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**Official Report  
of Debates  
(Hansard)**

Wednesday 4 July 2012

**Journal  
des débats  
(Hansard)**

Mercredi 4 juillet 2012

**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: Bill Mauro  
Clerk: Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

## COMITÉ PERMANENT DES ORGANISMES GOUVERNEMENTAUX

Wednesday 4 July 2012

Mercredi 4 juillet 2012

*The committee met at 0901 in committee room 1.*

### SUBCOMMITTEE REPORT

**The Vice-Chair (Mr. Phil McNeely):** Good morning. We're here to conduct the agency review of the Workplace Safety and Insurance Board.

Before we begin, we have a subcommittee report for June 27, 2012. Would someone move adoption of the report? Ms. Jaczek.

**Ms. Helena Jaczek:** Your subcommittee on committee business met on Wednesday, June 27, 2012, to consider the method of proceeding on the agency review of the Workplace Safety and Insurance Board and recommends the following:

(1) That an additional stakeholder be scheduled from each caucus;

(2) That to accommodate the additional stakeholders, the committee meet at 9 a.m. on July 4, 2012, and July 5, 2012;

(3) That, if required, the committee meet beyond 5 p.m. on July 4, 2012, to accommodate a stakeholder;

(4) That the Workplace Safety and Insurance Board's appearance before the committee on July 4, 2012, be at 9 a.m.; and

(5) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

**The Vice-Chair (Mr. Phil McNeely):** Any discussion? All in favour? Carried.

### AGENCY REVIEW: WORKPLACE SAFETY AND INSURANCE BOARD

**The Vice-Chair (Mr. Phil McNeely):** We'll now proceed to the agency review of the WSIB.

### WORKPLACE SAFETY AND INSURANCE BOARD

**The Vice-Chair (Mr. Phil McNeely):** Ms. Witmer, Mr. Marshall and Mr. John Slinger, come forward. You have 30 minutes for your presentation. For the purposes

of Hansard, just mention your name at the start of your presentation. You may proceed.

**Mrs. Elizabeth Witmer:** Thank you very much, Mr. Chair and members of the standing committee. I'm very pleased to be here today with David Marshall on my right, our president and CEO, and John Slinger on my left, our chief operating officer, as well as the staff from the WSIB who are seated behind me.

We very much welcome the opportunity to appear before the standing committee to review the operations of the Workplace Safety and Insurance Board. We also welcome the opportunity to describe the transformation of the board to a modern, sustainable and accountable workplace insurance system for workers and employers, a system that is very important to economic growth and productivity in our province and, most importantly, a system that is committed to the prevention of workplace injuries, illnesses and fatalities and the promotion of health and safety in the workplace.

Over the course of the next two days, you will learn more, as I have, about this transformation and about the dedicated and committed group of people comprising management and staff who are leading this change to a modern workplace safety and insurance system and establishing a strong foundation for future success.

When I accepted the appointment as chair of the WSIB, I did so knowing that the board faced many challenges but also knowing that the transformation was moving forward decisively under the capable leadership of president David Marshall and his team. This included a focus on greater transparency and on improved services and accountability to stakeholders. My mandate is to ensure sound governance and to oversee, with the board of directors, this transformation to a modern and fiscally accountable workplace insurance system. As future appointments are made to the board, they will be made based on specific skills, knowledge and experience to enhance the competencies of the board in order that it can provide good governance and strategic direction to the board as it fulfills its mandate.

In my recent meetings since I've become the chair, I have met with many stakeholders. They have included both employers and workers. They have acknowledged the positive and noticeable change that has occurred at the board during the past two years. They have acknowledged that there is more transparency, fiscal accountabil-

ity and attention to improving the services for both the injured worker and the employer.

The staff I have met in Toronto and some of the regional offices I have visited throughout Ontario tell me the same thing. I would say to you that, for the most part, they have expressed great enthusiasm about the transformation that is taking place as they see it benefiting the workers and the employers.

Having said all this, we do face challenges such as the unfunded liability. However, we are moving forward decisively to achieve our mission more effectively and efficiently of helping injured workers return to work and to productive lives and to protect employers from financial loss through a collective liability insurance plan. In doing so, we can positively impact economic growth and productivity in Ontario and the lives of the workers and their families.

Let's turn now to the WSIB as an agency. As an agency, the board is accountable to the Legislature of Ontario through the Minister of Labour. It is bound by and adheres to the agency establishment and accountability directive and to all additional requirements with respect to privacy, expenses and executive compensation. The Ministry of Finance in 2010 found that the board's controls over administrative expenses were in very good condition. The audit is posted on the board website. The board is also in full compliance with the existing memorandum of understanding with the Minister of Labour, and I am in the process of currently updating that MOU with Minister Jeffrey.

Currently, we have a board of directors that meets regularly throughout the year. It is supported by several subcommittees, including a governance committee, an audit and finance committee and an investment committee, and we still have our health and safety committee. The Auditor General has a permanent representative on the audit and finance committee of the WSIB's board.

Let me now turn to the important role of the WSIB in the economy of our province. Every year, tens of thousands of workers file claims with the board because of injuries they have suffered or diseases they have contracted in their workplace. At any one time, the board is responsible for about 200,000 workers who need help. That's about 5% of the four million workers who are covered. The human cost to these workers and their families is substantial. I'm sure that as MPPs, most of you have had opportunities to hear first-hand about the cost to these individuals and to their families.

#### 0910

Also, of course, there is an impact on the productivity of the province at a time when we are short of skilled workers.

Of course, the amount of compensation that has to be paid as a result of injury and disease runs into the billions of dollars. The entire cost of compensation is carried by the employers, most of them small businesses, since the government does not fund the system. Thus, you can see that how effectively the board does its job does have a very significant impact on the economy of the province

and, of course, on the lives of the workers and their families.

That is why this is such an important agency. It must constantly seek to do all it can to prevent workplace injuries and disease. It must do all it can to help workers get well and return to their jobs, and to provide stability for the businesses when serious injuries do occur.

Let's take a look for a moment at how the agency is doing so far.

As I indicated at the outset of my remarks, there has been great progress made during the past two years, and the stakeholders have acknowledged that that is positive. So if we step back and ask the fundamental questions, you will notice two things. The first: If you take a look at the compensation which is required by legislation, you will see that for a worker injured in Ontario, it is comparable with all of the other provinces in Canada. Also, if you take a look at our board, we currently have one of the lowest costs of administration among all of the provinces in Canada. So you can see that there is this objective of making sure we are fiscally accountable.

By 2011, as a result of the changes that the board has made in its operations, the agency is getting 91% of all workers who were injured back to work with no loss of pay within one year or less of their injury. That is a big improvement from where it was at just three years ago.

Employers, through all the ups and downs of the economy—and we've certainly had lots of those in the last few years—do pay their premiums, and they are protected, as a result, from being sued by the workers. They pay into a collective insurance scheme, and they don't have to qualify for insurance each year or face being cut off from the insurance. It's there for them.

So the system is working, and it is delivering good value for the majority of workers and good value for the employers of this province. Indeed, Professor Harry Arthurs, in his recent report, *Funding Fairness*, quoted one critic who made the point to him this way: “[D]espite its many shortcomings, the WSIB is a valuable public institution that in most cases actually performs the important ... functions it was established to perform.” Professor Arthurs went on to say that several other individuals “also expressed optimism about current developments in the WSIB's policy and/or practice.” Again, that's what I have been referring to: There is positive change occurring.

In that regard, the Auditor General of Ontario, in his follow-up to his 2009 report, said that the WSIB has made progress in introducing a number of initiatives to address the unfunded liability.

I'd like to now touch briefly on the unfunded liability of the board, because it's always a topic of discussion, and some of the recent changes in board policies and practices.

What is being done to address the unfunded liability? Well, I can personally assure you that the senior management team and staff are taking decisive action to reduce and eliminate the UFL, as they have been asked to do. First of all, there has been a very thorough and evidence-

based analysis of where the money is going, what value is being provided for workers and employers, what the costs are, and what best practices are and how things can be improved. A strategic plan as to how the UFL can be retired has been developed so that the board can help play its part in increasing the productivity and economic growth of Ontario.

As well, the board now has a 2012-to-2016 strategic plan that is available on the website. It describes the transformation of the board into a modern, sustainable and customer-focused provider of workplace compensation. Importantly, the strategic plan is supported by specific projects and regular measurements, and these are carefully monitored by the board of directors each quarter.

In order that we can be open and transparent to all of the stakeholders, the WSIB is publishing quarterly financial reports that include the current UFL and the board's progress towards addressing it. The board's strategic plan sets the agency's vision—to be the leading workplace compensation board in Canada and North America. In short, that is our goal. In order to achieve that goal, obviously, we need to continue to focus on prevention, we need to continue to focus on keeping our workplaces safe and healthy, and we need to ensure that, as we move forward, we take a look at this plan and that it provides direction as to how the board can deliver better service to the workers and employers in a financially responsible way. It shows the commitment to change, change that will preserve strong and sustainable workplace compensation for generations to come. That, of course, has to be our goal.

Let me share with you some of the operational changes that have taken place at the board over the past two years and how improvements have been made to the delivery of services. A new service-delivery model has been introduced, a new medical strategy is in place in order to speed up access to health care for injured workers, and there is a new return-to-work strategy in place that is supported by 300 staff whose sole focus is helping to get the injured workers back to work safely.

I've had a chance to visit some of the regional offices. I'm going to complete those visits in September. I have been so impressed by the people who are working so diligently and so compassionately with the injured workers to ensure that they can be returned to work safely.

At the same time as these changes in service delivery have occurred, in 2011 the government passed legislation requiring the board to be sufficiently funded and making the board more independent. The management and board of the WSIB have responded. It was necessary to raise premium rates for two years in a row, 2011 and 2012, and they also chose to reduce the refunds that they provided to employers. This was necessary in order to stabilize the finances of the insurance fund. Obviously, you need sufficient funding in order to provide fair funding to those who are injured on the job.

## 0920

These are very significant improvements, and they are delivering positive results. At the end of 2011, for the first time in 10 years, the board recorded a surplus of revenues over expenses. This is a very important milestone in achieving our goal of reducing and eliminating the UFL, which, of course, we are now required to do.

In terms of our new service delivery model, workers are getting decisions on their claims faster than ever before, and they are then able to get back to work faster than they have for over a decade. In fact, 91% are now getting back to work with no loss of wages within a year or less of their injury. As you can well understand, this is beneficial for both workers and employers, and obviously it is good for the productivity of Ontario businesses.

Benefit costs have come down, and more workers, as a result, are able to lead productive lives.

Moreover, employers now get 90% of their calls answered by a live operator in one minute or less, and several new electronic services available 24 hours a day, seven days a week, have been introduced to simplify and speed up transactions with the board. As I say, we want to make sure that all stakeholders can easily access the board and the board's services.

I'd like now to touch briefly on the insurance premiums required to pay for the system and their impact on competitiveness.

I have heard from many employer groups that the premiums in Ontario are among the highest in Canada. I do acknowledge this, and I will tell you that this issue is being addressed. However, there is no simple solution. This has been an issue for many years. However, employers, or at least their industry representatives, already know that the board today is doing everything it can to contain the costs, and I will repeat that the board today has one of the lowest costs of new claims and one of the lowest administration costs of all the provinces. This is an indication that we are on the right track.

The reason the premiums in Ontario are higher than in the other provinces is because the employers today have to pay for the cost of carrying an unfunded liability which is there as a result of what has happened in the past and which most of the other provinces do not have. So it's not the current costs of the board that are the problem, and there is no way to reduce the premiums currently if you're going to pay off that unfunded liability.

The good news is, as I mentioned before, we have already stabilized the finances of the board, and the board has turned a page. That is a very good start.

The government, based on Professor Arthurs's report, has enacted a law that requires the board to achieve at least 60% funding in five years and full funding in 15 years. Based on extensive analysis and some quite conservative financial projections, we are very—and I should stress this, “very”—confident we can achieve these goals. Other provinces have been able to maintain full funding, and there is no reason Ontario cannot do the same. Obviously, then, it will start to reduce the premiums.

Another important change at the WSIB is that stakeholder consultation has been increased and is valued. The extensive network of worker and employer advisory committees called chair's advisory committees that were set up by my predecessor, Steve Mahoney, are working very well. I have met with the co-chairs and members of some of these committees, and the feedback I have received is that they are a valuable mechanism for stakeholder consultation. They provide early information, feedback and transparency about the decisions being considered by the board. They provide an excellent sounding board for the changes we are introducing.

Our support for the Injured Workers' Outreach Services group, which represents vulnerable workers in communities across Ontario in dealing with the board, is also producing very good results.

We also fund the Office of the Worker Adviser, the Office of the Employer Adviser, and the Fair Practices Commission. To facilitate the prevention of injuries and provide enforcement of legislation within the system, the board also provides \$200 million to the Ministry of Labour. As you maybe know, or don't know, the prevention mandate has been transferred to the Ministry of Labour.

In terms of the future, I would like to take this opportunity to thank Professor Arthurs, who I know is going to appear before this committee, for the outstanding services he has rendered to this province by analyzing and recommending improvements to the board to address the UFL and the financial stability of the workplace insurance system. His thoughtful recommendations are going to guide many of the initiatives going forward.

Clearly, there is no room for complacency. The challenges the board faces are enormous, and they go well beyond just overcoming its current financial hurdle. The system will continue to face growing costs and challenges from many other sources. These are going to include more occupational disease claims, which will in turn place increasing demands on the system.

So, although there are challenges and there are tough decisions that need to be made, not the least of which is a decision about future insurance premium rates for employers over the next few years, I would say to you that I am confident that we can meet the challenges and we will be able to make those tough decisions. We can do so if we work with all of our stakeholders, and certainly that is what we are endeavouring to do, to consult with them and to get their feedback. We are committed to conducting our business with fairness and with integrity, and we are engaging in more consultation with our stakeholders than ever before. I would say to you that I think those committees that Steve Mahoney, my predecessor, set up are having a very positive impact in that we are now able to get feedback before decisions are made. In the case of the appeals process and the consultation, we made changes based on input that we received.

In conclusion, I trust that this overview of the WSIB and its transformation to a modern workplace insurance system based on sound business principles has provided

you with a greater understanding and appreciation of our efforts to better meet the needs of employers and workers. We do look forward to responding to your questions. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Ms. Witmer. Each caucus will have 30 minutes for questions in three rounds of 10 minutes. The first will go to the official opposition. Who wishes to lead? Mr. McDonell.

**Mr. Jim McDonell:** Thank you, Chair. Thank you for coming before the board today, Ms. Witmer.

The record of the WSIB has been something less than stellar over the last five years. The unfunded liability has doubled. In front of me is a report by the Canadian Federation of Independent Business. They rate the overall index as the lowest in the country in customer service—by far the lowest. It doesn't paint a very pretty picture. Any comments on that?

**Mrs. Elizabeth Witmer:** Certainly. Thank you very much, Mr. McDonell. I've had the opportunity to meet with the CFIB personally. We've certainly discussed the concerns that they have. I think I acknowledged in my remarks that we recognize that we do have a huge unfunded liability and that that unfunded liability needs to be dealt with. Until it is, obviously, it continues to present challenges.

**0930**

However, I would say to you again that during the last two years under the leadership of our president and our CEO, there has been a thorough analysis done of the issue and there is now a strategy that has been developed in order to eliminate this unfunded liability. I have every confidence that that will indeed occur. Even the CFIB have acknowledged that they're seeing noticeable improvement in the way the board operates and the level of fiscal accountability and responsibility.

However, I'm going to allow our president, who has really been steering the board these last two years in making this change, to provide you with some greater detail as to what is happening.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much, Chair, and thank you for being with us today. My question as well is around the unfunded liability. Ms. Witmer, during your remarks you focused on the analysis of where the dollars have been going. I appreciate that in your strategic plan, one of your pillars is that revenue must cover costs. That's nice to see, but in terms of the analysis that you referenced, I'm wondering if you could drill down and share the parameters of that analysis and the timeline of when we can expect results.

**Mrs. Elizabeth Witmer:** Sure. Thank you very much, Ms. Thompson. I'm going to allow Mr. Marshall to give you all the detail, because he's the one who has been very intimately involved in making sure that we achieve that objective.

**Mr. I. David Marshall:** I think your question was, in a sense: "What's driving the unfunded liability? Is there

anything we can do about it, and if so, when will we see results?” The unfunded liability, by the way, is the shortfall in the fund between what we need to pay workers in the future and what we have. The driver for this situation, which is somewhat unique in Canada among the other provinces, very simply is that expenses outstripped revenue for a number of years—for about a dozen years. The main reason for that was that, starting in about 1998 and just after that, the board really made a significant change in how it approached its service. Instead of regular contact with workers and helping them back, the board outsourced that to private providers and created a very generalist type of manager who had many, many files to manage and couldn't pay attention to individual workers as much as before. To put it briefly, more and more workers—thousands of workers—weren't getting back to work, which wasn't the case in other provinces and needn't have happened here because, during most of that time, employers were adding jobs to the economy. Injured workers in Ontario were staying off longer and longer, and many of them were getting locked in for 10 years or more on benefits, and that drove up costs very significantly. At the same time, premiums were not increased, so you had this gap opening up that kept growing and growing until finally you have additions to your future expenses that you don't have enough money to fund. What was happening then—and that has been commented on by several observers—is that we started taking money out of our investment fund to pay for current expenses. This was really a situation that was headed for a very serious crisis, and the Auditor General in 2009 actually commented on that.

As you probably know, the benefits that are owed to injured workers are defined in legislation, and the government decides that. There has been commentary that the government has added benefits without finding a source of money to pay for them and contributing to the unfunded liability. But when you actually examine the numbers, as we have, you'll find that that is true, that there were some retroactive benefits enacted, but the real impact of that was about \$1 billion. We're talking about a \$6 billion increase in the unfunded liability. The fundamental reason is that expenses grew because we weren't serving workers as well as we should and revenues were kept down to help employers with the premiums.

However, you can't reduce the premiums because you would have to start paying for that money that came out of the investment fund before. What we did was create several financial models to see what might happen: Was there any hope, really, or should we sort of throw in the towel and say, “Look, put it on the province's books and raise general taxes”? What we found, and we discussed this with the Ministry of Finance and the Auditor General, who accepted our analysis, was that indeed there was light at the end of the tunnel, that we could retire the unfunded liability in an orderly fashion without horrendous increases in premiums, but they would be needed. And we had to change at the same time how we served workers. We had to get much better at helping them back

to work. There was no reason that workers should stay five, six, 10, 20 years on claim. So we proceeded to have an operational plan and a financial plan.

I can tell you that we passed a real milestone in 2011 when our premiums collected actually paid for the expenses of benefits and we didn't have to take money out of our investment fund. For the first time in 14 years, we actually put some money back into the fund. So in terms of when we will achieve the goals, this is now laid out in legislation. We have to reach 60% funding in five years, 80% funding in five years after that, and then full funding in five years after that; so it's a 15-year time horizon. It is long, but it's a lot of money we have to collect: about \$14 billion.

**The Vice-Chair (Mr. Phil McNeely):** You have one more minute.

**Mr. Rob Leone:** I have a very quick question, Mrs. Witmer. First of all, thank you for helping my constituent a couple of weeks ago—very helpful in terms of your intervention. But I have a question with respect to premiums. You noted that we have the highest premiums in the country. I wonder if you could provide some commentary with respect to high premiums and the effect it has on small business growth and job creation in the province of Ontario.

**Mrs. Elizabeth Witmer:** I've tried to incorporate that into my remarks, Mr. Leone. Obviously, we recognize that it is a cost of doing business in the province of Ontario. We always want to make sure that when it comes to creating an environment that encourages job growth, we do everything we can to, obviously, reduce red tape but also to ensure that the taxes in the province can be as low as they possibly can be. So, that's why the plan to eliminate the unfunded liability will take place over the course of 15 years, because we do recognize that any increase in premiums, again, is a cost to small business.

**The Vice-Chair (Mr. Phil McNeely):** That takes up the time. We'll go to the third party and Mr. Natyshak.

**Mr. Taras Natyshak:** Good morning. Thank you very much for appearing before us. Ms. Witmer alluded to the Arthurs report, so my comments and questions will focus mainly surrounding that, in general. The report was released on May 4, 2012. Can you tell us when the WSIB had a full view of that report?

**Mr. I. David Marshall:** I believe we had that just before the end of the year, around Christmas. Am I right there?

*Interjection.*

**Mr. I. David Marshall:** About January; sorry.

**Mr. Taras Natyshak:** January? One of the areas that Professor Arthurs focuses on is the indexing for workers on partial benefits. Can you tell us how the issue came to be included in the terms of reference of the funding review?

**Mr. I. David Marshall:** Yes. I believe it was the government that put that on Harry Arthurs's agenda to look at.

**Mr. Taras Natyshak:** What, in general, has the board's opinion been of the focus and the initial mandate

of the Arthurs report, I guess? Are you in agreement that his mandate was in the right direction?

**0940**

**Mr. I. David Marshall:** Well, yes. We, in fact, initiated the review, Mr. Taras. In order to proceed on an orderly basis, we needed to get consensus amongst various stakeholders who had different points of view about some very foundational issues. For example, should the fund be fully funded or not? Lawyers didn't necessarily agree with that, and neither did workers. Was the rate group structure in which employers were organized appropriate to the current business environment?

The experience rating, where we still give money back to employers based on their claim experience, was clearly causing some unintended effects. What should we do about that?

All of the things, pretty much, except for indexation, which the government asked to be included, were things that the board—the WSIB and us as managers—in fact asked Harry to look at. So yes, we were very supportive.

**Mr. Taras Natyshak:** In Professor Arthurs's report, recommendation 8-2.1, page 103, he quotes that "in the budget year following release of this report, the benefits ... should be increased" by the consumer price index, the CPI. The government has not implemented this and instead announced 0.5% for each of 2013 and 2014. Was the board consulted with this decision?

**Mr. I. David Marshall:** We were consulted on the cost of various options that the government was considering. Obviously, it's not our decision in the end. But we were asked to provide analysis of what the cost would be, yes.

**Mr. Taras Natyshak:** Can you give me an overview of what that analysis said in regard to the 0.5% increase?

**Mr. I. David Marshall:** Yes. It's also in Harry Arthurs's report. If you see his models in terms of funding, you might be able to notice that if full indexation of partially indexed workers was implemented, it would add close to \$2 billion to the unfunded liability.

In terms of what the government did implement, which was actually more than what's in the legislation, which is the modified Friedland formula, which would have yielded in the next two years about 0.3% of indexation, and the government decided to increase that to 0.5%—the cost of that, what the government did announce, is about \$40 million over the next two years, so about \$20 million a year. We provided that analysis to the government.

**Mr. Taras Natyshak:** The board has the power to review the WSIA and regulations and to recommend changes. Will the board exercise that power to recommend that the government restore full indexation?

**Mr. I. David Marshall:** Really, Mr. Taras, it's not in our purview at this stage. We already have Harry Arthurs, who has made that recommendation, after broad consultation with ourselves and with other stakeholders. It is up to the government to decide the benefits, and we provide the supporting analysis for that.

**Mr. Taras Natyshak:** Forgive me, Mr. Marshall, but sometimes the best intentions and the best reports, specifically in this place, get shelved. I'm just wondering if, because the board has the power to make those recommendations, it might carry more weight in conjunction with the Arthurs report. You're saying that you'll simply rely on Arthurs's recommendations and that's it?

**Mr. I. David Marshall:** Yes, but as you can read in his report, there's a very detailed rationale for why indexation should be included. In a sense, Harry Arthurs has done that job for all of us in recommending a change. The government has to weigh up its options. There are many, many priorities, and they have to make that decision.

**Mr. Taras Natyshak:** Is the board aware of what the government's plans are for moving towards indexation after 2014?

**Mr. I. David Marshall:** No. At this stage, we're not aware. We were just given the cabinet decision on that—

**Mr. Taras Natyshak:** When would you expect to find out what the plans are? We would assume that you would want to make provisions for that.

**Mr. I. David Marshall:** That is correct. I would suppose that when the government puts its mind to making a change—they've already, in a sense, committed to what will happen in the next two years. I think that if they were going to make a change for the third year, they should let us know next year, because we'd have to look at that in terms of premiums needed to pay for the benefits. So we would probably appreciate knowing, perhaps around the middle of the year next year, what their intentions are going forward.

**Mr. Taras Natyshak:** I think you just sent that clear message to the government. Thank you for doing that.

I'd like to move to the experience rating system. Recommendation 6-2.6 calls for the commitment within 12 months to making changes necessary to protect workers against claim suppression and other abuses, with 30 months to implement these changes. If the time frames are not met, experience rating should be discontinued. He made those recommendations because of what he described as a "moral crisis" that has arisen because the board hasn't taken adequate steps to deal with the abuse. Will the board be in a position to abide by those time frames?

**Mr. I. David Marshall:** I would say that we're taking this very seriously. We are engaging an expert to work with us and to consult both workers and employers on the current structure of experience rating.

I should say that experience rating exists in all the provinces. It's a means of recognizing employers that have fewer claims versus those that have more claims. Professor Arthurs has recognized that there could be unintended effects of this kind of financial incentive, so that employers might be tempted to suppress claims so that they can get either more of a refund or less of a surcharge, and we've certainly taken notice of that. I should tell you that many of my colleagues in the other provincial boards have exactly the same challenge of

potential abuses by employers. You will note that Professor Arthurs didn't say that there was actually any evidence of that, but on balance he believed that was a problem, and to the extent that there was even a probability that it was happening, that we should act.

What we are doing, then, is to engage employers, starting this fall, around September, in a very intensive discussion around how to change the experience rating system here in Ontario. We're also engaging the Chief Prevention Officer to get his views about what kind of financial incentives would actually promote prevention, as opposed to simply inducing any kind of financial engineering, if you like, on the part of employers. So this is front and centre, and we've already given notice to employers that we'll be looking at that.

**Mr. Taras Natyshak:** Thank you very much. If I can tie in the WSIB's previous mandate, prior to April 1, 2012, in ensuring that workplaces with 20 or more employees have the mandated, legislated, two certified members required by law—if I can shift that to the experience rating rebates, could you confirm whether—because it's estimated that roughly 59% of workplaces in Ontario do not have the mandated certified members. Is it the WSIB's practice to still allow companies to receive experience rebates even with a confirmation that certain companies do not meet those statutory requirements?

**Mr. I. David Marshall:** You know, we're in transition at the moment. It's not really feasible to make ad hoc changes in the middle of things. This system has been operating for quite a while. The issue that you've mentioned in terms of proper arrangements and internal responsibility systems for prevention now really falls under the Chief Prevention Officer, and we're going to be working very closely with him as to what constitutes proper safety procedures at an employer's premises. In fact, we'll be working with him on whether or not he would like to create a certification program where employers have to meet certain standards that he would lay down, and where we would then help that by potentially providing a discount, if you like, on premiums for employers who meet those standards.

But in the meantime, this affects thousands of employers. There's a couple of billion dollars that goes back and forth between employers and ourselves. There are formulae that are embedded in our policies. To change that is what really we're engaged in right now, so that we can consult employers and make sure that any changes we make are not disruptive, and they have a chance to accommodate them and so forth. So I would say that—

**The Vice-Chair (Mr. Phil McNeely):** Could you wrap up, please? You're over time now.

0950

**Mr. I. David Marshall:** I'm sorry.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll get that in the next round.

Now we'll go to the government and Ms. Albanese.

**Mrs. Laura Albanese:** First of all, I want to thank you for the presentation and for appearing before our committee this morning.

My first question would be to Mrs. Witmer. The question is, what would you like to see as your legacy as chair of the WSIB?

**Mrs. Elizabeth Witmer:** Well, I think I made reference to it in my opening remarks. I would like this Workplace Safety and Insurance Board to be the best in Canada and North America. I would like to see it being financially accountable to employers and to workers. I would want us to have the safest workplaces in the North American jurisdiction. And I guess I would want to know that we are serving all of the stakeholders to the best of our ability and that the level of satisfaction is as high as it possibly can be. I think in order to achieve that, we need to continue to have an open dialogue, transparency, and we need to be responsive to the concerns that are expressed.

It would be wonderful if the day would come when people, if they actually were given a choice, would choose the Workplace Safety and Insurance Board because they know it provides the best services to the injured workers, and also employers would see it as being fiscally accountable and responsible. That's where I'd like us to be.

**Mrs. Laura Albanese:** In your presentation, you spoke about some of the challenges that the WSIB would be facing and some of the weaknesses. What do you believe are specifically the weaknesses that need to be overcome to better serve injured workers in Ontario?

**Mrs. Elizabeth Witmer:** If you take a look at some of the people in the workforce, you can recognize that we're going to have more older workers in the workforce, we're going to have more women, and we're going to have more immigrants. So one of the challenges that we're going to face is that some of these individuals do have more injuries.

Also, if you take a look at the immigrant population, I do think we need to do everything we possibly can, because we know we're going to have more immigrants who don't all have the English-language skills, and we need to make sure that people are aware of the fact that there is a Workplace Safety and Insurance Board for them when they are injured on the job. I think one of the things we need to do is continue to communicate more effectively. Perhaps, when we have English-as-a-second-language classes for newcomers, right up there, up front, we could make sure that they're informed about the fact that there is a board, and if something does happen in the workplace, they can access it.

One of the other things we're trying to do is, we're changing our website so that when people access it, they can choose the language of choice for communication and learning about the board and what their rights and their responsibilities are. There's a population there that we'll need to make sure that we can address moving into the future.

**Mrs. Laura Albanese:** That's very important. Could you also give us a sense of how things have changed in how the WSIB approaches injuries and fatalities specifically for young workers?

