STATE OF CALIFORNIA

WORKERS' COMPENSATION RATE STUDY COMMISSION

COMMISSION REPORT

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VOLUME II
COMMISSION STAFF REPORT
SOPER & ASSOCIATES

MARCH 1992

STATE OF CALIFORNIA

WORKERS' COMPENSATION RATE STUDY COMMISSION

COMMISSION REPORT

VOLUME II
COMMISSION STAFF REPORT
SOPER & ASSOCIATES

SPECIAL NOTICE:

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It is requested that appropriate acknowledgement be given to the Workers' Compensation Rate Study Commission when subject material is used or referenced.

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Printing: March 1992 First Impression

OTHER VOLUMES:

In addition to this Volume, the Workers' Compensation Rate Study Commission Report includes the following four Volumes:

VOLUME I
EXECUTIVE SUMMARY

VOLUME III
COMMISSION STAFF REPORT
SOPER & ASSOCIATES

VOLUME IV
SUB-CONTRACT RESOURCE REPORT
MILLIMAN & ROBERTSON, INC.

VOLUME V
SUB-CONTRACT RESOURCE REPORT
AIS RISK CONSULTANTS, INC.

STATE OF CALIFORNIA
WORKERS' COMPENSATION RATE STUDY COMMISSION

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SUMMARY

REPORT PAGE EXPLANATION

Every page of the Report is identified with the volume and section number, section name and page number. The only exceptions are the reports prepared by the economic and actuarial sub-contract resources. The following is a detailed explanation of the "Page Header", "Exhibit 2.10" and "Page Footer":

HEADER EXPLANATION:
Lines one and two identify the State and Commission.
Line three identifies the Report volume and individual section number.
Line four is the name of the specific section.

STATE OF CALIFORNIA
WORKERS' COMPENSATION RATE STUDY COMMISSION
REPORT VOLUME II SECTION 2.0
WORKERS' COMPENSATION RATE STUDY COMMISSION MANDATE ANALYSIS

2.7 SELF-INSURANCE

Self-insurance is allowed in California for public agencies and approved private businesses meeting financial and claims processing standards. Self-insured employers must post bonds equal to 135% of their incurred liability, and are required to belong to a self-insurers' security fund that operates on an assessment basis to cover losses of bankrupt self-insurers. Generally between 15% and 25% of private sector payroll comes under self insurance coverage. See Exhibit 2.10, "Portion of Payroll Under WC Self-Insurance California, 1958-Present". Self-insurance coverage appears to rise during times when insurer profitability is high.

EXHIBIT 2.10
PORTION OF PAYROLL UNDER WC SELF-INSURANCE
CALIFORNIA, 1958-PRESENT

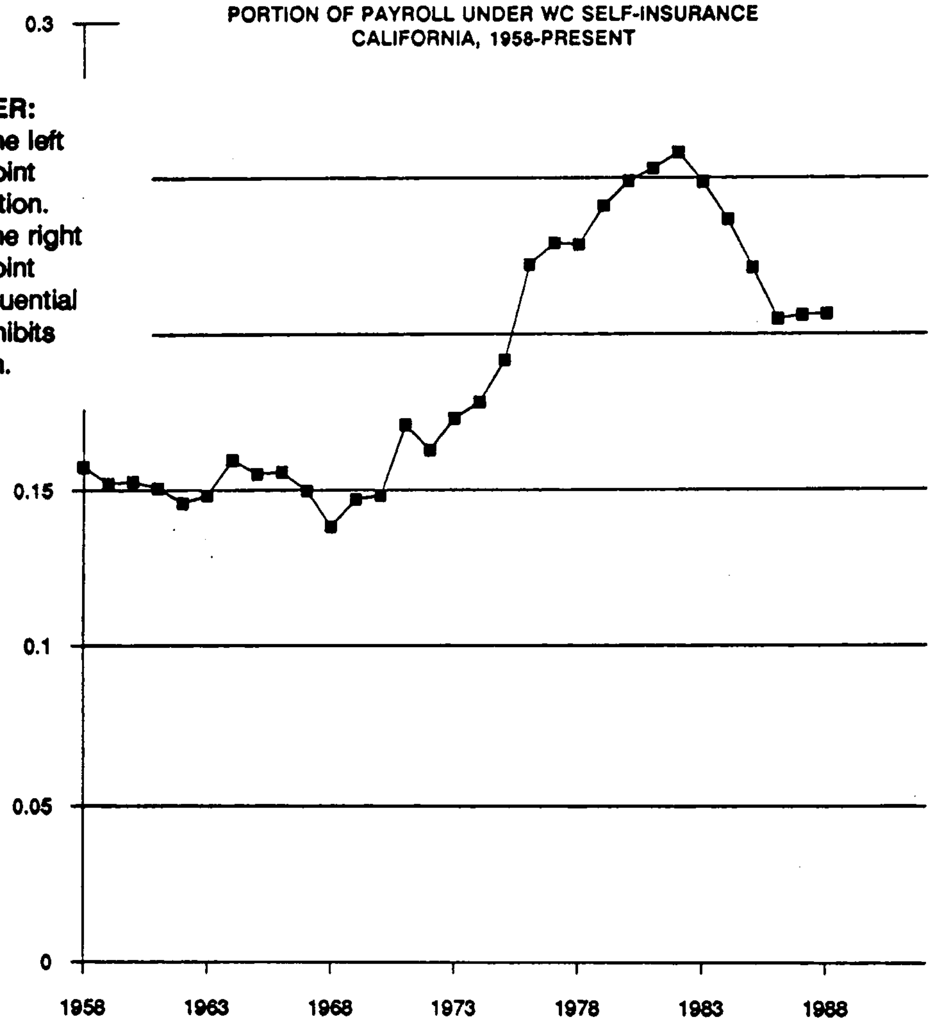

EXHIBIT NUMBER:
The number to the left of the decimal point indicates the section. The number to the right of the decimal point indicates the sequential numbering of exhibits within the section.

PAGE II-2.0-18

PAGE NUMBER EXPLANATION:
Each page is identified with a Roman numeral indicating the volume, the section number and an individual page number. The last number is the consecutive page numbering within the section.

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APPENDICES

SECTION 1.0

COMMISSION PROJECT OVERVIEW

SECTION 1.0

COMMISSION PROJECT OVERVIEW

1.1 COMMISSION OVERVIEW

The Worker's Compensation Insurance Rate Study Commission was established by the California Legislature in September 1989 (Chapter 892 of the Laws of 1989) as part of an overall reform package in workers' compensation.

Pursuant to section 11746 of the Insurance Code, the Commission is mandated to evaluate the California's workers' compensation ratesetting law, and to compare the effects of that law with those produced by alternative ratemaking systems used in other states. In defining the universe of alternative systems, states relying on an exclusive state fund are to be included.

The Commission has two additional statutory functions: To assess whether the functions currently performed by the California Workers' Compensation Insurance Rating Bureau should be transferred to the Department of Insurance, and to determine whether public self-insured employers should be permitted to purchase aggregate excess insurance from legally admitted California insurers.

Assembly Bill 971 appropriated significant funds to the Workers' Compensation Rate Study Commission for the 1991/92 fiscal year to fund staff and consultant positions as well as to pay incidental expenses necessary to achieve goals of the Commission established by the specific statute. The declaration is that AB 971 is to take effect immediately (July, 1991) as an urgent statute.

1.1.1 COMMISSION ORGANIZATION

The statute creating the Commission provided that the Commission is to consist of eight members, four appointed by the Governor, and two each by the Speaker of the Assembly and the Senate Committee on Rules. Commission members are required to be deans or tenured faculty of the schools of business, public policy, or public administration of accredited California universities.

The following Exhibit 1.1, "Members of the Commission" identifies the Workers' Compensation Rate Study Commission membership:

EXHIBIT 1.1
MEMBERS OF THE COMMISSION

DENNIS J. AIGNER, Ph.D., DEAN (Commission Chairman)
University of California, Irvine
Graduate School of Management
Irvine, California

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School of Business & Economics
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School of Business & Economics
Hayward, California

JAMES C. VAN HORNE, Ph.D., PROFESSOR
Stanford University
Graduate School of Business
Stanford, California

The Commission held its first meeting on December 15, 1990. The Commission has held monthly open meetings since that date. The final report deadline of the Commission, originally September 1991 was extended until March 1992. Commencing in January 1992, meetings were held twice a month through the final meeting of March 20, 1992.

1.1.2 COMMISSION MANDATE

The substantive mandate of the Commission follows:

"Insurance Code Section 11746...

The Commission shall evaluate, in its entirety, the present workers' compensation insurance ratemaking process and the relative effectiveness of workers' compensation insurance ratemaking systems in other states, and other similar matters affecting workers compensation insurance ratemaking as the commission deems appropriate. The Commission shall include an analysis of all aspects of the current system by which minimum rates are established in California, including an analysis of the extent to which this system fosters or discourages competition between insurers. It shall include an analysis of the states which use an exclusive state fund to provide workers' compensation insurance to employers, and the advantages and disadvantages of establishing an exclusive state fund in California. It should also include an analysis of whether the functions currently performed by a licensed rating organization should instead be performed by the Department of Insurance.

The Commission shall consider in its evaluation the extent to which the present California workers' compensation ratemaking systems and proposed alternatives meet the following goals:

A. Provides appropriate and expeditious claim services to injured employees.

B. Assures security of the payment of benefits from the insurer to injured workers.

C. Provides financial incentives to insured employers to maintain safe operations.

D. Provides the lowest net cost to insured employers consistent with the protection and services provided and the losses and expenses incurred.

E. Provides a fair and equitable distribution of the costs of the system to insured employers reflecting, to the extent consonant with sound principles of insurance, the actual losses and expenses of individual employers.

F. Encourages availability of insurance to all sizes and classifications of employers to assure a stable, predictable, and competitive insurance market.

G. A reasonable rate of return." (Workers' Compensation Rate Study Commission Mandate, AB 276 Conference Report No. 1, September 15, 1989.)

1.2 COMMISSION STAFF OVERVIEW

1.2.1 CONSULTING PROJECT AUTHORIZATION

Commission staff support services and consulting activities are provided via a contract award by the State of California for the project of "Contract - Executive Director" of the Workers' Compensation Rate Study Commission. In response to a request for proposal, Soper & Associates organization was awarded the contract of "Executive Director". Richard H. Soper (Richard H. Soper, Inc. dba Soper & Associates) and his organization have provided the staff support services for the Commission. The Soper & Associates contractual obligation followed the dismissal of the original Executive Director by the Insurance Commissioner. The Soper & Associates contractual obligation for the consulting project commenced June 18, 1991, with the master contract phase effective July 1, 1991 through May 30, 1992.

1.2.2 CONSULTING PROJECT SCOPE

The scope of the Soper & Associates consulting project is to serve as staff to the Commission. The primary objective of the project involves the California Workers' Compensation Ratesetting Law and provides for an in-depth comparative analysis of the systems used by other states. This analysis is sufficiently complex that a consulting team support staff was required for the Project Manager. The principal charge of the project encompasses effective support service for the Commission and assisting with mandate compliance. Other responsibilities encompassed identified contract tasks and production of the Commission Report.

1.2.3 CONSULTING STRATEGY OVERVIEW

The principal objective of the Soper & Associates consulting strategy proposal is to interface with the identified needs and project objectives of the Workers' Compensation Rate Study Commission mandate. The consulting team is able to draw on broad experience in the overall program analysis concerning the priority of socio-economic considerations regarding the various stakeholders interest.

The Principal of Soper & Associates, Richard H. Soper, CMC, served as the Contract - Executive Director for the Commission and operates as the consulting Project Manager. His technical responsibilities include:

Commission Liaison, Project Management, Representation of Commission in Speaking, Communications and Reporting Activities as Warranted as well as Risk and Insurance Management Overview Coordination.

The following Exhibit 1.2, "Members of the Commission Staff" identifies the Soper & Associates Commission Project members, team assignments, academic degrees and professional designations:

EXHIBIT 1.2
MEMBERS OF THE COMMISSION STAFF
SOPER & ASSOCIATES

Consulting Team:

RICHARD H. SOPER, B.A., CMC, CSP, Executive Director
Principal (Los Angeles area)
Project Manager

GLENN M. SHOR, Ph.D., M.P.P., B.S.
Senior Associate Consultant (San Francisco area)
Assistant Project Manager

SUSAN M. WRIGHT, J.D., B.S.
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BENJAMIN K. DAVIS B.S., (M.P.P. candidate)
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Assistant Director of Administration (Los Angeles area)

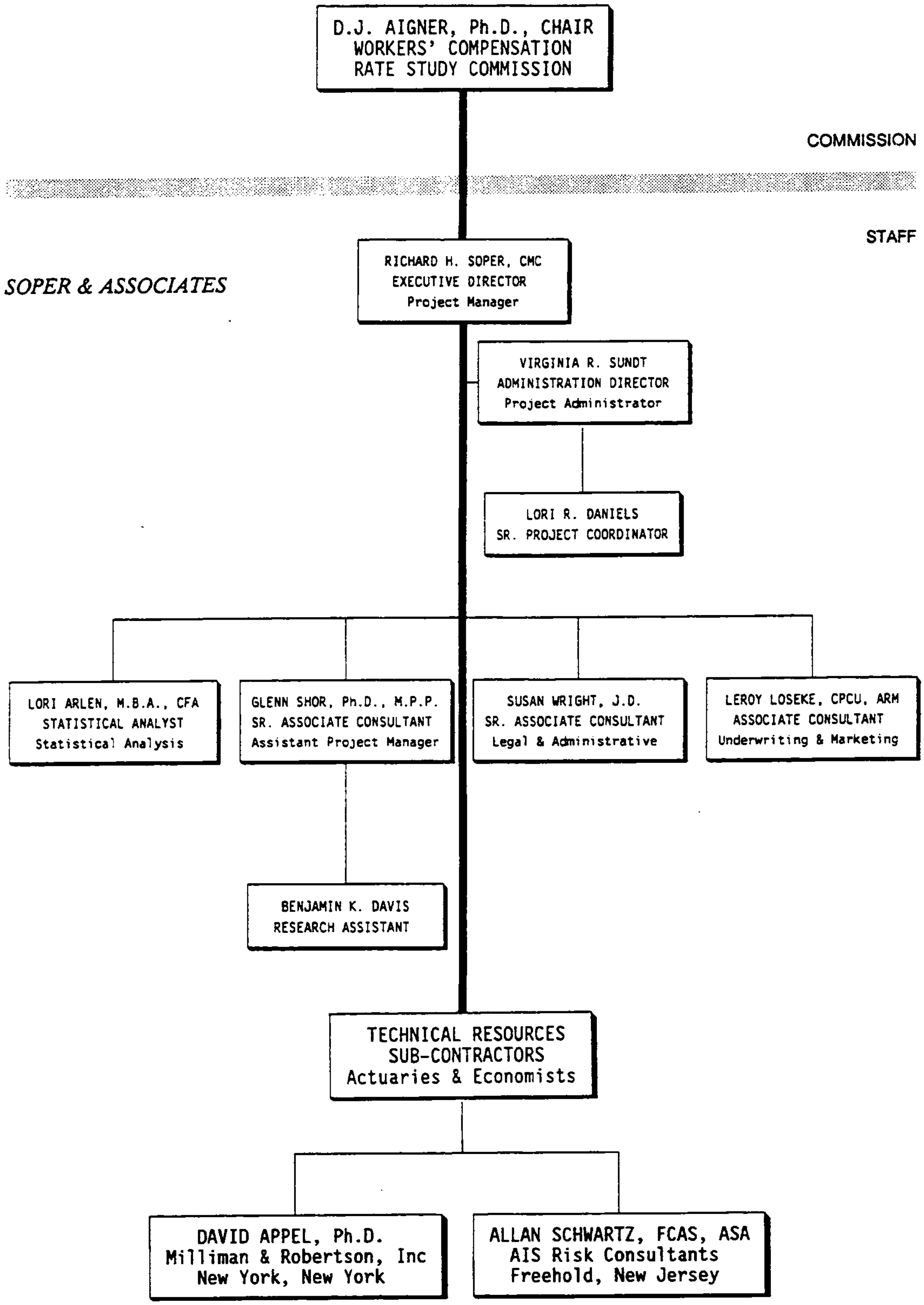
JOAN E. ALLINSON
Project Coordinator (Los Angeles area)

CAROL J. SAKANASHI
Project Coordinator (Los Angeles area)

1.2.4 CONSULTING TEAM OPERATIONAL STRATEGY

In order to illustrate clearly the Commission consulting staff operational strategy, an organizational chart has been developed to identify reporting authority as well as responsibilities. The chart, "Commission Staff Organizational Chart", depicts chain of command and responsibility to the Commission, as well as providing for technical resource capabilities.

EXHIBIT 1.3
COMMISSION STAFF ORGANIZATION CHART



1.2.5 CONSULTING TECHNICAL RESOURCES

Additional assistance in the form of technical resources was considered necessary from such experts as actuaries or economists who were retained as subcontractors to the Soper & Associates consulting organization and are identified as follows:

DAVID APPEL, Ph.D. (Project Manager)
Director - Economic Consulting
Milliman & Robertson, Inc.
New York, New York

Senior Support Staff:
Michael A. McMurray, F.C.A.S., Principal
Mark W. Mulvaney, F.C.A.S., Consulting Actuary

ALLAN I. SCHWARTZ, FCAS, ASA, MAAA, FCA (Project Manager)
President
AIS Risk Consultants, Inc.
Freehold, New Jersey

Senior Support Staff:
J. Richard Boer, CPCU, Associate Actuary
Marianne E. Papay, Assistant Actuary

1.2.6 MILLIMAN & ROBERTSON, INC. SUB-CONTRACT SCOPE

The Commission Approved Study was under the direction of David Appel, Ph.D., Director - Economic Consulting and the sub-contract within the study involved the following scope of work:

1.0 Initial Review of Ratemaking Systems

Contractor will provide overview of alternative ratemaking and ratesetting systems currently in use in U.S. Narrative will include description of various kinds of ratemaking systems including: 1) administered pricing, with and without deviations allowed; 2) competitive rating, with bureau advisory rates and with pure premiums; and 3) systems utilizing exclusive state funds without rating bureaus for ratesetting. States will be categorized into groups, with discussion of similarities and differences within and between groups.

Contractor will describe the operation of workers' compensation insurance ratesetting program under various scenarios corresponding to categories above. Contractor will survey a subsample of interest groups involved in and/or affected by ratemaking to determine opinions and perceptions of how changes in current system would be felt. Groups surveyed will include random samples of regulators (both in and out of California), insured businesses, insurance companies, service providers, and industrial accident agencies/workers' compensation agencies. (Survey may include questions to injured workers, if appropriate and doable.) If randomization is impossible, contractor will provide Commission with documentation of attempts to randomize selection, and perception of bias in sample, if any. Survey will concentrate on perceived effects on interest groups of changes, including effects on availability of coverage, costs of coverage, levels of service, incentives for health and safety, rate competition, dividend competition, claims service, solvency of carriers, and distribution of cost. Narrative will describe priorities for various interest groups, and group perception of which alternatives lead to favorable or unfavorable outcomes. Report will be in form of narrative with matrices explaining viewpoints of interests.

Contractor will provide Commission with description of sampling technique and copies of all completed survey forms (hard copy and computer data received from respondents. (Confidentiality may be assured by removing personal identifiers, if necessary.)

2.0 Net Cost of Workers' Compensation Insurance

The contractor will investigate and report on factors that contribute to the net cost of workers' compensation insurance in a sample of 15 states comprising the bulk of the national workers' compensation market. States should be representative of the various categories of ratemaking cited in (A) above. Using existing published academic analyses comparing state costs of compensation systems, contractor will attempt to investigate the degree to which injury rates, levels and utilization rates of workers' compensation benefits, the type of rating system, macroeconomic variables, socio-political factors and other factors influence average net employer costs of compensation insurance. To the extent possible, measures of injury rates will include both frequency and duration of various types of injuries (lost-time, medical only, etc) as reported to state and federal labor statistics bureaus, and frequency of workers' compensation claims. Measures of workers' compensation benefits will include both statutory and actual claims paid estimates. Contractor will enumerate and describe potential sources of error and/or bias from the inclusion or omission of certain types of data from these calculations. Data used in the analyses will be made available to members and staff of the Commission for review purposes.

3.0 Rate of Return

Contractor will analyze statewide rate of return (profitability) for workers' compensation insurance carriers in 13 states utilizing private insurance coverage and surrogate measure of profitability for 2 exclusive state fund states. Analysis will be done for each state for ten years of calendar year results comprising, as nearly as possible, the years 1981-1990. Methodology used will be to compute post-tax underwriting, operating, and total returns attributable to workers' compensation insurance for the period, and to convert total return to a return on net worth. Contractor will discuss methodology for allocating investment income to line of insurance for individual states. Profitability estimates should be presented so as to determine the effect of dividends, underwriting profit (or loss) and investment income effects on rate of return. Analysis of profitability should include narrative that contrasts rates of return found by contractor with rates of return reported by National Association of Insurance Commissioners in their most recent annual Report on Profitability by Line By State. Contractor shall highlight and explain discrepancies between the two results, with respect to differences in accounting for investment income, tax treatment, and other factors identified by the contractor as appropriate. Contractor will provide Commissioners and Commission staff with data used for the analysis for purposes of review and independent analysis.

4.0 Financial Incentives for a Safe Workplace

Contractor will evaluate financial incentives attributable to experience rating plans through conduct of two-stage analysis. The contractor will describe and evaluate the experience rating plans in use by the National Council on Compensation Insurance for states under its jurisdiction and for independent bureau states. The contractor will summarize the factors and present the information for a broad sample of states. Factors analyzed will include: qualifying threshold and extent of change in threshold over prior decade; weight attached to employer's experience, determined by size or risk level of employer; use of primary versus excess losses, formula for computing the modification factor; and the extent to which nonpreventable injuries and/or random events (i.e. murder of employees, automobile fatalities) are or are not reflected in an individual employer's experience modification plan. The contractor will discuss the similarities and differences between experience rating plans, and evaluate from a theoretical perspective the implications of the alternatives on safety incentives. The contractor will discuss the role of a rating bureau with respect to experience rating plans in states that have gone to open competition, and/or have otherwise restricted the role of the rating bureau (such as Michigan). The contractor will comment on experience rating plans that allow small employers to participate in the plan, such as that in the State of Washington.

Assuming data availability, the contractor will attempt to ascertain the predictive accuracy of the experience modification factor for a selected sample of employers by comparing predicted losses with actual experience that emerged. The contractor will then attempt to ascertain which if any alternative models of experience rating would have better predictive accuracy, and whether premium threshold levels for eligibility for experience modification could be reduced to encourage more safety incentives. If data are not available for this empirical investigation, a theoretical analysis of experience modification will be done by modeling the modification inherent under various existing experience rating formulas. This analysis would include a cross-section of employers with respect to classification, payroll levels, and past loss experience.

The contractor will also furnish the Commission with summary information describing the extent to which states encourage or utilize other forms of financial incentives relating to health and safety. Specifically, the contractor will furnish listings of states that use: schedule rating plans, and the extent of use of such plans including payroll or premium thresholds, classification restrictions, etc; states that use dividends as an incentive for safety, and states that use other deviations in rates to promote safety.

5.0 Availability of Workers' Compensation Insurance

The contractor will provide the Commission with tables and/or original source material to assist Commission staff in conducting an analysis of market availability of compensation insurance in various states during the past decade. Such information may include data on market conditions over past 10 years in states identified for focus above. Such data will assist in determining the extent of the assigned risk pool and other market performance measures in workers' compensation for states that both have and have not switched from administered to competitive pricing.

1.2.7 ALLAN SCHWARTZ, AIS RISK CONSULTANTS, INC. SUB-CONTRACT SCOPE

The Commission Approved Study was under the direction of Allan I. Schwartz, FCAS, ASA, MAAA, FCA, President and the sub-contract within the study involved the following scope of work:

1.0 Technical Aspects of Manual Rate Level Calculation

Contractor will evaluate procedures used in California to analyze several factors critical to ratemaking calculation, including: a) loss development; b) trend factors; c) benefit level analysis; d) expense loadings; and e) underwriting profit provision. The analysis would investigate other factors relevant to setting the overall rate of compensation insurance rates, including investment income, and dividends provisions. The contractor will compare and contrast the system of rate level calculation used in California with that of other states to highlight differences and similarities, and to evaluate the impact of specific differences.

2.0 Procedural Aspects of Rate Analysis

The contractor would assess the degree to which rating statutes are implemented in various jurisdictions, including California. For a sample of states, the contractor will: a) determine which parties are involved in the rate adjudication process (e.g., insurance carriers, rating bureau, insurance department, attorney general, public advocate, other intervenors); b) the role played by the insurance commission or department (party, decision maker, both); c) the time frames involved in analyzing the filing,; d) data required by the regulator for submission in support of the filing, or required during review; e) analytic standards required to be followed in determining decision (e.g. how is investment income considered, how much does experience of competitive state fund get considered); and f) the degree to which rate requests have been approved or disapproved in past.

3.0 Data Base Available to Analyze Needed Rates

Contractor will review and describe data available for use in analyzing workers' compensation rates in California. Data evaluated will include: a) financial data (e.g. losses and expenses, useful in determining what rate levels should be); b) unit classification data; c) injury table distributions (useful in determining effects of changes in law); d) detailed claim information (to determine reasons that costs are at given level); and e) other special data collection. Contractor will also research data used in other states that might be useful in determining need for rate changes.

4.0 Rating Systems that Encourage Safety and Health

Contractor will review, describe and evaluate the rating plans already in existence in California, especially as they pertain to giving incentives for health and safety activities and improved outcomes. The contractor will focus especially on plans that create financial incentives for small and medium sized employers. The contractor will review and evaluate rate plans in existence in other states that directly affect safety incentives. The contractor will evaluate other factors that have impact on premium such as individual risk rating plans, policyholder dividends, and other plans, except for experience rating.

5.0 State Funds

Contractor will describe the operation of six exclusive state funds for workers' compensation operating in U.S., with respect to financial condition, level of rates, rate changes in recent years, and other factors related to service. A comparison of exclusive state fund operation with the operation of competitive funds will also be made.

6.0 Self-Insurance

Contractor will review, describe and evaluate how self-insurance functions in California, with respect to eligibility of individual and groups of companies, restrictions on self-insurance, regulatory requirements of self-insurance such as minimum security depositions and reinsurance, and trends in self-insurance. Contractor will contrast and compare California experience with that of other states.

7.0 Inter-Company Profitability

Contractor will analyze profitability of workers' compensation carriers within California to determine whether profits earned were relatively uniform across all companies or if some companies consistently did better than others. The contractor will analyze differences to determine whether variations in profitability, if any, were due to any particular aspect (e.g. losses, expenses, investment income, dividends) of the companies' operation.

The contractor will work with Commission staff in designing a survey for mailing to state insurance and worker compensation officials to collect primary data for use in sections 1-4. Staff will assist contractor in mailing survey forms and compiling information as it comes in. Contractor will present interim results of surveys and other analyses at regular meetings of the Commission, will be available for questions, and will provide up to three days of consulting time to assist Commission staff, as needed, in conducting financial or market performance analyses.

1.3 COMMISSION REPORT

1.3.1 COMMISSION REPORT OVERVIEW

The Workers' Compensation Rate Study Commission Report is formulated in three major divisions which are organized in five volumes as follows:

Commissioner's Report
Volume I
Executive summary, recommendations, findings and conclusions.

Commission Staff Report
Volumes II and III
Commission staff report encompassing supportive information, comparative data, research and public meeting minutes (Appendix).

Sub-Contract Resource Reports
Volume IV
Reports of the retained sub-contract consultant, Milliman & Robertson, Inc.
New York, New York
Volume V - Reports of the retained sub-contract consultant, AIS Risk Consultants, Inc.
Freehold, New Jersey

1.3.2 COMMISSION REPORT CONTENTS

The following topical outline overview exhibit has been prepared representing the Commission Report and is organized by report volume and indicated primary sections and appendices. The Exhibit 1.4, "Commission Report Contents Overview" follows:

EXHIBIT 1.4
COMMISSION REPORT CONTENTS OVERVIEW

VOLUME I
EXECUTIVE SUMMARY REPORT
DENNIS J. AIGNER, Ph.D., CHAIRMAN

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SUB-CONTRACT RESOURCE REPORT
AIS RISK CONSULTANTS, INC.

1.3.3 COMMISSION REPORT ORGANIZATION

The Workers' Compensation Rate Study Commission Report is organized as follows:

	Pages	Sections	Exhibits
Volume I Executive Summary	152	11	23
Volume II Commission Staff Report Soper & Associates	426	15	197
Volume III Commission Staff Report Soper & Associates	426	4	17
Volume IV Sub-Contract Resource Report Milliman & Robertson, Inc.	256	7	71
Volume V Sub-Contract Resource Report AIS Risk Consultants, Inc.	524	10	269
Total	1,784	47	577

1.3.4 COMMISSION REPORT REPRODUCTION PERMISSION

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It is requested that appropriate acknowledgement be given to the Workers' Compensation Rate Study Commission when subject material is used or referenced.

1.3.5 COMMISSION REPORT DISTRIBUTION

Assembly Bill 971 provides the distribution of the report as required by Legislation. The Commission, in public meeting, authorized distribution to certain workers' compensation stakeholders. In addition, certain states (insurance commissioners, workers' compensation administrators and rating bureaus) who responded in depth to the project questionnaires were also assured a copy of the Commission Report.

1.3.6 PURCHASE OF COMMISSION REPORT

The California Open Meeting Laws concerning public documents sales and open meetings allow for recovery of printing, distribution and associated overhead expenses which are outside the project contract obligation. Consequently, additional copies of the report may be purchased. The purchase price simply includes printing, associated overhead expenses, packing and distribution expense as well as State of California sales tax. Note that no expenses associated with project administration, such as overhead or research are included in the price of reproduced Commission Reports which are for sale.

Requests may be made for copies of the Commission Report from:

Request by Mail directed to:

Richard H. Soper, CMC, Executive Director
Workers' Compensation Rate Study Commission
Soper & Associates
P. O. Box 3727
Palos Verdes Peninsula, CA 90274

Telephone: (310) 544-4049

OR

Request by FAX directed to:

Richard H. Soper, CMC, Executive Director
Workers' Compensation Rate Study Commission
Soper & Associates
FAX Number: (310) 544-0498

The purchase price of one set of the Commission Report shipped (five volumes and approximately 1,784 pages, 47 sections and 577 exhibits) is $146.00 which includes packing and distribution cost and sales tax. All checks should be made payable to "Soper & Associates". The purchase of the Commission Report set is subject to prepayment prior to shipping.

IMPORTANT: Please note that the Commission Report price is subject to change without notice due to possible fluctuations in reproduction and distribution cost factors.

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SECTION 2.0

COMMISSION MANDATE ANALYSIS

SECTION 2.0

WORKERS' COMPENSATION RATE STUDY COMMISSION MANDATE ANALYSIS

2.1 MANDATE OVERVIEW

The Workers' Compensation Rate Study Commission was established by the California Legislature in September 1989 (Chapter 892 of the Laws of 1989) as part of an overall reform package in workers' compensation. Pursuant to section 11746 of the Insurance Code (amended in 1991), the Commission is mandated to evaluate the present workers' compensation insurance ratemaking process and the relative effectiveness of workers' compensation insurance ratemaking systems in other states.[1] The Commission is faced with analyzing all aspects of the current system by which minimum rates are established in California, including an analysis of the extent to which this system fosters or discourages competition between insurers. The commission is mandated to closely analyze those states which use an exclusive state fund to provide workers' compensation insurance to employers, and the advantages and disadvantages of establishing such an exclusive state fund in California.

The Commission is also asked to recommend whether the functions of the private Workers' Compensation Insurance Rating Bureau (WCIRB), a self-regulated insurer-run data collection, classification, and adjudicative organization, should instead be performed by the State Department of Insurance. Finally, the Commission is expected to address whether public agencies in California should be allowed to purchase aggregate excess reinsurance from insurance companies permitted to sell other coverage in the state.

The Commission was included in the Workers' Compensation Improvement Act of 1989 as part of legislation taking a comprehensive look at the problems and successes of workers' compensation. The act combined benefit increases in some areas with cost controls in others, and attempted to establish an increased administrative role for the state. The act established an internal medical review system to scrutinize the cost and quality of industrial medical and disability evaluation services. The law imposed the first restrictions on mental stress claims by requiring they be at least 10% caused by work. Performance standards for insurer operations were established along with a public audit and enforcement unit in an attempt to reverse a dismal record by carriers and self-insurers on expeditious claims handling. For the first time in legislation, insurers helped to finance benefit improvements by taking a reduction on their authorized overhead expenses. The measure also temporarily restricted the Insurance Commissioner from ruling on what overhead expenses would be allowed insurers; over a three year period, the percentage of premium allocated to expenses would be incrementally lowered from 35% to 32.8%. Insurers retained the minimum rate law and the prior approval insurance ratemaking system, and the mixed system of public and private insurance carriers. The Commission was created to study whether improvements or changes in the ratemaking and insurance regulation areas were feasible and desirable.

2.2 WORKERS' COMPENSATION RATE STUDY COMMISSION GOALS

In establishing the Workers' Compensation Rate Study Commission, the California Legislature of 1989 viewed the workers' compensation insurance system as having the following goals: provide secure, appropriate and expeditious claim services to injured employees; provide financial incentives to insured employers to maintain safe operations; provide services efficiently; fairly and equitably distribute the costs of the system to insured employers reflecting, to the extent feasible, the actual losses and expenses of individual employers; encourage availability of insurance to all sizes and classifications of employers to assure a stable, predictable, and competitive insurance market; and allow reasonable rates of return to insurers.[2]

The Workers' Compensation Rate Study Commission is expected to compare the present system with various alternatives and to make recommendations for reform, if needed. The alternatives range from advocating an increased state role in the entire system of workers' compensation to those advocating a reduced role. The Commission is asked to make judgements regarding whether to eliminate private insurance and institute social insurance in workers' compensation through an exclusive state fund to cover all workers' compensation insurance in the state. The Commission is mandated to determine whether the benefits of maintaining a regulated cartel of the insurance industry continues to outweigh the disadvantages, or whether the role of the data gathering and statistical agency should be taken over by a state bureau. The Commission is also asked to assess other states' experiments in the deregulation of insurance premium rates, and discuss whether California should change its minimum rating law to allow insurers to adjust prices to market conditions rather than being governed by strictly regulated rates. Thus, the mandate requires an assessment of significant segments of not only the California workers' compensation system, but of the rest of the country as well.[3] In order to make such an assessment, it is necessary to have some context for evaluation. For any such public program, there is a need to determine if the system has an overall policy direction and whether it is progressing toward its goals. Workers' compensation is a complex policy arena, with multiple and potentially conflicting goals, many of which are beyond the scope of the commission.

2.2.1 HISTORICAL BACKGROUND

This is not the first time that California has considered the issue of regulating workers' compensation insurance rates. In 1913, the California Industrial Accident Board (IAB) studied various systems of insurance oversight and decided to attempt regulation through public enterprise competition.[4] Seeing private insurers as an obstacle to successful implementation of the compensation law, the Board cited examples in Wisconsin, where a mutual insurance association was organized under the laws of the state, and in Michigan, where a "tentative, optional" state insurance fund was set up. The Board concluded that competition with private insurance carriers could equalize rates for compensation and liability coverage; a state-run insurance carrier would stand "ready to accept all risks brought to it at what it costs the State to do the business, leaving the field free to other responsible carriers to operate with so much of profit as they may be able to make by doing the business more efficiently and at less cost than the State can do it."[5] The IAB stressed that "the State should invade the sphere of private enterprise" in order to secure "just rates for employers and just treatment for injured workers."

The proposed State Compensation Insurance Fund (SCIF) would be assisted by a State Workmen's Compensation Insurance Rating Bureau (WCIRB) to provide advisory rates, with the intent "that the insurance rates shall be the most effective police force for making places of employment safe." Instead of a large bureaucracy, SCIF would be small, with an annual budget of $68,000, and a 25 person staff. The WCIRB would operate with little additional staff (four clerks and two stenographers) on a $12,500 annual budget.

2.2.2 INTEREST GROUP RESPONSE

A. INSURERS

Large insurers tried to scuttle the State Insurance idea before it had a chance to prevail. Soon after the release of the IAB proposal, the Aetna Life Insurance Company (the state's second largest liability insurer in 1912) sent letters to agents and other insurers urging vigorous opposition to the measures. "If you are selling casualty insurance, do you intend to sit idly by and allow the State to establish a business which eventually will abolish this source of income for you?" Aetna raised the specter that successful encroachment in the compensation area would eventually lead to State insurance in all other areas as well. Aetna predicted that if the 100,000 people "interested" in the insurance business in California were to unite, that State insurance could be defeated. Insurer representatives sought to ally themselves with employers by charging that the employees' interest in the workers' compensation area was to see "how much he can get out of the industries of California."[6]

B. EMPLOYERS

Perhaps spurred by the accident insurers, the California Employers Federation was set up in early 1913 by large employers to "pull the teeth" from the compensation act and other Labor bills pending in the Legislature.[7] Among other amendments to the compensation provision, the employers proposed that indemnity benefits pay 50% rather than 65% of lost wages. Several conservative newspapers around the state kept up an attack on the Boynton bill after its introduction. The San Diego Union called it "a sop to the Labor Unions."[8] The Los Angeles Times said the bill would "paralyze production in California and perpetuate the stranglehold of the State political machine."[9] And the San Francisco Chronicle criticized the plan as a dangerous scheme to centralize power in the proposed Industrial Accident Commission (IAC).

C. LABOR

Labor was extremely pleased by several parts of the IAB proposal, particularly those concerning insurance and safety regulation. In arguing for an alternative source of compensation insurance coverage, the San Francisco Labor Council charged that the private casualty insurers had dictated employment practices for employers, frequently calling upon them "to discharge workers who refused to allow the insurance adjusters to defraud them out of compensation." The inclusion of a state fund would allow employers to take out insurance at fair rates. The establishment of the safety department, moreover, would be "tantamount to the passage of hundreds of minor safety acts," enabling the IAC "to regulate industries as effectually as the Railroad Commission regulates public utilities."[10] For this and other reasons, organized labor, represented by the State Federation of Labor, saw the Boynton bill as the "greatest achievement" of the 1913 session.

2.3 THE POLICY DEBATE IN WORKERS' COMPENSATION

During its introduction as the country's first social insurance mechanism, workers' compensation was justified as making both economic and public health sense as a program providing substantial financial incentives toward injury prevention in the workplace. By making employers internalize the costs of occupational injuries through allocating the cost of accidents among industrial groupings and then among firms within those groupings, the system had the theoretical potential to make more hazardous industries and firms pay more for their compensation coverage. But methods to allocate the costs were flawed in that they were slow to respond to, and thereby reward, improvements in workplaces by employers and workers.

In economic terms, the system was only efficient when the social costs of injury were allocated to the responsible parties. When large groups of workers, or types of injuries, were excluded from coverage, or when income or medical benefits only covered a limited portion of lost wages or bills, the system cost too little to provide appropriate incentives for prevention. On the other hand, if the system was beset by high administrative overhead, fraud and abuse, and injuries that were not caused by work, it might be costing employers too much, and thus not allow an efficient allocation of resources. Increased costs of compensation might distract from spending money preventatively.

As long as individual states controlled the coverage, benefits, and administration of workers' compensation programs, there was also opportunity for the systems to be used in a perversely competitive manner; the danger was that individual states would keep benefits and coverage down to keep down costs, and thereby attempt to attract employers.

2.3.1 FEDERAL POLICY TOWARD WORKERS' COMPENSATION

In August of 1968, a confidential report to the Council of Economic Advisers (CEA) focused on disabled workers' access to medical services, maintenance of income after disability, and on workers' incentives to return to the labor market after disability. The CEA task force detailed alternatives to the existing systems, including federal minimum standards, and complete federalization of the state systems, and called for more research.[11] In 1969, Senator Jacob Javits and Representative Podell introduced companion measures calling for a national study of the state workers' compensation experience.[12] Under the direction of Arthur Larson, a former Undersecretary of Labor, a committee of the Council of State Governments drafted a "model" compensation act encompassing many of the same recommendations, but, by 1972, no state had chosen to adopt the act.

Prior to 1970, the U.S. Department of Labor, the International Association of Industrial Accident Boards and Commissions (IAIABC), and other national groups had recommended minimum standards for state workers' compensation programs, which were intended to promote wide coverage, adequate income protection, provision of medical care, and health and safety incentives, and reduce differences among states. But these recommendations had no enforcement provisions; by 1972, states only met an average of eight out of 16 standards promulgated by the Labor Department. Wide variation among the states was also cause for concern; while nine states met 13 or more recommendations, 10 states met four or fewer. Compliance with recommendations of the IAIABC, an organization made up of state officials, was only marginally better; states averaged about 14 of 22 standards.

The failures of state compensation programs as effective forces toward preventing occupational injury and illnesses convinced an activist Congress to push for federal intervention. It found that in light of the growth and changing nature of the labor force, increases in medical knowledge, changes in the hazards associated with various types of employment, new technology creating new risks to health and safety, and increases in the general level of wages and the cost of living, serious questions concerning the fairness and adequacy of existing state compensation programs were being raised. In recognizing the links between the preventative and rehabilitative aspects of workers' overall health and safety, Congress saw that any federal intervention into standards of job health and safety would need to address the aftermath of injuries and illnesses as well.[13]

Congress declared that the "full protection of American workers from job-related injury or death requires an adequate, prompt and equitable system of workmen's compensation as well as an effective program of occupational health and safety regulation."[14] The bill was amended, in toto, into the Occupational Safety and Health Act (OSHA) of 1970. In order to determine whether the state laws were providing this "adequate, prompt, and equitable system of compensation" for work-related injury or death, Congress adopted the Javits-Podell proposal for more research and established a 15-member National Commission, appointed by the president, with broad interest group representation.[15]

In its final report, the National Commission on State Workmen's Compensation Laws, identified five major objectives for a modern workers' compensation system:

A. Broad coverage of employers and of work-related injuries and diseases

B. Substantial protection against interruption of income.

C. Provision of sufficient medical care and rehabilitation services

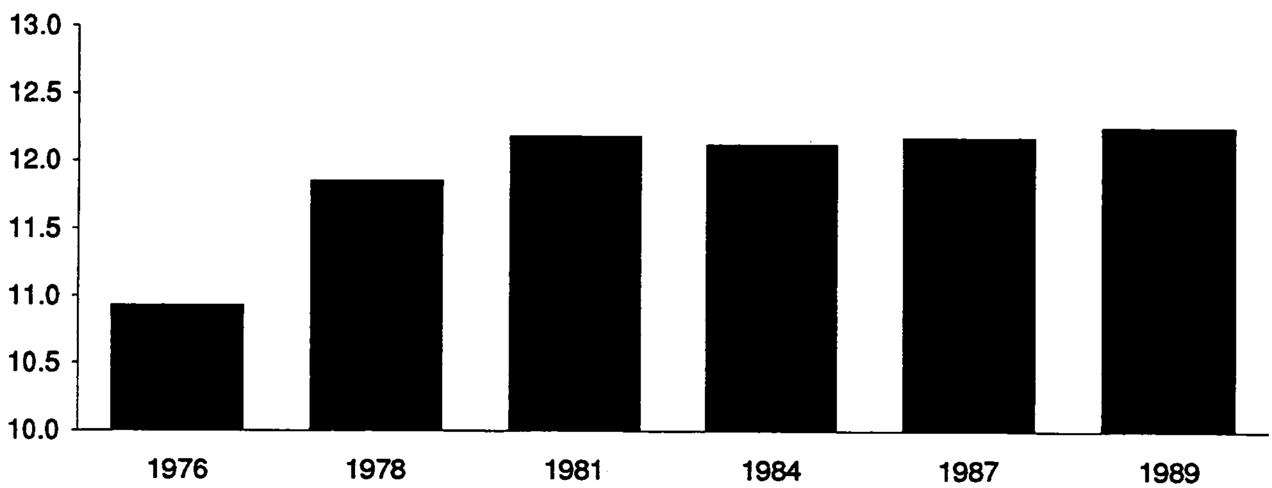
D. Encouragement of Safety

E. An effective system for delivery of the benefits and services

The report stated that existing compensation systems failed to provide comprehensive and adequate benefits to workers in a timely and efficient manner. The Commission proposed minimum standards for state programs and recommended that if states could not improve their workers' compensation systems, then federal control over that sphere should be the next step.[16] It recommended that Congress wait until 1975 before taking action.

The outcome of the National Commission was a period of voluntary state progress toward implementation of essential recommendations, and general expansion of state systems. But, in more recent years, there has been an erosion in the progress toward meeting the National Commission standards. For further clarification refer to Exhibit 2.1, "Average Number of National Commission Recommendations Fulfilled (out of 19) by 50 States". The trend in Workers' Compensation policy has been to change the focus away from the benefit expansion characteristic of the 1970s and toward cost control. Congressional proposals to require implementation through federally mandated minimum standards have not been successful.

EXHIBIT 2.1
AVERAGE NUMBER OF NATIONAL COMMISSION RECOMMENDATIONS FULFILLED (OUT OF 19) BY 50 STATES



A comparison of goals set by the National Commission and those of the California Rate Study Commission is found in Exhibit 2.2, "Comparison of Goals Set by National Commission and California Rate Study Commission" located on the following page.

EXHIBIT 2.2
COMPARISON OF GOALS SET BY NATIONAL COMMISSION AND CALIFORNIA RATE STUDY COMMISSION

	National Commission on State Workmen's Compensation Laws	California Workers' Compensation Rate Study Commission
Coverage	Broad coverage of employers and of work-related injuries and diseases	Not specifically addressed
Income Benefits	Substantial protection against interruption of income.	Not specifically addressed
Medical Benefits	Provision of sufficient medical care and rehabilitation services	Not specifically addressed
Claims Service	Not specifically addressed	System should provide secure, appropriate and expeditious claim services to injured employees
Safety Incentives	Encouragement of Safety	It should provide financial incentives to insured employers to maintain safe operations
Insurance Issues	Not specifically addressed	The system should encourage availability of insurance to all sizes and classifications of employers to assure a stable, predictable, and competitive insurance market It should fairly and equitably distribute the costs of the system to insured employers reflecting, to the extent feasible, the actual losses and expenses of individual employers
Effective and Efficient Benefit Deliery	• An effective system for delivery of the benefits and services.	It should provide services efficiently

2.3.2 RECENT FEDERAL PROPOSALS ON WORKERS' COMPENSATION

A newly proposed "Comprehensive Occupational Safety and Health Reform Act," (HR 3160) attempts to revive the national debate of how to improve occupational safety and health. The bill includes another federal Workers' Compensation Commission with responsibility to review the recommendations of the National Commission on State Workers' Compensation Laws to determine the extent to which recommendations were implemented, and to determine whether there are barriers to implementation, and whether the original recommendations are still appropriate. This Commission would also be expected to study the feasibility of utilizing workers' compensation data to target loss prevention activities on high risk occupations, and "...the relationship between workers' compensation, safety and health programs, and insurance rates and service."[17]

2.3.3 THE PROBLEM OF DATA AVAILABILITY

A lack of data presents a special problem for the formation of Workers' Compensation policy. There are no single integrated data sources currently available on workers' compensation; a lot of information is collected in a scattered manner. Systems at both state and federal levels, in the public and private sector, take in information on type and severity of injury, description of the accident, medical care provided and cost thereof, indemnity benefits paid, rehabilitation services rendered and success thereof, costs of litigation, insurer expenses, process of claims handling, litigation process and costs, etc. But the administration and oversight of workers' compensation programs are decentralized; information is collected at many points by diverse public and private agencies, and little is systematically combined or analyzed. In California, there is no unified tracking system of a compensation claim, like there is for other social welfare programs in this state, such as state disability insurance, or like workers' compensation programs in other states, such as the state of Washington.

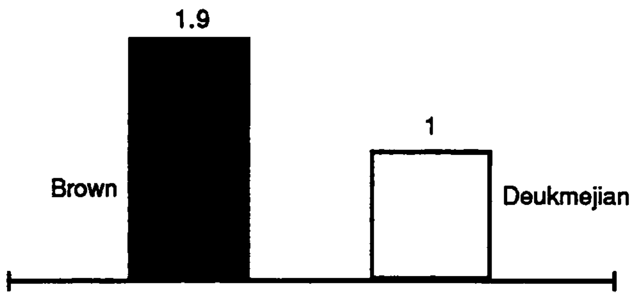
2.4 THE PRESENT RATEMAKING PROCESS IN CALIFORNIA

The workers' compensation insurance ratemaking process in California includes phases of data gathering, data analysis, classification of businesses, actuarial projection, assessment of market conditions and competitive forces, and determination of final approved rates for all insurance carriers. Individual insurance carriers submit standardized data on claims against their insured businesses to a central insurer-operated private rating bureau, whose function is to assist the state insurance commissioner in determining final rates for workers' compensation insurance. The bureau tabulates the claims and expenses data into preapproved industrial classifications; determines aggregate levels of ultimate costs and revenues by applying various techniques of actuarial and financial analysis; adjusts changes due to newly enacted legislation, administrative rule and judicial orders; and, presumably based on this analysis, makes recommendations for changes in overall rates, and between categories of work. These recommendations are submitted to the Insurance Commissioner for review, and upon approval, rates to policyholders are adjusted by individual carriers.

Data from the early 1970s to the present helps to illustrate the ratemaking process in California. The formal public review of proposed changes occurs in a narrow time period that typically begins with the end of the Legislative session in mid-September and ends with the promulgation of new rates as of January 1. On or about September 20, the Workers' Compensation Insurance Rating Bureau files a letter with its recommendations to the Commissioner. Along with the rate filing, the Bureau submits, under letterhead of the Department of Insurance, a regulatory document called the "Initial Statement of Reasons." A hearing date is set and notices sent to those who have been involved in the process before, and to those on the Insurance Commissioner's formal mailing list. The Commissioner usually holds a public hearing about a month later, and makes a decision within another 6 weeks. The process is exempt from the Administrative Procedures Act (APA), because its function is setting rates, prices, or tariffs. Thus, there are no strict procedures like those required of regulatory action under the APA. As a contrast, under the APA, it usually takes 9 months from notice to decision. The average time between notice of the filing and final decision in workers' compensation ratemaking cases between 1983 and 1990 was 65 days.

As seen in Exhibit 2.3, "Average Number of Hearings Prior to Rate Decision by Administration" the number of public hearings per rate change application dropped by half during the Deukmejian Administration, compared to the earlier Brown Administration. Exhibit 2.3 is located on the following page.

EXHIBIT 2.3
AVERAGE NUMBER OF HEARINGS PRIOR TO
RATE DECISION BY ADMINISTRATION



The time spent evaluating the evidence presented (days between public hearings and decision by the Insurance Commissioner) also dropped considerably during this period. Identified on the following chart, Exhibit 2.4, "Average Number of Days Between Public Hearing and Rate Decision by Administration".

EXHIBIT 2.4
AVERAGE NUMBER OF DAYS BETWEEN
PUBLIC HEARING AND RATE DECISION BY ADMINISTRATION

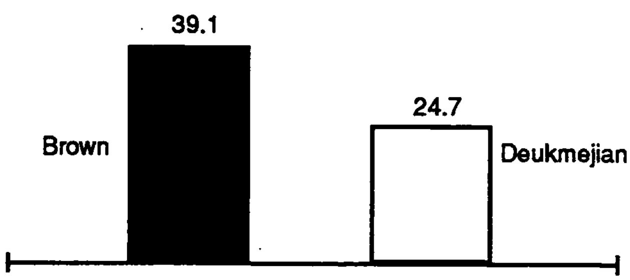


Exhibit 2.5, "Proposed and Allowed Rate Changes, 1972-1991 WCIRB Filings and Department of Insurance Decisions" (located on the following page) and Exhibit 2.6, "California Workers' Compensation Rate Filings and Decisions", (located on Page II-2.0-10) show summary information on rate decisions through the 1970s and 1980s. Generally, during both the Deukmejian and Brown Administrations, the Bureau was granted increases of about half of what was requested. During the Brown Administration, there was higher variability in percentage of requested rate approved, suggesting that there was more attention to either approving increases in full or denying them, rather than granting some percentage of what was asked for.

EXHIBIT 2.5
PROPOSED AND ALLOWED RATE CHANGES, 1972-1991
WCIRB FILINGS AND DEPARTMENT OF INSURANCE DECISIONS

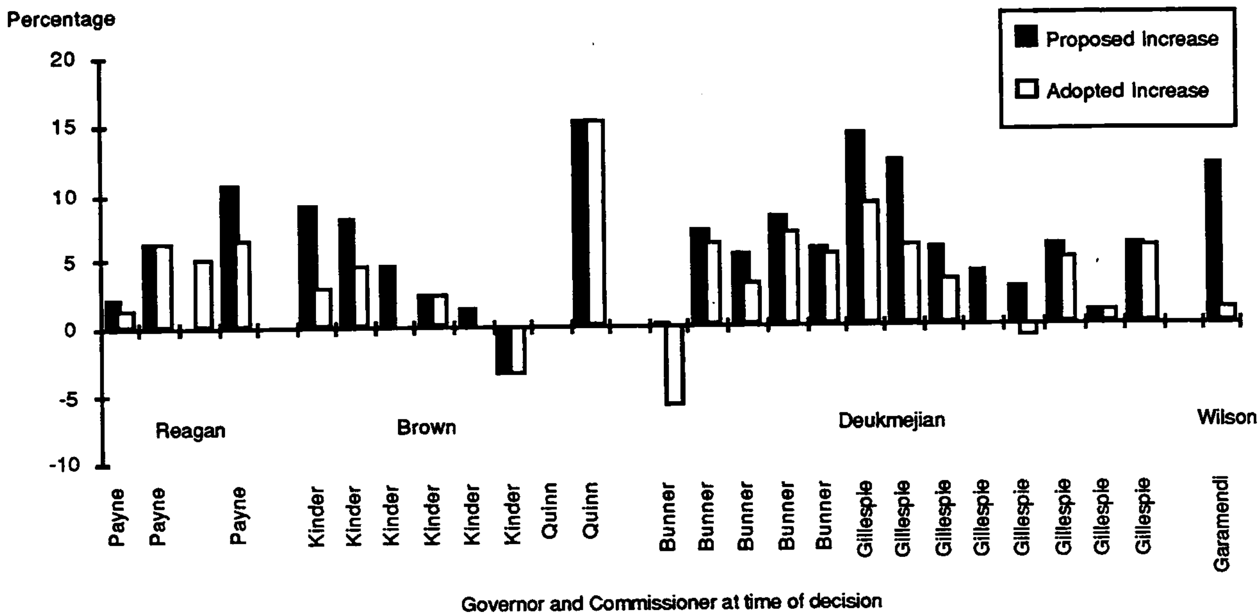


EXHIBIT 2.6
CALIFORNIA WORKERS' COMPENSATION RATE FILINGS AND DECISIONS

Year	Number of Hearings	Days from hearing to decision	Proposed Increase (%)	Approved change (%)	Insurance Commissioner
73	5	42	2.2	1.3	Payne
74	1	37	6.2	6.2	Payne
74	3	37		5.1	Payne
74	1	9	10.6	6.5	Payne
76	3	85	9	3	Kinder
77	2	59	8.2	4.4	Kinder
78	2	69	4.4	0	Kinder
79	1	10	2.3	2.3	Kinder
79	2	23	1.4	0	Kinder
80	2	11	-3.5	-3.5	Kinder
81	2	21	-0.2	-0.2	Quinn
82	1	35	15.1	15.1	Quinn
83	1	42	0.2	-6	Bunner
84	1	28	7.1	6.1	Bunner
85	1	12	5.4	3.1	Bunner
85	1	30	8.2	6.8	Bunner
86	1	24	5.6	5.3	Bunner
86	2	11	14.3	9	Gillespie
87	1	30	12.2	6	Gillespie
87	1	40	5.7	3.3	Gillespie
88	0	4	3.9	0	Gillespie
88	1	42	2.6	-1	Gillespie
89	1	29	5.9	4.9	Gillespie
90	1	4	1	1	Gillespie
90	1	28	6	5.8	Gillespie
91	1	44	11.9	1.2	Garamendi
average	1.5	30.6	5.6	3.3	
stddev	1.0	20.3	4.7	4.4	
Ave. Brown	1.9	39.1	4.6	2.6	
stddev Brown	0.6	28.4	5.9	5.6	
Ave.Deukmejian	1.0	24.7	6.0	3.2	
stddev Deukmejian	0.4	13.3	4.0	4.0	

Source: Department of Insurance

2.4.1 COMPETITION BETWEEN INSURERS

The Commission is expected to evaluate whether the current system fosters or discourages competition between carriers. California's workers' compensation insurance market currently appears competitive by several standards. Concentration ratios are low, and there are new entrants into the market almost every year. Evidence indicates that the market is more competitive for larger insurance accounts. There is a competitive state fund that functions as an insurer of last resort for businesses that cannot find coverage elsewhere, and as an active participant in the voluntary market. (See section 2.6 below.) The state fund has eliminated the need for an assigned risk plan for California.

2.5 WORKERS' COMPENSATION INSURANCE RATEMAKING SYSTEMS IN OTHER STATES

Several studies have addressed the issue of whether some types of insurance ratesetting processes are superior to others.

A Justice Department Task Force on Antitrust Immunities report on "The Pricing and Marketing of Insurance (January, 1977) concluded that "Workers' compensation appears to be one line of property casualty insurance which is perhaps most conducive to total state deregulation and full exposure to market controls; there is relatively greater predictability and stability in the industry, the buyers of the service are generally informed, there is potential for vigorous price competition, and there are economic incentives to employ loss controls."

