

MEMBERS PRESENT: Rep. Gene Derfler, Chair Rep. Kevin Mannix, Vice-Chair
Rep. Sam Dominy Rep. Jim Edmunson Rep. Rod Johnson Rep. Bob Repine Rep.
John Watt

STAFF PRESENT: Victoria Dozler, Committee Administrator Guadalupe C.
Ramirez, Committee Clerk

These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in quotation
marks report a speaker's exact words. For complete contents of the
proceedings, please refer to the tapes.

TAPE 38, SIDE A

Chair Derfler calls meeting to order at 8:37 A.M.

OVERVIEW - WORKERS'S COMPENSATION INSURER TONY FERRONATO, SR. VICE
PRESIDENT LIBERTY NORTHWEST INSURANCE CORPORATION.

DAVID A. DAVIDSON, SENIOR VICE PRESIDENT, LIBERTY NORTHWEST INSURANCE
CORPORATION.

013 FERRONATO: Refers to Rep. Repine's letter requesting explanation
LNW s reserving practices. > Davidson will explain those practices later
on in the overview. 017 FERRONATO: Presents written testimony, see:
EXHIBIT A - TESTIMONY BEFORE HOUSE LABOR BY TONY FERRONATO, SR. VICE
PRESIDENT LIBERTY NORTHWEST INSURANCE CORPORATION, FEBRUARY 22, 1991.

018 EXHIBIT A, pg.1: Comparison on claims activity for the
establishment of a baseline of relativity for comparisons on changes
after SB 1197 went into effect. > Testimony to show how SB 1197 has been
effective. 046 Pg.2. Testimony given in categories and defines
significant changes from SB 1197. > Compensability (pg.2) due to changes
from SB 1197 > (Note: fewer claims have been filed in last half of
1990). 074 MANNIX: Referring to Exhibit A, pg. 2, the increased
number of 1990 denied claims. > Is increase reflective of people not
being aware of more stringent regulations applied and with the
assumption that they would be eligible? House Committee on Labor January
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080 FERRONATO: Agrees. Continues with testimony from Exhibit A, pg.3,
AGGRAVATION: area where laws were restricted by SB 1197.

096 CHAIR DERFLER: How much of the increase is from the last half of
the year after SB 1197 passed?

102 FERRONATO: Figures apply to 7/1/90 through 12/90. Time used so
that seasonal cycles wouldn't influence figures. 106 Exhibit A, pg.3.
Reiterated that these results were anticipated with law change.

112 DERFLER: Is SB 1197 harming people who are trying to make
"legitimate" claims? 113 FERRONATO: If legitimate claims are
compensable as defined under SB 1197 then: regulations were not too
stringent. > EXHIBIT A, pg.4 - MEDICAL: Used Chiropractors as an example
because of change in authority level for them and because of the nature
of their treatment, provide more palliative care than a medical
physician. 143 REP. REPINE: Assumption that if the chiropractic care
is dropped off (because of 12 visits/30 days), then that money went into
another area. > Has there been an increase in other areas of treatment?

149 FERRONATO: No, there has been slight decrease (guesses <5%) on the "medical doctor's" cost. 151 EXHIBIT A, pg. 5 - CLOSURES: New area, didn't have real data for the final impact that Claims Dispositions would be. 182 DERFLER: Comment on the figures being satisfactory to him. Problem is process time, speeding it up would be helpful.

185 FERRONATO: Agrees, adds more comments from pg. 5, emphasizes these figures are calculations. > Presents testimony on EXHIBIT A, pg. 6 - LITIGATION. > pg. 7 of same exhibit cases of compensability: new denied claims or denied requests for re-openings. > Went from 32% to 56% as noted in Exhibit A, pg. 7. Responsibility cases: who will pay for what. 251

MANNIX: Contributing factor: "tightening of the responsibility language"? Another factor: decision that allowed companies to instruct claimant to file claim against someone else, when the insurance company denied? 257

FERRONATO: Yes. Continues pg. 7, EXHIBIT A. > Comments on "***Note" from pg. 7. 276 DERFLER: Did the companies back off to take another look? Question pertaining to take another look? Question pertaining to the drop in hearing requests from Exhibit A, pg. 7. House Committee on Labor January 20, 1991 - Page 3

277 FERRONATO: Not sure because reconsideration process, needed an additional step to go through. Are just beginning to see some reconsideration orders now. > Next step, if this wasn't satisfactory: request hearing.

