in the system, and we'll continue to advocate for that.

We also are aware that notwithstanding the decrease in accident frequency, there are still a lot of fatalities that have taken place, which we have to continue to keep our eye on and focus on and improve. So we've seen successes. We agree with the board we need to focus on prevention, but we also recognize there's a lot more that still has to be done.

Mr. Milloy: And as an organization, you're involved with health and safety campaigns independent of the WSIB, are you not?

Mr. Howcroft: We have our workers comp and health and safety committees. We use them to promote to our members. We have our communications vehicles. We work with health and safety associations, particularly the IAPA, to promote improvement of health and safety. We have, with our partner the Employers' Advocacy Council, a safety group that we promote, as I mentioned, as one of the best programs the WSIB has to deal with prevention. So we're doing a lot of things on our own, but

we're also thinking and recognizing that a lot more can be done by identifying strategic partners with particular goals to move forward more expeditiously than one can do on one's own.

Mr. Milloy: Do I have time for one more?

The Chair: One more.

Mr. Milloy: Finally, just as I said, we had a chance to meet last Friday with the chair, and you began in your remarks by talking a little bit about the relationship. Are you feeling that you're being heard by Mr. Mahoney and the senior staff? I realize there's still work to be done, but the relationship is one that's developing in a positive way?

Mr. Howcroft: I think it is developing in a positive way. As I said in my presentation, we've never really had a challenge in getting access to the WSIB. We've had a good dialogue at the top levels. However, when it comes to actioning some of the points that we think need to be actioned or implemented throughout the WSIB, we feel that is the part of communication that needs further consideration and further improvement. So far, we've been pleased with the new chair's approach to that and we look forward to strengthening the communications that we have and building on some of the successes we've had in dealing with the ongoing challenges that we identified in our paper.

The Chair: Thank you very much. We've run out of time but we do appreciate your being here today and adding to the discussion.

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

The Chair: I would like to now call on the Canadian Federation of Independent Business, represented by the vice-president, Ontario, Judith Andrew, and Satinder Chera, the director of provincial affairs.

Just before you begin, I want to mention to those present that if they were aware of the appearance of a number of people for a very brief moment, I'd just like to let you know that was the research team on standing orders from the Cayman Islands Legislative Assembly. I was hoping to introduce them, but they have already left. I did want you to know that we are being visited by members of the Cayman Islands Legislative Assembly.

Welcome to the committee. We do appreciate your being here. As you know, you have 30 minutes in which to present. Allow time for questions, if you so wish.

1400

Ms. Judith Andrew: Thank you, Chair. We appreciate the kind welcome. I'm Judith Andrew. I'm vice-president, Ontario, with the Canadian Federation of Independent Business. I'm joined by my colleague Satinder Chera, who is CFIB's Ontario director.

You should have kits before you. We've brought quite a lot of information, all of which we won't be able to touch on today, but we'll try to give you a bit of a glimpse of it. We also have a slide deck to go through. I guess maybe we'll refer to the other kit items as we go.

Our presentation is entitled Rating the WSIB, but we could not come here without also addressing what we think would be the next big breakthrough in workplace safety. Our information is based on our surveys and communications with our members. It is very data-oriented. We think this is actually a very good way of getting the views of small and medium-sized business forward to the Legislatures. So our agenda today is to convey their views, talk about the breakthrough and then give you some of our recommendations.

Turning to the slide that deals with CFIB's Ontario member profile, just to give you a sense of the breadth of the economy that the Canadian Federation of Independent Business represents: Of course, small and medium-sized enterprises represent in numbers 98.5% of all businesses. They represent more than half of the jobs in the economy, nearly half of the gross domestic product in the economy, so they're a pretty important part of Ontario's prosperity. Our own organization is a non-profit, non-partisan political action organization. We advocate and give small business a big voice. Here in Ontario we are proud to represent 42,000 small and medium-sized enterprises.

The next chart is, by way of introduction, the ranking, or where the WSIB fits in terms of our members' priorities. You will see that WSIB is indicated as an important issue to small and medium-sized businesses by 43% of our members. This is a survey that's conducted in person, face to face, with our members at their business premises, so in effect it's more of a census than a survey, and there are thousands and thousands of respondents to this. I guess what is important here is that if four in 10 small businesses are saying that this is an important issue to their businesses—and for most of them, their only engagement with the WSIB is to send them premiums—this is something that bears examination by the committee.

Turning to the next slide, we recently posed to our members a question dealing with value for money for the premiums that our members pay. We asked them, "How satisfied are you with the insurance protection and the other services you receive from the WSIB for the premiums you pay?" Unhappily, over half of the small firms are dissatisfied with the value for money, so that is clearly a challenge. They're paying a lot of premiums and are not really happy.

The next slide shows a study that we did dealing with regulatory burden. This was a national study. It's entitled Rated R: Prosperity Restricted by Red Tape. A copy of that study is in your kit. The overall finding was that in the province of Ontario regulation costs small and medium-sized business close to \$13 billion. Regrettably, workers' compensation is at the top of the list in terms of burdensome provincial regulations, with 60% of respondents indicating WSIB as a regulatory challenge for them. So it's both a taxation issue for our members and a regulatory challenge.

I'll just turn to Satinder for some words on experience rating.

Mr. Satinder Chera: Thanks, Judith.

The next slide: We asked our members to rate the experience rating programs that are provided by the WSIB. Generally speaking, our members were somewhat happy with the way those programs are run. We think that experience rating is actually an important program, an important piece of the puzzle, because really, when you see accident rates that have been going down over many years, and then an employer sees his or her premiums going up for whatever reason, they need some hope within the system. This program acknowledges the fact that employers are doing a good job of bringing down their lost-time injury rates.

The board has claimed in the past that there are more rebates going out than surcharges, which essentially means that employers are doing a pretty good job of bringing down lost-time injury rates. In other words, the board is issuing more rebates than surcharges because, again, employers' lost-time injury rates are going down, so as a result they're getting more money back into their pockets.

The next slide: We talk a bit about small firms pointing to mismanagement as one of the reasons for the board's funding problems. I should say that this survey was done in 2005 when the board was conducting hearings or consultations with employers on their funding plan. We asked our members to rate what they thought were the main challenges. The board indicated that there were some significant problems within the funding program and that, in fact, we needed to revamp it. I know that earlier the chair mentioned that he doesn't think there's much abuse in the system, but when we've asked our members, worker abuse of benefits and/or return-to-work programs have been rated pretty high. Poor management at the WSIB and WSIB administrative costs have also rated fairly high when our members have been asked what they think are the main problems at the board.

The next slide, "The 2004 audit was scathing": Premier McGuinty made a commitment to our members in the last election to hold an independent audit of the board, and those are some of the findings that the auditors found. We have been told that follow-up audits have showed marked improvements over that initial audit. The funny thing, though, is that we're having some difficulty trying to find where those follow-up audits are. Perusing through the Ministry of Labour website or the WSIB website, you're pretty hard-pressed to find that document anywhere.

The next slide, "Example of failure to manage costs": We think that there are a lot of inherent problems within the board's programs that really need to be addressed. In 1999, the WSIB implemented a new health care model. It was designed to address health care costs but also to effectively address the injuries that workers had sustained in the workplace. We have been asking, year after year, for an analysis of that model to show what impact that model had, not just on returning workers to their place of employment much more quickly, but also in terms of managing costs effectively. We have not been able to get that type of analysis from the board. We have been

asking for many, many years now, and we've not been able to get our hands on that.

To reduce the possibility of abuse in the system, we have advocated for a good 20 years now—my colleague Judith Andrew has—that we think a way at the cheating or at the underground economy is to bring in a named-insured approach: to track those who are registered and those who are not. It's interesting to note, however, that the WSIB and successive governments have tried instead to get their hands on more revenues from independent operators, owners, officers and directors of companies.

The next slide, "Example of high administrative costs": When we asked our members, "Should WSIB employee salaries lead, follow or equal a fair comparison of match occupations in the private sector?", 62% believed that it should be equal. In 2005, 162 employees at the WSIB were making over \$100,000 and, according to the board's own 2005 annual report, there was a \$612-million deficit in their pension and medical benefits. We know from recent studies we've done that public sector employers pay much more generous benefits than those that are found in the private sector. Incidentally, the private sector is the one that helps to fund, through its tax dollars, the public sector pensions.

The next slide, "Small firms rate WSIB funding principles": Again, when the board initiated their discussions on the funding formula, we took those different elements that they had put out for consultations and we put them to our members. Our members rated, again, fiscal prudence and accountability at the very top; minimizing system costs—I'll come back to that in a second; stable and predictable premium rates; and equity among employers.

The next slide, "A word about the funding framework": It's interesting to note that over the years when we've been serving our members, the principle of collective no-fault compensation in exchange for immunity from negligence lawsuits is deemed to garner lower and lower support. Again, we think that that is a direct result of the frustration that small business owners are faced with when they have ever had to deal with the WSIB. I'll get to that in a second.

"Minimizing system costs": That wasn't even a part of the board's 2005 funding framework, even though we provided them the results of our members' survey data well before they made a final decision on that. We found it quite surprising that the idea of minimizing system costs wouldn't be in there—very significant, we think, particularly when you consider that the board's own funding framework document acknowledges that health care costs and occupational disease claims are likely to change. All they know for sure is that costs are likely to go up even further.

1410

The next slide, "Should the Ontario government allow businesses to provide workers' compensation insurance coverage through private insurance firms?": When we asked our members this some years ago, 75% said yes; again, a direct link to the frustration that they've been

having with the board and the continuing decline of the collective no-fault compensation principle.

The next slide talks about, "Should 'ordinary diseases of life' be excluded from eligibility for workers' compensation claims?": Again, 77% say yes. In the past, we've made it very clear that no one disputes the fact that you do have to provide compensation to those who incur legitimate diseases on the job. The question is, how do you do that? One of the alternatives that we've put on the table is that perhaps this should be covered by the provincial government.