A U.S. House of Representatives Small Business Subcommittee hearing on competitive ratesetting (1982) included testimony from a former Federal Insurance Administrator that reform of ratesetting practices related to insurer investment income and competitive rating could result in 15-20 percent reductions in workers' compensation premiums. Testimony of then-Minnesota Insurance Commissioner Markham indicated that going to a system of competitive rating would accomplish seven aims:

A. Do a better job of establishing prices at a level satisfactory to both insurers and employers

B. Respond faster to changes in underlying costs

C. Not be subject to political decision making by regulators with the consequent distortion of results and dislocation of markets

D. Cause insurers to improve in efficiency, thereby making for a healthier and stronger industry which would in turn better serve its customers

E. Cause safety, claim, audit, rehabilitation, and underwriting services to become more effective and efficient

F. Reduce insurers' motivation to rely on rates generated by rate service organizations, and

G. Cause insurers to be more flexible and more adaptive to the needs of individuals.

Minnesota's Commissioner stressed that competitive rating should not mean the abandonment of state regulatory authority. Any competitive rating law should specify that rates not be excessive, inadequate, or unfairly discriminatory, with the state Insurance Department given the responsibility of discontinuing any rate that does not meet the standards. Finally, the Commissioner stressed that competitive rating was not a panacea to all workers' compensation problems. It did not guarantee that prices would go down, or even that they would not rise above their current levels.[18]

In response to Congressional requests, a 1982 U.S. General Accounting Office report theorized that competitive ratemaking could reduce the costs of workers' compensation insurance for most employers, although smaller firms might encounter higher premiums and greater difficulty in obtaining coverage. In a follow-up report on "Initial Experiences with Competitive Rating" in 1986, GAO found that between 1981 and 1985, 10 states enacted competitive rating laws under which each insurance company generally prepared and filed its own workers' compensation rates and used them without first obtaining state approval. GAO found that between 1982 and 1984, both the average cost and the size of the assigned risk pools declined in most states, with declines greater in states that had initiated competitive rating laws. These results were consistent with effects anticipated in 1982. The only evidence that GAO offered about the effect on small business was a study in Michigan which found that the initial effect on most small business was at least as favorable as the effect on larger business. Only the smallest businesses, those with fewer than 5 employees, did not experience a decline in rates.

In its 1986 review, GAO found no evidence that competitive rating had altered market structures; there were no discernible differences in concentration ratios before and after the introduction of competition. Nevertheless, GAO recognized that a complete assessment of its impact required sufficient time to allow the observation of rate and availability trends through all phases of the underwriting cycle. The analysis found that even in states without competitive rating competition could occur with offerings of premium discounts or rebates which reduced net costs relative to initial premium quotes. GAO felt that some states adopted competitive rating in an attempt to more accurately reflect true net costs up front; some state officials "believed that lower initial premium quotes would make them appear more attractive to employers considering whether to locate in their state or a neighboring state." (GAO/OCE 87-1, p. 3)

In June 1989, the National Association of Insurance Commissioners (NAIC) adopted the recommendation of the Advisory Organization Activities Working Group that advisory organizations (i.e. rating bureaus) should be prohibited from filing "fully developed" rates in all property casualty lines *except workers' compensation.* The NAIC decided to look at workers' compensation separately. In December 1989, the group set forth its belief that workers' compensation not be treated differently and that states should prohibit the filing of fully developed rates, but that in the interim that steps be taken to: a) implement a system of reporting detailed management information on all claims; b) develop a system of data monitoring to ensure the quality of ratemaking and claims-related data; and c) do an economic analysis of the impact of implementation of loss cost systems on state workers' compensation insurance markets.

In December, 1990, NAIC's Workers' Compensation Advisory Organization Activities Working Group accepted a Milliman and Robertson study indicating the feasibility of moving to loss costs for workers' compensation. It also received an NAIC staff study that evaluated the experience of the 10 states which had already implemented loss costs in workers' compensation, and which considered the market implications of extending such a system to all states. The study found no evidence to indicate that state workers' compensation insurance markets have either significantly benefitted from or been hurt by loss cost systems. The study also concluded that there is no reason to believe that the experience of other states would be different if loss costs were implemented nationwide.

After consideration of staff and consultant reports, the working group reaffirmed its position that workers' compensation insurance be treated no differently than other property and casualty lines with respect to implementing open competition or loss costs systems. "A loss system in workers' compensation insurance is feasible and should not have significant negative effects on the marketplace. The working group recognizes a loss cost system in workers' compensation should have several special provisions because of its unique aspects. Also, the working group recommends that the conversion of workers' compensation insurance to loss costs should be targeted for 1994." This was to allow sufficient time for preparation of a loss cost system in workers' compensation insurance and conversion of the other property and casualty lines to loss costs.

2.6 EXCLUSIVE AND COMPETITIVE STATE FUNDS

2.6.1 ADVANTAGES AND DISADVANTAGES OF STATE FUNDS

Currently six states, several U.S. Territories, and nearly all Canadian provinces utilize exclusive state (territorial/provincial) funds. The six states are Washington, Ohio, West Virginia, North Dakota, Nevada, and Wyoming. .Puerto Rico and Virgin Islands also have exclusive funds. The state of Oregon had an exclusive fund until 1965, when it began to allow "three way" coverage (private insurance, competitive state fund, and self-insurance).

Fourteen states have competitive state funds. Two states, New Mexico and Rhode Island are in the process of establishing competitive funds. Texas, Louisiana, Hawaii, and Maine, have authorized competitive funds but they are not yet operating. The national AFL-CIO has listed the following benefits of using a state fund in workers' compensation:

A. Lower Cost: No profit motive means that WC insurance can be offered at lowest possible cost

B. Availability: Legislature can assure employers and their employees that insurance for WC is available

C. Service: The fund's motivation is social responsibility and service, not profits

D. Operational efficiency: Overhead costs are consistently and significantly lower than those incurred by private carriers

E. Focus: By virtue of its purpose, the state fund can focus entirely on WC instead of other lines of insurance

F. Pioneer: Because of its focus and mission, the state fund can pioneer research in improving service, reducing injuries and illnesses, and providing rehabilitation

G. Coverage: Many private carriers, both large and small, limit themselves to certain geographical areas or categories and size of employers; a state fund can offer full and complete service throughout the state

H. Control: With a state fund, the revenue in the system remains essentially within the state. Decisions about those revenues are not made in other states or off-shore. Investments b;y the fund can be "locally" important

Exclusive State Funds offer additional advantages:

A. No sales force required

B. No acquisition costs

C. Administration is simpler

D. Information is more readily available

E. No reliance on a rating bureau

F. Surpluses can be used to reduce premium rates.

2.6.2 HISTORICAL BACKGROUND OF CALIFORNIA COMPENSATION FUND

California has at least twice considered proposals for establishing an exclusive state fund. The first time was during the development of the first mandatory system of compensation in 1913, when architects of the program considered but then rejected the idea of an exclusive fund in favor of a competitive one. Twenty-six years later, the idea of a state insurance monopoly corresponded with the political ideology of Governor Culbert Olson. Upon taking office in 1939, Olson, a New Deal Democrat who had won election to the State Senate in 1934 , declared his support for legislation requiring all workers' compensation insurance to be written by an exclusive state fund, a change he claimed could cut the state's compensation bill in half.[19]

Olson's reasons for urging an exclusive state fund centered around the inefficiencies of the existing system, and the opportunities for making an integrated system of data gathering, injury prevention, and compensation. Insurance overhead expenses were running at 40% of the premium dollar, driving up employer's costs of coverage. If all insurance were written by the State Fund, he argued, the "expensive and useless advertising and solicitation" expenses could be reduced. Employers who, in violation of the law, failed to carry insurance, could be "more effectively compelled" to provide coverage if there were only one carrier. In the other compulsory social insurance systems, like old age benefit insurance and unemployment insurance, the administration was handled exclusively by the state. These systems required employers to complete quarterly payroll reports and make premium payments; by integrating workers' compensation into this system, Olson believed, collection of monies could be standardized and simplified through "the concentration of these functions in a single office, with suitable branch offices throughout the state. It would mean improved service to employers, to workers, and to the public generally." An exclusive state fund would also "enable a much better standard of safety inspection and more intensive safety educational work" throughout all industrial and agricultural sectors. Consistent with his stand that public utilities should be owned by the public, Olson saw state insurance in workers' compensation as a "case where special interests conflict with the general public welfare, and sound economy and saving in an essential public service."[20] Finally, Olson believed that because the state would operate in a nonprofit manner, more generous benefits could be offered to those who were injured.[21]

Olson's plan was opposed strongly by private insurance companies and could not gain approval of either the Senate Labor and Capital Committee or the Assembly Insurance Committee.[22] Failing in the Legislature, the Olson Administration tried to do the deed through the insurance regulatory process. At Olson's urging, the State Fund announced its intention to lower its own premium rates and then recommended that the Insurance Commissioner reduce the expense provision granted to all insurers from 40.6 to 14.9 percent, the overhead rate that was considered adequate by the State Fund. Such a move would have effectively put the private carriers out of business.

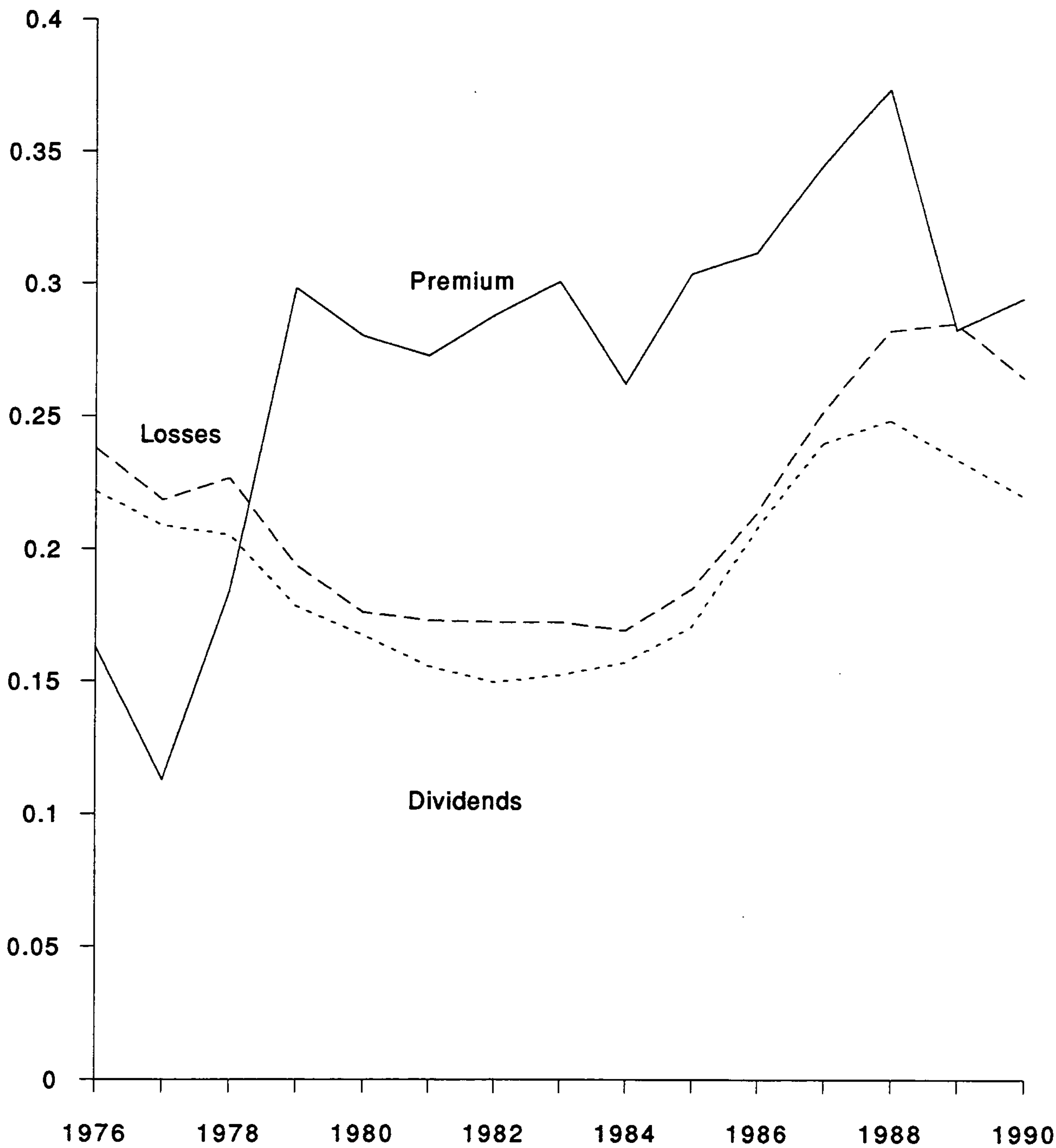
But this move was unsuccessful as well. The Insurance Commissioner sought an advisory opinion from Olson rival Republican State Attorney General Earl Warren on whether the Insurance Code section enacted in 1915 would allow the lower expense provision to be applied to all carriers. The opinion came back that, under the law, rates were to be adequate for all insurers, including those doing business under the American Agency system (the stock insurance system).[23] The opinion expressed the view that switching to the lower expense provision would jeopardize the solvency of the private carriers, and that the legislature had expressly determined that a mixed system of private and public competition was in order. Only further legislative direction would alter that view.

2.6.3 THE CALIFORNIA STATE FUND TODAY

California has a competitive state fund selling workers' compensation insurance. Exhibit 2.7, "State Fund Share of Premium, Losses and Dividends California, 1976-1990" (located on the following page) indicates the market concentration of the State Fund (as a percentage of total system) in terms of premium, losses and dividends paid between 1976 and 1990.

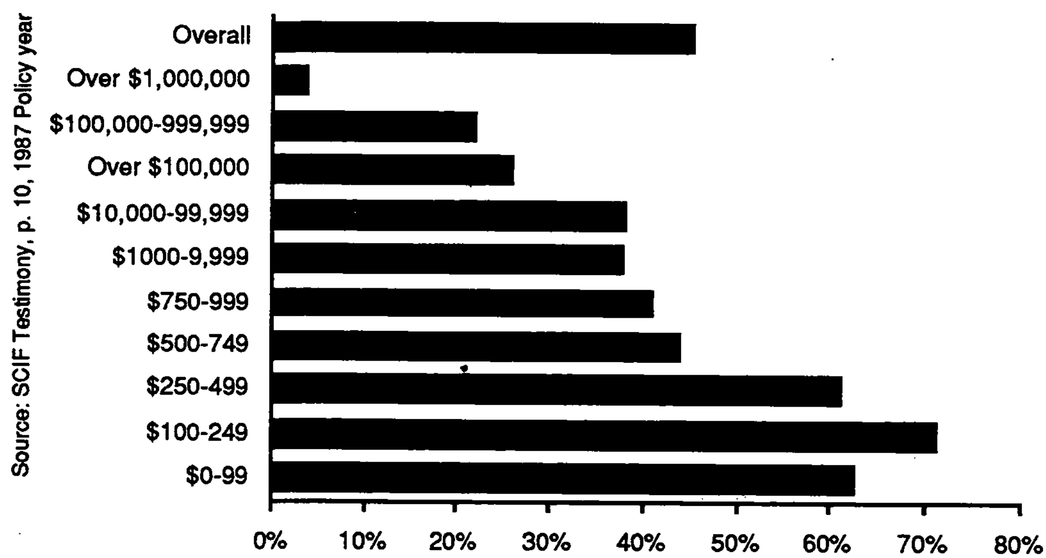
As shown in Exhibit 2.7, the State Fund has taken in between 15% and 37% of statewide premium over the time period, while incurred losses by the fund have ranged slightly higher, and dividends declared disproportionately higher than private carriers. Generally, the Fund's share of the market increases during times of low profitability for carriers, and decreases during periods of high investment income yields when carriers engage in cash-flow underwriting.

EXHIBIT 2.7
STATE FUND SHARE OF PREMIUM, LOSSES AND DIVIDENDS
CALIFORNIA, 1976-1990



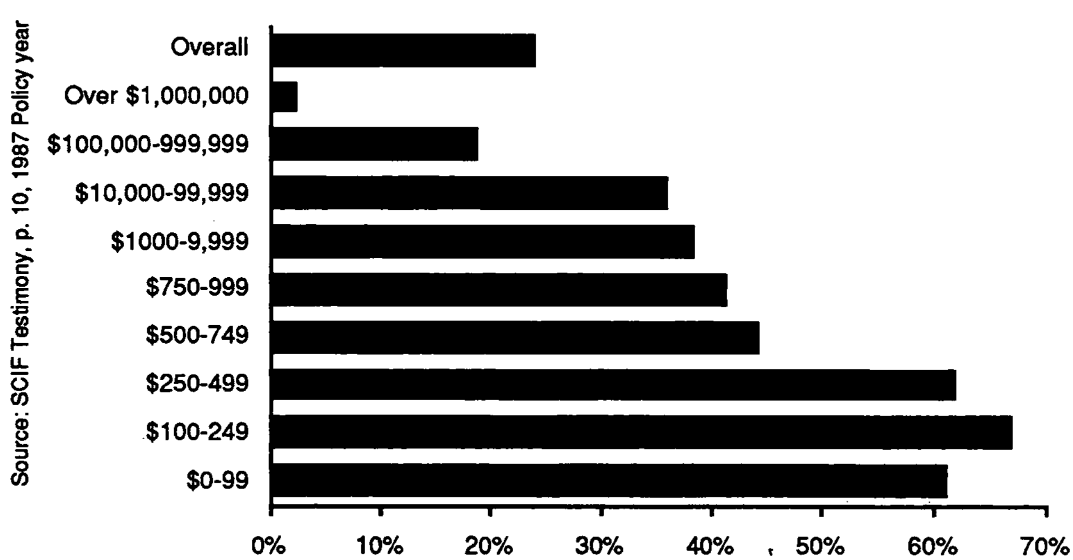
The State Fund tends to take a large percentage of the market for small employers seeking coverage. The following graphs show how the Fund's book of business compares by size of insured policy. Exhibit 2.8, "SCIF Share of Risks, by Size of Account" shows that the State Compensation Insurance Fund covers approximately 45% of all employers insured.

EXHIBIT 2.8
SCIF SHARE OF RISKS, BY SIZE OF ACCOUNT



By size of account, the State Fund covers over 60% of all accounts under $500 in premium, and over 40% of all accounts between $500 and $1000. It covers under 5% of accounts with premiums above $1 million. Exhibit 2.9, "SCIF Share of Premium, by Size of Account" shows a similar breakdown of the State Fund's share of premium, by size of account.

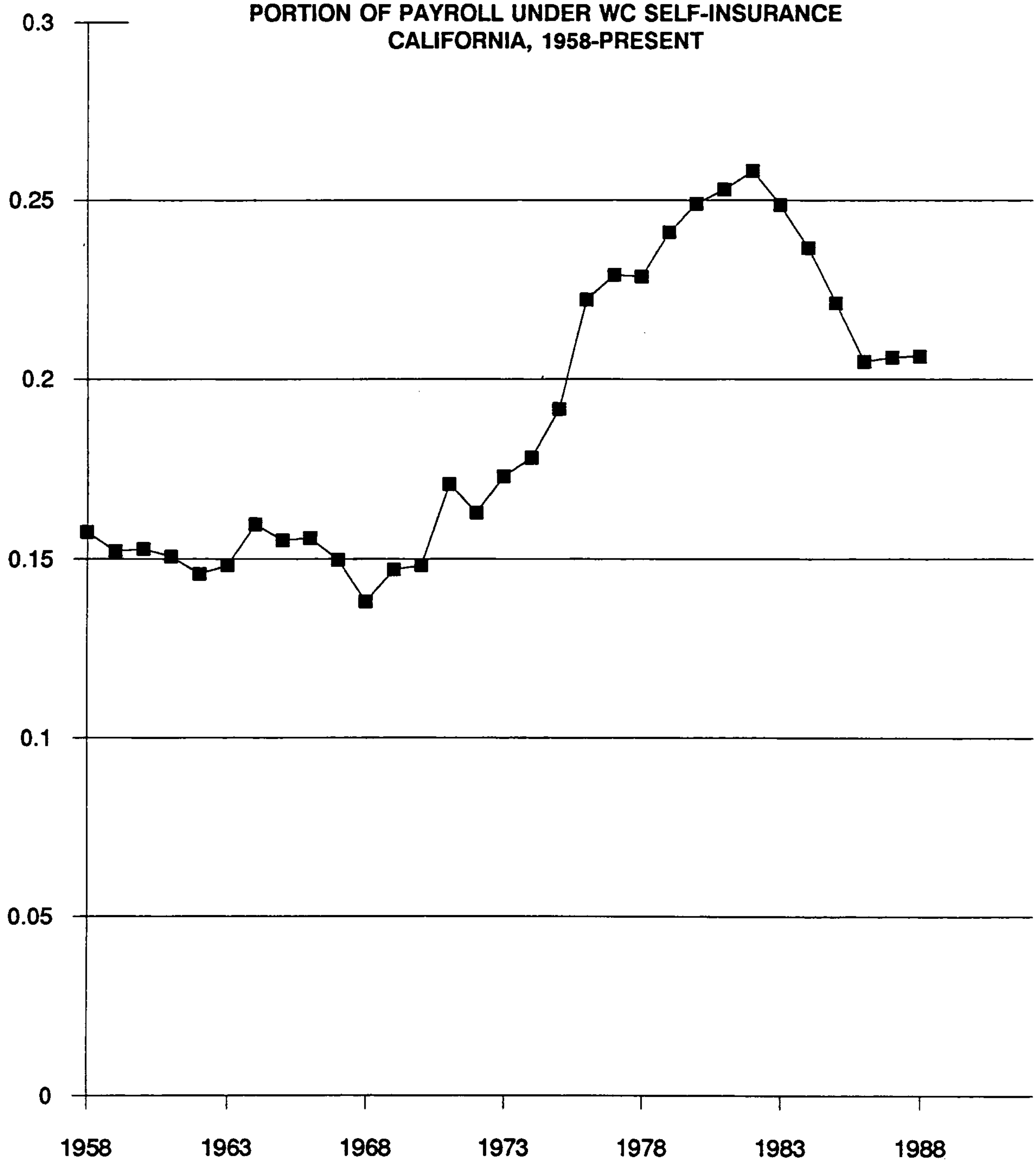
EXHIBIT 2.9
SCIF SHARE OF PREMIUM, BY SIZE OF ACCOUNT



2.7 SELF-INSURANCE

Self-insurance is allowed in California for public agencies and approved private businesses meeting financial and claims processing standards. Self-insured employers must post bonds equal to 135% of their incurred liability, and are required to belong to a self-insurers' security fund that operates on an assessment basis to cover losses of bankrupt self-insurers. Generally between 15% and 25% of private sector payroll comes under self insurance coverage. See Exhibit 2.10, "Portion of Payroll Under WC Self-Insurance California, 1958-Present". Self-insurance coverage appears to rise during times when insurer profitability is high.

EXHIBIT 2.10
PORTION OF PAYROLL UNDER WC SELF-INSURANCE
CALIFORNIA, 1958-PRESENT



2.7.1 AGGREGATE SELF-INSURANCE

California self-insurers are not allowed to buy aggregate excess insurance (reinsurance) from admitted California insurers, but for those companies with operations outside of California, it appears that such coverage is relatively easy to find. Public self-insured employers in California have more difficulty covering this excess layer of insurance.

2.8 EMPLOYEE CLAIM SERVICE ADEQUACY

2.8.1 PROMPTNESS OF PAYMENT OF CLAIMS

According to the latest available data (1988) from California's workers' compensation division, it took an average of 27 days to be paid for a workers' compensation injury claim, with only 54 percent of claims paid within 14 days. Refer to Exhibit 2.11, "Average Days From Injury to First Payment".

In contrast, the State Disability Insurance (SDI) (non-work related) program in 1986 reported that nearly 84% of claims were paid within 14 days, 55% of all payments were made within 7 days of receipt of the claim, and that on average 9.4 days elapsed between claim and first payment. Between 1986 and 1991, results improved in the SDI program. In October of 1991, the system reported that 91.9% of claims statewide were paid within 14 days of claim filing, and that 77.8% were paid within one week of claim.[24] In attempting to determine reasons why some claims are not paid within the two-week goal, a 1989 study indicated that the "largest percentage of claims causing delayed payments were those in which an investigation of the client's entitlement to workers' compensation was required before payment could be authorized."[25]

2.8.2 WORKER RATING OF INSURANCE COMPANIES AND EMPLOYERS PERFORMANCE

A decade ago, in 1982, California's workers' compensation insurers commissioned a survey to understand the economic and social conditions following work-related disability. (There have been no similar surveys conducted since that time.) Injured workers were asked how various institutions behaved toward them during the period of claims adjudication. For instance, workers were asked to rate the insurance company that handled their workers' compensation case:

"a) on answering your questions quickly and completely
b) on keeping you informed about the progress of your case
c) on providing your benefit checks on time
d) on the overall handling of your case."

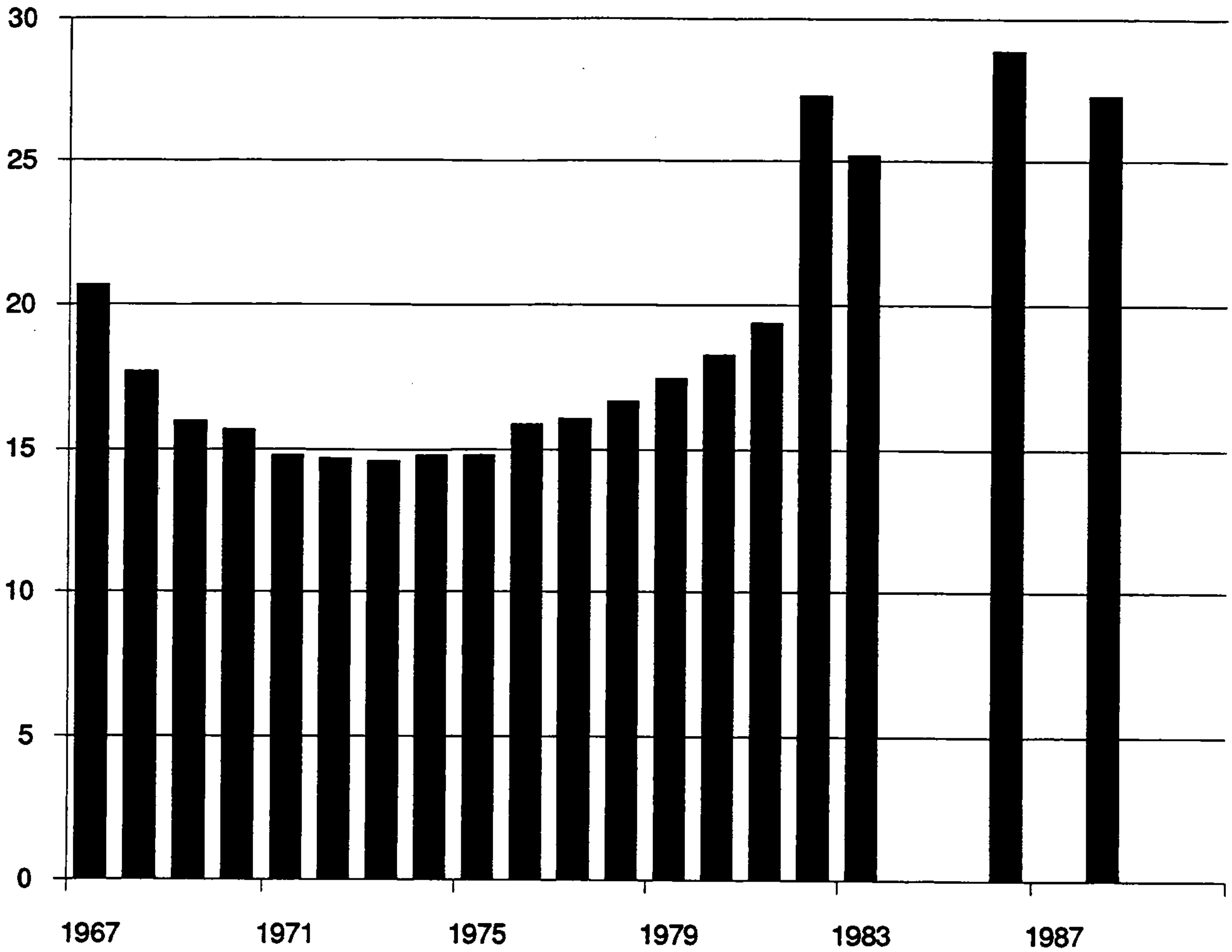
Injured workers were also asked to rate their employers on: the extent to which usable information was provided, the amount of concern they showed for the injured worker, the employer's ability to understand about time off from work, and the overall relationship with the employer.

Researchers found that "worker uncertainty about the compensation claim is critical to the decision to hire an attorney. Workers' ratings of how well the insurance company and the employer provide information are strong indicators of whether the workers had hired an attorney."[26]

Exhibit 2.12, "Worker Ratings of Insurance Company Performance "How Would You Rate the Insurance Company that Handled Your Workers' Compensation Case?" shows the ratings of insurance company performance. Nearly 2 out of three workers reported that the overall handling of their case by the insurer was fair or poor. On answering questions, insurers received fair or poor ratings from approximately 50% of injured worker respondents who had contact with the insurer.

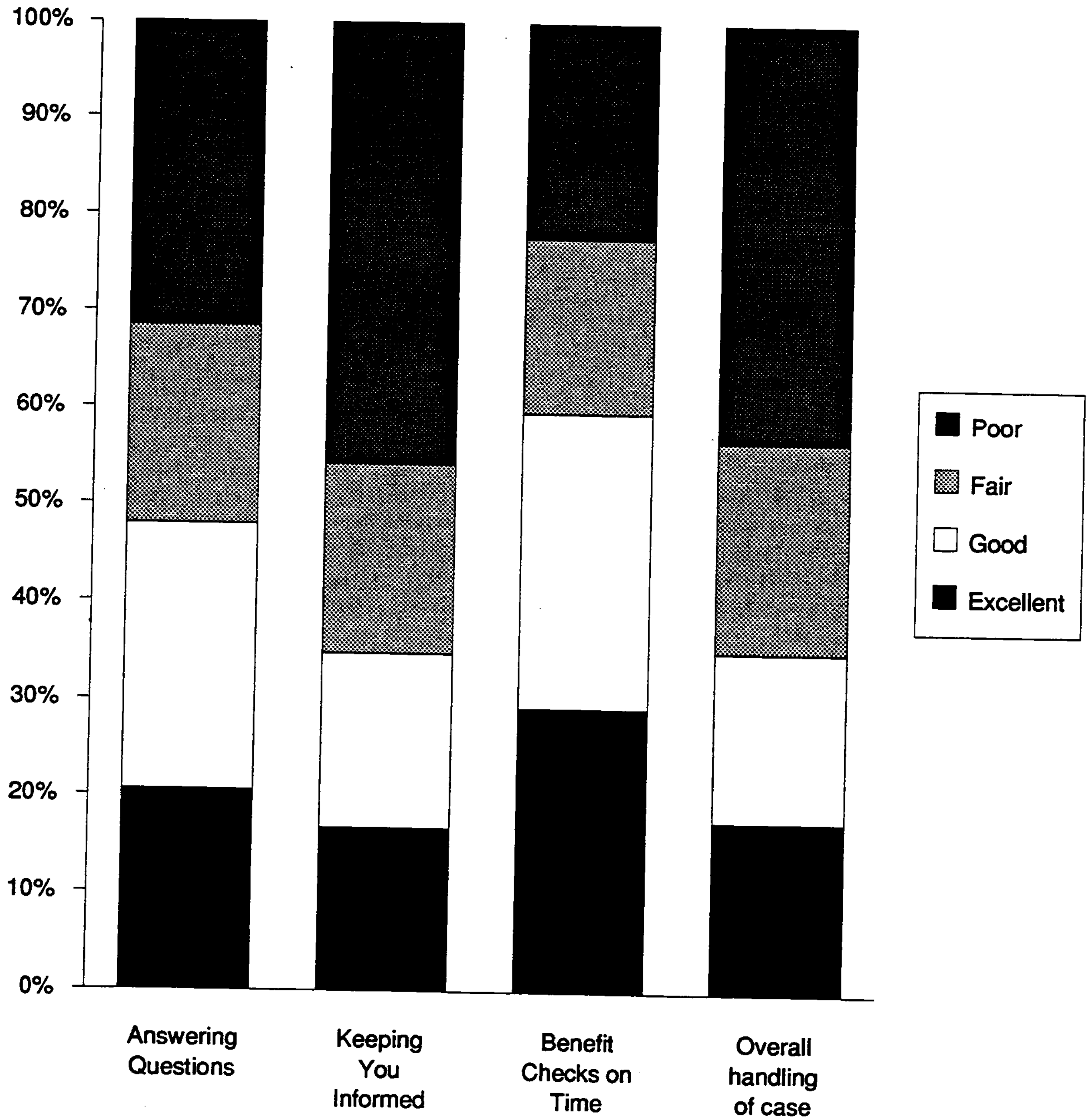
Exhibits 2.11 and 2.12 commence on the following page.

EXHIBIT 2.11
AVERAGE DAYS FROM INJURY TO FIRST PAYMENT



Source: State of California, Division of Industrial Accidents, Promptness of Payment reports

EXHIBIT 2.12
WORKER RATINGS OF INSURANCE COMPANY PERFORMANCE
"HOW WOULD YOU RATE THE INSURANCE COMPANY THAT HANDLED YOUR WORKERS' COMPENSATION CASE?"



2.8.3 WORKERS' RATINGS OF INSURANCE COMPANY PERFORMANCE

The following chart provides an overview with respect to employee claimant rating of insurance company performance:

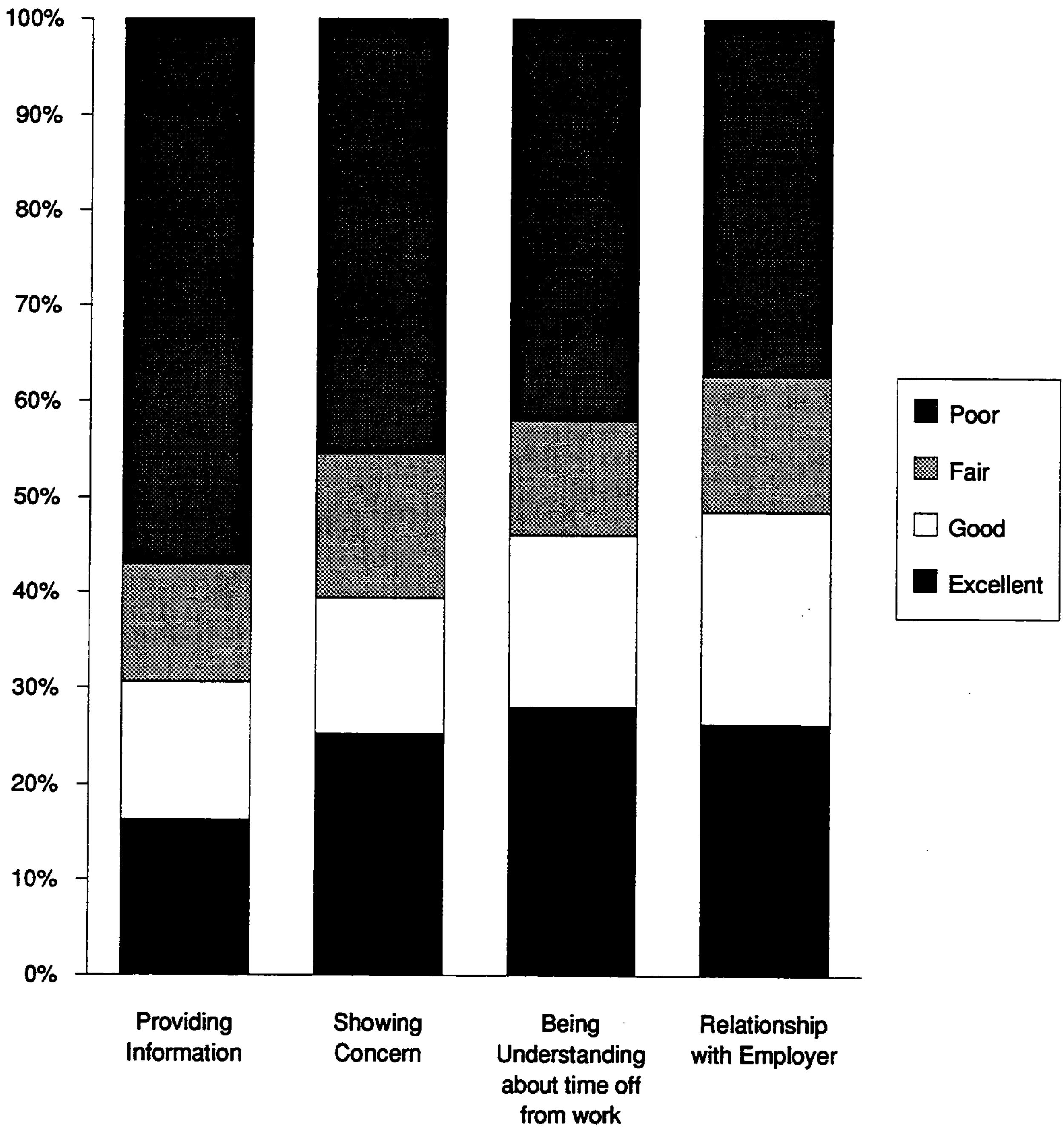
WORKER RATINGS OF INSURANCE COMPANY PERFORMANCE

	Performance Answering Questions	Areas Keeping You Informed	Benefit Checks on Time	Overall Handling of Case
Excellent	15%	12%	26%	17%
Good	20%	13%	27%	17%
Fair	15%	14%	16%	21%
Poor	23%	33%	20%	42%
Report no contact with insurer			7%	
DK/NA	3%	4%	3%	3%

2.8.4 WORKERS' RATINGS OF EMPLOYER PERFORMANCE

Exhibit 2.13, "Worker Ratings of Employer Performance "How Would You Rate Your Employer?" (located on the following page) gives injured workers' ratings of employers' performance on dealing with their cases. Workers gave their employers poor rankings 56% of the time on providing information, 45% of the time on showing concern about the injury, and 42% of the time on being understanding about taking time off from work. In contrast, employers received excellent or good ratings from injured workers only 30% of the time on providing information, in 39% of cases on showing concern, and in 46% of cases in being understanding about lost work.

EXHIBIT 2.13
WORKER RATINGS OF EMPLOYER PERFORMANCE
"HOW WOULD YOU RATE YOUR EMPLOYER?"



The following chart provides an overview with respect to employee claimant rating of employer performance:

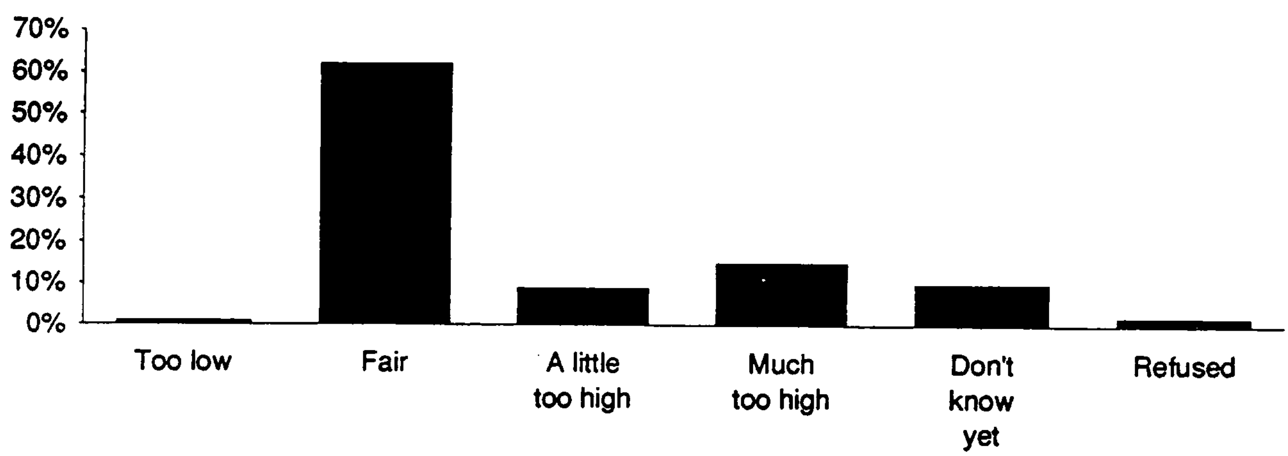
WORKER RATINGS OF EMPLOYER PERFORMANCE

	Providing Information	Showing Concern	Being Understanding about time off from work	Relationship with Employer
Excellent	16%	25%	28%	26%
Good	14%	14%	18%	22%
Fair	12%	15%	12%	14%
Poor	56%	45%	42%	37%
DK/NA	2%		1%	1%

2.8.5 WORKER RATING OF ATTORNEY PERFORMANCE AND FEES

Injured workers were also asked to rate the performance of their attorneys, if they had hired one. Attorneys were evaluated on the basis of whether their fees were fair and equitable, Exhibit 2.14, "Considering the Services Provided, How Would You Rate Attorney's Fee?" and by overall claimant satisfaction with the attorney's handling of their case, Exhibit 2.15, "Worker Ratings of Attorney Performance, How Satisfied are You With Your Attorney's Handling of Your Case?". Generally, injured workers felt that fees were fair. A majority of claimants felt that their attorney had given excellent or good service to them.

EXHIBIT 2.14
"CONSIDERING THE SERVICES PROVIDED, HOW WOULD YOU RATE ATTORNEY'S FEES?"



"HOW SATISFIED ARE YOU WITH YOUR ATTORNEY'S HANDLING OF YOUR CASE?"

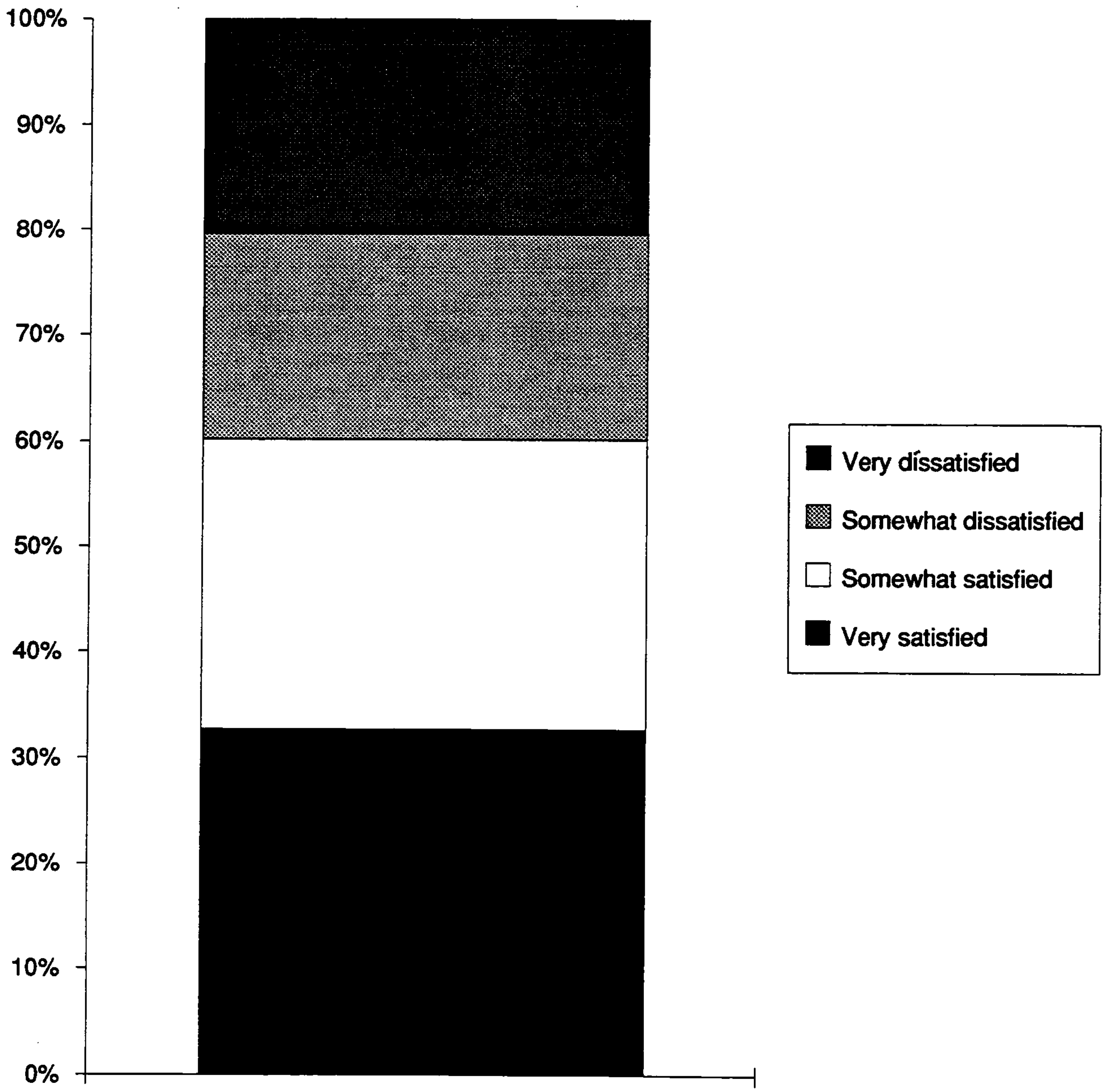
Very Satisfied	32%
Somewhat Satisfied	27%
Somewhat Dissatisfied	19%
Very Dissatisfied	20%
DK/NA	20%

"CONSIDERING THE SERVICES PROVIDED, HOW WOULD YOU RATE ATTORNEY'S FEE?"

Too low	1%
Fair	62%
A little too high	9%
Much too high	15%
Don't know yet	10%
Refused	2%

On the following page is Exhibit 2.15 concerning claimants satisfaction with attorney's performance in case management.

EXHIBIT 2.15
WORKER RATINGS OF ATTORNEY PERFORMANCE
"HOW SATISFIED ARE YOU WITH YOUR ATTORNEY'S HANDLING OF YOUR CASE?"



2.8.6 OTHER ADMINISTRATIVE CAPABILITY TO IMPROVE CLAIMS MANAGEMENT

During consideration of workers' compensation reform initiatives in 1989, the Legislature recognized the wisdom of attempting to proactively prevent litigation in workers' compensation cases. In an attempt to establish improved services to injured worker and hopefully reduce the need for attorney involvement, the Division of Workers' Compensation established a toll-free informational line (1-800-736-7401) to supplement the system of Information and Assistance (I&A) officers in district offices of the Workers' Compensation Appeals Board. There have been no published evaluations of the utilization of the service, or its effectiveness.

In order to more closely regulate the claims handling function of insurance companies and attempt to improve the on-time performance, the Legislature established an Office of Benefit Assistance and Enforcement (OBAE) in the 1989 Reforms. The first report on audits done by the division showed that many companies did not meet OBAE standards for claims handling, promptness of payment, etc. Of 11,525 claims reviewed, 3,166 citations were issued, resulting in penalties against insurers in the amount of $637,450.

2.9 EMPLOYER FINANCIAL INCENTIVES FOR SAFE OPERATIONS

Under Insurance Code section 11732, the Commissioner must approve or issue, as adequate for all admitted insurers, a classification of risks and premium rates for workers' compensation insurance. He may also approve or issue a system of "merit rating" which is defined (in section 11730) as "schedule rating" in which the rate is varied according to physical conditions, and also means "experience rating" in which the workers' compensation insurance experience of the particular insured is used as a factor in raising or lowering his rate. Since 1974, there has been no schedule rating plan allowing financial incentives through rate deviations based on the physical conditions of a workplace issued in California, although such a system currently exists in several other states, with some, such as Oregon and Oklahoma, making such plans centerpieces of their workers' compensation programs.

2.9.1 EXPERIENCE MODIFICATION

California currently attempts to instill incentives for employers to maintain safe operations through two methods relevant to insurance ratemaking: experience rating and dividends to policyholders. The former, experience rating, applies to employers meeting a threshold premium level (currently $23,900 over a three year period). Under the plan, an insured company's injury loss record of the first three of the last four years is computed in relation to other risks in its class, and an experience modification factor is assigned which puts a percentage modifier on the cost of premium. This is an automatic adjustment based on loss costs, and does not take into effect any variations based on whether the losses were or were not preventable. Thus, an employer's experience modification factor may be high due to circumstances that may have been happenstance. Criticism directed at use of experience modification factors generally revolves around the fact that not all employers are eligible for the program, and that the effects of the program are not immediately faced by employers. A bad record on claims this year will not have a significant effect on rates for a few years, but it will also remain a factor long after the problem creating the original situation may have been solved. Experience rating plans are subject to regulation and approval of the commissioner, and must be applied uniformly by all carriers.

2.9.2 DIVIDENDS

Dividends are the non-regulated side of the coin. While many insurers sell "participating policies" that allow policyholders to reap the rewards of cost reductions, dividends are commonly criticized as benefiting larger over smaller employers, and of maintaining artificially high front-end workers' compensation premium manual rates. While for preferred customers, dividends after the end of the policy period can provide needed relief through rebate of "excess surplus", these are benefits not available to all employers, and fluctuate based on market conditions. Employers generally do not know the cost of their workers' compensation policy until years after the policy has ended. Unsuccessful legislative bills proposed during the 1980s attempted to compel insurers to make public their dividend practices, and to make dividends subject to more state regulation.

Thus, California has two programs that offer employers financial incentives, but each has its limitations. Neither applies to small business in any significant way, neither has any immediate impact on employers for engaging in health and safety activities, and neither has traditionally included much outreach or attempted to educate employers about the means of reducing their premium costs.

2.9.3 SCHEDULE RATING

Well before the implementation of OSHA, the workers' compensation insurance system was intended to have dual roles: It would finance the payment of benefits while encouraging prevention of injury and illness. The latter objective would be met through merit rating plans such that employers engaging in injury prevention and those with relatively good injury records would be rewarded. One of the most significant insurance changes of the postwar period was the deterioration and eventual abandonment of the practice of providing employers with financial incentives to engage in injury prevention activities. These "schedule rating" incentives, available to many employers making either physical or administrative changes in the workplace or organization of work, had been considered an integral piece in the original structure of California's system, and their withdrawal reduced motivation for emphasizing hazard control among many medium sized manufacturing businesses.

Under schedule rating, inspectors from the California Inspection Rating Bureau (CIRB) (the predecessor to the Workers' Compensation Insurance Rating Bureau) would assign a numerical rating to eligible insured employers based on the degree to which the workplace met predefined standards of mechanical safeguarding and organized injury prevention programs. Schedule rating was part of a complementary structure of state regulatory standards and enforcement and economic incentives for prevention through the compensation insurance system.

In 1951, most private insurers supported a plan to eliminate the schedule rating option in California. They contended that the plan, originally adopted in 1924, had outlived its usefulness and was difficult to administer, and that retrospective "experience rating" was a more reliable measure of accident prevention work. They stated that only 2.7% of the insured employers in the state were schedule rated and that these few employers were being cross subsidized by all other employers.

The State Fund and a few other insurance carriers opposed eliminating the plan. They argued that despite its shortcomings, the prospective credits offered to employers by the plan were critical in convincing management to implement health and safety activities. They pointed out that while the number of employers in the plan was relatively low, they accounted for more than one-quarter of the state total premium. Furthermore, unlike experience rating, schedule rating was available to many small employers, was available to new risks without actuarial experience, and did not require a long time lag to assess experience.[27] The Fund predicted that if schedule rating were eliminated, the state could expect "a substantial reduction in appropriations by industry for safety purposes and a corresponding increase in accidents."[28]

In his 1951 decision on the matter, the Insurance Commissioner was swayed by the argument that schedule rating provided a complement to other state- and insurance Bureau-administered injury prevention efforts and ordered that instead of abandoning the system, that it be upgraded and modernized.[29]

The schedule rating system went through several changes over the next 20 years. By 1969, nearly one in five premium dollars was collected from schedule rated firms. But in 1973 a revived proposal to drop the plan was submitted by the California Inspection Rating Bureau and accepted by the Insurance Commissioner. The new reasoning was that while schedule rating standards had once been stricter than state safety standards and thus could encourage preventive work beyond that required under state law, the opposite had evolved. The CIRB argued that the newly adopted state OSHA program had standards far stricter than those of the schedule rating plan, and which applied to a broader industrial mix than just manufacturing firms. "Moreover, the fact that the OSHA program carries with it very extensive and substantial fines and permits the closing down of plants insures that the effectiveness of OSHA in encouraging safety will be far above that obtained from the Schedule Rating Plan. Another very important aspect of the OSHA inspection system is that it may be initiated by an employee who considers that some unsafe condition exists in the plant."[30]

This time, in an August 1973 decision of Insurance Commissioner Gleeson Payne (appointed by then-Governor Ronald Reagan) the nearly 50 year old policy was reversed.[31] Rather than attempting to improve the Rating Plan in a manner that would give an economic incentive to employers who exceed the minimum state requirements, the Commissioner simply allowed scheduled rating to lapse.[32]

Revival of schedule rating would not require legislative action; it is currently within the prerogative of the Commissioner to adopt such a plan, if so desired. Several other states are experimenting with schemes to reintegrate health and safety and workers' compensation through the financial incentive of schedule rating, and such experiences need to be more closely investigated.

2.10 NET COST, PROTECTION AND SERVICE EXPENSE CONSIDERATIONS

Does the present system provide the lowest net cost to insured employers consistent with the protection and services provided and the losses and expenses incurred?

One surrogate measure for efficiency may be found in the ratios of administrative costs (expense ratios) of various types of insurance organization. The following charts show a breakdown in the administrative cost ratios for all companies (Exhibit 2.16, "Expenses as % of Earned Premium California, 1984-1990, All Companies"), stockholder owned companies (Exhibit 2.17, "Expenses as % of Earned Premium California, 1984-1990, Stock Companies"), nonstock (mutuals, reciprocals) insurers (Exhibit 2.18, Expenses as % of Earned Premium California, 1984-1990, Non-Stock Companies") and the State Fund (Exhibit 2.19, "Expenses as % of Earned Premium California, 1984-1990, State Fund"). Generally, it appears that the State Fund operates with the lowest administrative expense ratio due to lower percentages of premium devoted to commissions and brokerage fees, lower general expense ratios, and lower percentages devoted to loss adjustment expenses. (Each type of carrier pays basically the same amount of premium for state taxes and fees.) Mutual (nonstock) companies are next lowest, and stock insurers report the highest administrative cost ratios.

Exhibit 2.20, "State Compensation Insurance Fund Allocation of Expenses, 1972-1988" shows a more detailed breakdown of administrative costs for the California State Fund, from information filed with the State Insurance Commissioner. No other carrier files information of this depth, including, for example, costs of safety and inspections programs, and costs of membership in boards and commissions.

Commencing on the following page are Exhibits 2.16, 2.17, 2.18, 2.19 and 2.20.