288 FERRONATO: EXHIBIT A, pg. 8 - CONCERNS. > Worker's Compensation Board order: Aaron vs. SAIF, which was contrary to the original change. > Liberty has broadened the number of cases in order to comply, if this order is not appealed. > When additional costs were identified, based on injuries not existing claims. > Approximated amount at about \$21 or \$22 million. > If they change it now and make it apply to more cases, amount will increase and so will claim costs. > This has caused confusion for Liberty and everyone else concerned. 342

CHAIR DERFLER: Expressed that committee had concerns as well. 344 MANNIX: SAIF and Liberty NW both agree on the aspect of the "fixed degree" of \$305 applying to injuries on or after 5/17/90. > Worker's Compensation Board has read SB 1197 incorrectly. > Reiterated concern of the legislative staff that was involved in the process. 358

FERRONATO: TIME LINE FOR RECONSIDERATION EXHIBIT A, PG 8. > When it used to take ten days in now takes 70 days. > Pg. 9, He understood that it was to take about 15 days to get reconsideration but experiencing that it is taking approx. 150 days to get order. > Generally concerned with amount of time it is taking.

408 CHAIR DERFLER: The committee is also concerned with the amount of time that it is taking to get reconsideration orders through. > He talked with the department yesterday and has been assured that they will take corrective measures. 423 FERRONATO: Continues with testimony EXHIBIT A, pg. 9 & 10. > One of the concerns he presents is the certification of Managed Care Organizations.

TAPE 39, SIDE A

017 FERRONATO: Continues with testimony EXHIBIT A, pg. 10. > Reasons why Managed Care Organization program hasn't shown savings (Exhibit A).

068 MANNIX: Do you get 28,000 medical bill a month? Under current rules, you would have to send them out to a MCO, and after they were done, they would send them back MCO, and after they were done, they would send them back

to you? to you? 071 FERRONATO: MCO required to do Physician Profiling, need to use same data that we're using. 073

MANNIX: They can't rely on your information, they have to duplicate in House Committee on Labor January 20, 1991 - Page 4

075 FERRONATO: "It's not our understanding that we can't provide that data to them." > Continues with testimony from EXHIBIT A, PG. 9: The program must facilitate interaction and coordination between the various parties. > Three certified companies he has spoken with, duties that are required under certification are subcontracted out to other vendors. > This would be a problem to the injured worker as well as the claims adjuster.

094 > Referred to testimony on Wednesday before the Management Labor Committee on this issue. > They have concerns on expanding who can be certified. > Not only concerned with Liberty NW being certified. ~ Uses Fortus, in the business of providing these kinds of services, as an example of a company that has been denied because they are not a health care provider. 105 FERRONATO: Management Labor Committee expressed 3 concerns: >That there was a pact made in the Mehonia Hall committee, the Governor's Task Force, and that this was something that was discussed and agreed to. > Can this be changed because it is known that it is not working. 112 EDMUNSON: difference between the legislative body and the Mehonia Hall decisions. > 5/87 - this assembly enacted SB 1197, not the Mehonia Hall group. > Suggested that the question might be: Does this assembly want to continue with its agreement with the proposals that group (Mehonia Group) provided?" > Legislature has option to agree with either the Mehonia Group suggestions or LNW. 121 FERRONATO: Didn't mean to imply that they were one and the same group. Was only stating what he heard from the Management Labor Committee as to why they would not 123 EDMUNSON: Sensitive, "because that group (Mehonia) is not a super-legislature". 125 FERRONATO: Continues: > Their second reason for not supporting a change in the law was because they felt the whole reform act would unravel. > Third objection: company doctors who were on payroll. > Not realistic: physicians receive 5-15% of revenue from workers compensation. > More was paid to hospital. Newspaper article: Oregon hospitals billed \$2.2 > Use of company doctor won't allow for LNW to have much control over doctors. > SB 1197 gives claimant choice of primary doctor instead of MCO doctor. > Doctors take oath seriously and aren't going to take advantage of the system. 166 > LNW wants worker to receive the best care. > Doing everything possible so claimant gets best possible care, they don't want to have to re-treat the person because of inadequate care in the first place. > Expressed his frustration in trying to set up a MCO for the past 3 years. > Current rules limit viability of insured program, everyone benefits from MCO's. 219REPINE: How much business LNW has for Worker's Compensation for the state?