The next slide, "WSIB unfunded liability": This morning we heard that although the board is still committed to the 2014 target, that very much depends upon costs and whether or not they go up even further. It's quite frustrating to hear, especially when the board, in 2005, said that they needed a 3% increase in order to deal with the unfunded liability. What happened to that 3% increase? What did they do with that money? I think that's an important question to ask.

The next slide, "Minimizing undue costs would help with the unfunded liability": The WSIB acknowledged, when they had the round table with employers back in 2005, that there were certain amendments to Bill 99 that had resulted in unforeseen costs in the millions of dollars. The chair this morning mentioned that the WSIB and executive are not lawmakers; in fact, they're just there to administer the program. But surely, if the system is broken, you would think that those who are administering the system would recommend to the government that, "Yes, changes need to be made. You are in the best position to make them, so please do so."

With that, I'm going to hand it back to Judith for our final remarks.

Ms. Andrew: The next chart shows data from the WSIB and Ministry of Labour dealing with the lost-time injury rate. We haven't been able to bring it right up to date, but it shows, over quite a long period of time, a pretty substantial and commendable decrease in the lost-time injury rate in Ontario. We're down around—two per hundred is what it should be, which is actually significantly different, I think, on average, than what the city of Toronto seems to be showing these days. Their accident rate is up near 4%. Businesses, overall, in Ontario are doing quite well.

We've done studies amongst our members about what the challenges and opportunities are on health and safety. Our members attribute the reduction in lost-time injury rates to generally businesses doing a better job of overall quality performance. There's a variety of other reasons there, but businesses really have been focused on this.

The next slide shows a rather perplexed person looking at the health and safety system in Ontario. It's a bit of a constellation out there. There are so many organizations and agencies involved and, for the most part, payroll taxes collected through the WSIB pay for all of this. There are so many initiatives on health and safety, generally uncoordinated, and the business owners are certainly challenged both in paying for them and having access to them.

We asked, at one point a few years ago: “Should the WSIB monies be used to fund outside organizations?” I should say, for your information, that all of these mandate questions of our members and their text in detail are enclosed in your kits. On this particular question, it explained all the different things that WSIB monies are used for. At the time, apart from funding all the safety associations, which actually are under the wing of the WSIB and not a separate stakeholder, there was money being given to run the Ministry of Labour’s own occupational health and safety branch. So everybody has their hands in the cookie jar. Money is used to run government and money is used to run the various appeal tribunals and advisory offices. The WSIB gives research money to the Institute for Work and Health. Through the Office of the Worker Adviser at that time, money was being given to the Ontario Federation of Labour, the provincial building construction trades councils and various networks of injured workers’ groups. There’s a lot of money that’s collected in premiums that, in our view, should be used for the WSIB’s own purposes. It’s given elsewhere. Most of our members don’t support that.

The next slide gets into what the next big breakthrough in occupational health and safety would look like in Ontario. For this purpose, we broke it up into employee numbers. By way of background, it’s worth recalling that three quarters of all businesses in this province have fewer than five employees, so they’re not large enterprises. The current performance for that size of business would actually have an expected injury frequency of one lost-time injury every 10 years. If we were to look for the next big breakthrough and try to get another 50% drop in accident frequency, we’d be talking about a performance level that would be one lost-time injury every 20 years. Of course, in a bigger firm it’s far more predictable than that. You can see the feedback cycle. I’m turning to the next slide now. But for small business, the notion of reducing the frequency of a one-every-10-years event: You’re asking individual firms to try various strategies, but really the feedback cycle is too long.

Nevertheless, we think that small firms need job-specific information about safety conditions and practices necessary to achieve the breakthrough. They probably don’t need a whole lot of general training like the certification training for safety reps and so forth. It’s quite general; it’s not job-specific, helpful information that would help them eliminate hazards and deal with their workplaces.

We also think that the job-specific information they’re provided with, because they’re making an investment that may pay off only in the next 10 years, has to be proven with highly scientific research. I don’t think anyone has actually proven that having a company policy and program actually improves the safety performance of small firms. It’s a big part of the regulatory requirement, but does it actually improve performance? What does? We also don’t think that advertising campaigns do. They need information on what the hazards are and how to

correct them because the people they work with, shoulder to shoulder, and their own families and so forth don’t want to be exposed to those either.

What small firms don’t need are thousands of uncoordinated employees working for different agencies that employer premiums pay for that actually offer little or no meaningful help to small businesses. They also don’t need punitive approaches like the Last Chance or High Risk initiative or the Workwell program. The Workwell program: There’s correspondence in your kits—we wrote about it at the time—that suggests that over a 10-year period, they touched 2,860 firms out of over 300,000 firms in the province. They touched very few firms. They essentially are seen as an organization that is marauding around, attempting to find and penalize employers without actually helping them. Small businesses need help; they need job-specific, firm-centred help, not a whole lot of agencies.

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We can just quickly go to the recommendations. On the financial front, we would argue that the WSIB needs to be placed on a more solid footing and that the government should direct the WSIB to adopt a multi-year plan to reduce average premium rates starting in 2007-08. The analysis of the WSIB’s own actuaries cast a lot of doubt about whether last year’s 3% increase was actually needed. I was distressed to hear the chair this morning talk about either extending the unfunded liability date again or—it’s just disturbing, because when that plan was set up, and we were there for the establishment of the 30-year plan to 2014, employers took three years of 15% increases. Then they accepted three years of 10% increases to actually deal with the unfunded liability and put workers’ benefits on a secure footing for the future. The role the WSIB had to play was to live up to that plan, and it is distressing to see that after coming through with another increase last year, they’re now talking about sliding the deadline a little bit. We certainly don’t want to see any more increases. In fact, we don’t think last year’s was warranted. There also should be no need to ease the 2014 date.

A number of recommendations here deal with making public that plan, also dealing with flaws within the legislation, where the costs are coming in a whole lot larger than was estimated. Those should be matters of study and scrutiny and release that information. There doesn’t seem to be any real analysis being done that’s brought forward to groups like ours and others that would look at that and advise.

We think they need to deal with cheating in the system by implementing a named insured system rather than continually trying to enlarge their monopoly system. We think they need to follow through on encouraging acknowledgement of small business needs in early and safe return to work by working with small business organizations to develop workable policies.

Finally, on the health and safety front, we think the Ontario government and its agencies involved in workplace health and safety—and there are many of them—

have to make compliance assistance to small firms the centrepiece of the action plan. There really needs to be a forum to bring all those groups together and figure this out because there are just too many initiatives going on. They need to take a fresh and comprehensive look at how we're running health and safety in order to better serve the sector that is the majority in terms of numbers and jobs in the province.

Satinder and I would be pleased to try to answer your questions.

The Chair: We have a very brief time left to have those questions posed. We'll start with the NDP, and I would ask you to be brief. We've got about two minutes each.

Ms. Horwath: Okay. My first question is on page 11 of your slide presentation. The second chart you have there indicates a number of different sizes of firms. Could you tell me, when you surveyed your firms of between 25 and 100 employees, how many of them have joint health and safety committees operating with a certified employee rep on them?

Ms. Andrew: We haven't done that. There is a health and safety study, but it talks more about what information they need, how they need to receive it and so forth. We're aware that that's a legal requirement. That's information we convey to our members. I'm assuming they would have it.

Ms. Horwath: I ask you because I think it's interesting to see that there were a couple of significant areas where both you and the representative from the Ontario Federation of Labour agreed, which is on the reduction of injuries. In fact, even the chair agreed with that earlier today, as well as the fact that investing in advertising really isn't the way to get there. So it probably would be useful and helpful to get an understanding of what percentage of your member organizations actually have a functioning joint health and safety committee with trained staff, because it seems to me that's one of the things that's been identified as a way to begin the process of reducing injuries on the job.

Ms. Andrew: Actually, our point was that it's not clear that having a policy and a program and committees is necessarily the way to reduce injuries on the job, or it may be the way in certain sizes of companies but not others. Most of these regulatory initiatives that are heavy in cost and aggravation and difficult to enforce have really never been proven to be the things that actually work to reduce injuries.

Our contention is that small firms need job-specific information that can actually, in a very practical way, help them eliminate accidents in the workplace. They don't need a whole bunch of paperwork or a binder or somebody, the inspector. Although there have been many more inspectors and so forth, there's no hope of those people ever getting around to the 300,000 firms in the province. So the people they do manage to get to, they're winning the lottery for losers, really. They're being touched, and the law can't be enforced even-handedly. What you need to do is have a bunch of positive, helpful

measures that people will take up on their own, because you'd never be able to have an enforcement approach that actually worked, that you could get to everybody and enforce it even-handedly.

The Chair: Thank you very much. We'll move on to Mr. Duguid.

Mr. Duguid: Welcome. I don't think too many committees go by that we don't have your input, so I want to thank you for the effort you make to make sure that our small businesses' voice is heard here at Queen's Park. It truly is an effective effort. I don't know if your members are aware of all the work that you do, but if they were, I'm sure they'd be quite happy with the services you provide for them.

I'll keep my question as brief as I can. There are a couple of programs—the safe communities incentive program and the safety group program—that provide participating members with financial incentives for improved health and safety performance. It's difficult to communicate, in particular with small businesses, on almost anything like this because they're busy people, busy organizations. Is there anything that you're doing to try to encourage your members to be part of these programs?

Ms. Andrew: Actually, we do. We have a partnership with the WSIB. Whenever a safe community is either organizing a new group or having a new initiative, we work with them. We actually fax or e-mail our members in the vicinity of that safety group and they tell us that that gets all kinds of additional sign-ups for the group, so they're very appreciative of that. We do that at our own expense. We also circulate all kinds of safety information and try to put people in touch with various things. We don't sponsor our own group, though, if that's your questions. And thank you for your kind comments earlier.

Mr. Duguid: Do I have a few minutes?

The Chair: No. We'll move on. Thank you very much.

Ms. Scott: Thank you very much for appearing before us today and for all the work that you do and for continuing to give information not only to us but to the small businesses that you represent. A lot of the points you hit on I certainly hear in my home riding: about the regulatory burdens, what am I getting for it, it's too much of a cookie-cutter approach. You're asking for the employers to really participate to do their own management of safe workplaces, whatever environment they may be in. How could they work with WSIB so that they see that small businesses are taking the initiative to be informed of what their employees might be at risk of, the occupational hazards, and then proving, almost, to WSIB that they are following up with initiatives that affect their specific business? You've mentioned some education that you do, but is there anything more specific, maybe? I don't know if I'm asking too micro a question, in a way.