**Mrs. Elizabeth Witmer:** Young workers is an interest I've always had personally from my own days as Minister of Labour. I do believe that over the years—and I know that my predecessor, Mr. Mahoney, was very committed to the prevention of accidents and injuries in the workplace as well. I think there has been a greater focus on raising the awareness of young people as to when they go into the workplace, through communication and other vehicles within school, to make sure that they are aware of the fact that they do have the right to refuse unsafe work. Obviously, they have rights and they have responsibilities. Perhaps, Mr. Marshall or Mr. Slinger, you might want to add some further information regarding initiatives recently that help, again, to protect young folks.

**Mr. John Slinger:** I will say that over the last two years we've made some policy changes which were specifically aimed at a group of younger workers who are injured before they really reach their full earning capacity. Whereas we had previously looked at the work that they were doing and their existing earning capacity and trying to put them in a position where they could go back to work earning at that level, we've now changed policies to actually recognize that we need to do more. The policy now enables us to look at setting a projected wage for younger workers so that in fact we can do more in the areas of retraining to improve their position.

**Mrs. Laura Albanese:** One other question that I had is, in 2011 you implemented the new work reintegration program. There has been an increase in injured workers returning to work, as you mentioned, in a much shorter time span. While this program appears to speed things up, how can you assure us that quantity is not being favoured over quality?

**Mr. I. David Marshall:** Maybe I'll take that question. In the first place, the big change that occurred in 2010 that we implemented is that we have now 300 staff members who are expert in return-to-work and accommodated work for injured workers, so they are very well aware of what kinds of jobs are actually sustainable and not just paper jobs or temporary jobs. Whereas before, workers had to try to negotiate on their own with employers what job they could go back to, now we have experts going along with them.

In 2011 alone, our staff visited 21,000 employers to help employers and workers get together and find the proper jobs for them. What we've been seeing very quickly is in fact a reduction of almost 20% of the workers who come back to us a month after they've taken up a job. What used to happen is, workers would get back and then find this wasn't right or they weren't able to do the job, and then come back on benefits, and that rate is now dropping quite sharply. That's telling us that something is going right.

**Mrs. Laura Albanese:** And you can assure that the quality is not being compromised.

**Mr. I. David Marshall:** That is correct; yes. Obviously, it's the real world and efforts are being made, and where there's a problem we go right back in. In fact, we give the worker a sheet to give us a call if they're having

a problem after they've gone back, and we can help them some more.

**The Vice-Chair (Mr. Phil McNeely):** Time is up. We'll go to the official opposition and Mr. McDonell.

**Mr. Jim McDonell:** Thank you. In Ontario we already have some major issues with small business. We have the highest hydro rates, increasing another 45% over the next five years, and the highest property taxes. Bill 119 is going to force the independent operators onto the system, I believe, in January of next year. These people already have insurance; they're covered through, I guess, the accounting of the independent business, at much reduced rates. Do you feel this is fair, or is this just going to drive more people out of business in Ontario, because now we see people or companies leaving now? And is it just a way of getting more revenue? The answer seems to be always more revenue for many of the issues we see in this province. Is that really the right answer?

**Mr. I. David Marshall:** First of all, I think we need to understand that this is not extra revenue for the board, because it's an insurance premium, and it's set based on the expected claims that are going to be coming in; so the premium revenue is going to be used up in terms of claims that are coming in.

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To the extent that the premiums are more than necessary, of course the premium will be reduced the next time around. This is not in any way an attempt to add revenue, because it really adds work. We have to be able to pay for injuries that might occur with the new group of employers.

In terms of simply why they're coming on board: Obviously, there was due consideration of that. It was debated in the House and it's now the law. But really, I think the impetus came from a combination of construction businesses who said that they wanted to level the playing field so that everybody was in the system together. It also came from the labour community, who felt that a lot of workers with these independent operators were not adequately being covered for their injuries.

In terms of the actual cost of insurance, it's very difficult to compare, because the insurance that employers take, if you like, on their own—short- and long-term disability insurance—has many, many differences from what workers' compensation provides. For example, most of these plans have a limit of income replacement of up to two years, whereas the workers' compensation plan has no limit. You can get paid all the way up to age 65 and then get a pension. There are no limits on various medical procedures that are provided. As well, the workers' compensation system pays all medical costs—OHIP doesn't pay anything—whereas the private insurers rely on OHIP for medical costs on most of them and only top up after that. So there are many, many differences.

There have been studies done on this matter. Generally speaking, the conclusion is that the public system provides a very, very good price for the coverage that it

gives. Obviously, we can make that better in Ontario once we pay off the unfunded liability.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much. We're focusing on the revenue that you hope to recover through the imposing of Bill 119 and things like that, but let's talk about costs at WSIB as well. Can you specifically get into the details of how you are going to start managing your cost of operations in a responsible way to ease the burden of this unfunded liability?

**Mr. I. David Marshall:** Yes, I will. The big changes we've made to do just what you asked—there are really three things that we've done. First of all, we've reorganized our team so that we don't have generalist managers doing everything. We now have special teams that are focused on each stage of a claim: deciding eligibility in the first place; deciding how much wage replacement is appropriate; deciding on medical care, return to work and so forth. As a result, there's a lot more rigour in our system.

The second big thing we did—in fact, John Slinger, my colleague, has been leading a lot of this—is that we in-sourced labour market retraining; that is, the help for workers who couldn't get back with their employer. We hired 300 new people to work on this because we realized with our research that if you don't get a worker back within 90 days of their injury, the chances you'll ever get him back drop by 50%. So there's a very short time in which you've got to get involved with the worker, help them recover medically and negotiate with the employer to take them back. That has now been happening, and you'll see a drop in the number of workers who are still on-claim 30 days, 60 days and 90 days after their injury. That saves a huge amount of costs downstream.

The third thing we did was to change our strategy for medical care. We used to just leave workers to the general medical system. They'd go to their physician, be sent for tests, and wait around. It used to take sometimes two years before they'd get to an evaluation centre. That has all changed now.

I could go into some more detail, but there are very specific projects that are designed to control costs.

**Ms. Lisa M. Thompson:** One short supplemental: You mentioned you hired 300 employees. How large is WSIB in total?

**Mr. I. David Marshall:** We're about 4,200 to 4,300 people, and we're on track to be bringing that down as well, as you might hear.

**Ms. Lisa M. Thompson:** Do you have a target?

**Mr. I. David Marshall:** Yes, we do—well, “target”; we have areas where we know we can make economies. We've already had 400 people leave in the first quarter of this year.

**Ms. Lisa M. Thompson:** Okay. Thanks.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Leone.

**Mr. Rob Leone:** I want to pick up on what Mr. McDonnell had asked on Bill 119 and the premiums that these independent contractors are going to pay through

the private insurance they hold and through WSIB. Now, the criticism that they had levelled on—and this is also following up on the question I had previously for Mrs. Witmer. They're paying two premiums now, which is adding to the cost of doing business in the province of Ontario. So not only do they have the highest WSIB premiums in the country, but they also are paying premiums to their independent insurers through the course of doing business as it was already.

I'm going to ask a similar question to what I asked before, which is, how does that incent more small business growth in the province of Ontario and more private sector job creation when we're asking these contractors to effectively pay two insurance premiums? I understand that there are differences that Mr. Marshall had pointed out, and deficiencies and shortcomings in private insurance, but there are instances where private insurance actually covers and provides increased coverage than what they're receiving from WSIB.

I'll go back and stick to the main point of my line of questioning, which is, how do we incent small business growth and private sector job creation in the province of Ontario, given that we're asking these employers to essentially double the amount of insurance they're paying?

**Mr. I. David Marshall:** For one thing, as they enter the WSIB insurance system, they should go back to their insurers and negotiate a change in coverage. Obviously the insurance they have now probably covers them for short- and long-term disability, whether it's at work or not. Now that they have insurance for any injuries at work, they should be going back to their insurers, if they still want coverage outside of work, and negotiate a rate in that way so that there's no double coverage.

The second big benefit that small businesses have, and this is extremely important, is that an employer covered by WSIB is safe from being sued for any injuries in the workplace. So it's not just a question of being able to provide the money, but being sued and potentially losing their business if there's a fatality or a serious injury in their workplace. So that is a big benefit that they're getting coming into the system, and, I think, does provide stability for them as they go forward.

**Mr. Rob Leone:** Maybe I have to seek a little bit of clarification. So you're suggesting that businesses who are in the WSIB don't get sued for workplace injuries at all?

**Mr. I. David Marshall:** Sorry. It's a fundamental principle of the WSIB insurance system that workers gave up the right to sue employers for injuries in the workplace, except for—

**Mr. Rob Leone:** Right. But the ministry can still sue.

**Mr. I. David Marshall:** Sorry?

**Mr. Rob Leone:** The Ministry of Labour can still sue employers for—

**Mr. I. David Marshall:** They can sue under different legislation for violations of safety and labour laws, but not for injuries in the workplace.

**Mr. Rob Leone:** I just wanted to clarify that.

**The Vice-Chair (Mr. Phil McNeely):** Time's up for that, and we'll get back to that later.

The third party: Ms. Taylor.

**Miss Monique Taylor:** Thank you for being here with us today. I'm going to start on some conversation of universal coverage, because as I see in my chart here, Ontario is the lowest in Canada, at about 71%, with the average being 82%. In the Arthurs report, on page 108, he states: "I am convinced that the issue" of universal coverage "is so critical for the future of Ontario's work-place insurance system that it deserves early and extensive study."

Has the board begun to study this issue?

**Mr. I. David Marshall:** We have in the past done some work on that in terms of how many employers would be added to the system and how we could accommodate them. We are not currently looking at it. Dr. Arthurs's conclusion is that the larger the pool of employers, the less cost for each one individually, so you can spread the cost better and so all workers have the same kind of privileges and coverage. Obviously, this is something the government will need to put its mind to; this is something that needs legislation. I'm not aware of their studying it at this time.

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**Miss Monique Taylor:** Do you have any plans to do so at all?

**Mr. I. David Marshall:** Not at the moment, no. We have a challenge to get the fund fiscally sound, and that's where we're focused at the moment, and to help workers get back to work. I think, personally, this discussion would be improved once we get on a better fiscal footing. I think that's where we need to focus for the moment.

**Miss Monique Taylor:** Would it be possible that you could table that work before this committee?

**Mr. I. David Marshall:** Do you mean about coverage?

**Miss Monique Taylor:** Yes. Any work that has been done to date, we would like it tabled to the committee if possible, please.

**Mr. I. David Marshall:** Yes, I'll be happy to do that. I'll look at the materials and table it for you.

**Miss Monique Taylor:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Natyshak.

**Mr. Taras Natyshak:** I'm going to pick up where we left off, Mr. Marshall, with the experience rating. You had mentioned that you would be engaging with the chief prevention council around the redesign of experience rating. Do you have any plans on reaching out to workers' groups or actually workers in general? If so, what are those plans and any timelines associated with those?

**Mr. I. David Marshall:** Yes, we are. We published our agenda for policy renewals, and the worker community is aware that we are going to be looking at experience rating. We will be publishing a green paper on the principles on which experience rating should be based. Obviously, Dr. Arthurs has provided some input there. The Chief Prevention Officer will provide some more. There will be in-person hearings in which the worker

community and employers will be invited to make submissions, which will then be considered. Then we will put out a draft of the new system that we might propose, take input from that, and then come up with the final policy for experience rating.

**Mr. Taras Natyshak:** You had mentioned, in the context of the Arthurs report, that Professor Arthurs wasn't able to specifically identify employer groups that had taken advantage through the experience rating system. But there have been some reports, and I'm wondering if you can table them, that I believe WSIB would have. There's a report from Mike Johnston, executive director of regulatory services, including names of employers who were charged and convicted or who pled guilty to violations, that should make up a clear indication of what Arthurs wasn't necessarily able to identify. As well, there are results from the Ministry of Labour's pilot inspection program inspecting employers which had reported no injuries over the previous three years; the results were that these employers often had a high rate of occupational health and safety violations.

I'm wondering if you have access to those reports and if you could table them to us. We believe that they would obviously aid in your understanding—should make up a large amount of the data.

**Mr. I. David Marshall:** If I may ask, Mr. Chair, if the members' requests can just be given to us in writing? I want to make sure that I understand exactly—

**Mr. Taras Natyshak:** We'll do that, Chair. I'm sure we'll have a good list afterwards.

I'll pick up where my colleague left off under universal coverage. You said that the board has begun studying the issue, or you have in the past.

**Mr. I. David Marshall:** Yes.

**Mr. Taras Natyshak:** How long ago, roughly? Do you know when it was last reviewed?

**Mr. I. David Marshall:** I would say, about 2003.

**Mr. Taras Natyshak:** In 2003? So, here we are a decade later—any plans on reviewing that concept going forward?

**Mr. I. David Marshall:** I must tell you that we don't have any immediate plans to do so. I think this is something the government needs to take up because it'll need legislation and it is in their purview. In most of the other provinces, the government has taken the initiative and has passed legislation.

**Mr. Taras Natyshak:** Roughly, if we were to expand to universal coverage, how many employers would that bring into the system—employers and uncovered workers?

**Mr. I. David Marshall:** We cover about four million workers, so about a million extra workers would probably be involved, approximately.

**Mr. Taras Natyshak:** Under the provisions of Bill 119, are you aware of how many new workers are to be covered under that?

**Mr. I. David Marshall:** Yes. I believe that there are about 90,000 new employers that would come in, so maybe 250,000 new workers might be involved.

**Mr. Taras Natyshak:** Some 250,000?

How much time do I have, Chair?

**The Vice-Chair (Mr. Phil McNeely):** Could you speak louder?

**Mr. Taras Natyshak:** How much time do I have, Chair?

**The Vice-Chair (Mr. Phil McNeely):** Pardon me?

**Mr. Taras Natyshak:** Time?

**The Vice-Chair (Mr. Phil McNeely):** Your time is—

**Mr. Taras Natyshak:** That just took 20 seconds to figure that out. Anyway, do you know what? I'm going to ask a personal question of the chair and you, Mr. Marshall. Do you agree with the previous chair, Chair Mahoney, who said that he frankly supports mandatory coverage for everybody who works in the province? Do you agree with that position in general?

**Mr. I. David Marshall:** There are a lot of good reasons for mandatory coverage for everybody, and Dr. Arthurs has pointed them out. This is really a policy issue that the government needs to look at. We'd be happy to help in the analysis. My opinion really doesn't count very much until the government decides that that's what they want to do, but we'll certainly help them. As you pointed out, most of the other provinces have, in fact, up to 90% coverage.

**Mr. Taras Natyshak:** And my time again was? Did we figure that out yet?

**The Vice-Chair (Mr. Phil McNeely):** You're in your last minute. You've got 30 seconds.

**Mr. Taras Natyshak:** I'm going to switch to an occupational disease panel, Mr. Marshall. Professor Arthurs recommended that the board re-establish a medical/scientific panel to help the board handle occupational disease issues. That recommendation is found on page 95. Has the board taken steps to re-establish this panel? If not, when will the board take those steps?

**Mr. I. David Marshall:** I'll just ask Mr. Slinger to comment on it, since—

**The Vice-Chair (Mr. Phil McNeely):** You only have a few seconds, so—

**Mr. Taras Natyshak:** A yes or no would suffice, almost.

**Mr. John Slinger:** Yes, it is an issue we're looking at.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go to the government now. Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you very much. Mrs. Witmer, in your opening remarks you did refer to a new medical strategy. As a physician, that's certainly an interest of mine. Mr. Marshall did say that perhaps we could hear a little bit more about that. I would be very interested in having a little elaboration on what this is about.

**Mrs. Elizabeth Witmer:** Yes. We are seeing very positive results as a result of the new strategy. I think the other thing that has been happening is that there is increased access to health services more readily available to the injured worker in order that the individual can be assisted in getting back to work and getting back to work safely. I'll give Mr. Slinger the opportunity, since he's in charge of operations, to let you know exactly what has

been happening in the course of the last two years, but it is producing very positive results.

**Mr. John Slinger:** I think an important point was made by Mr. Marshall earlier, and that was that for about a 10-year period, we saw increasing durations, fewer workers going back to work, and increasing costs. We also saw a significant increase in prescriptions for narcotic medication, for example.

One of the first things we did in relation to a new medical strategy was to say that we have to start significantly limiting the narcotics available, specially at the early stage of more straightforward cases. We were seeing narcotics being prescribed for strains. Obviously, there is a time when narcotics are appropriate and a time when narcotics are not. Not only had we seen a significant increase, but it was also an increase in OxyContin, which, of course, is a long-lasting, especially addictive medication. We were beginning to see cases of injured workers who were as disabled from their addiction as they were from their injury.

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When we went down this road, we sought assistance from a number of sources. We sought the support of the Ontario Medical Association and various others, but not too many people were doing this. We believed it was important, and although we didn't get the OMA's endorsement at the time—they've since endorsed it quite heartily—we felt we needed to go down this road, and that was very important. That was an important first step, and we've started to see that play out in terms of, obviously, fewer prescriptions for narcotic medication.

The second part of the strategy was really to say, while we've invested in 300 more skilled professionals in the area of return-to-work, we need to support their work through early access to medical, and if in fact a worker is waiting for months to get referred to a specialist or months for a CT scan or other diagnostic, then obviously our ability to understand the diagnosis and begin to work with return-to-work was limited. We had a group of specialty clinics that we had contracts with, represented by a number of large hospitals who had clinics, including a number of teaching hospitals, but we needed to expand not only the number of specialties that they covered—for example, we didn't have a back specialty program, although low backs was our biggest single injury type. So we went out through a competitive bid process and actually doubled the number of specialty clinics and increased their geographical reach, so we now had them throughout the province, not simply in Toronto, where they had tended to be. It included adding CAMH, for example, and a number of others. Last year, we saw a significant increase in the number of cases we got to those specialty programs early, and that would help us clarify a case that seemed to be drifting, where the family doctor was not comfortable and didn't seem to know where it was headed. That has helped us tremendously, giving us that additional access.

I guess the third thing is, we took a look at our high-impact claims and we said that there are three kinds of

injuries which often result in chronic, long-term injuries: low back, shoulders, and fractures. Particularly when it related to low backs, many of those were soft-tissue injuries. The feeling was, with more effective care at the front end, a lot of those cases would not have permanent impairments; they shouldn't have permanent impairments. So we created some programs of care which were specifically best practice—more active rehabilitation and physiotherapy for low backs, for example. Last year, I think we increased the number of programs of care that workers went to by 2,500; again, very early treatment, evidence-based, solid literature support for what we were doing.

We also created our own special teams for low backs, for example. More recently, we've actually created a group of back examiners who can be involved even earlier than the specialty programs for some of the soft tissue cases, and that we just started in June.

All of this is really by way of saying, the better and earlier the health care, the earlier our involvement, the fewer narcotics that workers are given, the more work site visits and the more we encourage rehabilitation at work—in other words, better at work, which again is consistent with the literature—the better the outcomes will be for injured workers.

Those are really some of the things we've done by saying that return-to-work and medical support have to be integrated. That's really been the model that we've pursued.

**Ms. Helena Jaczek:** Thank you. You've alluded to contracting out to various clinics, institutions and so on, but amongst the 4,300 or so employees of WSIB, could you just categorize them? How many have a health background? What sort of medical expertise do you have within your employees?

**Mr. John Slinger:** Right. We have about 200 nurses. The largest single group of staff is case managers; we have about 750 or 760 case managers. We have 300 return-to-work folks, and we also have a small group of medical physicians. We had a larger group—at one time, we had as many as 30 or 35 physicians within the board, but as those folks retired, we were finding it harder and harder to recruit younger physicians. We wanted physicians with clinical experience and clinical background who were willing to come to the WSIB. We decided we needed to look at a model which allowed physicians to work for us, but to work in a variety of other settings at the same time. So we went from an internal model, which often took us 30, 60 or more days to get a medical opinion, to a model that now has a number of physicians who, through an RFP, have joined our organization in a part-time capacity, and who are now getting opinions back to us within five days. Again, we don't have the kind of retention and attrition problems that we did in the past. That was started about a year ago, and it, again, has been very helpful to support staff.

**Ms. Helena Jaczek:** Just to follow up on this whole efficiency, have you instituted electronic medical records?

**Mr. John Slinger:** Well, all of our transactions with our panel of external experts are through that method, and we certainly have electronic reporting, but I will say that we haven't had the uptake within the medical community that we had hoped for, and we are working with the OMA on what we can do to improve that. We have the ability, but not necessarily all hands on deck, as it were, to make this work. So we're working it.

**Ms. Helena Jaczek:** How much time, Mr. Chair?

**The Vice-Chair (Mr. Phil McNeely):** You have half a minute.

**Ms. Helena Jaczek:** I wanted to actually follow up on this occupational health panel, the scientific panel. The intention is to re-establish that. Why was it discontinued? Because I believe there always used to be one.

**Mr. John Slinger:** Yes. Legislation provided for it up till 1998, and the legislation was changed.

Now, in fairness, we have very close relationships with St. Michael's Hospital and McMaster medical centre. We use a number of pre-eminent specialists to provide us with advice and assistance. We also have scientists who work at the WSIB who do literature searches, and we provide a grant to Cancer Care Ontario. So it's not as if we have been missing in action when it comes to this work; it's just that we haven't had a specific panel in place. But we have gone outside consistently for the best advice and evidence we can get as it relates to occupational disease.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go to the final round of 10 minutes and to the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Thank you. There are many times your benefits have increased. You talked about it being up \$1 billion, which is about 15% of the increase that we've seen the last five years of \$6 billion or \$7 billion—a doubling. Now you're looking at bringing these small operators that are not part of this deficit, that have been able to get a better deal, basically, through private insurance. I'm just worried about the sustainability. Is it practical to think—as you say, it's intended that they'll be neutral coming on, but really, they've got to be part of the system that pays this deficit. Is it fair to them to bring them on? Obviously, from my understanding, very few of them are signing on, and will be forced to at the end of the year through threat of penalty. Is this sustainable, and is it fair to bring these companies on and ask them to pay for the deficit that's been created by other companies?

**Mrs. Elizabeth Witmer:** I appreciate the question, Mr. McDonell. I guess the only thing I can remind you of is the fact that this was a decision made by the government. Our responsibility now is to implement the legislation of Bill 119. So we're doing the best that we can in order to follow through on the direction that has been provided for us.

A suggestion was made that these individuals, obviously, if they are already paying insurance, need to work with whoever the coverage is provided by and make sure that they're not paying twice for the same

coverage in the workplace. But this was a government decision.

**1030**

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** My question is around the fairness of the imposing of Bill 119. I come from a rural riding which thrives on small business, and this is deemed, as of January 1, to be an extra burden.

I'll give you an example. I was speaking to a contractor from my riding, and his wife is a partner in the company. She's responsible for his books. She's an administrator, for lack of a better term, and he is going to be faced with the burden of paying the same rate for his wife, who picks up a pen, as his employees, who pick up a hammer. He just shakes his head. He wants to know: What is the rationale behind that and where is the fairness in this?

**Mrs. Elizabeth Witmer:** I'm going to ask Mr. Slinger, because there is a difference.

**Mrs. Donna H. Cansfield:** There is a difference.

**Mr. John Slinger:** We have been working closely with the employer community developing policies around the legislation, and there will be differential treatment in different situations like you have talked about. I think we are just preparing to get out with major communications on this. I hope very shortly we'll be able to satisfy some of your constituents' concerns around how this will work. Again, we have paid a lot of attention to the advice we've received from the business community, and we will look to make this work as well as we can for everybody involved. Obviously, it's important legislation, and we need to administer it fairly and we need to communicate it well. That's certainly our goal.

**Ms. Lisa M. Thompson:** But do you not feel it's like double-dipping, because out of one pocket he's paying his own insurance provider, and out of his other pocket he feels an extra hand, which is coming from WSIB?

**Mr. John Slinger:** I think I would suggest that you wait to see the policies that have been developed, because I think there has been an effort to make them fair and understandable. I hope some of the concerns that you're hearing will evaporate.

**Ms. Lisa M. Thompson:** Okay. And the timeline for those policies being released?

**Mr. John Slinger:** Very shortly. I believe they have just been approved, and we have a communication plan that has just very recently been signed off. So we expect very shortly to be out with those.

**Ms. Lisa M. Thompson:** Okay. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Leone.

**Mr. Rob Leone:** Going back, Mrs. Witmer, to something you mentioned in your comments and commentary with respect to the premiums and the unfunded liability, you said that there were no easy solutions. I'm wondering if you could elaborate upon the range of solutions that the WSIB is potentially contemplating, whether it's annuitization or other means, to bring down the unfunded

liability to a level that hopefully will reverse the trend of premium increases.

**Mrs. Elizabeth Witmer:** Sure. Well, I think you've probably heard in the course of the conversation today that certainly premiums are not the only focus, but, unfortunately, premiums will have to increase in order to pay off the huge unfunded liability that accumulated in the past. But I think you've also heard comments today about the increased efficiency of the system and how we are ensuring that, obviously, claims are being processed more quickly; there are fewer claims in the system. We're doing everything we can in order to run the operation in a way that is fiscally responsible and accountable.

As has been mentioned already, there are some employees who, unfortunately, will not be with the organization in the future as we try to streamline and transform the organization in order to reduce administrative costs as well.

So, you know what? I think with the improved services, better service, faster services, e-services, making sure we get the workers back to work, making sure that employers have access to the system 24/7, we are doing all we can. I don't know if Mr. Marshall wants to add, but certainly we're looking at every possible way in order to reduce the expenditures, and we have turned the corner.

**Mr. Rob Leone:** A further supplementary to that question: To what extent has the WSIB considered leveraging the private sector in any of these ideas for reducing the costs in the administration of the program?

**Mrs. Elizabeth Witmer:** I'll give Mr. Marshall the opportunity, since I know that in the past two years he has been looking at how we can minimize our expenditures and be more fiscally responsible.

**Mr. I. David Marshall:** Yes. We're constantly looking at where we can partner with the private sector to get things done more efficiently. We recently—

**Mr. Rob Leone:** And how about partnering? You said modelling, but how about partnering with the private sector—partnering in addition to modelling?

**Mr. I. David Marshall:** For example, we're in the process of outsourcing all of our data centre and IT work. That's a big leverage of the private sector. John Slinger talked about leveraging physicians in their own offices, giving them electronic access to our records in order to provide better service and so on. There's that going on throughout the organization where that's appropriate. Where we feel it's a core competency of our own, we've actually in-sourced services; for example, the return to work of workers.

Maybe if I can pick up on the intent of your question, because it links to an earlier one you had, which is, for example, co-insurance or somehow annuitizing part of our liability and so on: Our chief financial officer has been looking into that. As Mrs. Witmer said, there is no silver bullet. Anybody that wants to take on any of our debt wants to make a profit, so they want to see that whatever they give us in exchange for taking on any of

our liabilities will fully cover them for their risk plus make a profit. It has never turned out to be really a good avenue. I think even Harry Arthurs has touched on it in his own report when he talked about submissions he got on this basis; for example, raising some bonds on the market and paying off the liability. Whichever way you look at it, there's an amount of money that has to be paid. It's money that hasn't been paid in the past; it has to be made up now. If we can do it efficiently, that's the best route, because anybody else getting involved adds overhead, adds profit and so forth, and it certainly adds to the total cost.

**The Vice-Chair (Mr. Phil McNeely):** That's the end of your time. We'll go to the third party and Mr. Natyshak.

**Mr. Taras Natyshak:** Thank you, Mr. Marshall. I just want to pick up on something that I'd heard from Mr. Leone's question. You mentioned that you were in the process of outsourcing data. Can you expand on that just a little bit? Who is that data going to? Is it sensitive information? Is it client information? What's happening there?

**Mr. I. David Marshall:** What I was referring to was outsourcing the management of our data centre, which will remain in Ontario. We are in the process of contract negotiations with the successful bidder. This is something that is being done by almost—well, a great many businesses, in order to be able to cope with the demands for computing that businesses have today.

**Mr. Taras Natyshak:** Can I stop you there? Will potentially sensitive client information be sent and managed by this new outsourced company?

**Mr. I. David Marshall:** Yes, this company will be managing our computer centre in which our systems will be lodged. We have some very strong privacy and control features built into the contract. Today, data is going all over the place—

**Mr. Taras Natyshak:** That's my fear.

I'd like to move to the issue of rate-setting. Professor Arthurs made a number of recommendations to inject more integrity into the board's rate-setting process by protecting against government intervention: recommendations 4.4, 4.5 and 4.6, explicitly. Does the board endorse these recommendations, and what steps have you taken to implement them?

**Mr. I. David Marshall:** In fact, the government has taken heed of those recommendations. They've put right into law that certain levels of funding have to be reached and that the WSIB must submit progress reports towards that. That's a big discipline that never existed before in the 100 years of the service. They've also amended the legislation to remove certain sections that gave the government power to dictate policy at WSIB, and I think Mrs. Witmer as well has had conversations with Minister Jeffrey. I think there's a very clear understanding in the government that the WSIB should be independent in setting the right amount of premiums to cover the cost.

**1040**

**Mr. Taras Natyshak:** Enveloped within those recommendations is the concept of a chief actuarial officer that would be independent and hopefully insulated from political interference. That's the concept. Is that something you think is a valid concept, and if so, how quickly would you move to ensure that that comes about?

**Mr. I. David Marshall:** Right. Absolutely; we think that that is a very important issue. Our chief actuary at the board—and we had one—has just retired. We're in the middle stages of recruiting a replacement. We also have put together an actuarial advisory committee of prominent actuaries outside the board, and in fact, we regularly take to them the actuarial assumptions that are being made by our own staff and have them debated and take their advice. So this is a very, very important part of our work.

