Workers' Compensation Advisory Committee (WCAC) Meeting
Labor and Industries, Tumwater, WA
Meeting Minutes
June 13, 2011

Business Representatives: Rick Anderson, Washington Farm Bureau- Sakuma Brothers; Rebecca Forrestor, Group Health; Nancy Dicus, Vigilant; and Kris Tefft, Association of Washington Business

Labor Representatives: Rebecca Johnson, Washington State Labor Council; Karen Gude, United Food and Commercial Workers 1439; Dave Johnson, Washington State Building and Construction Trades Council

Labor and Industries: Judy Schurke, Director; Beth Dupre, Assistant Director for Insurance Services (Chair), Vickie Kennedy, Chief Policy Advisor

Board of Industrial Appeals: Dave Threedy

Recorder: Sharon Avery

Court Reporter: Milton Vance

Guests: Marty Cohen, Brad Reckord, Jan Gee, Jerry Bonagofsky, Patrick Holden, Christine Swanson, Jim King, Kim Hoff, Melissa Johnson, Carolyn Logue, Rick Slunaker, Shellene Cook, Candice Bock, Lindsey Grad, Tom Kwieciak, Steve Salins, Teresa Mosquede, Scott Dilley, Joan Elgee, John Meier, Greg Kabacy, Kathy Osler, Dave Kaplan, Viona Latschaw, Veronica Shakotko, Randy Loomans, Brian Bishop, and Cody Arledge

L&I Staff: Mike Ratko, Kirsta Glenn, Sharon Elias, Larry Russell, Tim Smolen, Cathy Mowlds, Steve Ryser, Ellen Bigelow, Rebecca Linville, Jami Lifka, Marnee Couthran, Dan Locke, Veronica Berets, and Cara Hsieh

Opening Comments and Safety Message

The WCAC was introduced to Beth Dupre, the new Assistant Director for Insurance Services. Ms. Dupre provided an overview of Insurance Services' strategic plan which focuses on performance improvement in both Claims and Employer Services programs. The department is also implementing several technology initiatives including changes to the billing system to accept ICD-10 codes, improvements to the retrospective rating program, and an on-line filing tool (Early Claims Solutions of "FileFast"). Lastly, the department has several initiatives to implement as the result of 2011 legislation. The department is implementing a statewide medical provider network over the next year and a half as well as expanding the Centers for Occupational Health and Education (COHEs). The department is also implementing a new Washington Stay at Work program and a Structured Settlement program.

Dan Locke, L&I DOSH program, presented a video regarding tractor rollovers and preventing fatalities for the safety message.

The November 10, 2010, minutes were approved.

Board of Industrial Insurance Appeals Update: Dave Threedy

The presentation was reviewed.

- *Total Appeals Filed and Granted:* As of March 2011, there were 3,416 total appeals filed and 1,890 appeals granted in the quarter.
- *Department Reassumption Rate by Quarter:* The reassumption rate was 25%—this remains fairly steady.
- *Average Proposed Decision and Order (PD&O) Time-lag by Quarter for Hearing Judges:* This chart shows the time lag for hearing judges to issue their proposed decision and orders—this is at 32 days for the last quarter.
- *Decision and Order (D&O) Time-Lag by Quarter:* It is taking a total of 60 days for the Board to issue a Decision and Order after a Petition for Review is filed.
- *Quarterly Average Weeks to Completion:* As of the last quarter, the average weeks to completion is 32.7 weeks. The Board's goal is to keep this to 32.5 weeks.
- *Caseload at End of Quarter:* The caseloads at the end of the quarter have increased to 4,746—this parallels the increase in appeals seen over the last few quarters.

Mr. Threedy has added two new slides to address questions from the last meeting regarding stay motions.

- *Final Board Disposition of Stay Motions 7/1/08 -3/31/11:* The data reflects the outcomes of appeals (whether the department order was affirmed). Eighty-three stay motions have been denied; one was granted in the appeal was dismissed by the employer. The data also shows the total number of appeals where the department orders were ultimately reversed. The stay was denied in 96 of these appeals and granted in 14. Eighty percent of those appeals were resolved by agreement; the remaining 20% went through the full hearing process and to the Board.
- *Stay Motions Filed by Quarter:* This chart shows how many stay motions were received per quarter. Thirty-four stay motions were filed for the January-March 2011 quarter—this remains consistent with the prior quarter.

A request was made for Mr. Threedy to provide the same data broken down by state fund and self-insured claims for the next meeting.

Economic Update: Kirsta Glenn

Kirsta Glenn, Research and Data Services Program Manager, presented an economic update and how it relates to the workers' compensation system.

Ms. Glenn reviewed slides 2-5 of the presentation:

"Impact of Great Recession on Workers Comp": The first impact is the huge fall in covered hours. However, a change in covered hours alone does not impact rates. Rates are determined by changes in claim costs or losses per hour worked. Impacts on cost per hour over the recession include:

- Declines in average medical cost.
- Declines in claim frequency per hour worked.
- Changes in industry mix.
- Declines in wage growth.
- Increases in time-loss duration.

All of these factors impact the cost per hour, which has a direct impact on workers' compensation rates.

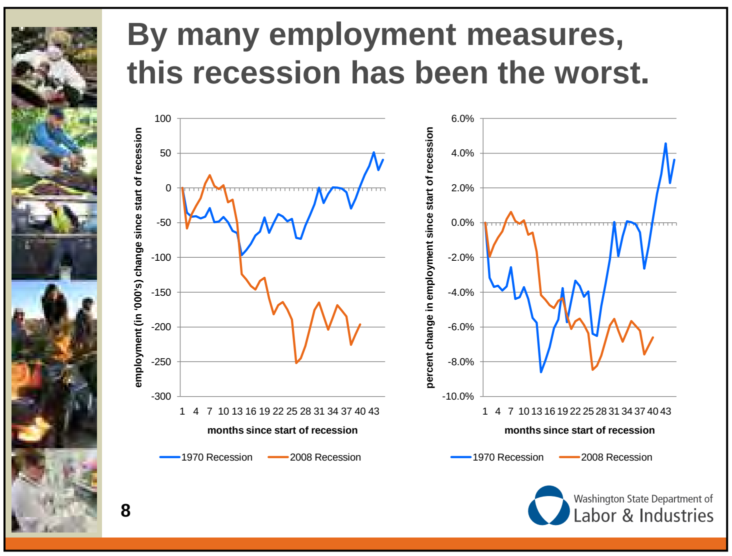
"The recovery and workers comp": The recession ended in June 2009, however, the labor market has not recovered and job growth remains slow. Real estate and construction have not recovered. For workers' compensation, claim frequency may be flattening out and average wages are beginning to increase. Because return-to-work prospects remain weak during the slow recovery, we expect continued pressure from long-term disability claims.