Ms. Andrew: I don't think the WSIB would actually want to hear from all of our members. They're happy to have them send premiums in on an annual basis, but other than that—a small firm might only have one

accident maybe every nine years, or something like that, and they are novices in dealing with the whole accident reporting and return to work and all of that sort of stuff. So for that part, they work with the Office of the Employer Adviser, typically, if they need that kind of help, but most of the time small firms are friends and colleagues with their employees. If someone has an injury, that's really a disaster. They do their best to avoid it. They would appreciate some job-specific practical advice on how to avoid it. But when it happens, they badly need that person. The shortage of qualified labour in this province is a big issue. I don't know if you saw that yesterday we released a study dealing with the apprenticeship system. Again, it's a very pressing issue now and for the future to have your valued employees healthy and safe and on the job. The notion of proving anything like that to the WSIB is not something they want to go for.

The Chair: Thank you very much for coming today. We really appreciate your comments based on our presentation this morning and we appreciate you coming.

Ms. Andrew: Thank you very much.

INDUSTRIAL ACCIDENT PREVENTION ASSOCIATION

The Chair: I'd like now to call on the Industrial Accident Prevention Association, represented by its president, Maureen Shaw. Welcome and thank you for coming here today. As you know, you have 30 minutes, and whatever time you leave will be divided amongst the three parties.

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Ms. Maureen Shaw: I thank you very much, and I do thank you for the opportunity to be here today. IAPA is an organization that is a significant stakeholder in the entire system. We have been a partner with the WSIB, with workers and with employers in this province for now 90 years.

I would also like to say, just to justify my existence, if you like, that I've been in the business of prevention on a personal level for over 25 years. And if I need further justification, I am also the mother of a critically injured young worker who is an amputee, who was injured in a workplace explosion in British Columbia—that, in spite of the fact that I've been in this business for many, many years. So I have a number of reasons for considering myself and my organization a significant stakeholder within the entire system.

I'm going to start with a quote: "To prevent accidents is vastly better than to compensate them." Now, you might think that that quote was contributed by the leaders of the current WSIB system; in fact, it wasn't. It was attributed to Samuel Price, who was the very first chair of the Workmen's Compensation Board. Both the WSIB and the IAPA have prevention as our primary focus; for IAPA, for 90 years it's been our *raison d'être*. Given the fact that we share this focus, our two organizations have an extremely long history of working together to prevent

injuries, death and disease from occurring in our province and in our workplaces. We have a willingness to challenge each other on a number of questions. That doesn't always make it comfortable, but we are committed to working together and committed to ensuring that the debate and the differences of opinion that we might have work toward finding common ground.

Many of the people that I've heard speak—and I unfortunately wasn't able to be here this morning—have sort of shared the vision of an injury-free Ontario and also seem to agree with IAPA's vision of a world where risks are controlled because everyone believes that suffering and loss are morally, socially and economically unacceptable. So I was very pleased to accept this invitation to present to you today. Through the course of my presentation we'll have seven suggestions for enhancing the relationship between the WSIB and IAPA. While I don't speak on behalf of my colleagues in the other safety associations, I do have a sense that if we had them here, there would be significant consensus with some of the recommendations that I'm making.

First, let me just give you a little, brief outline of who we are. I've already said that we're 90-years-old young this year. We represent 50,000 employers in the province of Ontario and 1.5 million workers who are employees of these 50,000 companies. We're a not-for-profit corporation. We are a stand-alone corporation governed by a performance-based board of directors, which also has representation by two senior members of the WSIB and a number of industry folks, as well as a couple of lawyers and a marketing person.

We were created in 1914, at the same time that the Workmen's Compensation Act was being proclaimed. We were created by the Canadian Manufacturers' Association. It was very interesting: As we were going back and looking at our history, we found that the very first objectives of the association were, firstly, to promote injury and illness prevention, to mediate between employers and the board on assessment rates and other dealings, to provide oversight to the officers of the WCB and to conduct workplace inspections. So at one time, we did it all; now we have a very effective three-peg system. Our inspectors in those days had no powers of enforcement. They would call in the labour department if they needed some assistance.

Some of our first acts were to convene a meeting of 250 business leaders from across the province. As I'm looking again at the historical data, it says that "their meeting marked a milestone in the history of Canadian safety legislation, education and practice." Ladies and gentlemen, I'm very proud to say that in the 90 years since 1917, IAPA has continued to be a concept leader in Ontario and elsewhere in the world.

In the 1940s, for example, IAPA represented Canada at International Labour Organization meetings. The ILO was beginning to form, and we took a leadership role in creating the ILO's model safety code for industrial establishments. Our work with the ILO continues. We are a designated collaborating centre of the ILO, facilitating

knowledge transfer and exchanges between organizations around the world, and I chair that committee. IAPA has also become a WHO—World Health Organization—collaborating centre for workplace injury and illness prevention, the first centre with this focus and this title. So here we are now. At home, we had been involved in creating a safety committee 20 years prior to their becoming law in 1978.

I played an active role, along with my system partners, in the creation of OHSCO, the Occupational Health and Safety Council of Ontario, which brings together all of the members within the safety prevention business, along with the Ministry of Labour and the WSIB. We need to be all together and working in harmony.

We have come full circle since 1917, and we're about to embark, in April, on our 90th conference, which will have over 6,000 delegates coming to Toronto and 400 exhibit booths. You're all welcome to come for the opening and see that, just to get an idea of the magnitude of the business of prevention and the linkages and cooperation amongst all of its partners. We also will have a leadership forum where chief executive officers will come together to talk about the integration of health and safety as part of their overall corporate and social responsibility strategies. As the conference wraps up, I'm very proud to say that the IAPA is partnering with the Ministry of Labour and the ILO to host the first International Association of Labour Inspection conference ever to be held in North America.

We have come a long way to get to where we are today. Today is a time when we're looking to see where we need to go in the future, and to do that, we need to look at some statistics and have some sense of where we are.

We have seen some very drastic reductions in injury frequencies, as has already been stated by a number of people. We find with IAPA that when we have an interaction with an organization, whether it be a training interaction, a consultation or a combination, we see significant reductions. In my paper, you will see some of those numbers, but they range from 13.3% reduction to 17%. Those who had no interaction with us experience a 1.7% reduction, so I think that certainly speaks to the value for the dollars we spend and the resources we provide to our membership.

We have had the opportunity to work with the Ministry of Labour and the WSIB on the Last Chance/High Risk initiative, which is a customer contact program that is targeting the worst performers in the province of Ontario. Again, by working collaboratively and focusing on organizations that need our help, we're finding that we're seeing significant results and dramatic drops in injury frequency.

One of the other programs that's been talked about a couple of times here this afternoon is the safety group program. IAPA very much supports this and thinks it's one of the most enlightened programs that the WSIB has supported and assisted us in putting in place for the last 12 years, since I have been with IAPA. As a safety group

sponsor, we bring together firms, we facilitate exchanges of expertise and ideas, and supply additional one-on-one assistance as is needed. We're finding as well that our member firms, as we survey them, also tell us that their overall satisfaction with IAPA services—our last survey was 4.1 out of 5. Furthermore, they would continue to work with us. So I think we're beginning to more than justify our existence.

In the last few years, I've been working with three of my safety association partners, and the four of us have come together to create the Centre for Health and Safety Innovation, which is located in Mississauga. It's a physical plant and it is a virtual plant. It is a place for coming together and sharing knowledge, learning and innovation. It is also enabling us, the four organizations, to share some backroom services, reduce our overhead and maximize our resources. It is creating a window on the world.

For most of our lifetime at IAPA, we have been 100% funded by the WSIB. We now, as we hit 2007, find that 35% of our annual budget comes from revenue sources other than the WSIB. We continually seek out new opportunities. We've had many successful joint initiatives with organizations such as the Canadian Standards Association, the IRSST in Quebec, the WCB in British Columbia and many, many others, not to mention my colleagues from the CME and other organizations here in the province.

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We continue to work on improving our own internal effectiveness, and recently we received the ISO 9001:2000 certification for our training design and the delivery of our training materials—the first health and safety association, I might add, to receive that designation. We also were the first not-for-profit in Canada to earn a progressive excellence program level 3 certification for quality, and a bronze award for business quality by the Canada Awards for Excellence of the National Quality Institute of Canada. These are firsts.

To place us, the safety association, in the context of the Ontario system, we are a designated entity by the WSIB. We operate as one of the health and safety system's three pillars of prevention, and I would really clearly say that there is no way we could achieve the gains that we are achieving and continue to move forward toward that ultimate goal of elimination of all injuries, death and disease without the system that we currently have. Can the system be better? Absolutely it can be better. But it must continue to exist. The Ontario model, I can share with you, is a model that has received great interest around the world, and I always represent it when I'm doing presentations in other parts of the globe.

The WSIB's historic responsibility for Ontario's safety associations underwent a review in 1997, when the current Workplace Safety and Insurance Act was created. I'm going to make a recommendation here today. It's now 10 years since the WSIB act came into force; it was actually January 1, 1998, that it was enacted, but it's been 10 years since its creation. I think it's time that we sort of

stopped, took a deep breath and did a little check-in and looked at our scorecard to see just how well we are performing with each other. I think it's very much time to do that. The world, in over 10 years, has certainly changed a lot, and so we want to make sure we still are doing the things we should be doing within the context of the act. The need for clarity about roles and responsibilities needs to be really discussed within that context, and we will have the benefit of eliminating confusion and duplication and of improving the relationships within the system.

For example, the recent social marketing campaign that the WSIB ran, or is running, was a very powerful piece, and nothing has ever been like it, certainly in Ontario. It sends this universal message, but we could really have done it better if the safety associations had been involved from the very beginning of the concept design so that we were integrating this and were leveraging the opportunity that this campaign took. So not to eliminate the campaign, but let's work better together toward ensuring that we're making the best use of all the resources we've got.