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220 FERRONATO: In premium about 25%. 223 DERFLER: Reaffirmed that there was some dissension about SB 1197. > Noted that SB 1197 did generate some savings for Liberty NW. >What do think about leaving SB 1197 as it was for a couple of years to see how it would work because if they opened it up again, changes might be detrimental. 237 FERRONATO: What do you mean by "detrimental"? > Managed Care Organization's are good for everyone concerned > It's is up to the committee to decide if they will open it or not. 251 CHAIR: Expressed his uncertainty about what would happen as well. 256 EDMUNSON: Open to suggestions. Majority of committee did not vote for SB 119 7.

265 DOMINY: SAIF expressed concern about new rules. Do you think working better now?

277 FERRONATO: Parts: > Easier for examiners to make decisions on whether or not to accept or deny. Decisions are made more quickly. > Closure of claim is easier now as long as they are medically stationary and there is a release from the attending physician. > benefits have improved (uses palliative care as an example). > Steel closures: taking longer now. Determination orders taking 50 - 60 days. > Reconsideration is another problem. Litigation still questionable, partly due to backlog on reconsideration cases. Unsure of what will happen. 317 MANNIX: Reconsideration process gets turned into a "mini-hearing process" without hearing. > Have all the worst elements of the hearing system and none of the good elements. > Tempted to tell Department that this should be changed or they will throw out the reconsideration process and have disputes be taken through the hearings division. > Are you seeing any movement by Department of Insurance and Finance to try to do something about this reconsideration process? 336 FERRONATO: Hasn't seen any improvement in the numbers, that it is getting better. > Comments made at the Management Labor Committee about the appellate section and what they are attempting to do. > Expressed frustration of examiners because after they are up for reconsideration and they might get in the medical information that they didn't have which changes what they would do. They can't get it back from the appellate section until process is over.

355 DOMINY: Has there been any improvement in the attorney process? SB 1197 was partly about "Attorney bashing" because of the large cost in litigation. 366 FERRONATO: Litigation cost has dropped. Depends on the cases we're seeing. > Partly because of drop in cases that are still in the appeal procedure. 396 CHAIR DERFLER: Department is aware of the dissatisfaction and that it needs to make improvements specifically in the reconsideration and the MCO problems. ._. These minutes contain materials which paraphrase and/of summarize statements made during this session. Only text enclosed in quotation marks repon a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. House Committee on Labor January 20, 1991- Page 6

> Problem may have been because there was no director, but should have one by 3/1191. > Hoping problems can be solved through rule making process.

411 DAVID DAVIDSON, SR. VICE PRESIDENT, LIBERTY NORTHWEST INSURANCE CORPORATION. > Responding to Representative Repine's letter where he asked for an explanation of the methods employed by Liberty NW pertaining to establishing lost reserves. > The procedure and how it differs from SAIF Corporation policy. > Reserves definition: amount of money is assigned to a specific claim are case based reserves. > Responding to Rep. Repine's letter, about financial statement reserves: Are established by company's actuarial department in an aggregate sense covering all the operations of the company and not necessarily assigned to individual claims. > Case based and financial claim reserves important operational parts of insurance co. 442> Case based used to: Calculate premiums, experience ratings, dividends. > Financial Statement reserves: not used in detail fashion but are still crucial because this is what determines itfinancial health of the company". > Comments will be on Financial Statement reserve: 457 EDMUNSON: Clarify financial statement reserve: how used to determine premium.