"Workers Comp in Other States": NCCI reported their expectation for 2011 is an ongoing deterioration in market fundamentals. In other states, workers' compensation is struggling as well. Although premium decline has slowed, there is still poor pricing power and continued sluggish recovery in hours. Losses have changed little nationally. This may be due to claims that would have been medical only cases in the past are now becoming compensable claims. Also, NCCI reports an uptick in claim frequency, and small changes in severity. Wage growth continues to be low.

"Overview":

- The Deep Recession has had multiple system impacts.
- The pace of decline has slowed or stopped.
- Workers' compensation insurance remains under pressure.
- The recovery will likely bring relief to businesses and workers, but the impact on the workers' compensation system is uncertain.

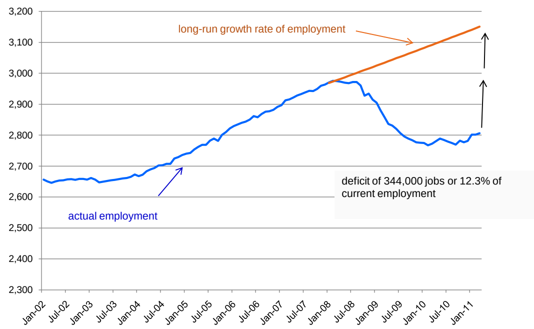
On slides 6-8, Ms. Glenn reviewed the unemployment rate and job loss in this recession compared to past recessions for Washington. She compared the 2008 recession to the 1970 recession and by many employment measures, this recession has been the worst.



The horizontal axes, on slide 8, measure the number of months since the beginning of the recession. The percentage of job loss in 1970 was slightly lower than 2008. However, recovery happened more quickly, while today, employment remains low.

This is an unprecedented impact on our system.

To absorb potential labor though, employment will have to grow even more.



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The chart on slide 9 shows actual employment which normally grows because of new labor market entrants. The job deficit is, therefore, much larger than just getting back to where we were at the beginning of the recession. Job growth must also absorb all the new labor market entrants since the start of the recession.

The largest employment impact was in construction. Employment decline continue, though at a slower pace, in many industries during recovery.

	recession		recovery		trough
Industry (NAICS)	change ('000)	% change	change ('000)	% change	
construction	-49	-23.5%	-22.7	-14.2%	?
manufacturing	-31.5	-10.6%	-2.1	-0.8%	Feb - 10
professional services	-27.9	-8.0%	22.4	6.9%	Sep-09
retail trade	-22.1	-6.7%	-1.1	-0.4%	Dec-09
finance & insurance	-8.3	-4.1%	-5.8	-6.1%	?
transportation/utilities	-6.5	-6.7%	-1.9	-2.1%	Dec-10
government	13.6	2.5%	-8.9	-1.6%	?
education & health	17.5	1.1%	6.6	1.8%	increased over period

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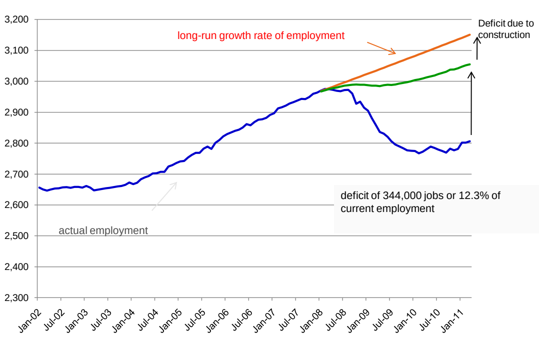
The table on slide 10 shows that industries have been impacted differently during the recession. In the construction industry, 49,000 jobs were lost in the recession (-23.5%), and a further 22,000 jobs have been lost over the recovery (-14.2%). Education and Health industries experienced a 1.1% growth over the recession and a 1.8% growth over the recovery. Government has been countercyclical: 2.5% growth over the recession and -1.6% during recovery.

The fall in construction employment is responsible for over a quarter of the job deficit.



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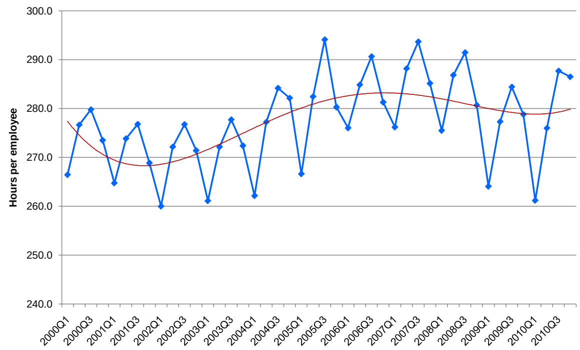
Construction made up about 7% of the labor force in 2007; it currently makes up about 5% of the labor force.

The chart on slide 11 shows the construction industry's key role in the job deficit. About a quarter of the job deficit is due to construction and it is not recovering quickly.

Covered hours are more seasonal than employment, but (in general) move predictably with recessions.



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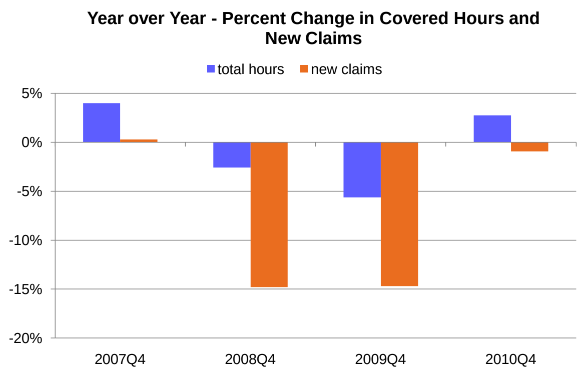
The chart on slide 12 shows that covered hours in the workers' compensation system generally follow employment in a predictable pattern.

In the beginning of recovery, businesses tend to choose to increase hours per employee rather than hire new employees. We generally see an uptick in hours per employee at the end of a recession/beginning of recovery.

New Claims continue to fall even as hours show some recovery – pointing to continued low frequency.