We need to do a better job of improving our communication. That builds on my first suggestion, and it takes two forms. It is strategic, because it involves getting together and advising us of new initiatives earlier so that we can be better prepared, and that will certainly have a long-lasting impact. The second is tactical. We need to ensure that the board has a very clear understanding of what IAPA does—that's the board and their staff—and the value of the relationship. Improved communications will only make us all perform much better than we currently do.

We need to ensure that the board is making our member firms, those of our customers and their customers, aware of us and our expertise and that there are referrals being made through the various processes that we have. An example I might have is again going back to the tracking protocol for the Last Chance initiative, that initiative that targets Ontario's worst firms. We needed to ensure that we did a better job of communicating between the field staff of the WSIB and the IAPA staff, and I'm sure that applies to other organizations in the system as well. There needs to be significant improvement there.

I also want you to know that there's a lot of very, very positive things happening in the field between our two staffs. I see a colleague here from Thunder Bay and I remember meeting him when I was in Thunder Bay. In the north in particular, our staffs work very, very closely together. I'm constantly struck by the level of commitment and dedication to working together toward that ultimate goal.

We have a number of WSIB staff whom we have trained, who we have ensured are safe to be working with vulnerable young people in our young worker awareness program. It's a program that was developed by the Ontario Workers Health and Safety Centre and IAPA, with funding from the previous government. It's now

overseen by the WSIB, but we still deliver it, solely with volunteers, to about 25,000 students across the province a year.

We need to update the WSIB's oversight process. Again, under the changes that took place in 1997, the board established performance-oriented standards respecting our governance, objectives and functions in the operations of all the organizations that it funds. However, the oversight process can get pretty darn complex. If we could get a handle around streamlining that, I think that would really help to free up resources on both sides.

I'll give you an example—and I'm going to skip through just a little bit here. When we are developing our annual business plan, for example, we have to do two. We do one, the operational plan that our board of directors approves and which our organization—the staff and the management of IAPA—must follow through on, and we have to do another one that is pretty prescriptive and transaction-based. That goes on a template that's sent to us from the board back to the board, so we're doing it twice. We must be able to figure out ways to satisfy the responsibility the WSIB has and the responsibilities that we have.

We need to introduce some performance incentives and remove clawbacks. If we have a particularly successful year financially—remembering that we generate 35% of our own revenue—we would prefer to reinvest that revenue in the future.

We need to implement a funding formula. Currently, funding levels are determined year by year. Implementing a formula would remove some of the guesswork out of funding levels and allow us to plan for some level of stability.

I want you to also be aware that Jill Hutcheon, the president and CEO of the WSIB, has already struck a committee that is working on these very issues, but I thought that it was very useful to make sure it stays on our agenda. We expect that these discussions will have a positive impact on the system as a whole.

You've heard it before: We need to improve the quality of the data that we receive from the WSIB. We truly need to have data that is much more prevention-focused than focused on compensation.

One of the things I might say is that while the current form 7 does offer some space to provide more information about what happened in a particular incident, the space is really limited and the form has to be in within three days. People tell us that they haven't even finished their investigation of what happened and they have to have the form in. So we need to be able to figure out how we can get that information and yet certainly ensure that no benefits are held up because people are dragging their feet on getting their forms done.

We need more precise contact information. I have 50,000 member firms and we have very poor data on who the heads of these firms are and where they're located. We can improve, using some of our own systems, but that's very slow and tedious, and I think we could find a more effective way of doing that.

We need to have the WSIB take a lead role on higher-level environmental scanning, broader environmental scanning that will help us to adapt to the new realities that are taking place in the province and in the country.

We need to continue to support initiatives by applying the strengths of the entire system, such as the Last Chance and safety group initiatives. We need to see it within what I call a systems perspective, that we have the Last Chance firms, which we are graduating into safety groups, which will get graduated into the accreditation program once it's completed. There is no one cookie cutter here and there is no one strategy that is going to lead us toward the successes that we want.

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We need to have the WSIB, if we're going to be shifting direction in mid-year and if we have some new initiatives that we feel we need to undertake, to provide some start-up funding to assist in starting new initiatives such as the early and safe return to work. That's going to require resources that are not currently in the system.

Just to summarize:

- review and clarify the roles of the board's prevention division and the designated providers of education, training and consulting;
- improve communications between each other;
- update the WSIB's oversight processes;
- improve the quality of data;
- broaden the scope of the board's environmental scanning;
- continue creating and supporting initiatives that apply the strengths and the attributes of system partners to common issues; and
- provide start-up funding for new system-wide initiatives.

I would conclude by saying that we do have a good relationship with the board, and I'm not saying that just because we receive funding from them. We work hard at it and there have been times of disagreement, but we've always been able to work them through for the benefit of our shared goals.

I would like to say that if we're ever to be successful in this quest that we share to eliminate death, disease and injuries in our workplace and to reduce those re-injuries, we must be working as multi-pronged strategic bodies with strong relationships built on a commitment to shared purpose and vision. Returning injured workers to workplaces that are healthier and safer must be a clear goal, along with preventing the injuries from occurring in the first place.

To quote Henry Ford, "Coming together is a beginning, staying together is progress, and working together is success."

I thank you very much for this time.

The Chair: Thank you very much. We have a very brief moment for each caucus, and we'll begin with Mr. Milloy. You have about two minutes.

Mr. Milloy: I'll be very quick. Thank you for your presentation. You spoke about the IAPA's involvement with international organizations on the international

scene. I'm just curious: What's the WSIB's reputation in the international community that looks at these safety issues?

Ms. Shaw: I can tell you that the occupational health and safety council in Hong Kong, which mirrored the system here, has been very interested and in fact has come to Toronto to review our NIDMAR system, which is the system that the WSIB uses for return-to-work. So we have a very high reputation even though we have a long way to go. WSIB has a high reputation there. WSIB also has a high reputation just being part of the multi-pronged system that we have. Compensation systems don't generally have high reputations internationally; it's usually the people who are doing the prevention. But I can assure you that we always are ensuring that they get the credit they deserve for the work that they're leading.

The Chair: Is that it?

Mr. Milloy: I'm probably out of time, am I?

The Chair: Do you have a quick question?

Mr. Milloy: No. I probably have about 30 seconds.

The Chair: Okay. We'll turn, then, to Ms. Scott.

Ms. Scott: Thank you for your thorough report to the committee, and happy 90th anniversary coming up. That's good.

Ms. Shaw: Thank you.

Ms. Scott: We only have time for one quick question. When you said you'd like to reinvest—is it 35% revenue? I just wondered if you wanted to expand a little bit more on that.

Ms. Shaw: I guess the expansion would be that if we have a surplus at the end of the year, there is a process by which we have to get permission to use it. We would very much like to be able to say that if we've done a good job managing our dollars, like one would do in the private sector, we need to be able to reinvest those dollars in future projects. Sometimes that may mean putting it aside into a separate pot for larger projects that we might want to take on in the future. We really want to be in control of our destiny. It's only the right thing to do.

Ms. Scott: So no top ask at the moment, just if it's—

Ms. Shaw: We're not asking for any more money and we have not asked for any more money.

Ms. Scott: Okay. Thank you for appearing here before us.

The Chair: Ms. Horwath.

Ms. Horwath: Considering the organization's close relationship with the WSIB, I'm wondering if you can tell me the extent to which your 50,000 member firms that you refer to have operating joint health and safety committees with certified worker reps on them.

Ms. Shaw: I couldn't tell you how many of those 50,000, but I can tell you that IAPA has three certification training programs. That is our biggest program that we deliver. We deliver it to more organizations than anything else.

Ms. Horwath: How many on an annual basis would you say get certification?

Ms. Shaw: About 20,000 people get certification on an annual basis. I'd have to go back to our annual report

to look at the numbers to be absolutely accurate, but it's about that.

Ms. Horwath: Would you say, then, that the vast majority of your 50,000 member firms would be operating with effective joint health and safety committees, with certified members on them?

Ms. Shaw: I would hope that to be the case, but I'm not going to go out on a limb and say it is the case. I couldn't speak on behalf of them.

Ms. Horwath: Have you ever thought that that might be a good way to kind of gauge the effectiveness of these kinds of proactive opportunities?

Ms. Shaw: Absolutely. Surveying that many organizations, though, is something again that might be a good thing for us to do in partnership with the WSIB, because they're the ones who actually do the certification; we conduct the training. So the data must be there. We should be able to mine those data and I'll certainly take that as something that we will have a conversation about.

Ms. Horwath: That would be great, because it seems to me that many people are saying the same things around how we get to that zero injury rate. It seems to me that, as a partner, as almost an appendage of the WSIB in that regard, you probably have an important role to play in that effort.

Ms. Shaw: Thank you for that. We will definitely take that back.

The Chair: Thank you very much for coming before us today. We appreciate your comments.

LES LIVERSIDGE

The Chair: We would now like to ask Mr. Liversidge to come forward. Good afternoon and welcome to the committee. As you know, there are 30 minutes available. It's your choice how long your presentation is, and whatever time remains we will give to the three caucuses.

Mr. Les Liversidge: Thank you very much. Hopefully, this presentation should be about 11 or 12 minutes, to leave plenty of time for questions.

My name is Les Liversidge. I have been active in the Ontario workplace safety and insurance or workers' compensation system for over 33 years in one capacity or another, from board employee, independent consultant and now lawyer with a practice focused on workplace safety and insurance matters. With me is Ms. Odelia Gudge, an associate lawyer with my firm, who represents a new generation of legal activism in this field, and I might say, not a moment too soon either.

Over my career, I've been witness to a remarkable evolution in this law, the law of workers' compensation. In the way the Workplace Safety and Insurance Board, or Workers' Compensation Board, operates and in the expectations of the public, by any measure the workplace safety and insurance system of 2007 is infinitely superior to the system of 30 years ago. But it is still less than it can be. Make no mistake: It has always been the public's expectations that have driven reform. Dissatisfaction eventually boiling over into discontent ultimately ac-

quires a political potency which explodes into action. Over the last 30 years, the board itself has rarely led change absent external pressure. Reform has flowed from influences external to the WSIB. This was true in 1985 and 1990, when decades of worker injustice eventually, and rightly, bubbled over into political action, which resulted in a fairer system more responsive to the needs of injured workers. This remained true in the mid-1990s, when the financial viability of the system was a real concern. The objects of the board were made clearer and a focus towards accident prevention and return to work was emphasized, a prominence which continues today.