**Mr. Taras Natyshak:** I understand that the WSIB also retained a private consulting firm, Eckler Ltd., to provide a concept design paper for funding to submit to Professor Arthurs. The paper suggested a system called ring fencing to isolate the cost of old claims from the cost of new claims. Am I correct in that concept?

**Mr. I. David Marshall:** Yes.

**Mr. Taras Natyshak:** When you proposed this ring-fencing system, I take it you were aware that there was a similar system that was adopted in the state of Nevada. It was the first step towards what we ultimately saw as the privatization of the workers' compensation system in Nevada. I'm hopeful that this wasn't the board's intention in adopting this ring-fencing model, in terms of a movement towards privatization of our compensation system.

**Mr. I. David Marshall:** I can give you complete assurance that that was absolutely not the intention and is not the intention of the board.

**Mr. Taras Natyshak:** We'll move to my colleague.

**The Vice-Chair (Mr. Phil McNeely):** Miss Taylor.

**Miss Monique Taylor:** Thank you very much. I would just like to move back a few moments to when Ms. Albanese was discussing quantity and quality. I'm going to take you back to my constituency office, where I personally met with a person who has been injured at work, has a brain injury, has been off for many years. They forced him into school, which—he didn't even complete his testing and somehow passed the course and has been deemed ready to go back to work. Let me tell you, I literally had him across my desk, and he is in no shape to be deemed as a convenience store worker.

Where do we come up with the quality? Where is this structured, where someone has the right to say they're qualified to go back to work? Where does that come from?

**Mr. I. David Marshall:** We actually do a lot of work—I'm not aware of when this occurred, but just to answer your question, we work with the employee. At least certainly in more recent times, we look at the training that they have received, we look at the labour market conditions in the area in which they are, and all of

this goes into the decision-making. I guess we'd have to look at the specific case to see what happened.

**Miss Monique Taylor:** Just to let you know, his mom was sitting there with him, because he can't live alone. He gets lost in his own house, and they've deemed him back to work, saying that he should be back to work, and they've cut his benefits to \$200 a month because of this. That's something that I hope we'll be looking at.

How much time do I have, Chair?

**The Vice-Chair (Mr. Phil McNeely):** Three minutes.

**Miss Monique Taylor:** How many?

**The Vice-Chair (Mr. Phil McNeely):** Three.

**Miss Monique Taylor:** Interesting. There was something else I wanted to hit on. We were talking about the medical needs and costs. Again, I'll bring you back to a resident who visited my office. He's got serious injuries: A ladder fell two storeys and hit him from above, so he will never work again. He has severe injuries. Yet when he goes for physio and for therapy, he's deemed that he's able to have block sessions. Once he uses those sessions up through the year—he doesn't need it just for six months or for three months, period; he actually needs it timed out to when he needs it during the year. How is it that we come to the fact that, "No, once you start your sessions, you have to finish, and that's it for your year"? Any comments on something like that?

**Mr. John Slinger:** Yes. Again, I wouldn't know the individual case, but our policies are pretty broad and are administered through our nurses, and generally, it's necessary care. If this is a case that needs to be looked at, by all means, we can look at it.

I will say that these are the kinds of issues that we receive through our fair practices office. Our fair practices office has, I think, been in existence for about eight years, and they have consistently told us where there are areas to improve on. I think we have a very good relationship, and we were very pleased with the fact that last year, the number of cases that our fair practices office recommended action be taken on by the board actually was down 20% from the year before, which we think is very positive. In fact, the number of cases where action was required was, I think, the second-lowest over the last six years.

Again, there will always be cases that we need to look at again, but we feel that overall, the trend of a lower number of cases requiring action is a positive one.

Similarly, of course, there is always an appeal right, and we also are very positive about the fact that, while these changes have been taking place—and obviously, expectation-setting has changed, to some extent—the reversal rate at appeals has actually gone down, which, again, is an important check and balance for us as we see how this is playing out over this system of workers and employers.

We make about a million decisions a year, a little over a million decisions a year, but we know we will be judged not on the ones we do well, but on the ones we don't do well. The question is, what do we do to fix those

cases that we don't do well? That, I think, is an important issue for us.

**The Vice-Chair (Mr. Phil McNeely):** Time is up. Thank you.

The government and Mrs. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you for coming. It's been a really enlightening opportunity for us to have an understanding about the further workings.

I guess I'd like to start by saying, first of all, kudos. I mean, for the first time in 14 years, wow, we've got a surplus. I think that should be celebrated, quite frankly. That's a long time in coming. Every government has had a little fine hand in the WSIB, so nobody sits back here being sacrosanct. I think you should be congratulated for the work that you've accomplished in a short period of time.

One of the things I learned and which I didn't realize is the issue around the outsourcing in 1998—and yet you're still doing some outsourcing on the IT data. Obviously, there are lessons to be learned on what to do and what not to do, and I would be really interested at some point in having a conversation about the lessons learned on the outsourcing issue.

I wanted to ask a couple of questions. We've heard a lot of chat about the premiums and how they're high in Ontario, yet they're not mandatory for all sectors. Certainly some sectors have a higher incidence of injury than others, so supposedly they're going to pay a little bit more in their premium than others. But if I were looking—I took the chart and I looked at \$2.27 per hundred, roughly, in 2010, I think it is. If you were to do a comparable, what kind of a comparable are we looking at? Are we looking at a dollar? Are we looking at cents, pennies, dimes, nickels?

**Mr. I. David Marshall:** I would be happy to answer that. Premium rates today, if you adjusted for inflation, are actually very, very low historically. They've been coming down. Today the premiums are \$2.40 for this year, and they were \$3 back in 1994 and 1995. When you adjust for inflation, that goes up to about \$4 or \$4.50, so comparatively, premiums are not high, but they are high relative to the other provinces. And when you look at that, you'll find that almost 74 cents, or 30%, of the premium is due to paying interest on the unfunded liability. When you take that away, our premium would be \$1.61, which is very comparable with the other provinces. I think the Canadian average is \$1.96, so we'd actually be below the Canadian average if we didn't have this thing to carry.

1050

**Mrs. Donna H. Cansfield:** And you're working on that. That's excellent.

One of the other things I looked at is that—I can understand that in 2008, because of the economy, there was an issue around the bad debts, but you actually took the bad debts down from \$86 million to \$56 million. That, again, I think, is commendable. So I'm curious as to what approaches you've done to attack that deficit on the unpaid liabilities.

**Mr. I. David Marshall:** You mean just for the bad debts?

**Mrs. Donna H. Cansfield:** Yes.

**Mr. I. David Marshall:** Well, again, I mentioned we have specialized teams. This team is based in Hamilton and it focuses on early contact with employers and being able to get them to comply and get them to pay the dues that they owe. We're also trying to make it easier for employers. For example, there are a lot of small businesses—many, many thousands—who pay us less than \$1,000 a year. Requiring them to file quarterly payroll reports and quarterly premiums and so forth, when they're trying to run their own businesses and they're small, is something that we should probably take a look at. Under John Slinger's leadership, the team that looks after the employer accounts is working on being able to offer small employers just an annual filing, so that you do it once a year, you collect the money once a year, and you don't have all this collection going on throughout the year. In fact, that makes up the biggest number of accounts that need to be worked on. So we're trying to, in a sense, not simply sit back and say, "Here's what you have to do," but to work with employers and try to make it easier for them.

**Mrs. Donna H. Cansfield:** Excellent. There's been a fair amount of chat about Bill 119. I think, if I can remember correctly, in 2008, the underground economy in Canada was 2.2%, which is about \$36 billion. That's 2008, so I think it's probably gone up a little bit. The biggest challenge is that you have employers that are not really fulfilling their legal obligations, if you like. So this is actually attacking a very significant portion of the underground economy through Bill 119. To be honest with you, I have a lot of time for this bill, and the reason is because we have a lot of seniors in our future, much less today, and so small contractors are critically important to a senior who, by nature, tends to be very trusting. So there is the issue of insurance, but there is the issue of credibility and, of course, if there's an injury, there's the support of the WSIB.

I have a couple of questions. One is—and I don't know if you've given any thought to this—how you could somehow market that through to that particular demographic, the need to ensure that they deal with credible companies who have this kind of coverage in the event that something, unfortunately, occurs on their site. Because you know what's happening: The homeowners are getting sued, and these are seniors who do not have any money. So it's taking their future livelihood. This is happening more and more and more, so by putting in the credibility of Bill 119, requiring small businesses to have the legitimacy of WSIB and getting that out, marketing and educating the seniors and the community about this, I think could do a whole lot to help people understand the need for Bill 119. Because there's no question in my mind that seniors are getting duped left, right and centre.

**Mrs. Elizabeth Witmer:** And I don't disagree, Donna. There is a risk today. You know, seniors are very, very vulnerable. They're not aware of the fact that before

they have work done, they should be requesting and making sure that the individual, the company, however many employees that it is, have WSIB coverage, because there is a certain liability, and they could be sued. The underground economy is there, and this bill, I know, was intended to respond to that underground economy and to create a level playing field for everybody. So you make a valid point.

Whether or not there has been any attempt on communication, I'm not certain, but I think Mr. Slinger has indicated that we will be coming forward with policies and a plan, because we now have the administrative responsibility to implement the bill, and the goal, obviously, is to have everybody registered by January 1, 2013. There is a need to raise awareness. In fact, this past weekend, when I was up in cottage country, there were some employers who spoke to me, and I will tell you that they recognized that they needed to register and they were going to do so. But we need to let people know how and why this needs to happen.

**Mrs. Donna H. Cansfield:** I think Drummond actually mentioned in his report that the finishers themselves were about \$700 million, because they hadn't fulfilled their statutory obligations and this will actually require that. So that also will help you in terms of making sure, because there's no question that people will still go forward with an injury, but if they're not under the right statute or the right part of the legislation, then you're skewed. So it's going to work both ways.

**Mrs. Elizabeth Witmer:** Exactly. And I know that as I've been meeting with stakeholders, particularly in the construction industry—that's one of the things I've tried to do in the past month and a half, as I say: go out to workplaces and meet with different associations and staff. I've certainly been communicating and trying to make them aware of the fact that they have this obligation and that the board now is in the process of registering those individuals who must be registered by January 1. But we're certainly going to have to increase our efforts and do all we can to raise awareness in order to ensure that people are registered, as the law requires. It does afford protection to the homeowners, who, as you say, are sometimes quite vulnerable.

**Mrs. Donna H. Cansfield:** Well, you know, I think—

**The Vice-Chair (Mr. Phil McNeely):** Time is up.

**Mrs. Donna H. Cansfield:** Thank you. Anyway, I'm delighted you're doing such a great job. Well done, and good luck.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Ms. Witmer, Mr. Marshall and Mr. Slinger.

ONTARIO LEGAL CLINICS' WORKERS'  
COMPENSATION NETWORK

ONTARIO NETWORK OF INJURED  
WORKERS GROUPS

**The Vice-Chair (Mr. Phil McNeely):** We'll now go to the stakeholder presentations. The first presenters are

the Ontario Legal Clinics' Workers' Compensation Network and the Ontario Network of Injured Workers Groups: Mr. McKinnon and Mr. Crevar.

**Mr. John McKinnon:** Good morning, Mr. Chair. My name is John McKinnon.

**The Vice-Chair (Mr. Phil McNeely):** Good morning, and thank you for being here. You will have 10 minutes to make your presentations, and then the first questions will be by the third party, then the government, and then the official opposition.

State your name for the purposes of Hansard and maybe introduce the people with you.

1100

**Mr. John McKinnon:** Yes, thank you. My name is John McKinnon. I'm here with the Ontario Legal Clinics' Workers' Compensation Network. With me from legal clinics is Ivana Petricone. Also sharing our time today is the Ontario Network of Injured Workers Groups: Mr. Peter Page, the president, and, at the other end of the table, Mr. Karl Crevar, the treasurer of the Ontario Network of Injured Workers Groups. Thank you for squeezing us all into this one time spot.

We're going to let the Ontario Network of Injured Workers Groups go first.

**The Vice-Chair (Mr. Phil McNeely):** State your name for Hansard and begin.

**Mr. Peter Page:** Peter Page, president of the Ontario Network of Injured Workers Groups. Good morning, and thank you for this opportunity to speak on a very important issue to injured workers. It's not only important to injured workers, but also to how we define ourselves as a nation as well as a province: how we treat our fellow human beings, those being injured workers.

I say this because injured workers have never felt more betrayed than they have by this current WSIB administration and government. Why do I say this? The Ontario Network of Injured Workers Groups, ONIWG, and its affiliate organizations have been inundated with calls from injured workers dealing with the WSIB. They, injured workers, are being denied the benefits they so rightly deserve.

The board's own statistics point to this loss of faith by the injured worker community. Their only crime is that they were injured in the course of their employment and, because of that workplace injury, are being marginalized and pushed into poverty.

Let me refer to the board's own statistics, which we presented in an open letter to the Premier of Ontario:

- initial entitlement, a 50% increase in claims denial rate;

- \$633 million in benefits cut;

- vocational retraining slashed from 19 months to five months;

- 29% reduction in long-term benefits for the permanently disabled;

- 31% reduction in permanent impairment awards;

- 4.5% reduction in medical expenditures on injured workers;

- of course, the layoffs to over 400 staff at the WSIB; and, on top of that,

- injured workers received only a 0.5% increase in their cost-of-living allowance.

We feel this is all because Mr. I. David Marshall wishes to get his 20% bonus per year, a bonus to be given at the end of his five-year term for accomplishing certain financial markers, namely the unfunded liability. Again, I refer to our letter to the Premier.

All these cost savings are coming on the backs of injured workers, another broken promise by the McGuinty government. Again I refer to our open letter, where Ms. Pendergast stated that full funding would not be achieved on the backs of injured workers. Well, I'm here to tell you that funding is being carried out on the backs of injured workers.

In closing, this government and the Workplace Safety and Insurance Board have abandoned those injured workers and their rights as injured workers. For that matter, the historic compromise where we as workers gave up our right to sue our employer in exchange for fair and just compensation is being reneged on by the employer community as well. Thank you.

Karl?

**Mr. Karl Crevar:** Yes; good morning. My name is Karl Crevar. Let me begin by saying that I'm really disappointed with the committee allowing the time allocation for presentations. You should be hearing from the injured workers in this province. We just sat through the exercise of the WSIB representatives for two hours in their presentation and responses. How can we justifiably say to you what injured workers are feeling and what they're experiencing in this province in 10 minutes?

I want to start off by going into your document when you say that the very basic principles of compensation have not changed. Well, they have. They were changed back in 1997 with the introduction of Bill 99. Previous to that, it was the Workers' Compensation Board; then it was renamed to the Workplace Safety and Insurance Board. We have experienced over the last 20 years the issue of the unfunded liability. Every time there's an issue that comes up with employers' rates, the unfunded liability comes up, and benefits issues come up—since 1990. In each case, benefits have been reduced to address the unfunded liability. Bill 162 eliminated lifetime pensions. The introduction of the Friedland formula cut back on cost-of-living in Bill 165 in 1995. In 1997, Bill 99—which the Minister of Labour at the time, Elizabeth Witmer, introduced—eliminated virtually any cost-of-living increase that injured workers get. In that proposal in Bill 99, \$9 billion was cut from injured workers' benefits. Injured workers have been paying the price for the unfunded liability.

I might add on to that as well that the benefits that injured workers were entitled to get and were not getting—those costs were shifted on to the taxpayers of Ontario.

We hear constantly—and right now we hear again, from Mr. Hudak and Mr. Hillier—that there's too much

on the WSIB, too much in benefits going to injured workers, and we have to address this. Those are the same words—I've been around for 20 years—that we hear every time there's an issue that comes up.

I would like to go on to some of the comments by Ms. Witmer. All we heard—all I heard, and please correct me if I'm wrong—through the whole discussion, the presentation and the questions, 95% of it was geared towards employers' concerns, and 5% was what's happening to the injured workers. Nothing was mentioned about what is actually happening to injured workers.

When we hear that revenue exceeded the expenses, where does that come from? We see the increase in poverty of injured workers today, not a decrease. As Peter had pointed out on some of these statistics, they are the board's statistics, not our own. They show clearly that the board has gained an advantage, and it is by cutting benefits. We know that is happening today.

Mr. Marshall, through the KPMG report, and the board of directors or whoever's responsible drove this train through on the recommendations without consultation; we were not even aware that that document existed until last October. Yet we're facing this crisis. At the same time, they hired Professor Arthurs to do a funding review. While all this was going on, the train was moving ahead with implementing recommendations of the KPMG report, and those recommendations contain cutting benefits, cutting service providers.

As was indicated earlier today, 400 staff have gone. What we're going to be facing is robots: You put your credit card in there or whatever, and you're going to get a decision made by a machine on whether you get entitlement or not.

It's time that we all took a real hard look at ourselves. We keep blaming injured workers and their families, not understanding what they're going through. I heard the words very clearly a number of years ago. Someone said that we want a much kinder Ontario, a kinder and gentler Ontario. That's the Premier of the province, and it's the Premier that hired Mr. Marshall. It's the government that signed off the contract to give, for the first time that I know of in 20 years, an incentive to a president/CEO of a system of compensation. What does that say?

Injured workers have lost faith. I've talked to many injured workers. They've not only lost faith; they're down and out. They're telling you they are losing their homes—they've lost their homes. They've lost their families, are contemplating suicide. Pay attention to what's going on. This is what's going on in our society, in our communities today. It's destroying families and communities. I ask you, stop blaming the injured workers. It's not their fault; it's accidents.

When you talk about the unfunded liability, how many of you have an unfunded liability? Have you ever looked at it? Have you ever thought about it? How many corporations have enough money in the bank to pay their debts for the next 20 years? How many people here that own homes, that have a mortgage, have enough money to pay all their bills for the next 20 years?

This is nothing but political rhetoric and political pressure in attacking workers' compensation in this province. It's attacking the injured workers. It's time that has to stop. I would hope that you consider, in your recommendations, going back. The Premier of this province broke his promise to injured workers. As Peter said, when in the House, the government said that any cuts, any cost savings relating to the workers' compensation, will not be on the backs of injured workers. That's in your package, the letters that we sent.

**1110**

We've been doing this for over 20 years, trying to make things correct. We meet with the board. We meet with the government. We tell them constantly what is going on, and here we are again today, talking about the same thing. I think it's time to stop it; it's morally wrong. Too many lives are at stake.

I thank you for the time.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. You still have a few minutes.

**Ms. Ivana Petricone:** Thank you. My name is Ivana Petricone. Good morning to all of you. It's my honour to chair the Ontario Legal Clinics' Workers' Compensation Network. We are a network of lawyers and community legal workers that work in the legal clinics throughout Ontario, and we practise workers' compensation law. Our clients are generally workers who come from vulnerable work. They are not members of unions. They are often people who don't speak English or French and, as a result of many of the processes that they have to go through, are often struggling with mental health issues. Those are the clients that we represent.

We've conducted a survey of some of the network members. What we are hearing is that there is an increased number of negative decisions, particularly in the last six months. There are increased numbers of injured workers calling our legal clinics for help. There are workers whose income support is being terminated. What happens in those cases is that people quickly lose their housing; their families break down; they often develop psychological problems. Indeed, I've practised in this area for over 30 years, and there are few injured workers that I have acted for who have not developed psychological problems in this process. Lots of depression—as you've heard from Karl, suicide is a very big concern, and should be to you too.

You've heard from ONIWG about the WSIB's own statistics that show a huge reduction in benefits. We urge you to take steps to ensure that injured workers are not unfairly burdened by the WSIB's cost-saving efforts.

I'd just like to take another minute. I know that we're running out of time, but I would like to draw to your attention an analysis that our network did with respect to the KPMG report, which we see as a flawed report that should not guide the way for future changes. You'll find, at page 21 of the package that you've all received, a letter to the Premier, along with our analysis on the reasons why we think that the KPMG is a flawed report. We have indicated there that KPMG exceeded the mandate of a

value-for-money audit, failed to appreciate basic legal principles of workers' compensation, and in fact made recommendations that we consider would run afoul of the Workplace Safety and Insurance Act. It uses inadequate data to make its conclusions and ignores the legal rights entrenched in the statutory scheme. It also appears that this report is driven entirely by the sole concern of benefit reduction.

Notwithstanding the considerable flaws in this report, the WSIB has adopted a policy agenda which focuses on the very areas that the KPMG report recommends. So I encourage you to read our analysis and consider it with respect to the KPMG report. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you.

**Mr. John McKinnon:** Mr. Chair, if I may just touch on four points that are in our materials. We provided quite a bit of material for you to take a look at. One of the concerns that's noted in there is the delegation of all of the policy-making authority of the WSIB to the president and CEO. Our concern is that that doesn't really fit with the nature of a multi-stakeholder board with a representative board of directors; that concentration of power is not fitting with the original concept of the board of directors.

Also, of course, we're concerned that the Arthurs funding fairness recommendation regarding cost-of-living adjustments for injured workers hasn't been implemented immediately, as Professor Arthurs recommended.

We also wanted to draw your attention to some proposed changes to the appeals system which in our view are particularly draconian. A couple of them are highlighted in the materials. It involves the elimination of oral or in-person appeal hearings for many cases. There's a whole list of them in the material. It also involves actively discouraging appeals by asking injured workers to sign a declaration that if they go ahead with their appeal, they understand the board will go through other decisions in their file and may reverse other entitlements in the file, leaving them far worse off than they would be if they never objected to the decision.

In our system of justice, it's a fundamental principle that we have the right to our day in court, even to fight a \$20 parking ticket. But it appears that if you're an injured worker cut off compensation, you may not have the same right. Imagine if you decided to exercise your right to fight the \$20 parking ticket and you went to court and the judge or justice of the peace said, "Well, you have to sign this piece of paper here that says we might go back and look at other traffic and parking infractions, and we might reverse our decisions and you might go out of this courtroom a lot worse off than you were when you came in. Would you still like to fight your ticket?" The answer, I think, is obvious. There's going to be a huge cut in the number of appeals, unfortunately at a time when there are a lot of negative decisions coming from the board.

We've heard a number of people refer to the Harry Arthurs report. One of the very important points which he uncovered was that the unfunded liability would have disappeared in the year 2006 had the employers' rates not

been reduced starting in 1996. So there's no mystery about why we're in the situation we're in today with the unfunded liability. It's purely due to the reduction in employer premiums that took place after 1996.

The other thing which Professor Arthurs raises, and we've heard this a couple of times today, is that you just can't make interprovincial comparisons of workers' compensation rights. It's not appropriate because of the different amounts of coverage. Even our own WSIB likes to hit itself on the head over having the highest rates in the country, as it says in its strategic plan, and you simply can't make that comparison. As Professor Arthurs points out, about 40% of the workforce in Ontario is not covered by workers' compensation. That 40% of the workers—people in banks, in the insurance and information technology industries—are the people who have the lowest rates in the other provinces that have higher levels of coverage. That's what brings down the average in other provinces. You simply can't look at the Ontario rate and other rates.

Professor Arthurs, I understand, is coming this afternoon. He has done a wonderful job at explaining many things. One final point that he raised, and we heard this this morning: Professor Arthurs described the problem with the experience rating system as a moral crisis. In our view, those are the types of issues that should be of top priority for the WSIB to look at in terms of its policy reviews. There is no crisis over the appeals system, over recurrences, over aggravations, over referrals for permanent impairments—the things which the board wants to proceed on—but there is a crisis with experience rating and also with expanding coverage. So we think those ought to be the top priorities for board reforms.

Again, thank you very much for the opportunity to make this presentation.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, Mr. McKinnon.

We'll go to the third party and Ms. Taylor.

**Miss Monique Taylor:** Thank you very much, and thank you all very much for being here today. I think it's really unfortunate that the chair and the CEO decided not to stay and listen to these statements, because I was hopeful that that would be the process that would happen, that they would be staying for the entire day. To see that they've left the room is quite discouraging to me.

Anyway, Mr. Crevar, I understand your frustrations. That is the whole reason why I was determined to make sure I brought up two specific cases of the many that have come before my desk, and there have been many. So I was just wondering what your thoughts are on the quantity over quality of being forced back into the workforce.

**1120**

**Mr. Karl Crevar:** First of all, let me say: I'm not frustrated; I'm angry. As I indicated earlier, we've been working with injured workers as an organization for 20 years to see how human life is being treated. The equality of service is not as rosy as was indicated. It's a nice picture that was painted before; now let's get into a reality

check. That's why I say you should be having injured workers presenting to you. Let them tell you their stories of what is really going on.

I hope that answers your question.

**Miss Monique Taylor:** It does, and that's the whole point. I wanted to make sure it's on the record that the things that we see first-hand aren't quite the rosy picture that has been painted before us today.

Taras?

**Mr. Taras Natyshak:** I'll just pitch it out to all of you: I wonder if you could talk about the process of deeming and the effects that it has on injured workers.

**Mr. John McKinnon:** Well, sure. This is the fundamental problem with the system that allows it to exist and yet not fully compensate injured workers for their losses. The board makes a call as to what employment income the injured worker ought to be able to earn, and often we find that that's unrealistic. Miss Taylor, you raised some cases that you've seen. That's at the root of the system. Many people are deemed by the board able to return to work, sometimes at their same wage or even higher. I could show you examples of workers who are deemed able to earn a higher wage after a significant, permanent disability than they were earning before they were injured. As a result, the board can sleep at night by saying, "Okay, well, we're closing your benefits, but you can be earning this money." The reality is that they're not. The board is not looking realistically at whether or not a person is competitively employable.

It's a particular problem as cases approach the six-year lock-in point. Benefits are reviewed regularly for six years, and then there's a final review and the benefits will continue on until age 65. We found a number of cases where the board initially accepted that the injured worker was not going to be competitively employable, was not going to be able to return to competitive employment or any employment, but when the final review rolls along, all of a sudden they have a change of heart and they say, "You can do it. You can get back to work. There's something you can do. You can at least work minimum wage full-time." As a result, they're deemed to be earning a full-time minimum wage of whatever—\$15,000, \$20,000 a year. That's deducted from their benefits and they are left with virtually nothing.

This is going to be compounded by the changes in the appeals system. I think all of you are familiar with injured workers who have come to your offices, who have asked for help in various cases. Imagine if the only way they could reverse the decision they're unhappy with is to make an appeal in writing. I've met very few injured workers who would be able to accomplish that, and yet that's exactly where we're heading: into an appeals system where these injured workers, because there are certainly nowhere near enough representatives to help everybody, are going to be on their own to make an appeal in writing in the most complicated area of law that exists.

**Mr. Taras Natyshak:** I'm wondering if you know of any injured workers' advocates who are on the board or if that's ever been explored.

As well, you heard the submission by Mr. Marshall that, in looking at the rating system, they're going to be looking for submissions from stakeholders from various groups, workers and employers. Have you been approached to offer any commentary on not only that but any process within the operation of the WSIB? Have your various groups?

**Mr. Karl Crevar:** In the past we have. We've been asking to be consulted on some of the direction that the board is going in. I know there were statements made today by Mrs. Witmer that, yes, she had met with stakeholders. I can tell you, that's not correct. We have not met with her. We are meeting with her very shortly as an organization to have a discussion with her. We've had discussions in the past with David Marshall.

It's interesting. I want to get back to what John was just saying earlier when you talked about the deeming. Mr. Marshall made the statement himself. We're looking at cases of people that are going to be on benefits for 10 to 20 years; now they're being deemed employable. That's a fact of life. That's what they are doing, that's how they're saving money, and that's how you get the revenue over expenses. That's a clear picture. It's not just the other way around.

We are awaiting the meeting with the minister. We have met with Ms. Witmer. We have also met and expressed our concerns to the Minister of Labour on a number of occasions. In your package, you'll see letters that have been sent directly to the Premier expressing our concerns. I believe, at some point in time, not too long ago, I submitted letters to all of you, those letters that went to the Premier, for your consideration to look at, to raise the concerns that we have.

**Mr. Taras Natyshak:** Do you think a workers' advocate representative on the board of directors of the WSIB would be an added benefit? Has that concept ever been raised or addressed or even looked at?

**Mr. Karl Crevar:** I can tell you that we did have a representative from the Ontario Network of Injured Workers on the board of directors back in the early 1990s. That was terminated, and we're being again asked to—but I can tell you quite sincerely and seriously that we're thinking, "What is the point of having an injured worker on the board of directors? What's been going on?" I mean, we did have one. Unfortunately, the representative is ill and has had to step down. We have considered putting names forward to get an injured worker from the organization put on the board of directors. But, again, there are questions on the direction the board is going at right now. We have not heard any positive changes in terms of the recommendations from the Harry Arthurs report. All we've heard is the implementation of what's gone on with KPMG.

The issue of the government making a statement that they increased benefits by 0.05%: All that is, and I would remind members—and we appreciated, under the current

government, under Steve Peters, Bill 135, I believe, where for three years they agreed to pay a 2.5% increase based on the cost of living, because it was unjust. What we're seeing now for the year 2013-14 is 0.05%. Obviously, they're estimating that under the Friedland formula, the cost of living is only going to be 0.03%, but the most they're going to get is 0.05%. That's a 0.02% increase for people who are living in poverty. That's not fair.

**Mr. Taras Natyshak:** How much time do I have, Chair?

**The Vice-Chair (Mr. Phil McNeely):** You have half a minute.

**Mr. Taras Natyshak:** Would anyone else like to add commentary? Final thoughts?

**Mr. John McKinnon:** Well, I think you asked the question about the consultation process. The board has experimented with a number of different approaches to the consultation over the years. I think that it developed a very effective process in the funding review that was chaired by Professor Harry Arthurs. I'm hoping that the board will use that as a model for future consultations. That remains to be seen. Certainly the Arthurs report isn't anything, I think, that any of the groups who made presentations were totally looking for, but the process itself was respectable and allowed an opportunity for input, and that's the most I think that the various groups can ask for.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go to the government side. Ms. Albanese.