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The graph on slide 13 shows that new claims continue to fall even as hours show some recovery. Ms. Glenn compared year to year percent changes from the fourth quarter of 2007, 2008, 2009, and 2010. The percent decline in new claims was greater than the percent decline in hours. This means our injury rate fell significantly over the recession.

Over the recession, new claims fell in almost all risk categories.

Annual Average Percent Change in New Claims

	2007Q4 - 2009Q4	2009Q4 - 2010Q4
Construction	-24.3%	-8.4%
Manufacturing	-19.9%	-0.3%
Agriculture/Forestry	-17.6%	15.5%
Stores, Temp Help, Wholesale	-17.2%	-3.3%
Misc Serv/Other	-11.5%	-1.4%
Transportation & Warehousing	-10.7%	3.9%
Gov, Healthcare, Prof, Schools	-4.8%	0.0%
Total	-14.8%	-0.9%

Both a decline in hours and the incidence of injury contributed to this drop.

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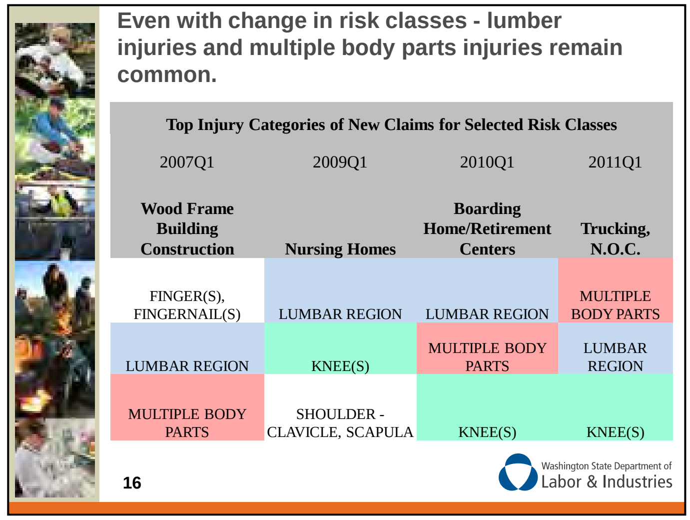
The table on slide 14 explains that over the recession, new claims fell in almost all risk categories.

The largest percent decline was in construction: from 2007-2009 (-24.3%) and from 2009-2010 (-8.4%).

There is recovery in claims in warehousing and government/healthcare categories.

New claims are now coming from different risk categories:

Top three risk classes for new time-loss claims			
2007Q1	2009Q1	2010Q1	2011Q1
Restaurants and Taverns	Restaurants and Taverns	Restaurants and Taverns	Restaurants and Taverns
Wood Frame Building Construction	Nursing Homes	Nursing Homes	Nursing Homes
Trucking, N.O.C.	Wood Frame Building Construction	Boarding Homes/ Retirement Centers	Trucking, N.O.C.

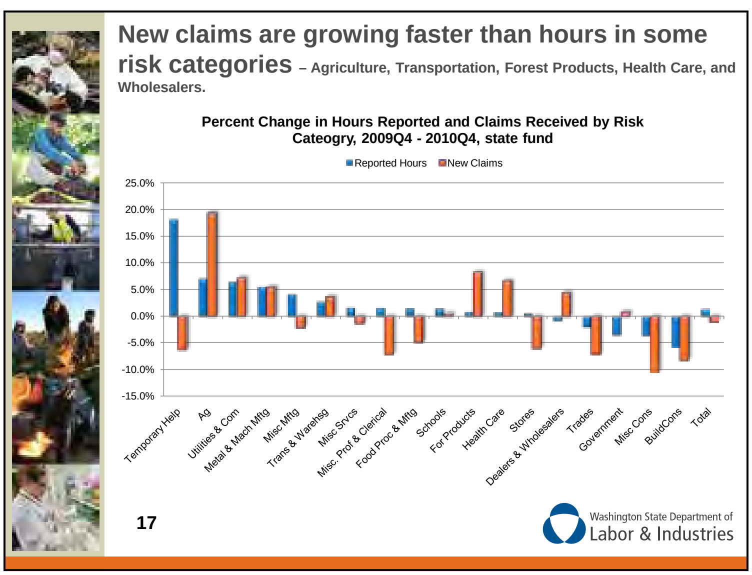


Even with change in risk classes - lumber injuries and multiple body parts injuries remain common.

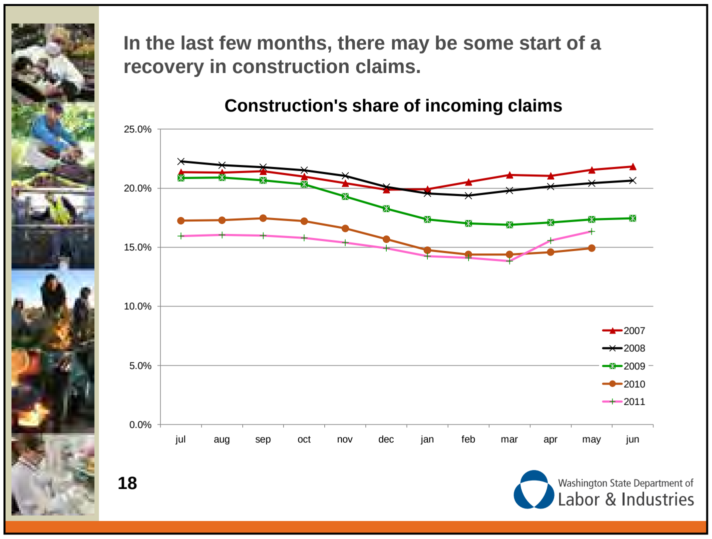
Top Injury Categories of New Claims for Selected Risk Classes			
2007Q1	2009Q1	2010Q1	2011Q1
Wood Frame Building Construction	**Nursing Homes**	**Boarding Home/Retirement Centers**	**Trucking, N.O.C.**
FINGER(S), FINGERNAIL(S)	LUMBAR REGION	LUMBAR REGION	MULTIPLE BODY PARTS
LUMBAR REGION	KNEE(S)	MULTIPLE BODY PARTS	LUMBAR REGION
MULTIPLE BODY PARTS	SHOULDER - CLAVICLE, SCAPULA	KNEE(S)	KNEE(S)

Slide 15 shows the risk classes that have the highest percentages of new claims. Restaurants and taverns are always the highest risk class. In 2007, wood frame building construction was ranked second. By 2010 and 2011, it was no longer on the list. We are not seeing a number of new claims from the construction industry. The trucking industry has also dropped off after 2007. These industries have been replaced by nursing homes and boarding homes/retirement centers.