While we see a board superior to the board of 30 years past, many of the lessons of the past still remain unlearned. This afternoon, in the very few minutes available, I will focus on the evidence of this continuing phenomenon of a board that still does not always listen well to emerging criticisms and which does not always resolve budding problems. Rather than simply spouting off a litany of long-standing complaints, for every complaint I highlight here today I bring a serious and reasonable recommendation.

I want to touch on two prime themes: the business end of the board's business, and a better mechanism for ongoing reform and change.

But first I want to take a moment and comment on WSIB leadership. I listened very carefully to Mr. Mahoney this morning, and I've seen him active on this file in many years past. I continue to be very impressed with his innate capacity to understand and his passion for injury prevention and worker dignity. I have already seen first-hand the impact of his style: The board is responding. Like his immediate predecessor, Mr. Glen Wright, his dedication to injury prevention is inspiring. As far as leadership of the chair, the board is in excellent hands.

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But one question has always perplexed me: In an organization of over 4,000 people, active for over 90 years, that has its mandate prescribed in statute, that impacts most working Ontarians, why does the one position at the top determine pretty much everything? The answer to that question lends some insight into the strengths—the ability to implement change with a change in the chair—and the weaknesses—the inability of the board administration to respond to emerging issues—of the current WSIB.

The chair is able to set the tone, the style and the priorities of the organization, but realistically, the reach is limited to the big overarching issues. It is the other 4,000 people who have to put everything in motion. But all too often, the smaller problems simply do not get addressed until they ferment long enough and become big problems. It doesn't have to be this way.

Right now, the board is administratively weak with what I call the business end of the board's business. The big issues—the premium rates and the funding strategies—rightly acquire priority, but it is the implementation of employer tax policy that impacts smaller

businesses the most and it is in this arena that the board performs poorly.

In materials that I have placed before you, I have detailed six examples of real experiences with the WSIB's taxation and employer audit functions. It's in tab 1 of the materials. I have more. These are not oddball, off-the-wall examples of obscure WSIB mistakes that are easily corrected once brought to the attention of the appropriate officials. These are blatant examples of a deep-rooted problem. In even those cases which were eventually corrected, the obstacles and intransigence against obtaining a fair result were almost insurmountable.

Senior WSIB officials just do not have a hearing ear to the root cause of these problems, preferring instead to treat each one as if it was an unfortunate but isolated misstep. If only this was the case. A more credible thesis is that these problems are reflective of a more systemic problem. To be frank, when dealing with the day-to-day taxation of smaller business, the board sometimes is a bit of a bully.

Last year, I recommended an operational review of the WSIB audit department. I still recommend it. I understand the reticence to accept the broad scope of my thesis; I fully appreciate this. A constraining skepticism is not necessarily undesired. My allegations, though, are particularly pointed when assessed against the backdrop of published WSIB fairness declarations. The pledge in these documents is so far off the scope of what is actually occurring on a day-to-day basis, I would, if I were an uninformed observer, be equally skeptical. My suggestion of a high-level review was rejected, although I have not given up that plea.

The fundamental question that must be asked, though, is this: Do the circumstances, which I've set out in those example cases, have any reasonable or plausible explanation other than the thesis which I am advancing? Objectively assessed, the answer to that question must be a categorical no.

These examples are not simply a few isolated problems. They are archetypical examples of a deep-seated and entrenched manner of doing business that runs counter to the publicly declared values of the Ontario WSIB, to the governing principles set out in the Workplace Safety and Insurance Act, and basic principles of fairness and administrative justice. In short, these cases are not themselves the problem; they are reflective of the problem.

While the process of setting employer tax rates is generally fair, how tax classifications are applied to individual cases often is not. It is sufficient to note that the board has developed a very complex system of taxation that mirrors the diversity of Ontario business. Simplicity is simply not possible. Common sense and reasonable application, though, is essential. Often, it is elusive.

The board is very adept at placing the round peg in the round hole, which is the majority of cases, but it breaks down when it tries to force the square peg. But, try it does.

I can beleaguer this committee with endless examples, but this problem perhaps is best illustrated in a letter addressed to the committee by Mr. Les Mandelbaum, president of Umbra Ltd., a Canadian business success story, which has already been the subject of discussion in this committee. I have also included a copy of it in tab 5 in the materials.

To make a very long story short, this company was unfairly assessed, was convinced the board simply made a mistake, but was taken aback when efforts at senior-level communication over a period of several years were ineffective and just passed down the line. When this came up for discussion—I don't want to embarrass anybody or point any fingers at WSIB—there were ample opportunities for the board to have corrected this problem before it came to the point of the president of this Canadian business success story writing to this committee.

Incorrect WSIB classification decisions are not benign. They do more than affect corporate profits; as in this case, they affect jobs. As was suggested earlier this morning, we're not talking about affecting 200 jobs with this company, and the company didn't move all of its manufacturing off the continent because of workers' compensation premium rates. We're talking about five to 10 jobs that likely may be lost.

Until recently, the board really was—I can't describe it any other way—washing its hands of this problem. As came out in the earlier discussion and through the points that were noted in the letter earlier, Mr. Mahoney directly became aware of this through this particular company bringing this matter to his attention, and the board is now, quite rightly, reconsidering its approach. But, however, for the tenacity of this company and the intervention of Mr. Mahoney, the result would have been different. Canadian jobs would have been lost.

This is not an example of the system ultimately working. The system would be working if senior board officials listened in the first place and applied a common-sense approach to problem solving and realized that unique situations require unique solutions. The problem and solution are no more complex than that: reasonable discretion reasonably applied. Instead, in these types of cases, board officials tangle employers up in red tape and strangle them with rules designed for very different situations.

Of late, the board has been eager to promote a joint initiative between the WSIB and the Canada Revenue Agency, CRA, to ensure increased employer compliance, and nobody can quarrel with that objective. Employers who do not pay their premiums should be found out and duly assessed. While this initiative ought to continue unabated, the board in my view foolishly abandoned a program called the voluntary registration program, which allowed for fairer treatment of non-compliant employers who voluntarily come forward.

As a result, and as I explained in a recent senior communication to the board, "those employers that voluntarily come forward and those that wait to be found out are treated exactly the same way." This is, quite frankly,

ridiculous. Employers who voluntarily come forward should be treated better than those who wait to be found out. That's not just simple justice, although it is; that is also prudent WSIB administration.

While the board seems to be modelling the taxation end of its business after the CRA, and we've seen one example of that—I've given you the example of the CRA's fairness pledge in tab 8, and you'll see that it's pretty much identical to the board's fairness pledge in tab 3. But within the context of fair process, though, the CRA and the WSIB distinguish themselves in one determinative element: The CRA withholds collection while a taxpayer is appealing a CRA ruling, but the board demands payment up front, and this difference is a powerful one. It means that unfair and incorrect WSIB tax rulings, many retroactive in force, even if later found to be unjust and incorrect, could well force an Ontario business to the brink of insolvency. Changing this one heavy-handed practice will go a long way to restoring fairness to the WSIB taxation scheme, as it would allow time for incorrect taxation rulings to be put right without undermining the ability of a company to continue to do business.

So much for the critiques; now a few, easy-to-implement solutions:

(1) The WSIB board of directors should conduct a high-level review into the business end of its business, its audit and collection functions. Leadership, change and a new way is, in my respectful view, required.

(2) Senior board officials should become more directly engaged in issues brought to their attention and not just too quickly pass them down the line. Just sometimes the complainant might be right and just sometimes the board might be wrong.

(3) The board should immediately restore the voluntary registration program.

(4) The board should follow the CRA lead and suspend collection activity while an assessment is being actively appealed.

I'd like to take just one or two minutes and look at this problem from a larger perspective, the longer-term picture of workplace safety and insurance reform. At its core, although it's called the workplace safety insurance system, this program is not really an insurance contract; it is really, at its heart, a social contract between capital and labour, and insurance is a tool that really promotes that contract. But essential to this contract is a continued requirement and a continued perception of system fairness for both groups, management and labour. If three decades of workplace safety and insurance reform has established two constant truths, they are these: (1) The loss of confidence of a core constituency will spark a petition for reform, and (2) the board is unable, in the long term, to maintain constituent confidence, so reform is inevitable. But it's neither smooth nor incremental; it is often divisive and tumultuous. Change is massive or non-existent; it's feast or famine.

There's a better way. A conduit for incremental change is required, and I propose a routine five-year

large-scale external review reporting directly to the Ontario Legislature. This would allow for a perpetual opportunity to address statutory and administrative shortcomings. This simple innovation ensures that WSIB reform becomes routine, less partisan, and considered absent a crisis of confidence, while still ensuring political oversight. This would enhance stakeholder participation and move the critic from detractor to partner.

With that, I'll just close the formal part of my remarks and open it up to whatever questions the committee may have.

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The Chair: Thank you very much. You have certainly left an opportunity for about five minutes. We're starting over here, with Mr. Martiniuk.

Mr. Martiniuk: Thank you very much for your presentation. I want to, however, deal with a topic that isn't included in this particular presentation. We've been discussing the experience factor—

Mr. Liversidge: Experience rating?

Mr. Martiniuk: Yes. I know that there are two types of incentives. First of all, you could have strict compliance, which means you need a lot more people to enforce the rules. You can, however, have negative and positive incentives, and I take it the experience rating is a negative. But I'd like you to discuss it philosophically, because, as I understand it, there has been a considerable decline in accident claims over the last 10 years. Is there any correlation between that decline and the various incentives that were in place and that may be changing?