EXHIBIT 2.16
EXPENSES AS % OF EARNED PREMIUM
CALIFORNIA, 1984-1990, ALL COMPANIES

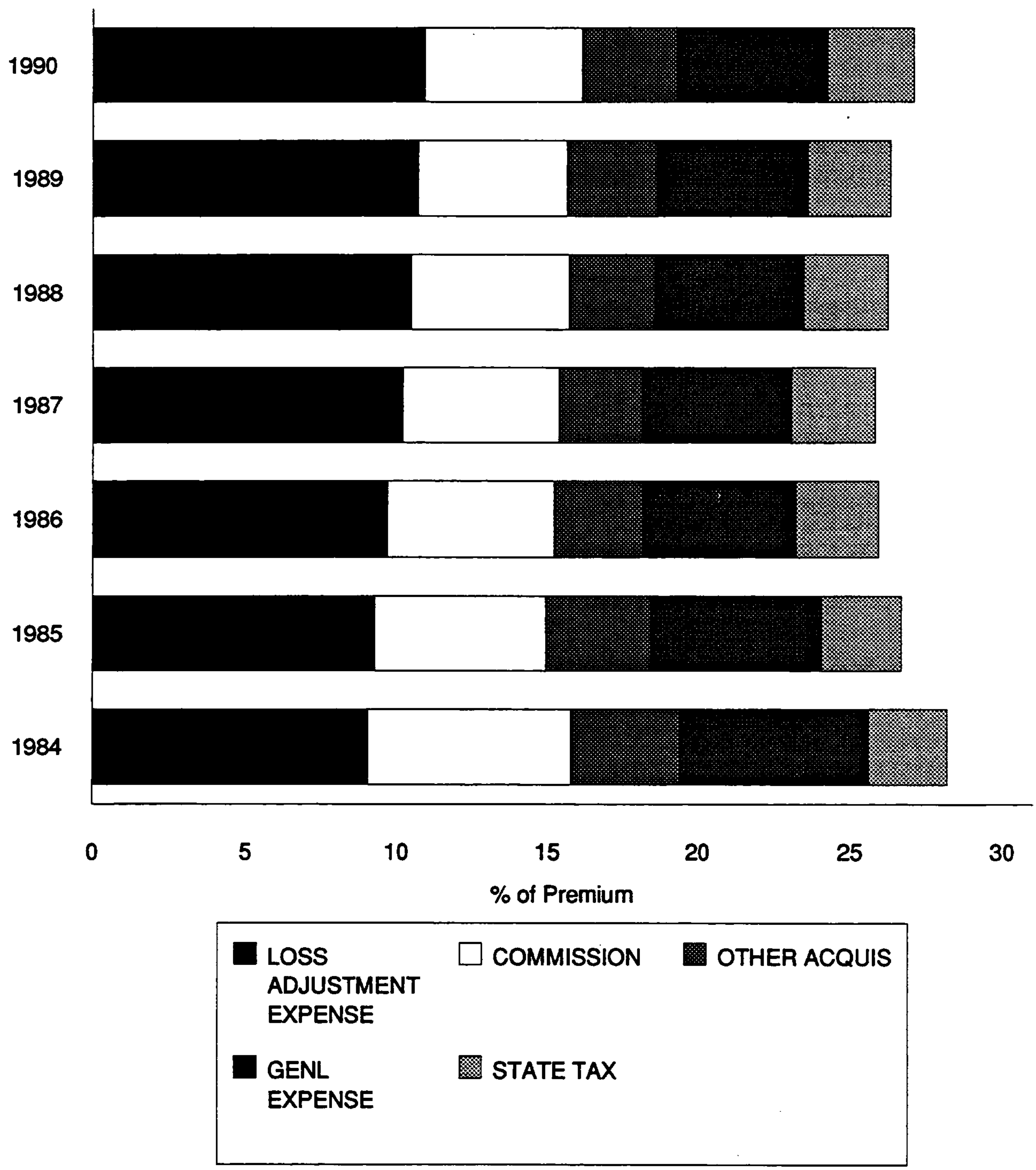
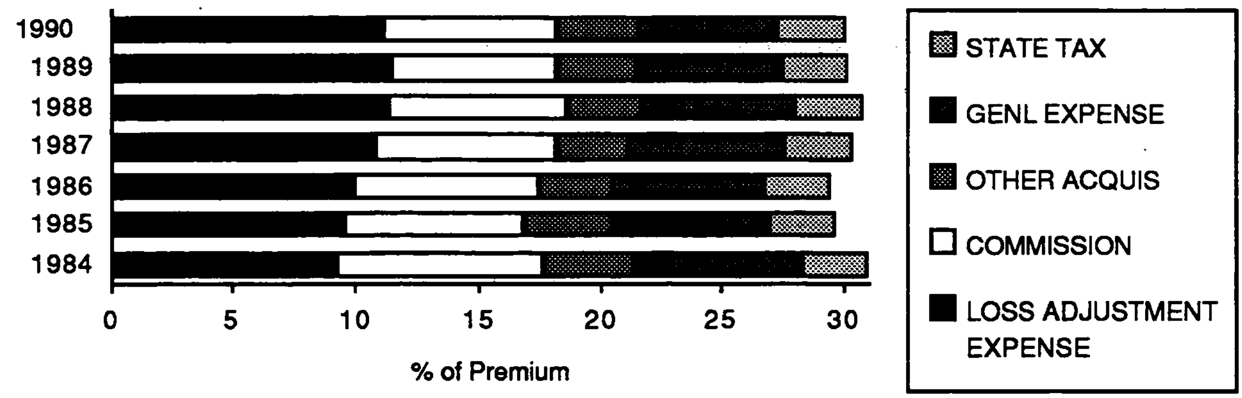
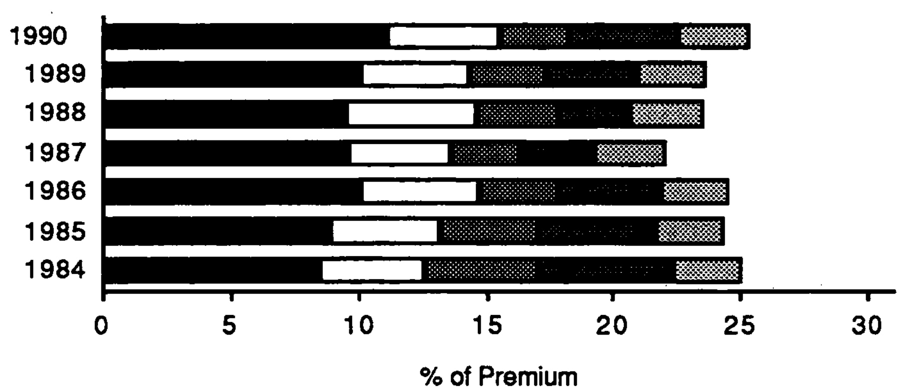


EXHIBIT 2.17, 2.18, 2.19

Expenses as % of Earned Premium
California, 1984-1990, Stock Companies



Expenses as % of Earned Premium
California, 1984-1990, Non-Stock Companies



Expenses as % of Earned Premium
California, 1984-1990, State Fund

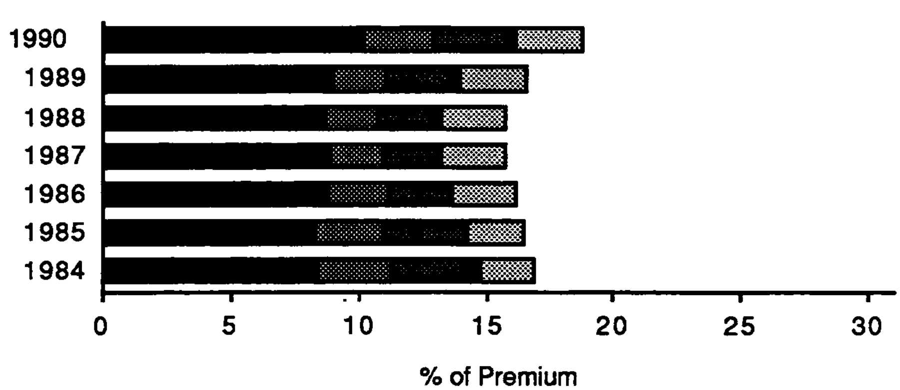
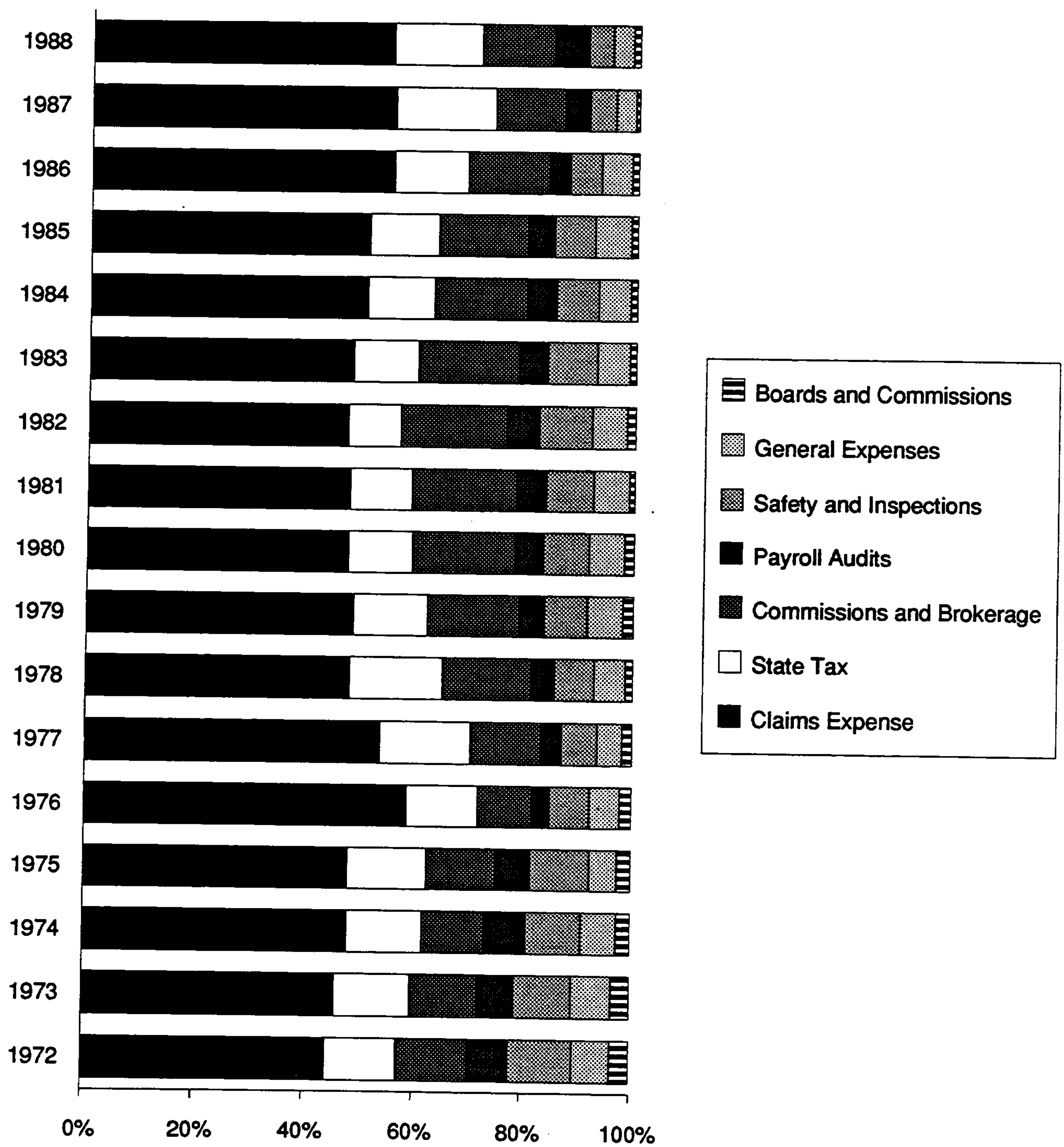


EXHIBIT 2.20
STATE COMPENSATION INSURANCE FUND
ALLOCATION OF EXPENSES, 1972-1988



2.11 SYSTEM EXPENSE DISTRIBUTION CONSIDERATIONS

Does the present system provide a fair and equitable distribution of the costs of the system to insured employers reflecting, to the extent consonant with sound principles of insurance, the actual losses and expenses of individual employers? Exhibit 2.21, "Where the Money Comes from in Workers' Compensation California, 1990" indicates the income side of California workers' compensation insurance for 1990. Approximately 13% of total income comes from investments on reserves and 87% from premiums from policyholders. Exhibit 2.22, "Where the Money Goes in Workers' Compensation California, 1990" indicates detail on how the money collected is spent. The two largest amounts (approximately 29% each) go to pay for medical care and for the costs of indemnity in permanent disability claims. Another 26% pays for insurance company overhead and taxes; nearly 11% is rebated as dividends to policyholders, and, for 1990, just under 4% of total income was profit. These figures are estimates based on cost, expense, income and dividend information compiled by the Workers' Compensation Insurance Rating Bureau for 1990.

EXHIBIT 2.21
WHERE THE MONEY COMES FROM IN WORKERS' COMPENSATION
CALIFORNIA, 1990

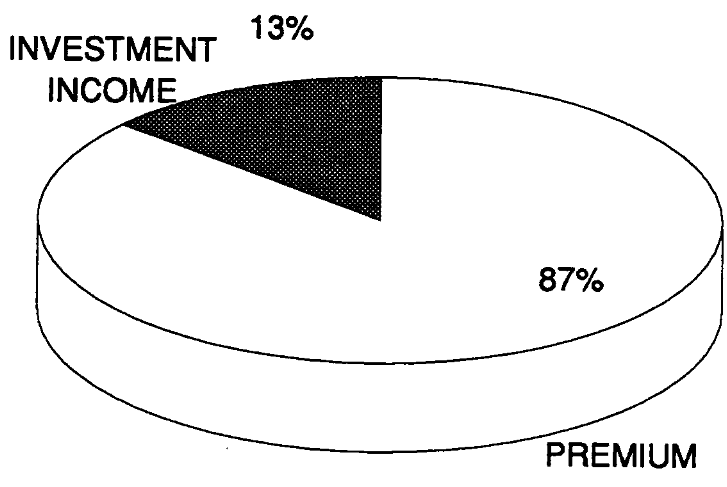
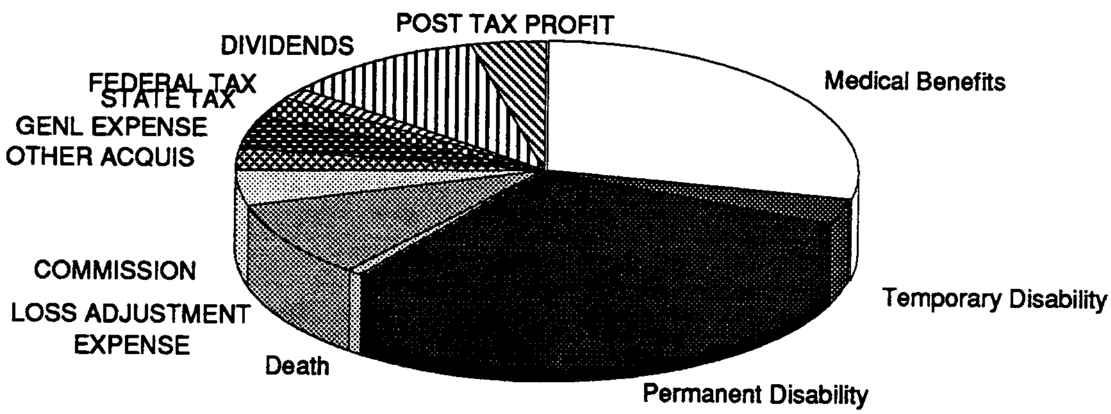


EXHIBIT 2.22
WHERE THE MONEY GOES IN WORKERS' COMPENSATION
CALIFORNIA, 1990



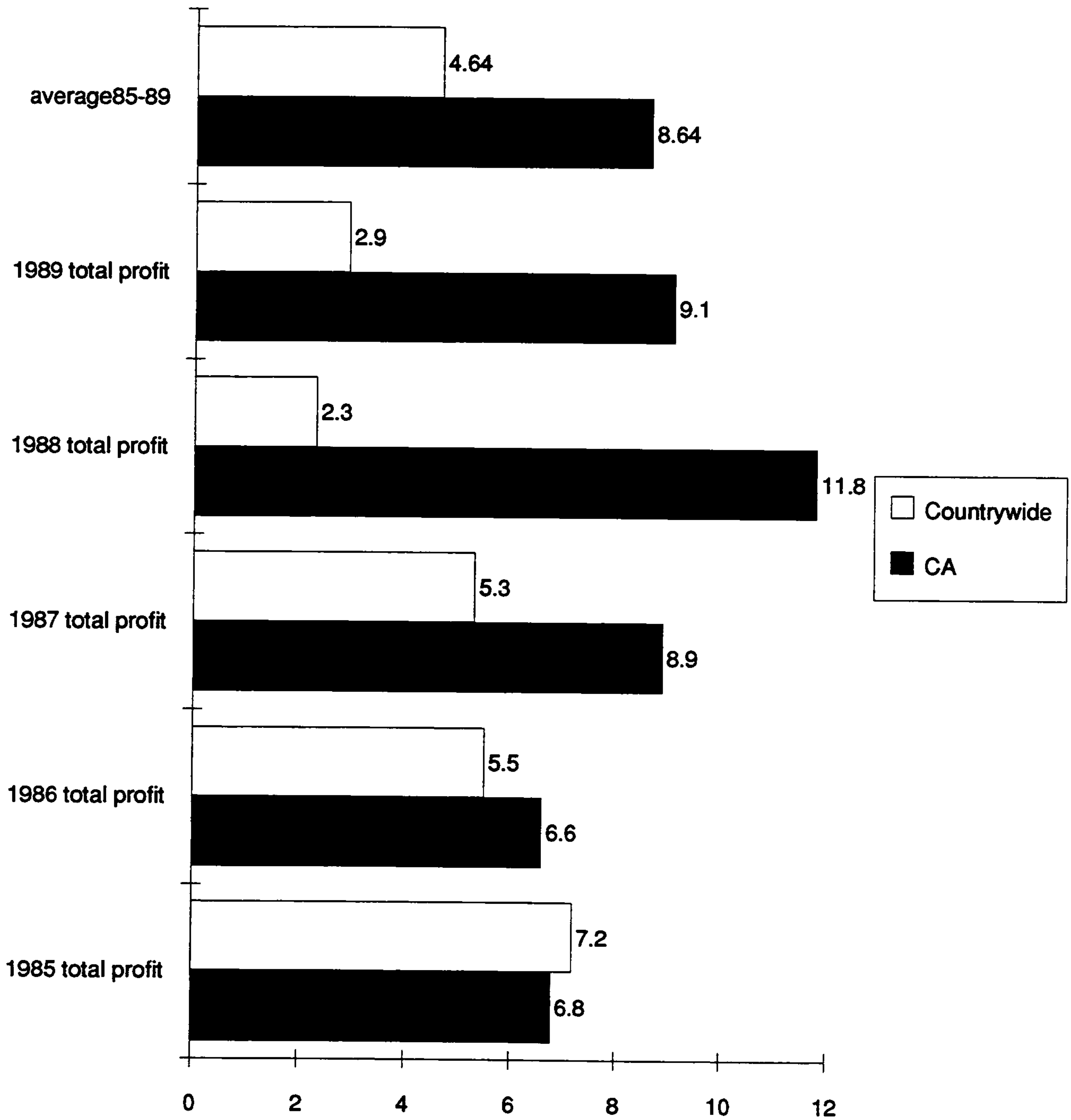
The system's income from premium is based on manual premium rates promulgated each year by the WCIRB and approved by the Insurance Commissioner. The Bureau collects premium, payroll and loss information incurred on all workers' compensation policies issued by California insurers. The information is available in its raw form to the Insurance Commissioner or his representatives. The Bureau seeks to group similar employers into industry classifications that reasonably reflect the relative hazard of that group. Using figures on payroll and losses for each classification, the Bureau calculates a "pure premium" or "loss cost" ratio for each class. In California, the Bureau develops these rates into "manual rates" by adding on factors for "loss development" and expenses. In pure open competition states, a rating bureau might only publish these loss cost figures, and competitive factors would take over, with each individual insurer making judgements about what development and administrative expense ratios would be associated with each class.

In California, individual employers who qualify via the threshold premium value may be eligible for a mandatory experience rating, which adjusts their rates according to their relatively recent claims experience. The experience rating formula is set by the Commissioner upon recommendations of the Bureau. In addition, insurers in California are allowed to offer "participating" policies to insured employers, which may lead to a rebate of dividends after the policy year is over and a good sense of the final results are in.

Several analyses of dividend practices of insurers have been performed over the past decade, by both the Rating Bureau and other sources. However, all these studies only consider the aggregate effects of insurer dividends, and cannot and are not used to compare dividend policies across insurance companies. Dividends are subject not only to an individual employer's experience, but to the overall economic trends and financial experience of the insurance carrier. Therefore, it is difficult to ascertain whether the present system provides a fair and equitable distribution of the costs of the system to insured employers, reflecting the actual losses and expenses and individual employers. Under current practices, it is difficult for individual employers to know at the outset what they will be paying under specific circumstances.

The following Exhibit 2.23, "Profitability Results California and Countrywide Workers' Compensation" indicates the profitability relationship between the California Workers' Compensation Insurance and the balance of the United States Workers' Compensation Insurance market.

EXHIBIT 2.23
PROFITABILITY RESULTS
CALIFORNIA AND COUNTRYWIDE
WORKERS' COMPENSATION



FOOTNOTE

1 Complete text of Commission mandate found in Appendix C.

2 Insurance Code, Section 11746.

3 California is not the only place looking at the role of insurance and workers' compensation. In New York State, a temporary commission is studying workers' compensation ratemaking. Insurance reform measures are being proposed in Pennsylvania, Rhode Island, California

4 Industrial Accident Board (IAB) of California, "Program for Workmen's Compensation Legislation, 1913." The Board laid out four policy alternatives in the area of insurance regulation: 1) the status quo - leaving the question of rate setting to the competition of the private marketplace. According to its research, such policies existed in Great Britain, Russia, Spain and Greece but the members stated that it resulted in extortionate rates or "a savagery of competition" that drove hard bargains with injured persons or threatened the carriers' solvency. 2) Compulsory state insurance had been seriously attempted in Norway and Washington state, but the IAB said neither of these systems included coverage of all workers, and to do so would require "an army of officials" to administer. "To make a state monopoly inclusive of all employments would create a bureaucracy of intolerable proportions and high cost, while not to include under the protection of a compensation law all who labor is to fail of safeguarding the state from poverty due to industrial accident." 3) State Control of Insurance Carriers was dismissed by the IAB as "unworkable," a scheme which was abandoned by those jurisdictions that had attempted it. Instead, the IAB proposed 4) Competitive State Insurance, an idea borrowed from New Zealand (where Board member Will French was born) and other states of continental Europe.

5 IAB,"First Report to Governor," 1912, p. 14.

6 Quoted in Labor Clarion, March 28, 1913, p. 10.

7 Labor Clarion, March 28, 1913, p. 10.

8 Labor Clarion.May 14, 1913.

9 Labor Clarion April 17, 1913.

10 Paul Scharrenberg, "Labor View of Legislature," Labor Clarion, May 16, 1913, p. 4.

11 Task Force on Workmen's Disability Insurance, Monroe Berkowitz, Chairman, "The Workmen's Disability Income System: Recommendations for Federal Action." Confidential report submitted to the Council of Economic Advisers, August 1968. (Author's files.)

12 See H.R. 8305, House of Representatives, 91st Congress, 1st session.

13 Occupational Safety and Health Act, 84 Stat. 1590, Section 27 (a)(1)(B).

14 OSHA Act, Section 27 (a)(1)(A).

15 Glenn Shor, "The Evolution of Workers' Compensation Policy in California, 1911-1990" Unpublished doctoral dissertation, Graduate School of Public Policy, University of California, Berkeley, 1990, pp. 189-191.

16 The Commission underscored five basic objectives for workers' compensation systems: 1) broad coverage of employees and work-related injuries and illnesses; 2) substantial protection against interruption of income; 3) provision of sufficient medical care and rehabilitation services; 4) encouragement of safety; and 5) an effective system for delivery of the benefits and services. In designing a series of 19 "essential" and 65 other recommendations on which to judge the progress of state programs, the Commission found many state programs, including California, were lacking in one or more areas.

17 HR 3160 (William Ford and 18 co-sponsors), as introduced August 1, 1991. 102nd Congress, 1st session.

18 The major insurance trade associations and carriers, including NCCI, Liberty Mutual, AIA, and AAI, declined to testify at the Congressional hearing, with some indicating that ratesetting practices were the domain of the state Insurance Departments and were not an appropriate area of inquiry by Congress.

19 Sacramento Bee May 5, 1939:31. The Bee article cited the state cost of compensation coverage at $50 million, of which approximately $30 million was under insurance, and the rest ascribed to large self-insured employers. See Department of Industrial Relations, Annual Report June 30, 1938- July 1, 1939, p. 7.

20 Olson, "Workmen's Compensation Insurance," pp. 31, 33.

21 Culbert Olson, "Workmen's Compensation Insurance," in State Papers and Public Addresses as Governor, "Messages to the Legislature, 1939," (Sacramento), pp. 30-33.

22 Sacramento Bee May 6, 1939:12; Sacramento Bee May 24, 1939:19.

23 California Attorney General, Opinion NF 2283 (January 17, 1940).

24 Employment Development Department, Disability Insurance System, First Payment Time Lapse for Month of October 1991.

25 EDD, First Pay Time-lapse study, March 1989. Disability Insurance Branch, MIC 29, Memorandum 89-25

26 Field Research Corporation, "A Global Study of the Outcomes of Workers' Compensation Claims." Conducted for the California Workers' Compensation Institute, July 1982., p. 57

27 In risks that were eligible for both experience and schedule rating, the company could suffer a significant experience rating debit if there was a single accident, such as a motor vehicle accident, even though they were making significant effort toward machine guarding and organizing a safety program. Having schedule rating in force would allow that company to mediate its losses through reasonable effort.

28 See State Compensation Insurance Fund, "Statement to the Insurance Commissioner in Opposition to the Proposal to Eliminate the Industrial Compensation Rating Schedule (Schedule Rating Plan) in California," March 29, 1951 (in SCIF archive).

29 California Insurance Commissioner , Decision # SF-5350-19A, "In the matter of the Petition of the CIRB dated February 5, 1951, to eliminate the Industrial Compensation Rating Schedule" (8/10/51).

30 California Inspection Rating Bureau, "Section J- Recommended Elimination of California Workmen's Compensation Industrial Rating Plans," Submission to Insurance Commissioner, 1973, p. J-5.

31 State of California, Department of Insurance, "Ruling No. 188, File No. RH-156), issued August 22, 1973. The actual decision was written by Chief Deputy Insurance Commissioner Lawrence Baker, who during the late 1970s and early 1980s was president of Argonaut Insurance, a large workers' compensation insurance carrier headquartered in California.

32 California Insurance Commissioner, Decision #188, August 22, 1973.

SECTION 3.0

CALIFORNIA WORKERS' COMPENSATION SYSTEM EVOLUTION

SECTION 3.0

CALIFORNIA WORKERS' COMPENSATION SYSTEM EVOLUTION

3.1 HISTORICAL OVERVIEW OF CALIFORNIA RATE REGULATION

3.1.1 THE COMMON LAW

California inherits its common law from England. Legislation and case law have now molded workers' compensation law into an entity which is far different from its English counterpart. The early origins of England's common law must be reviewed to understand the history of Workers' Compensation Legislation in the United States.

The English common law developed in an agricultural and craft economy. Common law principles held a master (employer) to be responsible for injury or death to his servant (employee) only as a result of the master's negligence.

When an employee was injured, the only recourse was to pursue a liability tort action against the employer. The employer had three defenses which had been developed through case law and which were known as:

A. "Fellow servant" rule

B. "Assumption of the risk" doctrine

C. Contributory negligence

These three defenses enabled an employer to avoid immediate liability for workplace injuries and forced the injured workers into court where they often encountered crowded court calendars, as well as the difficulty in proving their case and overcoming a showing of their own negligence. (Note: the doctrine of contributory negligence would prevent an employee from recovering for an injury if the employee were in any way negligent, even one percent.)

3.1.2 THE INDUSTRIAL REVOLUTION AND LEGISLATIVE CHANGE

The industrial revolution in the 19th century changed the traditional master-servant relationship and brought hazards in the work place that had not previously existed. During the 19th and 20th centuries, industrialization brought an increase in the number of work-related injuries for which there was virtually no remedy under the law. The resultant hardships this placed on families brought the need for reform and social legislation.

In the midst of this apparent unjust situation, workers' compensation legislation developed which discarded the tort model of **negligence** and created a different legal principal, that of "**liability without fault**" (or "no fault"). Under this new system, the employee "gave up" his ability to pursue a remedy within the tort system, and the employer assumed the responsibility of providing benefits and medical treatment for industrial injuries. Negligence became immaterial and the employer could no longer argue that the employee had contributed to his own injury.

The goal of this social legislation was to provide prompt relief to the injured worker and his family. The benefits took the form of complete medical treatment to enable a full recovery from the injury and compensation in lieu of salary while the employee recovered and was unable to work. Compensation payments were less than the workers' salary to provide incentive for the employee to return to work. A compensation system was designed to provide payment if a permanent disability resulted which either prevented the employee's return to work, or resulted in a reduced ability to perform the job due to loss of limb or restriction of body motion.

In California, the first workers' compensation legislation was the Roseberry Act. Since that time the law has been liberalized to raise benefits. California case law has defined the scope and limits of the industrial injury claim and a body of rules and regulations have developed to promote efficient administration of the workers' compensation system.

3.1.3 EARLY WORKERS' COMPENSATION RATE STRUCTURE AND IMPLEMENTATION

Competition was the first form of insurance rate regulation in workers' compensation in California. Under the state's first experimental and voluntary worker's compensation law -- the Roseberry Act passed in 1911 -- private carriers competed against each other for business. But, many private carriers operating in California had initially established rates as much as one-third higher than in other states. When planning a mandatory compensation act, the state Industrial Accident Board (IAB) characterized the experience of countries that had only private insurance coverage: "There has either been a combination that has been extortionate or a savagery of competition that has resulted in driving hard bargains with injured persons or the solvency of the carriers has been seriously threatened."[1] Rejecting either compulsory state insurance (i.e., an exclusive state fund) or full state control of insurance carriers, the Board members proposed establishing a competitive state insurance company challenging "other responsible carriers to operate with so much of profit as they may be able to make by doing the business more efficiently and at less cost than the State can do it. This form of competition suffices to secure justice for employers and employee and at practically no cost to the State."[2]

A state-run ratemaking bureau to set recommended rates was also suggested by the IAB in 1913. Under this proposal, the Bureau would be governed by five members: the manager of the State Fund, the Fund's actuary, a member representing private insurance carriers, a representative from the State Insurance Commissioner's office and the superintendent of the State Department of (Industrial) Safety. Together with a panel of clerks, they would determine the classification and rates for plants and shops, and enact a system of prospective and retrospective pricing, "crediting or penalizing in the rate made as considerations for the safety of employees rise above or fall below the standard for each such class, to the end that the insurance rates shall be the most effective police force for making places of employment safe."[3] In the 1913 law, no state bureau was established; instead, the new Industrial Accident Commission (IAC) was given the duty of establishing rates for the State Fund, without much guidance on what data to use, and no control over private carrier rates.

In 1914, both the State Fund and many of the 29 private carriers writing workers' compensation policies initially turned to the rate schedules and classification schemes established by the Workmen's Compensation Service Bureau (WCSB) of New York City, an insurer-funded rating bureau.[4] The Service Bureau collected and aggregated claims information from all member states and all insurers within its membership, and set "advisory" rates based upon the total amount of indemnity and medical payouts, and the estimated payroll of the workforce. These rates were published in Bureau manuals, but individual insurance companies could and did set their own final rates in competition with one another. Rate competition between the State Compensation Insurance Fund (SCIF) and private insurers was widespread; indeed, it was seen as healthy in keeping costs under control. The State Fund adopted Bureau rates that were initially 25% less than those that had been charged by private insurers for coverage under the Roseberry Act.[5] Yet, because of its nonprofit status and low administrative overhead, the State Fund was able to return a dividend of 15% to policyholders at year-end, and still contribute to policyholder surplus.[6]

Despite having higher overhead costs, some private insurers attempted to undercut and undermine the State Fund with rate reductions.[7] This unregulated price competition led to problems. At least one carrier became insolvent, leaving hundreds of injured workers without a source of benefits.[8] The State Fund had been founded on the ideal of serving as a regulator of rates through competition, but it needed to survive in order to compete. Threats of predatory pricing against the Fund and the lack of reserves to sustain itself in such a fight prompted the Fund and IAC to promote state regulation of insurance carriers writing compensation insurance "to protect the solvency of such carriers as their activities strike at the very heart of our industrial and economic system."[9]

Workers' compensation was a new insurance line of mandated payouts under a no-fault structure, and the scope of benefits and nature of risk was different than all other states. There was no California-specific data or organized experience on which to base rates. Thus, to some extent, all premium ratesetting at the time was based on conjecture, or on limited experience in another state with different conditions and incomparable laws.[10] By 1915, SCIF and the IAC also realized that leaving the rates of the Fund's private competitors to the market was insufficient protection against insolvency. They sponsored a bill (SB420), written by State Fund manager C.A. Fellows, giving the state insurance commissioner regulatory authority over workers' compensation insurance rates.[11] The measure was intended to protect the State Fund (and presumably other responsible companies) from threats to solvency by establishing adequate rates. The bill was criticized on the basis that individual state bureaus could not hope to achieve an actuarially credible level of experience,[12] and because some insurers didn't want to open their books to government regulators. Eventually, however, most insurance carriers supported the bill fearing that the irresponsibility of a few smaller companies could increase demands of organized labor and social theorists for an exclusive state fund for industrial accidents such as was already operating in the states of Ohio and Washington and proposed elsewhere.[13] They also recognized that if rates were established to protect less efficient companies, the higher rates could mean more profit or expense dollars.

Under the law as passed, all worker's compensation insurers were required to file their classifications of risks and premium rates, along with any system of merit or "schedule" rating. The commissioner would then determine a uniform classification of risks and premium rates at a level "adequate for all insurance carriers authorized by law or licensed to transact compensation insurance." Licensed companies with the highest overhead costs, then, would determine the minimum price level; assurance that every insurer be solvent and have the ability to keep paying claims would take precedence over assuring lowest possible costs of the system.

The Insurance Commissioner was responsible for developing a uniform system of classification and rating, but had no special expertise to do so. Initially, the task of revising the existing WCSB manual used in California fell to a committee of the California Casualty Underwriters' Association (private carriers) and the State Fund. Together, instead of opening another branch office of the national Workmen's Compensation Service Bureau, they launched the California Inspection and Rating Bureau (CIRB), a private agency.[14]

The Bureau assumed considerable latitude in regulating itself and its members. The Commissioner delegated this Bureau advisory power in determining rates, full charge of all merit rating inspection work in the State, and maintenance of a "stamping office" to determine if the proper classifications and rates were applied on each application for compensation insurance. The dominant role in governing the new rating bureau was held by the private carriers, in contrast to the earlier IAB proposal. The Bureau's five-member governing board and rating committees consisted of two "stock" company members (insurance carriers owned by stockholders), one from mutuals or reciprocal insurers, one from the State Fund and one from the State Insurance Department.[15]

Membership in the CIRB was voluntary and open to all admitted workers' compensation insurers. The Bureau's stated purpose was to "develop adequate premium rates for submission to the Insurance Commissioner for consideration and approval."[16] A serious commitment of resources accompanied the introduction. At the beginning of 1915, the WCSB had only 2 inspectors. By November, the CIRB had 14 inspectors on staff, and another 4 were added the next month.

3.1.4 THE STATE FUND AND PREMIUM RATESETTING

A key policy question in the development of California's workers' compensation system was the role of the nonprofit SCIF. The competition of a nonprofit state enterprise was seen as an alternative to direct regulation of private insurers by the state. The State Fund was originally intended to keep private carriers from raising their rates too much, and to provide a model of service and efficiency.

Under California's "minimum rate law," direct front-end price competition between carriers became prohibited by law. Rather, competition would take place on two levels: post hoc rebates of excess surplus in the form of policyholder dividends, and, service offered to policyholders. The State Fund was able to offer significant dividends in every year, and continuously attracted more and more business. Because returns to policyholders were directly in conflict with stockholder profits, most private insurers liked to stress their service components, including the education of workers in accident prevention methods, as well as providing use of efficiency experts to insured parties.[17]

Usually regulation of insurance or public utility rates is used to set the upper limits of costs, but in California's workers' compensation system, circumstances at the program's inception dictated that the process be used to establish minimum rates. The object of the minimum rate law was primarily to "safeguard or assure the solvency of workmen's compensation insurers and thereby to assure the payment" of benefits to injured workers and the dependents of deceased workers.[18] But minimum rates were also established to protect the State Fund from cutthroat competition during its formative years.

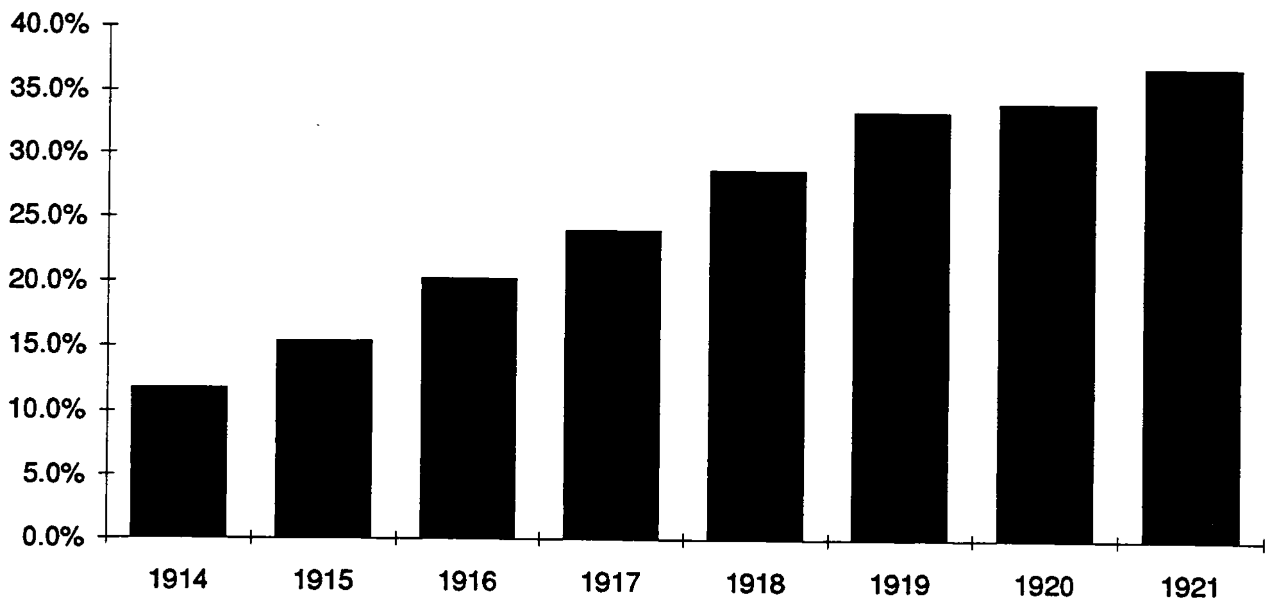
Over time, however, the protective aspect of minimum rates shifted from nurturing the nonprofit State Fund to benefitting the high overhead "stock" insurance companies, the carriers whose stockholders, rather than policyholders, shared in the profits. The law stated that the Insurance Commissioner was obliged to set rates "adequate" for all insurers. Traditionally, adequate rates were those high enough to cover loss costs (i.e., disability benefits and medical care) and overhead for the least efficient stock companies, whose administrative costs (commissions and brokerage fees, claims adjustment expenses, general expenses, taxes and safety and engineering services) were approximately 40% of premium, in contrast to the 12%-15% spent by the competitive State Fund. Mutual insurers, companies "owned" by their policyholders, were somewhere in between, spending between 23% and 30% of premium on expenses. Insurers like the Fund who had excess premiums at the end of the policy period, were allowed to return dividends to employers, but were not allowed to sell coverage at discount prices up front.

The State Fund had periodically challenged this tradition in seeking to capitalize on its advantages in the market. At least one IAC commissioner was not convinced that the 1915 minimum rate law would solve all the questions of insurance ratemaking and organization. Will French favored going to an exclusive state fund. "While I am not exactly an advocate of State Insurance, yet I have recently made some investigations into the system of insurance prevailing in the states of Oregon and Washington (then both exclusive fund states). I found the employers satisfied. I also ascertained that the rates are very much lower than those charged in California. From the beginning of our work I have felt a doubt about whether it was right for any man, or any insurance carrier, to make a profit out of industrial accidents."[19]

In 1917, a move to allow the Fund to lower its front-end price for coverage failed in the Legislature after insurer opposition.[20] In 1918, private insurance carriers began to charge rates 5% above the minimum rates approved by the Insurance Commissioner. By 1919, despite the rating law, five private carriers had failed and gone into liquidation.[21] The State Fund did not increase its rates; indeed, it continued to return dividends of as much as 33% of premium, while keeping overhead costs to an average of under 14%. IAC Chairman AJ Pillsbury lauded the Fund's success, and wrote that it indicated that the state insurance could be useful in dealing with other "hazards of life, such as sickness, unemployment, (and) premature death."[22] The State Fund's share of business continued to grow as the decade ended.

Exhibit 3.1, "State Fund Premiums as Percentage of Total Market California 1914-1921", illustrates the State Fund premiums as a percent of workers' compensation market share in California between the years 1914 and 1921:

EXHIBIT 3.1
STATE FUND PREMIUMS AS PERCENTAGE OF TOTAL MARKET
CALIFORNIA 1914-1921



3.1.5 THE EARLY CHALLENGE OF PRICING OCCUPATIONAL DISEASE COVERAGE

An early task of the CIRB was to determine the premium rate effect of allowing occupational illness cases, as well as injuries, into the system, an expansion of the system's scope that had been approved by the Legislature in 1915, and for which there was no actuarial experience.[23] The difficulties of coming to objectively set rates were evident in these early discussions. The Industrial Accident Commission estimated that inclusion of disease cases would add 1.5% to 2% to average premium costs. Insurance sources pegged it somewhat higher, anticipating that workers' compensation would eventually cover a broader scope of conditions. The following is a direct excerpt from *Underwriters' Report*, 1915:

> "The inclusion of occupational disease is expected to mean an increase in the pure premium cost of far more than the 3% that has been estimated. Adjusters state that 3% may cover the cost of strictly occupational disease such as lead poisoning, etc. but it is believed that the amendment will, in the rulings of the accident commission, hold the employer and his insurance carrier for many maladies which are only incidental to the employment.[24]

On November 12, 1917, a loading (or increase) of one percent was inserted in the rate of every classification to cover the occupational disease hazard, and an additional one percent was added to such classifications "where the underwriters believed the hazards definitely existed."[25] The fears that occupational disease coverage would bankrupt the system were not borne out. On February 1, 1919, the additional one percent was eliminated, and on April 1, 1922, the blanket one percent was also eliminated. The State Fund's rate expert said there was no additional problem in compensating occupational disease, and IAC chair Will French declared that "there is no foundation for the belief that a broad occupational disease law, without naming the diseases, would either hamper business or seriously affect insurance costs."[26]

3.1.6 MERIT RATING

In 1924, during the Richardson administration, insurers attempted to use some of their knowledge of risk categorization and put a heavier emphasis on underwriting, the art of determining relative risk for ratesetting. The objectives of the Industrial Compensation Rating Schedule were to encourage accident prevention in manufacturing plants through a comprehensive merit rating involving both retrospective and prospective review: Experience rating would compare physical hazards in manufacturing plants to a theoretical norm and assess debits and credits; schedule rating would provide a rate credit for employers establishing safety organizations, first aid dispensaries and plant hospitals. The Chemical and Dyestuff Rating Plan gave insurers a heuristic for determining relative risks in chemical manufacturing, where broad manual rating was not specific enough to the risk. For example, workplaces would be classified by distinguishing between the characteristics of the raw materials (i.e., explosion or flammability risk), products and processes.

3.1.7 SUMMARY

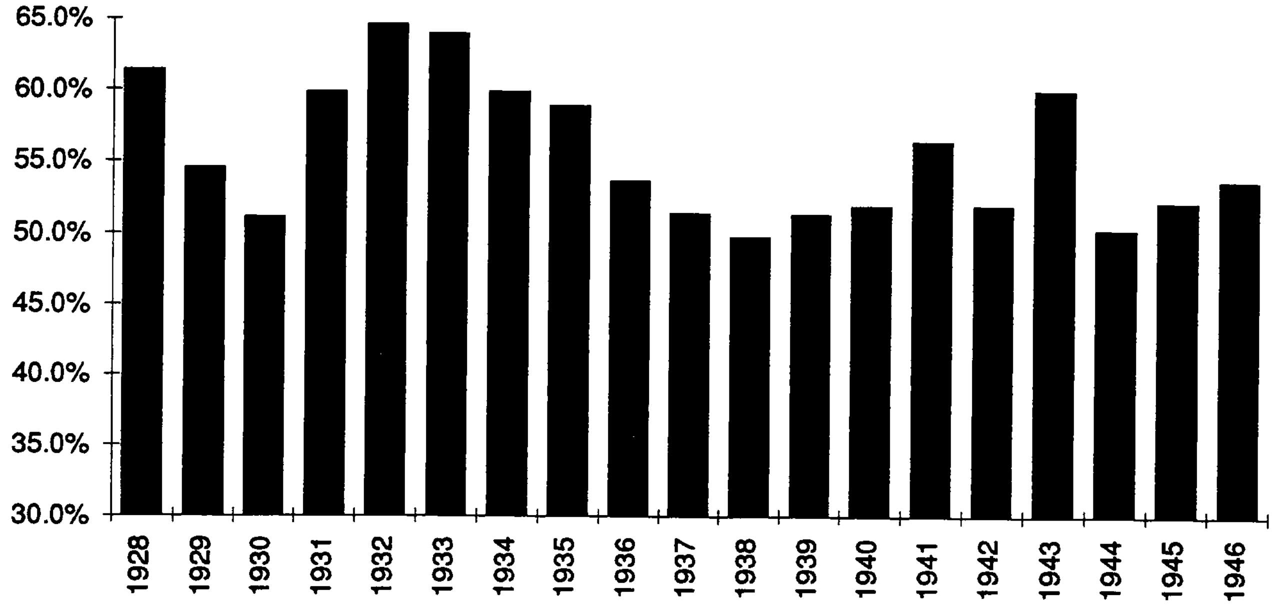
There were two distinguishing features related to insurance in California's early implementation of compensation legislation. A state insurance company was set up to provide competition with private carriers in the areas of service, efficiency and net price. And, a system of ratesetting evolved that included the nation's first extensive use of merit rating, which gave employers financial incentives to improve their loss prevention experience. The nonprofit State Compensation Insurance Fund quickly became and remained the largest insurer of compensation coverage, despite a short period of abusive administration during the mid-1920s. The system of premium rating, which took both industry averages and company-specific factors into account in setting an individual company's price provided incentives to significant numbers of employers for reducing risks and preventing injuries.

3.2 THE DEPRESSION PERIOD

3.2.1 ECONOMIC CRASH AND DEPRESSION

The economic crash of 1929 affected workers' compensation insurance in several ways. The swift economic decline meant reductions in employment, as well as declines in the level of wages. While payroll and insurance premiums went down, there were upward pressures on claims. Increases in unemployment meant more of those out of work were likely, in the absence of alternatives, to press workers' compensation claims where possible, and more of those injured on the job who expected to be laid off on their return would seek to maximize their time on compensation benefits. The reduction in wage levels for those who continued to work meant that absent adjustments in premium rate levels (and there were none between 1922 and 1937) the cost of insuring a worker was lower than before wages dropped, despite there being no concomitant decrease in the risks of employment. The combination of these trends is that during downturns in the economy (such as 1930-32) losses rose faster than premiums, while during economic expansion (1934-38) premiums rose faster than losses, as shown in Exhibit 3.2, "Loss Ratio - Losses Incurred to Premiums Earned", located on the following page. Additionally, the value of insurance company assets took a downward dive with the stock market, and so the solvency of private companies was threatened.

EXHIBIT 3.2
LOSS RATIO - LOSSES INCURRED TO PREMIUMS EARNED

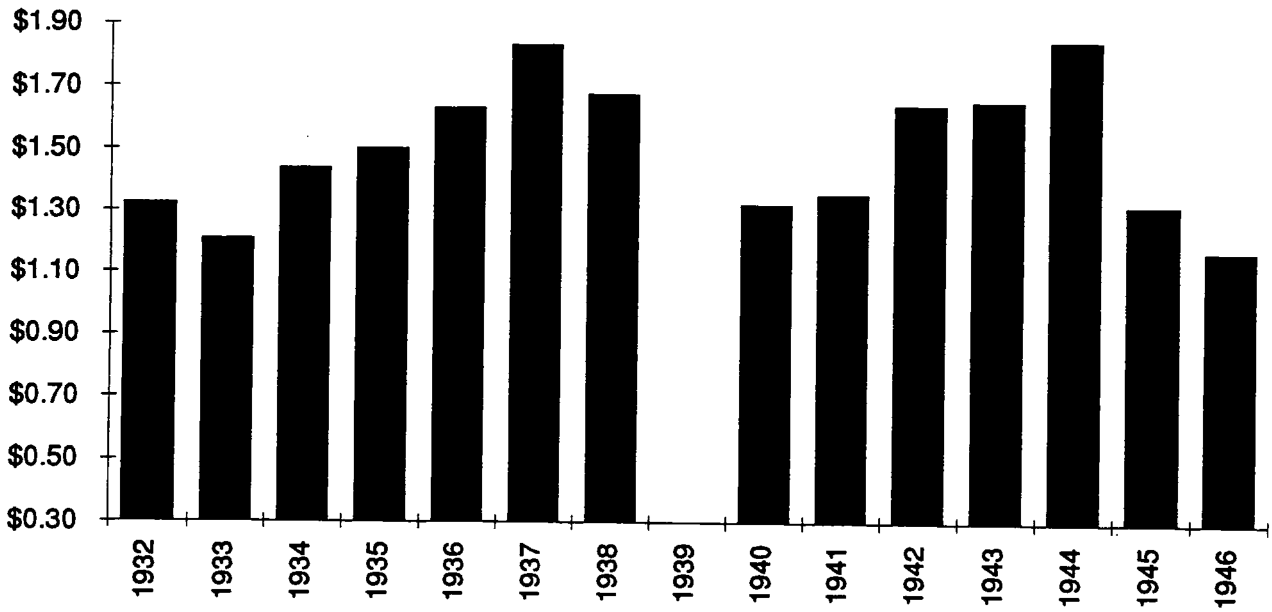


Source: Department of Insurance

As economic recovery began and the numbers of employed and wage levels rose, the outcome was a windfall for insurers, with premiums rising faster than losses. Although it is typical that economic recovery brings increased injury rates because more inexperienced workers enter the workforce, these effects on the financial aspects of compensation seemed to have been more than offset by the increase in wage rates and amounts of money coming into the insurance system. Coming off of such a severe depression, there were also many skilled workers returning to work, rather than new unskilled employees more prone to accidents and injury. Eventually, in the later part of the 1930s, the gap between premiums collected and benefits paid became so large that even the premium rates were reduced and average employer costs fell dramatically in a short time. But as the type of work shifted to more hazardous exposures of wartime production, average employer premiums began to rise again.

Exhibit 3.3, "Average Employer Cost for Compensation Coverage per $100 Payroll, California 1932-1946 Insured Employers Only", located on the following page, clearly indicates the average insured employer cost for compensation coverage as related to $100 of payroll in California between the years 1932 to 1946. Information regarding experience for 1939 was not available.

EXHIBIT 3.3
AVERAGE EMPLOYER COST FOR COMPENSATION COVERAGE PER $100 PAYROLL, CALIFORNIA 1932-1946
INSURED EMPLOYERS ONLY



Source: Department of Insurance

3.2.2 THE STATE FUND RESPONSE

In 1929, after a decade in which the private carriers had halted the rise in market share of the State Compensation Insurance Fund, SCIF announced its resignation from the California Inspection Rating Bureau, the advisory organization that collected data and submitted proposals for premium rate changes. The Fund charged that the CIRB had been favoring the position of the stock insurers in all decisions, and demanded an equal voice for the non-stock carriers in the overall operation of the Bureau. Private carriers feared the move for two related reasons. First, they thought that without membership of the nonprofit State Fund the Insurance Commissioner would feel required to engage in more restrictive regulation of the Bureau and its policies. Second, they feared that the Fund might be trying to go it alone, and eventually seek to monopolize the insurance market, as was already the case in six other states. In the end, the private carriers convinced SCIF to stay on by granting certain concessions on governing the Bureau and on the ways insurance coverage was marketed.[27]

During the 1930s, the California State Federation of Labor (CSFL), in line with national American Federation of Labor policy, kept up pressure to change the competitive State Fund into an exclusive one, so that no high-overhead private carrier could continue to write coverage. Various policy resolutions of the CSFL indicated that states with exclusive funds had lower overhead rates, and that the savings inherent in switching could help finance larger benefits, and presumably a greater wage package for workers.[28]

The campaign to socialize the insurance of industrial accidents was in line with other trends of the Depression era. In Oklahoma, a competitive State Fund was established due to the failure of some private insurance companies and the resulting difficulty of some employers in high-hazard industries to find coverage. The federal Social Security Act was passed with benefits for old age, the needy and the unemployed being paid directly by the government, without going through private insurance companies. Legislative discussions about health insurance did not include private insurance carriers either.

Although Upton Sinclair's candidacy with its platform of state-supported enterprises failed in 1934, the idea of a state insurance monopoly corresponded with the political ideology of Governor Culbert Olson. Upon taking office in 1939, Olson, a New Deal Democrat who had won election to the State Senate in 1934 as a supporter of Sinclair, declared his support for legislation requiring all workers' compensation insurance to be written by an exclusive state fund, a charge he claimed could cut the state's compensation bill in half.[29]

Olson's reasons for urging an exclusive state fund centered around the inefficiencies of the existing system. Because insurance overhead expenses were 40% of the premium dollar, industry was paying an unnecessarily large cost. If all insurance were written by the State Fund, the "expensive and useless advertising and solicitation" expenses could be reduced. Employers who, in violation of the law, failed to carry insurance, could be "more effectively compelled" to provide coverage if there were only one carrier. In the other compulsory social insurance systems, like old age benefit insurance and unemployment insurance, the administration was handled exclusively by the state. These systems required employers to complete quarterly payroll reports and make premium payments; by integrating workers' compensation into this system, he believed, collection of monies could be standardized and simplified through "the concentration of these functions in a single office, with suitable branch offices throughout the state. It would mean improved service to employers, to workers and to the public generally." An exclusive state fund would also "enable a much better standard of safety inspection and more intensive safety educational work" throughout all industrial and agricultural sectors. Finally, Olson believed that because the state would operate in a nonprofit manner, more generous benefits could be offered to those who were injured.[30]

Olson maintained that "one of the true functions of government is to do for the people the things which they cannot do for themselves, or the things which they are unable to do as well for themselves." Consistent with his stand that public utilities should be owned by the public, Olson saw state insurance in workers' compensation as a "case where special interests conflict with the general public welfare, and sound economy and saving in an essential public service."[31] But, as expected by Olson, the bill was opposed strongly by private insurance companies and could not gain approval of either the Senate Labor and Capital Committee or the Assembly Insurance Committee.[32]

Failing in the Legislature, the Olson Administration tried to do the deed through the insurance regulatory process. The State Fund announced its intention to lower its own premium rates and then recommended that the Insurance Commissioner reduce the expense provision granted to all insurers from 40.6 to 14.9 percent, the overhead rate that was considered adequate by the State Fund. Such a move would have effectively put the private carriers out of business.

But this move was unsuccessful as well. The Insurance Commissioner sought an advisory opinion from Olson rival Republican State Attorney General Earl Warren on whether the Insurance Code section enacted in 1915 would allow the lower expense provision to be applied to all carriers. The opinion came back that, under the law, rates were to be adequate for all insurers, including those doing business under the American Agency system (the stock insurance system).[33] The opinion expressed the view that switching to the lower expense provision would jeopardize the solvency of the private carriers, and that the legislature had expressly determined that a mixed system of private and public competition was in order. Only further legislative direction would alter that view.

3.2.3 SUMMARY -- NON-REFORM OF THE INSURANCE RATEMAKING PROCESS

The Depression years kept employers' costs of workers' compensation insurance relatively low. With premiums tied closely to wage levels, and wage levels declining, and with unemployment replacing compensation as a major source of workplace tension and social cost, there was slight attention paid to the workers' compensation system by organized employer groups. Not being inspired to challenge the rate system set in place in the early 1920s, state insurance regulation failed to identify inefficiencies in insurer operation or do much to focus attention on the high overhead of the private insurance companies. Although alternative structures for compensation were identified and advocated by labor interests and by a Democratic administration, the combination of an unresponsive insurance commissioner, lack of emphasis by employer groups, and strong defensive action by private insurance carriers defeated changes. Throughout the era, employers continued to pay compensation premiums that were as much as double the amount of benefits paid to injured workers.

3.3 THE POSTWAR PERIOD

3.3.1 MERIT RATING AND THE DEMISE OF SCHEDULE RATING

Well before the implementation of OSHA, the workers' compensation insurance system was intended to have dual roles: It would finance the payment of benefits while encouraging prevention of injury and illness. The latter objective would be met through merit rating plans such that employers engaging in injury prevention and those with relatively good injury records would be rewarded. One of the most significant insurance changes of the postwar period was the deterioration and eventual abandonment of the practice of providing employers with financial incentives to engage in injury prevention activities. These "schedule rating" incentives, available to many employers making either physical or administrative changes in the workplace or organization of work, had been considered an integral piece in the original structure of California's system, and their withdrawal reduced motivation for emphasizing hazard control among many medium sized manufacturing businesses.

Under schedule rating, inspectors from the California Inspection Rating Bureau (the predecessor to the Workers' Compensation Insurance Rating Bureau) would assign a numerical rating to eligible insured employers based on the degree to which the workplace met predefined standards of mechanical safeguarding and organized injury prevention programs. Schedule rating was part of a complementary structure of state regulatory standards and enforcement and economic incentives for prevention through the compensation insurance system.

In 1951, most private insurers supported a plan to eliminate the schedule rating option in California. They contended that the plan, originally adopted in 1924, had outlived its usefulness and was difficult to administer, and that retrospective "experience rating" was a more reliable measure of accident prevention work. They stated that only 2.7% of the insured employers in the state were schedule rated and that these few employers were being cross subsidized by all other employers.

The State Fund and a few other insurance carriers were opposed to eliminating the plan. They argued that despite its shortcomings, the prospective credits offered to employers by the plan were critical in convincing management to implement health and safety activities. They pointed out that while the number of employers in the plan was relatively low, they accounted for more than one-quarter of the state total premium. Furthermore, unlike experience rating, schedule rating was available to many small employers, was available to new risks without actuarial experience, and did not require a long time lag to assess experience.[34] The Fund predicted that if schedule rating were eliminated, the state could expect "a substantial reduction in appropriations by industry for safety purposes and a corresponding increase in accidents."[35] In his 1951 decision on the matter, the Insurance Commissioner was swayed by the argument that schedule rating provided a complement to other state and insurance Bureau administered injury prevention efforts and ordered that instead of abandoning the system, that it be upgraded and modernized.[36]

The schedule rating system went through several changes over the next 20 years. By 1969, nearly one in five premium dollars was collected from schedule rated firms. But in 1973 a revived proposal to drop the plan was submitted by the California Inspection Rating Bureau and accepted by the Insurance Commissioner. The new reasoning was that while schedule rating standards had once been stricter than state safety standards and thus could encourage preventive work beyond that required under state law, the opposite had evolved. The CIRB argued that the newly adopted state OSHA program had standards far stricter than those of the schedule rating plan, and which applied to a broader industrial mix than just manufacturing firms. "Moreover, the fact that the OSHA program carries with it very extensive and substantial fines and permits the closing down of plants insures that the effectiveness of OSHA in encouraging safety will be far above that obtained from the Schedule Rating Plan. Another very important aspect of the OSHA inspection system is that it may be initiated by an employee who considers that some unsafe condition exists in the plant."[37]

This time, in an August, 1973 decision of Insurance Commissioner Gleeson Payne (appointed by then-Governor Ronald Reagan), the nearly 50 year old policy was reversed.[38] Rather than attempting to improve the rating plan in a manner that would give an economic incentive to employers who exceed the minimum state safety requirements, the Commissioner instead simply allowed schedule rating to lapse.[39] With this decision, California retreated from the 60-year old belief that the insurance industry would use its own inspection power to place a priority on accident prevention.

3.4 1989 WORKERS' COMPENSATION REFORM

3.4.1 INTRODUCTION

In 1989, then Governor George Deukmejian signed two bills into law, AB 276 and SB 47, which proposed to dramatically change the workers' compensation system in California. This legislation was known as the Margolin-Bill Greene Workers' Compensation Reform Act of 1989 (hereinafter referred to as "Reform Act"). Prior to this legislation, there was no consensus between employees, employers, the legal and medical communities as to how the reform could be accomplished.

The bulk of the Reform Act is contained in AB 276 (1989 Cal. Stat. Ch. 892) with amendments contained in SB 47 (1989 Cal. Stat. Ch. 893). The Reform Act contains sweeping administrative changes and emphasizes:

A. Expediting benefits

B. Early identification of rehabilitation

C. Revised adjudication procedures including mandatory arbitration for certain cases

D. Stricter requirements for finding psychiatric claims compensable (including "stress" claims)

The sweeping changes in procedure and administrative structure were meant to address and incorporate, to the extent possible, the concerns of all interest groups that actively participate in workers' compensation.

The structure of the Reform Act can be examined in any number of ways, but for purposes of this report, we will examine the effect of the Reform Act on the insurance process itself (including establishment of the Workers' Compensation Rate Study Commission), and then examine the administrative changes from inception of injury to final dispute resolution involving litigation. Lastly, the newly created commissions will be examined.

As a caveat, this is an overview only and not intended to be a substitute for the actual legislation.

3.4.2 REFORM ACT PROVISIONS CONCERNING INSURANCE ONLY

Expense Rates

The "expense provision" is designed to be a uniform factor included in insurance rates. This expense provision is designed to ensure that there is adequate premium up front to fund the costs of adjusting claims, other underwriting expenses, dividends and taxes. Prior to the Reform Act, expense provisions were only required to be "uniform" among insurers and insureds. Throughout the 1980's, the expense factor was set at approximately 35%. The expense factor was routinely proposed to the insurance commissioner by the Workers' Compensation Insurance Rating Bureau based on its analysis of funding needs.

The Reform Act changed that process to require uniform expense provisions upon insurers that provide workers' compensation insurance. While there was much debate over the percentage chosen, the 35% expense provision was accepted as the "uniform expense factor." The Reform Act then decreased that factor yearly from 34% in 1990 to 32.8% in 1992.

The Insurance Commissioner may also make other changes in rating systems used by insurers or in premium rates if there is competent economic and actuarial evidence that a change is needed. This evidence must be submitted at a public hearing before any change can be made.