Even with the change in risk classes, lumbar injuries and multiple body parts injuries remain common as seen on slide 16. The most common injury for construction concerned fingers. Multiple body parts and lumbar region injuries tend to be the top injuries for nursing homes, boarding homes, and trucking industries.



Slide 17 shows that new claims are growing faster than hours in some risk categories including agriculture, transportation, forest products, health care, and wholesalers. On the other hand, the temporary help category had a huge increase in hours with a significant decrease in new claims.



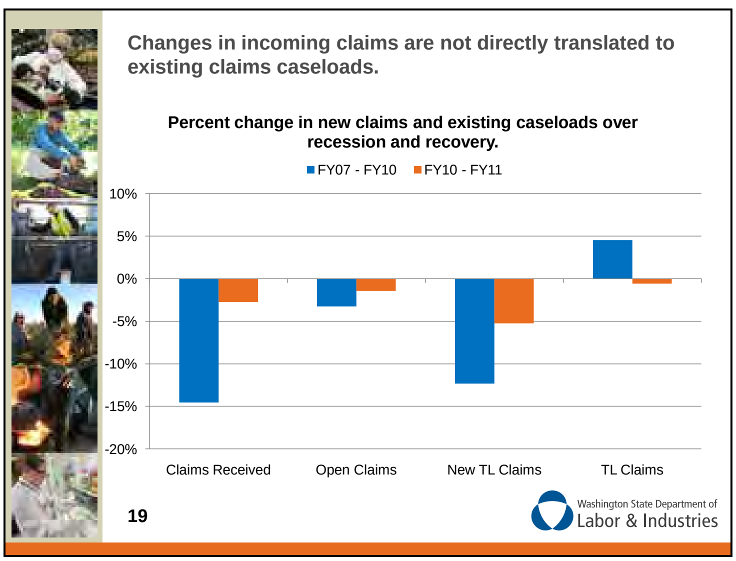
The graph on slide 18 shows construction's share of incoming claims by year.

The data is based on when the percentage of claims are received, not date of injury.

In the last two months, construction's share of increasing claims has increased slightly and it may be a sign of recovery for this industry.

Ms. Glenn indicated this may be an early indicator of recovery because hours are reported after the fact but claims tend to come in close to the date of injury. The department needs more data before we can draw firm conclusions, however.

It was asked if this could be influenced by unemployment running out for workers. Ms. Glenn answered, no, because workers' comp claims have to be associated with an injury sustained while working, and claims need to be filed within one year of injury. The construction industry saw its big downturn in 2008 and 2009, so it is unlikely that a claim received in 2011 would be due to an injury sustained in 2008 or 2009.



Ms. Glenn explained that changes in incoming claims do not directly translate to existing claims caseloads, referring to the graph on slide 19.

Incoming claims is one factor that impacts our current caseload; the other factor is duration. The incoming claims have declined comparing FY 2007-2010 to FY 2010-2011. There was also a significant decline in new time-loss claims FY 2007-2010 to FY 2010-2011. The department's caseload of time-loss claims continued to grow over the recession.

The rate at which open claims are resolved has fallen due to

- an increase in average duration
- a caseload that has shifted towards older, harder to resolve claims

	Average Resolution Rate	
Fiscal Year	Medical Only	Time-loss
2002	29.6%	9.0%
2006	26.5%	7.7%
2009	26.5%	7.2%
2010	25.4%	6.3%
2011(to date)	25.4%	6.4%

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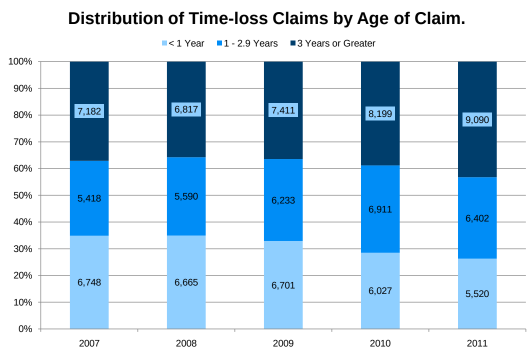
Slide 20 shows the resolution rates of time-loss claims and medical-only claims; the lower the resolution rate, the longer duration of claims.

The average resolution rates for medical-only and time-loss claims have decreased from 2006 to 2011.

The resolution rate is impacted by 1) changes in the average duration of claims and 2) changes in the age composition of the caseload. The department's caseload is now comprised of many older, harder to resolve claims which bring down the overall resolution rate.

Older time-loss claims now make up a larger share of the caseload.



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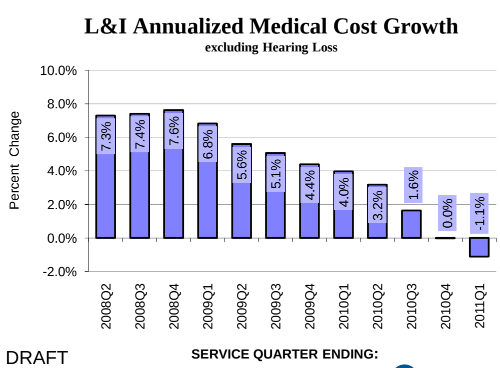
The chart on slide 21 reflects that older time-loss claims now make up a larger share of the caseload.

As of 2011, claims in our current caseload that are over three years old now make up over 40% of the caseload.

This shows increased complexity and difficulty in resolving claims.

Medical cost growth continues to be well contained.



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Source: L&I actuarial department

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Annual growth in wages is affected both by inflation and employment mix.

Source: Quarterly Census of Employment and Wages – Bureau of Labor Statistics

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The graph on slide 22 shows medical cost growth continues to be well contained. For the last quarter, it has been negative (-1.1%).

The graph on slide 23 explains the annual growth in wages is affected both by inflation and employment mix. The average weekly wage in Washington grew in 2010, but at a very low rate. The Employment Security Department believes the growth is not due to workers making more money, but explains that lower wage workers have lost their jobs; so the average increases.

Ms. Glenn continued the presentation with an overview "R*ecession and Recovery* and *Future Challenges*". She provided an explanation of what would happen to the workers' compensation system as the labor market recovered:

- The system will see incoming claims start to rise.
- A higher percentage of incoming claims will be from hazardous industries that were hurt by the recession.
- There will be more pressure on medical cost growth.
- There may be more opportunity for kept-on-salary or light duty.
- There will be a greater incentive for injured workers to return to the labor force.