Mr. Liversidge: That's an excellent question. I think that from an anecdotal standpoint, I could say yes, but what value is that? An opinion on my part, even based upon years of direct observation and experience, is really of little help and of little value. But actually, there is a study on this that was recently released by the Institute of Work and Health. It was provided to the Workplace Safety and Insurance Board a year or two ago. It resulted in several conclusions, one of which was that experience rating does drive both positive accident prevention activities on the part of Ontario business and positive early and safe return to work initiatives on the part of Ontario business. That question, I think, has been settled.

However, I think it's important to note that in the area of injury prevention, experience rating is but one tool in a larger arsenal of tools. You can't do it absent a prosecutorial model; you can't do it absent certain expectations and guidelines. You can't even attempt to allow one tool, particularly experience rating, to do everything. It doesn't.

There has always been a worry about experience rating that when you start to hold employers to account for their actual performance, are they going to fudge the numbers? We heard that earlier today. Are they going to put cases under the table and not report them? That's why you have other mechanisms. If a company does do that—first of all, I'll explain two reasons why they ought not to do that; three, really. One is, it's just wrong. But it's also a crime. It's against the law; it's against the

Workplace Safety and Insurance Act. Whoever does it, that individual can face a fine of up to \$25,000 and up to six months' imprisonment, and the corporation could face a fine of up to \$100,000. So if somebody thinks they're going to save a few hundred dollars by doing that, they're mistaken. And the board, as Mr. Mahoney highlighted here this morning, takes that seriously and they do prosecute those cases. They prosecute a lot of those cases when they find them.

Who would do that? Who's the individual who would engage in that type of behaviour? The experience rating model is designed to focus in on the rational, informed business person who's going to respond in a self-interested manner to look after their self-interest. That's supposed to translate into positive employer behaviour. The study I made reference to earlier says it does just that. That means you're going to avoid an injury and you know there's going to be a reduction in premiums as a result. We all understand experience rating. If you are driving an automobile and you're accident-free, your premiums go down; if you have an accident, your premiums go up. It's the same principle. The arithmetic is a little bit more complicated, but the principle is identical.

If the self-interested business person says, "I'm going to skirt the system. I'm going to pay the worker under the table not to come into work and I'm not going to report that claim to the Workplace Safety Insurance Board, and somehow I'm making money," he's not. He's not only breaking the law and open for the prosecution that I've outlined earlier, but there's no financial gain in it at all. If you go through the numbers, there's absolutely proof that you aren't better off skirting your insurance program by directly self-insuring. It's absurd. It doesn't happen. I've shown these numbers in the past.

I don't dismiss the fact that a few outlier companies may be performing in this way, and they're either going to say, "I don't care what the rules are. I'm outside the rules"—eventually you catch those and you prosecute those companies—or they say, "Well, I have an inadequate understanding of this program. I think there's a relationship between me not reporting a claim and me being better off financially."

In those cases, if somebody thinks like that, then, sorry, I would point the finger back at the WSIB and I would say, "Why would an employer possibly think that?" because it simply isn't the case. There is no net gain, and one of the things that the board has not done well on experience rating—I think it is a very good program. I don't think it has tapped its potential. I don't think the current program is used to the extent that it ought to be used. I don't think that business, as a class, understands experience rating. I don't think individual employers understand it enough to do the one thing it's supposed to be able to do, and that is price a problem and price a solution.

It takes all the gobbledygook out of workers' compensation problems and promotes a business case for positive business intervention. That way, the middle manager, who often doesn't have a lot of corporate clout

in things like this and is often seen as somebody who is spending money instead of making money, can say, "Listen, we have an employee off on an injury. I have a program that I've costed out to be \$3,000 or \$4,000 in which, if we invest that in return to work, we will get a \$25,000 to \$30,000 return in premium reductions." So now that person transforms himself from being a person on the cost side of the ledger to a revenue producer, and therefore you now are tapping into the power of experience rating, not by doing things untoward. That's the other worry, that with experience rating you're going to get people back to work far too early. If the audience is—and it is—the self-interested, informed employer, that employer will realize that if you get somebody back to work too early, (1) they're not going to stay, and (2) there's a risk of re-injury and you end up with a more highly costly claim.

One of the problems with experience rating is not that it is abused; I don't think it is, although I'm sure you're going to find cases of abuse no matter what the program is. But it's not well understood. That I will give. It's not that well understood, and the reason it's not that well understood is that the board has not explained it all that well. I would challenge any board employee to be able to use their own programs in a business-decision-making way.

The Chair: Thank you very much. We'll move on to Ms. Horwath.

Ms. Horwath: Can you tell me, in your experience in this field, which seems to be quite significant, whether you attach any value or efficacy to the work of joint health and safety committees?

Mr. Liversidge: Oh, of course.

Ms. Horwath: Is it your understanding of the system that there are a large number of employers in the province of Ontario that are compliant with that part of the legislation, that requirement?

Mr. Liversidge: Yes. And it's important, because once you get a joint health and safety committee, you get all the prescribed expectations from that. But there's an awful lot of spinoff benefit from a joint health and safety committee as well. A joint health and safety committee can become a nucleus of a lot of positive change, even in areas that aren't necessarily directly within its prescribed mandate; for instance, things such as return-to-work issues. There's always a health and safety component to return to work, because nobody wants to bring a worker back to work and—from my experience, pretty much every injured worker wants to get back into the workplace at the earliest possible moment. Nobody wants them to get back to work and end up being worse off than before. You've got the needless personal suffering that that case would entail. So you have to craft return to work in a careful way to be always mindful, and that's why it's called, as Mr. Mahoney emphasized earlier today, "early and safe return to work."

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So you get a buy-in to those types of programs by the joint health and safety committee, and when you do that,

you get the dynamic of the two workplace partners to facilitate and to engage in better return-to-work practices. From my experience, that's generally where these types of programs commence: firms that maybe 15 or 20 years ago were in a neophyte stage in developing early and safe return-to-work programs. By the way, the Workplace Safety and Insurance Act did a catch-up and sort of codified these in the statute in 1998. This was really long-standing in Ontario workplaces by this point in time. The health and safety committees went a long way in assisting and nurturing and cultivating and developing a workplace culture of trying to ensure that that balance between early return to work and safe return to work is met. So I've seen tremendous benefits from joint health and safety committees, not only in the direct, prescribed expectations of the committees but also in many spinoff benefits.

Ms. Horwath: Thank you. Do I have time for a brief follow-up?

The Chair: Yes, you do.

Ms. Horwath: I'm just trying to figure out, though—there seems to be quite a discrepancy between what is required under the act in terms of the establishment and existence of joint health and safety committees and the requirement for a certified worker rep to be there, to be able to have all of the training and the knowledge and the information to do the job effectively, and the suggestion that perhaps some 30% to 50% of workplaces in Ontario don't actually have functioning joint health and safety committees with certified workers on them. Can you comment?

Mr. Liversidge: I don't know where that statistic comes from, if it's true or not true. I'll just take it at face value that it is true. Large, sophisticated employment environments are going to have joint health and safety committees. There's just no way that they're not going to have them. So if anywhere, it might be in the smaller enterprise and it might be the type of enterprise which you heard talk of today, the smaller business, less than three, four or five employees, where, more likely than not, with a less official, less doctrinated approach you get the same thing done—the same type of work is done, the same type of focus is done—but perhaps not in the same way.

For the smallest of employers, you solve problems a little bit differently. Return to work is one example. It's a little different. As you know, in the Workplace Safety and Insurance Act there are certain obligations for employers to do certain things. Small businesses of less than 20 are exempt from mandatory return-to-work, re-employment obligations, but they're not exempt from the requirement to co-operate and facilitate a return to employment. It's almost a redundancy, it's almost not necessary, because these types of things would be handled in the normal course through the type of employer-employee interaction in a small enterprise, for the reasons I think you heard from the CFIB a few moments ago.

The Chair: Thank you. We'll move on to Ms. Smith.

Ms. Monique M. Smith (Nipissing): Thank you for being here today. We appreciate you providing us with your input. Certainly you've got a lot of experience in this area.

I just wanted to follow up on some of the positive comments that you made about our chair, Mr. Mahoney. I know that in your e-letter in November—

Mr. Liversidge: You might run out of time here. I've got a lot of positive comments.

Ms. Smith: He's still here, so what I wanted to—

Mr. Liversidge: I know.

Ms. Smith: I notice that you said the WSI system in 2007 is infinitely superior to that of 30 years ago, and I think pretty much everyone—

Mr. Liversidge: I wish I could give him all the credit for that, but I can't.

Ms. Smith: I know. It's just the last couple of years. But I would like you, if you could, to perhaps just elaborate a little bit on the impact that you think he has had in the last year or so in that position and, because he's here and listening, what you think we could be doing in the future.

Mr. Liversidge: I would say this even if he wasn't here and if he wasn't listening. That's a very good question. I'll address that two-pronged question.

Let me just look at the office of the chair, first of all. The office of the chair of the Ontario Workplace Safety and Insurance Board is determinately important. I have equal and high regard for his immediate predecessor, Mr. Glen Wright, who I thought also did an outstanding job.

If you go back through the lines, there's not a single chairperson of the Ontario Workplace Safety and Insurance Board who has not come into that office dedicated to make things better for the injured workers of Ontario—not one; not a single one. Nobody has come in and said, "I want the system to be a mess when I leave." It's not the case at all. Everyone has come in rolling up their sleeves. They want to leave their mark. And I would say without exception that that has happened. That has absolutely happened.

So when you don't have that position, when it's absent—we saw actually two times when it was absent. This is not any negative commentary on the senior officials who are left to run it absent the position of the chair, but we saw it under the previous government when the chair went over to Hydro One for a 12-month period, and we saw it recently when there was a two-year gap of no chair, and quite frankly, the organization just doesn't run as well.

So it needs that leadership, that type of unique leadership that fortunately the Ontario Workplace Safety and Insurance Board and Workers' Compensation Board seem to have been always able to attract, with a sense of personal commitment to a certain vision—I don't think "vision" is too hokey a word. I think it is a vision—because without a vision, I don't think it is going to move forward an inch. I think, though, that it's the chair's position that is materially important and getting the right

type of individual who is able to meet, I think, the unique challenges.