**Mrs. Laura Albanese:** Thank you for your presentation and thank you for all the work that you do. I know that your work is very valued by injured workers. I know that you work with the most vulnerable, with the ones who may have difficulty speaking English, with the ones who have disabilities and the ones who could probably not have their voice heard if it wasn't through your organization. So first and foremost, I want to thank you for the work that you do. Injured workers has always been an issue that I've felt close to personally. I know that they've had a difficult relationship with the WSIB historically.

What I would like to ask you, first of all—today, we make reference to the presentation that we heard earlier. Have you seen any difference, any improvement at all, in your relationship with the WSIB recently?

1130

**Mr. Karl Crevar:** I can answer that: no. We're attempting; we've made clear that injured workers are not happy with what is going on, and over the years we've continuously said, "Yes, we want to work with you. We want to sit down. We want you to hear what we've got to say." Has anything changed yet? No, it has not, and we are waiting to meet with the new chair.

I do recall Bill 99. She was the Minister of Labour who introduced Bill 99, and now she's being asked to undo what was done? It raises questions. Let's be honest about it. It raises a lot of questions.

**Mrs. Laura Albanese:** In your opinion, how can we improve this relationship? What can be done to improve it?

**Mr. Karl Crevar:** Again, I think one thing is that we all here have to recognize, when we talk about what the system is and who's responsible in funding it, that people gave up the right to sue their employers. That goes back 100 years. I know it's a difficult thing to do, but again, if you go back to 1997, when the rates were where they were—and I mentioned this to the former chair, Steve Mahoney. If the government had left those assessment rates alone at that time, we wouldn't even be here today doing a presentation to you. That would not be a problem. But unfortunately, that's the way it went.

**Ms. Ivana Petricone:** Could I add, Mrs. Albanese, that when I spoke about the KPMG report, it was very frustrating to us as advocates to hear, on the recommendations that came from this report, with all the problems that are outlined in our analysis, that the board decided to go ahead on revising those policies anyway. So that decision was not consulted on. If we did have some consultation at that point, it would have been better.

Secondly, I just want to say, with the decisions that are being made that I spoke of, what we're seeing in our offices is a real decline in positive decisions. It's reversing decisions, as my colleague referred to. It feels like what is driving these decisions is cost savings and benefit reductions, and not making good decisions on the cases of injured workers.

**Mrs. Laura Albanese:** So what we heard this morning about access to retraining and faster, better health care—improvements are not being seen by the injured workers that you see?

**Ms. Ivana Petricone:** I would say not, based on what we hear from our colleagues in clinics throughout the province and based on what the injured workers tell us themselves.

**Mrs. Laura Albanese:** Mr. McKinnon, you wanted to add something?

**Mr. John McKinnon:** Yes, if I could add, what Ms. Petricone has said is right. We see the cases of the people who are in difficulty, and they're not getting fewer in number; they are increasing in number. So there are still problems there.

One glimmer of hope, I think, in the future is that we all need to look more carefully at what happens to injured workers after the board makes these decisions, after the board closes your file, deems you able to go back to work or whatever. We need to track what happens, because historically, that's something that the board let slip, and its research department drifted away. There is a committee, which has only had one meeting so far, looking at tracking outcomes, and the board has indicated a willingness to consider this. We need to look at what happens to every single injured worker after we say, "All right, you can go back to work full-time at minimum wage." We need to follow through and see what happens, because if what we see in our office happening is seen by the board and by you folks, I think that people will

appreciate where the holes in the system are and where the problems are, and we can address that. So getting information about what happens after people's files are closed and they're cut off is extremely important. We need more research on that, and the information has to be public. The board has at some times in the past done some research, and it can be difficult, if not impossible, to get the numbers.

**Mrs. Laura Albanese:** Thank you. I'm going to pass it to my colleague Donna Cansfield now.

**The Vice-Chair (Mr. Phil McNeely):** Mrs. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you very much for coming and sharing with us your perspective. I think all of us have had injured workers who have come into our constituency offices.

I can't speak, obviously, for my colleagues, but I'll just share with you that one of the most frustrating things has been the length of time that it takes for the process to go through. So when I heard this morning that there was certainly a significant change in that, I know that the folks that I've spoken with in my constituency would be happy to hear that that is tightening up a bit and that it's not taking as long to go through and process the claims. So there obviously is one.

My perspective is one of injury prevention. Again, when I speak with the people we've chatted with in our office and we talk about how the event occurred and what could have been done to prevent it, injury prevention is paramount, even for those who are injured, because they want good, productive lives just like the rest of us. So how do we do that?

I'll also put on the record that I was chair of the SmartRisk foundation, which is injury prevention, so this is something I've had for a long period of time in my life. How can we work together as injured workers, as government, as WSIB, as unions, to promote more on the prevention side to limit the number of individuals who are being injured?

**Mr. Karl Crevar:** Let me respond first of all when you say, you know, the issue that injured workers come to your office about the length of time that it takes for a decision. Well, let me tell you, the victims of Chemical Valley in 1997: Many died as a result of being exposed in factories—not just workers; families. They're still waiting 20 years later for a decision. Why is that? Those are questions we're asking. Why is that? Twenty years: Spouses have died, some of the widows are on the verge of dying, yet decisions have not been made. Why is that? That's an issue we address.

On the prevention side, we've always advocated prevention. If you stop an accident, the costs aren't there. You look in your document at what we've seen. There are different ways of looking at numbers, but we've seen an increase in fatalities over the years—not a decrease; an increase. What's going on out there? We're asking those very questions.

We want accidents to stop, we want fatalities to stop, because we know what the consequences are at the end of the day. When we start looking at the numbers and

start looking at the charts, they just don't add up to that there's something that the board is doing that's happening out there to do all that. That's not preventing it.

**The Vice-Chair (Mr. Phil McNeely):** I'm afraid the time is up.

**Mrs. Donna H. Cansfield:** Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** We'll go to the official opposition and Mr. McDonell.

**Mr. Jim McDonell:** You referred to, during your discussion today, promises from the Premier and a friendlier and kinder Ontario, but you also say there was no consultation before some of these reports came out. Do you want to just elaborate on that, on something that we would have expected?

Through the KPMG report, you said no consultation was done with the injured workers. Was that in fact?

**Mr. Karl Crevar:** I can say we most certainly would have appreciated being informed of what the board is doing, which we weren't. Quite frankly, I am concerned over the so-called trumpets that are calling out there. That's what raises problems, when Mr. Hudak and Mr. Hillier—we invited Mr. Hillier to a June 1 activity to address the crowd, to address the injured workers who were expressing their concerns and wanted help. All that gentleman could say was, "It's nothing but bullshit." I wrote a letter to him and to his leader, Tim Hudak, to get an explanation. Why those terms when we invite him out there to give their perspective? We wanted their help, but we don't see the help coming.

**Mr. Jim McDonell:** My question was around the consultation. Did you have any consultation with the—

**Mr. Karl Crevar:** Not with KPMG, no.

**Mr. John McKinnon:** I could mention the KPMG report. It started quite innocuously because by legislation the board is required to have a value-for-money audit done of one of its programs on an annual basis, and the board picks which program. So they picked the adjudication program. That's how it began, but it evolved into much more than a value-for-money audit. In our submission, there's quite a lengthy, I think about 20-page, analysis of this, looking at what a value-for-money audit ought to cover and the ground that the KPMG report goes on. It goes far beyond the value-for-money issues to commenting on the level of benefits and the generosity of the board, which we felt was not appropriate in a value-for-money audit.

**1140**

There was no consultation, because there's not normally much consultation in a value-for-money audit, but it has turned into a policy direction for the board. KPMG identified, I think, about five areas: recurrences, aggravations, referrals for permanent impairments, and it also raised an issue about the amount of representation and the amount of appeals. They said that all of these things are costing the board too much money and identified those as areas that the board should look at. Sure enough, that's the board's policy agenda. There is no crisis in the areas of any of those policies; they're working quite fine.

It's just that they were identified as being too generous by the KPMG report.

Those issues are outlined in more detail in our submission.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much. As the government has struggled to manage the unfunded liability—I heard your message loud and clear—you feel the Premier broke his promise, because, essentially, the cuts at WSIB have been borne by the injured workers.

With regard to your open letter dated March 15, 2012, your last line reads, “Now is the time for action on your government’s commitment.” I’m wondering, have you received a response to your open letter? If so, what were the contents, and are you satisfied with the response?

**Mr. Karl Crevar:** Let me say, as I said earlier, we have written a number of letters to various governments. I want to remind you, the problem started, the unfunded liability, back in 1997 with the introduction of Bill 99. That was under the Conservative government. As I mentioned, Ms. Witmer was the Minister of Labour. However, again, it’s not frustration; it’s anger. When we write a letter to the Premier of the province, we ask for a response. Every time we write a letter, whether it’s to the current Premier or it was to the previous Premier, it was always directed to the Minister of Labour: “Yes, thank you for your letter. We’ve read it and we’ll get back to you,” and so on and so on. Then we have our meetings and we bring up issues—never resolved.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Leone.

**Mr. Rob Leone:** Yes; thank you very much. Just a point of clarification, Mr. Crevar: You mentioned that the unfunded liability started in 1997. The stats that I have before me show that the unfunded liability in 1997 was lower than it was in 1992-93, where it was about \$16 billion higher than it is right now, actually. I just wanted to point that out.

But I actually want to touch upon the letter—

**Mr. Karl Crevar:** Could I just make a correction? I did not say the unfunded liability started in 1997. It took a downward trend.

**Mr. Rob Leone:** Oh, I thought that’s what you said. Sorry. Thank you for clarifying.

I also want to point to the open letter that Ms. Thompson has referred to. You outline a number of cuts: initial entitlement, 50% increase in claims denial rate; a \$631-million benefit cut; vocational retraining slashed from 19 months to five months; 29% reduction in long-term benefits for the permanently disabled; 31% reduction in permanent impairment awards; 4.5% reduction in medical expenditures on injured workers; layoffs of 200 WSIB staff—we’ve learned that that’s actually higher now.

With respect to the other comments that are made in this open letter, which are, as Ms. Thompson has outlined, that cuts will not be put on the backs of injured workers, which was a quote that you’ve taken from former member Leeanna Pendergast, would it be your position that any cuts, no matter how large the number,

how pervasive it seems that it is—that you would consider any cuts a broken promise on the part of the government: Would that be fair to say?

**Mr. Peter Page:** I think that we’ve always experienced cuts. Under the Conservative government, in Bill 99, there were a lot of cuts made to injured workers; and the fact that rates were reduced for the employers under Bill 99. And then, to regain that capital, it was the injured workers who had to pay for those cuts.

Any cuts to injured workers—we’re continually fighting poverty issues for many of our injured workers. So when there are cuts, or when the government states that they will not be put on the backs of injured workers, and then we see these statistics, we have to ask ourselves—we have to say, “Yes, you are cutting injured workers’ benefits.” It’s not just a cut in their loss of earnings; it’s a cut in medical services that you heard about, that Miss Taylor spoke about. Sometimes, they just don’t show up, but they’re there.

John would like to answer that—

**Mr. Rob Leone:** So the message that you feel that this sends, essentially, to injured workers is that the government doesn’t care. Would that be fair to say? Or would you speculate or put yourselves in perhaps the government’s shoes: Do you feel that the government believes that there has been abuse, and that’s why there needs to be efficiencies found?

**Mr. Peter Page:** Abuse by?

**Mr. Rob Leone:** Fraudulent claims, claims that have been awarded that are higher than what might be construed as appropriate and so on and so forth. Would that be the assumption when you see these cuts and they’re finding these efficiencies? Is it simply just the government acting in a manner that just doesn’t reflect the interests of the workers, or do you think that the government believes that there is some other reason for cutting these benefits?

**Mr. Peter Page:** So what you’re saying is that when a person gets injured at work and puts in a claim, that somehow they’re fraudulently doing that?

**Mr. Rob Leone:** I’m not saying—

**Mr. Peter Page:** I don’t know how that can be, when you have this whole appeals process that takes forever for the worker go through, and who has to jump through every hoop to prove that they were injured at work, and at the end of the day there’s either a yes or a no to that claim. I don’t see how you could fraudulently portray yourself as being injured.

**Mr. Rob Leone:** No, what I’m suggesting, perhaps—

**Mr. Peter Page:** I think John would like to respond to that.

**Mr. Rob Leone:** Sure.

**Mr. John McKinnon:** On the abuse question, it’s always something that’s thrown around, but there has never been any significant evidence of abuse by injured workers. These cuts are not being introduced in any way to suggest that there’s any abuse or overcompensation.

I think what this comes from is that there’s a tendency to forget that the workers’ compensation system is a fun-

damental part of our legal system, our system of justice. As Mr. Marshall quite rightly pointed out, the beginnings of workers' compensation was a historic compromise to take the compensation of workers injured in the workplace out of the courts and put it in a process that works better for workers and employers. But it still remains a part of our justice system, and it still remains the job of the workers' compensation system to provide compensation that's every bit as full and adequate and fair as they would get in the court system.

Sometimes people think that workers' comp is like some other board, that we're like social assistance, we're a charity, and, "We'll give the injured workers what we can afford, but right now we have to tighten our belts." That's not right, because it is a fundamental part of our system of justice, and injured workers have a right to full and fair compensation. I think that's where this comes from: People are forgetting that this is a fundamental principle of justice and a fundamental part of our court system.

We would certainly be concerned if we had the Chief Justice of the courts in here saying, "Well, I'd like to report that we have successfully reduced the size of the awards to plaintiffs and the frequency of claims coming through the courts" and things like that, because that's not an appropriate method of managing part of our justice system.

**The Vice-Chair (Mr. Phil McNeely):** Time has run out. I thank you very much for coming in.

The agency review committee is recessed until 1 o'clock.

*The committee recessed from 1150 to 1300.*

#### ONTARIO FEDERATION OF LABOUR

**The Vice-Chair (Mr. Phil McNeely):** The government agencies committee will start. We have the first presentation, the Ontario Federation of Labour: Laurie Hardwick, Al Bieska and Joel Schwartz. Thank you for being here. You have 10 minutes.

**Ms. Laurie Hardwick:** Thank you very much. Joel Schwartz is with the Industrial Accident Victims' Group of Ontario, and Al is on staff with the Ontario Federation of Labour through the occupational disability response team, a project funded by the workers' compensation system.

I send regrets from our officers: Sid Ryan, our president; Nancy Hutchison, our secretary treasurer; and Irwin Nanda, our executive vice-president.

We appreciate the opportunity to speak to the standing committee today. We have a number of issues—and I apologize; our brief is on the printer at the OFL right now. That will be coming in later this afternoon. I have somebody bringing it down.

We cover a number of topics. I think there are about 10 areas we cover. We're going to cover only a few of them in our presentation to you here today, but each of our topics that we go through, from governance to all the different areas, has recommendations, and we're re-

questing that the committee look very closely at our recommendations and hopefully make recommendations to the government to move on some of these topics—many of those topics that are addressed in Professor Harry Arthurs's report.

The one topic I want to discuss first of all this afternoon is the issue of coverage. It was brought up this morning, and it was clear that even though it was not in the mandate of the funding review for Professor Arthurs, he did address the issue of coverage. It was pointed out by the board themselves that the occupational health and safety system is completely funded through the board, through the inspectors, the health and safety associations, the Institute for Work and Health, the Office of the Worker Adviser, the Office of the Employer Adviser, the Occupational Health Clinics for Ontario Workers and the Workers Health and Safety Centre.

Back in 2003, the board did a study on coverage. Brock Smith, a well-respected government official from former years, did a study and consulted widely with the worker and employer community. He came back in 2003 with a recommendation, in fact, to have mandatory coverage for all workers. That was ignored and nothing was done with it. So currently, 35% of workers in this province are not protected by the workers' compensation system, and we respectfully request that you, as a committee, recommend to the government that that gets changed.

Not only does it mean that 35% of workers aren't covered, but it also means that the other employers are getting a free ride. They're not paying for the occupational health and safety protection in this province. They're not paying if they get dinged by the Ministry of Labour and they get inspected. They're not paying for the costs of those services that our province is providing.

The other thing is that the Ministry of Labour uses WSIB statistics to target workplaces and do inspections. Well, those 35% of workers, the most vulnerable workers who don't have the protection of our system, aren't even on the radar screen of the Ministry of Labour when it comes to inspections. Their workplaces are probably less safe than any other workplaces in this province. So we really strongly recommend that you accept our recommendation to stand together as a standing committee and make the recommendation to have all industries covered.

When you look at banks and insurance companies, their premium rates will not be extremely high. Unions aren't covered, for example. We have voluntary coverage, and I think it's 17 cents per \$100 of payroll for the line of work that we do. So while banks and insurance companies cry broke and tell us that they don't have injuries, I'm sure they've got a lot of repetitive strain injuries in their workplaces.

I throw it to you now, Al.

**Interjection:** Okay, I think Joel was going—

**Ms. Laurie Hardwick:** Oh, you were going to go first? Okay, sorry.

**Mr. Al Bieska:** I'll quickly just deal with the one issue on the compensation for victims of occupational

disease. It's an issue that really strikes at the heart of justice and fairness.

The issue arose back in 1997 when the employer community challenged a practice by the WSIB to pay loss-of-earnings payments under section 43 of the Workplace Safety and Insurance Act to victims of occupational disease where their diagnosis came on after they had retired from work. Prior to that and going all the way back to 1915, the workers' compensation legislation had defined "disability" as being an impairment of earnings capacity. Therefore, the provisions of the legislation, specifically section 37 of the pre-1998 legislation, allowed for payment of compensation benefits to a person who had an impairment of earnings capacity but wasn't necessarily working. What the WSIB had done since 1998, when the legislation changed to strike out the definition of "disability" and introduce a new provision, section 43, on loss-of-earnings payments, was that they continued to practise the paying of benefits to victims of occupational disease where their diagnosis did come on after retirement.

That practice was challenged at the tribunal, and the tribunal, in their analysis, stated that in fact the board was misinterpreting section 43. The issue was also challenged at the Fair Practices Commission, which agreed with the analysis of the tribunal. Therefore, since December 2007, that practice has stopped.

The question I would have for the standing committee is, how does the WSIB or the government justify to victims of occupational disease that, where the evidence shows that their disease, on a balance of probabilities, was contributed in a material way that shortened their life and their quality of life post-retirement—how would we justify that they're not entitled to compensation?

Our recommendation is that the standing committee look at a precedent-setting provision in the legislation that's current that allows payment of section 43 benefits even though the worker may not be entitled to that. In our brief, when you get it, you'll see the analogy—subsection 41(13) of the Workplace Safety and Insurance Act, where, if the employer fails to comply with their re-employment obligations, a worker can collect benefits under 41(13) even if they're not entitled under section 43.

Our recommendation would be that the standing committee recommend a legislative amendment to section 43 that would allow victims of occupational disease to be paid section 43 benefits as if they were entitled under 43(1).

**Mr. Joel Schwartz:** Thank you, Mr. Vice-Chair. My name is Joel Schwartz. I'm here today to talk about two issues that arise from the recent funding review. The first issue is indexing for workers on partial benefits, and the second is the recommendations around experience rating.

First, Professor Arthurs's recommendations on indexing for workers on partial benefits were a compromise position. He acknowledged in the report that it was not full fairness—that it left injured workers without compensation for years of inadequate indexation. It didn't

address what has been, in effect, a longtime annual back-door benefit cut.

Given that Professor Arthurs's recommendations were already a compromise, we were very disappointed when the government responded with more ad hoc adjustments of less than what we anticipate the CPI will be. There are also no measures to deal with years and years of lost benefits.

We recommend that the government repeal the 0.5% indexation for 2013-14 and replace that with legislation that provides all injured workers full indexation going forward, and, moreover, that the government take steps to redress the wrong done to injured workers over many years.

Turning to experience rating, again, Professor Arthurs's recommendations here were a bit of a compromise. Certainly, workers and labour did not get everything that we were seeking, but one of the things we did get was recognition of a serious problem, which Professor Arthurs described as a moral crisis, and that was the board's long-time failure to deal with claim suppression and other abuses that experience rating creates. The board has had Professor Arthurs's report for around seven months, and we're not detecting any sense of urgency on the board's part around this issue. As my colleague Mr. McKinnon from the Ontario workers' compensation network mentioned, the board's attention seems to be elsewhere, fixing what we don't really think are problems.

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Experience rating has a profound effect on injured workers. It's crucial that representatives of injured workers and labour are involved in the redesign of the board's incentive system. So we were somewhat concerned this morning when we heard Mr. Marshall suggest that it was going to be employers in the prevention council. He later corrected himself, I acknowledge, but the concern is that he's not necessarily recognizing the important role that injured workers and labour must play in the redesign of that system.

So we would ask the committee to recommend that the board implement Professor Arthurs's recommendations on experience rating immediately and ensure that workers and labour are engaged in that process. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. You're just on time. That's great.

We'll move to the government. Ms. Albanese will have the first questions.

**Mrs. Laura Albanese:** Thank you for your presentation and for being here today. I wanted to start by asking you how important it is, in your opinion, that the WSIB balance the unfunded liability that it has.

**Mr. Joel Schwartz:** I'm not sure what you mean by—if you mean by "balance," "eliminate"?

**Mrs. Laura Albanese:** Yes, eliminate.

**Mr. Joel Schwartz:** Our position has always been that it's not necessary to eliminate the unfunded liability, that steps should be taken to get the board into better financial

health than it is today, but that there's no need for what we call prefunding.

**Mrs. Laura Albanese:** But at least getting past what is perceived as the tipping point?

**Mr. Joel Schwartz:** That certainly makes sense, and certainly what Professor Arthurs said on indexing, in particular, was that that was an issue that didn't need to wait until we were past the tipping point.

**Mrs. Laura Albanese:** And what is your opinion on raising the premium rates?

**Mr. Joel Schwartz:** I agree with Professor Arthurs's recommendations. I think it's absolutely necessary and long overdue.

**Ms. Laurie Hardwick:** It was politics, quite frankly, that lowered the premium rates and caused the 21% cut in benefits to injured workers. The employers' premium rates went from \$3.20 down to just over \$2, and that's what created this unfunded liability. The Auditor General, in 2009, stated clearly in his report that had they left premium rates alone and not played politics with the premium rates, we wouldn't be in this situation today and injured workers wouldn't be living in poverty today.

**Mrs. Laura Albanese:** Yes, and I think we all agree on that, that there has been political interference in that.

I wanted to ask you also what your opinion is in regard to the industries that right now, currently, are not covered by the WSIB, and if you think the government should be expanding the coverage to those industries.

**Ms. Laurie Hardwick:** Absolutely. We believe that for the industries that are not covered, we should have an exclusionary system, instead of the way it is: If you're not in the act in 1914 and the regulations, then—you know, some of these industries weren't around, and as the world changes and our economies and our jobs change, there are many jobs that are not covered. Those workers deserve the protection, and those employers should be paying into our prevention system.

**Mrs. Laura Albanese:** And in regard to the rebate program, do you think there should be a program for companies with good safety records?

**Ms. Laurie Hardwick:** Traditionally, the position of the labour movement has always been to eliminate the experience rating program. However, we sat down a couple of years ago and decided that we have to face the political reality. We sat down as a group of injured worker representatives and labour and we tried to figure out what could work as a stick and a carrot that would actually help improve health and safety in the workplace. We sat down, and then we started meeting with the board when Tom Beegan was there, when they still had prevention, and John Slinger. We had some really good discussions about what kind of a system could the employers live with, could we live with, that would actually improve health and safety and not give rebates to employers who are killing workers or maiming workers.

We did a study a number of years ago. We called it *The Perils of Experience Rating: Exposed!* What we did was to ask the board for a bunch of statistics on the experience rating rebates and surcharges, broken down

by employers. At the same time, we had the Industrial Accidents Victims' Group law students from U of T go through those and the Ministry of Labour fines. We found that all these employers are getting fines over \$100,000 for health and safety violations by the Ministry of Labour. At the same time, they're getting a cheque for twice as much as a rebate from the workers' compensation board because they're hiding the claims; they're not reporting the claims. So when we brought that out—and finally we got it out in the *Toronto Star*—we actually got some attention, and experience rating came.

When we were at Professor Arthurs's review, when he was showing us what he was thinking, he actually made us sit with the employers, and we actually agreed to do it. I was explaining to some of the employers I was sitting with at the table about the excellence fund that we suggested. Instead of giving a rebate that's going to line the pockets of somebody, if we see that this workplace has got a lot of back injuries—for example, it's a nursing home, and they've got all kinds of back injuries but they can't afford to put lifts in. Why not give them a grant or a loan to put the lifts in to avoid the injuries in the first place, going over and above what's required under the Occupational Health and Safety Act? Some of the employers were going, "Wow, it's a good idea."

If the board is going to go ahead with this consultation process, as was mentioned this morning, and actually give us some input, we, as the labour movement, who have better qualifications in health and safety than any employer out there—quite frankly, on health and safety, I think we sit on the side of the angels because we care about the workers. Give us a say in how to design a system that's going to protect our members.

**Mrs. Laura Albanese:** This morning, we heard from the WSIB. The chair especially said that she's been out-reaching to stakeholders and doing consultations. Have you met with them yet?

**Ms. Laurie Hardwick:** Yes. Sid Ryan, our president, did meet with her. I'm on the Labour Injured Worker Advisory Committee with the chair, and we did have a meeting with her just a couple of weeks ago and expressed some of our concerns around these issues.

**Mrs. Laura Albanese:** How is the relationship? Has there been a little more openness and transparency in your relationship, the way we heard this morning from the WSIB?

**Ms. Laurie Hardwick:** Well, with the past chair we had a good working relationship as well. So it's a new relationship. Shall we say it's not as comfortable as the old shoes yet because they're brand new? So we shall see.

**Mrs. Laura Albanese:** Okay. So no recommendations on how to improve that relationship between the WSIB and federations such as yours, in general?

**Ms. Laurie Hardwick:** I think there needs to be some more transparency. We've expressed a lot of concern over the consultation process.

They have Harry Arthurs do this beautiful report—not everything we wanted, but he really did a lot of hard

work and a lot of digging and took everybody's concerns seriously on both sides. Instead of taking that report and doing something with it, they take the KPMG report that says workers are overcompensated, and they're going to go out and they're going to consult on these policies by sticking these policies up on the website—in which they did these draft policies and they gave them to us on the Labour Injured Worker Advisory Committee. One was on aggravation basis, one was on permanent impairments, and one was on work disruptions. When I had this guy who's amazing in policy and knows his policy and law inside out—he said anybody with a work disruption wouldn't get compensation anymore. I mean, the policies were restricting benefits. So we had lots to say about it and raised a fuss, and there were a number of people, heads of unions, up the street at 400 University having a talk with the Minister of Labour. That, in fact, had the board then sit down and agree—they had no credibility to consult on those issues, because they were letting KPMG drive the agenda of the Workers' Compensation Board, which was all to restrict benefits for injured workers. Meanwhile, they've got this report that says they've got a moral crisis on their hands, and they're not going to do anything with it; they are going to consult on how to restrict benefits for injured workers.

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So they agreed to set up another process similar to that of Harry Arthurs on the funding review. They've hired Jim Thomas, who is a former Deputy Minister of Labour and who was first vice-chair of the Workers' Compensation Appeals Tribunal in 1985. He's got some understanding and he's got some credibility. He has been writing a discussion paper, and then he is going to go out and consult with the stakeholders. He, like Professor Arthurs, has got some credibility, so it's going to be a transparent process. Then he's going to make recommendations to the board on how to develop policies on these issues, and then the board will develop draft policies and go out and consult on them. Will they look like the policies I have in my office that I'm told aren't being implemented by the higher levels of the Workers' Compensation Board?

However, all the reps that I know keep phoning me and saying, "Laurie, they're not allowing work disruptions." I had brought the Power Workers' Union in with me to see John Slinger a couple of weeks ago. We had about a dozen cases of people on work disruptions who were being denied benefits because they were applying the "phantom" policy. One worker was about to lose his house; he was a single parent about to lose his house. Within a couple of days they had a cheque cut for \$15,000 to correct the wrong.

I've got all kinds of cases, and they're telling me, "They shouldn't be happening. Bring them to me." So I've been bringing the cases down to senior management. But what about the 70% of workers that aren't covered by a union or don't know that, "Yes, bring the cases to Laurie Hardwick at the OFL, and she'll take them down to the top and get them fixed"? You talk to the front-line

workers; the advocates get told by the adjudicators on the phone, "I'm sorry I have to do this. My boss is telling me I have to do this."

**The Vice-Chair (Mr. Phil McNeely):** Your time has run out. We'll go to the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Thank you for appearing today.

You were quick to point out that 14 years ago, legislation came in that is to blame for all of this. But it's been 14 years, and there have been many years of a new government that had a chance to change this. The question comes down to—premiums are already about the average in the country. There needs to be some changes, no question, but it's a matter of being competitive. We're seeing our industry and good jobs leaving this province and going elsewhere because it's getting too expensive to operate here. This is just another input, and there are many inputs. There's electricity, property taxes that are just out of control, as I hear in the community.

How do you address this without driving more businesses—it's not going to help us any. If we end up losing another few thousand jobs over the next few months, all we've done is now pushed it up again, with less people to pay for it.

**Ms. Laurie Hardwick:** Well, one could argue that way, or the other could argue that the pie is so big, and workers actually help pay for the system. The pie is so big, and when I can't negotiate that into my paycheque because it's going to a payroll tax, as the employers like to call it, then I would say I'm paying for it too.