TAPE 38, SIDE B. 013 DAVIDSON: Financial statements are also used to

determine premium. > Use aggregate data in establishing rate level but in distribution of that rate level to individual classifications or employer experience ratings, the case based losses are what are used to make that distribution. 018 CHAIR DERFLER: "If case based reserves are set up to cover the cost of future cost of that claim, wouldn't that also have to do with the solvency of the company?" 022 DAVIDSON: Case based reserves should be lower than the financial statement reserve. 024 CHAIR: Asked about other liabilities above the losses. 025 DAVIDSON: There should be "artificial inflation. of cost assigned to claim, in establishing a case based reserve. Explains further. 033 CHAIR: When the case closes, then there is no longer a case reserve? 034 DAVIDSON: Case based reserves are put only on the merits of the case by Liberty NW. > Indication needed in file that there is some continuing, outstanding liabilities in case. 036 DERFLER: Do you reserve for that as well? 038 DAVIDSON: Trying to clarify the difference between a case based reserve (established on the individual merits of the case), and the financial statement reserves (are aggregate sum related to all of the cases and not assigned back to individual cases).

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041 MANNIX: > Global kind of reserve deals with the concept that, generally, there is a chance that some of these cases will reopen but narrowed down looking at cases individually, there might be a chance of re-opening, but there is no objective evidence in this file that applies in this case, so won't artificially reserve this claim. But when looking at the aggregate of claims, these haven't been "artificially pumped-up", but still need level of protection because "globally" it is clear that there is a certain percentage of exposure. Is this fair comparison? 049 DAVIDSON: That is fair summation. Explains further. 053 EDMUNSON: Clarifies with example: 1986 case on base reserve, Claimant X has been receiving chiropractic care. > Reserved on expectation that will receive chiropractic care as long as needed. > May 1990, law changed and now can say that claimant won't be on case base reserve. > What happened to case base reserve for that claim? Refers to EXHIBIT A, Pg. 4. > Did the reserve change due to the drop in payments to chiropractors (Ex. A, pg.4)? 070 FERRONATO: Wouldn't put case base reserve on a claim if it closed, and we had non disabling claim, but had to see the chiropractor monthly for the rest of their life. 072 EDMUNSON: What about a disabling claim? 073 FERRONATO: "We would not put a case base reserve on that claim". 074 DERFLER: After the case is closed, a case reserve no longer set up? 076 FERRONATO: When claim is closed (is not in litigation), and even if there is some activity on claim (seeing chiropractor), reserve value on case base = 0. 079 EDMUNSON: Hypothetical claimant who was costing LNW, is no longer costing. How did that affect the premium?. You're saying that reserving practice is not going to affect premium because the savings was realized. 088 FERRONATO: What employer would pay based on what LNW paid on closed claim. 092 EDMUNSON: Is reserve only for future disability? 093 FERRONATO: If making permanent disability payments or temporary partial payments, the claim is not closed for reserving practices. 098 EDMUNSON: "We expected premiums to go down because the cost of providing the benefit was going down because the benefits had been reduced". 101 FERRONATO: Premiums dropped 12.299. 102 EDMUNSON: How was this determined if case base reserves didn't change? Because

financial statement reserves changed? > What is connection between SB 1197 and premium reduction, doubts statements made .

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by public insurers.

108 DERFLER: Clarify comment on case based reserve setting the premium.

104 DAVIDSON: Individual employer sees the effect on his premium. > Clarification on earlier testimony pertaining to rate making: Overall rate adjustments (12.2%) are calculated aggregately (total premium of state). > Determination is based on aggregate financial data not case based reserve. > Overall rate level comes from "financial statement data > How will 12.2% reduction be distributed to 450 classes of exposure used in state? > How will class)fication rates be mod)ified for individual employer use? > Apply case base losses, used to make distribution of relativities among rate level classes. > Employer views case based reserves most important aspect in determining his premium.

134 DERFLER: The financial statement reserves are what sets the premium rate.

136 DAVIDSON: Level because rate has been refined to individual class)fication.

138 DERFLER: Couldn't get accurate figure if using 2 different figures to start with.

142 DAVIDSON: Disagrees. Use complex, scientific approach. Go through tier process: establishing overall adjustment to the entire premium for what the state should be.