Mr. Mahoney and his personal background on this—I was very pleased to see that appointment for several reasons, not least of which is that he was able to hit the ground running. He knew this file. He had experience on it. He understood it. He may have been away from it for a few years, but I've been in this for more years than—actually, I've said how many years, so it's too late.

Interjection: Thirty-three.

Mr. Liversidge: Thirty-three, unfortunately, yes—well, fortunately. But the big-picture issues don't materially change. Even with, however, a person of the high stature and quality you have in Mr. Mahoney, my respectful view is that that's not enough; the system is not necessarily going to move forward and advance as far as it can. And that's really what you're seeking: as far as it can. The reason it can't is that there has been no discussion. This dialogue has been pretty much absent in Ontario for a long time. What happens typically is that the Ontario workplace safety and insurance scheme—withstanding the excellent people at the WSIB, and they are; notwithstanding the excellent leadership that the board has been able to attract over the years, and it does—from time to time cracks up on the rocks. And it's not until it cracks up on the rocks that the spotlight comes down, you have a crisis, and the system then responds to the crisis. That's when the big-picture stuff comes to you. The file then attracts and acquires a political potency and you have a political problem. You have a political problem that appears today but really started about six or seven years previous and was simply allowed to bubble and ferment.

That's the weakness of this system, and that's the weakness of this system for over 30 years. When there is a massive reform, which there has been many times over my career, then there's not a, "Let's go back and tinker with that a little bit and see if we can improve upon that." That you have to get it right the first time and there's no second chance is absurd. That's why I've suggested some type of a quiet process. Workers' comp reform—let me just see; maybe there's not anybody here who can remember—has brought out, at one time, 5,000 people to the front lawn of this Legislature. In the late 1980s, worker discontent boiled over to such a ferocious anger that it brought out the single biggest demonstration that—in fact, there was a standing committee and it convened on the front lawn of the Legislature I think in 1988, or something like that. So there has to be a better mechanism, a mechanism to allow for input, for opportunity for a conversation to occur perpetually, always, so the conversation doesn't abate, so it's not just left.

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The board said today that they're not legislators. Well, they are legislators. The board is pretty powerful. The Workplace Safety and Insurance Act carves out the boundaries and then says to the board, "You figure out the details." The board has probably one of the broadest policy-prescribing powers of any agency of its type. On

the employer taxation side, it gets exclusive control of that. The act is silent on what employer premium rates are and it says to the board, "You design it. You figure it out. You set the taxes, and you collect the taxes."

I think that there is an opportunity to do things a little differently, a little more intelligently, so that you don't wait for the thing to blow up before you get engaged in it and you do it incrementally and you allow this conversation to occur forever, really, never to stop, because no matter how good you get, there's always going to be a little bit more you can do.

The Chair: On that note, I'd like to thank you very much for making your presentation here today.

INDUSTRIAL ACCIDENT VICTIMS' GROUP OF ONTARIO

The Chair: I'd like now to call on the Industrial Accident Victims' Group of Ontario and its representative, Dave Wilken.

Good afternoon and welcome to the committee. As you know from being here this afternoon, you have 30 minutes and the time is yours. Any time you leave will be divided amongst the three caucuses. Please begin.

Mr. Dave Wilken: Thank you for the opportunity to attend here. The Industrial Accident Victims' Group of Ontario is a community legal clinic that has been representing injured workers and survivors around the province for the last 30 years.

First of all, I'd like to thank the members of the committee for the kind words you had to say about legal clinics this morning and also to commend you for the nice words you said about the Office of the Worker Adviser, which is vital to injured workers around the province. In fact, when the CFIB was making its presentation, Barb Millitt, who was introduced to you earlier by Mr. Samuelson, ran up to me to make sure that I would tell you that what they had to say about funding for the Office of the Worker Adviser was wrong. It's really vital. In fact, I can tell you that the lack of funds, the understaffing, of the Office of the Worker Adviser, to legal clinics and for legal aid certificates for private lawyers has led to a new part of the practice at our clinic; namely, defending against lawsuits and pursuing lawsuits against a whole class of predatory consultants who prey on injured workers who've been denied their benefits and can't find reasonably priced or competent representation.

Now that those preliminaries are out of the way, I'd like to touch on the issue of occupational disease. In response to the asbestos crisis of the 1970s and 1980s, an independent panel was established in this province to review scientific evidence and make policy recommendations about occupational disease. That was the result of inaction over the course of decades by the board that boiled up into a crisis that led to a royal commission, a review of the occupational disease issue by Professor Weiler and its own demonstrations. The Industrial Disease Standards Panel and later the Occupational Disease Panel that resulted, over the decade it existed, issued

over 20 reports on various diseases—all but two, I think, on a consensus basis, a consensus of worker, employer and scientific members—that were forwarded to the board for action. Only a handful were acted on. They fell into a black hole once they reached the board.

In 1997, the Occupational Disease Panel was abolished over the objections not only of the worker community but of the scientific community around the world. The reasoning given was that this would end the policy-making deadlock and it would also reduce inefficiencies that came about from having two different bodies looking at occupational diseases.

The result, over the last 10 years, has been that, between 1997 and 1999, apparently, people were waiting for Barb and Jean and other survivors from Sarnia to come and occupy the offices of the Ministry of Labour. This led, two years after that, to the creation of an occupational disease advisory panel at the board, which, two years later, broke down just as it was about to complete its report. Two years after that, a chair's report done without the full panel was approved by the WSIB's board of directors. Now, two years after that, we're waiting to have the draft policies that should result from that process distributed to us for comment.

It's hard, really, to know where to place the blame for all that. We're still left with outstanding reports from the Occupational Disease Panel, which was abolished 10 years ago, to be reviewed and acted upon by the board, because they've been waiting for their own process to come up with that. But it's clear that the board can't handle this all on its own; the problem that was there in the first place is still there.

I don't want to just throw mud at the board on this, because I think in fact that the attitude there has never been better than it is right now. What that tells me is that there's a systemic problem with the way that this is set up, and we need the establishment of an independent—in fact, a stronger oversight body on this issue.

Look at the case of Jean and Barb: Their husband and father began fighting for his claim in 1992. He passed away almost 10 years ago. His claim has just passed the final level of appeal at the board and is ready to go on to the independent appeals tribunal. That is not as unusual a case as I think you might be led to believe by people from the board presenting earlier today. There are scores of cancer and asbestosis cases that have been discovered in the last five years alone in Sarnia alone that are still waiting to be dealt with.

What we need is an independent body that's able to make strong policy recommendations that the board must respond to in a timely fashion and that also has not only an independent research capability but educational capability. As pointed out on page 17 of your research memo from the legislative library, a recent study by the board and Cancer Care Ontario showed that claims for compensation were filed in only about half of the diagnosed cases of mesothelioma, which is a cancer that has only one cause in this province—*asbestos*—and is practically only occupationally caused. It's the most well-studied

carcinogen, the most clear-cut case of causation, and yet it seems like even physicians aren't really aware that they should be reporting these cases to the Workplace Safety and Insurance Board. I would say, based on my own experience, that a lot of them aren't even following up getting occupational histories from people in the course of that treatment. While obviously setting up more government bodies isn't a cure-all for every problem, this is really vitally needed in the area of occupational disease.

The next issue I'd like to address is one of fundamental fairness in compensation for losses. I was in attendance this morning and I know that members of the committee appreciate the importance of this issue, so I won't belabour it, but that's the indexation of benefits. I would just like to point out, as a lawyer representing injured workers, that the political presentation of this issue over the years has really been quite unfair. We're not talking about giving cost-of-living protection to pensions and what were called "gold-plated pensions" at the time that de-indexing was brought in. What we're talking about is something that is absolutely necessary in order for any compensation to be fair. This is a matter that was commented on by the Supreme Court 30 years ago: If you're going to compensate someone for future loss of earnings, you have to fully take account of inflation; otherwise, you're just not compensating them for the loss.

Here in the no-fault workers' compensation system, injured workers are already compensated at just a fraction of what damages would be in a civil action, no matter how negligent their employer may have been in causing their injury. Losses for pain and suffering are paid at a rate of roughly one quarter of what they are in civil actions, and in Canada we have a very strict cap on pain and suffering damages even in that context. This isn't America, where you can go sue somebody for \$1 million for pain and suffering.

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In the area of wage loss protection, it is also the case that the benefits are not full, and entire types of damages are totally ruled out. So we've seen over the past 10 years a reduction in injured workers' real compensation for losses of 25% even if the board got everything right in adjudicating the claim, and their compensation will keep going down as time goes on and less gets fixed. This was a disgraceful move, really, when it was implemented, and it's only getting worse as time goes on.

One of the things that really exacerbates this is the deeming provision of the act, because the board does not nearly always get it right, so that the indexing effect is multiplied by that. Injured workers do not get the benefit of having an individual assessment of what they were likely to be able to earn if they had gone on working. If you're on an upward swing in your career path, that's only taken into account in the very rare circumstances of a formal apprenticeship or training program; otherwise, it's ignored. But on the other end, nearly every injured worker is deemed to be able to have some sort of a job. Whether or not that worker actually even ever gets a job,

as the deeming process goes along over the years, they're deemed to be increasing their wages because of their experience, so that by the time of the final review, even a worker who has never returned to work, if the board thinks that they should have, they will be deemed at the wage of a fully qualified worker in a field they may never have worked in and may never work in at any point in the future.

Although we're now 17 years into this deeming scheme, which first came in in 1990, there are no comprehensive studies of whether or not the board has even done any sort of a reasonable job on doing the deeming and what the results are. We don't know if the workers who received their final deeming 10 years ago are actually earning what the board thinks they should. We don't know if they're radically under-compensated. In theory, we don't know if they're radically overcompensated. We know in practice, because only one group has been calling for years and years and years for that comprehensive study: injured worker groups and the labour movement. The employers may talk about overcompensation, but they're not asking for that study. The only study I'm aware of was done by the board in the early to mid-1990s, and it showed that roughly 80% of the workers who were being reviewed were unemployed, but only 6% were being recognized as unemployable.