From the business perspective, hours will increase and profits will increase, but costs per hour will depend on the average wage, claim incidence, claim duration, and medical costs.

It was asked whether the current average time-loss index is285 days. Mr. Vasek confirmed this is correct. Concern was expressed that this number is being used as the average for a claim. A request was made for the department to explain that many claims are resolved within the first few weeks of injury and that there is a small percentage of claims that drive up the average. A request was made that when discussing the average time-loss duration index, the median be included. Ms. Glenn confirmed that the median is 28 days. It was suggested that the department provide the committee a number of different indexes to explain benchmarks for time-loss claims.

Ms. Glenn talked about recent return-to-work statistics showing around 70% of workers with time-loss claims were back to work within a year. The committee was interested in this data and asked for an index that shows the outcome of workers returning to work, not just claim closure. Ms. Glenn explained though this data is interesting, the data is a lagging indicator. We wait a year to report on it and then the ESD wage files are a quarter delayed beyond that.

Interest was expressed in back-to-work at full wages and hours as another indicator, not just light-duty status or going to work with less pay. Ms. Glenn explained that this is an indicator that needs to be balanced with other information (workers who naturally drop out of the labor market over time, those who move to other states, those who retire, etc.). Ms. Kennedy added that we must be mindful on the definition of light duty—light duty can mean full-time work but at a sedentary job as opposed to heavy physical work.

<u>Financial Update: Sharon Elias</u>

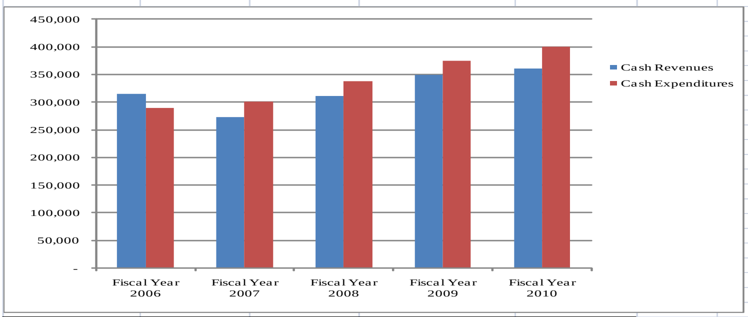
Sharon Elias, Chief Accounting Officer, reviewed the presentation. The packet included the following handouts: copy of the State Auditor's report regarding the Supplemental Pension Fund loans and repayments, copies of the annual report, and the quarterly financial information.

Ms. Elias began with the Supplemental Pension Fund inter-fund loans and repayments.

Where Have We Been: The current Supplemental Pension Fund operates on a current payment basis. Unfortunately in FY 2007 through 2010, the benefit costs exceeded revenues. This resulted in continued depletion of the account's balance. During calendar year 2010, the Fund borrowed and repaid three short-term loans from the Pension Reserve Fund Account.

Washington State Department of Labor & Industries

Fiscal Years 2006 through 2010
Cash Revenues and Expenditures (in thousands)



	Cash Revenues	Cash Expenditures	Expenditures Exceed Revenues	June 30th Investment Balance
Fiscal Year 2006	314,552	289,733		175,372
Fiscal Year 2007	273,511	301,366	(27,855)	125,793
Fiscal Year 2008	311,060	337,403	(26,343)	98,499
Fiscal Year 2009	349,186	374,937	(25,751)	58,111
Fiscal Year 2010	360,492	399,947	(39,455)	14,745

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In FY 2006, we had $175M in assets in the Supplemental Pension Fund. In FY 2010, we had $14M.

Washington State Department of Labor & Industries

Supplemental Pension Account
Summary of Inter-Fund Loans and Repayments

Borrowing		Repayment			
Date	**Amount**	**Date**	**Principal**	**Interest**	**Total**
April 5, 2010	$ 15,000,000.00	May 27, 2010	$ 15,000,000.00	$ 3,085.15	$ 15,003,085.15
July 13, 2010	$ 25,000,000.00	August 20, 2010	$ 25,000,000.00	$ 6,629.96	$ 25,006,629.96
October 13, 2010	$ 25,000,000.00	November 12, 2010	$ 25,000,000.00	$ 4,662.62	$ 25,004,662.62
SAO conducted Calendar Year 2010 audit of inter-fund loans and repayments and concluded that short-term loan repayments were appropriate					
January 12, 2011	$ 20,000,000.00	February 25, 2011	$ 20,000,000.00	$ 4,346.82	$ 20,004,346.82
April 12, 2011	$ 20,000,000.00	May 20, 2011	$ 20,000,000.00	$ 2,367.02	$ 20,002,367.02
Total	**$ 105,000,000.00**	**Total**	**$105,000,000.00**	**$ 21,091.57**	**$105,021,091.57**

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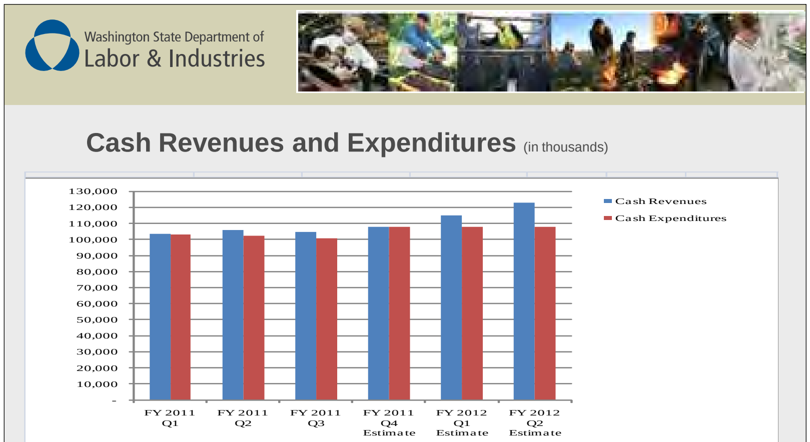
In CY 2010, the Fund received three loans, on April 5th, July 13th, and October 13th, totaling $65M.

The department immediately paid the short-term loan back and made the pension reserve whole by paying the interest rate it would have earned. This occurred when each quarter's premiums were received. The interest for those three loans was $14,377.73.

RCW 51.44.160 authorized the department to borrow money from the Pension Reserve Fund. The State Auditor's Office (SAO) reviewed the repayments at the end of December 2010 and concluded the repayments and the loans were calculated properly. A copy of the report was included in the handouts.