**Mr. Jim McDonell:** We're talking about now a huge—I mean, we talk about our unfunded liability on hydro. This is double this. This is a huge deficit: \$14 billion. It's got to end up being paid or at least stabilized, and we've seen that it's doubled over the last six years. There's got to be an answer—

**Ms. Laurie Hardwick:** And by expanding coverage—

**Mr. Jim McDonell:** It's not as easy as just raising premiums to get rid of it. I mean, if you're raising premiums and raising benefits, you're not doing anything.

**Mr. Al Bieska:** It's certainly an issue we can't ignore, because we don't want to lose jobs any more than anybody else wants to lose jobs. But I think some of the recommendations that we make in our paper, such as universal coverage—when you do a comparison of average premium rates in Ontario compared to other jurisdictions, you can't fail to recognize that the other jurisdictions, almost all of them, have universal coverage. Universal coverage will bring down the average premium rates. That's one issue.

The other issue is, there needs to be more investment in health and safety and return-to-work. That's the way to reduce compensation payments to workers, not by restricting entitlements. So those are the two recommendations that we have on how to make the system more fundable.

**Mr. Jim McDonell:** Just a quick follow-up: You talk about adding these people. When you add people, you add premiums, of course, but you also add liabilities, and I think we heard this morning that by adding more people, it's a neutral process because we're also adding the benefits as well. So it sounds like you get X number of people to help share the fees, but then they're also going to receive the benefits, which are also costly.

**Mr. Al Bieska:** Right. But if you take a look at the statistics in other jurisdictions that do have universal coverage and compare the non-covered industries in Ontario, number one, the facts will be that the premiums are very low; they're at the lower end of the rate for the ones that are currently not covered in Ontario. And if you take a look at the accident frequency and severity rates in other jurisdictions that cover our non-covered industries, I don't think that you could draw the comparison that by covering more people, it's going to be a significant escalation in claims costs.

**Mr. Jim McDonell:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much, Mr. Chair. Moments ago, a comment was made that said, essentially, to sum up, that we shouldn't be playing politics with workplace safety and insurance. I have to wonder—and I'm curious about your opinion—with various appointments, like Pat Dillon of the Working Families Coalition etc., do you feel the WSIB has become political?

**Ms. Laurie Hardwick:** Pat Dillon had been on the compensation board of directors for a long time before Working Families.

**Ms. Lisa M. Thompson:** Do you feel it's become political?

**Ms. Laurie Hardwick:** Not really, no.

**The Vice-Chair (Mr. Phil McNeely):** Ms. McKenna.

**Mrs. Jane McKenna:** Laurie, it sounds like you need to have your job re-evaluated, because you sound so stressed out there with all the things that are coming to you. So you need a re-evaluation of your job description, first of all.

**Ms. Laurie Hardwick:** Could we?

**Mrs. Jane McKenna:** It sounds like it to me.

See, I sit here and I think to myself, we can't continue to constantly Band-Aid everything, right? This morning, we heard that the average assessment rate is \$2.40, so my question is, what does the average rate have to be to pay off the unfunded liability? If you're going to pay it off in 15 years, and we look at \$1 billion a year—right now, the operations, we're bringing in \$3 billion; we need \$4 billion, so we need an increase of 25%. That's the only question I have here today, because at the end, sure, we might be able to save \$50 million here or there, but we still have to come up with another \$950 million to fix the problem.

I hear everything that's being said here today, but somehow we get stuck on so many other things outside the silos, when we actually only have one problem to

address today. When Dave Marshall comes back this afternoon, my number one question is: If you don't have the answer for that, you're not doing your job.

So I really was very enthusiastic with your passion here today, because you can tell you're very enthusiastic. I did feel your frustration, because when you don't have the proper job description, it sounds like everything's being dumped on you. Sadly, we do get—

**Ms. Laurie Hardwick:** No.

**Mrs. Jane McKenna:** Well, it did sound—but, anyway, at the end of the day, my number one question to you is, do you think that your system is working? Do you have any shortcomings in your system, and if you do, what are those that you could change?

**Ms. Laurie Hardwick:** Well, first of all, I think there's more than one problem here today. When you get our submission and see all the other areas that we have concern with in the compensation system, it's not just about the funding. But the question of how to properly fund the system—the gentleman who's presenting after us has recommendations that I think are very workable, and I defer the answer to that question to him because he's got good recommendations in his paper.

Our position has been that it does not need to be fully funded, that we need to have a pay-as-you-go system, similar to that of the Canada pension plan. That's the position we put forward. That's not the position that Professor Arthurs put forward, but I think the position he put forward we could live with, and I'll leave him to explain the details of that and you can ask him that question.

**Mrs. Jane McKenna:** Yes, that's wonderful, because when you have a business plan, you look at what you've got coming in, and you've got to be able to figure that out in the end. You can't just figure numbers up in the air, that that would be a good idea, unless you have an actual business plan.

**The Vice-Chair (Mr. Phil McNeely):** Any other questions? Mr. McDonell.

**Mr. Jim McDonell:** You talk about needing to change the system. Essentially, this is insurance, and many of the groups, or certainly anybody in their own business, has to purchase their own insurance. The income insurance is optional. Do you see this as being a possibility that the employee pay some of these benefits? Because we are really looking at a replacement for compensation for wages down the road that anybody else would have to pay for.

**1330**

**Ms. Laurie Hardwick:** Well, we would disagree with you calling it "insurance." Legislation got changed; it took "worker" out and it took "compensation" out. I still call it the workers' compensation system and always will. It was the historic trade-off in 1914. We gave up our right to sue for just compensation. So no, I don't think workers should have to pay. I think we're already paying—and workers are paying with their lives.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson?

**Ms. Lisa M. Thompson:** Earlier you mentioned that 70% of the employees in Ontario are currently covered by WSIB. Clearly—

**Ms. Laurie Hardwick:** Thirty-five per cent aren't, according to the 2003 study.

**Ms. Lisa M. Thompson:** Okay. Thank you for that. We know that the unfunded liability is a burden that's really tough to carry. Do you think the WSIB has run its time, and do you see a new vision or a new board facilitating the workers' compensation that you referenced earlier?

**Ms. Laurie Hardwick:** No, I do not. I think we need to have a publicly administered compensation system in Ontario.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. The time is up. We'll go to the third party. Miss Taylor.

**Miss Monique Taylor:** Thank you for being here today and thank you for your passion and the hard work that you do on behalf of workers across this province, because if we didn't have that passion, then we would have a lot more troubles than we're already facing, which we know are more than enough.

My time is pretty much to hear your voice, because that's what I'm here to do. I would just like to be able to give you a couple of extra minutes to discuss anything else that you feel you really need to say and you haven't been able to get to the table yet. Do you have anything offhand?

**Mr. Al Bieska:** I'd like to add—thank you for the couple of extra minutes there. The issue I raised on the compensation of occupational disease victims also morphs into another issue that is on the horizon, and that is the compensation of survivors. The employer community who challenged, originally, that practice of continuing loss-of-earnings payments to victims whose diagnosis comes on after retirement is also now challenging survivor benefits under section 48, using the same theory that if the worker's diagnosis came on after retirement, then even the surviving spouse wouldn't be entitled to the periodic payments because there was no loss of earnings.

Again, I just want to reiterate that in the name of justice and fairness, understanding that the complication of occupational disease claims is a significant latency period between exposure and the onset of the actual disease. How can we not compensate somebody whose life is shortened, somebody whose quality of life is shortened, by a workplace exposure simply because of the wording of the present legislation? That's, again, why we recommend that there needs to be a legislative amendment to section 43 that would allow payment to the victims and survivors of occupational disease.

**Miss Monique Taylor:** Good point, and it's actually one close to my heart. My stepfather passed away before his occupational disease was recognized. My mom received a call I think two months after the fact, saying that he had been recognized as having this. She did get compensation, but he wasn't able to see it in his lifetime. Thank you for bringing that up.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Natyshak.

**Mr. Taras Natyshak:** Back to the experience rating issue: Other than the superficial data that we've seen reported on reduced amounts of claims, reduced and lost-time injuries, is there any empirical proof or evidence that the experience rating system actually works to reduce workplace accidents or injuries?

**Ms. Laurie Hardwick:** Actually, that's an interesting question. We asked the same question of the board a number of years ago when we first started having our experience rating working groups with them because we were trying to ask that question. They produced study after study. I've got that much paper in my office. They went through each of these studies with us, and at the end of the day, those studies didn't prove that experience rating worked.

**Mr. Taras Natyshak:** Because the employer would have to quantify the fact that, "Oh, we were always looking for that incentive to reduce our workplace injuries," when ultimately, they should be—it's the carrot-and-the-stick argument back over again.

**Mr. Al Bieska:** Could I just add something to that?

**Mr. Taras Natyshak:** Yes, certainly. Go ahead.

**Mr. Al Bieska:** I think it's fair to say that, philosophically, there's nothing wrong with the position of rewarding employers who do the right thing—who invest in health and safety and good return-to-work practices. However, the present system we have under experience rating, both under the new experimental experience rating program and CAD-7 for the construction industry, bases the performance of an employer on claims costs. That's where the error is, and that's where employers and their consultants are sometimes incited to do the wrong thing, which is to suppress claims, to talk workers out of filing and all the bad practices that we hear of, particularly in the anecdotal evidence.

Again, philosophically, there's nothing wrong with rewarding employers who truly invest in health and safety and return-to-work, but the system has to change drastically so it's not based just on claims costs.

**Ms. Laurie Hardwick:** Just on that, employer participation at the appeals level, at the compensation board, is usually within the three-year experience rating window. Once it's outside the three-year window, it doesn't affect the employer's claims costs anymore. So at the tribunal, I think there's only 30% employer participation in worker appeals because it doesn't affect their experience rating rebates anymore. But at the compensation board, they're there about 80% of the time because it affects their experience rating rebates.

**Mr. Taras Natyshak:** I believe that the WSIB has made substantial effort—enough—in conjunction with the Ministry of Labour in promoting a safer workplace in Ontario. Do you think they're doing enough? Because the correlation has to be made.

**Ms. Laurie Hardwick:** No.

**Mr. Taras Natyshak:** If rates of workplace accidents are not going down, then that obviously is where the problem stems from.

**Ms. Laurie Hardwick:** Prior to Bill 99, we had a workplace health and safety agency. We had strong worker voice on that agency. We had much stronger health and safety training in the province of Ontario. The Workers' Compensation Board never had responsibility for health and safety. It got dumped on them in the first clause in the purpose clause, yet they had no training or background in doing health and safety. When Tony Dean did the consultation with the expert panel, the labour movement consistently said that health and safety had to come out of the board, and they've taken it out of the board and created the chief prevention officer.

Having said that, there's one thing that we want to ensure doesn't happen. We cannot take health and safety out of the compensation system at all. We have to consider health and safety and return-to-work. The other tool that the board has that is very important and that the board did have before they ever were responsible for prevention is that of the Workwell audit. The Workwell audit goes in and audits for health and safety. I've been told that employers are more afraid of Workwell auditors from the compensation board than they are of Ministry of Labour inspectors. They're an effective health and safety tool.

From an insurance point of view, it can also be argued that if a company is looking to buy insurance, or you're looking to buy insurance for your car, they look at your driving record. They look at how many accidents you've been in; they look at how many tickets you've had. They don't just say, "Oh, you look nice. I'm going to give you your car insurance for \$35 a year and I'm going to charge you \$125 a year." It's based on what your record is. Workwell audits have an impact on rate-setting and what employers should be paying into the system.

**Mr. Joel Schwartz:** I just wanted to add a bit to Ms. Hardwick's answer. I would caution about relying too heavily on the numbers of accidents that are reported. We believe there's an epidemic of unreported injuries out there and unreported accidents. A significant part of that is because of the incentives employers have not to report injuries.

**Mr. Taras Natyshak:** Quite perverse.

**Mr. Joel Schwartz:** Indeed.

**Mr. Taras Natyshak:** Where are we at? Two more minutes.

There has been inference to what the social costs are when this system fails. Do you have any data on that? Can you tell us what people can expect if the compensation system fails them? Where do the majority of folks end up?

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**Mr. Al Bieska:** Well, clearly, if the compensation system fails, then victims of occupational injury and disease have to rely on publicly funded social assistance or health care. So it's the taxpayers of this province that end up picking up the cost of these injuries or diseases that really ought to be funded by the employers since Ms. Hardwick said that that was the historic trade-off in 1914. We as workers gave away the right to sue, which was a very

significant right. In exchange, we were supposed to get a fair and just compensation system that was non-adversarial, that provided compensation that allowed somebody to put food on the table even though they were injured through the course of their employment. Clearly, the burden will fall on taxpayers whenever the compensation system fails.

**Mr. Taras Natyshak:** It seems that there are some pressures currently that have been brought back up, ideas of old about getting rid of this system entirely and going to sort of a more legal system. Any idea on other jurisdictions that rely solely on legal wrangling?

**Mr. Al Bieska:** There is no jurisdiction in Canada that does that—

**Mr. Taras Natyshak:** In the United States possibly, if those are other jurisdictions?

**Mr. Al Bieska:** The United States is more of a blended system of litigation and statutory benefit entitlement. In some of the states, there's actually a cap on how much compensation a worker can receive for their occupational injury or disease, and then anything over the cap they can litigate. The statutory bar to litigation is far less in the States than it is in Canada. But in Canada, every jurisdiction has that statutory bar for litigation for recovery of damages.

**The Vice-Chair (Mr. Phil McNeely):** Time is up. Thank you to the Ontario Federation of Labour.

MR. HARRY ARTHURS

**The Vice-Chair (Mr. Phil McNeely):** We'll now have Professor Harry Arthurs come forward, please. Mr. Arthurs, you have 10 minutes to make your presentation, and for the purposes of Hansard state your name to start off.

**Mr. Harry Arthurs:** I hope members of the committee have received a summary of my report. I know they've heard about it from several people who have been here already.

Basically, what I would like to do is be as helpful as I can to the committee. Perhaps the best way to do that would be to put my 10 minutes in your hands. You can distribute it as you think appropriate, and I will be happy to respond to all questions because that might be the most helpful thing I can do over and above supplying you with the report.

Just one footnote to that: The full report is online, all of the research supporting it is online, and all submissions are online. If there are questions that come up which involve further detail, I'm sure you or your research staff will be able to find the answers if indeed they exist.

So really, Mr. McNeely, I'm at your disposal. I don't have a preliminary statement.

**The Vice-Chair (Mr. Phil McNeely):** That's fine. I don't think there are any objections with the committee. We'll start with the official opposition and Mr. McDonnell for questions.

**Mr. Jim McDonell:** Thank you for appearing today and for your report.

The new legislation lays out basically coming to a balanced budget over the next 15 years, but it doesn't talk about the deficit, which is right now \$14.5 billion. Is there any way of addressing that at the same time? I mean, 15 years is a long time just to get to a balanced budget.

**Mr. Harry Arthurs:** The unfunded liability can be managed, I think, with reasonable measures over, as I suggested, a period of 20 years. The government has suggested a period of 15 years. The numbers don't actually matter very much, but I offered in my report a model which I'm quite confident will result in the unfunded liability being paid down. Obviously, if we're looking at a 15-year period of amortization it gets paid down a little more quickly, 20 years a little more slowly, but it is doable. It's doable without a very dramatic change in the current premium rates paid by employers.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much for being here, Mr. Arthurs. When we're talking about unlimited funded liability, we heard in the deputation from the Ontario Federation of Labour that it really wasn't necessary to eliminate the liability. You were sitting here when they argued that. I'm curious as to your response. How do you feel about that, and how would you answer it?

**Mr. Harry Arthurs:** In my report I suggested that the one thing which really is urgent is to get past the tipping point. I don't believe that the labour side disagrees with that. I think everybody agrees that the system should be able to meet its obligations. Once you're past the tipping point, which is somewhere around 60% funding—if you like, I'll explain how we came to that number—the question is, what mix of policies do you want to achieve? Do you want to have space, for example, for the WSIB to invest in new procedures and equipment so that it can give better service to its customers? If so, you have to have a margin about the tipping point. Do you want the WSIB to be able to develop a significant investment portfolio so that the revenue from that portfolio will allow it to ratchet premium rates down because some of its revenue will be coming from other sources? Do you want the margin for additional benefits to be paid? All of those things contemplate higher and higher levels of funding. To me, the one absolute requirement is to get past the tipping point.

Now, a quick word about the tipping point: In order to determine what that tipping point was, my research team conducted what amounts to an experiment. Using actuarial methodology, they looked at events which had occurred in the board's recent history and which had adversely affected its funding, such as the downturn of 2008; such as, over a number of years, missing its target in terms of what it required to pay for new claims; such as shifts in the compensation of the labour force, which has gradually shrunk, for example; highly paid and there-

fore significant contributors like the manufacturing industry, as that shrinks. Even though there's a residue of claims from times past in manufacturing, it's not contributing its appropriate share anymore to pay those claims. They took a reasonable number of all of those contingencies and ran 1,000 scenarios a year of things which had actually happened and said, "What combination of those is likely to put the board in a position where, within a reasonable time frame, taking reasonable measures—that is to say, no dramatic hike in premium rates, no dramatic slashing of benefits, but reasonable measures within a reasonable time frame—would be necessary for the board to meet its obligations as they came due year by year?" The number they came up with is 60%, and I think it's a reasonable number. That's where I would focus the majority of the effort.

**1350**

Then, understand that if you starve the board of resources, there are a bunch of things it can't do. It can't lower premium rates; it can't add new benefits; it can't provide better service.

**Ms. Lisa M. Thompson:** In essence, you're saying that the federation of labour was wrong to suggest that there's no need to eliminate the unfunded liability. It needs to be addressed, as per your research.

**Mr. Harry Arthurs:** They put that same argument to me, and my report contains my response to it. I don't agree with that position, though they made some very interesting arguments based on analogies to the Canada pension plan. I looked at those arguments very, very carefully and decided that there were enough differences between CPP and WSIB that the same funding arrangements that prevailed there wouldn't work here.

**Ms. Lisa M. Thompson:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. McKenna.

**Mrs. Jane McKenna:** Thank you so much for coming. I have a couple of questions. When you're saying 20 years and then in the government, the Ministry of Labour is saying 15 years, what impact will that have on employees, if any?

**Mr. Harry Arthurs:** On employee benefits?

**Mrs. Jane McKenna:** Yes.

**Mr. Harry Arthurs:** My analysis assumed that there would be no adverse effect on those benefits.

**Mrs. Jane McKenna:** For five years; okay. Then next, when you talk about the tipping point, do you add in the equation about the precarious position of small and medium businesses? I look at everything and I always look at things, and I absolutely hate Band-Aid effects. When you're looking at the big system the way it is right now—I mean, I realize that you're talking about the tipping point, but if you don't have any small or medium-sized businesses here and they're all gone, then what's the alternative going to be?

**Mr. Harry Arthurs:** I was very concerned about the effect of the system on all businesses, not just small and medium businesses, and consequently retained the Conference Board of Canada to look at the effect of rate changes on business. What they said, I think quite sens-

ibly, is that some businesses are much more sensitive than others to rate changes. Businesses with a very high labour content obviously are more sensitive to changes than those where the raw materials or other components of their costs are a much higher percentage. Of those that have labour costs, some have very low premiums, and you would hardly notice a fluctuation in rates. Others with very high premiums, you would certainly notice it.

But most of all, what they pointed out was that businesses vary in their ability to move. Obviously, to take the auto industry as a business that's very important, but not small or medium-sized, the auto industry has and will move production, and can do. So on that particular criterion, it is very sensitive to fluctuations in premiums. But the corner restaurant isn't going to serve its customers from Saskatchewan or Cambodia. They're there, and if there's a significant increase in their labour costs attributable to increased premiums, they will have to be passed through to the consumers.

But even there, on any given transaction, we're looking at pennies or fractions of pennies. We're not looking at significant deterrents.

**Mrs. Jane McKenna:** But that's still just a percentage. There are other things that add on top of that, right? If we spend \$1.8 million more an hour than we take in, and we're constantly looking that—you know, capital is mobile; Bay Street knows it. So if there's high debt, high interest, high capital, and then you've got a percentage on top of it—if we're supposed to be in the business of keeping small businesses here and getting the growth and giving them an opportunity to thrive, even if it's a small percentage, it's going to impact these businesses, and where are we going to be?

**Mr. Harry Arthurs:** Well, obviously, small business does present some real challenges, and we addressed them to this extent: It's very hard—I know because my wife is the proprietor of a small business—for a small business person to deal with all of the regulatory and tax issues, basically on the kitchen table, late at night, after working a full day at what the business is really about. So I think it's entirely reasonable to say, "Simplify. Make it possible for people to unburden themselves of red tape and give them simple, clear paperwork to do." I think that would be quite helpful. It has a very minor financial effect, but it's the sort of thing that I think small business people really need.

Now, in addition to that, let me speak both about small and large businesses. I concede that at any given moment, particular sectors of the economy may be confronting really serious economic problems. Whether it's WSIB rates that are going up, truck insurance that's going up, hydro rates, raw materials or whatever, all of those things represent a challenge for all business owners.

**Mrs. Jane McKenna:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Time is up. We'll go to the third party and Mr. Natyshak.

**Mr. Taras Natyshak:** Thank you very much, Mr. Arthurs, for your report, and thank you, of course, for appearing before us.

The 60% tipping point that has been often mentioned today: How long to get to that tipping point if your report were to be implemented in short order?

**Mr. Harry Arthurs:** I reckon somewhere around five to six years. I think the governments reducing the period for retiring the UFL would bring that down to four to five years.

**Mr. Taras Natyshak:** In your report, on page 53, you state that "the WSIB cannot and should not make premium rates affordable by subverting the intention of the Legislature or denying injured workers their legal rights." Could you expand on that and explain that comment?

**Mr. Harry Arthurs:** Sure. I think what I had in mind—I'm trying to recall exactly where in the report that came—was the following: A number of employers concerned that paying down the UFL would result in an increase in premiums sought various ways to reduce costs. One of those ways was by reducing benefits or making benefits more difficult to access. I think I was particularly speaking to the latter; that is to say, if people are entitled to benefits, it's inappropriate to use administrative measures to restrict their access to those benefits.

**Mr. Taras Natyshak:** Do you believe that has been the case historically?

**Mr. Harry Arthurs:** I think there are certainly pressures and temptations to do that. I'm not speaking about the WSIB in particular, but any organization that handles a large flow of individual claims naturally tries to deal with its cost burdens by reducing that flow. I mean, it would be true of a private insurance company; it would be true of your bank or your telephone company. It's quite understandable that people do that, but in this particular case, people have legal rights to compensation, and I want to be sure those rights are respected.

**Mr. Taras Natyshak:** Do any of the provisions within your report prohibit the government from enacting any other taxation incentives to offset any increases in the rates for small, medium, and large businesses?

**Mr. Harry Arthurs:** Two quick points. One of them is that there are lots of ways governments can act to assist any sector, including the small business sector, without touching WSIB. There are various forms of subsidy for job training or transportation or hydro or other subsidies without necessarily coming out of the WSIB fund. That's my first point.

**1400**

My second point: Government, from the inception, has had the right to say to the WSIB or its predecessor, "You are not charging enough to meet your obligations. You must raise your rates in order to be solvent." They have never said that. Government has never had the right to say to the WSIB, "Restrain or lower your rates because that would assist the economy, placate a constituency of voters," or for any other reason. They have never had that power, but I am reliably informed they have nonetheless

said that to the WSIB on many occasions across governments of all stripes for the last hundred years.

**Mr. Taras Natyshak:** So they've never said, "Increase your rates," but have they said, "Decrease your rates"?

**Mr. Harry Arthurs:** They have said either "Don't raise it" or "Decrease it," and that's true of all three political parties. I suspect the United Farmers were guilty of it as well.

**Mr. Taras Natyshak:** If anyone in this room remembers that era, then we'll get deputations from them after.

**Mr. Harry Arthurs:** I don't remember it personally, either.

**Mr. Taras Natyshak:** I didn't want to get you to divulge your age.

In that light, in the rate-setting, your report contains a number of recommendations about minimizing government interference in the premium rate-settings. Why do you believe that it's so important to eliminate that government interference in the rate-setting process?

**Mr. Harry Arthurs:** I believe if one of the main purposes of the exercise is to keep the WSIB out of financial trouble, to keep it properly funded, then somebody has to be sitting down and making honest, professional judgements about how much money it needs without political interference. I think that's extremely difficult to do under the present arrangements. Consequently, I recommended a series of measures by which government would abstain from doing that, except in one single circumstance. If there was a real economic emergency and if the government genuinely felt that raising rates would exacerbate that emergency, they could publicly and openly say to the WSIB, "I'm sorry, even though professional analysis, actuarial analysis, says the rates should go up, we are instructing you, in the public interest, openly and according to predetermined criteria, not to raise the rates, or indeed to lower them." I think every government should have that reserve power, but it should be expressed in the legislation and exercised honestly, openly and not in dark corridors and by calls on cellphones.

**Mr. Taras Natyshak:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Miss Taylor.

**Miss Monique Taylor:** Thank you for being here, and I'd like to thank you again for the report that you did.

I'd like to talk about resources for injured worker advocates. You mentioned that "The WSIB might especially wish to explore the implications of the clear imbalance of resources that has developed as between employers and workers in the context of claims processing and adjudication ... and policy debates...." Could you please describe the imbalance you saw and the reasons why you think the WSIB should adjust this?

**Mr. Harry Arthurs:** Sure. There are two kinds of imbalance. First of all, where claims are challenged, in the context of claims adjudication, workers do not have access to either trained lawyers or paralegals for the most part. I do want to acknowledge the excellent work done by a small number of legal clinics representing workers

and the paralegals associated with them, but they simply don't have access to the same advocacy resources.

The second and in the long run, I think, even more important disparity lies in the policy debate. I had excellent representations from worker organizations, some of whom are in the room today, as I did, by the way, from business people and business organizations. But the great difference between them is that most business-side organizations can afford access to experts. Most worker-side organizations had no such access. Consequently, when we started to talk about things like what actuarial assumptions underlie the identification of the UFL or the measurement of the UFL, the workers were at a distinct disadvantage.

When I held an expert consultation, to which I invited all parties to send technical representatives, the worker side had a lot of difficulty in coming up with technical representation, particularly actuaries or economists who could handle the numbers in a sophisticated fashion. They were, in the end, able to do that, and they gave a good account of themselves, but it was a great struggle.

I don't think anyone gains if some of the stakeholders aren't able to participate on a full and equal basis with the other stakeholders in the important discussions that have to go into the making of public policy. I think it's in everyone's interest. It's in the employers' interest that the worker side should be well represented so that intelligent discussions can occur amongst the stakeholders and between them and policy-makers.

I would like to see somehow that that imbalance is remedied. Frankly, I think self-interested employer groups would agree with me.

**Miss Monique Taylor:** Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Time is up. Now we'll go to the government side and Ms. Albanese.

**Mrs. Laura Albanese:** Thank you, Chair, and thank you, Professor Arthurs, for being here, for your presentation and for your excellent report, Funding Fairness, which, we were commenting with my colleagues, needs to be read at least twice to really be understood well and to grasp all the different intricacies that it contains.

I wanted to start by asking you—well, recently in May, the Minister of Labour announced some new regulations. Do you see those moving in the right direction?

**Mr. Harry Arthurs:** I'm sorry. Which new regulation are you referring to?

**Mrs. Laura Albanese:** It was on May 4. She announced that the province is establishing a new regulation that will require the board to reach the 60% funding sufficiency in 2017, then 80% in 2022, and 100% in 2027.

**Mr. Harry Arthurs:** It's not exactly what I would have recommended, but it's not very far off either.

I think myself that there are so many contingencies at work in determining the financial situation of the board: fluctuation of financial markets; the general state of the economy—and remember, premiums are related to aggregate payroll; changes in accident rates; overall

composition of the workforce. A whole lot of things are changing that it's difficult to foresee exactly how much will be needed year by year in order to move the WSIB towards its target. I don't think the minister disagrees with that.

However, saying that in year X you must reach 60% or 70% or 80% means that, in that year, you could be confronted with really a whopper of an increase, just because unfortunate circumstances have combined in that year. I don't think that's a good idea, because the pressure will then mount to say, "Let's interpret the numbers in such a way to avoid an unpalatable, very large rate increase."

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Instead of saying definitively that you must reach a certain amount by a certain year, I laid out a path which would, as I say, produce very similar results to those the minister has incorporated in the regulation. I laid out a path and said that around this path there are warning lights. As long as you're within a 10% spread of financial targets going up this path, if you miss it one year by a bit, don't worry about it. If you veer sharply off the path and transgress those warning lights, then stop, see what has happened, find out why you've missed the mark and figure out how you can take corrective action to get yourself back on track.

The minister and I—I hope it won't come to any difference in terms of what actually happens, but I think the minister is running a risk that she doesn't need to run.

**Mrs. Laura Albanese:** Could this risk take us back to—as you feared that it would take us back to political interference, the one that you were referring to earlier and that you have mentioned in your report has been responsible for a great part of the unfunded liability. I know that all parties were at fault for that, but is that the fear?

**Mr. Harry Arthurs:** As far as I know, the minister hasn't expressed herself on that point yet. But let me put the following proposition to you.

A minister who is reputed to have the power to fiddle with rates is going to be under constant pressure to do so. If I were the minister, I would put on this cloak of virtue and say, "We've given the WSIB a job to do. We've given them the tools to do it. We have overarching power to intervene if there's a genuine economic disaster. I'm sorry; much as I would like to help you, I can't help you. The WSIB is committed to a financial plan. It's committed to charging whatever it costs to deliver the statutorily mandated services, and I just can't intervene, because if I do intervene, experience teaches that instead of honestly representing the financial situation at the WSIB, I will get financial statements that are fudged, that don't tell me what's going on. That will be the way that they accommodate my request not to charge premiums that have to be charged."