That relates to the earlier question this morning about CPP benefits. The board told you this morning that 4,000 of those workers had their situation improved recently. None of them had their situation improved by having the board finally recognize that they were unemployable. It's just that the board has now stopped saying that they could have a job and collect CPP on top of that, which would be, in practice, impossible anyway.

The other issue that hasn't been studied is the effectiveness of the design and implementation of the board's experience rating program. You've heard a bit about this program. I don't know that the immensity of it has really been put forward by anyone. Billions of dollars are shifted among employers by this program. Over the last 10 years, the off balance, the difference between the rebates and the surcharges, has been \$2 billion more paid out than taken in in penalties.

The direction of this program is haphazard at best. There's no question that economic incentives work. There's no question also that they don't work perfectly. Again, we've asked for research on this and have not been able to get it, except for the most public relations kind. You've heard automobile insurance mentioned. What we get as proof that this is working is basically a survey of drivers that says, "You're aware that your insurance will go up if you have an accident, right?" followed by, "Does that make you want to drive more safely?" The answer is yes, so everyone agrees, then, that experience rating works to promote workplace safety, or at least the board and the employers agree on that.

When important questions are asked by others outside of that context, the answers are very, very different. When households were surveyed, when workers were

surveyed outside the workplace, it turned out that 40% of work-related injuries had not been reported that these people knew of. When physicians were surveyed, 54% of work-related injuries that physicians knew of had not been reported. Both of these are cited in a commentary piece in last month's Canadian Medical Association Journal, which points out that that means 54% of the injuries were foisted on to the public health care system in violation of the Canada Health Act and that important red flags regarding workplace safety were missed.

The board and employer groups who tell you that there may be a little bit of fuzziness around the edges do not have a good answer for why these sorts of surveys produce these sorts of results. They also don't have a good answer for why, over the last decade, this much-touted decrease in injuries is twice as big in the no-lost-time claims as it is in the lost-time claims, and non-existent in the fatal claims. Workers and doctors do have an explanation for that: The easier something is to hide, the more incentive there is to hide it, and the more it will be hidden. It's hard to hide fatalities, although I have a pretty chilling example about that if anybody would like to ask me about it in a minute.

So incentives work. If you offer incentives to reduce claims costs, which is all we have in our experience rating program, and with very few controls, what you will get is some activity to increase workplace safety, some activity to hide claims, some activity to fight just claims, some activity for good return to work, and some activity towards bringing people back towards counter-productive, unproductive, unprofitable phony jobs. There's research on all of this as well, yet it's continually denied. Without better design and appropriate controls, these programs will remain expensive boondoggles. And they're very expensive. Again, I'm more than happy to get into more details on that.

For example, certified members have come up over and over again. To get your cheque from the board, you don't have to have a certified member on a joint health and safety committee. The board actually certifies the members but they don't cross-check, and that's pretty ridiculous, really.

The Chair: Thank you. I think we are going to the NDP in this rotation.

Ms. Horwath: Can you just expand a little bit on that final point that you were making about the lack of cross-checking of certification of employee members on the joint health and safety committees?

Mr. Wilken: As I said, the experience rating program itself looks only at claims costs. One of the intermediate steps would be to introduce a series of cross-checks on that; for example, that you couldn't get a rebate cheque without having a workplace health and safety committee in place with a certified member, as you're required to do by the act. There could also be checks similar to the Workwell program that actually go into a workplace, look at health and safety conditions, look at the procedures, and make sure that everything is being done properly. The Workwell program is hated by em-

ployers—you heard that from the CFIB today—who love experience rating. The only way to fall within Workwell is if you fail at the experience rating program. So everything is turned around backwards.

Ms. Horwath: Is there, then, a proportional number of—I don't know if I'm getting this right. For those numbers of companies that are not doing well with experience rating, you would expect that same number of companies to be involved in Workwell. Does that bear out statistically, do you know?

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Mr. Wilken: I don't know. I have no reason to doubt the CFIB's figures that only a small number of workplaces have actually been subject to Workwell audits.

Ms. Horwath: I meant to ask that question earlier but didn't get around to it.

I don't know how much time I have, Madam Chair. Do I have a little bit more?

The Chair: Yes, you do.

Ms. Horwath: You had said that there was, if anybody wanted to ask, a chilling story of a hidden death. I actually would be interested in that. It seems to me there's some disagreement or there are different versions of what goes on. I think a previous presenter was saying that there's no incentive at all to not tell the truth or not be honest about these issues that are occurring at work.

Mr. Wilken: In this particular case, I had reported to the board in 2000 an employer who failed to report a workplace injury that was quite serious. They talked the worker out of reporting it, and they did pay him some money on the side because they figured it was worth their while. I'm sure Mr. Liversidge is right. Well, I know in this case they didn't really understand the system totally. But there are certainly—because it depends on your entire accident cost record. There are certainly situations where it would be worth your while to pay a particular worker's entire wage in order to avoid crossing certain thresholds, just by the way the system is set up.

Three years later, this company had five workers killed in a train wreck with a car. They were eventually caught by the board when they forged some documents to try to make it look like the person driving this vehicle was not acting as their employee at the time. Because the families had such a great interest and pursued the matter, they were eventually found out. Then, when the board did a full investigation, it was found that they owed, in addition to the penalties they eventually got from the prosecutions, several million dollars in other fees and presumably paying back experience rating rebates and that sort of thing.

I have no reason to think that it's changed. I know I have not had any contrary experiences where I've complained about a failure to report where it's actually been prosecuted or even been subjected to an administrative penalty by the board. And no one at our clinic who has ever done so has ever had any action taken on such a complaint.

The Chair: Thank you very much. Mr. Gravelle.

Mr. Gravelle: Thank you very much, Mr. Wilken, for being here today. It was a very strong presentation. There are a lot of questions I'd like to ask you. I wanted to ask you some questions about your organization, but there may not be much time for that, in terms of working with injured workers' groups across the province. Certainly your comments about the occupational disease issue—it is a big issue. In fact, I was thinking of Mr. Mahoney's comment this morning. Steve, if you're listening, you can confirm. The number of fatalities by accidents is what percentage? Occupational disease is a much higher percentage in terms of the fatalities. It seems to me there is a very strong awareness of this.

What I wanted to ask you was—and perhaps this won't be the most comfortable one, but I hope it is—what's your relationship like with the WSIB? Do you feel you have a relationship with them, that you can have a discussion about these issues with them, and have you had that opportunity?

Mr. Wilken: Yes.

Mr. Gravelle: You talked about a more positive attitude that you're seeing, which is good.

Mr. Wilken: We are involved in a number of committees and so on at the board looking at various issues. Certainly over the last few years, the productivity of those sorts of groups has improved. If you had asked me five or six years ago, we'd have considered that to be a waste of time and really felt like, when we were invited to the board, it was just to keep our wheels spinning and waste our time more than anything else. That feeling has certainly gone.

That said, when it comes to these big crunch issues like the ones I've talked about today, we still cannot get the board to take them seriously enough to even do the research that needs to be done from the point of view of prudence. While I haven't given any thought to what Mr. Liversidge was saying specifically in terms of ongoing review and oversight, I know that at our clinic we have a filing cabinet filled with submissions that used to be made on an annual basis to the standing committee on resources development. There needs to be that sort—some sort—of ongoing review of the board externally. Like I said, even when there is a good attitude there, that's not really quite enough.

Mr. Gravelle: There needs to be further discussion about this, obviously. I certainly have concerns of my own in my riding in terms of some of the issues surrounding silicosis, which, on one hand, officially no longer exists, but indeed it does. There are some real challenges in terms of people being able to make that claim. I presume that would tie in—you're talking about asbestos and asbestosis more commonly, but that's another one. Are you familiar with that concern, which is more of a northern concern, perhaps?

Mr. Wilken: Not so much.

Mr. Gravelle: Okay. I think your points were extremely well made and I just think it's a good opportunity, obviously, to have further discussions. I am encouraged by the fact that, again, in the presentation

made this morning by Mr. Mahoney and Ms. Hutcheon, they were very conscious of occupational disease being a huge issue. So hopefully we can have some more discussions about that.

Thank you very much.

The Chair: Mr. Martiniuk.

Mr. Martiniuk: I thank you for your excellent presentation. I'd like to deal with—and I'm going to have to simplify it, but a lot of the cases, claims, are really judged by conflicting medical information, as I understand it, especially when you come to occupational diseases and you get into the causal effect. There's a committee, being the Medical Review Committee, which is supposed to in a sense adjudicate between conflicting medical opinions, or that's my understanding. As a practical matter, have you used the facility of this committee in any of your dealings?

Mr. Wilken: No. That's not my experience of the adjudication of claims or the way that advocates are allowed to interact with the board in these sorts of complaints.

Mr. Martiniuk: What is your experience, then, when you come to the conflicting opinions?

Mr. Wilken: Again, it's almost hard not to caricature some of the things that you see, because it is the negative, poorly dealt with cases that tend to come through our door. All too often, what we see in terms of how the medical evidence is dealt with is that the matter's reviewed through a medical consultant who's either

employed by or contracted to the Workplace Safety and Insurance Board. They're just asked to express an opinion, and sometimes those opinions may be just one or two sentences, with no reference to whatever texts or studies they're talking about. That is actually a major problem, that the evidence that is relied upon is often just someone's say-so. They're not necessarily the best-placed person to answer the question, and it's impossible to know the basis of the opinion.

Mr. Martiniuk: Are you suggesting that some of these medical opinions in fact end up being the adjudication of the merits?

Mr. Wilken: Oh, absolutely. That's a general problem in the workers' compensation area. Quite often you'll see in files sort of a leading question put by an adjudicator saying, "I think this should be disallowed" or "I think this should be allowed," and then what comes back from the medical consultant is just "I agree" or "I disagree," and the case is decided on that basis.

Mr. Martiniuk: So this would encourage appeals, then?

Mr. Wilken: Absolutely.

Mr. Martiniuk: And delays. Thank you.

The Chair: Thank you very much for coming here today and being able to give us your expertise. We appreciate your coming.

The committee is adjourned until tomorrow morning at 10 a.m.

The committee adjourned at 1600.

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