Workers' Compensation Insurance Rating Bureau

As background to this section, it must be remembered that until 1987, there were no "public" members / representatives that participated in overseeing the Rating Bureau functions. Rather, the membership of this governing committee was comprised of insurance company representatives. Effective in 1988, two "public" members were added, appointed by the insurance commissioner.

The Reform Act altered the composition of the Rating Bureau to add two public members (total public members is now four), and required that two of the public members represent insured employers and that two represent organized labor. Additionally, the public members will be provided with funds to hire actuarial consultants or other specialists to assist them with their responsibilities.

Insurance Commissioner

The Insurance Commissioner is required to monitor the cost of the components of the Reform Act legislation and must report the results to the governor and legislature annually from 1993 through 1996.

The Workers' Compensation Rate Study Commission

This new commission is housed within the Department of Insurance. The Commission's life was extended until March, 1992 by additional legislation. The Commission members have the task of evaluating the entire workers' compensation insurance ratemaking process and must compare ratemaking systems used in other states, analyze the effect of California's minimum rate law on competition between insurers, consider the advantages of establishing an exclusive state fund and evaluate other states with exclusive state funds. The Commission must also investigate the Workers' Compensation Insurance Rating Bureau and determine whether its functions should be assumed by the Department of Insurance. The Commission must evaluate the extent to which the current ratemaking system meets the following goals: encourages appropriate and expeditious claims service to injured employees, assures security of benefits from the insurer to the injured worker; provides financial incentives to employers to maintain safe operations; provides lowest net cost to insured employers; provides a fair and equitable distribution of the costs of the system; and encourages availability of insurance to all sizes and classifications of employers to assure a stable, predictable and competitive insurance market and a reasonable rate of return to insurers (Insurance Code 11746).

Rehabilitation Refund

Please refer to Section 3.4.6 concerning a refund for employers who reemploy injured workers.

3.4.3 ADMINISTRATIVE STRUCTURE AND REORGANIZATION

The Division of Workers' Compensation

The Division of Industrial Accidents is now called the Division of Workers' Compensation. It is still headed by the Administrative Director but is given greater responsibilities. This Director must submit a report to the governor and legislature on an annual basis and apprise them of the (1) data on penalties imposed and paid by employers and insurers because of delays in delivering compensation as a result of audits conducted by the Office of Benefit Assistance and Enforcement, and (2) recommend improvements in the delivery of compensation to injured workers.

The Division of Workers' Compensation has two new offices:

Office of Benefit Assistance and Enforcement

The Reform Act creates the Office of Benefit Assistance and Enforcement (OBAE). OBAE provides services previously handled by the Information and Assistance Bureau and the Claims Bureau. Additionally, and more controversially, OBAE now audits insurers, self-insured employers and third party administrators to assure compliance with workers' compensation regulations. OBAE is particularly concerned with assuring timely and appropriate payment of benefits to the injured worker. OBAE is empowered to assess penalties ranging from $100 to $5000 depending on the violation.

The Administrative Director will promulgate a schedule of violations and can assess a civil penalty of up to $100,000 for willful misconduct. Willful misconduct would be found if, following a hearing, it was determined the employer or insurer knowingly engaged in practices involving refusal to comply with known compensation obligations, discharging compensation duties dishonestly or in a manner that caused injury to the public, etc. The Administrative Director is also authorized to remove an insurer's ability to operate if a second finding of willful misconduct is made.

Office of Benefit Determination

The Office of Benefit Determination (OBD) assumed the duties of the Disability Evaluation Bureau and the Rehabilitation Bureau, which duties include issuance of permanent disability ratings and administering the Vocational Rehabilitation Program. OBD must also develop a fee schedule that is designed to reduce the cost of vocational rehabilitation services by ten (10) percent.

Workers' Compensation Appeals Board

The seven commissioners that constitute this Board will have their terms increased from four to six years.

3.4.4 BENEFITS: CHANGES IN PAYMENT LEVELS AND PROCEDURES

The Claim Form (DWC-1)

The Reform Act requires an employer provide a claim form (DWC-1) to an employee within one working day of receiving notice or knowledge of the employee's injury. The employee must file the claim form with the employer who must forward it to his insurer or third party administrator, and return a copy to the injured worker. Filing of this DWC 1 form by the employee must precede the filing of an application for adjudication of claim (the "old way" a claim could initiate), and if filed, allows for an automatic penalty to be included with all indemnity payments if not made in a timely manner.

Compensation Benefits

TEMPORARY DISABILITY: The Reform Act increased the maximum weekly benefit amount for temporary disability. As previously, compensation is payable at the rate of two thirds of the employee's average weekly earnings up to a maximum set by the Legislature. As of 1/1/90 that weekly maximum was raised from $224 to $266 per week. The Reform Act allowed for increases as of 1/1/91 to $336 per week.

First payment of temporary disability is due within 14 days after knowledge of injury and includes all amounts due. Subsequent payments are due every two weeks on a day designated when the first payment is mailed. An automatic, self-imposed 10% penalty applies (provided the claim form DWC-1 is submitted) to the indemnity payment if made more than 14 days after the date of knowledge unless the injured worker has been notified why a compensability decision cannot be made, what additional information is needed and when a decision is expected.

PERMANENT DISABILITY: The first payment of permanent disability is due within 14 days of the last payment of temporary disability. The employer must notify the employee whether he is eligible for permanent disability benefits.

As to permanent partial disability benefits, no changes were in effect until 1/1/91 and the increases apply only to the more serious cases (in excess of twenty five percent permanent disability). Additionally, the employer must serve the employee with a description of the procedures for evaluation within five working days after receiving information that the employee's medical condition is permanent and stationary.

The procedures are different if the employee is represented by an attorney, please refer to Section 3.4.5, Subsection: "The Medical Evaluation Process".

Compensability Determinations

The employer or insurer must make a decision concerning compensability within 90 days of knowledge of the claim. If such decision is not made within that time frame, the injury is presumed to be compensable. Additionally, the Reform Act provides that this presumption is rebuttable only by evidence which is discovered subsequent to the 90 day period.

Death Benefits

The Reform Act changes the amount allowed for burial expenses from $2,000 to $5,000 for fatalities occurring after 1/1/91.

The death benefit paid to two or more dependents of the deceased employee is increased to $115,000 for injuries occurring after 1/1/91. If the deceased employee leaves only one dependent, or one or more partial dependents, the dependents receive a benefit payment of $70,000 plus four times the amount annually devoted to the support of the partial dependents, not to exceed $95,000. (As of 1/1/91 that amount is raised to $95,000 plus four times the amount annually devoted to the support of partial dependents, not to exceed $115,000.)

The Reform Act also allows death benefits to be paid until the youngest child reaches the age of 18 regardless of the maximum benefit listed above.

There is also a presumption added by the Reform Act that a spouse to whom the deceased employee is married at the time of death will be conclusively presumed to have been totally dependent on the deceased for support if the surviving spouse earned $30,000 or less in the year preceding the death.

Mileage Allowance

The mileage allowance is increased from .21 to .24 cents per mile for travel to medical examinations.

3.4.5 MEDICAL ISSUES

The Industrial Medical Council

The Industrial Medical Council (hereinafter IMC) replaces the Medical and Chiropractic Advisory Committee, which had been made up of physicians, surgeons, osteopaths and chiropractors appointed by the Administrative Director of the Division of Industrial Accidents, now called the Division of Workers' Compensation. The IMC expanded its panel from 11 to 12 members and added a psychologist and an occupational medicine specialist.

Unlike the Advisory Committee, the IMC is not limited to an advisory role. One of the IMC's duties include appointment of Qualified Medical Evaluators (QMEs), and approval of continuing education courses that QMEs are required to take. The IMC can approve or deny reappointment of a QME and is given the authority and power to promulgate rules and regulations in several key areas, including standardized procedures to be used by physicians to evaluate the extent of permanent disability, and procedures for determining disputed medical issues, among others.

The Medical Evaluation Process

Under the Reform Act, a new procedure requires the employer to provide the employee with notice whether he is eligible for permanent disability benefits when the employee receives his last temporary disability payment (within 14 days).

If the employer believes no permanent disability exists, the notice must explain how the employee can obtain a medical evaluation and the employer must pay for the evaluation. The procedure differs depending on whether the employee is represented or unrepresented. A represented employee has 10 days in which to agree with his employer on a physician and if they do not agree, each party may select an evaluator. If the employee is not represented, he may request an assignment of a panel of three medical evaluators (QMEs) to evaluate the extent of his injuries.

Once the medical evaluator has been agreed upon or selected by the employee, the employee makes an appointment with the evaluator, who, in turn, must explain his background and training to the employee and allow the employee to ask pertinent questions. The Reform Act contains provisions that require the medical evaluators to disclose interests they may have in laboratories or other consulting organizations that the evaluator might refer the employee to when conducting his examination. The IMC may terminate, suspend or place on probation a medical evaluator who violates these prohibitions. (Calif. Labor Code 139.3(d)).

Within 45 days of the examination, the evaluator must serve the evaluation on the employee, employer and the Office of Benefit Determination. The OBD has 20 days to calculate the employee's permanent disability rating and to inform the employer and employee. An unrepresented employee can request reconsideration by OBD and the Administrative Director has discretion to reconsider the rating. The employer must begin to pay benefits immediately or file an application for adjudication of the claim.

When the employee is represented by an attorney, either employee or employer can object to the treating physician final findings concerning the permanency of the employee's injury. The parties then have 30 days to select an agreed upon medical evaluator to resolve the issue. If the parties cannot agree, each party may select a QME to conduct an evaluation. The evaluator serves his findings on the employer, employee and administrative director, after which either party can file an application for adjudication.

The Reform Act restricts communications between the evaluator and the parties and the parties can only communicate in writing with the evaluator after serving the communication on the opposing party.

Psychiatric Injuries

The Reform Act acknowledges employers' concerns with the growing number of psychiatric claims, particularly the "stress claim". A "new and higher threshold of compensability for psychiatric injuries" was established by the Reform Act and the employee must be able to demonstrate that at least 10 percent of the mental condition was caused / attributable to employment.

3.4.6 VOCATIONAL REHABILITATION

The Qualified Rehabilitation Representative Process

The Reform Act codifies the vocational rehabilitation provisions and adds controls and incentives that affect both the employers and employees. Vocational rehabilitation services are aimed at returning the injured worker to suitable gainful employment, and a two part test is established to determine whether the injured worker is qualified to receive these services. The employee must be both (1) medically eligible and (2) reasonably expected to return to suitable gainful employment after receiving such services.

If the employee is totally disabled for 90 days, the employee must meet with a Qualified Rehabilitation Representative (QRR) who must explain the scope of the vocational rehabilitation benefit. The treating physician must determine the employee's medical eligibility. This is a major change from the pre-Reform Act procedures and is designed to facilitate early identification of rehabilitation.

The QRR has many procedural requirements, including monitoring the employee's medical progress with the physician until a final determination as to the employee's ability to return to work is made. At a minimum the treating physician must report to the QRR every 60 days. When a final report has been received, the employee must be informed on how to contest the final conclusion and how to apply for rehabilitation services. An employee who receives notice of being qualified for rehabilitation services must apply within 90 days or risk losing the opportunity. Procedures require the employee's active participation in developing a rehabilitation plan and focuses on the employee's transferable skills. The OBD resolves any dispute regarding rehabilitation services.

An employee who receives vocational rehabilitation because of the inability to return to prior employment, can receive a maintenance allowance equal to two thirds of his average weekly earnings as of the date of injury (subject to a statutory maximum). If the employer disputes the treating physician's decision concerning medical eligibility, the employer must continue to pay the maintenance allowance pending resolution of the dispute.

Incentives

Incentives are provided in the Reform Act to encourage the employer to reemploy a qualified injured worker in a modified work plan. If the employer does so for 12 consecutive months, the employer is eligible for an insurance refund.

Injured Worker's Failure to Cooperate

While an employee need not accept vocational rehabilitation services, an employee who does not cooperate during the rehabilitation process may not be entitled to receive the maintenance allowance discussed above. The employer must notify the employee of his intention to stop payments and the reasoning behind the stoppage.

3.4.7 ADJUDICATION

Introduction

The Reform Act substantially changed the manner in which litigation was brought before the Workers' Compensation Appeals Board (WCAB) and allows either party to file an application if there is a bona fide dispute after the employee files the DWC-1 claim form. Upon filing of the application, the WCAB must hold a hearing within 60 days and expedited hearings on certain issues are allowed. Prior to the Reform Act, the application served more of a "notification" device that a claim was litigated, and a Declaration of Readiness had to be filed before the claim would be set for hearing.

Fees Charged by Attorneys

The Reform Act codifies the requirement that the fee charged by the applicant's attorney not exceed a reasonable amount, as determined by the Appeals Board. The attorney is now required to submit fee agreements with clients to the Appeals Board for approval within ten (10) days of reaching the agreement.

Disclosure Form

The Reform Act requires that the attorney provide the employee with a disclosure form during the initial consultation on a form designed by the Administrative Director. The disclosure form explains the procedures available to the employee, and must explain the degree to which benefits can be obtained without use of an attorney. This requirement is aimed at reducing litigation and the adversarial nature of the litigation process in workers' compensation claims. The attorney must then submit a signed copy of the disclosure form to the employer.

Arbitration

When an injured employee is represented by an attorney, the Reform Act requires arbitration in disputes over insurance coverage and rights of contribution. As of 1/1/91, arbitration will be required in cases where permanent disability falls beneath a rating of 15% - 20% and a hearing cannot be scheduled within 110 - 150 days. The presiding workers' compensation judge at each district office selects arbitrators from a list of eligible attorneys who apply to become arbitrators. Procedures are in place to strike arbitrators and selective alternative arbitrators.

The arbitrator's decision has the same force and effect as a decision of a workers' compensation judge and must be issued within 30 days of submission of the case.

Mandatory Settlement Conference

The Reform Act requires that a mandatory settlement conference be conducted by a referee (distinguished from workers' compensation judges) not less than 10 days nor more than 30 days after filing for adjudication. A conference statement must be filed 10 days before the settlement conference which lists the issues in dispute, exhibits and witnesses. If the settlement conference does not resolve the issues, the matter will be set for a hearing within 75 days of the filing of the application.

3.4.8 NEW COMMISSIONS

The Health and Safety Commission

This Commission consists of six members, three representing employers and three representing labor (one of whom must be an injured worker). The Commission reviews applications from employers/employee organizations seeking grants to implement loss control and safety programs. The grants are funded by the Workplace Health and Safety Revolving Fund, which is designed to be funded by civil and administrative penalties levied by OBAE.

The Workers' Compensation Rate Study Commission

As previously indicated, this new commission is housed within the Department of Insurance. The Commission members have the task of evaluating the entire workers' compensation insurance ratemaking process and must compare ratemaking systems used in other states, analyze the effect of California's minimum rate law on competition between insurers, consider the advantages of establishing an exclusive state fund and evaluate other states with exclusive state funds. Additional legislation added the requirement that the Commission determine whether the prohibition against the sale of aggregate excess insurance by admitted California carriers, as applied to public entities, should be maintained.

The Industrial Medical Council

As stated earlier, the Industrial Medical Council (hereinafter IMC) replaces the Medical and Chiropractic Advisory Committee. The IMC expanded its panel from 11 to 12 members and added a psychologist and an occupational medicine specialist. One of the most immediate and important functions of the IMC is to develop the list of Qualified Medical Evaluators, who will be responsible for examining the injured worker for injuries occurring after 1/1/91. The IMC is also authorized to develop legislation and remove physicians from the QME panel for abuse or fraudulent practices.

3.5 S.B. 198 MANDATORY SAFETY

3.5.1 INJURY PREVENTION PROGRAM

Senate Bill 198 was passed by the California Legislature in 1989 and signed by the Governor. In 1990, the California Occupational Safety and Health Act Standards Board developed standards defining SB 198 and how it would be enforced by CAL/OSHA beginning on July 1, 1991. SB 198 added Section 11745 to the Insurance Code, amended sections 3702, 6310, 6318, 6319, 6320, 6354, 6427, 6428 and 6430 of, and added sections 6314.1, 6314.5, 6401.7 and 6428.5 to the Labor Code, relating to occupational safety and health.

Following is Section 10, Section 6401.7 which was added to the Labor Code.

> 6401.7. (a) Every employer shall establish, implement and maintain an effective injury prevention program.

The legislation mandates that the injury prevention program shall be written and shall include, but not be limited to, the following elements:

A. Identification of the person or persons responsible for implementing the program.

B. The employer's system for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices.

C. The employer's methods and procedures for correcting unsafe or unhealthy conditions and work practices in a timely manner.

D. An occupational health and safety training program designed to instruct employees in general safe and healthy work practices and to provide specific instruction with respect to hazards specific to each employee's job assignment.

E. The employer's system for communicating with employees on occupational health and safety matters, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal.

F. The employer's system for ensuring that employees comply with safe and healthy work practices, which may include disciplinary action.

1. The employer shall correct unsafe and unhealthy conditions and work practices in a timely manner based on the severity of the hazard.

2. The employer shall train all employees when the training program is first established, all new employees, and all employees given a new job assignment, and shall train employees whenever new substances, processes, procedures, or equipment are introduced to the workplace and represent a new hazard, and whenever the employer receives notification of a new or previously unrecognized hazard.

3. The employer shall keep appropriate records of steps taken to implement and maintain the program.

4. The Standards Board shall adopt a standard setting forth the employer's duties under this section, on or before January 1, 1991, consistent with the requirements specified in subdivisions (a), (b), (c) and (d). The Standards Board, in adopting the standard, shall include substantial compliance criteria for use in evaluating an employer's injury prevention program. The Board may adopt less stringent criteria for employers with few employees and for employers in industries with insignificant occupational safety or health hazards.

5. The standard adopted pursuant to subdivision (e) shall specifically permit employer and employee occupational safety and health committees to be included in the employer's injury prevention program. The Board shall establish criteria for use in evaluating employer and employee occupational safety and health committees. The criteria shall include minimum duties, including the following:

   a. Review of the employer's: periodic, scheduled worksite inspections; investigation of causes of incidents resulting in injury, illness, or exposure to hazardous substances and investigation of any alleged hazardous condition brought to the attention of any committee member. When determined necessary by the committee, the committee may conduct its own inspections and investigations.

   b. Upon request from the division, verification of abatement action taken by the employer as specified in division citations. If an employer's occupational safety and health committee meets the criteria established by the Board, it shall be presumed to be in substantial compliance with paragraph (5) of subdivision (a).

6. The division shall adopt regulations specifying the procedures for selecting employee representatives for employer-employee occupational health and safety committees when these procedures are not specified in an applicable collective bargaining agreement. No employee

or employee organization shall be held liable for any act or omission in connection with a health and safety committee.

3.5.2 OBJECTIVE OF SENATE BILL 198

Senate Bill 198 requires employers to establish, implement and maintain an effective Injury and Illness Prevention Program in accordance with Section 3203 of the General Industry Safety Orders. This objective must be a top management priority and the proper levels of time, money and human resources must be dedicated to the effort of providing a safe workplace for the employees and to exercise reasonable care to protect the public from injury and property damage when they visit the premises.

3.5.3 RESPONSIBILITIES FOR THE PROGRAM

A successful Injury and Illness Prevention Program will have management's interest, direction and active participation. Top management must set the tone for the program and provide realistic allocations of time and money for the program. It is their responsibility to direct the safety effort by establishing achievable goals, developing a specific plan of action to achieve these goals, organizing and delegating the management system to accomplish these goals and finally to control the system through a monitoring process.

Supervisors and foremen must be charged with continuing the "Safety Awareness" approach to developing the attitude that safety is everyone's concern and must be a part of every employee's work. The supervisors and foremen must maintain safe working conditions and enforce proper work practices within their area. They also must ensure that all unsafe hazards be corrected on a timely basis.

The employees must also do their part in accepting the responsibility for an effective safety program. They must continue to practice safety while performing their duties. They have to be aware that all unsafe hazards need to be reported immediately so corrective measures can be taken as soon as possible.

One of the key aspects of any effective program is communication. For there to be an effective Injury and Illness Prevention Program the employees must be trained to do their job properly and safely. This along with a team effort on the part of top management, front line supervisors and employees is the basis for a cost effective safety program.

3.5.4 BENEFITS OF THE PROGRAM

An effective Injury and Illness Prevention Program will have a significant impact on the workers' compensation costs and the bottom line profit of an organization. In addition to reducing the workers' compensation costs of an organization, an effective Injury and Illness Prevention Program can provide several other positive benefits:

A. The organizations ability to attract and retain qualified workers will be improved.

B. The productivity of the employee will be increased due to less time being spent on retraining due to loss of skilled employees, disruptions and improved employee moral.

C. The reduction of the cost of workers' compensation will have an effect on the ability of a business to compete. This will encourage employers to remain in California.

D. An effective program will reduce the likelihood of an OSHA inspection. If there is an OSHA inspection an effective program will contribute greatly to reducing the possibility of an OSHA violation and subsequent penalties.

E. This program would also assist in reducing the liability and property exposures and thereby reducing the cost of liability and property insurance.

3.5.5 SUMMARY

Workers' compensation has emerged as one of the most challenging issues facing businesses in California today. There must be a strong commitment from the top management of an organization to develop a corporate philosophy which emphasizes loss control and safe work practices. The personal safety and health of each employee of an organization must be of primary importance, and precedence must be given to the prevention of occupationally induced injuries and illnesses. There are no simple solutions to controlling the steadily increasing cost of workers' compensation insurance. A team effort on the part of top management, front line supervisors and employees all working together and emphasizing "Safety Awareness" will produce positive benefits for the organization.

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1 Industrial Accident Board, "Program for Workmen's Compensation Legislation", submitted to California Legislature, 1913, p. 6.

2 Industrial Accident Board, "Program for Workmen's Compensation Legislation", submitted to California Legislature, 1913, p. 6. "The Industrial Accident Board is confident that the rivalry between the State and private compensation insurance carriers will greatly stimulate both to yield the most efficient service possible and with a main result that employers will be able to secure compensation insurance at what it is worth to do the insuring, not more and not less." Ibid., p. 8.

3 Industrial Accident Board, "Program for Workmen's Compensation Legislation", submitted to California Legislature, 1913, p. 7. See also Senate Bill 1090 (Boynton), described in The Weekly Underwriter February 15, 1913, p. 181.

4 Earl C. Crockett, "The History of California Labor Legislation, 1910-1930" (Ph.D. dissertation, Economics, University of California, 1931), p. 157. See, for example, the National Workmen's Compensation Service Bureau, Manual of Compensation and Liability Insurance (1916).

5 IAC Report 1914, p. 22, quoted from Crockett.

6 The California State Fund sometimes differed with the WCSB over rates. For instance, the Fund declined to use WCSB rates for insuring mining companies in California. "Realizing that the present mining rates are not based upon actual statistics covering the class of mines we have in this country, we have decided to advise that we cannot consistently agree to maintain your manual rates for mining risks. We wish to withdraw from affiliation with your Bureau on California mining rates unless our rate calculations are approved (by you). This will not affect our intention to adopt the Bureau manual on other classifications, although, of course, we may find it necessary some time in the future." Letter, SCIF manager CW Fellows to WCSB General Manager AW Whitney, 11/7/14. (Berkeley: Bancroft Library, CW Fellows papers).

7 This was a problem in other states as well. See speech of Michigan Insurance Superintendent John Winship to the National Association of Casualty and Surety Agents, quoted in Weekly Underwriter, vol. 93, p. 273, August 28, 1915.

8 The company was the Commonwealth Bonding and Casualty Company. Letter, Will French to Hiram Johnson, Nov. 1, 1915. (Johnson papers, Box 15, Pt. II, CB-581. Bancroft Library). Two years later, the situation had not greatly improved: "The state admitted the insurance company, with its mythical assets into this State as qualified to write compensation insurance. The State has been remiss in the matter of enacting adequate laws to arm its officials with sufficient power to test the qualifications of foreign (out-of-state) insurance carriers for entry into this state and has been remiss, and is presently so, in the matter of adequate laws with reference to the examination and summary measures to safeguard the solvency of insurance carriers, and in the event of an insolvency, to stop them immediately from further operation". Letter Will French to Hiram Johnson, February 15, 1917. "(A)nd, in case of failure, the loss must be largely borne by that class which can least afford to suffer it." Report of Industrial Accident Commission, 1914/1915, p. 28.

9 Report of Industrial Accident Commission, 1914/1915, p. 28.

10 The first organized state experience came from Massachusetts, later supplemented by data from New Jersey and Illinois. AW Whitney, "Rate Making Explained," Underwriters' Report January 28, 1915, p. 11.

11 The Adjuster (San Francisco), Volume 50, # 5, May 1915, p. 198.

12 "Compensation Rate Making", The Adjuster v. 50 #2, Feb. 1915, p. 43 (San Francisco)

13 In Ohio in January 1915, an exclusive, or "monopolistic" as it was referred to in the insurance press, state fund was upheld as satisfying the state constitution; private insurers were subsequently defeated in an initiative campaign to allow private insurance competition. Initiatives to allow private workers' compensation insurers carriers to write business in Ohio have persisted. In its last campaign, in the early 1980s, the private insurance companies were repudiated by better than a 3:1 margin of voters. A state "monopoly" fund was proposed by Republicans in Pennsylvania. Underwriters' Report, February 11, 1915.

14 Between 1913 and 1915, the WCSB established 18 offices in the U.S. Underwriters' Report 6/17/15.

15 Note that a majority of members (3 of 5) represented private insurance carriers. In the 1913 IAB proposal for a ratesetting bureau, only one of five members represented private carriers.

16 Report of the Special Commission on Workers' Compensation 1974, p. 7.

17 "The Minimum Rating Law", Insurance and Investment News, vol. 16, #2 (1915).

18 California Attorney General, Opinion # NS 2283 (January 17, 1940), p. 8.

19 Will French to Senator Edgar Luce. In Johnson papers, Box 15, PT II, CB 581, October 29, 1915.

20 See Appendix to Journal of Senate and Assembly, 1919, Volume 3, page 23.

21 AJ Pillsbury, "An Adventure in State Insurance", American Economic Review volume 9, #4, December 1919, p. 690.

22 Ibid., p. 692.

23 California Statutes, 1915, Chapter 607.

24 Underwriters Report, 5/27/15, p. 24-25.

25 Will J. French, "Occupational Disease Compensation in California" (text of address at midyear meeting of American Association for Labor Legislation, 6/29/29), American Labor Legislation Review v. 19:389 (1929). In Bernard Freedman's "History of the State Compensation Insurance Fund," a memo entitled "Compensation Rates" written by W. G. Voogt and dated 3/34/24 indicates that the 1% increase was only applied to the "pure premium" part of the rate.

26 French, 19 ALLR 388-89 (1929).

27 Reprints of SCIF Office Memos 19-29 (July 11, 1929) and 25-29 (August 2, 1929) in Bernard Freedman "History of the State Fund" (San Francisco, unpublished manuscript).

28 California State Federation of Labor, "Convention Proceedings": Resolution 141 (1936), 71 (1937), 139 (1938).

29 Sacramento Bee May 5, 1939:31. The Bee article cited the state cost of compensation coverage at $50 million, of which approximately $30 million was under insurance, and the rest ascribed to large self-insured employers. See Department of Industrial Relations, Annual Report June 30, 1938-July 1, 1939, p. 7.

30 Culbert Olson, "Workmen's Compensation Insurance," in State Papers and Public Addresses as Governor," Messages to the Legislature, 1939," (Sacramento), pp. 30-33.

[31] Olson, "Workmen's Compensation Insurance," pp. 31,33.

[32] Sacramento Bee May 6, 1939:12; Sacramento Bee May 24, 1939:19.

[33] California Attorney General, Opinion NF 2283 (January 17, 1940).

[34] In risks that were eligible for both experience and schedule rating, the company could suffer a significant experience rating debit if there was a single accident, such as a motor vehicle accident, even though it was making significant effort toward machine guarding and organizing a safety program. Having schedule rating in force would allow that company to mediate its losses through reasonable effort.

[35] See State Compensation Insurance Fund, "Statement to the Insurance Commissioner in Opposition to the Proposal to Eliminate the Industrial Compensation Rating Schedule (Schedule Rating Plan) in California," March 29, 1951 (in SCIF archive).

[36] California Insurance Commissioner, Decision #SF-5350-19A, "In the matter of the Petition of the CIRB dated February 5, 1951, to eliminate the Industrial Compensation Rating Schedule" (8/10/51).

[37] California Inspection Rating Bureau, "Section J - Recommended Elimination of California Workmen's Compensation Industrial Rating Plans," Submission to Insurance Commissioner, 1973, p. J-5.

[38] State of California, Department of Insurance, "Ruling No. 188, File No. RH-156), issued August 22, 1973. The actual decision was written by Chief Deputy Insurance Commissioner Lawrence Baker, who during the late 1970s and early 1980s was president of Argonaut Insurance, a large workers' compensation insurance carrier headquartered in California.

[39] California Insurance Commissioner, Decision #188, August 22, 1973.

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SECTION 4.0

CALIFORNIA WORKERS' COMPENSATION RATEMAKING PROCESS

SECTION 4.0

CALIFORNIA WORKERS' COMPENSATION RATEMAKING PROCESS

4.1 THE REGULATION OF WORKERS' COMPENSATION PREMIUM RATES IN CALIFORNIA

The following extract is from the California Constitution, Article XIV:

> "A complete system of workers' compensation includes... full provision for adequate insurance coverage against liability to pay or furnish compensation; (and) full provision for regulating such insurance coverage in all its aspects."

4.1.1 INTRODUCTION

Regulation of the California workers' compensation insurance system occurs in three major arenas.

A. The legislature determines the overall nature of the program and its scope.

B. Administrative and adjudicative agencies oversee the claims process, where the government imposes minimum standards of conduct on licensed implementors of the program.

C. There is financial regulation of service providers, self-insured firms, and insurance companies.[1] The financial regulation is of several types:

   1. Fees paid to some service providers (health professionals, lawyers), are regulated by schedules or custom of the administrative or adjudicative body.[2]

   2. Self-insured employers are financially regulated in that they are required to post surety bonds against their expected (or "incurred") financial liability for compensation. They also participate in a government sponsored but self-regulated insolvency pool.[3]

   3. The Department of Insurance's oversight of financial aspects of workers' compensation insurance companies occurs primarily through premium rate regulation.

This segment of the Commission Staff Report will focus on such insurance rate regulation in California.

4.2 WHY IS INSURANCE REGULATION JUSTIFIED?

In an ideal world, the market for insurance products needs no external regulation: a contract of insurance can be bought and sold in an open competitive market, where buyers with perfect information about the price, service, and dependability of various policies could make informed choices. In such a market there are no natural barriers to entry of those seeking to offer coverage; buyers have truly free choice in the selection of an insurer; and there are no social externalities of a company that fails or becomes insolvent.

Insurance regulation is justified by several types of market failure. Most significant is the fact that an insurance policy is a contract for future services. In paying a fixed price now to alleviate the possibility of a larger cost in the future, insurance consumers need assurance of the long-term viability of the insurance company, something that other product consumers usually do not need. Insurance markets are also characterized by a lack of consumer information.[4] It is often difficult to compare the value of different policies. Buyers may have insufficient knowledge of the financial condition of an insurer, and there may be uncertainty about the quality of the service being offered. Without adequate consumer knowledge, and the ability to compare price differences with service differences, it is difficult for self-regulation to work.

The existence of externalities is another source of market failure addressed by aspects of regulation and justifying governmental intervention. If an insurer cannot meet its long term private financial obligations, then the parties dependent on such payments may be left to publicly supported sources of benefits.

Finally, in areas where insurance coverage is effectively compulsory, sellers may collude to drive up prices. Where government requires a certain type of coverage, it also is obligated to assure its availability at a reasonable price.

4.2.1 WHY REGULATE WORKERS' COMPENSATION INSURANCE

Why regulate workers' compensation insurance? Is there a "demand from the public for the correction of inefficient or inequitable market practices?"[5] What may be wrong with trying to regulate the coverage? How can society prevent capture of the regulatory process by a private interest seeking to subvert it for its own interests?

The primary purpose of rate regulation is to assure that there are and will continue to be adequate funds for the payment of legislated benefits for injured workers. But, regulation is also intended to assure that the costs are equitably spread among employers so that premiums paid closely resemble benefit costs, an attempt at creating an incentive for preventive health and safety, and effective rehabilitation. Finally, a goal of regulation is that claims are paid in a timely fashion and according to rules of law.

4.3 HISTORICAL ORIGINS OF RATE REGULATION IN CALIFORNIA

In 1913, California became one of the first states to adopt a mixed system of public and private insurance for workers' (then "workmen's") compensation. By 1914, rate competition between the State Compensation Insurance Fund (SCIF) and private insurers was widespread and seen as healthy in keeping premium costs to employers under control. Practically, there were few alternatives to full rate competition. Workers' compensation was a new insurance line of mandated payouts under a no-fault structure. Prior to the passage of mandatory coverage, compensation premiums were three times that of liability insurance, an actuarially indefensible rate. There was no state specific data or organized experience on which to base rates for this coverage. Like most of the private carriers, the State Fund initially turned to the rate schedules and classification schemes established by the insurer-funded Workmen's Compensation Service Bureau (WCSB) of New York. The Service Bureau collected and aggregated claims information from all states and all insurers within its membership, and set "advisory" rates on a cost-plus system based upon the aggregate indemnity and medical payouts. That is, for a given year, the total amount of indemnity payments and medical payments would be calculated and compared to payroll to establish a "pure premium," the amount needed to cover benefit costs. Then, the bureau would "advise" its members that it would be prudent to add on a certain specified percentage for administrative overhead. Advisory rates were truly advisory in that no insurer was required to adhere to them. These rates were published in company manuals, but individual companies could and did set their own rates, competing with one another.[6] Many private insurance carriers operating in California, for example, had initially established rates as much as one-third higher than in other states.

On the other hand, some private insurers tried cutting prices, a move the State Fund interpreted as seeking to drive the new public enterprise out of business.[7] Rampant competition had its problems. By its own admittance, the state was doing little to regulate insurer solvency, and at least one insurer became insolvent, leaving hundreds of injured workers without a source of benefits.[8] Sensing that other carriers were in a precarious position, Industrial Accident Commissioner Will French suggested to Governor Hiram Johnson that insurers be required to post bonds for all liabilities under the Compensation Act.

The threat of predatory pricing by well-financed Eastern insurers seeking to prevent the spread of state insurance convinced the year-old State Fund to take legislative action against what it regarded as unconscionable rate cutting. In 1915, SCIF sponsored a bill (SB 420) to give the state Insurance Commissioner authority to supervise the setting of minimum workers' compensation insurance rates. Larger and more efficient insurance companies went along with the plan for two reasons. Insurers feared that the irresponsibility of a few smaller companies could increase demands of labor and some social theorists for the kind of exclusive (called "monopolistic" by insurers) state fund for industrial accidents that was being tested in the states of Ohio and Washington, and proposed elsewhere.[9] They also recognized that if rates were established to protect less efficient companies, the higher rates would mean more profit, expense, or dividend dollars available to them to spend.

Under the rating law as passed in 1915, all workers' compensation insurers were required to file their classifications of risks and premium rates, along with any system of merit or "schedule" rating. The Commissioner would then determine a uniform classification of risks and premium rates at a level "adequate for all insurance carriers authorized by law or licensed to transact compensation insurance." Licensed companies with the highest overhead costs, then, would determine the price level; assurance of insurer solvency and the ability to keep paying claims would take precedence over efficiency of the system. If employers had to pay a little more to guarantee that injured workers would receive their benefits, it was seen as a small cost of the social insurance system.

Under California's "minimum rate law," front-end price competition between carriers became prohibited by law. Rather, competition would take place on two levels: post hoc rebates of excess surplus in the form of policyholder dividends and service offered to policyholders. Because returns to policyholders were directly in conflict with stockholder profits, most private insurers liked to stress the latter, which ostensibly included the education of workers in accident prevention methods, as well as providing use of efficiency experts to insured parties.[10]

4.4 INSURANCE REGULATION IN CALIFORNIA

The principle objective of the Department of Insurance is to protect insurance policyholders in the State. To accomplish this objective, the Department conducts examinations of insurance companies and producers to ensure that operations are consistent with the requirements of the Insurance Code. (Governor's Budget for fiscal year 1987-88.)

The Department of Insurance is the regulatory authority for insurers and sellers ("producers") of insurance. The Department "conducts field examinations, regulates rates, maintains solvency surveillance, regulates proxy solicitations, manages financially distressed companies, admits qualified companies, maintains surveillance of admitted companies, reviews policy forms, investigates consumer complaints, and assures that producers are properly qualified and licensed."

In 1978, California's Insurance Department had 384 full time employees, including 27 attorneys, 22 certified financial examiners, 5 actuaries, 3 chartered underwriters, and no economists.[11] Its fiscal year 1978 budget was $9.9 million. The Department served as the collection agency for $388 million in premium taxes, deposited in the state General Fund.[12] By fiscal year 1986, department staffing had increased to 438 employees with an annual budget of $25 million. After the passage of Proposition 103 in 1988, the responsibilities and subsequent budget allocation for the department increased dramatically; for fiscal year 1991-92, the Governor has requested 822 positions and a budget of $71.2 million.[13]

4.4.1 REGULATING WORKERS' COMPENSATION INSURANCE RATES TODAY

Today , private insurance companies writing workers' compensation coverage for individual firms must be licensed, or "admitted" by the Commissioner of Insurance. Over 400 insurance carriers, formed into about 50 commonly owned groups, are so licensed. General rules govern the behavior and posting of bonds by all insurers. All licensed Workers' Compensation carriers, including the State Compensation Insurance Fund, are automatically assigned to membership in the California Insurance Guarantee Association (CIGA), an assessment fund to protect the public in the event of individual insurer insolvency.

Traditionally, workers' compensation premium rates have been regulated by state departments of insurance. During the 1980s, however, fourteen states adopted laws allowing some kind of "competitive" rating. Under California law, regulation of workers' compensation insurance rates remains through "prior approval" of the Commissioner. Before the passage of Proposition 103 in 1988, only the assigned risk pool for automobile liability insurance, title insurance, credit life and disability insurance, and workers' compensation insurance required state approval before premium rate changes could be made.[14] Most other lines of insurance were subject to the less strictly controlled "file and use" system, in which the insurance carrier would inform the government regulator of its actions but not wait for the latter's approval before proceeding with changes in rates or rating plans.[15]

4.4.2 WHY ARE RATE CHANGES NECESSARY

In attempting to achieve a fair balance between just rates for employers, just treatment for injured workers, and adequate provision for profit and return on investment for insurers, there are several reasons why workers' compensation insurance rates might need periodic adjustment. The legislature might mandate higher (or lower) benefits for injured workers, or expand (contract) the scope of compensable conditions. The administration might make changes in the allowable fees paid to service providers, or allow reimbursable treatment by more (fewer) sub-specialists of care. The legislature or regulators may determine that administrative overhead expenses are too high or low. It might expand (or contract) injured workers' opportunities to engage in rehabilitation to other work. Injury rates, and subsequent injury costs, might go up or down in response to changing regulatory or macroeconomic conditions. Claims rates might fluctuate, possibly in relation to one of the other reasons cited above.

The Insurance Department sets premium rates and rules by which employers are classified for rating purposes. No insurer may charge an employer less for a workers' compensation policy than minimum rates approved by the Commissioner of Insurance. The purpose of the state's minimum rating law is to require an insurance premium rate which would assure adequate reserves to meet claims as they matured. This "minimum rate law" appears to put priority of the solvency of funds over the merits of lower prices. The system allows for dividends to be rebated to employers after the policy period ends, however, there are no regulatory restraints on the design or conduct of dividend distribution plans.

4.4.3 TECHNICAL ASPECTS OF RATE SETTING

The rate setting process begins with data collected from each insured company ("insured") by every insurance company ("carrier"). This data is compiled by carriers on a quarterly basis by the Workers' Compensation Insurance Rating Bureau (WCIRB) of California. The Bureau tabulates the number of injury claims and the carrier estimate of the ultimate claims cost ("incurred losses") for each of three categories of claim cost: "serious" (more than 25% disability), "non-serious" (less than 25%), and amounts estimated for "medical" costs. All are classified, with amounts of payroll by types of work ("manual classifications"), and submitted to the Bureau.

The Bureau begins its calculation of suggested rates by determining the "pure premium" (the ratio of aggregate incurred losses to payroll) for a recent time period for each approved classification. This is adjusted for various changes like legislative or administrative benefit increases, and adding an "expense provision" to it.[16] For example, during 1986 and 1987 (the latest policy years for which data was available to calculate 1991 rates), concrete and cement workers in the state (manual classification 5200) had an aggregate payroll of $1.48 billion and total incurred losses (for 505 cases of serious injury, 4597 cases of non-serious injury, and $35 million of medical care) of $88.9 million, for a pure premium of $6.01 per $100 payroll.[17]

This "pure premium indicated by policy year experience" provides the base. The Bureau then makes adjustments in response to recent events such as new benefits, increases in medical fees paid to doctors, inflation in hospital costs, changes in average wages, and other quantifiable costs. An adjustment to rates balances a revenue loss due to experience modifications factors. Then by administrative rule, insurers are granted an "expense factor" to add on to the pure premium for overhead expenses. (The factor, which between 1977 and 1989 was set by the Insurance Commissioner at 35 percent of premium, is currently set by legislative mandate and will be 33 percent of premium for 1991 and 32.8 percent in 1992.) The expense provision and actuarial adjustments for other factors raised the pure premium rate for our example classification (concrete workers) by 71%, making the consumer price $10.24 per $100 payroll for 1991.

Thus, rates vary by work classification with a relationship between average injury risks and premium rates. Rates are expressed in price per $100 payroll for each of nearly 420 classifications. In 1991, for example, premiums for clerical office employees were set at a rate of $0.95 per $100 payroll; retail clothing stores paid a rate of $4.24; concrete or cement pouring and finishing paid $10.24; those working in sawmills $27.10; and carnivals and circuses paid $50.31 per $100 of payroll.

After these adjustments and projections, the Bureau submits its proposed rate levels for each approved work classification to the Insurance Commissioner for approval before the rates can be used.

4.5 RATE REGULATION AND CHANGE AFTER 1974

4.5.1 OVERVIEW

After 1974, the regulation of workers' compensation insurance rates concentrated on aggregate changes rather than individual plans. The scope of the increases (and decreases) in premium rates were synchronized with the experience of the external financial markets and other macroeconomic details. Some rate hearings were called to pass through to employers the extra cost of insuring risks when the allowable medical fees were raised by fiat of the Director of Industrial Relations, or when the Legislature passed new laws that expanded the scope of benefits available, as well as their level. Throughout most of the 1970s, insurers found their rate increase requests denied if they were unable to cite instances of medical fee increases or benefit level expansions.

But, as early as 1974, insurers sought to compute premium levels based on future projections of how the pattern of losses was changing, by looking at what was called "loss development." At its first airing early in the Brown Administration, the regulators watched changes from the Bureau closely, and the idea was rejected by the Insurance Commissioner.[18] Other attempts were made to spread costs. The Commissioner refused to approve an across the board rate increase when it appeared as if much of the increase in rates was due to a few classifications having a high number of cumulative trauma cases. Because these types of cases did not show up until later, the social costs of cumulative injury were not being met by "investing" premium for future years. Since the system was only built to look at recent experience, long term disease problems became long term liability situations, an unfunded liability which was difficult to account for in ratemaking structures.

In partial answer to this situation, the concept of incurred but not reported (IBNR) claims was developed, a pool of money to pay for the kind of catastrophic problems of the future. However, this extra cost was added generally to rates and not limited to categories "responsible" for the problem, lessening economic incentives of "prevention" within particular classifications. It is sometimes alleged that the extra premium being demanded for these claims goes not into reserves for future benefits, but rather into dividend payments used by carriers as a marketing tool.[19] If so, the reserves may remain low, relative to the projections of the problem.

Regulators have a hard time convincing insurance consumers that they should pay today to handle problems that might occur in the uncertain future. Regulators also understand that unless specific trust funds are established for the extra reserves, that when the funds are needed there will be issues of who has and who has not properly reserved for these claims. Recent trials of asbestos producers and liability for long term pollution problems indicates these issues are not yet resolved.

Throughout the 1970s and early 1980s, regulators continued to approve rate increases driven by specific legislative or administrative action. The passage of new legislation accompanied most of the rate increases with nearly all of the rest put through as a result of increases in the schedule of reimbursement for medical fees.

In more recent decisions, especially during the Deukmejian administration, rate increases have been granted on the basis of trends and projections of utilization of the workers' compensation benefit. Between 1982 and 1989, there were no benefit level increases approved by the legislature, but rates rose 7 times over the period. They were reduced once, in 1983. Overall, minimum rates on the average have more than doubled since 1973.

Recently, there have been more decisions in favor of rate increases based on insurance companies' inability to project claims losses, inability to keep the costs of paying claims down, or based on insurance company inefficiencies in adequately forecasting future reserves. With changes based on more subjective factors, like assumptions of future behavior, the balancing of interests becomes more of an acute problem. Yet the trend of the last 8 years of regulation appears to be toward less rather than more scrutiny of the Bureau/insurance industry position than was evident before. Is the process in danger of "capture?" A look at the process may help answer that question.

4.5.2 THE PROCESS OF REGULATION 1973-1990

Between 1973 and 1990, there were 25 rate regulation decisions made by California's Insurance Commissioner. There was at least one decision in each year except 1975, with three decisions in 1974 and two each in 1979, 1985, 1986, 1987, 1988, and 1990. The rate of change in premium rates suggested by the Bureau ranged from a reduction of 3.5% in 1980 (fully granted by the Commissioner) to an increase of 15.1% in 1982 (also fully granted.) The Bureau requested increases in 23 of the 25 decisions; Commissioners granted some increase in 18 cases. On average, approved rates were 61 percent of what was requested (mean=.610, standard deviation=.627), and decisions were rendered within an average of 30.6 days from the last (and often the first) public hearing on the topic. There were an average of 1.5 public hearings per decision, but this figure is skewed upwards by early years in the cycle; the last time there were more than two public hearings in a workers' compensation rate case was in 1976, and from 1982 to 1990, only 1 of 14 rate decisions was informed by more than one public hearing. While the public is welcome to participate, the last time a rate hearing was held outside San Francisco was in 1981.

4.5.3 THE PLAYERS

A. The Commissioner and Insurance Department Staff

There have been five commissioners under three governors overseeing the ratemaking process during the time period (1973 through 1990) addressed in this section of the Commission Report.

Exhibit 4.1 has been developed in order to identify the various governors, commissioners and years of involvement.

EXHIBIT 4.1

GOVERNORS AND COMMISSIONERS DURING PROCESS OF REGULATION 1973-1990

Governor	Commissioner	Years
Ronald Reagan	Gleeson Payne	1973-1974
Jerry Brown	Wesley Kinder	1975-1980
	Robert Quinn	1981-1982
George Deukmejian	Bruce Bunner	1983-1986
	Roxani Gillespie	1986-1990

While the Commissioner changed several times, the same Deputy Commissioner wrote 16 of 17 decisions on workers' compensation cases between 1976 and 1988, a period spanning both Democratic and Republican Administrations. The hearing panel in Workers' Compensation rate cases typically consists of the Deputy Commissioner (who was typically also chief of the department's legal division), the chief actuary of the department, and the head of the rate regulation division. The Insurance Commissioner rarely attended the rate hearings.

B. Insurers

While hearings are public and open to all interested parties, insurance industry personnel dominate the attendance. Analysis of nine rate hearings (1983-1987) shows that the industry accounted for 69% of registered attendance.[20] Top officials of the Workers' Compensation Insurance Rating Bureau, the licensed rating organization for the state, including the president, and three senior vice presidents would present their case, assisted by the Bureau's counsel, who, until recently, was a former state Insurance Commissioner.

Individual insurance company officials are the other main group in attendance, although they rarely speak unless there is some opposition voiced to rate proposals, or classification decisions. A small group of executives of the State Fund usually attended. Several other insurers sent representatives. For instance, a December 1986 hearing brought out representatives from nine different workers' compensation insurers, from Beaver to Zenith. There were nearly always representatives of the insurers' research institute, the California Workers' Compensation Institute.

C. Business

Despite the apparent legislative attention paid by business to the rising costs of workers' compensation, in the recent past they have rarely intervened and/or participated in an organized fashion in rate hearings. While rate decisions affect all insured employers, few are represented and usually only if their particular classification is being changed dramatically. For example, changes in the classification of "ambulance services" brought out trade association and individual company representatives in 1985, and changes in what constituted the fine line between newspaper publishing and newspaper "stuffer" printers brought out printing and publishing associations in 1986. Sometimes business representatives do not show up at all. In 1983 and early 1986, no one from the business community attended hearings. The only business representative at the December 1986 hearing was from the California Trucking Association. After that hearing, the Insurance Commissioner granted a 9% general increase in premium rates, a move that cost employers over $463 million the next year.[21] This move may have galvanized support for the push that the employers' workers' compensation lobbying group made at a May 1987 hearing, when 28 business persons attended.

D. Labor

By law, employers pay the full cost of workers' compensation insurance. Public finance theory, however, indicates that the incidence of the burden of workers' compensation costs may fall on employees in the form of lower wage packages, or ultimately on consumers.[22] Furthermore, since workers' compensation premiums are based on a percentage of payroll, without (in California) any maximums, employers of higher paid workers in similar risk employment will pay higher base amounts for equal coverage. These considerations can be used to plausibly argue that labor, and particularly higher paid organized labor, would have an interest in intervening in rate hearings. Yet, organized labor had no representative at 7 of the 8 rate hearings from 1983 to 1987. At the one hearing during that time at which the California Labor Federation's research director orally criticized the rate regulation process, his remarks were not addressed in the final decision of the Commissioner.

E. Press

Formal records of attendance at rate hearings indicate that rate hearings are not a priority for the daily or business press. During the 1982-87 period, the writer of a weekly 4-page insurance newsletter was the single representative of the press to consistently cover hearings. Trade journals announced the filings of petitions and dates of hearings, and would report decisions, but rarely with any analysis. Again, the May, 1987 hearing provides an exception. On the day of that hearing, the financial pages of the San Francisco Chronicle contained articles noting and criticizing the ratemaking process. The public attention was enough to change the hearing venue from a small 15th floor conference room at the Department of Insurance to a larger state auditorium, and to convince the Insurance Commissioner to attend.

F. Others

In recent rate hearings, a representative of the California Applicant's Attorney Association, a former rate analyst for the Department of Insurance, has been in attendance, sometimes offering the only informed critique of the Bureau's proposals.

4.5.4 PATTERNS IN THE RATE SETTING PROCESS

The public process of rate setting merits increased oversight and accountability. Even though the individual decisions involve a lot of money, there is little evidence that the public hearing process has a substantial role in such determinations. The average length of time to come to a final decision on rate change petitions after hearings was 30.6 days during the 1976-1990 era. The time between hearing and decision varies but seems to be shorter in recent years. For some filings, it appears impossible that a careful independent consideration of all the facts of the case could have been made. In six of the seven decisions issued between 1982 and 1987, the official transcript of the only public hearing was not available to those writing the decision until weeks or months after the decision was finalized.[23] In one regulatory event, the final decision had been written before the public comment period had ended.[24] The examination is done in a very short time, with exceptionally little time to evaluate new evidence provided at public hearings.[25] The process is driven by the timetable of the Bureau, and seems designed to allow for decisions in time to institute rate changes each calendar year. Hearings are held when requested by the Bureau, rather than being initiated by the Department of Insurance. Only once in the past 17 years has the Insurance Commissioner called hearings to investigate insurance company practices; that being a 1975-76 oversight of the dividend practices of insurers after there had been widespread complaints of fraudulent promises of future dividends.[26] In the last 18 years, the Commissioner has never overridden or even revised the opinion of the Deputy Commissioner in a workers' compensation rate case.

The rate examination that is done at the Department of Insurance has historically been done by the lone casualty actuary and a lawyer, but not by an economist. While the Bureau furnishes information on economic aspects of investment return (such as comparative return on net worth of insurers versus other industries), such information is never noted in the Decision written by the Chief Counsel/Deputy Commissioner. For instance, no discussion of the appropriate means of assessing profitability for private workers' compensation carriers has been held in at least the past 17 years. In 1989, when the Bureau shifted its model of comparison of profitability from "Return on Net Worth" to "Return on Surplus," there was no discussion of the reason or justification for the change, or even that a change had taken place.[27] These anomalies are not pointed out or questioned in decisions of the Commissioner.

Prior to 1979, commissioners occasionally rejected filings for lack of information, but this has not occurred in over 10 years.[28] Various commissioners have warned the Bureau to furnish more information, but have generally been content to accept whatever the Bureau brought into the next hearing.

Historically, the WCIRB typically petitioned for rate changes annually, but interim rate increases were requested by the Bureau in 1985, 1986, 1987, 1988, and 1990. Decisions in some of these cases indicated that a twice a year rate review was unusual and not to be taken as precedent, and after three years of interim rate increases, the Deputy Insurance Commissioner finally wrote in 1988, "at this juncture the Department seems to have run out of disparaging things to say about interim rate level filings." He rejected a fourth interim request as "unwarranted, unnecessary, and really not in the best long-rage interest of either workers' compensation insurers or the California business community which must absorb such increases."[29]

4.5.5 OVERSIGHT OF ADMINISTRATIVE COSTS

In their rate level filings, the Bureau files overhead expense figures for three groups of licensed insurers: stockholder-owned, mutual insurers, and the State Compensation Insurance Fund. These show the administrative expenses for: loss adjustment, commissions and other acquisition expenses, general expenses, and state and other taxes.

The State Fund also files in depth historical expense figures that include figures on expenses for inspection and safety, boards and bureau memberships, and payroll auditing expenses. In most years, this information was necessary to assist the Commissioner in determining the "permissible" administrative expense figure so as to assure rates "adequate" for all insurers. Yet, even as total figures on companies' administrative expenses went up and down, the expense provision remained at 35% until being changed by the legislature in 1989 as part of general workers' compensation reform.[30]

4.5.6 COMPARISON BETWEEN BROWN AND DEUKMEJIAN ADMINISTRATIONS

While data problems inhibit making generalizations, there do appear to be some differences in how rate regulation in workers' compensation was handled during the two most recent administrations. The following table presents a brief overview of some differences.

Exhibit 4.2 has been developed to provide an overview of the Brown and Deukmejian Administration activities.

EXHIBIT 4.2
BROWN AND DEUKMEJIAN ADMINISTRATION COMPARISON

	Brown Administration	Deukmejian Administration
Average Increase Proposed	4.6	6.2
Value of Rate increase approved	$63 million	$186 million
Midyear proposed increase	12.5% of cases	42% of cases
Time from petition to hearing for review	116 days	53 days
Number of Hearings	1.9	1
Comment period after hearing	11 days	4 days
Review Time: Final Hearing to Final Decision	39.1 days	26.5 days
Average days between transcript and final decision	data not available	-15 days

4.6 HOW EFFECTIVE IS THE REGULATION

4.6.1 CRITERIA FOR EFFECTIVE REGULATION

There are several criteria for assessing whether this regulation is effective. Does the process encourage participation of affected parties? Is the process fair to all parties involved? Is the process accepted by all parties? Is it reasonable, or severe? Strict or lax?

4.6.2 WHAT'S WRONG WITH THE REGULATION NOW

The major parties rationally concerned with insurance rates are insurers, insured employers, and workers. Others that are interested include health professionals, lawyers, rehabilitation workers, and others. Yet, the process does little if anything to encourage the input of affected parties. Hearings are held only in San Francisco; no general notice of hearings is made to those who do not pay to be on a Department of Insurance list for such notices; press presence at hearings is virtually nonexistent. The Department does not feel that this is a problem; it receives few requests for copies of the materials presented at rate hearings, and only rarely do non-insurers try to speak at hearings.

4.6.3 REGULATION SEEMS UNACCOUNTABLE

The regulation of California workers' compensation insurance rates seems lax. Insurance commissioners have not been thorough in reviewing industry economics or administrative capacity. The process is skewed toward the timetables and desires of the regulated industry. The other interested parties have failed to get involved in the process as active constituencies. The Commissioner does not attempt to hold up rate increases in exchange for better documentation of the need for the increase.

In short, insurance commissioners have been neglectful of the role as advocates for the public interest; the process has become largely unaccountable. There is very little time taken to review and question data submitted by the WCIRB. Only once in the past five years has there been more than one hearing on a rate adjustment request, and that was done at the insurers' urging, when they wanted to use newer data to adjust their rate increase request upward. The Commissioner has on more than one occasion accepted complete changes in documentation on the day of hearings without challenging their validity. Even when requested, the Commissioner does not appoint any independent or disinterested parties to oversee the process. In contrast, during one hearing when independent oversight was suggested, the Commissioner ridiculed employers and others for not bringing in their own actuarial consultants. The Commissioner fails to take public testimony seriously enough to wait for the transcript of public hearings before finalizing rate changes; the office has even neglected to wait for the end of a public comment period before issuing its edicts. While opposition to rate changes does occasionally surface, either externally among employers or internally, it is short lived. This suggests that while the Insurance Commissioner bears much of the responsibility for the process, interested parties could also accomplish or push for some of the improvements themselves.

4.7 IS REFORM FEASIBLE?

Can the process be improved in California? The last section of this segment of the Commission Staff Report provides a brief comparison of two other administrative regulatory processes. The first is a side by side comparison chart of provisions of the Administrative Procedure Act for California with data from regulatory hearings as cited above. The second piece contrasts California's rate setting process with a relatively recent challenge to a workers' compensation rate making decision in Oklahoma.

4.7.1 COMPARISON WITH ADMINISTRATIVE PROCEDURES ACT

Exhibit 4.3 has been developed in order to clearly illustrate the comparison of process with Administrative Procedure Act and is located on the following page.

EXHIBIT 4.3
COMPARISON OF PROCESS WITH THAT REQUIRED UNDER ADMINISTRATIVE PROCEDURE ACT

Administrative Procedure Act	WC Ratemaking Regulation by DOI (23 cases 1973-90)
Regulation becomes effective on 30th day after date of final filing (Government Code OAL Title 2 Division 3 ∫11346.2)	Average of 25.3 days, with more time during Deukmejian than Brown
Notice of proposed action published in general circulation newspaper 45 days before hearing (∫11346.4)	Not required or done
Notice published in California Administrative Register as prepared by OAL (∫11346.4)	Not required or done
Notice that agency proposing the action has prepared a statement of the purpose of the proposed action and information on which it is relying in making proposal (∫11346.6)	Done, but recent case record indicated that it was done by the Bureau and not by the Department of Insurance
Final statement includes summary of considerations raised by opponents with explanation of why rejected	Many oral and written comments not addressed in final decisions
File of rulemaking proceedings must include a transcript, recording or minutes of any public hearing connected with the adoption of a regulation (∫11347.3)	Final file usually includes transcript, but not at time of final decision. On average, transcripts came 15 days after final decision during Deukmejian years.