That's why I call it a cloak of virtue. The minister is in a position to insist on honesty, obviously, compliance with the statute and so forth, but to get involved in the operational decision about what premiums to charge—I

think it's in the minister's own interest, and this would be true whoever the minister was, to say, "I'm sorry. This requires professional actuarial judgment as well-informed and independent as we can get it. It's out of my hands."

**Mrs. Laura Albanese:** Thank you for your insightful comments. I know that my colleague had some questions.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you, Professor Arthurs, for all of your many recommendations. I'd like to explore a little bit more on your recommendations around the way employers are assigned to rate groups—

**Mr. Harry Arthurs:** With regard to?

**Ms. Helena Jaczek:** Rate groups. In other words, obviously you were critical of the experience rating rebates to employers exceeding those that were imposed in fines and so on. We heard a little bit about this from the Ontario Federation of Labour, that there's some sort of almost perverse incentive to be able to obtain an increased rebate. What mechanisms would you like to see in place to redress this?

**Mr. Harry Arthurs:** There are really two closely linked problems here.

The first has to do with experience rating. The statute presently says the board can have such a plan if it is designed to reduce accidents and encourage a return to work. Someone asked, during the previous presentation, whether experience rating actually does achieve the statutory purpose. There is a little bit of evidence that it does so to some extent. It's not very strong. There is also some evidence, quite compelling but anecdotal, that says that even if it does, it's incenting bad behaviour by employers who are suppressing claims.

I wish both sides of the argument could come forward with better evidence. One of the difficulties is that we are not presently set up to capture the facts that we need to verify either claim. My recommendation is that we conduct an experiment, going forward, and that experiment might take one sector of the economy and say, "We're going to set up a new incentive system and we're going to insert in the mechanisms that we use to evaluate that system on a day-by-day basis—we're going to set up a mechanism for capturing both positive and negative outcomes." At the moment, the only way we can assess these claims about abuse and about the advantages of experience rating is to look backwards 10 years, 15 years. I'm saying that if you set up a proper experiment, you can capture the facts, going forward, and be in a much better position to assess whether it's achieving a statutory purpose or just doing harm.

That said, I have enough evidence that harm is being done that I think the board should immediately take steps to deter people from engaging in illicit forms of claim suppression. I think—

**Ms. Helena Jaczek:** And how would you do that?

**Mr. Harry Arthurs:** There are a couple of ways to do it. First of all, you have to say to somebody, "It is your job to do it."

*Laughter.*

**Mr. Harry Arthurs:** I don't mean to be flip about that. At the moment, though, there is—I've forgotten; I think it's called a compliance branch. The place to detect bad behaviour is when claims are being heard. I don't think that claims adjudicators and other front-line personnel are adequately alerted to the need to identify suspicious or clearly wrongful behaviour. Even if they did, there is no means now of capturing reports from those front-line personnel to say, "Oh, we see a pattern emerging."

**Ms. Helena Jaczek:** Should that compliance function rest with WSIB or should it be in the Ministry of Labour?

**Mr. Harry Arthurs:** I think you need the WSIB because it controls the data, okay? Let me explain. I think the best chance of stopping it is through systemic analysis which identifies suspicious patterns of behaviour, which in turn trigger investigation and, if necessary, prosecution. I can see the ministry being in charge of the prosecution end, but I think, because the board controls the data, it's an absolutely essential player in any attempt to stop the abuse.

I did say in my report, and I've said on other occasions, it might well make sense for the ministry to have one-stop shopping, so that if it sends an inspector in to look at compliance with occupational health and safety and employment standards and other work-related issues, it should also have antennae quivering if it spots problems with claims suppression. I think that would make sense. But insofar as it's data-driven, based on things which computers can capture as a way of alerting inspectors, I think that has to stay with the WSIB.

**Ms. Helena Jaczek:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much, Professor Arthurs. Time is up.

**Mr. Harry Arthurs:** Thank you, sir.

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#### CANADIAN FEDERATION OF INDEPENDENT BUSINESS

**The Vice-Chair (Mr. Phil McNeely):** We will now go on to the next presentation, the Canadian Federation of Independent Business, if they would come forward and take their seats. You have 10 minutes to make your presentation. State your name for the purpose of Hansard, and we'll commence the questions after that with the third party.

**Mr. Satinder Chera:** Thank you, Mr. Chair. My name is Satinder Chera and I'm the vice-president of communications in Ontario at the CFIB. I'm joined today by my colleague Nicole Troster, who is the federation's policy analyst.

On behalf of CFIB's 43,000 small and mid-sized member businesses in Ontario, we thank this committee for giving us the opportunity to present the views of our members. As confidence among the province's small business owners continues to fall, as evidenced in our release earlier today, our message to this committee is

simple: Don't allow the WSIB to hike payroll taxes and further jeopardize jobs and the economy.

While the September 2010 announcement of the review of the WSIB was positive—the review of its finances—subsequent actions by Queen's Park and the WSIB quickly eroded its credibility, including hiking employer premiums just as the review was getting off the ground. The fact that expenditure management wasn't even a part of the review only added to the concerns and left employers feeling the process and outcome had been deliberately stacked against them, not to mention that it was offside of the government's own approach to tackling the provincial deficit.

During the last provincial election, each of your parties promised to reduce the tax burden on small businesses. Today you have the opportunity to demonstrate that commitment by standing with them against higher taxes on jobs.

I will use my remaining time to speak from the slide deck that is on the right side of your CFIB package, starting with slide 2.

For the past 41 years, we've proudly represented small and mid-sized companies across this country. We're now at 109,000 members across Canada. These are Canadian-owned, privately held small and mid-sized companies that are, frankly, on main streets across this province of ours. Our membership profile gives us a pretty diverse feedback from our membership, and it's something that we're incredibly proud of.

Slide 3: It still comes as a surprise to many, but the fact is that 94% of Ontario businesses employ less than 20 employees. The fact is that whatever changes come about from the WSIB funding review will disproportionately affect small companies. They're the ones that are creating the new jobs. It's not the big companies; they're in fact cutting back. They've been cutting back for a long time. It's the small companies that are creating the jobs, and if we want the economy to continue to grow, then we've got to give these folks a helping hand.

Slide 4 talks about how in Ontario half of our economy is now employed in small and mid-sized companies.

Slide 5: Weathering the recession. I think it's really important to keep in mind that during the recent recession there were many sacrifices that small business owners had to make. Whether it was working longer hours, taking on more debt, cancelling personal holidays, it took not only a financial toll on their business, but it took a personal toll on their families.

On Slide 6, you'll see the fact that even during that recession, small companies continued to grow. This is statistics from Stats Canada that demonstrates that in smaller companies, they continued to grow employment, whereas large companies were cutting back.

Slide 7 is the results of our recent business barometer. We put this out on a monthly basis. The results that came out this morning show that confidence amongst small business owners continues to decline in the province of Ontario. Ontario is now near the bottom of the pack in Canada in terms of business confidence levels.

Slide 8 talks about some of those specific pressures that are impacting business owners, not the least of which are taxes and regulations.

Slide 9 talks about the specific taxes that impact business growth. At the very top are payroll taxes that are levied on your payroll. WCB is an important concern for our members, and should be for the broader economy.

On slide 10, we have the results of our cross-country study that we did. We actually looked at all workers' compensation boards in Canada and we rated them based on their performance, as seen through the eyes of our members. Ontario is tied for last place with Quebec.

This is the first of this study—it's never been done in Canada—so in that respect, it's probably not going to be absolutely perfect, but frankly, it's the only one out there. We've met with the Ministry of Labour; we've met with the WSIB to present this data. We haven't really received any pushback in terms of the methodology that we've used.

Slide 11, with respect to the Arthurs report: As I said, we fundamentally saw it as a positive development when the review was announced. But the fact that rates were increased just as a review was getting off the ground and that there was no mention of expenditure management or review of expenses, frankly, from our members' standpoint, made it look very insincere, because at the end of the day, employers are on the hook for 100% of the costs of the WCB. That being the case, if the only thing you're looking at is funding, then they're dead in the water before the review even got off the ground, and that was the comment that we were getting from our members.

Slide 12 talks about how our members view the current Workplace Safety and Insurance Board when it comes to understanding their business needs. There is a huge disconnect right now. On the previous slide, you saw the fact that when it comes to customer service, Ontario's Workers' Compensation Board is at the bottom of the pack vis-à-vis the rest of the country. So even if you're trying to have a conversation, the reality is that if small business owners feel that they're not being respected by the board, then that's a completely different challenge.

Frankly, we're not opposed to having a conversation about the future of the board, the future of its finances. It's unacceptable that we have \$14.5 billion in unfunded liabilities, but frankly, there has to be a fair and balanced review, and that didn't happen.

Slide 13: I have to say it was quite puzzling from our standpoint that the government announced further indexation of benefits at a time when the board is already financially in trouble. Usually, when you're in a hole, you stop digging. That didn't happen. We know from 2007, 2008 and 2009 that the government's decisions to index benefits in those years added \$750 million to the unfunded liability. That was out of the auditor's report. It's not a far-fetched conclusion that there's a likelihood that rates are going to go up again, going forward. The fact that the review itself was viewed as insincere to begin with I think is a huge missed opportunity. The fact that

this review took almost 18 months to complete—again, there was ample time to provide that bridge to small business owners.

Slide 14: addressing the unfunded liability. Again, these are the views of our members. You'll see that in terms of raising costs and expanded coverage, it's near the bottom of the pack. They want to see some demonstration that this government-controlled agency is trying to live within its means. They haven't seen that.

Slide 15: Again, I have to say that it is gratifying to see all three parties around this committee agreeing that small business taxes are too high. Each of you made a commitment during the last provincial campaign to reduce that burden. My hope is that you'll demonstrate that by moving forward and standing with our members against higher WCB premiums.

The last point I'll make in terms of slide 16, because I'm probably short for time, is that one of our key recommendations here is that the Ministry of Labour be tasked, in consultation with the Ministry of Finance, to overturn any increases in employer premiums that actually claw back any relief that the government has provided to small business owners. The government has mentioned a number of cuts that they've made to small business taxes—absolutely, and you guys should be given credit for that. Let's just make sure that we don't miss those opportunities that claw that relief back. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. You're right on time. We'll go to the third party and Miss Taylor.

**Miss Monique Taylor:** Thank you for being here with us today. My question: I understand that small businesses are facing challenges. We all accept this; we know this. But if we're facing this underfunded liability at the same time, how do we address those challenges on a fair and balanced approach to make sure that it is fair across the board? Because if it's your family member who's hurt at work, you would hope that there was compensation for that person—it could be your wife or your husband—at the same time, because then your household is going to fall through the roof, because we know it needs to be two families, right? There has to be a balance, so what's the suggestion?

**1430**

**Mr. Satinder Chera:** A couple of points, Ms. Taylor.

One I would make is this: The last time that we had this sort of big review of the WSIB was back in the mid-1980s, and that's when the 30-year plan to reduce or eliminate the unfunded liability was developed. At the time, employers actually agreed to double-digit increases for three consecutive years in their premiums to get the system back on track. A lot of our members have long memories and they remember that they've seen this story before and nothing has really changed, so frankly, they're frustrated.

Secondly, governments continually talk about the fact that there has been tax relief provided, regulatory relief provided, and why aren't businesses growing? I think it's

important to sort of take a step back and think about the fact that—and this is governments of all political stripes—they give with one hand but they take with the other, and frankly, from our members' standpoint, the taking back is a lot bigger than the giving is.

The third point that I would make is, again, we were quite positive and quite welcoming of the government's review of the WSIB's finances. In fact, when we looked at the initial terms of references, it actually talked about looking at expenses as well. Then we looked at the terms of references a few months later and they were quite different from the ones that we had been briefed on initially. At the same time, our members, quite frankly, asked, if you are doing a review to figure out how to fix the system, and if you're going to jack up rates even before the review has gotten off the ground, then what exactly are you going to try to solve? Because it seems to us—again, to the guy who's working side by side with their employees—that the government has already made up its mind about what it wants to do and this review is simply window-dressing.

The final point that I would make to you is that, in terms of injured workers, we have been quite consistent on this. Absolutely, folks that are injured through the workplace should be compensated. In fact, I went back and forth on Twitter the other day with a gentleman in Sudbury who has been waiting for benefits for four years. I said to him, "That's completely unacceptable." We had a nice dialogue back and forth and we agreed to disagree on certain points, but at the end of the day, small business owners don't want to see the system gutted. What they're saying is, "Look, we'll come to the table, but let's have a fair and balanced conversation."

**Miss Monique Taylor:** Good. Thank you for that.

It brings me to another thing about the workforce coverage and Ontario being at the bottom of the list for that, with the average in Canada at 82% and Ontario coming in at 71%. What about that portion of businesses that are not dealing with WSIB at all?

**Mr. Satinder Chera:** I guess I would say on that, Ms. Taylor, that if the board has demonstrated to this date that they can't handle their current responsibilities, what makes anyone think that they're going to be able to handle even greater responsibilities? Expanded coverage—again, we have members in the construction sector that are facing increases thanks to Bill 119, which is going to be coming into effect on January 1. The rationale from the Ministry of Labour is that it's going to get at the underground economy. Well, implementing a new tax isn't going to get at the underground economy. There's a reason why you have the underground economy to begin with. "The day that tax goes into effect," our members are saying, "they're going to come and get me, because they already know where I am. But I've already got private coverage, so someone explain to me how it is that I'm going to be able to afford two different insurance products. I've already got private coverage; I need liability insurance for my business to run, which is 24/7. Now I'm being told that I've also got to get 9-to-5 coverage in

terms of my workplace. How am I going to be able to balance those two?" And we do have some members that have said it may not be possible for them to continue because costs may simply be too prohibitive.

On the issue of coverage, frankly, what we would say is that, again, let the WSIB demonstrate that it can deal with its current responsibilities, which they haven't been able to do, and if we are going to get into coverage issues and if we do want expanded coverage, then let's maybe start talking about private competition and let the WSIB compete against private sector companies for insurance products.

**Miss Monique Taylor:** My concern about that is the fact that these workplaces are not under the scope, so the Ministry of Labour is not checking into these systems because everything is done under the scope of the WSIB. So if you're not on the WSIB radar, then the Ministry of Labour has dropped them off the radar too. Yes, I agree that the WSIB is not doing a good enough job, but I don't think that that gives them the right to not be responsible for all workers of this province. So, there, I'll just leave my comments with that, and if you have anything to respond, that would be great. Thanks.

**Mr. Satinder Chera:** Here's what I would say on that. I think the first point—and it's a really important point—is the fact that Ontario has, I think, the lowest lost-time injury rates in the entire country in terms of workplace accidents. Even one is too many. We would recognize that. We'd be the first to admit that, but let's keep in mind that, generally speaking, Ontario workplaces are safe and they are getting safer. You look at the WSIB data, the Ministry of Labour data, and the numbers have been trending downward for many, many years.

The reason I point that out, Miss Taylor, is because our members work side by side with their employees. In a small, five-person operation, if you lose one of your employees, that's 25% of your workforce right there. You can't afford to have your workers put in harm's way, because at the end of the day it's going to mean a huge impact on your bottom line, which frankly is the family income for a lot of small business owners, right?

So what we would say is, let's keep things in perspective. Yes, one injury is way too many. The Ministry of Labour I think is now taking over prevention responsibilities in this province. We're keeping an open mind on that because, again, based on the evidence and the feedback that we received from our members, the WSIB did a pretty shoddy job of that. We know, for example, that the Office of the Employer Adviser, which is there to help smaller employers—because let's keep in mind, Professor Arthurs talked about the fact that a lot of worker associations don't have expertise.

I can tell you, for most of my members, it's either their husband, their wife, their son, their daughter that's working side by side with them. They don't have access to accountants. They don't have access to pricey consultants. They've got to rely on themselves in order to help support a safe workplace. If they're going to the WSIB, to which they're paying the premiums, and they're not

getting that level of service back, then there's something fundamentally wrong with that.

As I say, the Ministry of Labour is taking responsibility for prevention. We'll see where things go. But I just want to make that point. Again, it is not to undermine the point that you're trying to make. Look, we do have rotten apples out there, and the fact is that they need to be addressed, and our members would be the first to say, "The guy working down the street is not abiding by any of the rules and laws. I am. Why are they getting away with it? And yet I always have a ministry inspector trailing me around the local community."

**Miss Monique Taylor:** Thank you.

**Mr. Taras Natyshak:** Can I get a question in?

**The Vice-Chair (Mr. Phil McNeely):** Mr. Natyshak.

**Mr. Taras Natyshak:** I'd like to get just two quick questions in. If coverage was expanded to be universal in the province in all employer groups and that resulted in a decrease in rates for your members, do you think that's something that your membership would be in agreement with or would welcome?

**Mr. Satinder Chera:** Again, I would simply say that based on the fact that the system right now is in such dire straits, I'm not convinced at all that expanding it is actually going to make it even better, and frankly, I would also say, why should one employer have to subsidize others? Rather, what I would say is, let's have private competition if we want to go there.

**Mr. Taras Natyshak:** Is there any consensus from your members as to whether they would be willing to reopen themselves to litigation under a new type of format? Have you ever crunched the numbers on that and seen what that would look like to your membership?

**Mr. Satinder Chera:** I don't think you necessarily need to go down that road, frankly.

**Mr. Taras Natyshak:** But it would be the alternative to disband the current system—then we would have to give workers the opportunity to embark into some litigation.

1440

**Mr. Satinder Chera:** There's nothing wrong with the government setting the basic rules and saying that, "You know what? All the companies out there, you guys can compete for the business." I don't think there's anything wrong with that.

**Mr. Taras Natyshak:** Well, you can't have your cake and eat it too.

**Mr. Satinder Chera:** Why do we have to have one provider? Why can't we have more than one provider providing service? Another company may be able to offer it at a cheaper rate.

**Mr. Taras Natyshak:** Then workers should be able to embark in massive litigation against any businesses that are found in contravention.

**Mr. Satinder Chera:** But they would still receive basic benefits and it would still be compensated. Just because they're going to get compensation from insurance company ABC as opposed to the Workplace Safety and

Insurance Board—sorry, I don't understand why that would be a problem.

**The Vice-Chair (Mr. Phil McNeely):** We have to end it up there. We're over time.

I'll now go to the government and Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Hi, Satinder. It's nice to see you.

**Mr. Satinder Chera:** It's good to see you, Donna.

**Mrs. Donna H. Cansfield:** You know, it's interesting, as I sit and I listen—just before I do that, I want to make a comment. I was curious, when you did your analysis with PEI—were they outsourced?

**Mr. Satinder Chera:** Um—

**Mrs. Donna H. Cansfield:** That's all right. You can find out later and let me know. And thank you, because at the end, you did clear up that in fact there have been a number of initiatives to help small businesses: the input tax; retail tax reduced; corporate taxes reduced etc.

**Mr. Satinder Chera:** Absolutely.

**Mrs. Donna H. Cansfield:** When I looked at your page 5 and it showed everybody having all of their challenges, I thought, "Welcome to my world," and a whole lot of other folks who are in the same situation.

Satinder, the thing that I'm struggling with here is that, not just today but in the future, we will have a need for a far stronger workforce than we even have today, and our numbers are going down significantly. Then, as you know, there are some challenges around the issue of immigration at the federal level. So it would seem to me absolutely paramount to be able to sit down together on this issue—and it is not just about the unfunded liability, but also about ensuring that your employer looks after their employee and that the employee has good responsibility and obligations to the employer, what I would call the art of the possible, to make this happen, so that we in fact move into the future in a way that supports this workforce that we are desperately going to be needing.

The OFL came up with a few ideas, and you have some in here. They're a little bit further apart, and yet you're so much together. You cannot have a small business without—unless you've got your four family members in there, most small businesses have a few other employees. If you want to have a loyal employee, you look after them, and you do it well, or else your employee's gone. As an employee, if you want to keep your job, you work together with your employer.

It's interesting today, as I go to more sessions, especially with maybe not so much small but medium-sized and larger businesses, they are recognizing more and more the need to work closely with their employees to produce a good working environment so that they will stay, so they will be loyal, so they are reasonably compensated, but recognizing they have other issues in their life.

We have a big problem here, and I'm not sort of getting a feeling that we're all in this together, just yet. It's interesting, when you come and you—I would have hoped for more solutions other than, "Just don't do this." Just don't do this usually doesn't work. You have to put

some options on the table, and I know you've got some. But I'm interested, as you must be doing some forecasting looking out into the business world, on how you think you—because there's an issue of fairness here. How do you think your businesses are going to be able to keep those employees if they don't find this common ground around this issue of workers' compensation?

Before I ask you to answer that, I just wanted to share with you, just so you'd know, this morning there was discussion around Bill 119, and the Workers' Compensation Board has actually had discussions with a number of folks and they have recognized that challenge around the insurance, and they've come to some conclusions to look at different cost structures. They will be announcing that—I think he said soon, didn't he? In the next few days. So you might want to give them a call and find out.

But I'm interested in how you think we can—I mean, you've been in this gig for a while. How are we going to move forward on this?

**Mr. Satinder Chera:** Well, let me say that I think the data is quite clear that small businesses are pulling their fair share and then some. They continue to create most of the new jobs in our economy. The surveying that we've done over 41 years—countless surveys around workplace arrangements where employers will give their employees time off for various reasons, the working arrangements that they have.

There's a lot that our members are already doing, Donna, and I would say the point that I made earlier, which is, look, our members realize that even if they lose one employee to a workplace injury, that could be quite disastrous for their business, not to mention, of course, the personal impact of it. Our members realize that, and they take their responsibilities very, very seriously.

I think, again, going back to the point that I started with, we started off very, very positive in terms of viewing the government's announcement on the review of the WSIB's finances. What we found troubling, though, Donna, is the fact that what we were shown initially was quite different than what ended up happening. The review gets off the ground, and the WSIB announces two years of increases. So, frankly, our members are thinking, "Okay, do they really want our opinion, or are they just stacking the deck against us?" Again, I can only tell you what I'm hearing from my members. I'm happy to convene a round table with you personally with these members, because they have some pretty strong opinions as well.

I will say that the government's recent decision to appoint Ms. Witmer as the chair of the WSIB, I think, is quite positive. I think that she brings a lot of experience to the table. I have actually personally met with Minister Jeffrey, and I communicated that to her. I've also made the commitment to Minister Jeffrey that we have a lot of recommendations in terms of how we can fix the WSIB which we will be communicating to her very, very shortly. In fact, I will copy you on that correspondence as well.

But I think as a starting point, again, everybody around this room recognizes that taxes on small businesses are too high. I mean, you've all made commitments to reduce the burden on small businesses. I guess from my standpoint, what I would say is, let's not lose the gains that we've already made.

As a starting point, why can't there at least be an analysis done such that if the WSIB is going to move to increase premiums, let's make sure that it's not counter-productive to what the government has done to try to make the economy better? That's a sure way of ensuring that you're going to keep your young people at home and that they are not going to go out west to Saskatchewan or Alberta.

**Mrs. Donna H. Cansfield:** Thank you. I appreciate that sort of lack of communication, and obviously there's something to improve there.

It's also interesting, and I guess it's been historical, that a premium is a tax, whereas I think of the premium more as being a benefit in many respects because you're helping to keep your employee, and in the event that something occurs, your employee is well served. Again, it's just how you approach that issue.

The other is that you've spoken, on page 14—I know how these things work. I mean, you question folks. But it's interesting for me that in all of this, I didn't see—and in fairness, I haven't read your whole book, so it may in fact be in there, Satinder—the whole issue around the best way to prevent an unfunded liability being to prevent the injury in the first place. So I didn't see what the things are that we could do, what the issues are that would help reduce the barriers. We had some of it this morning around aligning some of the red tape, but what are the things that we could do to reduce the impact of injury in the first place? How could we all work together to make that happen?

**Mr. Satinder Chera:** Good point. In fact, a couple of points.

One is that we have 80 district managers in this province that meet with about 2,000 businesses in their places of business each and every day. One of the things they carry with them is the Employment Standards Act poster, and they carry with them the WSIB posters as well, to demonstrate to members that if you don't have these in your workplace, the Ministry of Labour is going to come after you, but more importantly, here are some things that you can do to make your workplace safer. We've actually gone to the WSIB in the past and we've gone to the Ministry of Labour to ask for copies so that we can distribute them to our members.

**Mrs. Donna H. Cansfield:** Wonderful.

**Mr. Satinder Chera:** We also work with outside consultants to put fact sheets together about what a business can specifically do to make their workplaces safer. As an organization, we are doing that, Donna.

With respect to the specific health and safety associations out there, I have to tell you, I am keeping an open mind about the fact that the Ministry of Labour now oversees prevention, because the feedback that we were

getting from our members, and part of it is reflected in this report that we did, is that the services that they were receiving from their health and safety associations were not that great. In fact, we worked with one health and safety association for a year, and the best they could come up with is a calculator to estimate how much it's going to cost a business if they lose one employee to an injury. Well, businesses already know that. They intuitively get it.

**1450**

What about some specific tips? "If you are in X business, here are some specific things that you need to do." You know, we could never get that, Donna. And the fact is, you and I have known each other almost nine years now, and during that time, I don't know how many health and safety associations I've met with. I will send you those presentations to demonstrate the fact that we're not johnny-come-latelies on this issue at all. The fact is, we have raised, countless times, here's what we're hearing from our members, here's the kind of support they need—the fact that they even need business coaching, because they're running their business during the day, but it's only in the evenings and the weekends that they ever get around to figuring out all the rules and regulations that they have to comply with. Are there some online tips and tools that can be implemented?

**The Vice-Chair (Mr. Phil McNeely):** If you could wrap up in 20 seconds.

**Mr. Satinder Chera:** Twenty seconds? We've also done health and safety studies at CFIB, countless numbers of them, and they've all been sent to governments across this country, including yours, over the past couple of years.

**Mrs. Donna H. Cansfield:** So there is, if I may, an implementation team that's come together from WSIB, the Ministry of Labour, everyone together. You must get that material to them, because that's exactly where the rubber is going to hit the road in how we can begin greater prevention than there currently is.

**Mr. Satinder Chera:** I don't disagree with you. Good to see you.

**Mrs. Donna H. Cansfield:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** We'll go to the government now and Mr. McDonell—the official opposition.

**Ms. Lisa M. Thompson:** I like the sound of that.

*Interjections.*

**Interjection:** Looking into the future?

**Mr. Jim McDonell:** Yes.

It's interesting to hear you say that through the last election, everybody wooed small business as being the saviour, but when you get here, of course, everybody is looking at how we can get more, you might say, employee tax out of you. We've also heard that the answer is to extend it across 100% of the base, because the base is paying less fees. But of course, if you look at these industries, or these small businesses, where most of them are less than four employees, their risk is less. So if you bring them in, their rates are supposed to be based on

their risk and if you look through their charts on how the companies work. So really, unless you're going to penalize them by charging them much more than the risk, you're not going to fix the system; you're just going to run it poorly, and with more employees, and on that basis actually drive up your rates. Any comment on that or how you see that?

**Mr. Satinder Chera:** Again, I would start with the point that our members take their responsibilities very, very seriously. They work side by side with their employees, whether it's family members or friends of friends. Losing one employee not only is a financial hit on the business, but the personal side of it is massive. So they take their responsibilities very, very seriously.

I'll come back to the point that I made before. We were quite supportive of the government's decision to appoint the Harry Arthurs review, but there were some early decisions that were taken that we couldn't quite figure out why they had happened. At the end of the day, the guy and the gal that are trying to meet payroll, they were looking at what was happening around them, and they frankly felt that the decks were being stacked against them. The possibility of rates going up in the future—whether they go up or they don't go up, I think the point is that our members would like to have a fair and balanced conversation and not one that is all one-sided about funding, because if it's just about funding, they're the only ones that pay into the system right now, so you're probably going to get more out of them.

In terms of other ways of looking at the system—and again, Donna made the point earlier in terms of specific recommendations—the Chrétien government in the mid-1990s, when confronted with the whole issue around CPP tanking, made a number of very difficult choices. One was to increase rates, but the other thing they also looked at was taking the investment side of the board and giving it to outsiders and basically putting it in professional hands, such that the system would incur positive returns going forward. That system has actually done quite well for itself. One of the recommendations that we made to the WSIB is, why don't we look at the investment side of things as well? So yes, there is the expenditure side and we do think that should be looked at, but it doesn't all have to come out of the pockets of a small business owner.

On expanding the rate base, again, look at the way the system is right now. If they can't handle the responsibilities with the current challenge—not to say they won't in the future; we'll wait to see—how are they going to handle it with an even greater base out there?

**Mr. Jim McDonell:** Just to follow up, do you see them well looked after through the private sector in this case, through their insurance? Are there any issues that you've come across?

**Mr. Satinder Chera:** I can only speak to our members that are now facing Bill 119 in January. Again, the one thing that they say is, "Look, in terms of the underground economy, government already knows where I am. I already abide by the rules, and so if they're trying

to get at the underground economy, the only thing they're going to end up doing is putting me out of business."

The folks that are in the underground economy aren't going to magically appear because there's a new tax in place. Our members would say, "Why aren't we going after those bad apples, the folks that aren't abiding by the rules?" Again, it all gets back to, let's have a fair and balanced conversation around this stuff and not let it be just one piece of the puzzle, which is just the funding side. That's where I think most of our frustration and concerns have been on this file to date.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Throughout our dialogue this afternoon, you've referenced the fact that all parties have made promises to reduce taxes on small business; and rightfully so, you're holding our toes to the fire, so to speak. I feel very proud of the fact that our leader last week introduced our position, our white paper, Paths to Prosperity, with respect to labour. Have you had a chance to look at that? And what are the benefits that you recognized within our position that we've established to date?

**Mr. Satinder Chera:** I haven't gone through the entire document, Ms. Thompson. I understand that there are specific references to workers' compensation and that. I haven't done so to this point, but we will provide our feedback in due course.

