

exposure to certain chemicals, radiation, there's a variety of things that were induced by an exposure to various substances during and in the course of employment in Nebraska. To move an injury section of statute into occupational disease may well, in fact, cause the opposite effect that the proponents of this particular measure seek to encourage in Nebraska. There's one other state that has the definition of cumulative trauma in statute in the occupational disease section and that is the State of California. There are a number of other states that have it mentioned throughout various court cases and what in a narrowing of the definition of what a court has found as to be a compensable cumulative trauma condition. I don't know the answer to that question. But that's why I indicated to you, in the opening, that this is, in fact, a major policy decision that will have effects on the compensability of cases into the future. Whether they will be positive or negative, we have no basis really to make a good judgment call on that condition. According to committee counsel's research, across the United States in cases where cumulative trauma, occupational disease have been addressed in other state statutes, they have generally been in the area of narrowing a definition of occupational disease relative to cumulative trauma as an interpretation of that individual state's high court. It is, to say, plowing new ground, I suppose, to a certain extent to move a term which is basically only two words but it has a significant effect on what is compensable, what is not compensable. It may well be that we will be faced with a situation in the future where cumulative trauma might not be compensable...

SPEAKER BAACK: One minute.

SENATOR COORDSEN: ...because those injuries would not be unique and peculiar to that particular type of occupation, rather they are injuries that are more broadly found across a varying set of employment circumstances. Senator Morrissey mentioned the railroad and certainly in any type of activity where a significant amount of physical force is necessary there are individuals which will...who will find themselves injured through that particular method. To move it over into the occupational disease may cause a higher standard to be used by the court in future cases. We do not know that at this time. No one knows it at this time. But there is a fairly strict definitional set of standards in statute and case law relative to occupational disease. The interpretations...