4.7.2 REVIEW OF A CHALLENGE TO A RATE FILING IN OKLAHOMA[31].

In the last few years, workers' compensation ratemaking forums across the country have included substantial input from independent actuaries, public or consumer advocates, or included an adversarial process of ratesetting. In a recent reported case, the Idaho state insurance director rejected the Bureau's proposed 9.8% increase in compensation rates and instead approved a 1.3% hike based on the findings of an independent actuarial consultant. The pivotal information in the discrepancy was the number of years of data used to calculate trends.[32] The following paragraphs describe a similar case in Oklahoma, and compare events there with procedure under California law.

In separate appeals, the Attorney General of Oklahoma (AG) and the National Council on Compensation Insurance (NCCI) each challenged the decision of the Oklahoma State Board for Property and Casualty Rates (Board) in a workers' compensation ratemaking proceeding. Under Oklahoma law, rate increases in workers' compensation insurance require prior approval by the State Board. NCCI, acting as rating organization for private insurance carriers writing workers' compensation insurance in Oklahoma, filed a petition with supporting evidence for a 41.9 percent increase in workers' compensation insurance rates. The Board, the Attorney General and the Associated Industries of Oklahoma (along with the state Chamber of Commerce and the Lumbermen's Association) each retained outside experts to review the actuarial evidence put forth by NCCI.[33] The Board expert testified that a 25.9 percent increase was indicated by the information on file. The employers' consultant presented evidence that the rate increase should be 15.2 percent. The AG-appointed experts testified that recognition of investment income would drop the indicated increase level to 8.1 percent, but that the failure of NCCI to provide detailed expense estimates of insurers should preclude any and all rate increases. During proceedings and in written testimony filed on the day the hearings began, the AG objected that there was an absence of "critical data" to support the proposed increase. The Board subsequently approved a 25.9 percent rate increase, finding that its own expert's recommendations "have the effect of balancing the interests of policyholders, the insurance industry and the State in establishing a fair rate."[34]

A. APPEALS

NCCI appealed on grounds that (1) the rate filing became automatically effective by operation of law; (2) the Board relied on insufficient information in reducing the amount of increase; and (3) that NCCI's evidence overwhelmed that used by the Board.

The AG challenged the decision contending that the Board acted on insufficient evidence of the financial condition of the private insurers represented by NCCI, and was thereby unable to verify that they were being harmed by inadequate rates, and thus in danger of insolvency.

B. DECISION

The Court sided with the Attorney General and ordered the rate decision vacated and proceeding remanded. The rate increase was declared invalid. The Board was ordered to assure that excess premiums be refunded to policyholders.[35]

C. ANALYSIS

This case challenged the way in which workers' compensation insurance rate regulation is practiced. It indicated judicial refusal to accept the "capture" of the regulatory process by the regulated insurance industry. It forced the insurance industry to conduct more of its affairs under public scrutiny, through linking rate increases with increased flow of information about the operation and particular problem spots of the industry, presumably with more efficient outcomes. It is based upon the Attorney General of the state acting as an advocate for the "public interest," even if fighting against another state bureau.

Oklahoma's mandate for regulation is that rates "shall not be excessive, inadequate, or unfairly discriminatory."[36] To justify a rate increase, the rating organization was expected to demonstrate the inadequacy of the rates on insurers and how the insurance market was damaged by its present structure.[37] To be judged "inadequate," rates had to be unreasonably low such that use of the rates would endanger insurer solvency or the rates would adversely affect competition or create a monopoly.

The justices found that the Oklahoma Legislature had intended a rate regulation process that involved intense investigation of an adversarial nature. Those advocating rate increases faced statutorily mandated protections for any party "affected" by the hearings and proposals; such aggrieved parties would be given reasonable opportunity to inspect all evidence, examine witnesses, present evidence in their own favor, and have subpoenas issued by the Board to compel attendance of witnesses and to produce evidence.

Statute and case law provide specific guidelines on how the State Board is expected to act in the conduct of a rate determination.[38] Agencies acting in their adjudicative capacity must recite underlying facts as well as the ultimate facts drawn from evidence; their findings must be free from ambiguity which raises doubts as to whether the Board reasoned correctly; and must be sufficiently specific to allow an appeals court to judge whether the ultimate facts upon which the decision is made constitute a "reasonable basis" for the order.[39] If an agency's findings of fact were inadequate, its decisions could not be affirmed by the Court.

The AG contended that to give regulators a clear picture of the financial status of workers' compensation carriers, the rating organization was obligated to indicate the role of investment income on rate adequacy, how dividends were distributed to policyholders, and to show an itemization of administrative expenses. In this case, the Attorney General sought more information on underwriting practices and safety and loss prevention factors. The Court agreed. "Before an adequate evaluation can be made of the effect of rates on the solvency of insurers, the Board must consider detailed evidence about the NCCI member companies' expenses."

4.7.3 RELEVANCE OF CASE TO CALIFORNIA

A. Unlike Oklahoma, California statute does not lay out what should be in a decision; indeed it specifies nothing beyond that the Commissioner should hold a hearing to determine the effect of proposed changes on the adequacy or inadequacy of rates, a precondition to changing rates.[40] It says nothing about how soon the hearing should be held, how much time can elapse before decision and final action, how the final order of the Commissioner is to be worded, and generally, to what level of proof the Commissioner is expected to hold the petitioner Bureau.

B. The Attorney General in Oklahoma established its position as an aggrieved party and put in early requests for information from the petitioner NCCI. The rating organization's inability and/or refusal to provide the data provided basis for subsequent appeal of the decision. California statute says nothing about who or what groups may intervene or submit evidence.

C. The AG requested information on the financial and business status of individual insurers, saying that it sought the information to evaluate the rate increase from the viewpoint of aggrieved parties and to offer an accurate independent judgement of the proposal.

D. While the WCIRB submits much information to the Commissioner each year, it does not include any information about underwriting guidelines (how insurers decide who to insure and under what circumstances, which areas are ruled out of coverage, which are only insured if other insurance can be sold as well, or about safety and health expenditures) of individual insurers. The Commissioner does get information about some more detailed areas of expenditure (including Safety and Engineering) for the State Compensation Insurance Fund, but only for this company. No recent rate decision of the Commissioner, however, used this information in any critical or analytic manner.

E. Recent Workers' Compensation rate decisions published by the California Insurance Commissioner would be unlikely to meet the tests of State Board. They would have insufficient evidence to support conclusions, the findings of fact would be ambiguous, they would have failed to consider all relevant information, and they would have inadequate detail on dividends and on investment income. Furthermore, there are several procedural flaws in recent decisions, including lack of written transcripts and minutes available to those making rate decisions.

4.8 CONCLUSION

4.8.1 WHAT CAN BE DONE TO IMPROVE THE REGULATORY PROCESS

The process of regulating rates for workers' compensation insurance is clearly not operating at high effectiveness. The process could be greatly improved by injecting some accountability and independence into it. The magnitude of the process alone demands this: with proposals of rate increases running at 5% to 15% per year in a $9-$10 billion system, the state owes it to all parties involved to scrutinize these decisions. The state could sponsor independent consumer advocates to take on some of the task of auditing both the records of the WCIRB and the specific filings made to the Commissioner. The state, possibly through the office of the Attorney General or an office of consumer advocacy within the Department of Insurance, could be given the responsibility for assuring that the formal ratemaking process was not compromised. On a more general scale, the Commissioner could approve increases in rates on a contingency basis, or direct that certain funds be spent for certain aspects of improving the whole system.

FOOTNOTES

1 Under the state Constitution, a fourth arena of the "complete system" of workers' compensation includes "full provision for securing safety in places of employment." (Article XIV, Sec. 4.)

2 A medical and surgical fee schedule is published periodically which rates medical, surgical, radiological, pathological, and anesthesia services according to a "relative value scale" and "conversion factors" ($ per unit) published in the state Administrative Code. Applicant's attorneys usually have their fees limited to 9%-12% of the permanent disability award to the claimant. They can also be paid for time spent on aspects of vocational rehabilitation awards.

3 Employers wishing to self-insure for payment of workers' compensation claims must be licensed by the Office of Self-Insurance Programs (SIP) of the Department of Industrial Relations. They annually must post a bond covering 125% of their audited future liability, must certify that they have an effective accident prevention program, and must demonstrate that they have competent claims adjustment facilities. In 1988, there were approximately 1,105 private self-insured employers in the state, accounting for about one-fifth of private industry statewide payroll. "California Work Injuries and Illnesses - 1989," Tables 25, 26. Percentage of payroll was estimated for 1988, the last year for which data are available for both insured and self-insured. A listing of self-insured companies can be found in the State Division of Industrial Accidents, "Promptness of First Notices: Workers' Compensation Benefits", (San Francisco, periodic).

4 Evidence for the lack of consumer education found in Minnesota in Department of Commerce survey of agents.

5 Posner (1974), p. 335.

6 Crockett (1931), p. 157. See, for example, the National Workmen's Compensation Service Bureau, Manual of compensation and liability insurance (1916).

7 This was a problem in other states as well. See speech of Michigan Insurance Superintendent John Winship to the National Association of Casualty and Surety Agents, quoted in Weekly Underwriter, vol. 93, p. 273, August 28, 1915.

8 Letter, WJ French to Hiram Johnson, Nov. 1, 1915. Two years later, the situation had not greatly improved: "The state admitted the insurance company, with its mythical assets into this State as qualified to write compensation insurance. The State has been remiss in the matter of enacting adequate laws to arm its officials with sufficient power to test the qualifications of foreign (out-of-state) insurance carriers for entry into this state... and... has been remiss, and is presently so, in the matter of adequate laws with reference to the examination and summary measures to safeguard the solvency of insurance carriers, and in the event of an insolvency, to stop them immediately from further operation". Letter WJ French to Hiram Johnson, February 15, 1917.

9 In Ohio in January 1915, an exclusive, or "monopolistic" as it was referred to in the insurance press, state fund was upheld as satisfying the state constitution; private insurers were subsequently defeated in an initiative campaign to allow private insurance competition. Such initiatives to allow private workers' compensation carriers to write business in Ohio persist. In its last campaign in the early 1980s, the private insurance companies were repudiated by better than a 3:1 margin of voters. A state "monopoly" fund was proposed by Republicans in Pennsylvania. Underwriters' Report, February 11, 1915.

10 "The Minimum Rating Law," Insurance and Investment News, vol. 16, # 2 (1915).

[11] Unpublished GAO data.

[12] California, "118th Annual Report of the Insurance Commissioner," (San Francisco, 1986), p. 7.

[13] Figures for 1986-87 budget year, from Governor's Budget for 1987-88, p. BTH 46. Revenue to the General Fund generated by insurance premium taxes has risen substantially with increases in insurance premiums. The Governor forecasts that 1991-92 fiscal year revenues from insurance taxes will be $1.325 billion. Workers' compensation premiums alone generate approximately $180 million of that total, enough to pay the entire operating budgets of the Department of Insurance, Cal/OSHA program, and Division of Workers' Compensation.

[14] For credit life and disability, the maximum rates are set by the Commissioner.

[15] Ostensibly this differentiation comes from the social insurance aspects of mandatory coverage. As all employers must have workers' compensation insurance, all motorists are supposed to have liability coverage, and nearly all homesellers and buyers are obligated to purchase title insurance. Since the product is mandated, its demand is high, and there is fear that insurers would collude on and artificially drive up prices, without fear of being subjected to the sanctions of federal antitrust law.

[16] Contractor's Safety Association v. California Compensation Insurance Co. (1957) 48 C.2d 71.

[17] Pure Premium Review Sheets, Appendix to RH-280 filing. September, 1990.

[18] Insurance Commissioner of the State of California, Final Decision on file RH-168, issued 11/15/74.

[19] Since insurers cannot give lower premium rates at the beginning of the policy period, the promise of dividends is often used to compete on net price.

[20] At each hearing a sign-in sheet is circulated or left on a rear table. Generally, the hearing officer will announce that attendees are urged to put their name on it. In one recent hearing, a vice-president of the WCIRB carried the sheet around and saw that everyone signed in. It is likely that not every person attending hearings will sign in, and the analysis of attendance is thereby flawed by these omissions. Nevertheless, the magnitude and relative strength of different interests represented can be judged from the list.

[21] 1986 premium = $5,149,690,000. Underwriters' Report Annual Statistical Issue, May, 1987.

[22] The members of the Industrial Accident Board recognized this as early as 1913. In their first report, under the topic of "Who Will Pay the Cost of Compensation?" the members noted that some employers would be able to pass on their costs of compensation insurer to the consumer in the form of service or commodity price increases. They noted that in farming, "a part of the cost will be borne by the renter and a part by the land owner in a diminution of the rental value of the land." Finally, they cited the opinion of unnamed German economists, who held that "in the final analysis, the laborer bears the whole compensation cost anyhow, and if that prove true in Germany, it will prove as true here." California Industrial Accident Board, "First Report" (Sacramento, 1913), p. 18.

[23] Some examples are shown:

Rate File	Date of Decision	Date of Transcript
233	11/22/83	Not in file
238	10/30/84	11/14/84
239	2/04/85	3/20/85

(Continued)

Rate File	Date of Decision	Date of Transcript
246	11/15/85	11/27/85
247	5/06/86	5/16/86
249	11/26/86	12/29/86
250	12/15/86	2/25/87
256	6/18/87	after 7/13/87

Source: Hearings files, Department of Insurance

[24] In File RH-250 (DOI Decision #262), the public hearing on a proposed 14.3% rate hike was held on 12/4/86, and the Deputy Commissioner running the hearing indicated the record would be kept open for another 11 days, until 12/15/86. However, that deputy wrote his decision dated 12/10/86, and the final decision of the Commissioner, dated 12/15/86 was, as always, simply a reissue of the deputy's decision.

[25] For example, in the case indicated above (RH-250, DOI #262), the WCIRB amended its filing on the day of the hearing, raising its proposed increase from 6% to 14.3%. It is even more incredible then, that this case was decided within another six days. See previous note.

[26] See RH-169, Decision # 206 (1/14/76).

[27] Section B of the September 1988 filing stated "generally, there is no accepted single measure of profitability for property-casualty insurance companies. One measure frequently used, however, is "return on net worth." The measure was then compared against post tax profits of other industries, as compiled by Fortune Magazine. (pages B-7 and B-8.) In the September 1989 filing, the same profit figures from Fortune are compared against "returns on surplus." (See Section I, pages 6-7.) Although returns on net worth and surplus are not synonymous, in both years, the Bureau concludes "it appears the profits earned are comparable to the rates of return earned by other businesses."

[28] Examples of the rejection both come during the term of Wesley Kinder in Decisions #229 (1978) and #234 (1979). Examples of the Commissioner stating dissatisfaction with process but letting increase go through nonetheless are under Bunner in Decisions #254 (1985) and #260 (1986), and Gillespie #262 (1986).

[29] Letter from John Faber, Chief Counsel, Department of Insurance to Leo Souza, President, Workers' Compensation Insurance Rating Bureau, April 12, 1988. After writing 16 workers' compensation rate decisions over 12 years as Chief Counsel/Deputy Commissioner under Governors Brown and Deukmejian, Faber's outright rejection of the WCIRB's interim rate filing without even a hearing was the last decision he wrote.

[30] In the first rate filing for 1987, one letter questioned the appropriateness of the 35% expense ratio. The response appealed to the historical basis of the figure. "This rate level constant has been employed for many years in the calculation of WC insurance rates under the statutory mandate that the expense factor be uniform for all employers. The expense loading of 35% has been reexamined in light of the present and future anticipated investment income for the premiums developed and is still found to be reasonable in light of prevailing conditions." Insurance Commissioner of California, "Final Statement of Reasons for Workers' Compensation Insurance Rate Revisions," Exhibit 10, File RH-250.

[31] State of Oklahoma (Attorney General) v. Oklahoma State Board for Property and Casualty Rates and National Council (Case # 65,430, Supreme Court of Oklahoma, July 24, 1986).

[32] Joanne Wojcik, "Idaho Comp Rates," Business Insurance (April 8, 1991), p. 20.

[33] The Attorney General retained Allen Schwartz and Robert Hunter of the National Insurance Consumers' Organization, along with Princeton economist John Wilson.

[34] Decision, Case # 65,430, Supreme Court of the State of Oklahoma, dated July 24, 1986. p. 8, fn 18.

[35] "Mindful that effective regulation through adequate disclosure for the public benefit is the fundamental purpose of the Insurance Code, we hold that because of critical evidentiary voids, the Board's approval of NCCI's rate filing, as modified, cannot be affirmed. It hence follows that the 41.9 percent rate increase sought by NCCI also is lacking in requisite evidentiary support. Where the evidence fails to support a preliminary determination that existing rates are inadequate, the Board cannot validly approve any rate increase." (at p. 15)

[36] Oklahoma Statutes (O.S.) 36 O.S. 1981 Sec 902(A).

[37] "Although the materials included in NCCI's filing contain numerous tables and exhibits, we have found no information from which the actual financial state of any NCCI member company can be reasonably ascertained." (at p. 13)

[38] The Board is to act as a "quasi-judicial body" and within 30 days of hearing, or subsequent rehearing, act to affirm, modify, nullify or prescribe new action related to what was presented at public hearings. Procedurally, all meetings must be formal and public with no official action taken except where minutes of the meeting are recorded and made a matter of public record. Any conferences held prior to meetings where final action were taken would be considered official conferences, also with minutes kept and made available. Final actions could be taken only after at least 15 days from hearing date.

[39] State Board, at 7, fn 16.

[40] California Insurance Code, Section 11734.

SECTION 5.0

CALIFORNIA WORKERS' COMPENSATION SYSTEM ANALYSIS

SECTION 5.0

CALIFORNIA WORKERS' COMPENSATION SYSTEM ANALYSIS

5.1 INTRODUCTION

This is an overview of California's workers' compensation system at the time of the post-World War II era and especially during the last 20 years. It is the intent to identify the trends and changes that have taken place in the nature of the problem of occupational injury and illness, the benefits paid by the State of California workers' compensation program, the components of the total cost of the program and the costs and resources devoted to administering the program.

5.2 INJURIES ON THE JOB

Under the State Constitution, workers' compensation exists to compensate injured workers for work-related injuries and illnesses. The number of disabling injuries reported to the state during the period from 1948 to the present is contrasted with the growth in statewide employment in Exhibit 5.1, "Employment and Number of Disabling Occupational Injuries and Illnesses California, 1948-1990". Generally, both figures show an upward path through the postwar period. A noteworthy exception is in the late 1970s and early 1980s when, even before the onset of a recession that reduced state employment, there was a reduction in the number of injuries reported.

Exhibit 5.2, "Rate of Disabling Occupational Injuries and Illnesses per 1000 Workers California, 1948-1990", combines these measures to show the aggregate rate of injury for the period. The aggregate time series masks many individual differences showing the changes in injury rates within specific industries.

Exhibit 5.3, "Rate of Disabling Occupational Injuries and Illnesses per 1000 Workers Selected Industries California, 1977-1990", shows the change in injury rates in four selected industries. These show that the injury rate for service industries, currently the largest and fastest growing industrial sector, is edging up. Agricultural industry figures also show an increase in injury rates over the last 14 years. Construction industry rates appear to follow changes in the economy; during growth spurts when construction is on the upswing, injury rates rise, probably due to a relatively inexperienced workforce, while during recessionary times, rates come down. Injury rates in manufacturing, a sector currently experiencing a reduction in employment, are actually declining with the most precipitous reduction coming during the early 1980s.

Exhibit 5.4, "Rate of Disabling Occupational Injuries and Illnesses per 1000 Workers Private Sector and Government California, 1977-1990", contrasts the rate of disabling occupational injury in the public and private sector. Injury rates in the governmental sector, including police and fire, teachers, local transportation systems, parks, public hospitals, and other public services, are somewhat above the rates in the private sector, but are relatively stable over time.

Exhibits 5.1, 5.2, 5.3 and 5.4 commence on the following pages:

Exhibit 5.1, Page II-5.0-2
Exhibit 5.2, Page II-5.0-3
Exhibit 5.3, Page II-5.0-4
Exhibit 5.4, Page II-5.0-5

EXHIBIT 5.1
EMPLOYMENT AND NUMBER OF DISABLING OCCUPATIONAL INJURIES AND ILLNESSES
CALIFORNIA, 1948-1990

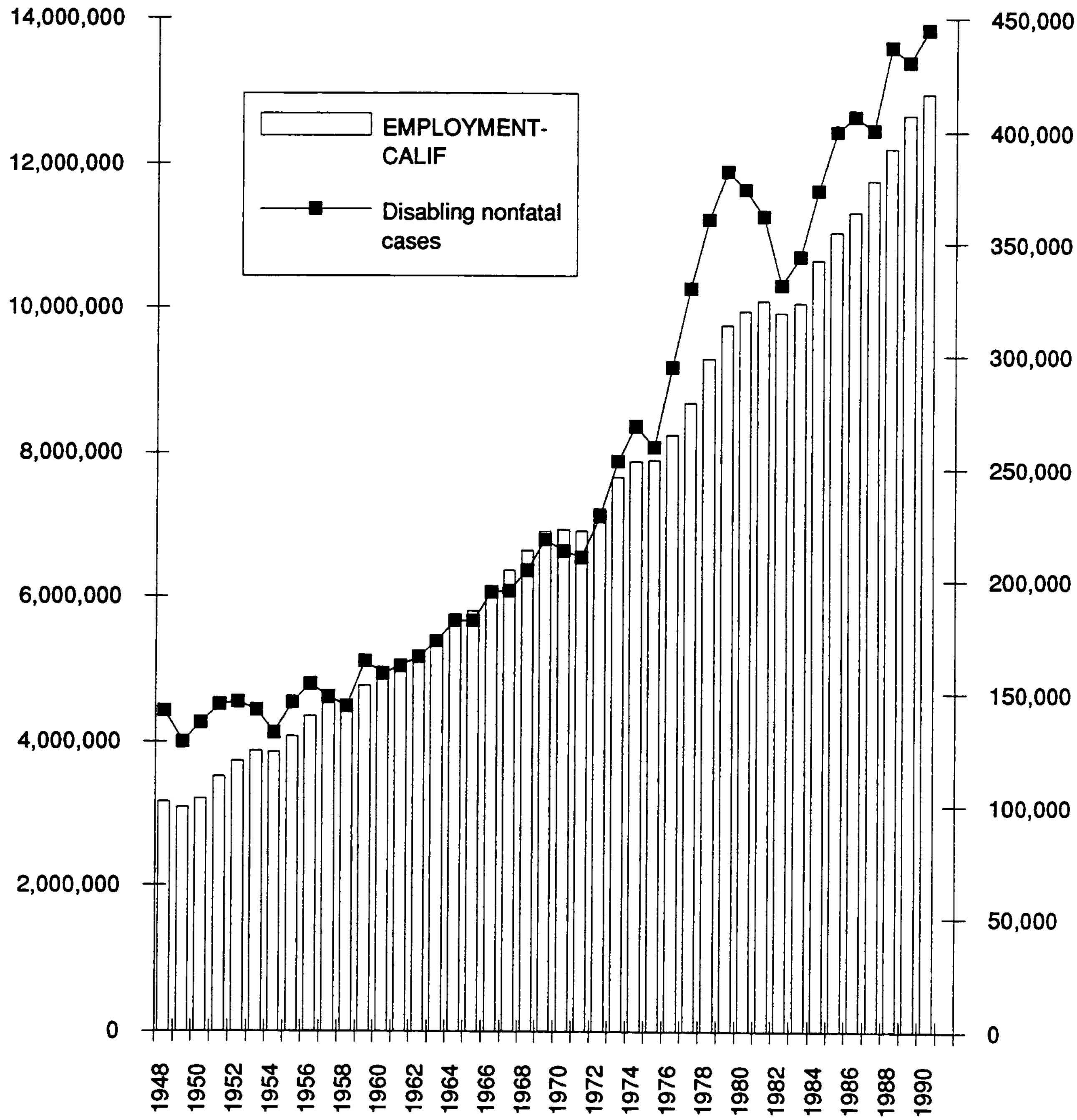


EXHIBIT 5.2
RATE OF DISABLING OCCUPATION INJURIES AND ILLNESSES PER 1000 WORKERS CALIFORNIA, 1948-1990

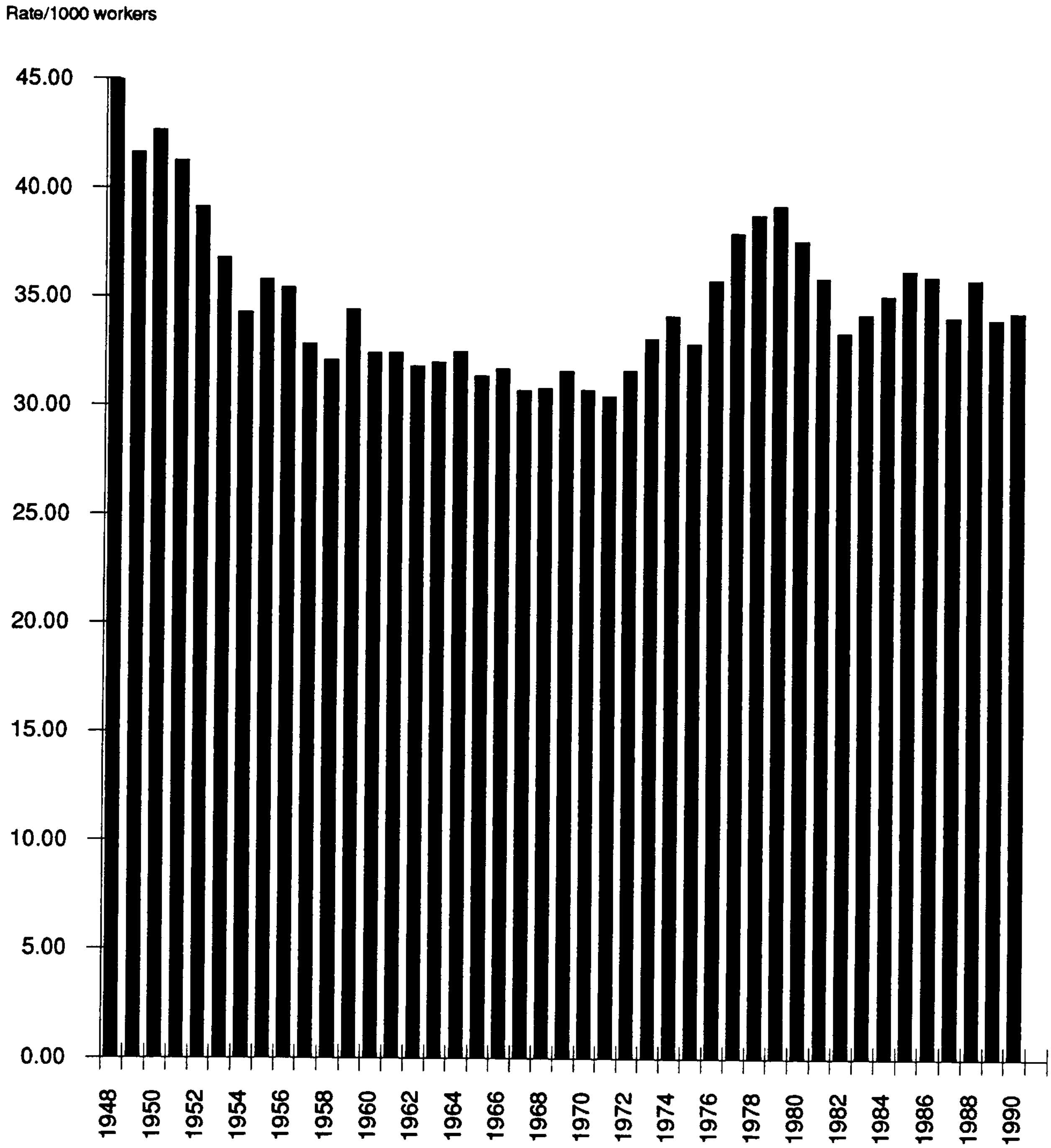


EXHIBIT 5.3
RATE OF DISABLING OCCUPATIONAL INJURIES AND ILLNESSES PER 1000 WORKERS
SELECTED INDUSTRIES
CALIFORNIA, 1977-1990

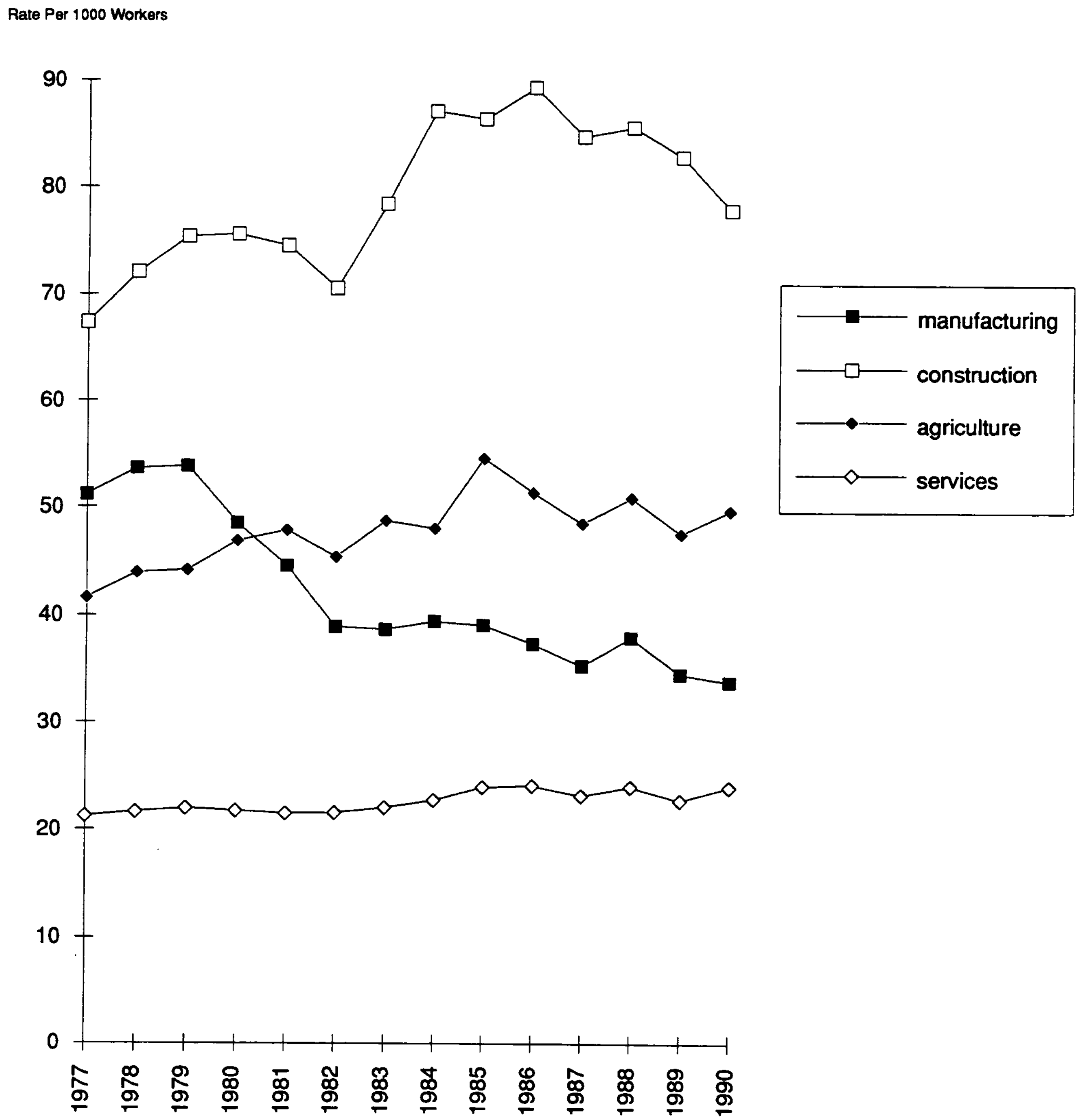
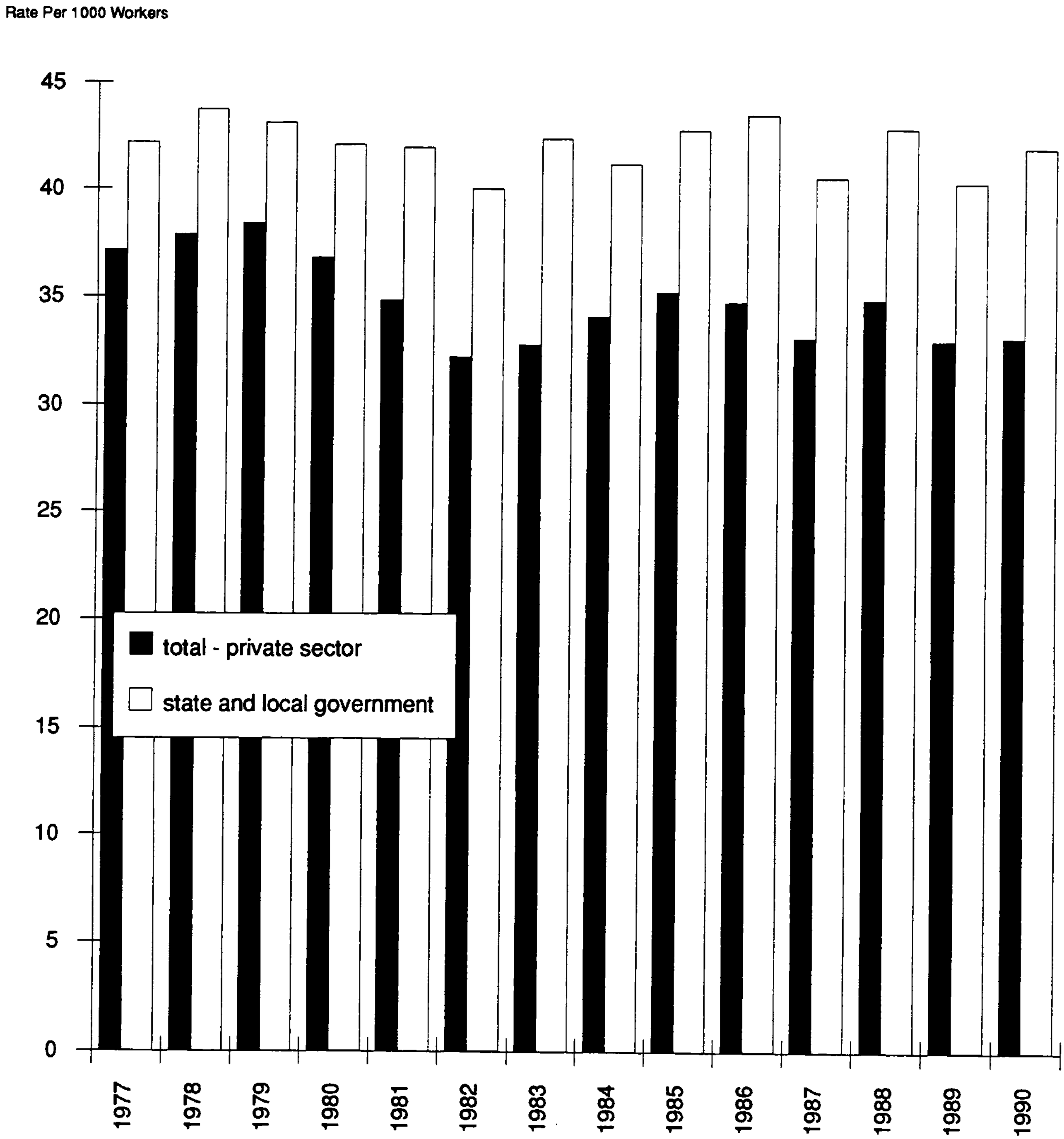


EXHIBIT 5.4
RATE OF DISABLING OCCUPATIONAL INJURIES AND ILLNESSES PER 1000 WORKERS
PRIVATE SECTOR AND GOVERNMENT
CALIFORNIA, 1977-1990



5.3 BENEFIT LEVELS

Many federal and state income transfer and replacement programs automatically adjust benefit levels with inflationary changes. For example, Federal Social Security benefits are adjusted each January for changes in the consumer price index during the previous year, in effect keeping beneficiaries at a constant standard of living.

The 1972 Report of the National Commission on State Workmen's Compensation Laws listed as three of 19 "essential recommendations" that maximum weekly benefits for temporary disability, permanent disability and survivors' benefits be two-thirds of a worker's gross wages, subject to a maximum of at least 100% of the state average weekly wage (SAWW). Forty-one states and the District of Columbia annually set maximum workers' compensation benefits as a percentage of the SAWW; twenty-seven states and DC meet the 100% standard, while 13 other states set maximum benefits at levels between 66 2/3% and 90% of SAWW.[1] California, however, is one of 10 states in which benefits are only changed as a result of legislative action.[2]

Exhibits 5.5, "Maximum Benefits for Temporary Disability Nominal and Inflation Adjusted (1967$) California, 1948-1988" and Exhibit 5.6, "Maximum Weekly Benefits for Permanent Disability Nominal and Inflation Adjusted (1967$) California, 1948-1992" show the legislated maximum benefit levels for temporary and permanent disability in California during the postwar period. The exhibits illustrate two major points:

A. Benefits in real (i.e., inflation adjusted terms) deteriorate between the years when the Legislature passes an increase.

B. The real benefit levels have not markedly improved through the period.

California has never approached the levels anticipated by the National Commission; currently, maximum temporary disability benefits in California are well under 75% of the State Average Weekly Wage. If temporary disability benefits are inadequate, there may be more incentive to try to make up for lost wages by filing other types of claims, such as for permanent disability, in order to achieve a greater replacement of lost wages. If weekly benefits were adequate and timely, this might not be as necessary.

Exhibits 5.5 and 5.6 commence on the following page.

Exhibit 5.5, Page II-5.0-7
Exhibit 5.6, Page II-5.0-8

5.4 PREMIUM LEVELS

Employers purchasing workers' compensation coverage pay a premium to licensed insurance companies that is determined by the nature of their work. There are currently over 400 classifications of work in California, with premium rates ranging from very low (such as accountants, real estate agents) to very high (such as roofing, logging, telephone line construction). The average premium level is a measure of the industrial mix of the state's economy, the number of injuries that take place, the compensation levels for each injury and illness and the costs of administering the system. Premiums are the major portion of the money available to pay benefits and other costs; income from investment on reserves (see section 5.5) is the other.

Exhibit 5.7, "Average Workers' Compensation Premium Rate (Manual Rate) in Dollars ($) per $100 Payroll California, 1948-1992", shows the average workers' compensation premium rate (manual rate) for 1948 to the present. This is an unadjusted rate that does not control for the effects of dividends. See section 5.9 below. The rate was relatively constant and below $1.50 per $100 payroll through the mid-1960s and began

EXHIBIT 5.5
MAXIMUM BENEFITS FOR TEMPORARY DISABILITY
NOMINAL AND INFLATION ADJUSTED (1967$)
CALIFORNIA, 1948-1992

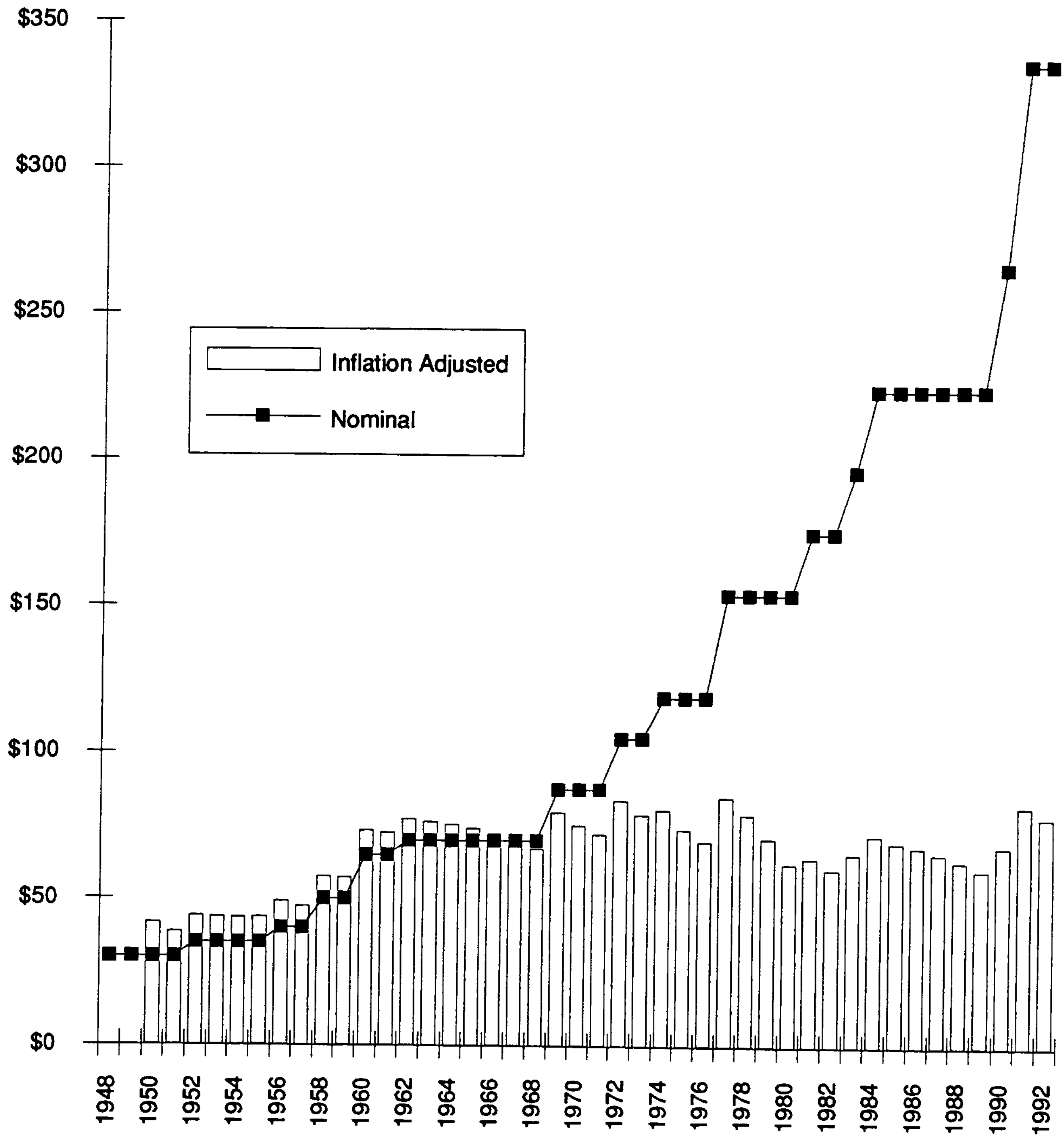
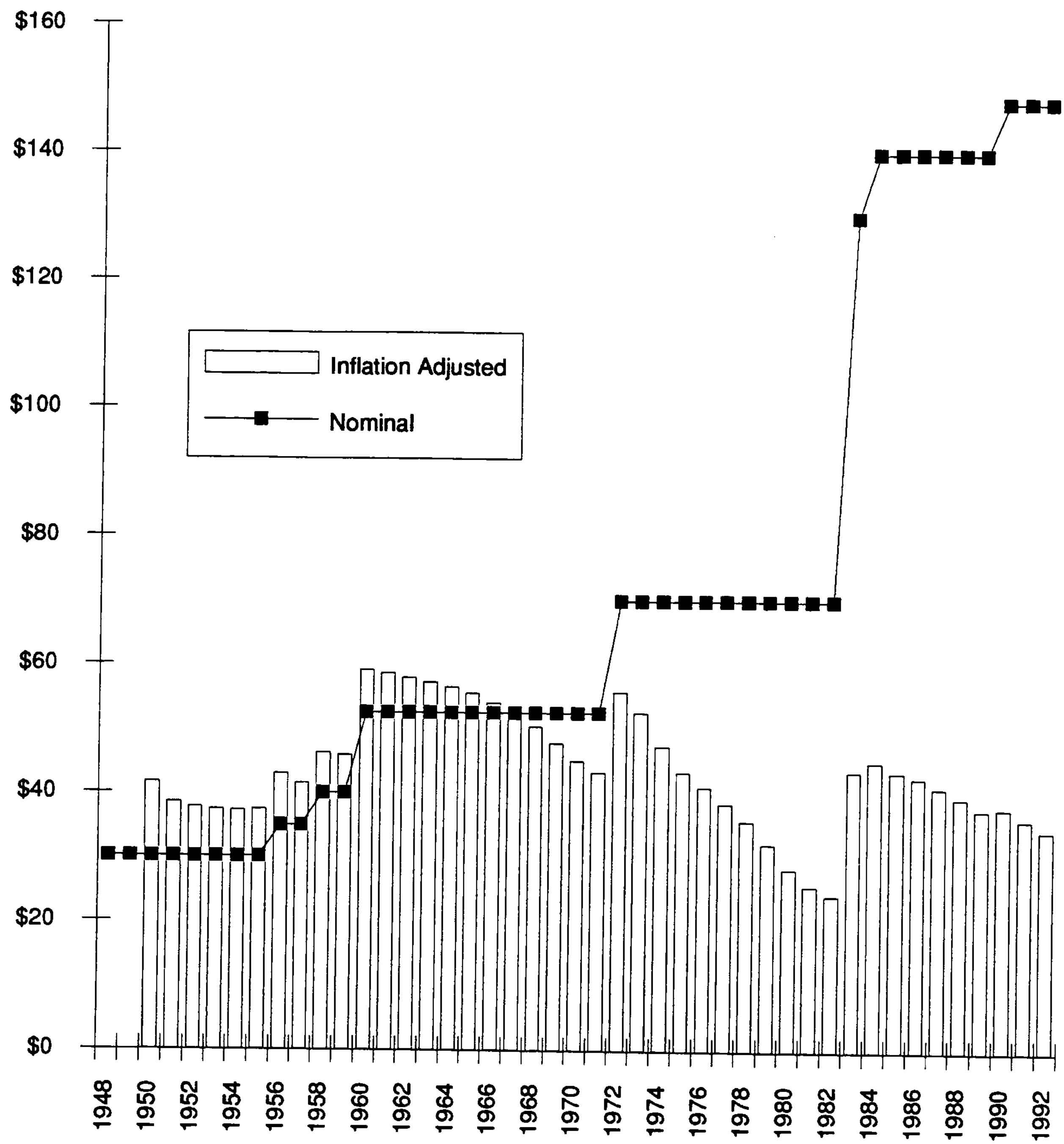


EXHIBIT 5.6
MAXIMUM WEEKLY BENEFITS FOR PERMANENT DISABILITY
NOMINAL AND INFLATION ADJUSTED (1967$)
CALIFORNIA, 1948-1992



to rise quickly in the early 1970s. It peaked in 1978 and actually fell for a few years, reflecting the downturn in injury rates. After hitting a low in 1982, it has grown fairly constantly since, rising by more than 50% during the 1980s. Exhibit 5.7 is located on Page II-5.0-10.

5.5 INVESTMENT INCOME

Premiums and investment income constitute the funds available to pay benefits and overhead costs in the workers' compensation system. During the last 20 years, investment income has become a more important portion of the "income" side. Exhibit 5.8, "Investment Income as a Percent of Earned Premium California Workers' Compensation Insurance, 1970-1990", depicts investment income as a percent of premium for the 1970 to 1990 period. The percentage rose quickly during the high interest rate periods of the late 1970s and peaked at nearly 17 percent in 1982. Most recent figures have investment income at over 15% of premium. Increased amounts of investment income reduce the need to increase premium rates, but dependence on high rates can also have a deleterious effect if a sudden drop in investment yields necessitates a steep increase in premium rates. While high investment yields may reduce an employer's short term costs of compensation insurance, they may also be economically inefficient in that they do not force employers to pay the full costs of workers' compensation coverage and thereby may be an incentive to under invest in injury prevention activities. Exhibit 5.8 is located on Page II-5.0-11.

5.6 COMPONENTS OF LOSS COSTS

Losses - the costs of medical, indemnity, and survivors' benefits - have increased from a 1948 figure of about 0.7% of payroll to over 2.3% of payroll today. Published statistics categorize these incurred costs into four groups: medical benefits (for both disabling and nondisabling cases), death benefits paid to survivors, temporary disability and permanent disability. Exhibits 5.9, "Components of Workers' Compensation Losses California 1948-1988", Exhibit 5.10, "Components of Workers' Compensation Losses Insured Employers California 1948-1988" and Exhibit 5.11, "Components of Workers' Compensation Losses as a Percent of Total California 1948-1988", show the changes over time on the loss side of workers' compensation. Exhibit 5.9 illustrates how each component has changed over time. Exhibit 5.10 indicates the aggregate effect of all changes. Exhibit 5.11 shows percentage of total cost of each component. This exhibit illustrates that the costs of temporary disability and death benefits are making up less and less of the cost of workers' compensation premiums each year.

Death benefits are and have always been a relatively minor cost factor in the state's program. In 1988, for example, the costs of fatality claims were about 1/30th of 1% of payroll. Costs of temporary disability-only cases have remained at a relatively constant level of about 1/10th of 1% of payroll during the postwar period. Medical care costs, on the other hand are a significant and ever growing component of system costs, having steadily risen to over 1% of payroll, three times their rate of 20 years ago. The costs of permanent disability (which include the temporary disability costs of cases that are later judged to include residual disability) appear to fluctuate with changes in permanent disability benefit levels. Exhibit 5.6, on Page II-5.0-8, illustrates significant changes in permanent disability costs correspond to periods when the Legislature increased permanent disability benefit levels, as in 1966, 1972 and 1983-84.

Exhibits 5.9, 5.10 and 5.11 commence on the following pages:

Exhibit 5.9, Page II-5.0-12
Exhibit 5.10, Page II-5.0-13
Exhibit 5.11, Page II-5.0-14

EXHIBIT 5.7
AVERAGE WORKERS' COMPENSATION PREMIUM RATE (MANUAL RATE) IN DOLLARS ($) PER $100 PAYROLL CALIFORNIA, 1948-1992