I would, however, say that—and I thought this was where you were going to go—we have sent an open letter to all three party leaders.

**Ms. Lisa M. Thompson:** Yes.

**Mr. Satinder Chera:** To this date, we've only heard back from Mr. Hudak, pledging support for our members. My hope is that through these committee hearings that we can also lock up the support from the rest of the party leaders as well, because again, I don't think this is a partisan issue. Frankly, I think all parties support small businesses. The government has taken a number of steps to support small businesses, as have the official opposition, as have the NDP as well. We just want to make sure that we maintain that momentum. Again, if we can do that through these committee hearings, then all the better.

**Ms. Lisa M. Thompson:** Okay. Very good. Just quickly, then: In that white paper, we've positioned the fact that we would immediately repeal Bill 119. What's your reaction to that?

**Mr. Satinder Chera:** Our members are opposed to Bill 119.

**Ms. Lisa M. Thompson:** Okay. We'd also take a look at ending the monopoly of the WSIB and opening up the marketplace in terms of workplace insurance. How do you feel about that?

**Mr. Satinder Chera:** I think it's a good discussion to have. Frankly, from our members, we do have data that shows that there is an ever-growing level of support for private competition. Obviously, we'd like to see the de-

tails of how that would potentially work, but we wouldn't close the door on that discussion.

**Ms. Lisa M. Thompson:** Very good. Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. McKenna.

**Mrs. Jane McKenna:** Thank you so much. It's a breath of fresh air listening to you talk today. I am just sitting here because when I read stuff like this, everything just comes to mind for myself. It reminds me of the Drummond report. It reminds me about if we had one plan and we implemented it everywhere, we'd be in such a better position, because if we can plop in anybody here, whether it's WSIB, teachers, doctors—it doesn't matter—everybody says the same thing: We're not listening to what the people have to say and how we can make changes.

I fully hear what you're saying, because people will say, as taxpayers, which we all are, "What do we have to show for what we have?"—which is nothing. People are okay to invest back into things when they have something to show for it. When they say, "We're looking at a premium," that's okay too if it's not a Band-Aid effect and you're looking at a business plan of where that's going to take you and how that's going to make it better. But you can't just throw words out like "premiums" if there isn't an actual bottom-line business plan to figure out what that's going to do to make things any better.

When I sit here and listen to what you have to say today very calmly, I can definitely hear the passion in your voice. It's just about everything that we've been doing for the last nine years and that we have to fix it and we have to make changes and there has to be a plan, period.

**1500**

To me, there is no plan. You can't just throw things out that are Band-Aid effects. I've said that numerous times today, because I'm always looking for a plan. At the end, if people are marked on their performance—if you had your own business, you would run it like a business. Everybody would have a performance level of where that is.

I have a question for you. Why do you think there are so many agencies that seem to be incapable of governing themselves, let alone improving the quality of life in Ontario? Why do you think that is?

**Mr. Satinder Chera:** First of all, let me say that there are some good people that work at any of these agencies. I'm going to speak specifically about the WSIB because that's the reason I'm here. There are some good people who work at the WSIB. I mean, I don't want to leave the impression that the whole organization—you know, throw the baby out with the bathwater. I think there are even some recommendations in Mr. Arthurs's report that should definitely be looked at.

I think the challenge, though, is that there needs to be a fair and balanced conversation, and I just don't think that our members feel that's happening with respect to the WSIB. Again, they were very supportive when this review got off the ground. It's something that they had called for. We felt that things were going to be moving in a certain direction; then we were told that it wasn't going

to be moving in that direction. Frankly, at the end of the day, what we're left with now is talk about higher premiums coming down the road. The members are calling me, saying, "We could have told you this two years ago when the review was announced, so why is this a surprise to anybody?"

When you look at that bridge in terms of that credibility divide between government agencies, particularly the WSIB, and our members, we should be building that bridge closer. Frankly, it's getting farther apart. The fact that the WSIB in Ontario, of all workers' compensation boards, is the lowest in terms of customer service—if any one of us walked into a business and was given crappy service, at least we could vote with our feet, walk out the door and go to another business, or take our business elsewhere. In this instance, our members have no choice. They've got to go back to—

**The Vice-Chair (Mr. Phil McNeely):** Time has run out. If you would just wrap up.

**Mr. Satinder Chera:** That's the last point I'll make, Mr. Chair.

**The Vice-Chair (Mr. Phil McNeely):** Thank you, and thanks to the Canadian Federation of Independent Business for being here today.

#### CANADIAN UNION OF PUBLIC EMPLOYEES

**The Vice-Chair (Mr. Phil McNeely):** Our next presentation will be the Canadian Union of Public Employees, Fred Hahn and Harry Goslin. If you'd come forward, please. You have 10 minutes to make your presentation. If you would state your name when you start for the purposes of Hansard.

**Mr. Fred Hahn:** Certainly. My name is Fred Hahn. I'm the president of CUPE Ontario. We are a fairly large union in every community, city, town and township all across Ontario, with 230,000 members. We also have the distinct privilege of representing workers who work at the WSIB, so I'm joined today by Harry Goslin, the president of the local union there. He will be speaking to you about those issues.

Particularly, I think it's important for you to hear the voices of the workers in that system while you're engaged in the work that you are doing, but I wanted to take a minute to just—I'm not going to read to you this submission that you have before you, but I will try to encapsulate some of the issues that we have tried to point out in the big picture.

We were just hearing a little bit about the WSIB. There's a great amount of concern by some quarters these days, particularly about issues of funding and liability. From our perspective, there have been, in fact, many road maps and many plans from many quarters that say very similar things, things like, "We should be fully expanding coverage to all workplaces." When there are recommendations like this over and over again, when it's difficult to explain to 70% of the employers out there why they should be paying when 30% aren't, when the

workplaces are actually changing, and when this kind of coverage is actually cheaper, more effective and more beneficial than any private coverage could ever be because there is no profit involved, then it makes it difficult to explain why we aren't talking in a much more focused way about expanding coverage fully to every worker.

Of course, we really feel strongly that you need to, as a committee studying this, think about the appeals system, making sure that it is meaningful and that there is real access to that system. There are many issues around cuts to these kinds of services and staff morale, which Harry will speak to in much more detail.

We of course cover the issue of funding for injured workers and, in particular, indexing of pensions and benefits for workers. It is unacceptable that we have a system—if there are complaints about this system, I would say that one of the big ones is that we have a system that is supposed to be a public system that all parties in our collective history in Ontario created and supported, but now it leaves people in poverty, and that is a shame, something about which we should all be concerned.

There has been a massive trend to outsourcing and to automation in the board, and studies have demonstrated time and again—not just in this jurisdiction but in others—that in this kind of system when we outsource work and when we focus too much on automation, it actually costs more money and brings fewer benefits, so those things should obviously be something about which you're concerning yourselves.

We believe the WSIB has a very positive role to play in prevention, and there are, since Bill 160, the issues around prevention have been moved from the board. We think that that was a mistake. Harry will speak much more about that.

We actually believe that, in terms of the funding review that Harry Arthurs did, there's an option for a more sustainable path, and that's the first option he presented for employers. If we expanded full coverage, we wouldn't have to adversely impact, particularly, small workplaces with higher premiums.

We think that major parts of this action plan that have been released around the WSIB need to be reconsidered, and you'll see, we spent a fair amount of time talking about the various pieces of that action plan and which ones we think are quite problematic.

We also are concerned, of course, with governance at the board. This is an institution that is very important to the working people of this province, and we think that the governance of that board needs to be much more independent. Part of the challenge that we have is that we have a system in which various levels of government—particularly the provincial government, various parties—have interfered and changed laws in such a way that it becomes impossible. You can't tie people's hands behind their back and then ask them to swim. So what we need is real independence in governance in that board in such a way that workers' voices, in particular, from our perspec-

tive, are represented well to have a better system for all of us.

Those are a number of the issues that our submission deals with in much more detail. You can definitely take some time to read it; we'd appreciate it if you did. But I do now want you to hear from Harry Goslin, the president of Local 1750 of our union, who represents the workers at the Workplace Safety and Insurance Board.

**Mr. Harry Goslin:** Thank you, Mr. Hahn. As Fred has mentioned, I represent the unionized employees at the WSIB, of which there is about 3,600 employees. I'll go through some of the changes that are happening within the organization, but one of the biggest things, or one of the most pressing issues, I think, that's before this committee today is this absolute void when it comes to prevention.

As you all know, with Bill 160, the transfer of responsibility of prevention went from WSIB to the Ministry of Labour, effective April 1, 2012. So the effective date has come and gone, but the actual implementation of a new world of prevention has not yet happened. When I've met with the chief prevention officer, and in his own presentation to the WSIB today, his staff has indicated that he doesn't expect that he'll have a new prevention organization up and running until the end of 2013 or the beginning of 2014.

The WSIB, though, with the passing of the legislation began to wind down prevention services in the organization as it was no longer part of their mandate. They began to wind it down from a high of 177 staff to what will be down to 38 employees come this December. When I have talked to the chief prevention officer, I've explained to him that I think that he, the Ministry of Labour, the WSIB, the house of labour as a whole—all of us together have a moral obligation to address this prevention void.

The WSIB was to carry over \$206 million, as of April 1 this year, to the Ministry of Labour—which is, by the way, more than double the Ministry of Labour's previous budget. That money was earmarked to go to the Ministry of Labour to support prevention services, yet there is no prevention happening out of the Ministry of Labour. So I wonder what is happening with that \$206 million which is to come out of the WSIB. I think what really needs to happen in the interim is that, clearly, the Ministry of Labour is unable to put prevention at the forefront, as it committed that it would do, and I think what they need to do is enter into an agreement with the WSIB, at least on an interim basis, to provide prevention services until such time as the Ministry of Labour can get off the ground and running. In the meantime, every day that's wasted is another worker's life that's put at risk, and that's just unacceptable.

**1510**

The next piece that I would like to talk about is the coverage issue. The mandatory coverage was highlighted in the WSIB funding review even though it was outside of the scope. Even with Bill 119, which does improve coverage within the construction sector, we know that the province of Ontario continues to rank the lowest in Can-

ada, about 71%. And the problem is that it's the legislation. The legislation defines who is covered and who is not, and it has not been amended or addressed since the Meredith report of 1913. We think that the solution is that the government should act on the Brock Smith report, which was commissioned by the WSIB and the government of Ontario in October 2002. The report concluded that the WSIB should embrace mandatory coverage similar to other jurisdictions across Canada, thus spreading the risk and creating a level playing field for all employers, which is something you heard Professor Arthurs speak to earlier today.

The WSIB then contracted—based on this report, the WSIB also embraced the idea of 100% mandatory coverage, but to support that they went out and they hired Professor Douglas Hyatt, from the University of Toronto Rotman School of Business. He said that about 1.3 million uncovered workers would be brought into the WSIB system and with a premium income of around \$200 million, based on at that period of time in 2003.

A more recent report called the Financial Review and Opportunities for Reform in Service Delivery and Coverage in Ontario, dated October 2009, by economist Hugh Mackenzie, also recommended mandatory coverage. In both reports, what they say is that the act should be amended so that coverage is based on the exclusionary principle—replace the exclusionary principle with a presumptive inclusionary principle, so you're presumed to be covered unless otherwise demonstrated.

**The Vice-Chair (Mr. Phil McNeely):** Your time is up. If you could wrap up in the next 30 seconds.

**Mr. Harry Goslin:** Okay. I'd ask you to have a look at some of the appeals issues. The outsourcing, I think, is one of the key things that is happening. The number of staff—I think you've heard the chair and the president/CEO talk about 400 people having been laid off. The organization is actually undertaking a massive transformational change, which they think will happen in about a year-and-a-half's time, in which we'll outsource a significant or a massive amount of the organization into the hands of private companies, like Accenture, to automate the system, which will drastically change the historical compromise of having workers have a fair system to have the merits and justice of their case considered—and now to put it into the for-profit-driven organizations that are known to drive up costs in order to increase their profit, not to be there for the injured workers who need their assistance or for the employers that want a fair shake for the dollar that they put into the system.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. We'll go the government. Ms. Albanese.

**Mrs. Laura Albanese:** Thank you for your presentation, first of all. Maybe I'll give you a couple of minutes just to finish off what you were saying about the coverage and the appeals, so that you can finish those thoughts.

**Mr. Harry Goslin:** Well, the appeal system is due to be reviewed. We have been told that there is a backlog of about 4,500. As a local union, we entered into an agree-

ment with the WSIB to be able to put into place an emergency team to be able to address the backlog, because after all, the workers and the employers of Ontario deserve to get their decisions. That's been delayed now, for reasons unknown to me, until such time that they launch a new appeal system.

It's not the appeal system that's broken. What's broken is, I think, the front end, this "Let's go for the quantity versus the quality of decisions." I think if there was more time spent at the front end getting the quality of decisions, we would then not be so much deferring the cost of claims, which hit us at the back end when an appeal is heard.

**Mrs. Laura Albanese:** Thank you for that. Donna, did you want to—

**The Vice-Chair (Mr. Phil McNeely):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** First of all, thank you. I think I've been a bit of a pain around the issue of prevention, but it's high on my list of—it's preventable, right? So anything that's preventable—and you're right: I think our heads are not into how we prevent injury, whether it's with children or whether it's with a worker; our head is around how we fix them once they're injured. We will eventually have to get to the other issue.

I'm interested in the whole thing around the appeals. There are two issues. One is, you've got a backlog of appeals that need to be addressed, and there has to be a way to do that in a timely fashion, because you have both employers and employees waiting. I think that's an issue of fairness. So cut that off.

Then you've got the other appeal process, whatever it might look like going forward. One would hope that you are part of that discussion on what that process looks like going forward. Again, I can't speak for everyone in this room, but I can speak for myself and my constituency when if you can't navigate the system and the system is so overwhelming to you, you end up losing. I don't care if it's the long-term-care system or any system. Often, if you have the resources and you can use those resources and they help you—and often it's large businesses—it's one thing; we heard that this afternoon from Mr. Arthurs. It's another when you're the individual. So the appeal process and getting that right, I think, is particularly important for an issue of equity, equality, if you like, and fairness. I'm hoping that one doesn't get mired into the other.

Are you just separating them out or do you want to lump them all together?

**Mr. Harry Goslin:** Separating out the appeals system issue—I don't think you can separate one piece out from another. I think we are just kind of scratching the surface of the iceberg really and that the change that's happening in the organization is traumatic. What is really driving some of this change, and is it really to address the unfunded liability? Is it the consultants that have come in?

One of the consultants that have been brought in, which is Deloitte, their statement of work actually talks about being able to help the WSIB identify how they can better mitigate the cost of new claims coming into the

system and those that are going to become locked into the system. That, to me, is cutting costs on the backs of injured workers, which is something that the government had committed not to do.

I think you have to look at the whole picture, not just a piece here and a piece there. I think there needs to be a much more investigative study into what is happening at the organization, to the point where the brakes really ought to be put on before things go down a path where massive outsourcing happens and it's another Highway 407, with the outsourcing that happened there and the billions of dollars that were lost to the benefit of Ontarians. WSIB could be heading down the same path. Before that mistake happens again, let's put the brakes on and have a closer look at the whole picture.

**Mrs. Donna H. Cansfield:** Okay. I just wanted to share with you: I understand and it was shared with me that until the things are up and going, the WSIB is continuing with its prevention programs. I didn't want to mislead anybody to suggest they were stopped.

You know, like most things in this world, there's probably a happy balance somewhere, and that happy balance—that's just me—is going to be a little of this and some of that; it's never going to be one or the other. There probably always will be some opportunity to do some outsourcing, whether it's in data collection or—we learned that one of the things we shouldn't do was with the people. We heard that this morning from the WSIB.

If you were looking at what I call the art of the possible—because whether you like it or not, we have to deal with this unfunded liability. We have to deal with it. It's not going away. It's not going to disappear. So what is it we can do that's reasonable to both the employer and the employee?

**Mr. Fred Hahn:** Well, we could expand coverage so that all employees are in and so that all employers are paying. We could adjust fees for employers in a way that's fair and reasonable, but also recognizes that they are too low. We could have a horizon that doesn't make us so worried about paying unfunded liabilities that at the end of the day are not immediate. These are things that are calculated in a mechanism of accounting that ultimately makes us all worried about something which is not going to be on our doorstep next Tuesday.

**1520**

Now, that said, it's not something that we should ignore but it is also not something about which we should throw out the whole system. We think that there are comprehensive ways. In fact, many of them have been recommended, many of them by Mr. Arthurs himself, that could lead to a much more comprehensive system that is more whole and that respects injured workers and provides resources for them in a fair and reasonable way.

**Mrs. Donna H. Cansfield:** Okay, again, I don't think you're going to probably get everybody to agree with you on mandatory or compulsory registration for all employers. I don't know what that magic number is or if we've achieved it. I think that's open, probably, for some discussion somewhere.

I guess I put my bias on the table; I'm one of those people who likes to balance their budgets. So, I find this, paying—what do we pay, \$800 million a year in interest or something? It's something that could go to something better than to the banks. So, getting that unfunded liability down is probably just as critical as ensuring fairness for the workers.

Increasing isn't always the answer. I'm looking for, as I say, the art of the possible, the balances somewhere in here where you can come together with some consensus on how you can move forward. It can't be this and it can't be that; it must be somewhere where you can find some resolution.

**Mr. Fred Hahn:** But surely you understand that in an unfunded liability kind of situation, you're not paying interest on unfunded liability. I think you would also agree that part of the role of government is to provide leadership. It would be impossible to achieve consensus with everyone in Ontario, but what we're talking about here, what the committee is concerning itself with is, what is the best path forward? Not everyone will agree, but when we're looking at a sustainable system that actually values injured workers, treats employers fairly and funds itself appropriately, mandatory coverage just makes sense. It's not just us saying so; there's been many others.

**Mrs. Donna H. Cansfield:** Thank you. I've read both. I really do appreciate your presentation. I learned a lot. Thank you very much.

**The Vice-Chair (Mr. Phil McNeely):** We'll go to the official opposition. Mr. McDonell.

**Mr. Jim McDonell:** Yes, thank you for coming. I'm not quite sure how we don't pay interest on the unfunded liability, because we have a system today that we're not paying 50% of the cost, and it's only getting worse. Do we have to wait to the point where an external force like, we're getting downgrades on our provincial government's debt—I mean, it's a real problem. We've been very lucky that temporarily we've been seeing unusually low interest rates, lower than ever seen in history. All the experts are saying to get ready because these are going up. So the interest rates we pay today, whether they be \$800 million, whatever they are, they're only going to go up, one or two times, which means that the benefits we enjoy today, we have to somehow pay for them and pay for them soon before this becomes a real problem.

Anyway, saying that, I don't quite understand how we've got a system here that now has doubled its debt in the last five years, and the solution is—I guess you'd have to say, "Is it doing a good job at what it's doing?" And the solution is: "Let's get bigger and get rid of the group that is working," like the private side where employers and employees are getting what they need to get done. You're going to pull them into the system. Because I've heard from everybody today that the system is terrible, that everybody is not getting the benefits they deserve and that they need to improve their benefits. On the other side, we need to bring the people who aren't

enjoying these bad benefits into the group. You know, there's got to be an address to it.

**Mr. Harry Goslin:** I think there are three pieces to that. First, the KPMG report, Deloitte's own report, and some of the value-for-money audits that have been done over the past have all shown that employer premiums were reduced between 1996 and 2003, from \$3 to \$2.13 per \$100 of payroll. Had that not occurred, our unfunded liability would be at \$3.8 billion, versus what was reported to be \$11.5 billion but what we now know to be around \$14 billion. All of those changes happened under the Harris government, and that was the kind of government influence on WSIB—

**Mr. Jim McDonell:** And just if I could stop you there—

**Mr. Harry Goslin:** Let me finish—

**Mr. Jim McDonell:** —the problem we're talking about is in the last five years.

**Mr. Harry Goslin:** But this is what caused the unfunded liability.

**Mr. Jim McDonell:** I mean, the unfunded liability actually dropped. In the last five years—you know, we're already at the Canadian average. Are you suggesting we go much higher than the Canadian average? Because that penalizes businesses that can pick up and leave. The people paying these premiums, the big companies that are also complaining, are moving to Michigan or Wisconsin because they don't have to do the work here.

**Mr. Harry Goslin:** If I can finish, then, I think you have to look at the historical perspective, because what has generated the unfunded liability were the decisions that were made in the past, when the WSIB was told not to raise the assessment rates, but they would otherwise have been raised. That brings us to the unfunded liability that we now have today. It wasn't something that just happened overnight; it wasn't something that just happened in the last five years. But the effect of that, in that employers in Ontario were not actually paying the true cost of the claims, was that the WSIB became in the business of underwriting business in Ontario, to the tune of \$14 billion.

To try to bring the level playing field, I think what's unfair in the system is that you have about 71% of the employers in Ontario paying into the system, and out of that, 100% of the prevention in Ontario is funded. So you have 71% of the employers paying 100% of the prevention system in Ontario, at \$206 million. If you want to make a level playing field, you go with mandatory coverage. You have everybody paying their share and everybody covering the cost of prevention services. Then premiums, I think, can start to be more fairly adjusted.

Because the cost of private business in Ontario is underwritten to the tune of over \$14 billion, I think it's only fair now that we look at the cost or the burden that injured workers took since 1990, 1996, Bill 99 when that came in, and how that reduced benefits—took their net average earnings down from 90% down to 85%, took away their cost-of-living increases, took away retirement benefits. They paid their share, so now they're saying,

“It’s only fair.” Private business got \$14 billion; it’s only fair that they get \$1.7 billion, as recommended in the Harry Arthurs report, for full indexing. That would be another piece of the puzzle.

**Mr. Jim McDonell:** Just to follow up on that, I guess you get back to—and I have to give some sympathy to this government. They could simply up the rates, but how can you adjust your rates so you’re no longer competitive? I’m assuming that we take the average rates, which we are. That’s our goal. If we raise them to be more uncompetitive—we’ve seen tens of thousands of jobs leave this province, and how many hundreds of thousands of manufacturing jobs? Where do we go? The answer is simply just adjust rates, but at the end of the day, if you lose the jobs, you’re not fixing anything. That’s one of the problems we’re having.

Our accident rates are down, so you would expect to see rates drop. But we’ve lost so many jobs in this province, we can’t afford these—we have to be competitive amongst our competitors.

**Mr. Fred Hahn:** We are on track and, thankfully, in a holding pattern. We’re having one of the lowest corporate tax rates in the country. We have—

**Mr. Jim McDonell:** But you’ve got to balance that against our other costs. Hydro rates are the highest in—

**Mr. Fred Hahn:** And we also have services that create a good environment for business. We have a health care system, the likes of which they do not have in the States, and it provides a huge benefit to employers. We have infrastructure—highways, water, electricity—and things that actually attract business that have always attracted business.

If we’re going to look at a big picture and we’re going to talk about a big picture, what creates jobs and what keeps jobs, you cannot absolutely say that workers’ compensation premiums that allow us to have a system, that ensure that we can have the system pay for itself—we’re not advocating, by the way. Mr. Arthurs talked about a couple of different options. We’re not advocating the steeper option for employers. We don’t actually believe that people, particularly some of the small businesses, should be taking on higher premiums, and they wouldn’t need to.

If we extended coverage to everyone, if we ensured that we were focused on prevention—we’re in a situation where we have a government that passed a piece of legislation, said that it was moving prevention to a different organization, and none of that has happened. So how can we bring down premiums? How can we fund a system? How can we ensure—because at the end of the day, what this is supposed to be is making sure that all workers go home healthy and safe, and that no one ever has to use the system. We can’t do that if we don’t fund prevention properly, and we can’t do it fairly if not all employers are equally paying to ensure that we’re preventing injuries in workplaces across the province.

**Mr. Jim McDonell:** Just one last plan. I might make the argument that our infrastructure is not in as good a shape as the States. I mean, our road structure, our four-

lane highways, do not nearly come to match the transportation system of our neighbours.

**1530**

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson, you have about one minute.

**Ms. Lisa M. Thompson:** Quickly: Today, in 2012, what do you really think the problem is at WSIB? Do they have a revenue problem or a spending/expenditure problem?

**Mr. Fred Hahn:** We think they have, in many ways, a revenue problem. That’s why we’re saying what many other people are saying, which is that we should extend coverage to all workplaces and we should adjust premiums.

**Ms. Lisa M. Thompson:** So you’re in favour of increasing premiums?

**Mr. Fred Hahn:** In a modest way that deals with this situation that was created because premiums were cut arbitrarily in a way that actually hurt the system.

**Ms. Lisa M. Thompson:** Okay, Thank you. Jane?

**Mrs. Jane McKenna:** Do we have the time?

**Ms. Lisa M. Thompson:** Yes, quickly.

**The Vice-Chair (Mr. Phil McNeely):** Fifteen seconds.

**Mrs. Jane McKenna:** Okay. Democracy and secret ballots should be pillars of a free society, so why shouldn’t unions practise secret ballots in all certification votes in Ontario?

**Mr. Fred Hahn:** We’re actually the most fundamentally democratic organizations in the province. I would invite you to hang out with me more and I could teach you more about that.

**Mrs. Jane McKenna:** That’s a bit condescending, but okay.

**Mr. Fred Hahn:** No, I’m serious. I’m not even joking.

**Mrs. Jane McKenna:** No, I would love to.

**Mr. Fred Hahn:** Great.

**The Vice-Chair (Mr. Phil McNeely):** To the third party and Mr. Natyshak.

**Mr. Taras Natyshak:** Are you going to go?

**Miss Monique Taylor:** Thank you for being here with us today and for bringing us this material, because as I’ve been trying to brief through it quickly, I’ve definitely found some interesting points that haven’t been raised here at the table today. The WSIB was here with us this morning, and they were talking about fairness to workers and fairness across the board, and trying to make things better when it came to the medical system and finding new doctors to do all these different jobs. Then I’m reading the “Examples of service cuts”: multilingual services, employer liaison specialist, medical advisers, psychologists, ergonomic specialists. These are huge positions that are fundamentals within the WSIB and within workers getting what they need on the ground. Four hundred employees are being cut, and we’re already at a backlog of 4,500 cases, and the list of appeals is even higher because of that.

So you bring a different perspective to this table than what we've been listening to all day, and I welcome that. I would just like you to comment on that briefness and the morale of your employees at the same time, please.

**Mr. Harry Goslin:** I've just recently done a tour around the province meeting with my membership in each of their offices. The morale has never been worse. I have worked with the organization for over 21 years. Time and time and time again, employees that have been there 20 to 30 years have consistently come forward and have told their union representatives that the morale has never been so bad.

With the cuts that are happening and the cuts that are being boldly predicted to come in the future, everybody is in a state of anxiety exhaustion where they think that every day they come into work it could be the day they are going to be tapped on the shoulder and told that they're affected, terminated, that the work is going to be outsourced. It is a pretty trying environment. It feels that there's a loss of ability to make the decisions.

When I first started in the organization, it used to be an organization where we were trained that we have to do what is right, we have to fulfill the legislative obligations, provide people what they need, not necessarily what they want, and if there was any benefit of the doubt, then it would go to the injured worker. Now today the mantra seems to be about cost, second-guessing every decision that's being made, and one of the mantras seems to be that nobody is unemployable. That's wrong. There are situations where people are unemployable.

The practice of deeming has come much more to the forefront now, where a lot more people are being cut off benefits without actually having any real, meaningful employment. You might be able to say that some workers or some people could be working in a convenience store—that was one of the examples I heard earlier today—but just how many of those convenience store jobs are there out there? If you're an employer who has an able-bodied person who's walking in the door to apply for a job and somebody maybe has a visible impairment, the job is tending not to go to the person with the impairment. That's the reality of it, and we're ignoring that by deeming.

**Miss Monique Taylor:** In the matter of the convenience store, the poor man gets lost in his own home, so imagine him in between the shelves of all those different cans.

Go ahead, brother.

**The Vice-Chair (Mr. Phil McNeely):** Mr. Natyshak.

**Mr. Taras Natyshak:** Thank you, Fred and Harry, for presenting to the panel today. You are indeed a breath of fresh air. In fact, you are a ray of sunshine because when you walked in, it got so bright we actually had to close the drapes. So I want to thank you for shedding an enormous amount of light on this subject. Obviously, your presentation was well nuanced and pragmatic.

Harry, earlier when Mr. Marshall presented, my spidey senses went up when he talked about the outsourcing of data that's currently in the process at the

WSIB. It conjured up some serious concerns for me particularly. We've seen where data has been outsourced to private firms and that data has gone missing. We're not even talking sensitive data at this point; we're talking licence plates and addresses. In these cases, with claimants under the WSIB, we could be talking about sensitive medical information, family history, a whole host of issues. Do you share those same concerns and what potentially are the ramifications of losing that data or putting it out there into the private sector?

Secondly, you touched on the automation of the system, the expansion of automation. I'd like you to expand on that.

Also, thirdly: the vacuum in prevention that's happening right now between the shift of WSIB to the Ministry of Labour. We know what happened on December 24, 2009: Four workers fell off a scaffold. There was no enforcement; there was no prevention there. We know what just happened in Elliot Lake. We need more enforcement, more prevention than we ever have had in this province, and I wonder if you could comment on those three things.

**Mr. Harry Goslin:** Well, with the prevention first, I think, as I mentioned, right now there is an absolute and complete void, other than the few employees who are doing their absolute best, working very long hours, to try and hold the prevention system together. That's coming down to about 38 employees as the WSIB moves its way outside, away from that work, because it's not part of their mandate. I agree that that's a huge concern, and I wish that the Ministry of Labour would enter into an agreement with the WSIB to at least provide that service on an interim basis.