148 EDMUNSON: What affect did the reduction have on chiropractic care?

152 DAVIDSON: Reduced the premium rate level. Can't tell you how much right now.

153 EDMUNSON: Because it affected the financial statement reserves?

154 DAVIDSON: Correct.

155 EDMUNSON: That is where the premium linkage is.

156 FERRONATO: If we don't make payments to a lost sensitive type program, payments are not charged back to the employer. > If we don't pay a bill, the employer doesn't have to pay a premium on it. > Won't pay as much under new law as we did under old law so employer won't either.

168 EDMUNSON: These adjustments would be made to a particular employer based upon the case based rate equal actual payments. > This is not the case base reserves?

175 FERRONATO: Open claim - yes. Closed claim - no.

179 DOMINY: Asked about a pamphlet or literature explaining this.

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186 DAVIDSON: Rate levels set on annual basis by rating bureau, presents filing to Oregon Commissioner. > Literature is very extensive.

202 DOMINY: Methodology used, same as SAIF? > Is there flexibility as long as there is compliance? 208 DAVIDSON: Everyone follows rate levels determined by National Council on Compensation Insurance (NCCI). > Exception came into place 7/1/90: SAIF decided to become independent of bureau. More explanation. 229 REP. REPINE: What is your major competition with case closures?

237 DAVIDSON: SAIF. 240 REPINE: When looking at profits or financial reserves, if company loads reserves into closed cases, wouldn't that be a way to shield a company from financial reserves?

245 DAVIDSON: Doesn't agree with this. > There is clear distinction between case based reserves and financial statement reserves. No necessary correlation between the two. > Important for company is the kind of financial statement reserves the company has. > Case based reserves goes toward equity of distribution and allocation of cost to the individual policy holder.

255 FERRONATO: Premium to policy holder on loss sensitive plan would include that reserve amount. > If employer reserved on closed claims, would pay more premium.

262 EDMUNSON: Would like to hear a response to Rep. Repine's question from SAIF. > When representatives for state went before the committee, indicated that their financial statement reserves were low, because unlike private companies, they didn't have to set aside money for profit and loss. > Wasn't sure if he understood SAIF correctly or not. > Based on his understanding, Liberty is introducing contradictory testimony. > Sounds like SAIF determines premium differently than Liberty.

290 REPINE: Maybe flowchart would be helpful. How you hold reserves on cases.

295 DAVIDSON: Can come back to committee to respond to questions about rates and how losses are used in determining rates in aggregate level and on individual employer account, only prepared today to speak on financial reserves.

308 REPINE: Letter was intended to stimulate conversations about where areas were unclear.

314 DAVIDSON: Specifics about how LNW establishes loss reserves in comparison to SAIF. > SAIF is operating correctly, SAIF and LNW process not different.

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> Same in the actuarial methods used to project future lost payments. >

Difference might be in what SAIF has posted compared to LNW. Difference centers around next step after the projection of future lost payments will be. > This deals with discounting of future lost payments. > Determines how much money company needs to have available to pay claim. > SAIF & LNW's methodology similar in all but discounting lost reserves. > Gives some detail about LNW's methodology mentioned above. > Objective: establishing total future payments for all claims incurred at accident dates prior to the evaluation date of the end of the accounting period. > Both arrive at essentially same number, one goes one way and the other another way. > LNW does some lost reserve discounting: Statutory accounting practices allow the discounting of lifetime worker's compensation claims. 378 DERFLER: Statutory figure?

379 DAVIDSON: Generally rate of 4% or less, prescribed by commissioner. LNW uses 3.5%. 388 DERFLER: Earnings have been substantially more than that in last 25 years. 390 DAVIDSON: Will address that statement later, wanted to explain differences first and then explain why. > Following statutory practices of discounting only long term disability at rate less than 4%. > SAIF discounting all indemnity payments: time loss, perm. partial disability and permanent total and fatal benefits. Interest assumption = 7%. > SAIF discounting all future medical payments at 3.5% interest. > Results of discounts applied under operations of both companies, is that LNW estimated future loss payments (end of 1991) are reduced by \$26 million. > Relationship hold on reduction on future payments that are little less than 10%. > LNW predicts \$300 million of expected future loss payments to be reduced by \$26 million to arrive at stated liability of about \$270 million. > SAIF, based on figures he's seen: lost reserves - reduced by approx. \$700 million. 35 % of their anticipated total payments.