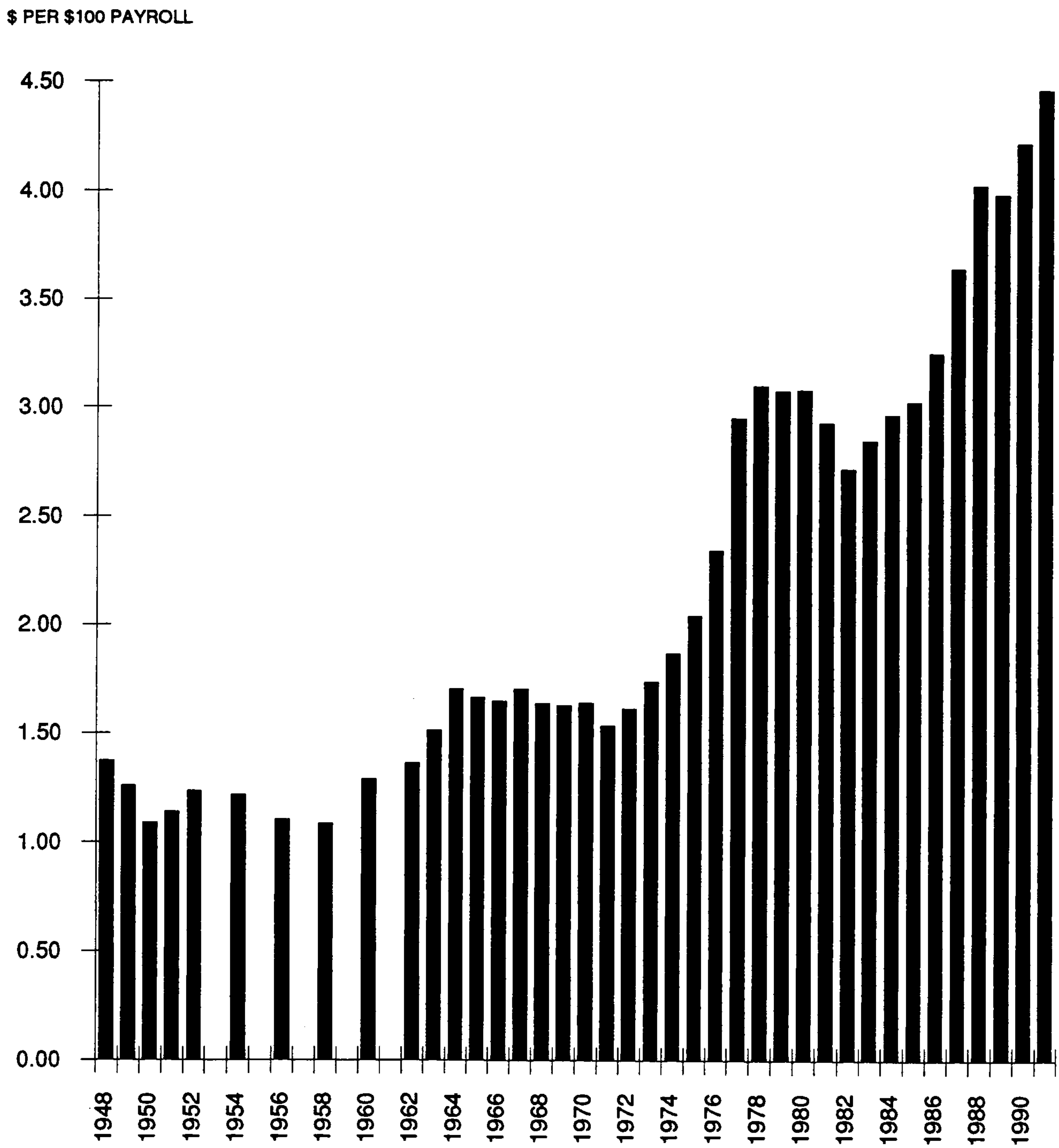


EXHIBIT 5.8
INVESTMENT INCOME AS A PERCENT OF EARNED PREMIUM
CALIFORNIA WORKERS' COMPENSATION INSURANCE, 1970-1990

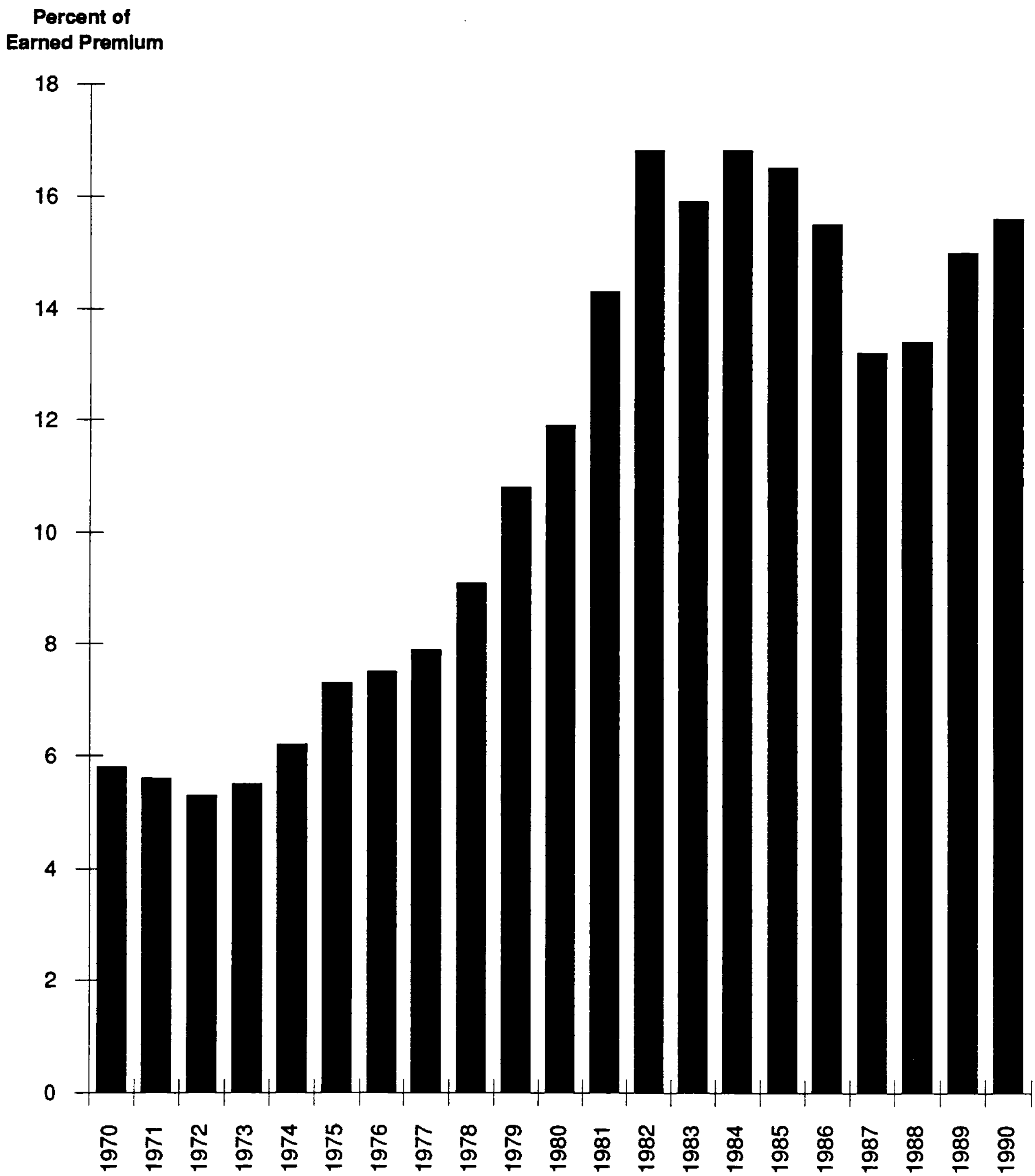


EXHIBIT 5.9
COMPONENTS OF WORKERS' COMPENSATION LOSSES
CALIFORNIA 1948-1988

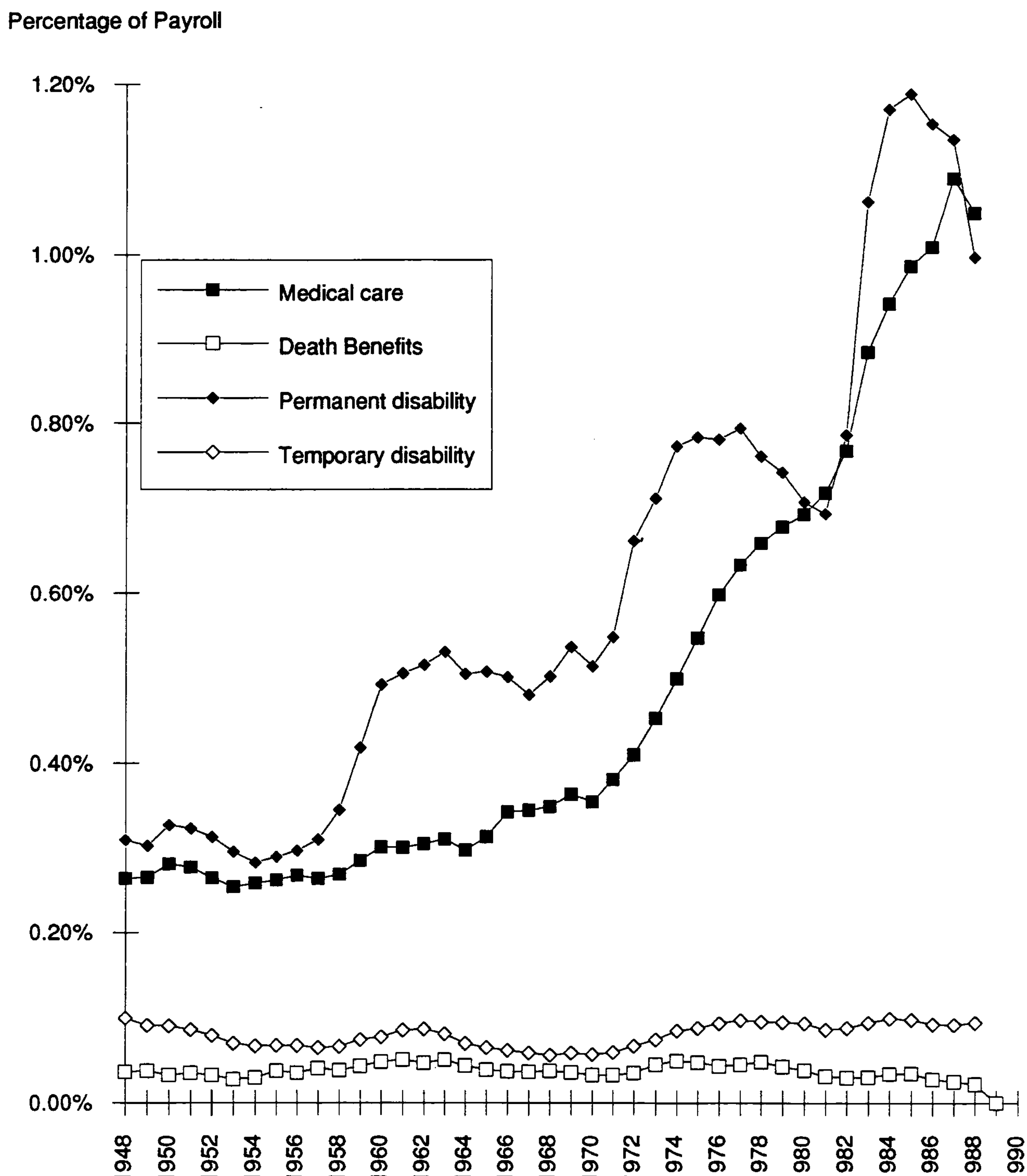


EXHIBIT 5.10
COMPONENTS OF WORKERS' COMPENSATION LOSSES
INSURED EMPLOYERS
CALIFORNIA 1948-1988

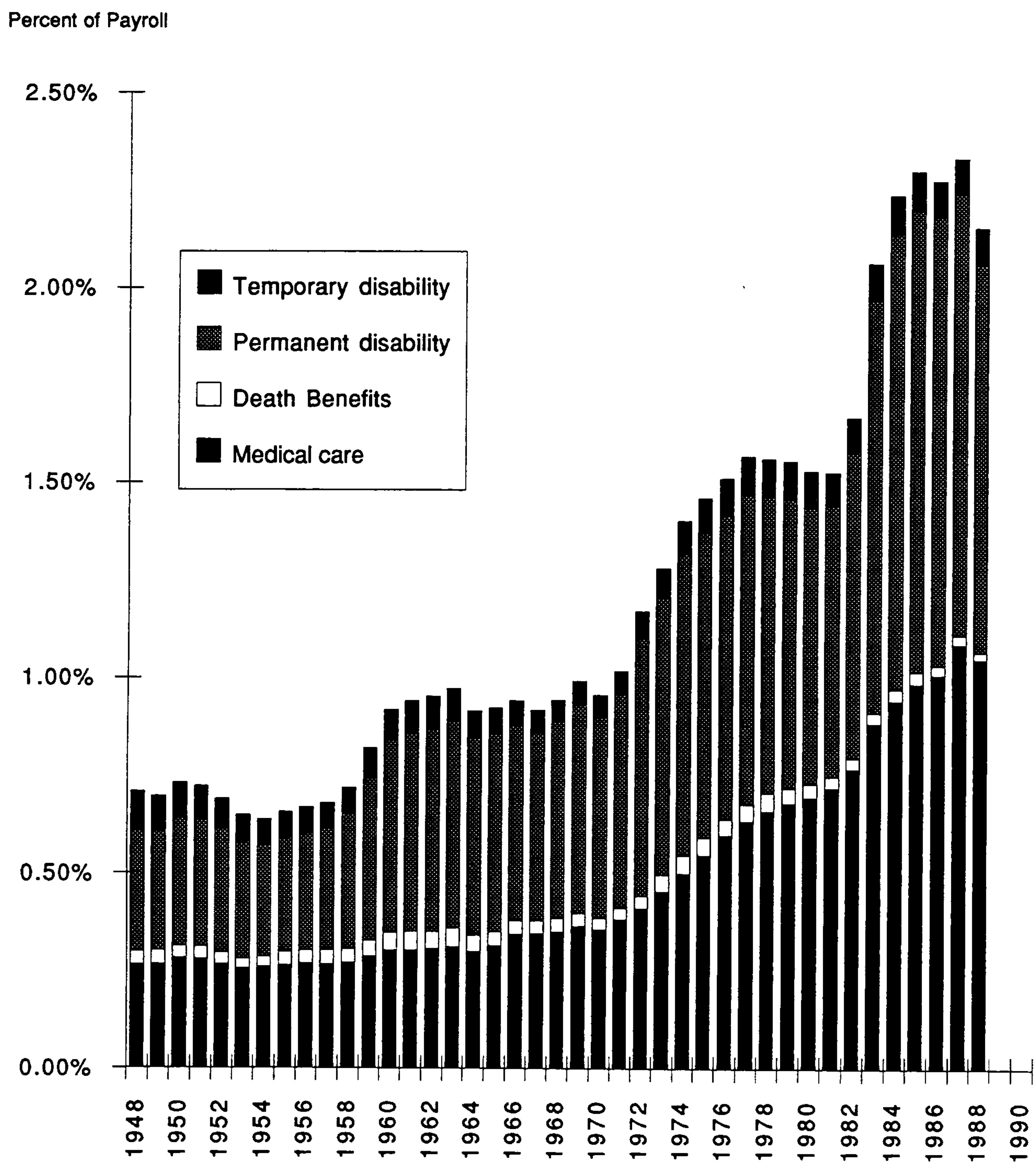
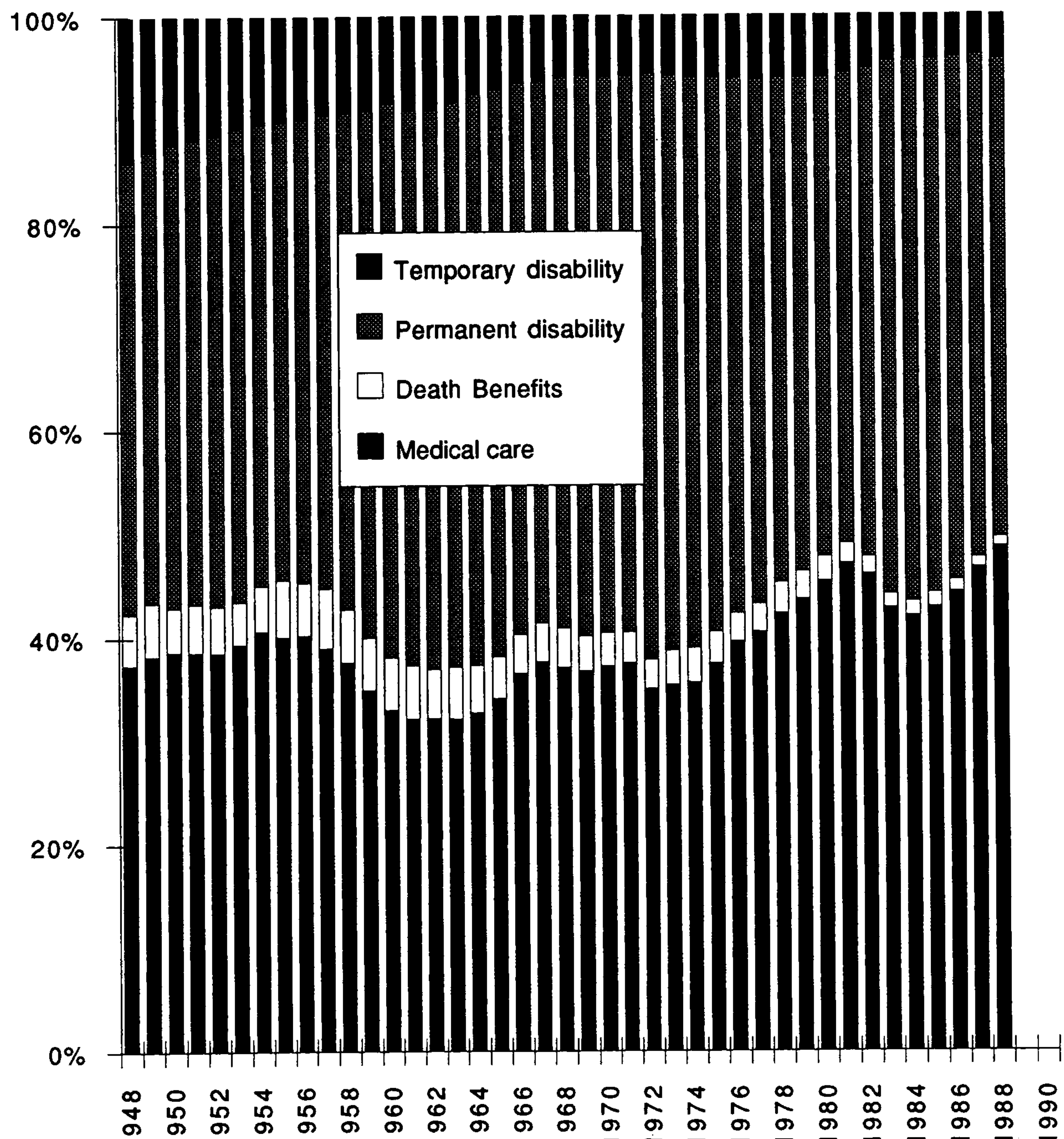


EXHIBIT 5.11
COMPONENTS OF WORKERS' COMPENSATION LOSSES
AS A PERCENT OF TOTAL
CALIFORNIA 1948-1988



5.7 LOSS RATIOS

Exhibit 5.12, "Incurred Losses (Medical and Indemnity) as a Percent of Earned Premium California Workers' Compensation Insurance, 1970-1990", shows the loss ratio (incurred losses divided by earned premium) for the 1970-1990 period. The loss ratio appears to follow a cyclical pattern. As the loss ratio increases, rate increases are generally sought and granted, allowing the ratio to come down until rates are perceived to be so excessive that they are reduced. Exhibit 5.12 is located on Page II-5.0-16.

5.8 EXPENSES

During the 1970-1990 period, California workers' compensation insurance carriers spent an average of 23.5% (range of 21.1% to 26.7%) of earned premium on operating expenses. Expenses include loss adjustment costs, underwriting costs, sales and commissions costs, policyholder services such as loss control and general overhead. The largest component, loss adjustment expenses, grew from 7.6% to 11 % of premium over the period, likely reflecting both the increased complexity of cases and the system's relative inability to prevent litigation through active oversight and case intervention. In addition to these costs, insurers also paid state premium and other taxes, averaging 2.75% of premium. Exhibit 5.13, "Operating Expenses (Loss Adjustment and Other) and State Tax as a Percent of Earned Premium California Workers' Compensation Insurance, 1970-1990", Exhibit 5.14, "Expenses as a Percent of Earned Premium California, 1984-1990, All Companies" and Exhibit 5.15, "Expenses as a Percent of Premium by Type of Insurer California 1984-1990" show the operating expense as a percentage of premium and show the components of the expense. The first, Exhibit 5.13, shows these expenses over the 1970 to 1990 period. Exhibit 5.14 shows more detailed expenses for all companies, while Exhibit 5.15 shows how the expenses differ for stockholder owned companies, nonstocks (i.e. mutual companies) and the State Compensation Insurance Fund.

Exhibit 5.13, 5.14 and 5.15 commence on the following pages:

Exhibit 5.13, Page II-5.0-17
Exhibit 5.14, Page II-5.0-18
Exhibit 5.15, Page II-5.0-19

5.9 DIVIDENDS

Dividends and insurer profits appear to be the mirror images of loss ratios; both go up when loss ratios start to fall and both are reduced when loss ratios are on the rise.

Dividends are often justified in the California workers' compensation market on the grounds that they provide a strong economic incentive that rewards safety in the workplace; if claims losses are low, it is said, dividends can be higher. They also provide a backdoor means of adjusting premiums for expense savings on policies covering larger policyholders. California has historically depended on dividends to a much larger degree than other states, many of which reduce costs up front but pay out lower dividends. However, data indicate that the relationship between safe workplaces and dividend rebates may be more complex and subject to many other factors besides workplace safety.

In the most recent filing with the Insurance Commissioner, the Workers' Compensation Insurance Rating Bureau recommended that policyholder dividends should be between 10% and 15% of premium to allow for adjustment of premium based on actual losses of individual risks and for protecting against potential variations in expected loss ratios. Building a factor for dividends into premium rates has many effects.

EXHIBIT 5.12
INCURRED LOSSES (MEDICAL AND INDEMNITY) AS A PERCENT OF EARNED PREMIUM
CALIFORNIA WORKERS' COMPENSATION INSURANCE, 1970-1990

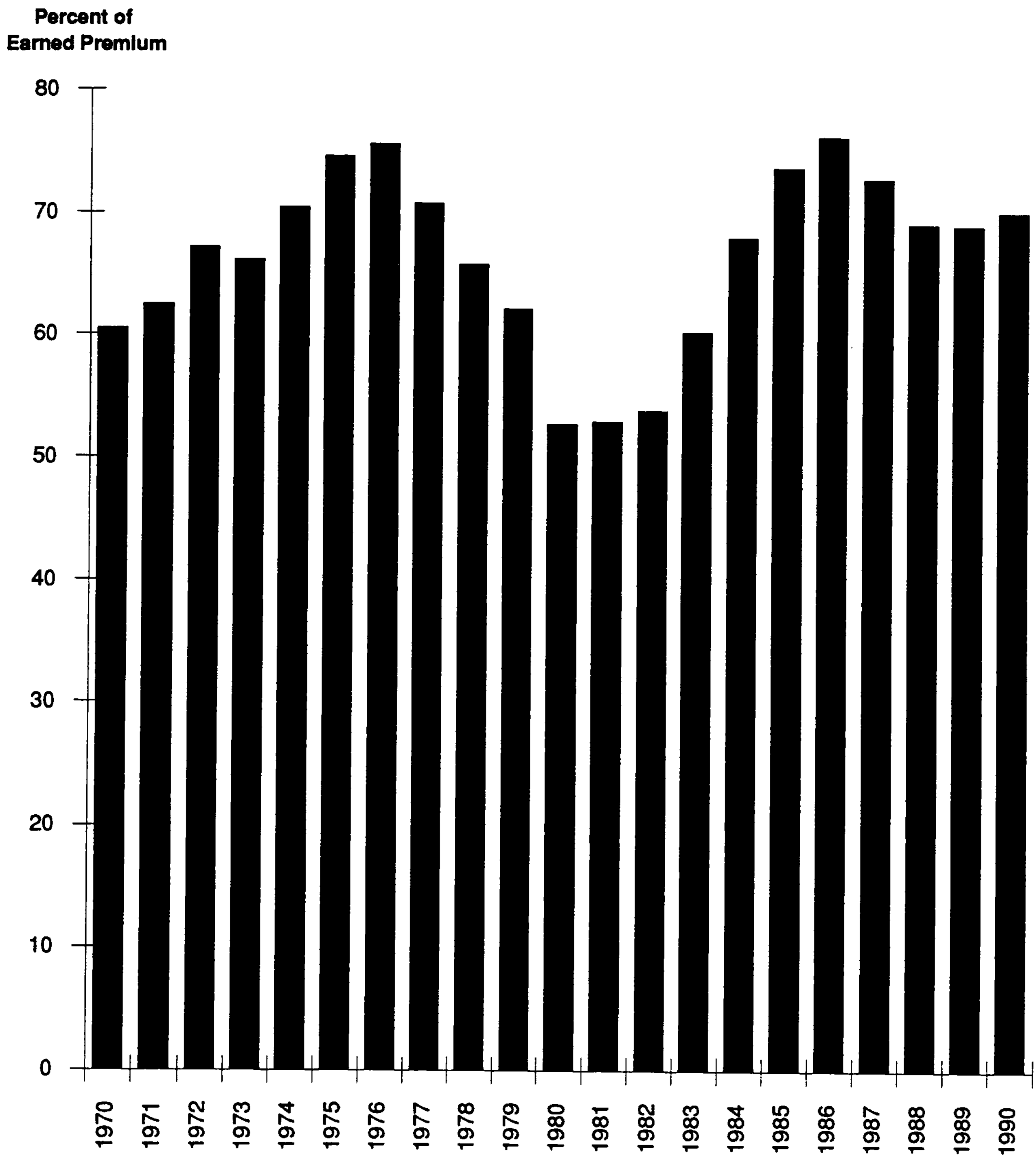


EXHIBIT 5.13
OPERATING EXPENSES (LOSS ADJUSTMENT AND OTHER) AND STATE TAX AS A PERCENT OF EARNED PREMIUM CALIFORNIA WORKERS' COMPENSATION INSURANCE 1970-1990

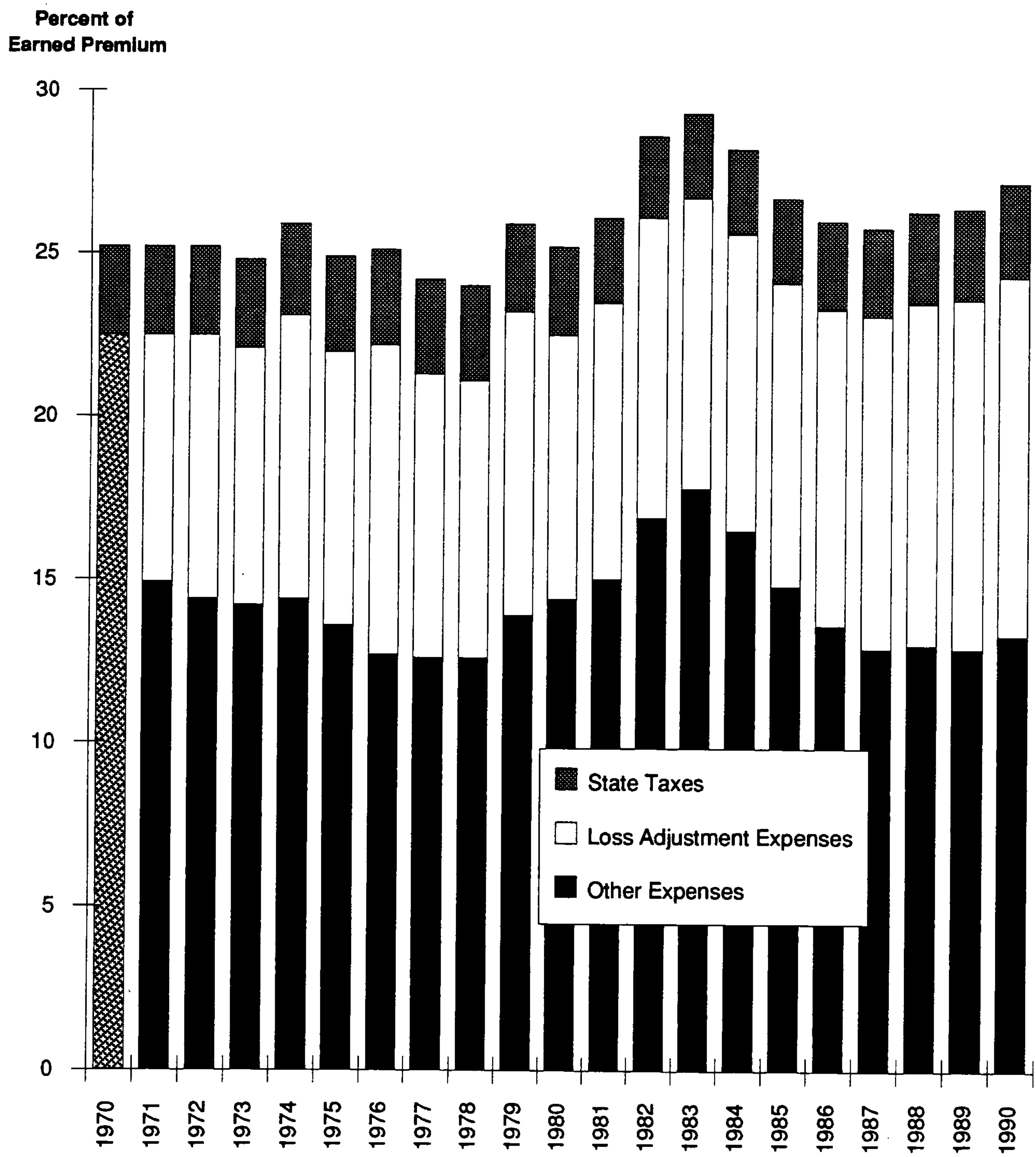


EXHIBIT 5.14
EXPENSES AS A PERCENT OF EARNED PREMIUM CALIFORNIA
1984-1990,
ALL COMPANIES

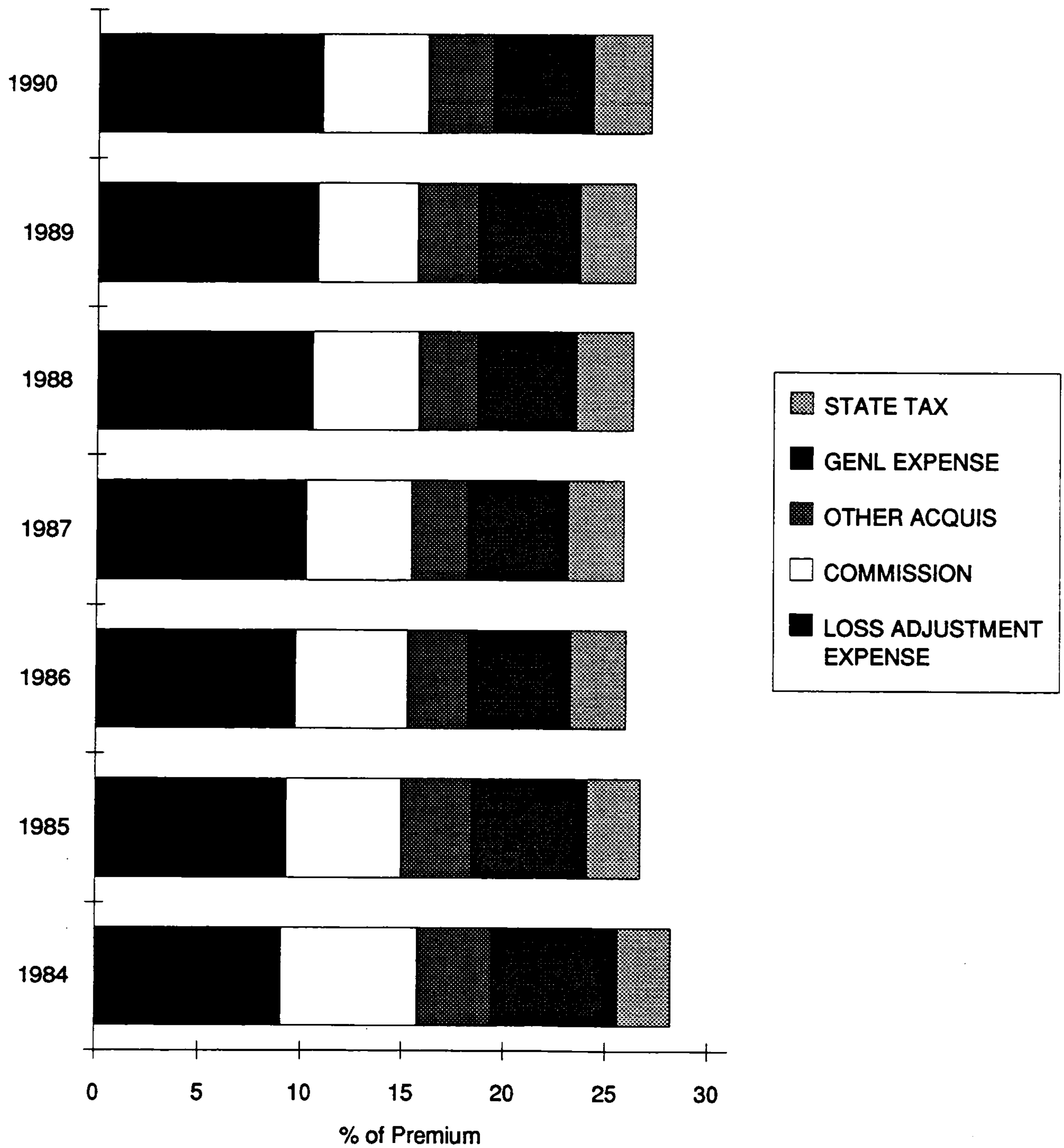
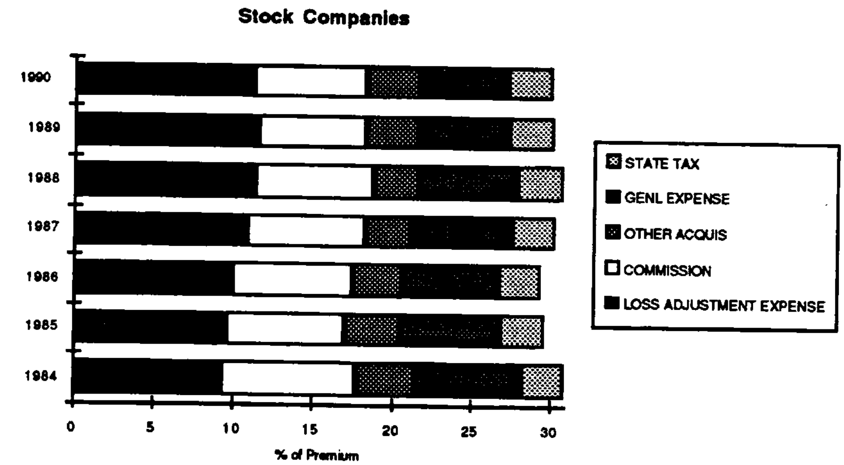
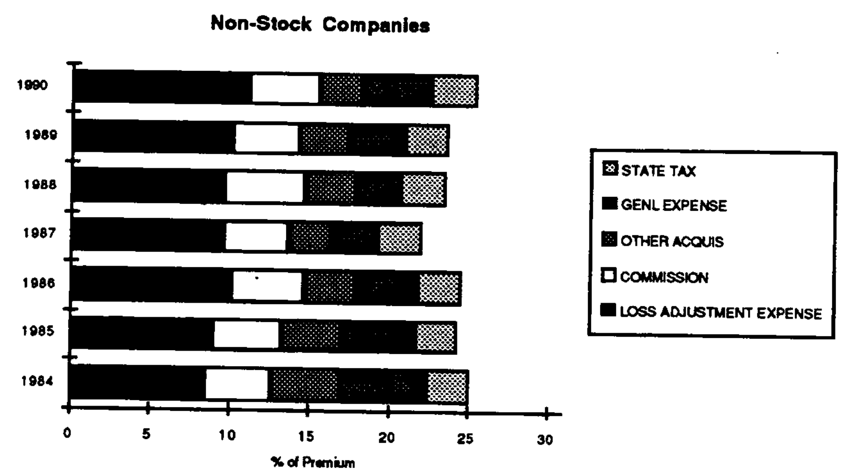
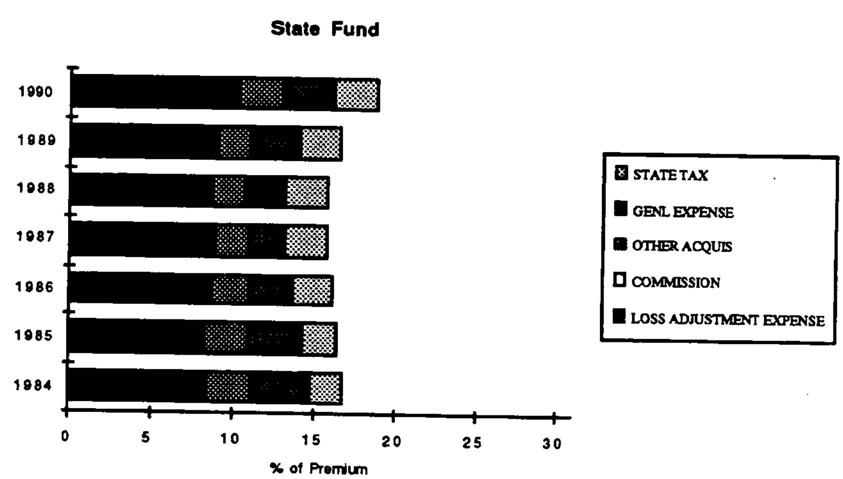


EXHIBIT 5.15
EXPENSES AS A PERCENT OF PREMIUM BY TYPE OF INSURER CALIFORNIA 1984-1990







Employers generally argue that they would prefer lower premiums upfront to the potential for dividend rebates at the end of the policy period if their expenses and loss figures justify the return. The wide fluctuations in the payment of dividends from year to year indicated in Exhibit 5.16, "Dividends Paid as Percentage of Earned Premium California Workers' Compensation Insurance, 1970-1990" casts some doubt upon the conclusion that dividends are a sensitive means of rewarding insured employers for good safety records. The financial condition of the insurance business due to factors like investment income yields may be more important in the payment of dividends than is any individual company's loss record.

As an example, we can see that between 1978 and 1979, dividends to California workers' compensation policyholders doubled. Was this because workplaces had suddenly become safer and fewer injuries led to lower costs that were now able to be passed on to policyholders? Quite the contrary. The number of fatality cases in the state increased from 585 in 1978 to 669 in 1979. Injury and illness rates statewide were static. The number of workers' compensation indemnity cases remained about the same. On the other hand, a major difference was that beginning in 1978, investment yields began to rise dramatically. The Prime Rate, identified in Exhibit 5.17, "Premium Rate Index and Prime Rate California, 1948-1988", which had peaked at 8% in 1977 rose to a high of 16 percent in 1979 and continued to climb until it ultimately peaked at 22% in 1980. Because insurers held significant reserves for future case payouts (approximately $3.5 billion in 1979), they were able to rebate some of this windfall in policyholder dividends to stay competitive.

It might be argued that among all employers, those with better claims experience may have gotten larger dividends in any given year. On the other hand, the vast increase in the amount available for dividends likely meant that even many firms with worsening safety records received increased dividends that year. When investment yields and subsequently dividend rates fell in latter years, many firms with improved safety records may have found their dividends being reduced. Thus, since the payment of dividends is by law limited to surplus generated on workers' compensation policies, the investment yields may have had a greater impact on dividend distribution than any individual firm's safety or loss experience.

Exhibit 5.16 and 5.17 commence on the following pages:

EXHIBIT 5.16
DIVIDENDS PAID AS PERCENTAGE OF EARNED PREMIUM
CALIFORNIA WORKERS' COMPENSATION INSURANCE
1970-1990

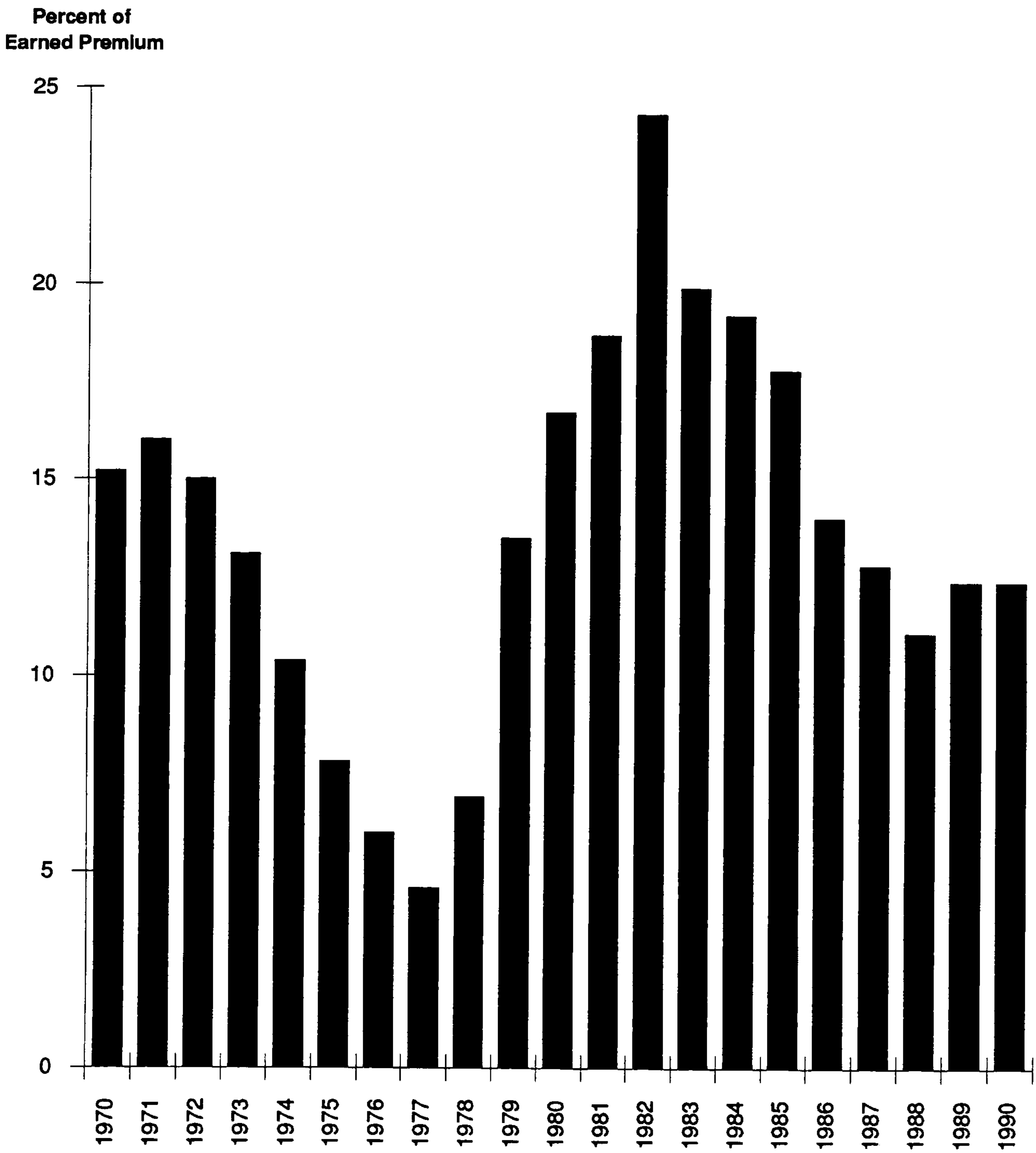
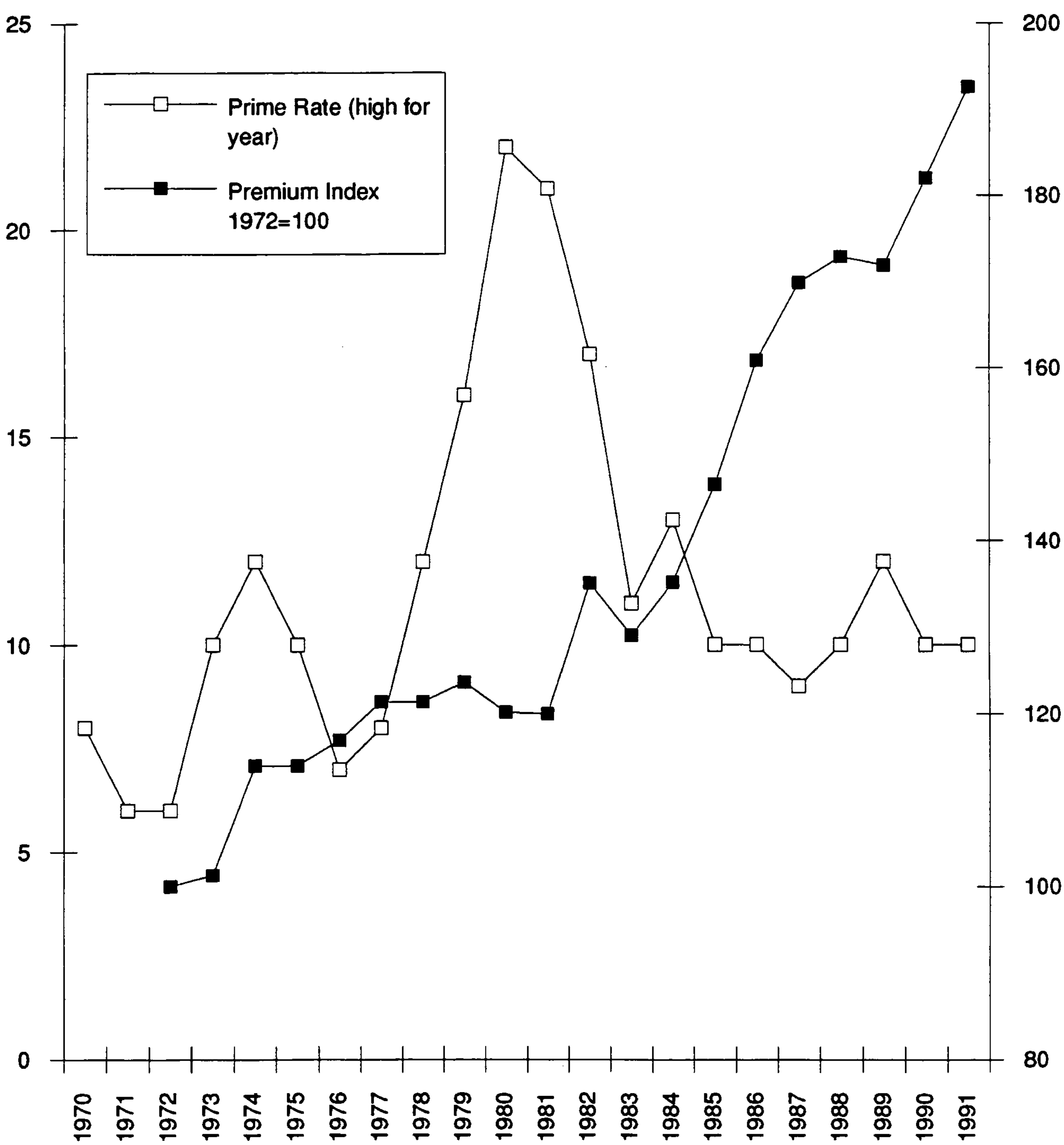


EXHIBIT 5.17
PREMIUM RATE INDEX AND PRIME RATE
CALIFORNIA
1948-1988



5.10 THE UNDERWRITING CYCLES OF WORKERS' COMPENSATION

Like those in many insurance lines, workers' compensation insurers do not base their premium rate decisions solely on their projected payout costs. Funds available to finance losses, administrative costs and policyholder dividends equal the total of premiums plus investment income. The latter is generated by investing the "reserves" put aside to pay known claims ("incurred losses") and unknown future claims ("unassigned surplus" and "catastrophe surplus"). The amount of investment income is determined, then, by the size of the reserves and the interest rates (or returns on other investment opportunities) available.

For example, in 1988 the State Fund wrote nearly $1.8 billion in premiums. Their declared assets were more than twice that much, including $3 billion in future liabilities for compensation and medical benefits and for claims expenses and $713 million in "policyholders' surplus", the insurance equivalent of a "rainy day" fund. The AA-rated investments of these assets earned the fund over $300 million in income.

When investment rates are high there is less pressure to increase premium rates. When interest and other investment rates fall, there is a need to generate greater amounts of premium income. In the example above, the State Fund earned approximately a 10% return on their investments. If this number had dropped to 8% for the year, there would be a need to raise premiums (or cut other costs) by about $60 million, or 3.3%. If investment income rates averaged 12%, premium rates could be cut by a corresponding amount. Similarly, if reserves are high (low), there is less (more) pressure on premium rates. Because investment rates fluctuate in a cycle that is not necessarily consistent with cyclical variations in injury rates, premium rates experienced by insurance buyers may seem arbitrary: Workers' compensation insurance buyers may see their premium rates fluctuate without any substantive change in the number or cost of injuries experienced by their employees; conversely, premium rates may seem stable at a time of significant upward or downward changes in injury experience.

Exhibit 5.17 (located on Page II-5.0-21) provides a representation of this relationship between premium rates and the investment rates for the 1970 to present era. As the "prime rate" of major California banks rises or stays at high levels, a calculated index of premium rates (1972=100) stays relatively stable; when interest rates begin to fall or stay at a low level, the premium rates rise.

The New York Department of Insurance has divided the property-casualty insurance business cycle into four stages, viewed from both consumers' and insurers' perspectives. This can be seen in Exhibit 5.18, "New York DOI Property - Casualty Insurance Four Stage Cycle" located on Page II-5.0-24. Stage 1 is "crisis" in the consumers' view; insurance coverage is increasingly scarce, it is relatively inflexible, there is unavailability of certain lines and there are rapid price increases. In the insurers' view, Stage 1 is "upturn" with rising revenues and lower than average risk due to cutting back of poor risks. Stage 2 for consumers is "consolidation" where rates hit a plateau; for insurers it is "peak" conditions with highest overall profits and best underwriting results. Stage 3 is "upturn" for consumers, with easing of prices, greater availability, and more willingness to tailor insurance products to needs. For insurers, Stage 3 is "decline", as new capital enters in an attempt to siphon off some of the large profits. These new insurers compete for the best business on price and during periods of strong investment income, may write insurance on substandard risks because they can still profit through cash-flow underwriting. Stage 4 for consumers is "peak" as a buyer's market ensues: there is cost cutting, ample availability, flexible coverage. For insurers, this is "crisis"; there are large underwriting losses, ruinous price competition and major risk of insolvencies. (In terms of workers' compensation insurance, employers buying coverage, rather than the workers receiving the benefits, should be considered the insurance "consumers".)

Exhibit 5.12 (located on Page II-5.0-16) shows the ratio of losses incurred to premium earned for the post-1970 period as a cyclical pattern. The peaks of this "loss ratio" correspond to stage 4 of the cycle above. Insurers are paying out much more of the premium dollar in losses because premiums are not rising as fast as losses. When loss ratios are at their lowest levels, the cycle is at stage 2: insurers profits are at their peak.

EXHIBIT 5.18
NEW YORK DOI PROPERTY - CASUALTY INSURANCE
FOUR STAGE CYCLE

CONSUMERS VIEW	INSURERS' VIEW
STAGE 1 Crisis - Scarcity, rapid price increases, unavailability of some lines	STAGE 1 Upturn - Rising revenues, lower average risk
STAGE 2 Consolidation - Fixing of new price plateau, highest ratio of price to actual cost of providing protection	STAGE 2 Peak - Best underwriting results, highest overall profits
STAGE 3 Upturn - Easing of prices, greater availability, more willingness to tailor products to consumer demands	STAGE 3 Decline - Influx of new capital lured by high profits, price cutting, lower earnings
STAGE 4 Peak - Rampant price cutting, ample availability, full buyer's market	STAGE 4 Crisis - Massive underwriting losses, ruinous price competition, major risk of insolvencies

Exhibit 5.19, "Profit as Percentage of Earned Premium California Workers' Compensation Insurance, 1970-1990", shows the underwriting profit cycle for workers' compensation insurance in California since 1970. Peak insurance profits appear within 2 years of the lowest level of the loss ratio cycle. Thus, the peak loss ratio in 1974 shows up as the ebb point in insurer profit in 1975; the low point in loss ratio of 1978-1980 is shown in high profits during 1980-81. The full cycle is approximately 10-14 years in length. Exhibit 5.20, "Return on Net Worth (1971-1987) Return on Surplus (1974-1990) as Percentage of Earned Premium California Workers' Compensation Insurance, 1970-1990", shows two other measures of profitability as calculated by the Workers' Compensation Insurance Rating Bureau, return on net worth (1971-1987) and return on surplus (1974-1990). The Bureau switched from the former to the latter measure in its 1989 filing without explanation.

Exhibit 5.21, "Average Manual Rate Premium and Incurred Losses as Percentage of Payroll, Insured Employers California, 1948-1988", depicts average manual rate premium and losses as a percent of payroll, showing another aspect of the cycle, albeit encompassing a steady upward trend.

Exhibits 5.19, 5.20 and 5.21 commence on the following pages:

EXHIBIT 5.19
PROFIT AS PERCENTAGE OF EARNED PREMIUM
CALIFORNIA WORKERS' COMPENSATION INSURANCE
1970-1990

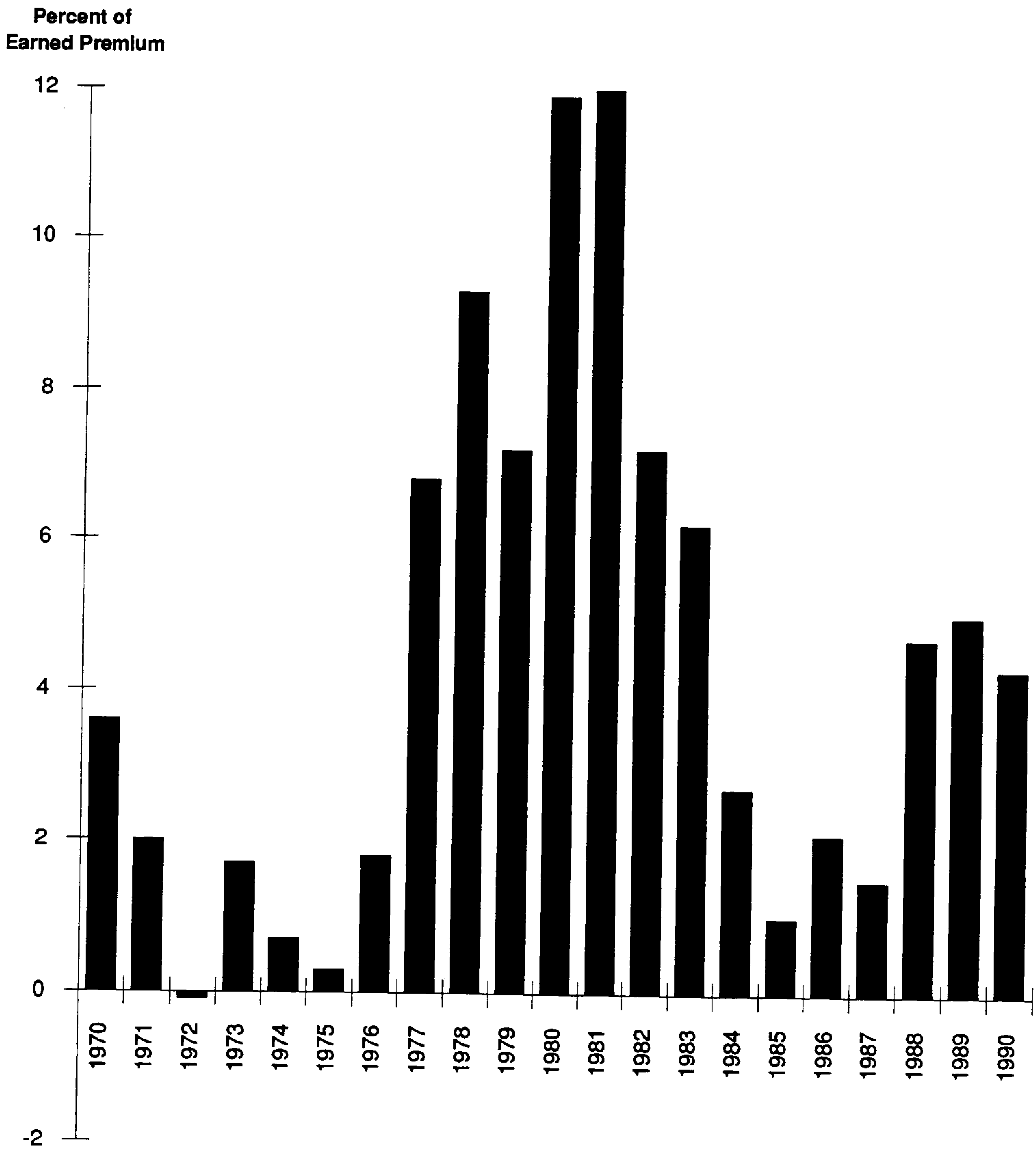


EXHIBIT 5.20
RETURN ON NET WORTH (1971-1987)
RETURN ON SURPLUS (1974-1990)
AS PERCENTAGE OF EARNED PREMIUM
CALIFORNIA WORKERS' COMPENSATION INSURANCE
1970-1990

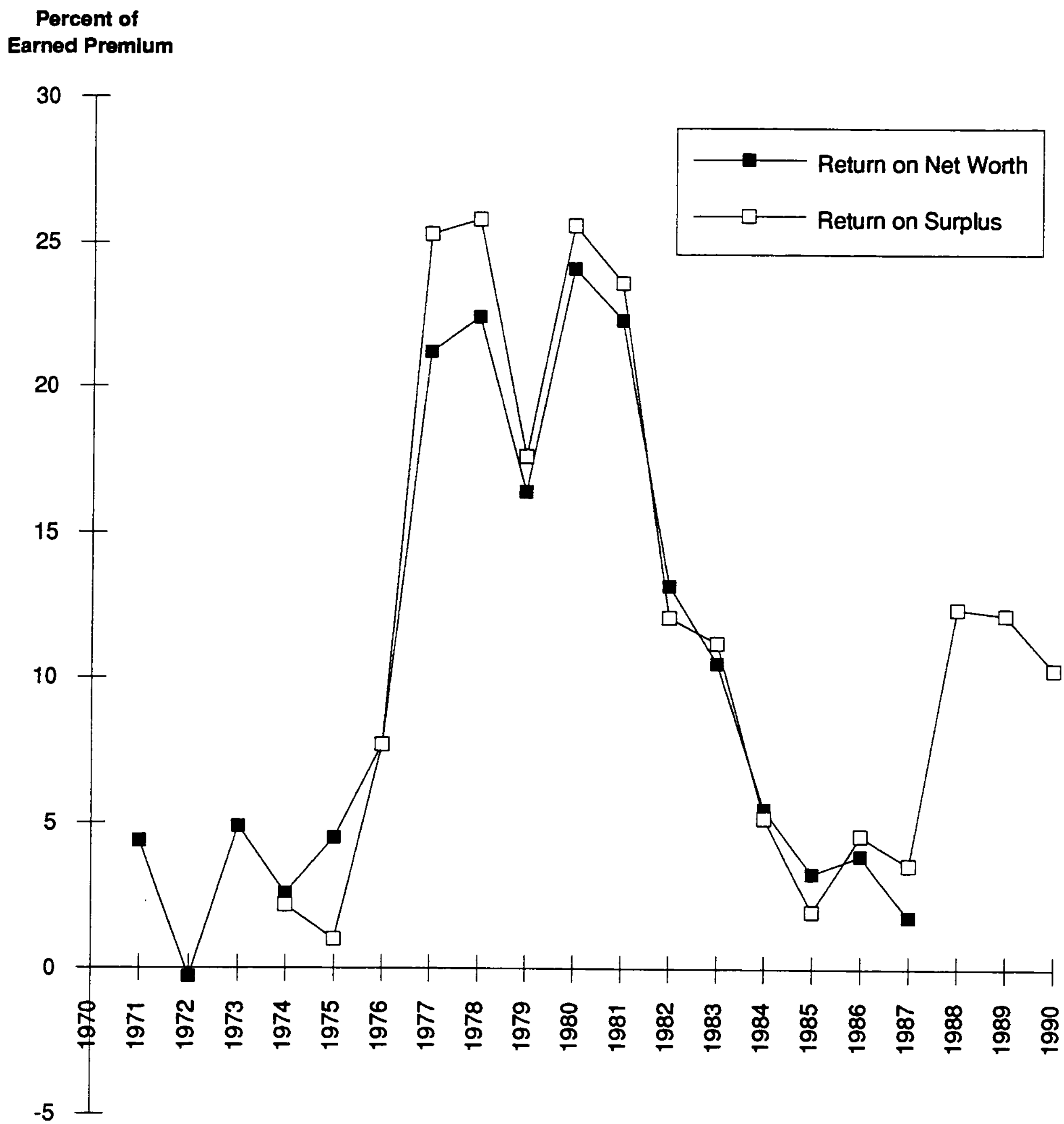
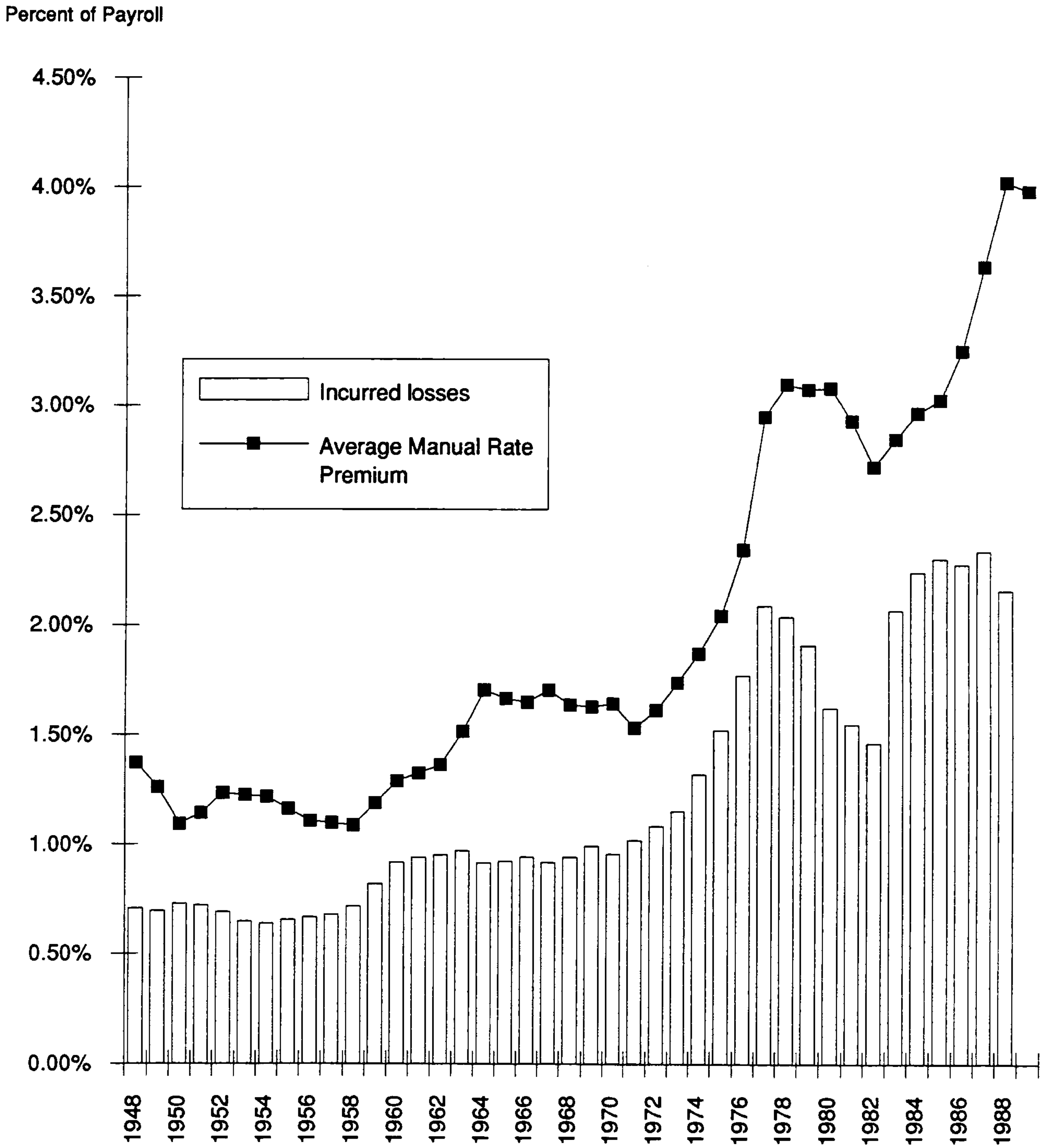


EXHIBIT 5.21
AVERAGE MANUAL RATE PREMIUM AND INCURRED LOSSES AS PERCENTAGE OF PAYROLL INSURED EMPLOYERS CALIFORNIA 1948-1988



5.11 WORKERS' COMPENSATION AND OCCUPATIONAL HEALTH AND SAFETY PROGRAMS

At the start of California's mandatory workers' compensation program in 1913, the state Industrial Accident Commission administered both a compensation and an industrial safety program. These two programs, which eventually became the Division of Industrial Accidents (DIA) and the Division of Industrial Safety (DIS), were two of the original components of the state Department of Industrial Relations. It is still important to look at the latter day equivalents of both divisions when overviewing the administration of workers' compensation.

Exhibits 5.22, "Budgets for Workers' Compensation and Safety and Health Programs California 1948-1988" and 5.23, "Inflation Adjusted Budgets for Workers' Compensation and Safety and Health Programs per Worker California 1950-1990", show the budgets for the workers' compensation and occupational health and safety program in the period from 1950 on. They show that administration of compensation claims has usually absorbed more resources than state activities oriented to preventing injury and illness. Exhibit 5.22 shows the budgets for these two functions in a logarithmic scale, allowing one to view the changes over a longer period of time. Exhibit 5.23 adjusts the budgets into a measure of "real" (e.g., inflation adjusted) administrative cost per worker. During a short period just after the introduction of the federal Occupational Safety and Health Program in the early 1970s and the input of extra federal resources into the program, the safety component exceeded the compensation administration side. This has recently been reversed, especially evident during the period in 1988-89 when the Governor slashed the state OSHA program.

Exhibit 5.24, "Number of Employees in Workers' Compensation and Safety and Health Programs State of California 1950-1990" and Exhibit 5.25, "Employees per Million California Workers, Workers' Compensation and Safety and Health Programs State of California 1950-1990", show the number of state employees working in each agency over the same period. Exhibit 5.24 depicts the total number of workers in the agency, while exhibit 5.25 shows the number expressed per million California workers. In all charts, the same overall conclusion can be made. The state has made compensation administration a higher priority in terms of state resources than injury and illness prevention activities.