What Does CY2011 Look Like: The revenues more closely align with the expenditures. Two inter-fund loans and repayments have been processed during the first half of CY 2011. Due to the law change that freezes the 2011 cost-of-living increase, no inter-fund loan is anticipated for the second half of CY 2011.



	Cash Revenues	Cash Expenditures	Revenue Exceeds Expenditures
FY 2011 Q1	103,508	102,943	565
FY 2011 Q2	105,743	102,398	3,345
FY 2011 Q3	104,558	100,811	3,747
FY 2011 Q4 Estimate	108,000	108,000	-
FY 2012 Q1 Estimate	115,000	108,000	7,000
FY 2012 Q2 Estimate	123,000	108,000	15,000

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With the recession ending in 2009, there is slow growth in hours reported.

It is estimated that by the fourth quarter, the cash revenue will match the expenditures.

It was asked if the department has modeled what could happen with a double-dip recession. Ms. Elias answered we have not.

It was also asked what the average time for repayment of the loan was. Ms. Elias estimated the loans were usually repaid within 30-40 days.

Ms. Elias continued the presentation with an overview of FY 2010 *Workers' Compensation Program Comprehensive Annual Financial Report* (CAFR) and the *Industrial Insurance Fund Statutory Financial Information Report*.

On-Time Reporting: Since 2005, we have issued five reports, all by December 31, to the legislature, Office of Financial Management (OFM), and the governor. The state found that if the CAFR could be issued earlier, it could have a significant impact on the bond rating, potentially saving millions of dollars. OFM decided to issue the CAFR by November 30, which required the department to issue our CAFR by November 15. The department was able to meet the November 15 deadline; the state was able to use the CAFR by November 30. The department received a letter from the director of OFM indicating this could not have been completed without the workers' compensation portion.

L&I receives "Unqualified" Opinions: In the past, the SAO hired an independent CPA firm to conduct an audit of the CAFR. However, this year, the SAO performed the audit and issued their own opinion. The SAO issued an unqualified opinion on November 15. The law requires actuarial reviews of our reserves and SAO hired Deloitte, an independent CPA firm, to conduct a reserve estimate. Deloitte provided an unqualified opinion. Even though it is not required, the department hired Edde Bailey, a CPA firm, to audit the annual statutory financial information and they also issued the department a clean opinion. More information is on the website at:
http://www.lni.wa.gov/ClaimsIns/Insurance/Learn/StateFund/Reports/Default.asp

Ms. Elias concluded with the review of the *Industrial Insurance (State) Fund Interim Statutory Financial Information FY 2011—Third Quarter As of March 31, 2011.*

The financial highlights:

- Total investments increased $611.2M from $11,076B to $11,687B since June 30, 2010.
- Benefit liabilities increased by $261.8M from $10,748B to $11,010B since June 30, 2010.
- The contingency reserve balance as of March 31, 2011 was $486.7M, an overall increase of $305.5M since the end of FY 2010.

Washington State Department of
Labor & Industries

Fiscal Year to Date Change in Benefit Liabilities
As of March 31, 2011 (in thousands)

	Accident Account	Medical Aid Account	Pension Reserve Account	Totals
Benefit Liability as of June 30, 2010	$ 4,309,643	$ 3,202,811	$ 3,235,975	$ 10,748,429
New Benefits incurred since June 30, 2010	652,644	478,720	-	1,131,364
Development on prior liabilities as of March 31, 2011:				
Discount accretion	74,497	56,756	152,092	283,345
Other development on prior liabilities	132,536	(156,480)	2,652	(21,292)
SB 5801 changes	(14,000)	(8,000)	-	(22,000)
Net unfavorable prior developments				240,053
Claim payments	(470,681)	(418,760)	(255,501)	(1,144,942)
Establishing state fund pension awards	(165,462)	-	165,462	-
Establishing SI 2nd Injury pension awards	-	-	35,343	35,343
Change in Benefit Liability	209,534	(47,764)	100,048	261,819
Benefit Liability as of March 31, 2011	$ 4,519,177	$ 3,155,047	$ 3,336,023	$ 11,010,247

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This table, *"Fiscal Year to Date Change in Benefit Liabilities as of March 31, 2011"*, summarized the benefit liabilities.

The beginning of the year started with $10.7B.

- We had new liabilities of $1.1B.
- There was unfavorable development of $283M due to discount accretion and favorable development of $21M in other development on prior liabilities. The actuaries considered the passage of SSB 5801 and estimated $22M of favorable change in liabilities. This resulted in a total unfavorable development of $240M.
- The total claims paid were $1.1B.
- The net changes in liability were $261.8M.

The total benefit liability as of March 31, 2011, was $11B.

A question was asked regarding SSB 5801. Since the bill does not go into effect until July 1, how did that factor into the projection? Mr. Vasek answered that because SSB 5801 was passed and signed before the end of the quarter, he included the savings the medical provider network has on the existing claim populations. The estimate does not include claims not yet filed.

The financial highlights of operation results:

- Net premiums earned increased by $110.3M for the first three quarters of FY 2011 due to higher exposure and premium rate change.

- Net investment income earned in the current period of $365M remained at the same level as investment earnings in the same period of the previous fiscal year.
- Benefit payments in the Medical Aid Fund account were $22.1M less than the first three quarters of FY 2010.

Ms. Elias reviewed slides 19 and 20 which compared revenues and expenses.

Contingency reserve balances:
Ms. Elias provided a summary of the results as of March 31, 2011:
- At the start of FY 2010 (July 1, 2010), the contingency reserve balance was $181.2M.
- We had actual realized and unrealized investment gains of $364.9M.
- We had total loss of $59.4M for insurance operations.
- The change to the contingency reserve was $305.5M.

As of March 31, 2011, the contingency reserve balance is $486.7M.