TAPE 39, SIDE B. 010 DERFLER: Is amount of business limited because the reserves aren't there?

012 DAVIDSON: Goes into why there is a difference between SAIF and LNW. > Before 1988, SAIF calculated loss reserves in same way to LNW' current policy. ~ SAIF,1988 - change: will not only discount long term disabilities and at fairly conservative rate, will discount more and use higher interest assumption. 021 CHAIR: Is option available to you?

022 DAVIDSON: Doubts it. LNW has elected not to do this because: they are required to adhere to statutory accounting practices. > If insurance commissioner allowed them to do this, then we could if it were a wise House Committee on Labor January20,1991Pagell

business decision. >Why did SAIF choose to do this: didn't want it revealed that they had no net worth. > Net surplus in 1988: \$30 million, lost \$50 million during year. > 1988 statement: SAIF changed the way they discount loss reserves. > Right or wrong, wanted to show positive surplus to enable them to continue business.

045 EDMUNSON: Address budgetary concerns,1982 Legislature appropriated \$81 million from SAIF. Did that affect SAIF'S financial condition and if so, did that play role in their decision to change accounting practice? 052DAVIDSON: This 1982 appropriation did not have a negative affect on SAIF's "operations or financial health per se". > Money should have been returned to SAIF policy holders. Most of money was earmarked for dividend returns to policy holders not to general revenue. > After the reduction of 81 to 82 million dollars, SAIF has considerable surplus account. 072 CHAIR: "Money would've been given in dividends if it hadn't been appropriated". 073 DAVIDSON:

Agrees. 074 EDMUNSON: \$81 million wouldn't have been available in 1988 because even if 1982 legislature hadn't made the special appropriation, it would've been returned to policy holders.
078 DAVIDSON: "That's my belief". 079 EDMUNSON: SAIF caused 1988 financial condition without legislature's intervention.

080 DAVIDSON: Yes 081 DOMINY: " you would have to apply with the insurance commissioner and they didn't, is that what you're saying?" 086
DAVIDSON: Appears that there are different set of rules applied to SAIF versus any other carriers operations. > Gives example. 098 DOMINY: Is difference because the state will back them if they do something wrong?

099 DAVIDSON: Maybe regulator has taken into consideration things I don't recognize. Maybe regulator views responsibility differently.

103 DERFLER: By discounting at higher rates, puts SAIF in jeopardy of their solvency?

109 DAVIDSON: Yes, whether solvent or not, can't say. > This was a management decision, because there was no reduction in number of claims or anticipated payment.

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118 MANNIX: Suggests that SAIF would be able to fall back on the state for any losses so don't have to follow guidelines like private insurance companies. 128 DAVIDSON: Agrees overall. Other state funds have incurred liabilities that don't have assets to support. > They then turn to "inventive accounting". > Doesn't know what correct liability is, and it should be looked into. > Is making legislature aware of these issues so that possibly there will be some investigation into what SAIF is doing in order to make comparison. > If there is "accelerated discount", difficult to make valid comparative analysis. 148 DERFLER: Does larger discount rate put that system in jeopardy? 150 DAVIDSON: Future predictions won't be accurate 100% of time. Reason why discounting loss-reserves removes level of accuracy in statement and is not allowed. 160 MANNIX: Even with conservative regulation, Oregon company went under. 162 DAVIDSON: Yes, without offset of investment income, if companies had been discounting loss reserves from beginning at same levels as SAIF they wouldn't have made it. > Helps to offset inaccuracies in future prediction ability. > Is conservative, but regulators want that. 175 CHAIR: Meeting adjourned at 10:15 AM.
Submitted by, Reviewed by, Guadalupe C.
Ramirez Victoria Dozler

EXHIBIT LOG: A - Testimony by Tony Ferronato, Sr. Vice President Liberty Northwest Insurance Corporation 2/22/91.

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