Exhibits 5.22, 5.23, 5.24 and 5.25 commence on the following pages:

EXHIBIT 5.22
BUDGETS FOR WORKERS' COMPENSATION AND SAFETY AND HEALTH PROGRAMS
CALIFORNIA
1948-1988

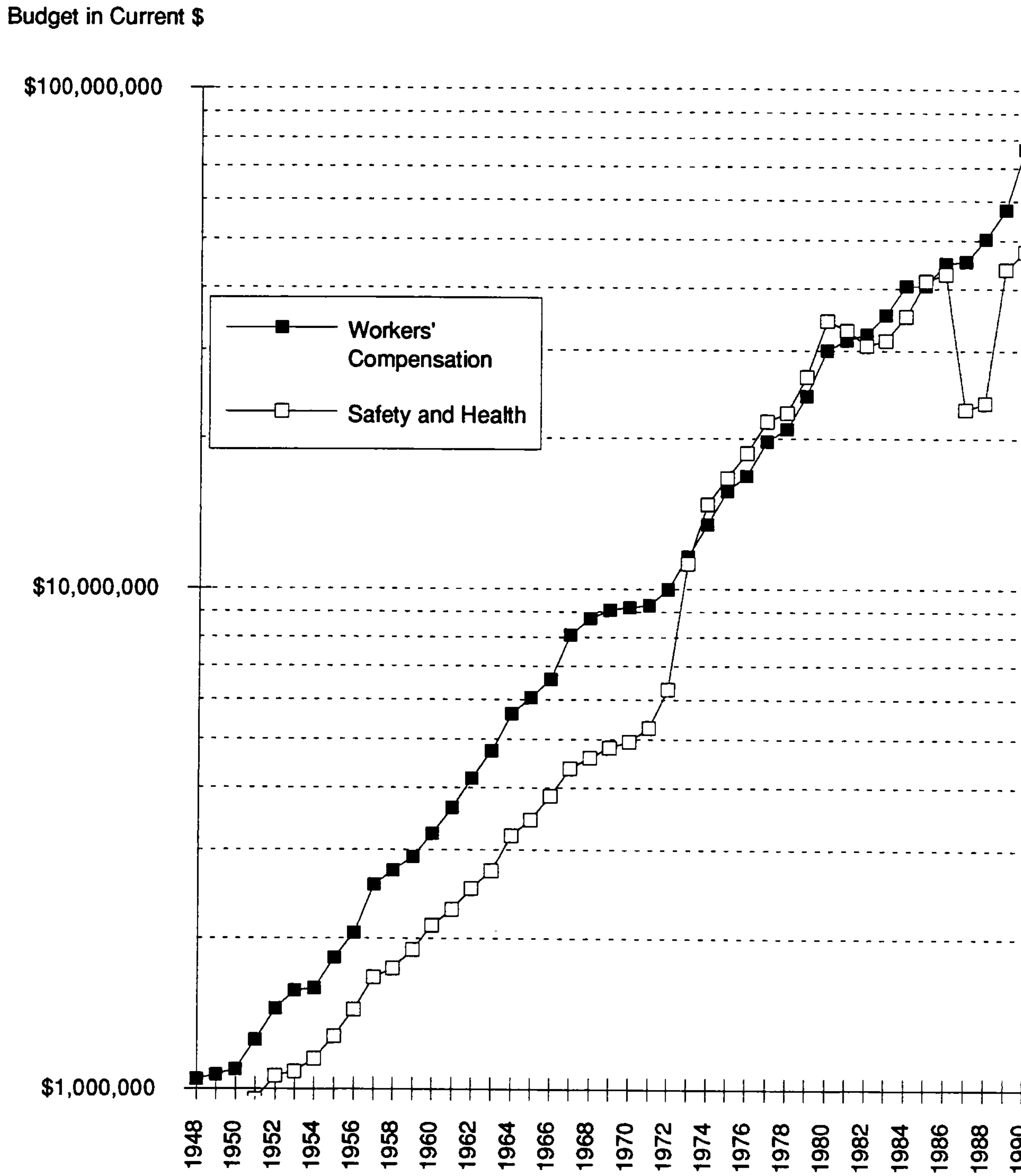
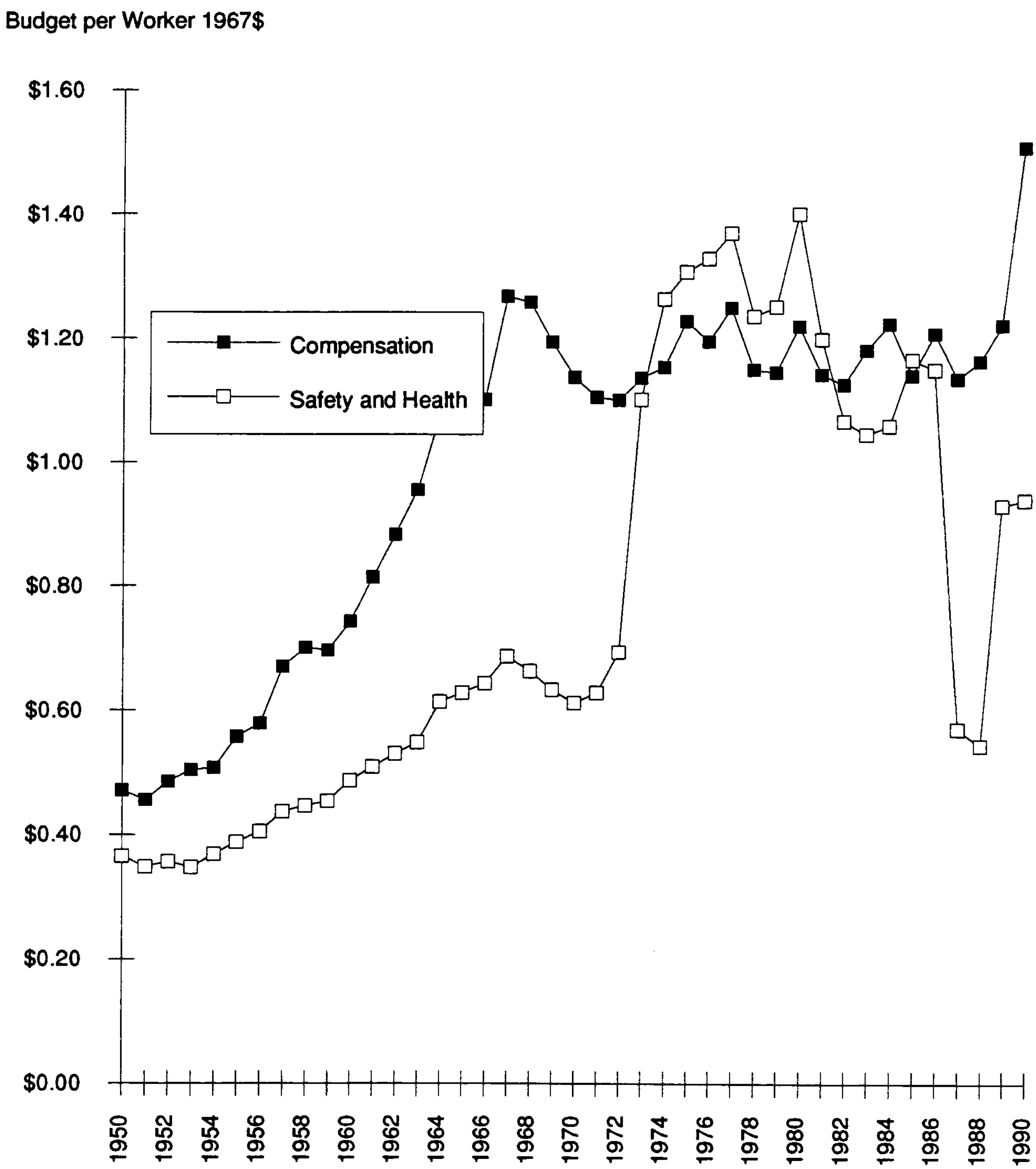


EXHIBIT 5.23
INFLATION ADJUSTED BUDGETS FOR WORKERS' COMPENSATION AND SAFETY AND HEALTH PROGRAMS PER WORKER
CALIFORNIA
1950-1990



EXHIBITS 5.24
NUMBER OF EMPLOYEES OF WORKERS' COMPENSATION AND SAFETY AND HEALTH PROGRAMS
STATE OF CALIFORNIA
1950-1990

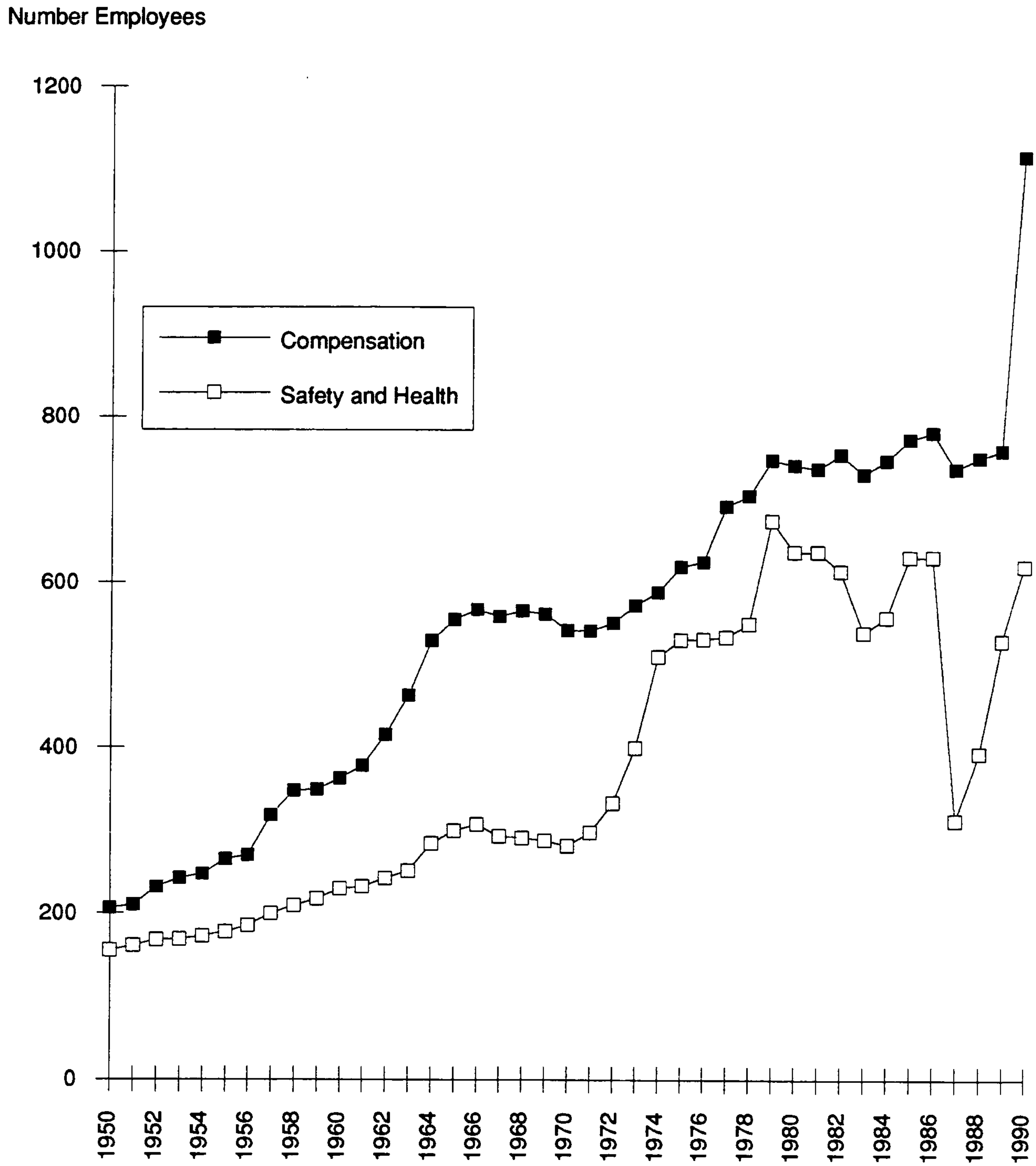
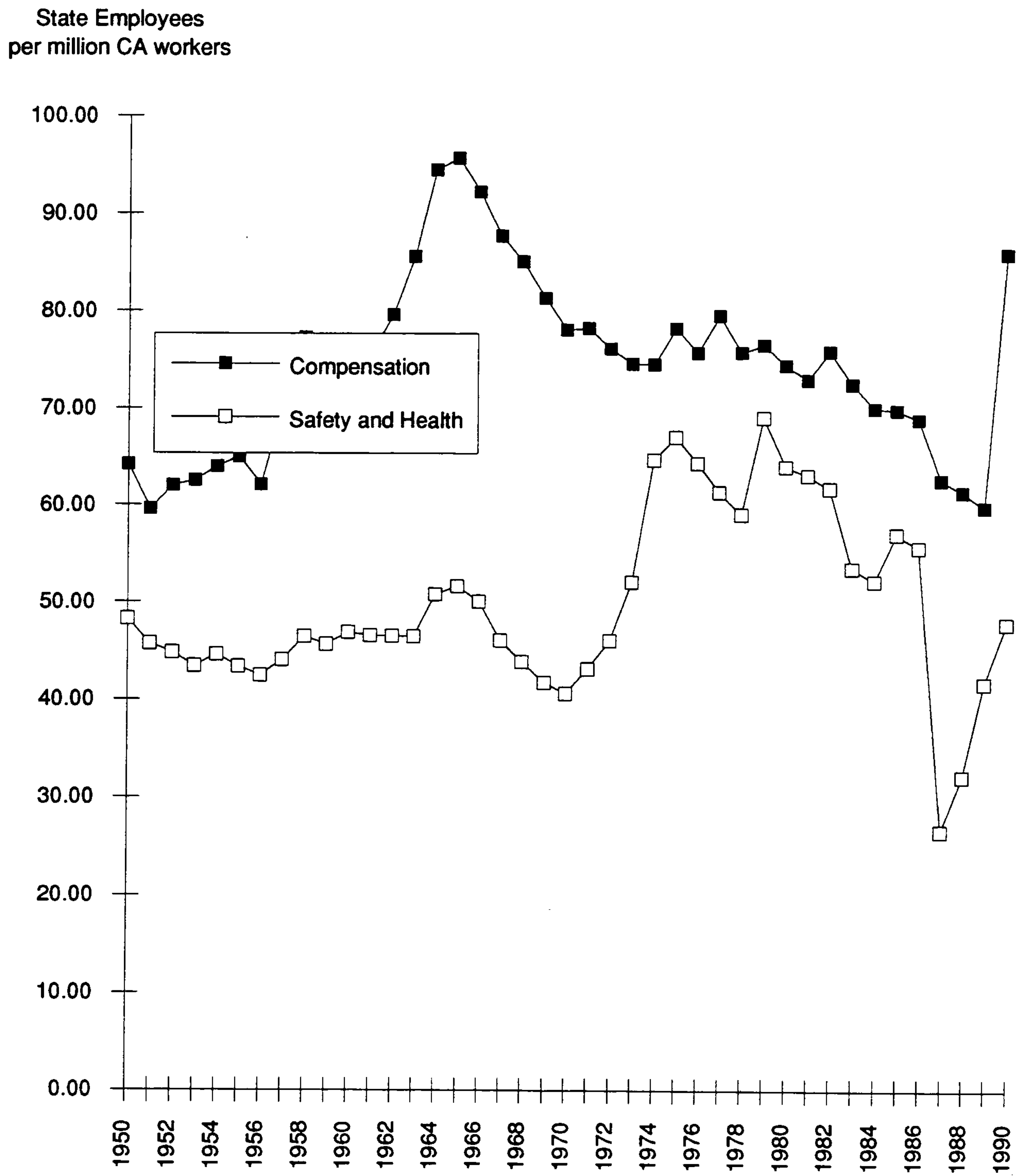


EXHIBIT 5.25
EMPLOYEES PER MILLION CALIFORNIA WORKERS
WORKERS' COMPENSATION AND SAFETY AND HEALTH PROGRAMS
STATE OF CALIFORNIA
1950-1990



FOOTNOTES

1 WCIRB, September 9, 1987 filing, Exhibit B-7, p. B-16.

2 AFL-CIO "Workers' Compensation and Unemployment Insurance Under State Laws, January 1, 1985." California Legislature, Joint Study Committee on Workers' Compensation, "Draft Staff Report," (Sacramento, February, 1986), p. 43. Texas increases benefits $7 for each $10 increase in the SAWW.

SECTION 6.0

WORKERS' COMPENSATION INDIVIDUAL STATE SYSTEM SUMMARY

SECTION 6.0

WORKERS' COMPENSATION INDIVIDUAL STATE SYSTEM SUMMARY

6.1 STATE SUMMARY DESCRIPTION EXPLANATION

6.1.1 STATE SUMMARIES EXPLANATION OVERVIEW

A workers' compensation individual state system detailed summary has been developed for the 50 states and the District of Columbia. The individual state information is developed on two facing pages and includes two graph exhibits.

The state summary sheet includes three primary section names and two individual graphs. The following represents a summary exhibit of the key information items:

EXHIBIT 6.1
STATE SUMMARY INFORMATION OVERVIEW

BACKGROUND
- Elected or Appointed Insurance Commissioner

INSURANCE AND RATEMAKING
- State Fund
- State Fund Percentage of Insured Market
- Assigned Risk Plan Percentage of Total Market
- Self-Insurance Allowed?
- Type of Ratemaking Law
- NCCI or Independent Rating Bureau
- Market Share of Top Three Private Companies
- Loss Ratio
  - Private Companies
  - State Fund
- Dividend Ratio
  - Private Companies
  - State Fund
- Premium Rate Index
  - Rank
- Index of Premium Change (1990 cumulative value)
  - Rank

- INDEX OF PREMIUM CHANGE, 1974-1992 (GRAPH)

- Average Profitability, 1985-89
- Expense Ratios (1990)
  - Stock
  - Nonstock
  - State Fund

EXHIBIT 6.1 STATE SUMMARY INFORMATION OVERVIEW - Continued

COMPENSATION BENEFITS
- Compliance with National Commission 19 Essential Recommendations
- Frequency of Medical Claims
  - Rank
- Average Benefit Costs
  - Rank
- Maximum Temporary Disability Weekly Benefit
  - Rank

MAXIMUM TEMPORARY DISABILITY WEEKLY BENEFIT (GRAPH)

- Are Disability Benefit Levels Indexed?
- Temporary Disability as Percentage of State AWW
  - Rank
- Average Incurred Indemnity Cost for Temporary Disability Claim
  - Rank
- Utilization of Temporary Disability
  - Rank
  - Waiting Period
  - Average Incurred Indemnity of Fatalities
    - Rank
- NWSI Worker Safety Score (out of 116 possible)

Throughout the state summary explanation, as well as the individual states exhibits, there are a number of abbreviations which have been utilized. The following is an explanation of the abbreviations which have been frequently utilized in this section:

AASCIF	American Association State Compensation Insurance Funds
AWW	Average Weekly Wage
NA	Not Available or Not Applicable
NAIC	National Association of Insurance Commissioners
NCCI	National Council on Compensation Insurance
NSWI	National Safe Workplace Institute
WCIRB	Workers' Compensation Insurance Rating Bureau (of California)

6.1.2 STATE SUMMARIES SYSTEM EXPLANATION

The following is a detailed explanation of each of the topics utilized in the individual state summary. In addition, the source of the information is indicated in parentheses.

The following briefly describes each summary item with its source in parentheses:

BACKGROUND

Elected or Appointed Insurance Commissioner: In 12 states, the insurance commissioner or chief insurance regulator is elected by popular vote in a general election. California's insurance commissioner was first elected in 1990. In the rest of the states, the insurance commissioner is an appointee by the governor.

INSURANCE AND RATEMAKING

State Fund: A state can have either an exclusive state fund, a competitive state fund or no state fund (AASCIF, *1991 Fact Book).*

State Fund Percentage of Insured Market (1990): If a state fund exists, its 1990 market share is given (AASCIF, *State Compensation Insurance Funds).*

Assigned Risk Plan Percentage of total market: For those states with an assigned risk plan, its percentage of the total market is given (NCCI, *Management Summary, 1990).*

Self-Insurance Allowed?: A large majority of states allow self-insurance of workers' compensation obligations by employers meeting specified standards. (US Department of Labor).

Type of Ratemaking Law: Some states require that workers' compensation insurance rates be approved by the commissioner of insurance. This is often referred to as "administered pricing". In states where insurers have more latitude to set their own rates without prior approval, a system of "competitive pricing" is often said to exist. There are two main types of competitive pricing: those publishing fully developed rates including the costs of overhead expenses (known as "advisory rates") and those only recommending the costs of benefits themselves ("loss costs.") In states with exclusive state funds, the funds set their own rates based on their own experience. (NCCI).

NCCI or Independent Rating Bureau: Each state, with the exception of exclusive fund states, is serviced by either the National Council on Compensation Insurance or an independent rating bureau. Exclusive state funds set their own rates. (NCCI).

Market share of top three private companies (1990): This figure gives the percentage of the private market share (excluding state funds) for the top three private companies. For exclusive fund states, this private market refers to either aggregate insurance for self-insurance employers or special sublines. (Best's Insurance Management Reports, Property/Casualty Edition, Release #10, August 5, 1991).

Loss Ratio (1990): The loss ratio is calculated as incurred losses divided by earned premium.

> **Private companies**: (For states serviced by the NCCI, "NCCI Memo, Calendar Year 1990 Underwriting results," October 31, 1991, "losses" divided by "net earned premium"; California data is taken from *WCIRB, Bureau Bulletin*, Oct 2, 1991)
>
> **State fund**: (AASCIF, *1991 Fact Book*, "Incurred losses" divided by "earned premiums." California data taken from *WCIRB, Bureau Bulletin*, Oct 2, 1991)

Dividend Ratio (1990): The dividend ratio is dividends divided by earned premium.

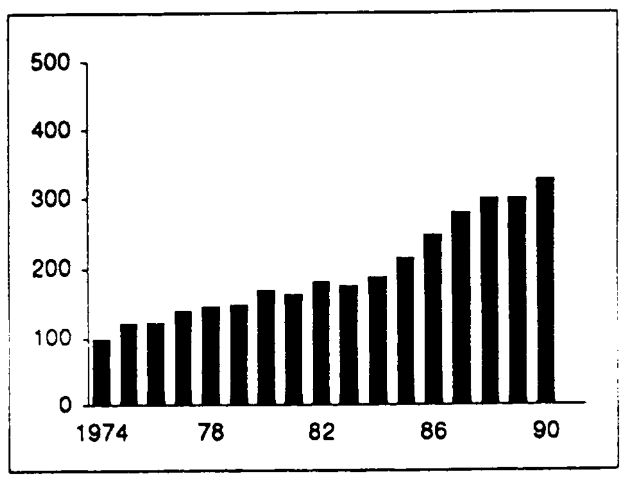
> **Private companies**: (For states serviced by the NCCI, *NCCI Memo, Calendar Year 1990 Underwriting results*, October 31, 1991, data taken from A.M. Best's company; California data is taken from *WCIRB, Bureau Bulletin*, Oct 2, 1991)
>
> **State fund**: (AASCIF, *1991 Fact Book*, "dividends" divided by "earned premiums". California data taken from *WCIRB, Bureau Bulletin*, Oct 2, 1991)

Premium rate index (1990), and rank: This figure is based on an index developed by the Oregon Department of Insurance and Finance using 50 payroll classifications based on relative importance as measured by percent of losses. To control for differences in industry distributions, each state's rates were weighted by Oregon payroll in the selected classifications. The states are ranked from high to low, with a range of 1.53 in North Carolina to 6.72 in Minnesota. (Oregon Dept of Insurance and Finance, Research and Analyses Section, "1990 Workers' Compensation State Ranking").

Index of premium change, 1974-1990 rank, and graph: This figure estimates the change in workers' compensation premium rates from 1974 to 1990, using the year of 1974 as the base year (Index 1974=100). The states are ranked from low to high. Data for Washington comes from *Rates '91*, October 1990, Washington Department of Labor and Industries; data for Nevada and Ohio come from *1992 Actuarial Report Comparing the Operations of Exclusive and Competitive Workers' Compensation State Funds*, AIS Risk Consultants; and data for North Dakota is derived from *1989 Thirteenth Biennial Report*. (Index developed by the Staff, with data for non-exclusive fund states from NCCI, *Annual Statistical Bulletin*, 1991). The following is a graph for the State of Alabama:

ALABAMA
(sample graph)

Index of Premium Change, 1974-1992
1974=100



Average profitability, 1985-89: The National Association of Insurance Commissioners publishes an annual report comparing profitability across states in various insurance lines. This figure shows the average profitability figure published for the most recent five year period. (NAIC, *Report on Profitability by Line by State, 1991*).

Expense Ratios (1990): The expense ratio is insurance company operating expenses divided by earned premium.

> **stock**: (For states serviced by the NCCI, *NCCI Memo, Calendar Year 1990 Underwriting results*, October 31, 1991; California data is taken from *WCIRB, Bureau Bulletin*, Oct 2, 1991)
>
> **nonstock**: (For states serviced by the NCCI, *NCCI Memo, Calendar Year 1990 Underwriting results*, October 31, 1991; California data is taken from *WCIRB, Bureau Bulletin*, Oct 2, 1991)
>
> **state fund**: (AASCIF, *1991 Fact Book*, "Operating Expenses" divided by "Earned premiums." California data taken from *WCIRB, Bureau Bulletin*, Oct 2, 1991)

COMPENSATION BENEFITS

Compliance with National Commission 19 essential recommendations (1989): In 1972, the Report of the National Commission on State Workmen's Compensation Laws recommended that states meet 84 standards, 19 of which were considered "essential". The panel intended that if states could not meet these recommendations voluntarily, that Congress consider federal mandates in the area of workers' compensation. This item shows a state's compliance with these standards as of 1989. (US Dept of Labor).

Frequency of medical claims (cases per 100,000 workers) and rank: Data is taken from the most recent year. Rank is from high to low in 40 states that report data to the National Council on Compensation Insurance (NCCI). For Washington, the statistic is frequency of all claims for State Fund covered employers, based on data from *1988 Work Injury and Illness summary*, p. 2 (total claims divided by full time employee equivalents). For North Dakota the statistic is frequency of all claims for State Fund covered employers, based on data from *1988 North Dakota Workers' Compensation Facts and Figures*, (total claims divided by number of workers covered by Bureau). (NCCI, *Annual Statistical Bulletin*, 1991).

Average benefit costs (1987) and Rank: This item estimates the average cost of benefits per employed worker (NCCI, *Annual Statistical Bulletin*, 1991). Rank is from high to low in 40 states that report data to the National Council on Compensation Insurance (NCCI, *Annual Statistical Bulletin*, 1991).

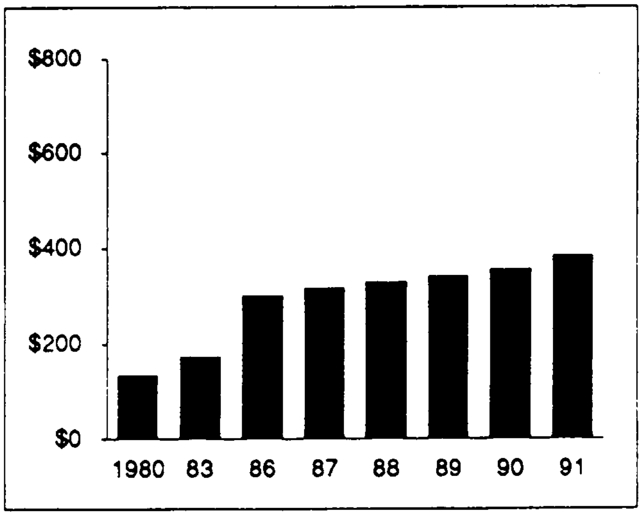
Maximum Temporary Disability Weekly Benefit (1991): Each state establishes its rates of disability benefits. This item shows the maximum weekly benefit available in cases of temporary total disability. Rank is from high to low among the 50 states and District of Columbia. *(US Dept of Labor)*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991) Graph:

The graph represents the maximum temporary disability weekly benefit payment for the specific years indicated. The following is a graph for the State of Alabama:

ALABAMA
(sample graph)

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)



Are disability benefit levels indexed?: Approximately 40 states set their maximum temporary disability benefits as a percentage of the state's average weekly wage. In the rest of the states, the maximum is set by the state legislature and does not automatically change with changes in wage levels. *(AFL-CIO)*

Temporary Disability Benefit Maximum as percentage of State AWW: This item lists and ranks the states by the percentage of the state average weekly wage that is replaced by the maximum benefit. In states with indexed benefits, this percentage remains the same over time, while it changes from year to year in states that do not index benefits. Rank is from high to low among the 50 states and District of Columbia. *(US Dept of Labor)*

Average Incurred Indemnity Cost for Temporary Disability Claim (1987): This gives the average cost of benefits in temporary disability cases from the most recent year available Rank is from high to low in 42 states that report data to the National Council on Compensation Insurance. North Dakota based on data from *1987 Twelfth Biennial Report*, p. 18 (Total Awards for "Temporary" Divided by Number of Claims for "Temp"). West Virginia based on data from *1988 Annual Report*, p. 33, includes State Fund covered employers only (Number of TD divided by 1988 spending on TD). (NCCI, *Annual Statistical Bulletin, 1991*).

Utilization of Temporary Disability (cases per 100,000 workers): Number of temporary disability cases filed by state per 100,000 workers employed in the state. Rank is from high to low in 42 states that report data to the National Council on Compensation Insurance (NCCI, *Annual Statistical Bulletin*, 1991).

Waiting Period before payment of Benefits (number of days): In all states, workers who are temporarily disabled due to work must wait some number of days before indemnity benefits are payable. In some states the waiting period is waived in cases of hospitalization, or when disability lasts more than a set number of days.

Average Incurred Indemnity Cost for Fatality Claims (1987): This gives the average cost of benefits in fatality cases for the most recent year available Rank is from high to low in 42 states that report data to the National Council on Compensation Insurance (NCCI, *Annual Statistical Bulletin*, 1991).

NWSI worker safety score (out of 116 possible): State ranking based on survey by National Safe Workplace Institute combining data on state worker safety program, environmental and safety law and regulations, and workers' compensation programs. Maximum number of points available are 116. (*National Safe Workplace Institute, Poll published in San Francisco Chronicle, January 1, 1992.*)

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6.2 INDIVIDUAL STATE SUMMARIES

This Exhibit 6.2 provides an overview of a selection of the most recent organizational, regulatory, financial, benefit, and injury information available for the 50 states and the District of Columbia.

The summary for each state occupies two opposing pages so that each state exhibit may be viewed in its entirety. The State Summary Description Explanation of Details is located in Section 6.1 and is summarized with the following primary categories:

Background

Insurance and Rating

Index of Premium Charges (Graph)

Compensation Benefits

Maximum Temporary Disability Benefits (Graph)

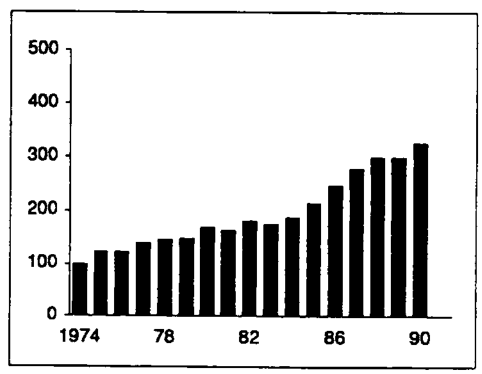
EXHIBIT 6.2
INDIVIDUAL STATE SUMMARIES

The individual state summaries are listed alphabetically commencing with the State of Alabama on the following page.

6.2.1 ALABAMA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*32%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*30.3%*
Loss Ratio (1990):	
Private Companies	*103%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*1.7%*
State Fund	*NA*
Premium Rate Index (1990)	*3.41*
rank (of 51 states)	*31*
Index of Premium Change (1990 cumulative value)	*327*
rank (of 44 states)	*32*

Index of Premium Change, 1974-1992
1974=100

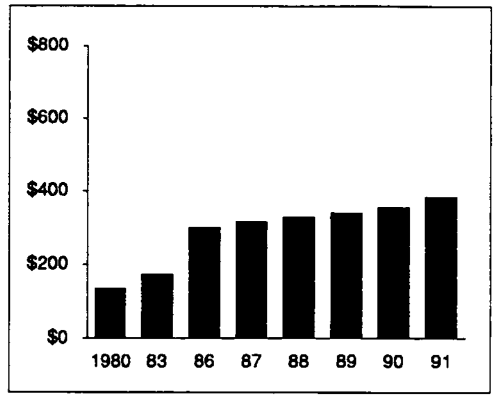


Average Profitability, 1985-89	*-0.04%*
Expense Ratios (1990):	
Stock	*30.6%*
Nonstock	*24.9%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*12.5*
Frequency of Medical Claims (per 100,000 workers)	*10,838*
rank (of 40 states)	*13*
Average Benefit Costs	*$308*
rank (of 40 states)	*21*
Maximum Temporary Disability Weekly Benefit (1991)	*$385*
rank (of 51 states)	*31*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

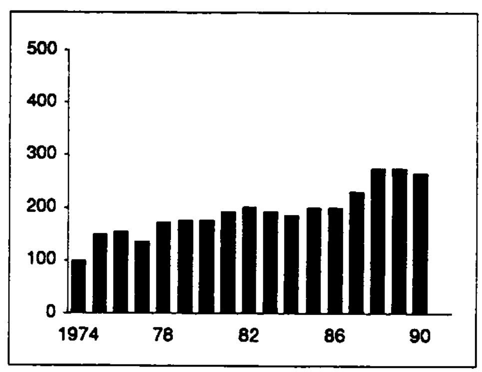


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*99%*
rank (of 51 states)	*21*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$963*
rank (of 42 states)	*40*
Utilization of Temp. Total Disability (per 100,000 workers)	*2,593*
rank (of 42 states)	*10*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$92,896*
rank (of 42 states)	*27*
NSWI Worker Safety Score (out of 116 possible)	*25*

6.2.2 ALASKA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*15%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*51.7%*
Loss Ratio (1990):	
Private Companies	*57%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*3.4%*
State Fund	*NA*
Premium Rate Index (1990)	*4.78*
rank (of 51 states)	*15*
Index of Premium Change (1990 cumulative value)	*265*
rank (of 44 states)	*18*

Index of Premium Change, 1974-1992
1974=100

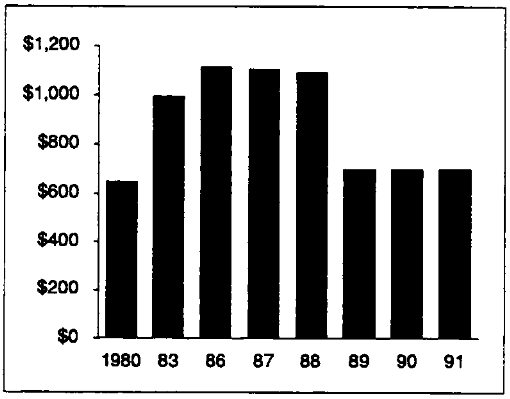


Average Profitability, 1985-89	*12.18%*
Expense Ratios (1990):	
Stock	*28.7%*
Nonstock	*23.0%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	13.5
Frequency of Medical Claims (per 100,000 workers)	11,459
rank (of 40 states)	10
Average Benefit Costs	$678
rank (of 40 states)	3
Maximum Temporary Disability Weekly Benefit (1991)	$700
rank (of 51 states)	3

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

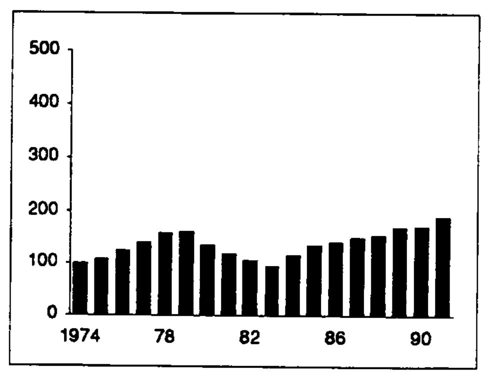


Are Disability Benefit Levels Indexed?	No
Temporary Disability as Percentage of State AWW	122%
rank (of 51 states)	7
Ave. Incurred Indemnity Cost for Temp. Disability Claim	$1,476
rank (of 42 states)	28
Utilization of Temp. Total Disability (per 100,000 workers)	2,697
rank (of 42 states)	5
Waiting Period (days)	3
Average Incurred Indemnity of Fatalities	$129,900
rank (of 42 states)	15
NSWI Worker Safety Score (out of 116 possible)	59

6.2.3 ARIZONA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*47%*
Assigned Risk Plan Percentage of Total Market	*3%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*22.7%*
Loss Ratio (1990):	
Private Companies	*69%*
State Fund	*107%*
Dividend Ratio (1990):	
Private Companies	*3.4%*
State Fund	*7.9%*
Premium Rate Index (1990)	*3.93*
rank (of 51 states)	*22*
Index of Premium Change (1990 cumulative value)	*172*
rank (of 44 states)	*2*

Index of Premium Change, 1974-1992
1974=100

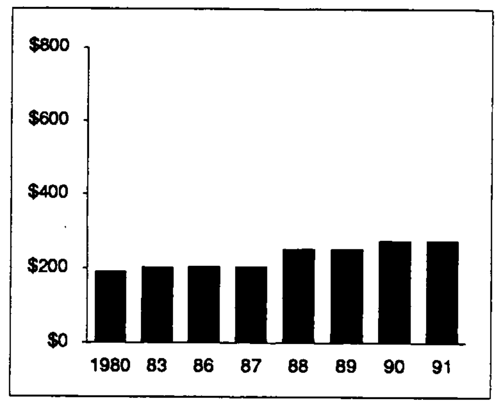


Average Profitability, 1985-89	*7.46%*
Expense Ratios (1990):	
Stock	*29.9%*
Nonstock	*24.2%*
State Fund	*16.8%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*11.5*
Frequency of Medical Claims (per 100,000 workers)	*12,565*
rank (of 40 states)	*6*
Average Benefit Costs	*$407*
rank (of 40 states)	*15*
Maximum Temporary Disability Weekly Benefit (1991)	*$276*
rank (of 51 states)	*46*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

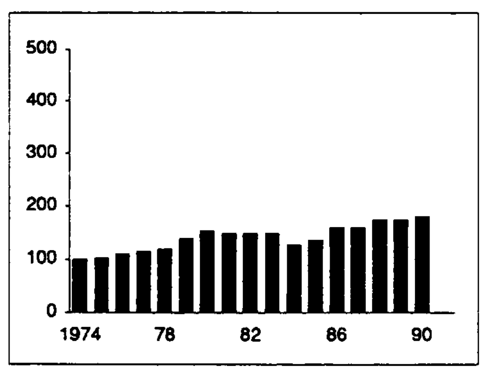


Are Disability Benefit Levels Indexed?	*No*
Temporary Disability as Percentage of State AWW	*69%*
rank (of 51 states)	*44*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,132*
rank (of 42 states)	*36*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,680*
rank (of 42 states)	*25*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$118,585*
rank (of 42 states)	*17*
NSWI Worker Safety Score (out of 116 possible)	*40*

6.2.4 ARKANSAS

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*36%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Advisory Rates*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*31.5%*
Loss Ratio (1990):	
Private Companies	*94%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*1.5%*
State Fund	*NA*
Premium Rate Index (1990)	*3.48*
rank (of 51 states)	*29*
Index of Premium Change (1990 cumulative value)	*181*
rank (of 44 states)	*4*

Index of Premium Change, 1974-1992
1974=100

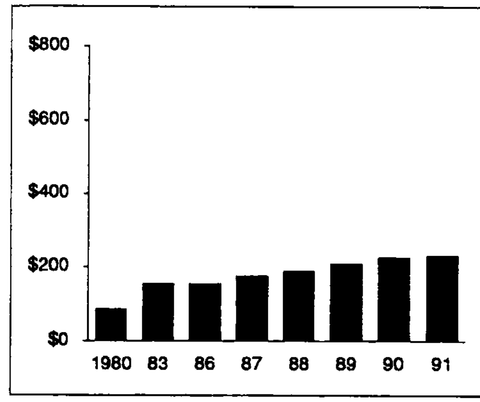


Average Profitability, 1985-89	*5.94%*
Expense Ratios (1990):	
Stock	*31.1%*
Nonstock	*25.4%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*7.5*
Frequency of Medical Claims (per 100,000 workers)	*12,050*
rank (of 40 states)	*7*
Average Benefit Costs	*$316*
rank (of 40 states)	*18*
Maximum Temporary Disability Weekly Benefit (1991)	*$231*
rank (of 51 states)	*49*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

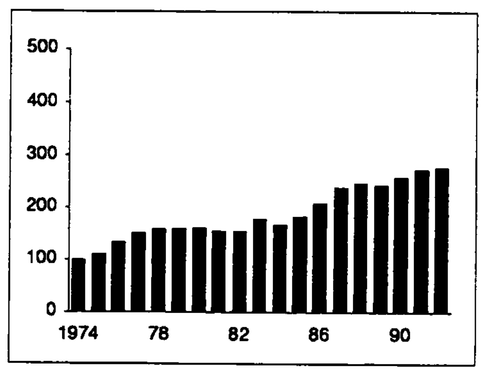


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*69%*
rank (of 51 states)	*45*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,576*
rank (of 42 states)	*19*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,779*
rank (of 42 states)	*24*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$69,752*
rank (of 42 states)	*35*
NSWI Worker Safety Score (out of 116 possible)	*11*

6.2.5 CALIFORNIA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Elected*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*23%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, no deviations*
NCCI or Independent Rating Bureau	*Independent*
Market Share of Top Three Private Companies (1990)	*18.3%*
Loss Ratio (1990):	
Private Companies	*66%*
State Fund	*84%*
Dividend Ratio (1990):	
Private Companies	*11.0%*
State Fund	*16.6%*
Premium Rate Index (1990)	*5.61*
rank (of 51 states)	*9*
Index of Premium Change (1990 cumulative value)	*260*
rank (of 44 states)	*17*

Index of Premium Change, 1974-1992
1974=100

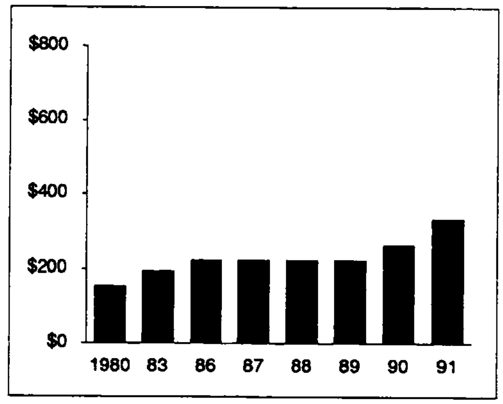


Average Profitability, 1985-89	*8.64%*
Expense Ratios (1990):	
Stock	*30.1%*
Nonstock	*25.4%*
State Fund	*18.9%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*12*
Frequency of Medical Claims (per 100,000 workers)	*12,770*
rank (of 40 states)	*5*
Average Benefit Costs	*$571*
rank (of 40 states)	*8*
Maximum Temporary Disability Weekly Benefit (1991)	*$336*
rank (of 51 states)	*36*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

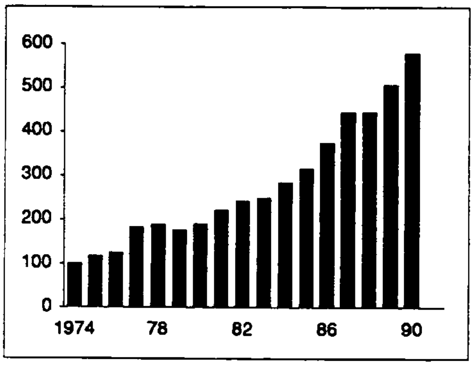


Are Disability Benefit Levels Indexed?	*No*
Temporary Disability as Percentage of State AWW	*69%*
rank (of 51 states)	*46*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$829*
rank (of 42 states)	*41*
Utilization of Temp. Total Disability (per 100,000 workers)	*2,604*
rank (of 42 states)	*9*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$51,896*
rank (of 42 states)	*39*
NSWI Worker Safety Score (out of 116 possible)	*81*

6.2.6 COLORADO

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*40%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Loss Costs*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*33.4%*
Loss Ratio (1990):	
Private Companies	*97%*
State Fund	*195%*
Dividend Ratio (1990):	
Private Companies	*3.1%*
State Fund	*0.0%*
Premium Rate Index (1990)	*5.94*
rank (of 51 states)	*5*
Index of Premium Change (1990 cumulative value)	*580*
rank (of 44 states)	*44*

Index of Premium Change, 1974-1992
1974=100

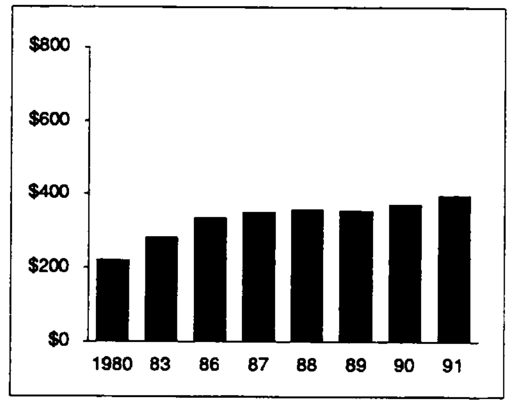


Average Profitability, 1985-89	*-0.28%*
Expense Ratios (1990):	
Stock	*31.4%*
Nonstock	*25.7%*
State Fund	*14.2%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	13
Frequency of Medical Claims (per 100,000 workers)	
rank (of 40 states)	
Average Benefit Costs	
rank (of 40 states)	
Maximum Temporary Disability Weekly Benefit (1991)	$396
rank (of 51 states)	26

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

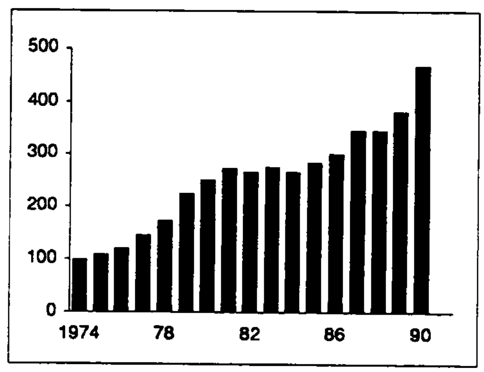


Are Disability Benefit Levels Indexed?	Yes
Temporary Disability as Percentage of State AWW	90%
rank (of 51 states)	34
Ave. Incurred Indemnity Cost for Temp. Disability Claim	
rank (of 42 states)	
Utilization of Temp. Total Disability (per 100,000 workers)	2,050
rank (of 42 states)	15
Waiting Period (days)	3
Average Incurred Indemnity of Fatalities	
rank (of 42 states)	
NSWI Worker Safety Score (out of 116 possible)	52

6.2.7 CONNECTICUT

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*12%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Loss Costs*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*39.2%*
Loss Ratio (1990):	
Private Companies	*82%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*4.9%*
State Fund	*NA*
Premium Rate Index (1990)	*5.50*
rank (of 51 states)	*10*
Index of Premium Change (1990 cumulative value)	*469*
rank (of 44 states)	*42*

Index of Premium Change, 1974-1992
1974=100

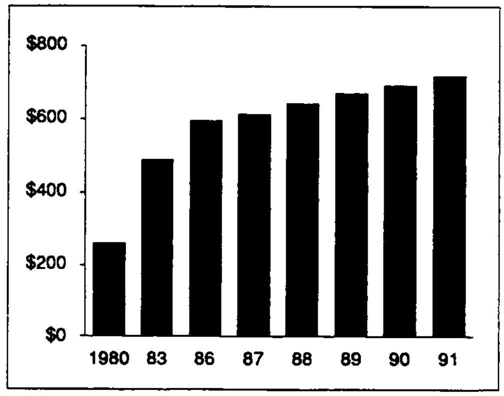


Average Profitability, 1985-89	*7.94%*
Expense Ratios (1990):	
Stock	*27.7%*
Nonstock	*22.0%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*14*
Frequency of Medical Claims (per 100,000 workers)	*8,944*
rank (of 40 states)	*36*
Average Benefit Costs	*$486*
rank (of 40 states)	*12*
Maximum Temporary Disability Weekly Benefit (1991)	*$719*
rank (of 51 states)	*2*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

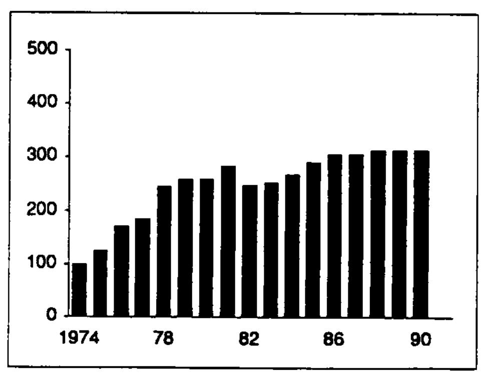


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*135%*
rank (of 51 states)	*4*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,567*
rank (of 42 states)	*20*
Utilization of Temp. Total Disability (per 100,000 workers)	*2,511*
rank (of 42 states)	*11*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$375,489*
rank (of 42 states)	*1*
NSWI Worker Safety Score (out of 116 possible)	*65*

6.2.8 DELAWARE

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Elected*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*10%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*Independent*
Market Share of Top Three Private Companies (1990)	*29.5%*
Loss Ratio (1990):	
Private Companies	
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	
State Fund	*NA*
Premium Rate Index (1990)	*3.26*
rank (of 51 states)	*33*
Index of Premium Change (1990 cumulative value)	*314*
rank (of 44 states)	*28*

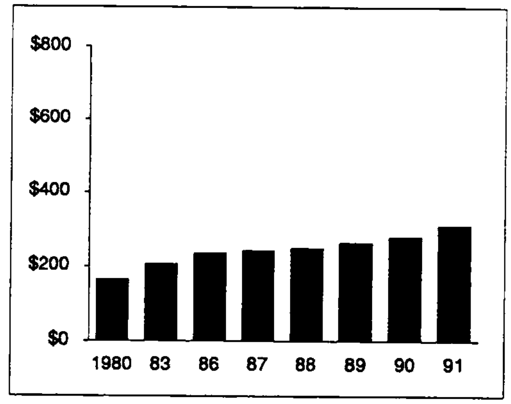
Index of Premium Change, 1974-1992
1974=100



Average Profitability, 1985-89	*14.78%*
Expense Ratios (1990):	
Stock	
Nonstock	
State Fund	*NA*

COMPENSATION BENEFITS	
Compliance with National Commission 19 Essential Recommendations (1989)	*10.5*
Frequency of Medical Claims (per 100,000 workers)	
rank (of 40 states)	
Average Benefit Costs	
rank (of 40 states)	
Maximum Temporary Disability Weekly Benefit (1991)	*$312*
rank (of 51 states)	*40*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

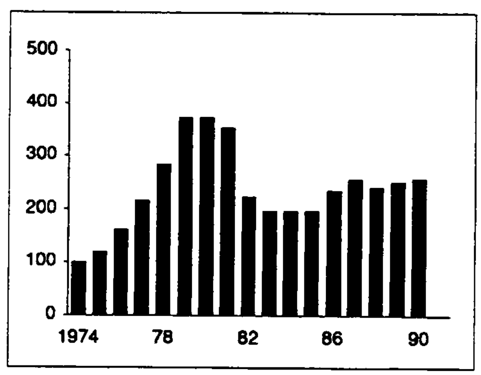


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*0%*
rank (of 51 states)	
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$2,212*
rank (of 42 states)	*6*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,795*
rank (of 42 states)	*21*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$333,629*
rank (of 42 states)	*2*
NSWI Worker Safety Score (out of 116 possible)	*40*

6.2.9 DISTRICT OF COLUMBIA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*13%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*32.8%*
Loss Ratio (1990):	
Private Companies	*59%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*7.9%*
State Fund	*NA*
Premium Rate Index (1990)	*5.46*
rank (of 51 states)	*11*
Index of Premium Change (1990 cumulative value)	*258*
rank (of 44 states)	*16*

Index of Premium Change, 1974-1992
1974=100

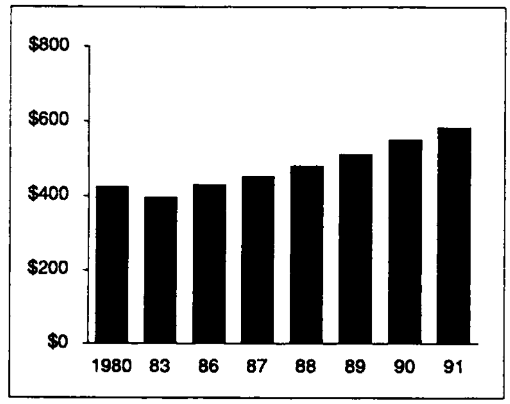


Average Profitability, 1985-89	*29.64%*
Expense Ratios (1990):	
Stock	*27.7%*
Nonstock	*22.0%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*15.75*
Frequency of Medical Claims (per 100,000 workers)	
rank (of 40 states)	
Average Benefit Costs	
rank (of 40 states)	
Maximum Temporary Disability Weekly Benefit (1991)	*$584*
rank (of 51 states)	*7*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

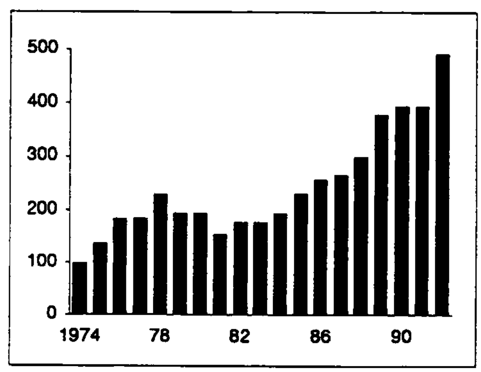


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*100%*
rank (of 51 states)	*16*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	
rank (of 42 states)	
Utilization of Temp. Total Disability (per 100,000 workers)	*915*
rank (of 42 states)	*45*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	
rank (of 42 states)	
NSWI Worker Safety Score (out of 116 possible)	*NA*

6.2.10 FLORIDA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Elected*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*23%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*30.7%*
Loss Ratio (1990):	
Private Companies	*100%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*2.0%*
State Fund	*NA*
Premium Rate Index (1990)	*6.39*
rank (of 51 states)	*4*
Index of Premium Change (1990 cumulative value)	*394*
rank (of 44 states)	*37*

Index of Premium Change, 1974-1992
1974=100

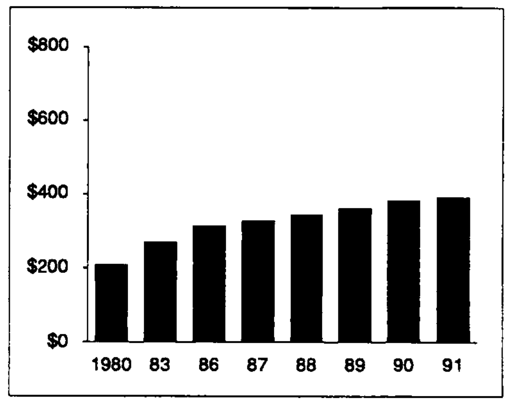


Average Profitability, 1985-89	*-9.36%*
Expense Ratios (1990):	
Stock	*31.1%*
Nonstock	*25.4%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*10.5*
Frequency of Medical Claims (per 100,000 workers)	*9,921*
rank (of 40 states)	*22*
Average Benefit Costs	*$576*
rank (of 40 states)	*7*
Maximum Temporary Disability Weekly Benefit (1991)	*$392*
rank (of 51 states)	*28*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

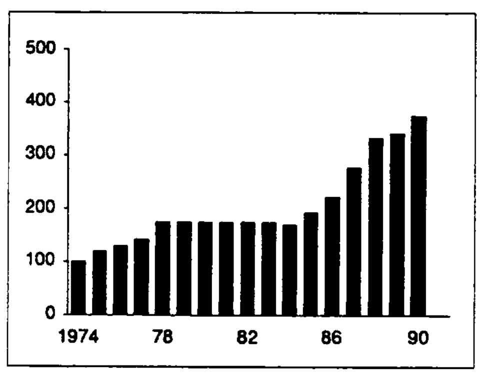


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*101%*
rank (of 51 states)	*12*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,635*
rank (of 42 states)	*18*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,592*
rank (of 42 states)	*27*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$95,230*
rank (of 42 states)	*26*
NSWI Worker Safety Score (out of 116 possible)	*48*

6.2.11 GEORGIA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Elected*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*20%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Advisory Rates*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*26.4%*
Loss Ratio (1990):	
Private Companies	*88%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*1.7%*
State Fund	*NA*
Premium Rate Index (1990)	*3.57*
rank (of 51 states)	*27*
Index of Premium Change (1990 cumulative value)	*374*
rank (of 44 states)	*36*

Index of Premium Change, 1974-1992
1974=100

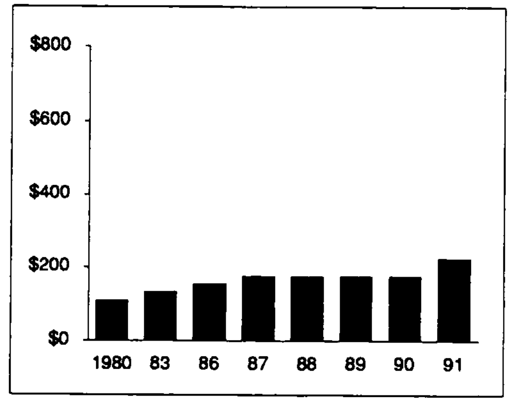


Average Profitability, 1985-89	*-1.82%*
Expense Ratios (1990):	
Stock	*32.1%*
Nonstock	*26.4%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*9.5*
Frequency of Medical Claims (per 100,000 workers)	*10,615*
rank (of 40 states)	*16*
Average Benefit Costs	*$300*
rank (of 40 states)	*22*
Maximum Temporary Disability Weekly Benefit (1991)	*$225*
rank (of 51 states)	*50*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

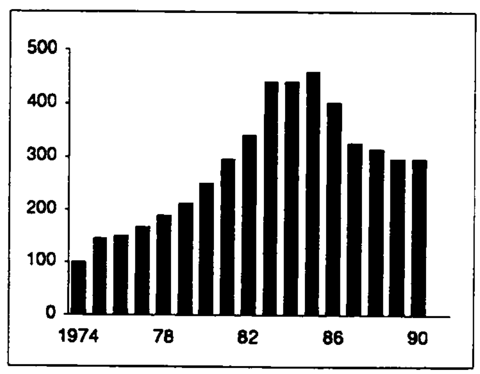


Are Disability Benefit Levels Indexed?	*No*
Temporary Disability as Percentage of State AWW	*55%*
rank (of 51 states)	*50*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,686*
rank (of 42 states)	*14*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,242*
rank (of 42 states)	*40*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$64,151*
rank (of 42 states)	*36*
NSWI Worker Safety Score (out of 116 possible)	*36*