With the outsourcing of the data management, when we first learned of it, one of our major concerns was the risk of, obviously, breaches with a lack of actual direct control.

In addition to that, one of the things that we're very worried about is that the organization has already started to move in that direction. They're no longer an organization that is risk averse. They're prepared to take on risk and have some of that negative impact on employers and workers and their own employees. That's my view of it. By taking on that greater risk, while you're into that transition of moving the control for your data centre outside, should there be any kind of a breakdown in the system, there's no safety net in the interim.

When we had the power blackout in Ontario, all of our systems were in house and we were able to put our emergency measures into effect right away. But if all of our technology is outsourced and any kind of a downtime happens, we'll no longer be number one on the list. We won't be the biggest organization to a company like Accenture. We'll be number 10 or number 12 or number 13. "Yes, we'll get to you when we can." Meanwhile, you have injured workers who are waiting for their cheques. The risk is huge, the automation piece of it.

The WSIB is going to go out with procurements starting later this summer to try and source with com-

panies that can come in and help to auto-adjudicate much more than they currently are. They want to look at all of the benefit policies so that the policies can be shrunk down to take away the discretionary powers, take out the grey area so that it can now be automated by a system that will actually virtually be able to read the documents as they're faxed or scanned into the system and populate the data and remove the variable of being able to look at a case on its own merits and justice. That's the very nature of the things that are at risk in the system today.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Time is up. Thank you for presenting on behalf of CUPE.  
1540

#### CANADIAN MANUFACTURERS AND EXPORTERS

**The Vice-Chair (Mr. Phil McNeely):** Our next presentation is the Canadian Manufacturers and Exporters, Mr. Ian Howcroft, vice-president. You have 10 minutes to make your presentation, and if you could start off with your name for the purposes of Hansard.

**Mr. Ian Howcroft:** Thank you very much, Chair and committee. We appreciate the opportunity to be here this afternoon. My name is Ian Howcroft and I am the vice-president of the Canadian Manufacturers and Exporters, Ontario division. With me is Maria Marchese. She's our director of policy, specializing in workers' compensation and health and safety, for CME Ontario.

We do appreciate the opportunity to provide input on these important deliberations regarding workplace safety and insurance and the WSIB. I'm going to say a few things about CME, a few things about manufacturing, and then move on to the substantive comments that we want to make regarding workers' compensation in Ontario.

CME is Canada's largest and leading trade association, the voice of manufacturers and global business in Canada. We represent more than 10,000 leading companies nationwide; approximately half of those are here in Ontario. More than 85% of our members are small and medium-sized enterprises.

CME, through its various initiatives, including the establishment of the Canadian Manufacturing Coalition, touches more than 100,000 companies from coast to coast engaged in manufacturing, global business and service-related industries. CME is also engaged in developing a manufacturing strategy for Ontario as we try and move forward to deal with retaining manufacturing and building manufacturing. Given the manufacturing sector's contributions to the economy of the province, this strategy is important to help us build on the strength that is manufacturing.

CME's membership network accounts for about 82% of the province's total manufacturing output and about 90% of our exports. It's also important to note that for every dollar invested in manufacturing, it generates over \$3.25 in total economic activity, the biggest multiplier of any sector.

I'd also like to make a few other points about manufacturing which show how important it is and the contribution it makes to our economy.

Notwithstanding the recession, we're still the largest sector. Output is about \$275 billion on an annual basis, over a quarter of a trillion dollars. There are approximately 750,000 to 800,000 workers who are directly employed in manufacturing, and there's about another one and a half million who have jobs that are indirectly dependent on manufacturing.

CME has focused on workers' compensation and occupational health and safety for a long period of time. We provided input almost 100 years ago during Justice Meredith's deliberations regarding the establishment of workers' compensation in Ontario and in Canada.

Occupational health and safety is also a long-standing priority for our members. We've taken a leadership role to promote health and safety, and have worked with our partners to provide demonstrable benefits and successes.

CME is also a founding member of the Ontario Business Coalition and is currently both its secretary and its secretariat. Consequently, we are well positioned to provide feedback and input and insight into workplace safety and insurance and into the system.

We would like to begin by stressing our support for the current direction of senior management at the WSIB under the leadership of Mr. Marshall. There's been significant progress with respect to both the financial crisis at the board and the stakeholder engagement. The WSIB has developed a very comprehensive policy framework model for policy review and development which we believe will have a significant improvement on the quality of policy development at the WSIB.

Employers are committed to improved health and safety in their workplaces, and in fact, a review of that period between 2001 and 2010 will support that the number of lost-time injuries has been reduced by approximately 45%. Improvements have been made, but a lot of work still must be done. The WSIB has implemented policy changes which require all workplace parties to co-operate in the early return to work of an injured worker.

Although we support the board's current direction, we wish to reiterate that it is our long-standing position that we feel a royal commission would be of benefit to the province. The royal commission should have a mandate to review all aspects of the workplace compensation system; it is needed to ensure that a publicly run system still continues to meet the needs of employers, employees and all stakeholders in the 21st century.

Since its inception in 1914, many changes have taken place, and it's incumbent on the government to ensure that the system serves the needs of all stakeholders. As well, the time has also come when one should consider whether the notion of a system, which is totally funded by one sector of the economy—employers—continues to be the answer for Ontario's workplace safety and insurance system. I think we should look at other options such as co-payments, deductibles and waiting periods, and we

think that should be examined within the context of a royal commission.

We think a royal commission on workplace safety and insurance would be a real benefit, as it wouldn't be just a piecemeal approach to reviewing the system. We participated in Professor Harry Arthurs's study on funding. However, that could only work within the terms of its reference specifics. It couldn't look at the whole context; it couldn't look at all the aspects pertaining to benefits.

Over the years, entitlement to benefits has become less and less related to the workplace. The role of pre-existing conditions in the entitlement duration discussion is an excellent example. We believe that it's time that apportionment of costs is given serious consideration within the workplace safety and insurance system. Employers should only be financially responsible for costs arising from an injury or disease which arose out of their workplace or their processes. Conditions and diseases not directly the result of the workplace should be excluded from coverage under the workplace compensation system, which is not generally the case with pre-existing injuries. Alternatively, those non-compensable costs should be charged back to the health care system, where they more appropriately belong.

We believe that it's time to conduct a comprehensive review of covered and non-covered industries. From a coverage perspective, industry has undergone many changes since 1914. Again, this review will only be meaningful if it is conducted within the realm of a royal commission which examines the entire system.

As outlined in our submission to the funding review, we believe that from a governance perspective, successful financial operation of the Ontario workers' compensation system first requires improved adherence to the principles of sound governance. This means that the interference by the government for political purposes must cease. The practice of granting retroactive benefit enhancements to existing claimants, without funding the costs, cannot continue—the system cannot support that. This practice has created a huge intergenerational transfer of cost and is a major source of the current funding problem.

CME continues to support the existence of the second injury enhancement fund in a reasonable framework. We support the ongoing existence of fair and equitable SIEF relief for Ontario employers who must operate within the current workplace safety and insurance system.

We also are of the view that the workplace compensation system is an insurance program. As such, it should adhere to insurance principles, one of which is based on cost-experience rating and the necessity of this technical insurance feature for adjusting the pricing of employer premiums in the employee benefit group insurance field.

We support a review of the existing cost-based program but insist that the concept of experience rating be maintained. Cost-based experience rating is a necessary element in the financial management of workers' compensation in Ontario. Experience rating programs such as NEER are important from an equity perspective. NEER

specifically allows for that refinement. The program should be revenue-neutral. We support that a prospective-adjustment approach should also be considered. This option should be discussed with the employer community, and there may be room for specific industry initiatives.

That concludes our specific comments that we wanted to make this afternoon. There's more in the written materials. We'd be pleased to answer any questions that people may have.

**The Vice-Chair (Mr. Phil McNeely):** Thank you very much. You're right on time. We'll go to the official opposition. Mr. McDonnell.

**Mr. Jim McDonnell:** Thank you for coming out today. You bring to us some of the alternative views. I guess I look where the accident rate is down 45% over the last 10 years but our rates are up significantly, actually doubling—I shouldn't say, our unfunded liability. Do you have any ideas of where you might see this going or what some of the basic solutions are? Because within it, you would tend to think that rates should be going down.

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**Mr. Ian Howcroft:** Yes, well, the health care costs continue to increase and the duration of accident attendance continues to increase as well. So the incidents are significantly reduced, but the other costs continue to go up for those reasons.

We've seen a huge increase in the unfunded liability. Part of that, or a lot of it, is due to indexation. The unfunded liability, about six or seven years ago, was down to about \$5.5 billion, but it has skyrocketed again up to about the current unsustainable level of \$14 billion. We think that there has to be a real focus on dealing with that unfunded liability because it jeopardizes the whole system. It is a disincentive to retaining and attracting business to Ontario, which jeopardizes job creation, which we all want. We do support that we have an equitable and fair system that treats employers with respect and provides them the necessary compensation, but it has to be well within the affordability that the employer community has to fund.

**Ms. Maria Marchese:** If I may add to that, in terms of costs, the board has implemented some new work reintegration policies. That's a way of returning the injured worker back to the workplace on a much more timely basis. Then there are obligations with those policies on both workers and employers to ensure that their obligations are in fact carried through and those workers are returned to the workplace as soon as possible after an injury to maintain that connection to the workplace.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much. I appreciate you being here very much. From a manufacturing and exporter perspective, you know how important a solid business foundation in this province is. I'm sure at your association you feel the pressure and the angst when a company announces a relocation to the States because

the cost of operating in Ontario is just too high. You know what that's all about.

I just want to point out that about three years ago, the Auditor General recommended that the province assume the unfunded liability of WSIB at that time, which essentially would have doubled the province's debt and made the foundation for our entire economy even more shaky. In your opinion, what really has happened at WSIB and what solutions would you suggest to attract business and jobs back to Ontario?

**Mr. Ian Howcroft:** Well, I'll start and then I'll turn it over to Maria. I think that in the last two years, we've seen some marked improvements at the WSIB. I think that for the first time in almost a decade, they didn't have to draw down from the investment fund; they had an operating surplus. So that was a positive step. I think we had supported the splitting off of the prevention function to the Ministry of Labour so that the WSIB could focus on the financial crisis and the financial issues that it was best placed to deal with. I think you have to look at the principles of insurance to deal with the issues and also the amount of affordability. A lot of the premiums that employers are paying now is to cover the unfunded liability that's going to be with us for quite a few years. The Auditor General has told the government now that it has to get a plan in place or it will be having to recognize the unfunded liability on its books, which would be detrimental to attracting and selling bonds in New York and attracting investment to Ontario.

We do think that we have the focus, we have the attention and we have to move forward to deal with that very large unfunded liability.

**Ms. Maria Marchese:** In that study, part of the rationale for that was that the government did make decisions on enhancements to entitlement and they did have a significant impact. The idea was, again, the politicization, really, of the workers' compensation system, so that if the government is making those decisions, really, the government should assume the financial responsibilities that come with them. That was part of the background to that.

**Ms. Lisa M. Thompson:** Okay. So if I was to stretch it then, is it fair to assume that you're in favour of the 30% to 35% that aren't paying WSIB right now to start incurring this to help offset the unfunded liability. Is that really fair in terms of growing our small business?

**Mr. Ian Howcroft:** No, we don't think that. If you expand coverage and introduce new classes, they should not be saddled with the unfunded liability that is there. I think that's what we've called for for the royal commission, to look at what make sense, who should be covered under the workers' compensation in 2012 and beyond? A lot of things have changed since the system was created, but there may be some sectors, there may be some workers that are already well covered and there's no need to bring them in. If there is, that would be something the royal commission could consider, but we don't think that you can bring in other employers to pick up the unfunded liability that was already there.

**Ms. Lisa M. Thompson:** Okay, so you're not in favour of Bill 119?

**Mr. Ian Howcroft:** I should know what that is, but I—

**Ms. Lisa M. Thompson:** It's essentially extending WSIB to that 30% or 35% window of folks that aren't currently paying into WSIB.

**Ms. Maria Marchese:** That's construction, though.

**Ms. Lisa M. Thompson:** Construction, yes.

**Ms. Maria Marchese:** That's the construction sector. We haven't discussed that one because it deals mainly with the construction sector. I'm sure you've had those discussions, whether there's support in the construction sector for the expansion of that coverage. Generally in the manufacturing sector we think that it definitely has a place in the larger discussion.

**Ms. Lisa M. Thompson:** Thank you.

**The Vice-Chair (Mr. Phil McNeely):** Ms. McKenna.

**Mrs. Jane McKenna:** My question to you is, what do you think the problem is with WSIB? I mean, clearly it has a serious problem. Is it a revenue problem or a spending problem? What do you think it is?

**Mr. Ian Howcroft:** Well, I think they've had a variety of problems. I think we have to have a holistic view to correct all areas where they've had challenges.

Our view is that we have one of the most generous systems in all of Canada. We think we've seen increased benefits. We've seen some of the systems make changes that had huge cost implications where they need not have been. We did recognize there were some areas where there might have been some inadequate coverage of benefits. Still deal with that, but don't deal with that in a blanket approach. Deal with the problems and the issues that will allow you to address it without adding costs where they shouldn't necessarily be.

We've got examples of overcompensation as well; we're the richest workers' compensation system that we have in the country, and we have to find ways that we can pay down the unfunded liability.

**Mrs. Jane McKenna:** Okay, thank you.

**The Vice-Chair (Mr. Phil McNeely):** No other questions? The time is almost up. You have another two minutes. Do you want to get in any other questions?

**Mr. Jim McDonell:** Do you have a lot of examples of where benefits were exceeded or where they shouldn't be paid out? Does your industry have many examples of that?

**Ms. Maria Marchese:** I think your best example of that, really, is in the loss of earnings with the lock-in, the 72-month lock-in where, following that lock-in period, the board is responsible for those payments, regardless of whether an injured worker finds a full-time job that more than replaces his wage loss the day after it's locked in.

**Mr. Jim McDonell:** Are there—I guess after a period of 10 years, I believe, or five, six years, they're locked in.

Other examples? Have you seen examples of where benefits should have been removed because the issue has taken care of itself?

**Mr. Ian Howcroft:** Well, I think we've seen an improvement in the way that claims have been adjudicated. At the time, we used to have a lot of complaints from our members about benefits being wrongly given, inappropriately given, but we've seen and we hear less of those on an ongoing basis. I think the WSIB has improved the adjudicative process and the way that benefits are given. So I think, as I say, we have seen some marked improvements over the way the system has run and the operation has gone over the last few years. But we still have the unfunded liability that continues to be a huge focus and a huge burden that we have to find a way to deal with.

**Mr. Jim McDonell:** Okay.

**The Vice-Chair (Mr. Phil McNeely):** Thank you. The time is pretty well up. We'll go to the third party and Mr. Natyshak.

**Mr. Taras Natyshak:** Hi. Thank you for appearing before the committee. I come from Windsor, a large manufacturing centre. Certainly the massive and mass exodus of good-paying manufacturing jobs was prevalent prior to any unfunded liability that ever existed within the WSIB system. I would even point to the early 1990s as one of the turning points in the exodus of those jobs, and it was never clearly articulated that WSIB premiums were the reasoning. I'm wondering if today you sense from your members that the WSIB premiums that are levied to your members are—what percentage a factor are they in the daily operations of their business? How do they truly affect their bottom line?

**Mr. Ian Howcroft:** It varies greatly. There are numerous rate groups, so depending on what you're paying, it has a bigger impact on some sectors than others.

I would take issue with some of your comments with regard to the exodus of manufacturing jobs. From 1992 to 2002, we saw a huge increase in manufacturing jobs. We went from 745,000 manufacturing jobs in 1992 to about 1.2 million in 2002. During that period, we did see an increase in the unfunded liability as well, so I think that you can draw some comparisons over when the unfunded liability was increased and when it was decreasing. I think there are several ways of looking at that.

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We've seen a decrease in manufacturing jobs, again, from 2002 to the current year, for a variety of reasons. A lot of those were pertaining to the value of the dollar and some other issues that impacted our competitive position in global markets, so there are a lot of factors that come into play. With regard to workers' compensation, it's one cost that's looked at—it's an important cost—but there are other factors as well: the energy costs, the labour costs and the regulatory burdens that companies face. Workers' compensation is just one of those issues. For some who are paying a very high premium, it's a bigger factor for them. If you're paying less of a premium, it doesn't have as big of an impact. But it is something that most of our members are looking at, and manufacturers do pay on average a higher premium than other sectors because of the risks involved.

**Mr. Taras Natyshak:** Back to the exodus of good-paying jobs—it's my backyard. Maybe Windsor and Essex county have been more particularly hit with the exodus of jobs than other regions. I've seen it as my family and friends have all suffered in that degradation of that sector.

My wife is a fifth-generation small business owner. They've actually been selling Chevys in Essex county for over 85 years. They have just close to 100 employees. They certainly manage their health and safety program adequately. They've been fortunate not to have been exposed to a lot of workplace injuries over those years—fortunate; they've actually been lucky. What they're asking for is consumer confidence, and in that respect, what they need here are consumers who actually have decent levels of employment and decent futures for their livelihood. That also falls into play with folks who have been injured. If their supports, if their levels of support have gone down, then they're in precarious financial positions and aren't able to make those purchases.

I know we're all trying to square the same circle here in terms of balancing businesses' needs and the needs of injured workers, and ultimately, that's what I think we will get to. I do think that your royal commission idea has some merit to it, although I've seen many royal commissions come and go without the vast majority of those great ideas coming into play. One I would point to is the Romanow report on health care that really would have addressed our long-term-care crisis nearly a decade ago.

All that stuff being said, I'm wondering—you pointed to the metrics of overcompensation. I've never had someone walk into my community office in Essex and tell me that they're being overcompensated under the WSIB regime. In fact, we are bombarded by claimants who can't access compensation at all. I'm wondering if you can narrow that scope down for me so I can actually do a little bit more research on it to see if that is actually something that's happening on the large scale.

**Mr. Ian Howcroft:** I guess Maria mentioned about how the locked-in provision is the main one that we have brought to our attention, where people have benefits locked in no matter what happens to them—and I'd also be surprised, too, if someone came to you and said that they were being overcompensated. So that would surprise me, too. But we do hear the examples, the locked-in provisions, where claims were granted in the employer's, the company's, view, inappropriately. The claims weren't related to the workplace, in their view.

As I say, we've seen some improvements in those adjudicated cases, so we see less of those claims than we did before. But five, 10 years ago, we were getting a lot of discussion around our tables dealing with the inadequacy of the adjudication and the provision of benefits that our members didn't feel were really appropriate under the workers' compensation system. Were they arising in and out of the course of employment? Maybe the ones that we saw back then weren't. But as I say, we have seen some improvements in that area, so it's less of

a focus for us. But we're still burdened with some of those costs that have added to the unfunded liability.

**Mr. Taras Natyshak:** Even Mr. Marshall this morning, in his opening statement, alluded to the fact that the major reason for an unfunded liability within the system is the downgrade in premiums that happened in the late 1990s. Would you validate that statement? Would you make those correlations to where we're at today? I know you mentioned that increases in benefits have been one of the reasons, but if you're taking in less money, obviously, eventually you are going to have some sort of a deficit.

**Mr. Ian Howcroft:** When the premiums were decreased, they were decreased based on a huge decrease in the unfunded liability at the time. I think the unfunded liability went from about \$11.8 billion or \$12 billion down to about \$5.5 billion. They were based and predicated on the information they were getting from the board actuaries and other financial information. With the unfunded liability being reduced to half, there was the opportunity to reduce the premiums that were being paid at the time.

There have been a lot of things that happened since then with regard to equity markets, the fall of the investment portfolio's value and the indexation that occurred that added a couple of billion right to the bottom line of the unfunded liability to get us back to where we were.

I think when you look back at the time when the premiums were decreased, there was a good rationale, based on the actuarial assumptions that were made and the analysis that was done at that time that showed they could be reduced because there was a huge decrease in the unfunded liability back at that time.

**Mr. Taras Natyshak:** Arthurs recommends getting us past the tipping point at 60%, and he also put a timeline on it today at roughly five to six years. Would you think that having reached that threshold, we would then start to claw back or should claw back any premium increases at that point, or should we continue to expand any projected premium increases to ensure that the fund is wholly funded at 100%?

**Mr. Ian Howcroft:** We do agree that we have to deal with the unfunded liability. That's why we're calling for a royal commission to take the holistic view to make sure that we have all parties' and all stakeholders' interests taken into account. We think employers are paying an enormous premium right now. It's one of the highest, if not the highest, across the country. We can learn from what other provinces have done to deal with their unfunded liabilities, to resolve those, over the years.

We don't think just adding more premiums to employers is the answer. They're already faced with huge challenges globally to attract investment, to retain investment. What we want to do is ensure that we have the jobs here that allow us to maintain the workers' compensation system and the other economic opportunities that we benefit from in Ontario because of manufacturing, and other jobs, too. It's not just manufacturing; it's all sectors that are paying into workers' compensation.

**Mr. Taras Natyshak:** How am I doing, Chair?

**The Vice-Chair (Mr. Phil McNeely):** You've got one minute.

**Mr. Taras Natyshak:** One minute. Did you want to jump in?

**Miss Monique Taylor:** Hi. Thank you.

**Mr. Ian Howcroft:** Hi.

**Miss Monique Taylor:** Again, back to examples of service cuts, ergonomics especially, you must face these issues, whether it be in your office settings or at machinery. Having people like this cut out of our system, do you not think that would be a huge burden on you as a business?

**Mr. Ian Howcroft:** I think we agree that you need to deal with the ergonomics issues and you need to deal with some of the other service issues, but is the WSIB the best place, the best way to provide those services? There may be better ways to do it. Again, that's why we're looking for a royal commission, to come up with the best opportunity to provide those services.

At one time, the WSIB was expanding and adding more and more services that added to the cost, and it wasn't proven to be the most effective or efficient way to provide those services. I think there are better ways you can do that. We agree that the best thing to do is to get a worker back to work as soon as possible. Some of the services, the way they had been established, were causing delays and not allowing us to realize those goals as employers and as workers who wanted to get back to work.

So I think it's important to look at the services that are needed, but I think we have to be also looking at what we need to do and the best way of providing those services. Just having them provided through the WSIB is not necessarily the best way to provide services.

**Miss Monique Taylor:** No, I agree, but you would agree that these services are necessary to make sure that your businesses can be a safe work environment, which then would lead to the fact of not having people needing to claim WSIB, correct?

**Mr. Ian Howcroft:** We agree that the best thing to do is to prevent an accident from taking place. If an accident, unfortunately, does take place, the next best thing to do is to get that worker dealt with from a health and safety perspective and then get them back to work from a compensation perspective as quickly as possible.

**Miss Monique Taylor:** Right, and—

**The Vice-Chair (Mr. Phil McNeely):** Thank you. Time is up. We'll go to the government and Ms. Albanese.

**Mrs. Laura Albanese:** Thank you. I'll be sharing my time with MPP Cansfield.

I just have one question, and that is, have there been any studies that you know of that would indicate what cost impacts the manufacturing sector would have if there was no insurance system like the WSIB and what the cost stress would be to your sector?

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**Mr. Ian Howcroft:** I'm not aware of any. We haven't done any to look at that. We've always been sup-

portive—well, for the last 100 years, we've been supportive of a public workers' compensation system, but for the last five or six years, we have advocated that it's time to go back to first principles to see what we need to have vis-à-vis workers' compensation for all stakeholders—employers, workers, government and general society—as to what will best serve them as we go forward. But we haven't done an analysis as to what the cost would be if it was all under private insurance, if that's what you were asking.

**Mrs. Laura Albanese:** So you are in favour of a publicly funded system, but you want this more comprehensive review?

**Mr. Ian Howcroft:** We have been supportive of a public system, but we recognize there's challenges in that public system that need to be addressed. Again, let's have the royal commission to give that holistic view as to what are the opportunities, what are the options that we can look at as we go forward. It may be that there are certain ways we can do things differently, but we have been fairly clear that the best way to do that is, again, with that royal commission that looks at everything, and not just a piecemeal approach.

We think we've seen some great successes and improvements with regard to prevention—the Dean report, Mr. Arthurs's review, and consultation reviews—but, again, it's piecemeal and it doesn't all join together as positively and as productively as it could if it was done within the context of a broad review.

**Mrs. Laura Albanese:** Thank you. I will pass it to MPP Cansfield.

**The Vice-Chair (Mr. Phil McNeely):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Hi, Ian and Maria. It's so nice to see you. This is a review of the WSIB, so while I appreciate those broader policy issues, I really like some of the other ideas that you've brought forward. I think they may be a little provocative but they certainly speak to the thoughtfulness in which you're looking at this whole issue from your perspective and who you represent.

But I'm particularly interested about the fact that you looked at the review of the existing cost-based programs that insist the concept be maintained, but you're looking at, are there other options to that? I'm going to ask you to expand on that in some examples.

**Ms. Maria Marchese:** There are other options currently, because you have both the cost-based, which is what NEER and CAD-7 fall under, and you have the practice-based, which is where you have the safety groups and safe communities.

**Mrs. Donna H. Cansfield:** But you also said the whole issue around co-payments and a whole bunch of other opportunities and terms, and I was just curious as to, had you fleshed any of that out?

**Mr. Ian Howcroft:** We have looked at certain aspects. We had talked about and discussed this as an organization across the country, and we found the waiting periods were tried in certain areas, and there was some great value in having that; having self insurance for

the first week or two weeks, allowing companies to deal with that, as they do in Quebec, I think. There are a lot of opportunities where you can reduce the number of claims the board has to process, still protect the workers, the employees are still part of the system—however, there's going to be savings realized by allowing for more flexibility in dealing with some of these things.

Again, for 100 years, the workers' compensation system has been paid solely by employers, and it's employers that are paying for the prevention services at the Ministry of Labour as well. We're also paying, sometimes, a lot higher than what the OHIP premiums are; we're paying for some of those costs that probably should be equitably allocated to OHIP. That's what we think we need to look at. What are the opportunities, what are the options available to ensure that workers are getting the treatment that they need, the services that they need and the benefits that they need, but allowing for improvements on the way the system operates?

The WSIB—I heard someone mention about the number of employees has been reduced, but you also look at the number of claims that have been reduced. Ten years ago there were probably 400,000 claims being dealt with; you're now down to under 200,000 claims. So you don't need to have the same people doing the same things, given the way their business and the nature of what they're doing has changed dramatically. I think we just say that we want to be provocative, we want to be innovative, and we want to look at how we can create a system that allows us to meet the goals and objectives that we all want to protect, but do it in a way that allows us to reduce costs and deal with the unfunded liability and the fiscal realities that we all have to face.

**Mrs. Donna H. Cansfield:** So having said that, I'd be really interested—maybe all of us would be—in looking at some of those, especially if they've been tried in other jurisdictions where they've had them and where they've worked, where, again, the employer and the employee, in particular, is protected. I think we would all welcome an opportunity to review that, Ian.

The other is—and I know it's a difficult topic, but again I think it's one that needs to have a discussion, and that's the issue around the pre-existing conditions. As we learn more—and hopefully it's science-based so that it's based on science and not subjective—we need to have a really good understanding of that impact on the employee as well the employer.

I'm interested—and you raise that. It says this is “not the case with pre-existing conditions. Alternately, those non-compensable costs should be charged back to the health care system where they more appropriately belong.” You said that, but you also go on to say that it's time to conduct a comprehensive review of covered and non-covered industries. Give me an example of what you mean by that.

So I want two: I want your understanding around the pre-existing conditions and also what you mean by covered and non-covered industries.

**Mr. Ian Howcroft:** I'll start with the second one, Donna. The insurance industry isn't covered, the banking industry isn't covered, and we haven't said "cover them automatically," but I think it would be part of the review: Should they be covered? Do workers in those industries need to be covered? If they can currently show that they don't need to be, that their rights are as well protected or better than what the system could provide, there's no need to expand coverage to include them. That's what we're talking about with the coverage one. Maria?

**Ms. Maria Marchese:** That's right.

**Mrs. Donna H. Cansfield:** And on the pre-existing conditions? You speak to the fact that it needs to be addressed. Actually, you raised it in here: "serious consideration within the workplace safety and insurance system. Employers should only be financially responsible for costs arising from an injury or disease which arose out of their workplace or processes. Conditions and diseases not directly the result of the workplace should be excluded from coverage." How do you make those pre-determinations?

**Ms. Maria Marchese:** That's where the grey area exists, and the board actually has included that in its entitlement consultations that Jim Thomas is chairing.

**Mrs. Donna H. Cansfield:** Taras, is that the committee that you're talking about that has just been reinstated on occupational diseases?

**Ms. Maria Marchese:** No. It has just been established with Jim Thomas chairing it and they're looking at four entitlement policies, and an aggravation basis is one of them. A good example is a case where a worker has a back injury and then has an injury at work that aggravates that back injury. At what point does that aggravation cease and in fact the condition that exists cease because of the work-related injury, the condition that exists that was pre-existing? That's the grey area that we need to have some sort of discussion around and more finality to in terms of going back to employers being responsible for the costs of injuries resulting from their workplace or their workplace processes.

**Mrs. Donna H. Cansfield:** Okay, fair enough.

**The Vice-Chair (Mr. Phil McNeely):** Time is up, almost.

**Mrs. Donna H. Cansfield:** And then the last one is expenses that were not included, so I concur.

**The Vice-Chair (Mr. Phil McNeely):** I wish to thank the Canadian Manufacturers and Exporters, Ms. Marchese and Mr. Howcroft, for the presentation.

I thank all the presenters today and the people who attended. Thanks, staff and members of the committee. This committee is now adjourned until tomorrow morning at 9 a.m. Thank you.

*The committee adjourned at 1618.*





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