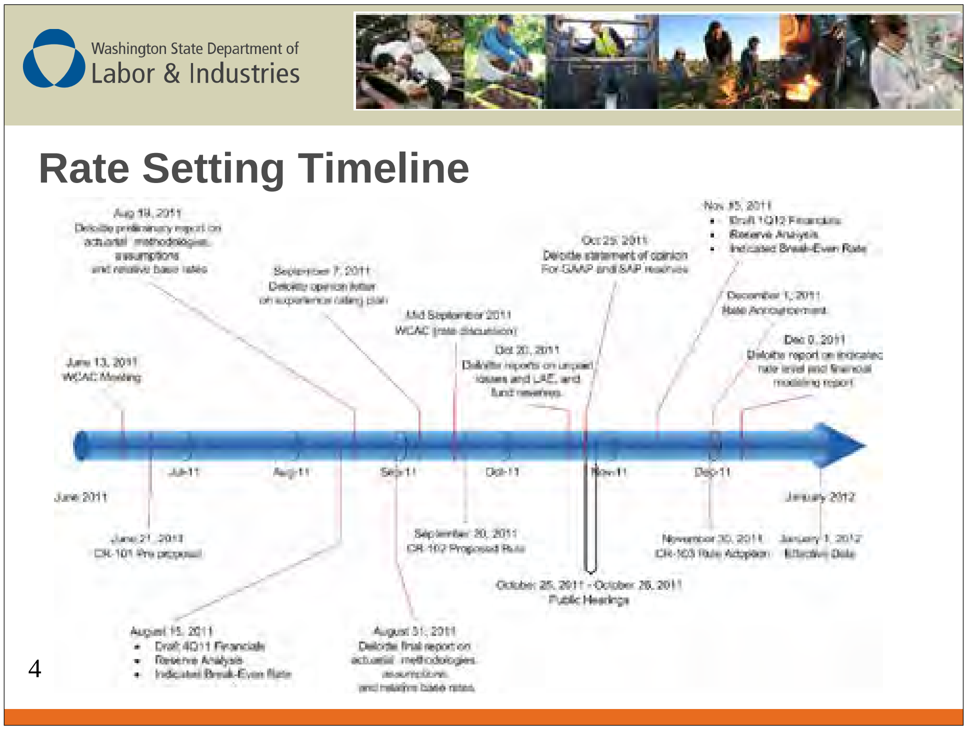
Director Schurke and Ms. Dupre acknowledged Financial Services' receipt of a national award from the Government Association of Financial Officers. This is one of the highest honors given for CAFR.

2012 Rate Setting Process: Mike Ratko

Mike Ratko, Deputy Assistant Director for Insurance Services, reviewed the department's rate setting process for 2012.

The department has guiding principles it considers during the rate setting process, they include:
- Fair and stable rates.
- Transparency.
- Long-term view (3-5 year horizon).
- Rate and reserve adequacy.

There are numerous time constraints with the rate setting process:
- Quarterly financials: the indicated rate is based on financials that end June 30.
- Quarterly actuarial reserve and rate analysis: it takes five to six weeks to reconcile the financials and for the actuarial staff to do the reserve and rate analysis.
- Rulemaking.
- Stakeholdering internally and externally (WCAC).



Mr. Ratko reviewed slide 4, which is the rate setting timeline.

- In mid-September, the department will meet with the WCAC prior to proposing the rates. The proposed rule must be filed on September 20 to meet the January 1, 2012, effective date.
- The public hearings are scheduled for October 25-28.
- On November 30, the department will file the adoption of the rate.
- The rate announcement is scheduled for December 1.
- January 1, 2012, is the effective date for new rates.

The department's approach for 2012 includes more planning. There is an internal planning group which includes the actuaries, operations, underwriting, and finance programs. This provides greater understanding and broader scrutiny of the underlying assumptions in trends, reserve, and rate analyses. Regarding the long-term view (3-5 year horizon), the department will take economic conditions, contingency reserve levels/policies, and the impact of reform legislation into consideration as we make a rate proposal. Lastly, Deloitte will continue to be involved with risk oversight.

The department's next steps over the next six months are:

- Incorporate savings associated with Stay at Work program, COLA freeze, prior PPD deductions, and structured settlement agreements.
- Consider contingency reserve policy and a rate component that begins to restore Accident Fund reserve levels.
- Consider revising contingency reserve policy to include rainy day fund legislation.
- Consider implications of new Stay at Work account.
- Reconcile June 30, 2011, financials (mid-August).
- Determine 2012 break-even rate indication.
- Review Deloitte reports.
- Determine 2012 rate to propose in rule (mid-September).

It was asked if the rate announcement is the date that employers receive their notice. Mr. Ratko answered the rate notices are scheduled to be distributed on December 5.

A question was asked whether a group will work with the department on the rainy day fund. Mr. Ratko answered that the department will engage the WCAC to decide who will be involved with this process.

Another question was asked regarding the Supplemental Pension Fund. In the financial updates, the forecast of 2012 reflected the COLAs being frozen. Are there other inputs that need to be analyzed and reconciled to understand that portion of the rate in 2012? If the COLA is not being paid next year, will the 8% three-year surcharge continue? Director Schurke answered that last year the department adopted the Supplemental Pension Fund rate anticipating a need to rebuild assets. The department needs to review this and see where assets and costs are projected to be. The department will inform the WCAC on these figures.

Legislative Update: Vickie Kennedy

Vickie Kennedy, Chief Policy Advisor, reviewed the Legislative Summary and Rules Development Update handouts. The Legislative Summary is a list of bills that passed this session starting with those that affect the workers' comp programs. The Rules Development Update is a list of rules activities that have occurred since the last WCAC meeting. Ms. Kennedy noted that June 21 is the anticipated date for the CR-101 (Preproposal Statement of Inquiry) on rates along with a rule specific to the horse racing industry.

ESHB 1311: Creating a collaborative to improve health care quality, cost-effectiveness, and outcomes. L&I's Medical Director participates on the committee. There is not a direct link to the workers' comp program.

ESHB 1637: For-hire vehicles and for-hire vehicle operators: This is mandatory coverage legislation and rates will be based on a per-vehicle rate. This effects taxi cabs, limousines, and other for-hire vehicle operators. The first meeting with the community occurred the first week of June.

ESHB 1725: Administrative efficiencies for the workers' compensation program, L&I's request legislation. The important elements include an ability to communicate electronically with workers, employers, and medical providers at their request. The department will work with the provider community first as they have concerns with the quantity of mail they receive, such as courtesy copies of ongoing time-loss orders. We hope to reduce the administrative burden on providers by allowing them a choice about how we communicate. There is also interest from the retro community on electronic correspondences. This bill also allows the department to use other methods to confirm and track correspondences other than certified mail. Lastly, the bill requires the department to report to the legislature on statutory changes for workers and employers that use direct-care services. Direct-care services are medical clinics and groups that do not bill insurers; there is a direct payment from the participant for the services. This was added by the legislature to ensure that employers that pay direct-care services for their workers can also participate in retro. The department is working on how to appropriately address the claim costs so we can evaluate them in our system and still allow workers to have a choice to use these medical providers.

HB 1726: Addressing the recommendations of the vocational rehabilitation subcommittee for workers' compensation: This was also agency request legislation. The subcommittee jointly agreed to the legislation. With this agreement, it passed through the legislature with no amendments.

A question was asked if this legislation clarified Option 2 benefits in response to the *Ackley* decision. Ms. Kennedy answered it did. *Ackley* was a decision by the Board that allowed a worker who selected Option 2 benefits, meaning they selected self-directed training and a vocational award, to be placed on pension because the claim had not closed due to the worker's deteriorating medical condition. With the legislation, if this happens, the Option 2 benefit is rescinded, even though it may be final, and is deducted from other benefits so that there is no potential of a worker receiving both the Option 2 and either pension or time-loss for the same time period.

EHB 2123: Addressing the workers' compensation system: This was the major piece of reform legislation. It was passed at the end of the legislative session and is scheduled to be signed by the governor on June 15, which will be the effective date. There are several elements of this legislation:

- The first one creates the Stay at Work program specific to state fund employers. The department will provide wage subsidies for half of the worker's wage for up to 66 days of work, but no more than $10,000. It also reimburses for other costs such as tools, and short-term training to facilitate light-duty or transitional return to work. The Stay at Work program will apply to work performed on or after the effective date of the bill. We are working through the reimbursement requirements to ensure employers understand the rules they must follow before they anticipate a reimbursement. Use of the fund will not impact an experience rating for an employer. The department will broadly communicate information about the program to employers. In the next rate cycle, a specific line item for this program will be added to ensure employers know this is available. Based on Oregon's experience, we expect this to have a positive effect immediately on new claim costs.
- The legislation eliminated the 2012 cost-of-living increase for existing claims. It also permanently delays the first cost-of-living increase for new claims until the second July 1 following the injury.
- The legislation authorizes claim resolution structured settlement agreements beginning January 1, 2012, for workers age 55 and over whose claim has been in the system at least 180 days, and whose allowance of the claim is final and binding. This will change to workers age 53 on January 1, 2015, and age 50 on January 1, 2016. Medical benefits cannot be settled, although parties can agree to leave the claim open for certain medical treatment or can agree that a worker does not have to go through the formal reopening evaluation for certain medical care that is anticipated (i.e. removal of hardware). The Board will set up the process for a judge to hold a conference for an unrepresented worker to ensure that the agreement is in the best interests of the worker, and the full Board has to approve all settlement agreements for represented and unrepresented workers, self-insured and state fund. There are specific mandates on time frames within the statute once those agreements are before the Board. The legislation also outlines payments for the settlement. The initial payment cannot be more than six times the monthly average wage, and periodic payments have to be at least 25% of the state's average wage and no more than 150% of the state's average wage. There will be an independent study of the outcomes for the system and for workers that participate in these agreements that will provide comprehensive information to business, labor, and even to other states as they contemplate changes in their own workers' comp systems.
- The next section of the legislation requires deduction of permanent partial disability (PPD) benefits from pension awards and eliminates interest on unpaid PPD awards. This applies to pension orders issued on or after July 1. The elimination of PPD interest will apply to new dates of injury on or after the effective date of the legislation, June 15, 2011.
- The Safety and Health Investment Project grants are created in statute. The WCAC will be involved, along with the WISHA Advisory Committee, on the projects to receive these grants.

- A committee will be established of business and labor representatives to comment on the limit for the combined contingency reserve and the Rainy Day Fund. The legislation currently contemplates 10% in excess of liabilities up to 30%, which is close to the policy draft for the contingency reserve the WCAC has discussed.
- The legislation included a fraud initiative directing that best practices which have been successful with employer fraud be used to address provider and worker fraud. It also requires the department to join a national database to ensure there are no duplicate claims for benefits.
- The JLARC committee will conduct a performance audit of claims management. The final report is due 2015.
- Lastly, the department will contract for a study of occupational disease claims in Washington and compare that to other states' experience. The WCAC will also have a role in selecting the independent researcher.

A comment was made encouraging the department to get business, labor, and WCAC members together to work on the RFP for the occupational disease study because of the quick deadline next year; the report is due December 2012. Ms. Kennedy added that the department is currently developing the timeline and implementation plan.

Ms. Kennedy commented on the department's rulemaking activities and that some rules needed for implantation may be adopted as emergency rules.

E2SSB 5073: Concerning the medical use of cannabis: The department, along with other agencies, can establish coverage or non-coverage decisions.

SB 5091: Delaying the implementation of the Family Medical Leave insurance program: This delays the program to October 1, 2015 and the Supplemental Pension Fund is no longer listed to provide start-up money.

SB 5278: Addressing information contained in rate notices under the industrial insurance laws: The information in the rate notices must include an accounting for all programs and services financed in whole or in part by state fund premiums or self-insurers' administrative assessments. A draft will be provided for review and comments and these will be incorporated in the January 2012 rate notices.

SSB 5801: Establishing medical provider networks and expanding centers for occupational health and education in the industrial insurance system: This was passed very early in the session and the concept was agreed to by business and labor stakeholders. The actuaries have already booked the anticipated savings to the Medical Aid Fund. The department believes this will not only save money, but will also reduce long-term disability and improve health outcomes for workers by allowing the department to set up a broad network. The department anticipates participation from the medical community. This allows the department to set minimum standards along with creating a second tier for medical providers who are willing to take additional steps important to the workers' comp system. It also expands Centers of Occupational Health and Education to provide statewide access by 2015.

Meeting Purpose: Judy Schurke and Beth Dupre

Director Schurke began this discussion by advising all the current committee members that their memberships have all expired—these will need to be updated after discussions with the members and the department.

Director Schurke continued with the department's need to have more discussions and interactions with the WCAC, rather than having the department present material to the committee. Lastly, the department needs to prepare the committee members by providing information earlier so they can be more engaged in discussions and decisions. A comment was made that receiving electronic versions of material in advance for this meeting was helpful.

Ms. Dupre added that the department understands the members have large commitments outside of this committee, so we are looking for assistance in finding representatives that are ready to move forward effectively to aid us with advice for our decision-making. The commitment for this committee will be more than quarterly meetings.

The committee decided the next WCAC meeting will be scheduled for September 12, 2011, from 9:00-12:00 in the department auditorium.

Meeting Adjourned.