6.2.12 HAWAII

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*10%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*Independent*
Market Share of Top Three Private Companies (1990)	*34.0%*
Loss Ratio (1990):	
Private Companies	*77%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*5.8%*
State Fund	*NA*
Premium Rate Index (1990)	*5.87*
rank (of 51 states)	*6*
Index of Premium Change (1990 cumulative value)	*298*
rank (of 44 states)	*23*

Index of Premium Change, 1974-1992
1974=100

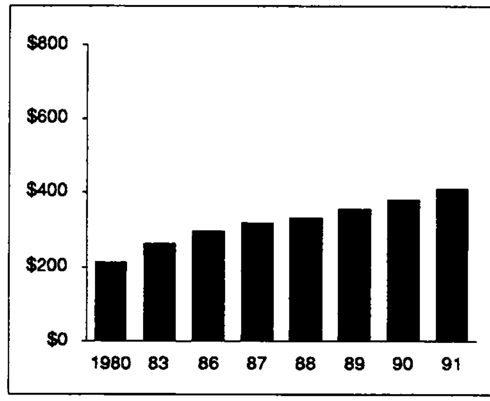


Average Profitability, 1985-89	*20.62%*
Expense Ratios (1990):	
Stock	*32.1%*
Nonstock	*26.4%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*14.5*
Frequency of Medical Claims (per 100,000 workers)	*9,384*
rank (of 40 states)	*28*
Average Benefit Costs	*$395*
rank (of 40 states)	*16*
Maximum Temporary Disability Weekly Benefit (1991)	*$412*
rank (of 51 states)	*21*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

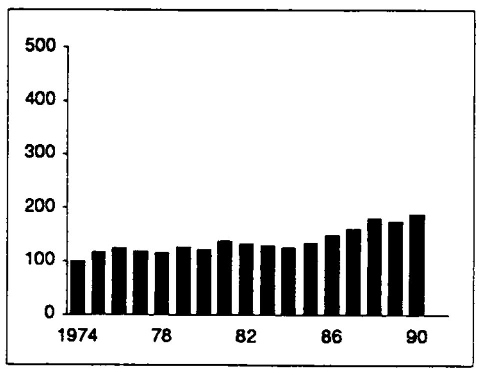


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*100%*
rank (of 51 states)	*17*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$705*
rank (of 42 states)	*42*
Utilization of Temp. Total Disability (per 100,000 workers)	*2,995*
rank (of 42 states)	*4*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$74,598*
rank (of 42 states)	*32*
NSWI Worker Safety Score (out of 116 possible)	*25*

6.2.13 IDAHO

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*50%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*40.6%*
Loss Ratio (1990):	
Private Companies	*71%*
State Fund	*60%*
Dividend Ratio (1990):	
Private Companies	*13.7%*
State Fund	*30.9%*
Premium Rate Index (1990)	*3.80*
rank (of 51 states)	*26*
Index of Premium Change (1990 cumulative value)	*188*
rank (of 44 states)	*5*

Index of Premium Change, 1974-1992
1974=100

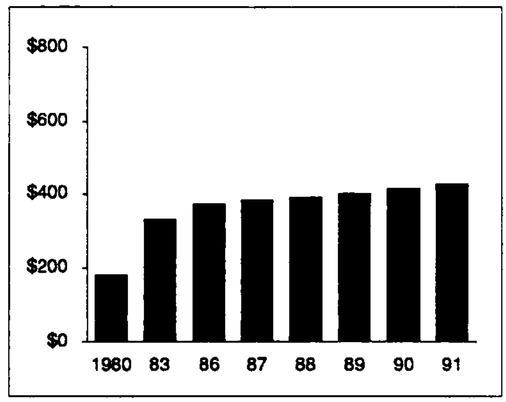


Average Profitability, 1985-89	*7.40%*
Expense Ratios (1990):	
Stock	*29.5%*
Nonstock	*23.8%*
State Fund	*12.9%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*9*
Frequency of Medical Claims (per 100,000 workers)	*11,870*
rank (of 40 states)	*8*
Average Benefit Costs	*$313*
rank (of 40 states)	*19*
Maximum Temporary Disability Weekly Benefit (1991)	*$430*
rank (of 51 states)	*13*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

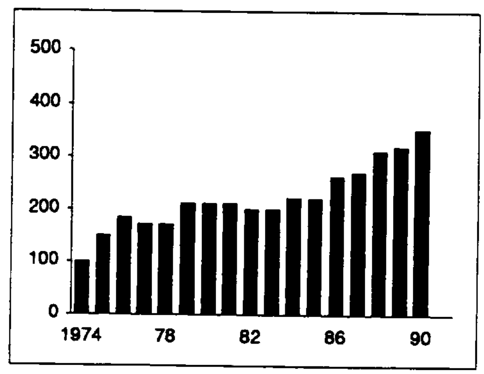


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*89%*
rank (of 51 states)	*36*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,906*
rank (of 42 states)	*10*
Utilization of Temp. Total Disability (per 100,000 workers)	*2,089*
rank (of 42 states)	*14*
Waiting Period (days)	*5*
Average Incurred Indemnity of Fatalities	*$70,963*
rank (of 42 states)	*33*
NSWI Worker Safety Score (out of 116 possible)	*22*

6.2.14 ILLINOIS

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*15%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Advisory Rates*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*33.7%*
Loss Ratio (1990):	
Private Companies	*80%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*3.8%*
State Fund	*NA*
Premium Rate Index (1990)	*4.30*
rank (of 51 states)	*17*
Index of Premium Change (1990 cumulative value)	*352*
rank (of 44 states)	*34*

Index of Premium Change, 1974-1992
1974=100

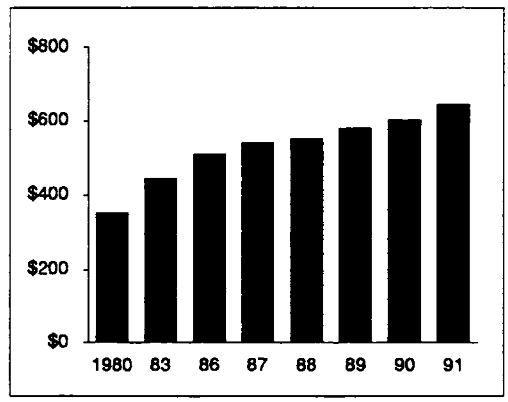


Average Profitability, 1985-89	*11.22%*
Expense Ratios (1990):	
Stock	*28.0%*
Nonstock	*22.3%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*13.5*
Frequency of Medical Claims (per 100,000 workers)	*9,271*
rank (of 40 states)	*30*
Average Benefit Costs	*$311*
rank (of 40 states)	*20*
Maximum Temporary Disability Weekly Benefit (1991)	*$646*
rank (of 51 states)	*4*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

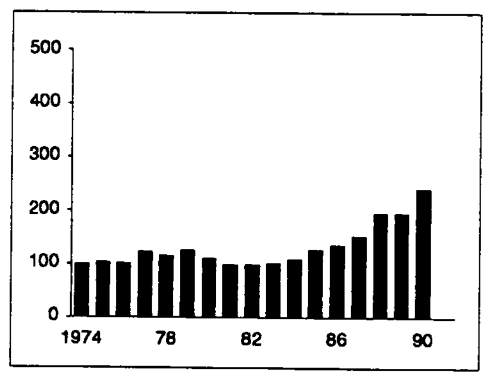


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*135%*
rank (of 51 states)	*5*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$2,147*
rank (of 42 states)	*7*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,513*
rank (of 42 states)	*30*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$129,660*
rank (of 42 states)	*16*
NSWI Worker Safety Score (out of 116 possible)	*76*

6.2.15 INDIANA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*21%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Advisory Rates*
NCCI or Independent Rating Bureau	*Independent*
Market Share of Top Three Private Companies (1990)	*22.0%*
Loss Ratio (1990):	
Private Companies	*74%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*2.4%*
State Fund	*NA*
Premium Rate Index (1990)	*2.03*
rank (of 51 states)	*50*
Index of Premium Change (1990 cumulative value)	*241*
rank (of 44 states)	*13*

Index of Premium Change, 1974-1992
1974=100

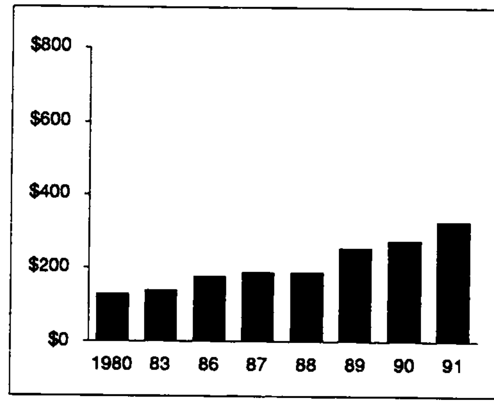


Average Profitability, 1985-89	*3.90%*
Expense Ratios (1990):	
Stock	*27.6%*
Nonstock	*21.9%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	11
Frequency of Medical Claims (per 100,000 workers)	10,873
rank (of 40 states)	12
Average Benefit Costs	$125
rank (of 40 states)	40
Maximum Temporary Disability Weekly Benefit (1991)	$328
rank (of 51 states)	39

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

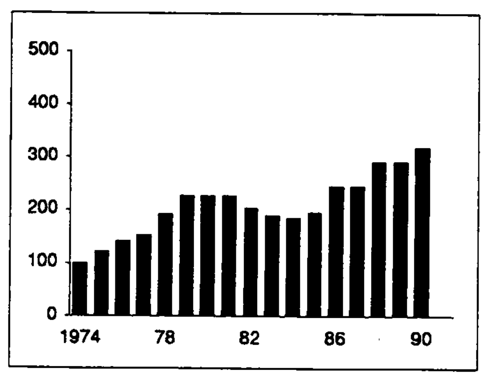


Are Disability Benefit Levels Indexed?	No
Temporary Disability as Percentage of State AWW	73%
rank (of 51 states)	42
Ave. Incurred Indemnity Cost for Temp. Disability Claim	$1,327
rank (of 42 states)	31
Utilization of Temp. Total Disability (per 100,000 workers)	1,437
rank (of 42 states)	33
Waiting Period (days)	7
Average Incurred Indemnity of Fatalities	$48,408
rank (of 42 states)	40
NSWI Worker Safety Score (out of 116 possible)	47

6.2.16 IOWA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*17%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*26.7%*
Loss Ratio (1990):	
Private Companies	*73%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*2.5%*
State Fund	*NA*
Premium Rate Index (1990)	*3.06*
rank (of 51 states)	*36*
Index of Premium Change (1990 cumulative value)	*319*
rank (of 44 states)	*31*

Index of Premium Change, 1974-1992
1974=100

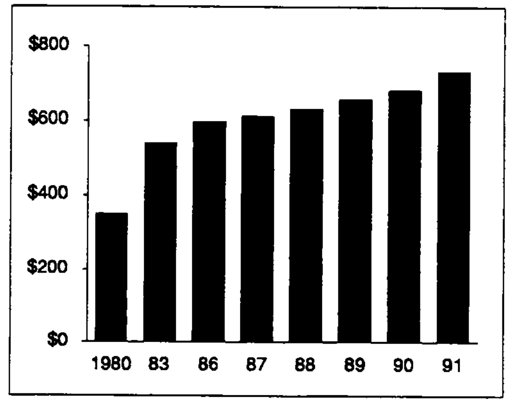


Average Profitability, 1985-89	*6.34%*
Expense Ratios (1990):	
Stock	*28.0%*
Nonstock	*22.3%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*14.5*
Frequency of Medical Claims (per 100,000 workers)	*10,803*
rank (of 40 states)	*14*
Average Benefit Costs	*$265*
rank (of 40 states)	*25*
Maximum Temporary Disability Weekly Benefit (1991)	*$733*
rank (of 51 states)	*1*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

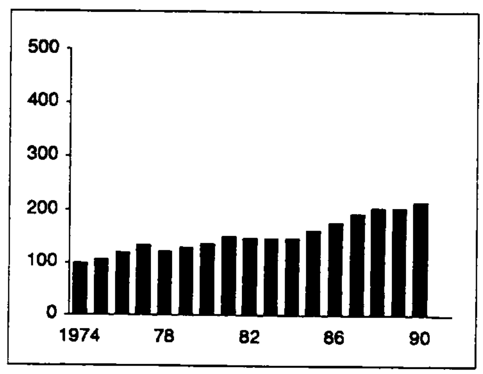


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*198%*
rank (of 51 states)	*1*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,090*
rank (of 42 states)	*37*
Utilization of Temp. Total Disability (per 100,000 workers)	*2,275*
rank (of 42 states)	*12*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$191,342*
rank (of 42 states)	*11*
NSWI Worker Safety Score (out of 116 possible)	*54*

6.2.17 KANSAS

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Elected*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*28%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*28.0%*
Loss Ratio (1990):	
Private Companies	*101%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*1.5%*
State Fund	*NA*
Premium Rate Index (1990)	*2.43*
rank (of 51 states)	*45*
Index of Premium Change (1990 cumulative value)	*217*
rank (of 44 states)	*8*

Index of Premium Change, 1974-1992
1974=100

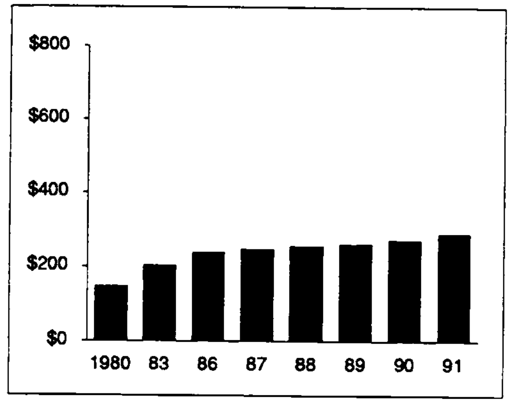


Average Profitability, 1985-89	*3.88%*
Expense Ratios (1990):	
Stock	*27.6%*
Nonstock	*21.9%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*9.5*
Frequency of Medical Claims (per 100,000 workers)	*10,481*
rank (of 40 states)	*18*
Average Benefit Costs	*$242*
rank (of 40 states)	*27*
Maximum Temporary Disability Weekly Benefit (1991)	*$289*
rank (of 51 states)	*44*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

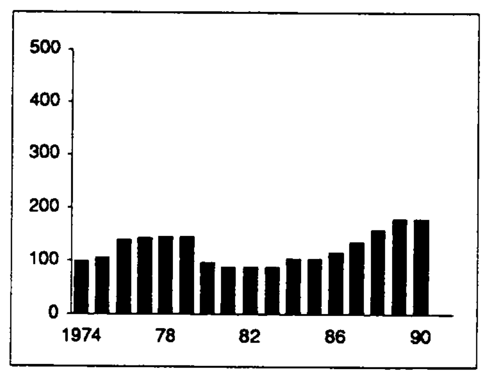


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*74%*
rank (of 51 states)	*39*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,669*
rank (of 42 states)	*15*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,343*
rank (of 42 states)	*37*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$103,709*
rank (of 42 states)	*20*
NSWI Worker Safety Score (out of 116 possible)	*15*

6.2.18 KENTUCKY

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*25%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Loss Costs*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*30.5%*
Loss Ratio (1990):	
Private Companies	*102%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*1.9%*
State Fund	*NA*
Premium Rate Index (1990)	*3.24*
rank (of 51 states)	*34*
Index of Premium Change (1990 cumulative value)	*180*
rank (of 44 states)	*3*

Index of Premium Change, 1974-1992
1974=100

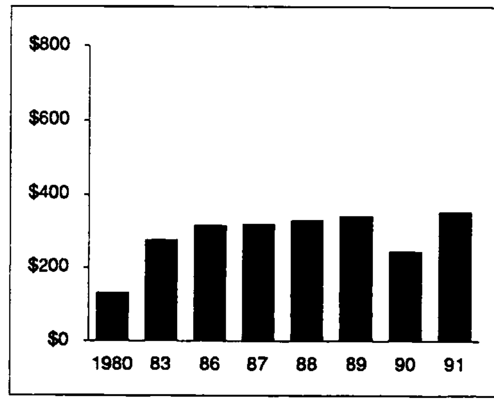


Average Profitability, 1985-89	*16.56%*
Expense Ratios (1990):	
Stock	*25.6%*
Nonstock	*19.9%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*13.5*
Frequency of Medical Claims (per 100,000 workers)	*9,751*
rank (of 40 states)	*24*
Average Benefit Costs	*$240*
rank (of 40 states)	*29*
Maximum Temporary Disability Weekly Benefit (1991)	*$353*
rank (of 51 states)	*34*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

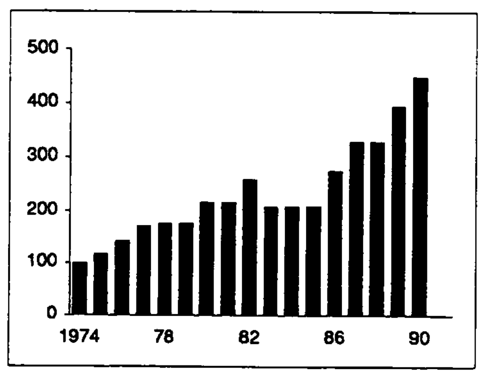


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*99%*
rank (of 51 states)	*22*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,506*
rank (of 42 states)	*26*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,581*
rank (of 42 states)	*28*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$59,393*
rank (of 42 states)	*37*
NSWI Worker Safety Score (out of 116 possible)	*32*

6.2.19 LOUISIANA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Elected*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*Eff 1991-2*
Assigned Risk Plan Percentage of Total Market	*66%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Loss Costs*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*39.4%*
Loss Ratio (1990):	
Private Companies	*105%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*1.0%*
State Fund	*NA*
Premium Rate Index (1990)	*4.50*
rank (of 51 states)	*16*
Index of Premium Change (1990 cumulative value)	*450*
rank (of 44 states)	*39*

Index of Premium Change, 1974-1992
1974=100

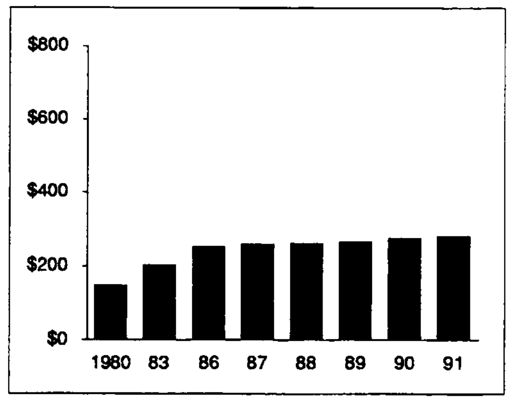


Average Profitability, 1985-89	*-13.24%*
Expense Ratios (1990):	
Stock	*31.0%*
Nonstock	*25.3%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*11.25*
Frequency of Medical Claims (per 100,000 workers)	*9,062*
rank (of 40 states)	*35*
Average Benefit Costs	*$469*
rank (of 40 states)	*13*
Maximum Temporary Disability Weekly Benefit (1991)	*$282*
rank (of 51 states)	*45*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

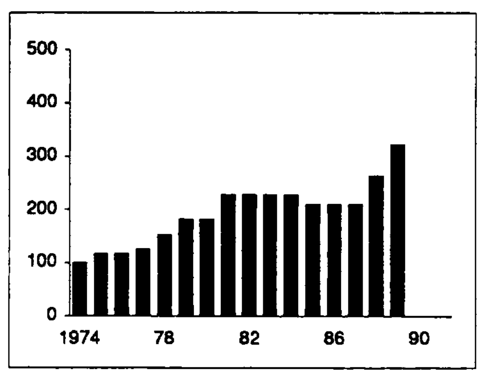


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*74%*
rank (of 51 states)	*40*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,517*
rank (of 42 states)	*25*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,611*
rank (of 42 states)	*26*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$135,688*
rank (of 42 states)	*14*
NSWI Worker Safety Score (out of 116 possible)	*31*

6.2.20 MAINE

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*87%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*59.5%*
Loss Ratio (1990):	
Private Companies	*144%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*0.4%*
State Fund	*NA*
Premium Rate Index (1990)	*5.45*
rank (of 51 states)	*12*
Index of Premium Change (1990 cumulative value)	
rank (of 44 states)	*NA*

Index of Premium Change, 1974-1992
1974=100

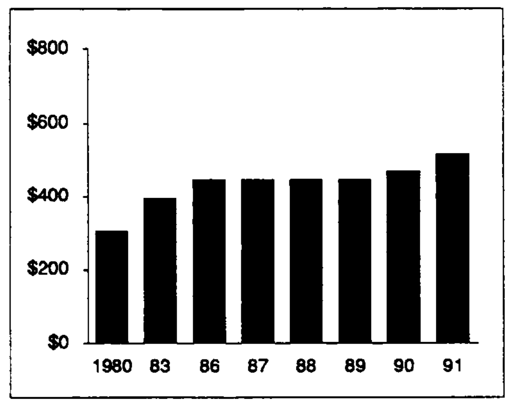


Average Profitability, 1985-89	*-31.44%*
Expense Ratios (1990):	
Stock	*29.6%*
Nonstock	*23.9%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*13.5*
Frequency of Medical Claims (per 100,000 workers)	*15,514*
rank (of 40 states)	*2*
Average Benefit Costs	*$1,180*
rank (of 40 states)	*1*
Maximum Temporary Disability Weekly Benefit (1991)	*$518*
rank (of 51 states)	*8*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

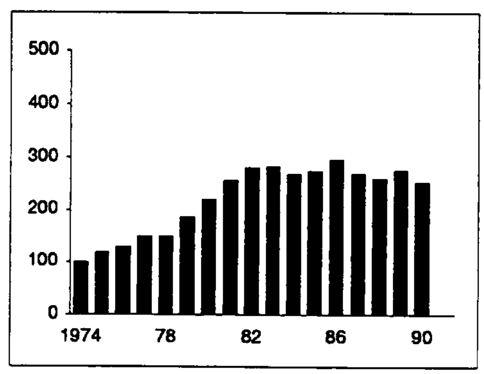


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*135%*
rank (of 51 states)	*6*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,709*
rank (of 42 states)	*13*
Utilization of Temp. Total Disability (per 100,000 workers)	*4,182*
rank (of 42 states)	*1*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$95,320*
rank (of 42 states)	*25*
NSWI Worker Safety Score (out of 116 possible)	*67*

6.2.21 MARYLAND

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*17%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Loss Costs*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*26.0%*
Loss Ratio (1990):	
Private Companies	*70%*
State Fund	*121%*
Dividend Ratio (1990):	
Private Companies	*8.2%*
State Fund	*0.0%*
Premium Rate Index (1990)	*2.61*
rank (of 51 states)	*42*
Index of Premium Change (1990 cumulative value)	*254*
rank (of 44 states)	*14*

Index of Premium Change, 1974-1992
1974=100

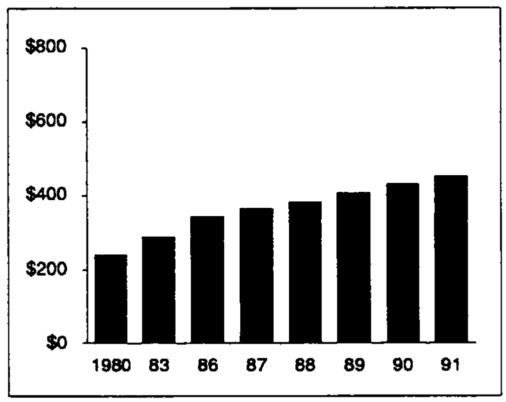


Average Profitability, 1985-89	*16.26%*
Expense Ratios (1990):	
Stock	*27.6%*
Nonstock	*21.9%*
State Fund	*12.2%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*14.25*
Frequency of Medical Claims (per 100,000 workers)	*7,981*
rank (of 40 states)	*39*
Average Benefit Costs	*$295*
rank (of 40 states)	*23*
Maximum Temporary Disability Weekly Benefit (1991)	*$452*
rank (of 51 states)	*10*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

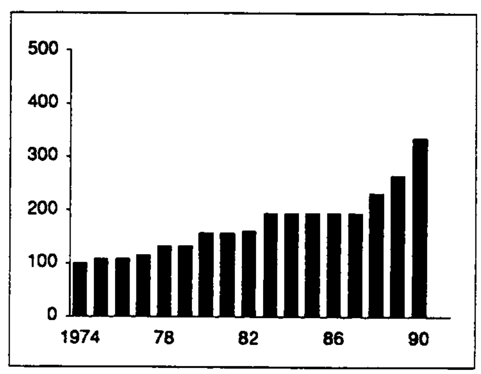


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*102%*
rank (of 51 states)	*10*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,942*
rank (of 42 states)	*9*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,791*
rank (of 42 states)	*23*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$85,632*
rank (of 42 states)	*29*
NSWI Worker Safety Score (out of 116 possible)	*46*

6.2.22 MASSACHUSETTS

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*46%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, no deviations*
NCCI or Independent Rating Bureau	*Independent*
Market Share of Top Three Private Companies (1990)	*40.3%*
Loss Ratio (1990):	
Private Companies	
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*2.44%*
State Fund	*NA*
Premium Rate Index (1990)	*5.14*
rank (of 51 states)	*13*
Index of Premium Change (1990 cumulative value)	*335*
rank (of 44 states)	*33*

Index of Premium Change, 1974-1992
1974=100

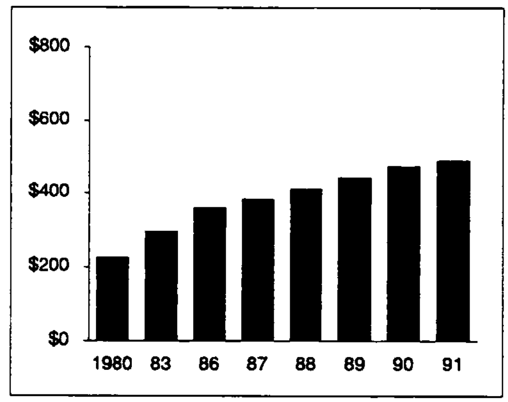


Average Profitability, 1985-89	*-4.32%*
Expense Ratios (1990):	
Stock	
Nonstock	
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*13.5*
Frequency of Medical Claims (per 100,000 workers)	*9,173*
rank (of 40 states)	*32*
Average Benefit Costs	*$566*
rank (of 40 states)	*9*
Maximum Temporary Disability Weekly Benefit (1991)	*$491*
rank (of 51 states)	*9*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

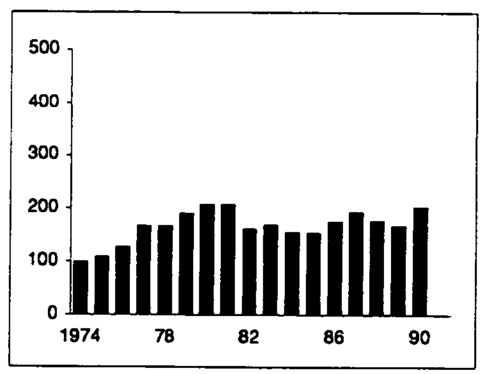


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*100%*
rank (of 51 states)	*18*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$5,860*
rank (of 42 states)	*1*
Utilization of Temp. Total Disability (per 100,000 workers)	*2,647*
rank (of 42 states)	*7*
Waiting Period (days)	*5*
Average Incurred Indemnity of Fatalities	*$230,576*
rank (of 42 states)	*7*
NSWI Worker Safety Score (out of 116 possible)	*73*

6.2.23 MICHIGAN

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*19%*
Assigned Risk Plan Percentage of Total Market	*11%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Loss Costs*
NCCI or Independent Rating Bureau	*Independent*
Market Share of Top Three Private Companies (1990)	*28.1%*
Loss Ratio (1990):	
Private Companies	*88%*
State Fund	*105%*
Dividend Ratio (1990):	
Private Companies	*3.8%*
State Fund	*2.0%*
Premium Rate Index (1990)	*4.00*
rank (of 51 states)	*19*
Index of Premium Change (1990 cumulative value)	*203*
rank (of 44 states)	*6*

Index of Premium Change, 1974-1992
1974=100

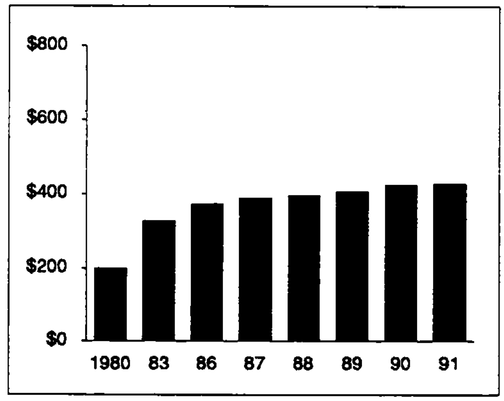


Average Profitability, 1985-89	*12.44%*
Expense Ratios (1990):	
Stock	*27.0%*
Nonstock	*21.3%*
State Fund	*40.1%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*9.5*
Frequency of Medical Claims (per 100,000 workers)	*11,826*
rank (of 40 states)	*9*
Average Benefit Costs	*$413*
rank (of 40 states)	*14*
Maximum Temporary Disability Weekly Benefit (1991)	*$430*
rank (of 51 states)	*14*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

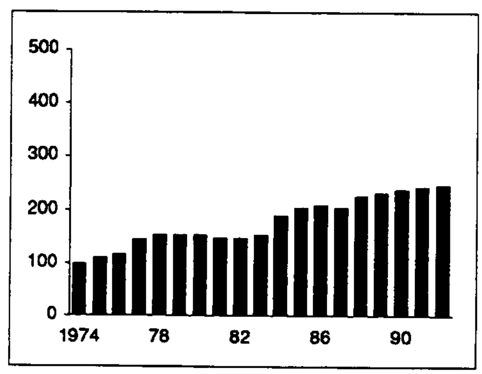


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*90%*
rank (of 51 states)	*35*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$2,302*
rank (of 42 states)	*5*
Utilization of Temp. Total Disability (per 100,000 workers)	*2,036*
rank (of 42 states)	*17*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$89,162*
rank (of 42 states)	*28*
NSWI Worker Safety Score (out of 116 possible)	*63*

6.2.24 MINNESOTA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*7%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Loss Costs*
NCCI or Independent Rating Bureau	*Independent*
Market Share of Top Three Private Companies (1990)	*26.3%*
Loss Ratio (1990):	
Private Companies	
State Fund	*65%*
Dividend Ratio (1990):	
Private Companies	
State Fund	*4.8%*
Premium Rate Index (1990)	*6.72*
rank (of 51 states)	*1*
Index of Premium Change (1990 cumulative value)	*240*
rank (of 44 states)	*11*

Index of Premium Change, 1974-1992
1974=100

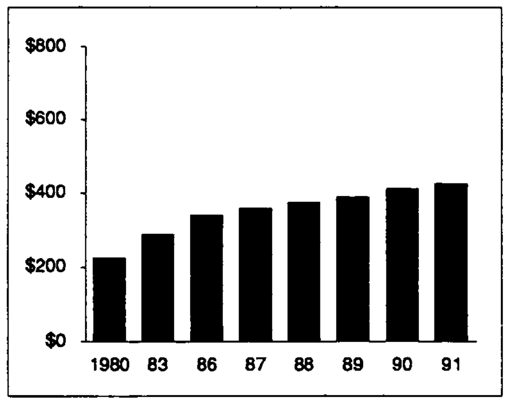


Average Profitability, 1985-89	*9.48%*
Expense Ratios (1990):	
Stock	
Nonstock	
State Fund	*34.5%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*12.75*
Frequency of Medical Claims (per 100,000 workers)	*9,312*
rank (of 40 states)	*29*
Average Benefit Costs	*$531*
rank (of 40 states)	*10*
Maximum Temporary Disability Weekly Benefit (1991)	*$428*
rank (of 51 states)	*18*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

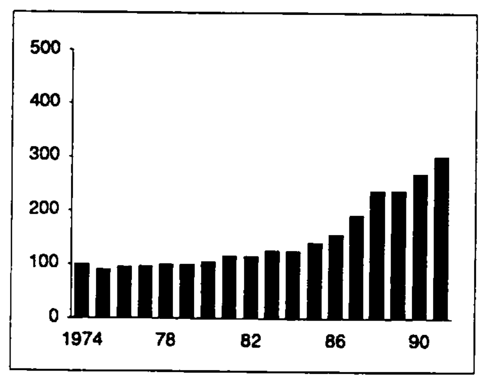


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*100%*
rank (of 51 states)	*19*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,653*
rank (of 42 states)	*16*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,949*
rank (of 42 states)	*19*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$239,552*
rank (of 42 states)	*6*
NSWI Worker Safety Score (out of 116 possible)	*64*

6.2.25 MISSISSIPPI

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Elected*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*36%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*35.9%*
Loss Ratio (1990):	
Private Companies	*92%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*1.8%*
State Fund	*NA*
Premium Rate Index (1990)	*2.94*
rank (of 51 states)	*39*
Index of Premium Change (1990 cumulative value)	*269*
rank (of 44 states)	*19*

Index of Premium Change, 1974-1992
1974=100

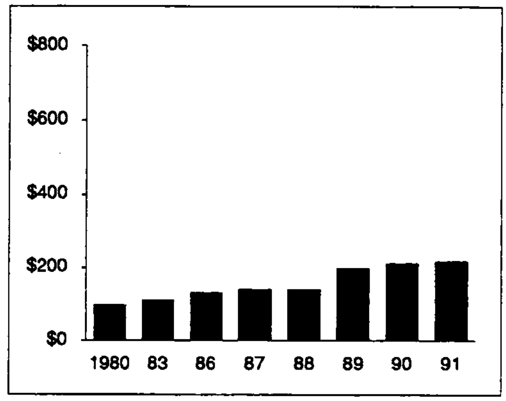


Average Profitability, 1985-89	*0.78%*
Expense Ratios (1990):	
Stock	*29.0%*
Nonstock	*23.3%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*7*
Frequency of Medical Claims (per 100,000 workers)	*10,790*
rank (of 40 states)	*15*
Average Benefit Costs	*$258*
rank (of 40 states)	*26*
Maximum Temporary Disability Weekly Benefit (1991)	*$218*
rank (of 51 states)	*51*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

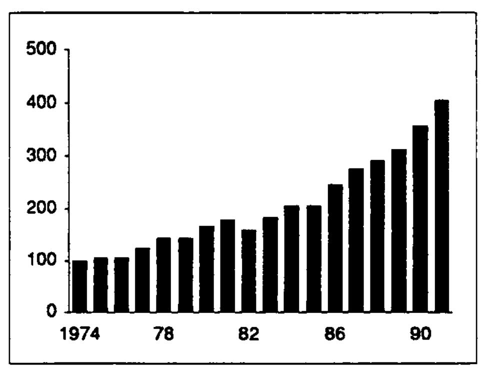


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*67%*
rank (of 51 states)	*47*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$973*
rank (of 42 states)	*39*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,793*
rank (of 42 states)	*22*
Waiting Period (days)	*5*
Average Incurred Indemnity of Fatalities	*$44,719*
rank (of 42 states)	*41*
NSWI Worker Safety Score (out of 116 possible)	*25*

6.2.26 MISSOURI

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*29%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*27.9%*
Loss Ratio (1990):	
Private Companies	*90%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*2.3%*
State Fund	*NA*
Premium Rate Index (1990)	*2.65*
rank (of 51 states)	*41*
Index of Premium Change (1990 cumulative value)	*357*
rank (of 44 states)	*35*

Index of Premium Change, 1974-1992
1974=100

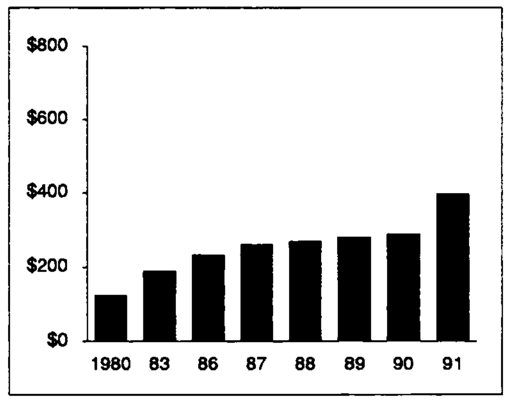


Average Profitability, 1985-89	*3.14%*
Expense Ratios (1990):	
Stock	*27.8%*
Nonstock	*22.1%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*10.75*
Frequency of Medical Claims (per 100,000 workers)	*9,250*
rank (of 40 states)	*31*
Average Benefit Costs	*$200*
rank (of 40 states)	*38*
Maximum Temporary Disability Weekly Benefit (1991)	*$398*
rank (of 51 states)	*25*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

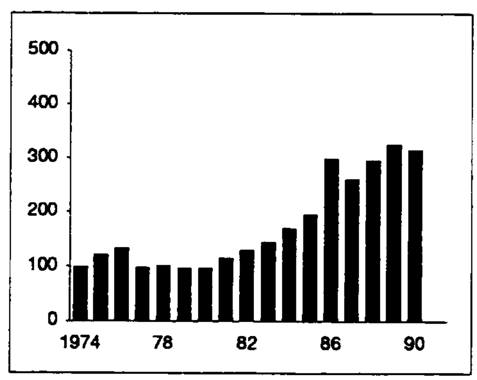


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*99%*
rank (of 51 states)	*23*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,284*
rank (of 42 states)	*33*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,872*
rank (of 42 states)	*20*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$136,805*
rank (of 42 states)	*13*
NSWI Worker Safety Score (out of 116 possible)	*42*

6.2.27 MONTANA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Elected*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*65%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*49.5%*
Loss Ratio (1990):	
Private Companies	*104%*
State Fund	*132%*
Dividend Ratio (1990):	
Private Companies	*4.0%*
State Fund	*0.0%*
Premium Rate Index (1990)	*6.43*
rank (of 51 states)	*3*
Index of Premium Change (1990 cumulative value)	*315*
rank (of 44 states)	*29*

Index of Premium Change, 1974-1992
1974=100

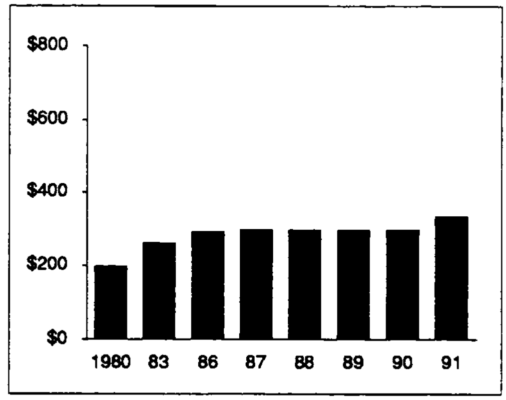


Average Profitability, 1985-89	*-7.26%*
Expense Ratios (1990):	
Stock	*30.0%*
Nonstock	*24.3%*
State Fund	*11.8%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*14.75*
Frequency of Medical Claims (per 100,000 workers)	*10,383*
rank (of 40 states)	*19*
Average Benefit Costs	*$619*
rank (of 40 states)	*5*
Maximum Temporary Disability Weekly Benefit (1991)	*$336*
rank (of 51 states)	*37*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

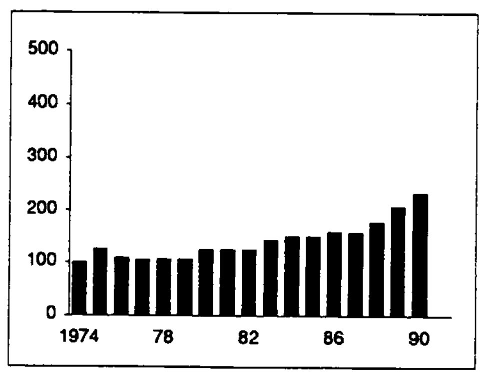


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*91%*
rank (of 51 states)	*33*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$2,104*
rank (of 42 states)	*8*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,434*
rank (of 42 states)	*34*
Waiting Period (days)	*6*
Average Incurred Indemnity of Fatalities	*$243,748*
rank (of 42 states)	*5*
NSWI Worker Safety Score (out of 116 possible)	*28*

6.2.28 NEBRASKA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*23%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*23.8%*
Loss Ratio (1990):	
Private Companies	*90%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*1.5%*
State Fund	*NA*
Premium Rate Index (1990)	*2.31*
rank (of 51 states)	*47*
Index of Premium Change (1990 cumulative value)	*234*
rank (of 44 states)	*10*

Index of Premium Change, 1974-1992
1974=100

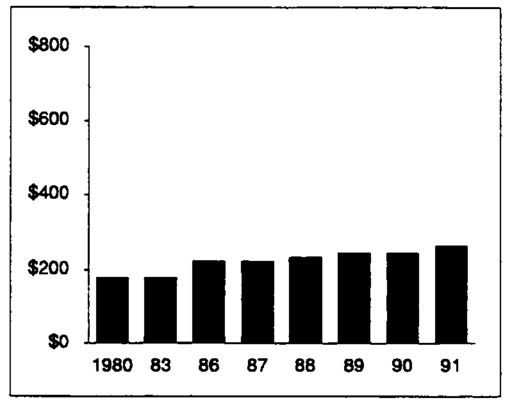


Average Profitability, 1985-89	*4.44%*
Expense Ratios (1990):	
Stock	*28.4%*
Nonstock	*22.7%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*13.5*
Frequency of Medical Claims (per 100,000 workers)	*9,074*
rank (of 40 states)	*34*
Average Benefit Costs	*$218*
rank (of 40 states)	*35*
Maximum Temporary Disability Weekly Benefit (1991)	*$265*
rank (of 51 states)	*47*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

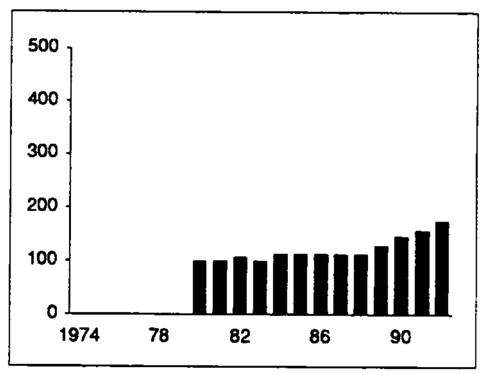


Are Disability Benefit Levels Indexed?	*No*
Temporary Disability as Percentage of State AWW	*75%*
rank (of 51 states)	*38*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,543*
rank (of 42 states)	*24*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,192*
rank (of 42 states)	*41*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$112,236*
rank (of 42 states)	*18*
NSWI Worker Safety Score (out of 116 possible)	*27*

6.2.29 NEVADA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Exclusive*
State Fund Percentage of Insured Market (1990)	*100%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Exclusive Fund*
NCCI or Independent Rating Bureau	*Exclusive Fund*
Market Share of Top Three Private Companies (1990)	*76.4%*
Loss Ratio (1990):	
Private Companies	*NA*
State Fund	*109%*
Dividend Ratio (1990):	
Private Companies	*NA*
State Fund	*0.0%*
Premium Rate Index (1990)	*3.88*
rank (of 51 states)	*24*
Index of Premium Change (1990 cumulative value)	*147*
rank (of 44 states)	*NA*

Index of Premium Change, 1974-1992
1974=100

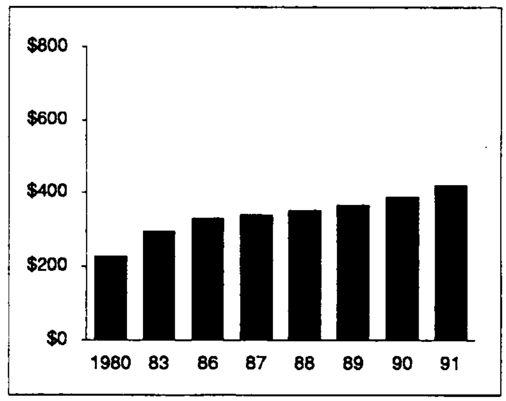


Average Profitability, 1985-89	
Expense Ratios (1990):	
Stock	*NA*
Nonstock	*NA*
State Fund	*12.5%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*14*
Frequency of Medical Claims (per 100,000 workers)	*8,922*
rank (of 40 states)	*NA*
Average Benefit Costs	
rank (of 40 states)	
Maximum Temporary Disability Weekly Benefit (1991)	*$421*
rank (of 51 states)	*19*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

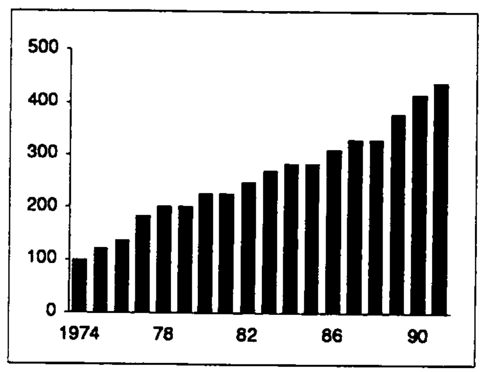


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*98%*
rank (of 51 states)	*29*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	
rank (of 42 states)	
Utilization of Temp. Total Disability (per 100,000 workers)	
rank (of 42 states)	
Waiting Period (days)	*5*
Average Incurred Indemnity of Fatalities	
rank (of 42 states)	
NSWI Worker Safety Score (out of 116 possible)	*30*

6.2.30 NEW HAMPSHIRE

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*31%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*34.0%*
Loss Ratio (1990):	
Private Companies	*95%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*3.3%*
State Fund	*NA*
Premium Rate Index (1990)	*4.18*
rank (of 51 states)	*18*
Index of Premium Change (1990 cumulative value)	*417*
rank (of 44 states)	*38*

Index of Premium Change, 1974-1992
1974=100

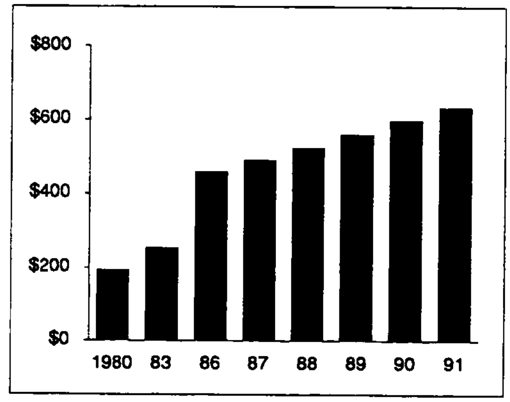


Average Profitability, 1985-89	*5.68%*
Expense Ratios (1990):	
Stock	*28.1%*
Nonstock	*22.4%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*18.75*
Frequency of Medical Claims (per 100,000 workers)	*13,042*
rank (of 40 states)	*4*
Average Benefit Costs	*$488*
rank (of 40 states)	*11*
Maximum Temporary Disability Weekly Benefit (1991)	*$633*
rank (of 51 states)	*5*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

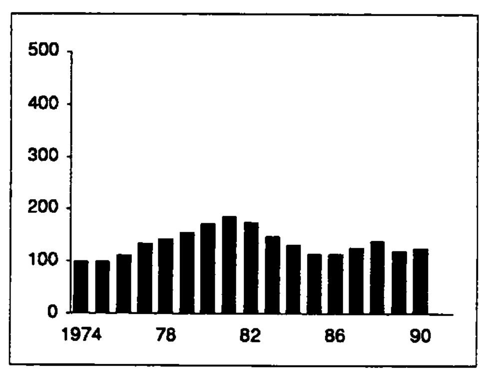


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*148%*
rank (of 51 states)	*2*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,149*
rank (of 42 states)	*35*
Utilization of Temp. Total Disability (per 100,000 workers)	*3,366*
rank (of 42 states)	*3*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$100,807*
rank (of 42 states)	*22*
NSWI Worker Safety Score (out of 116 possible)	*56*

6.2.31 NEW JERSEY

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*10%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, no deviations*
NCCI or Independent Rating Bureau	*Independent*
Market Share of Top Three Private Companies (1990)	*36.5%*
Loss Ratio (1990):	
Private Companies	*65%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	
State Fund	*NA*
Premium Rate Index (1990)	*2.48*
rank (of 51 states)	*43*
Index of Premium Change (1990 cumulative value)	*125*
rank (of 44 states)	*1*

Index of Premium Change, 1974-1992
1974=100

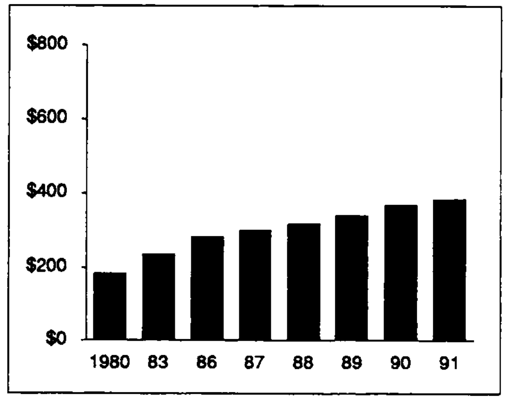


Average Profitability, 1985-89	*12.80%*
Expense Ratios (1990):	
Stock	
Nonstock	
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*10.75*
Frequency of Medical Claims (per 100,000 workers)	*8,809*
rank (of 40 states)	*38*
Average Benefit Costs	*$211*
rank (of 40 states)	*36*
Maximum Temporary Disability Weekly Benefit (1991)	*$385*
rank (of 51 states)	*30*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

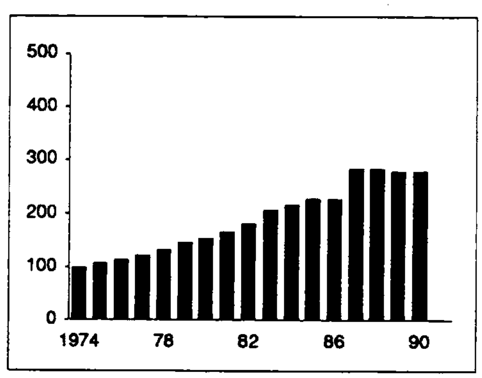


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*74%*
rank (of 51 states)	*41*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,553*
rank (of 42 states)	*22*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,419*
rank (of 42 states)	*36*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$141,536*
rank (of 42 states)	*12*
NSWI Worker Safety Score (out of 116 possible)	*80*

6.2.32 NEW MEXICO

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*Eff 1991-2*
Assigned Risk Plan Percentage of Total Market	*41%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Advisory Rates*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*48.1%*
Loss Ratio (1990):	
Private Companies	*91%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*2.2%*
State Fund	*NA*
Premium Rate Index (1990)	*4.82*
rank (of 51 states)	*14*
Index of Premium Change (1990 cumulative value)	*280*
rank (of 44 states)	*22*

Index of Premium Change, 1974-1992
1974=100

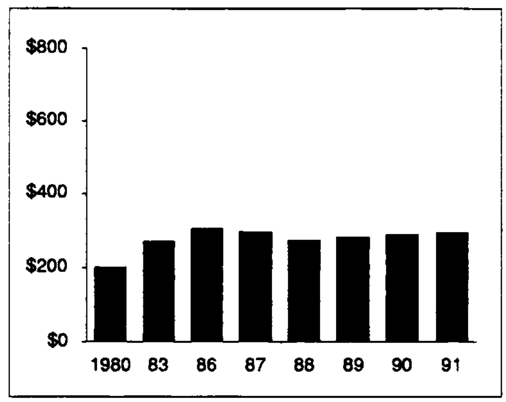


Average Profitability, 1985-89	*-7.14%*
Expense Ratios (1990):	
Stock	*27.3%*
Nonstock	*21.6%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*10*
Frequency of Medical Claims (per 100,000 workers)	*10,034*
rank (of 40 states)	*20*
Average Benefit Costs	*$656*
rank (of 40 states)	*4*
Maximum Temporary Disability Weekly Benefit (1991)	*$297*
rank (of 51 states)	*42*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

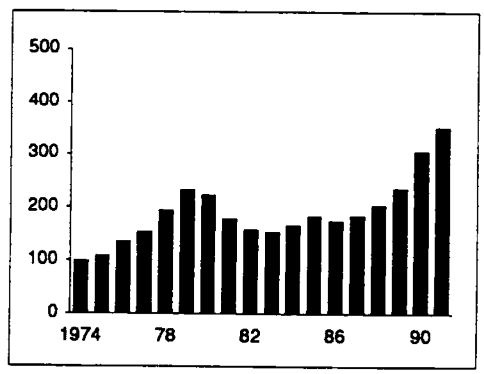


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*84%*
rank (of 51 states)	*37*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,636*
rank (of 42 states)	*17*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,542*
rank (of 42 states)	*29*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$78,223*
rank (of 42 states)	*31*
NSWI Worker Safety Score (out of 116 possible)	*14*

6.2.33 NEW YORK

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*45%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*Independent*
Market Share of Top Three Private Companies (1990)	*28.0%*
Loss Ratio (1990):	
Private Companies	
State Fund	*105%*
Dividend Ratio (1990):	
Private Companies	
State Fund	*4.9%*
Premium Rate Index (1990)	*3.46*
rank (of 51 states)	*30*
Index of Premium Change (1990 cumulative value)	*306*
rank (of 44 states)	*25*

Index of Premium Change, 1974-1992
1974=100

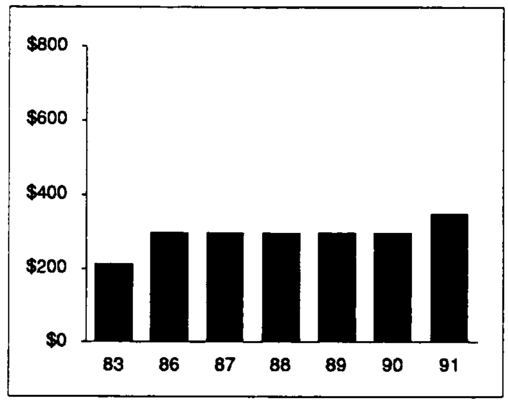


Average Profitability, 1985-89	*15.48%*
Expense Ratios (1990):	
Stock	
Nonstock	
State Fund	*13.2%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*10.75*
Frequency of Medical Claims (per 100,000 workers)	*7,331*
rank (of 40 states)	*40*
Average Benefit Costs	*$269*
rank (of 40 states)	*24*
Maximum Temporary Disability Weekly Benefit (1991)	*$350*
rank (of 51 states)	*35*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

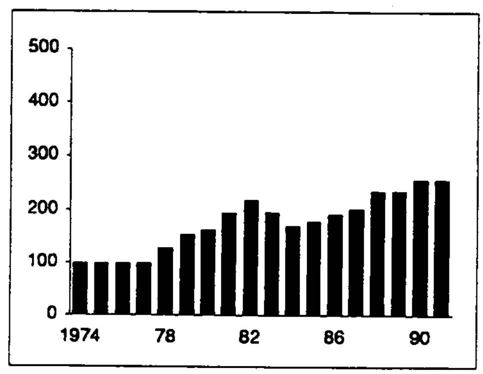


Are Disability Benefit Levels Indexed?	*No*
Temporary Disability as Percentage of State AWW	*64%*
rank (of 51 states)	*49*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$3,743*
rank (of 42 states)	*3*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,447*
rank (of 42 states)	*32*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$329,170*
rank (of 42 states)	*3*
NSWI Worker Safety Score (out of 116 possible)	*76*

6.2.34 NORTH CAROLINA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Elected*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*19%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*Independent*
Market Share of Top Three Private Companies (1990)	*33.7%*
Loss Ratio (1990):	
Private Companies	*102%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*2.8%*
State Fund	*NA*
Premium Rate Index (1990)	*1.53*
rank (of 51 states)	*51*
Index of Premium Change (1990 cumulative value)	*256*
rank (of 44 states)	*15*

Index of Premium Change, 1974-1992
1974=100

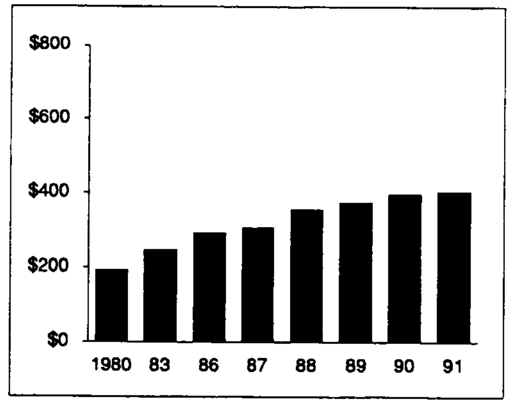


Average Profitability, 1985-89	*2.84%*
Expense Ratios (1990):	
Stock	*28.7%*
Nonstock	*23.0%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	13.5
Frequency of Medical Claims (per 100,000 workers)	10,010
rank (of 40 states)	21
Average Benefit Costs	$171
rank (of 40 states)	39
Maximum Temporary Disability Weekly Benefit (1991)	$406
rank (of 51 states)	23

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

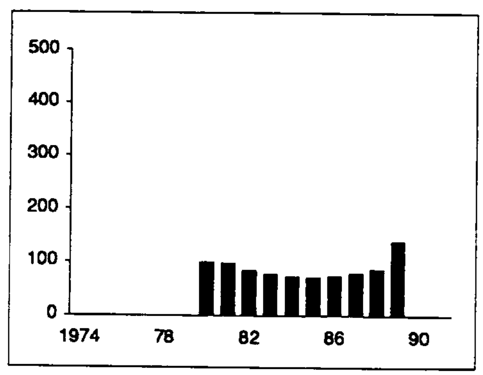


Are Disability Benefit Levels Indexed?	Yes
Temporary Disability as Percentage of State AWW	109%
rank (of 51 states)	8
Ave. Incurred Indemnity Cost for Temp. Disability Claim	$1,388
rank (of 42 states)	29
Utilization of Temp. Total Disability (per 100,000 workers)	1,091
rank (of 42 states)	43
Waiting Period (days)	7
Average Incurred Indemnity of Fatalities	$98,696
rank (of 42 states)	23
NSWI Worker Safety Score (out of 116 possible)	47

6.2.35 NORTH DAKOTA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Elected*
INSURANCE AND RATEMAKING	
State Fund	*Exclusive*
State Fund Percentage of Insured Market (1990)	*100%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*No*
Type of Ratemaking Law	*Exclusive Fund*
NCCI or Independent Rating Bureau	*Exclusive Fund*
Market Share of Top Three Private Companies (1990)	*82.4%*
Loss Ratio (1990):	
Private Companies	*NA*
State Fund	*291%*
Dividend Ratio (1990):	
Private Companies	*NA*
State Fund	*0.0%*
Premium Rate Index (1990)	*3.94*
rank (of 51 states)	*21*
Index of Premium Change (1990 cumulative value)	
rank (of 44 states)	

Index of Premium Change, 1974-1992
1974=100

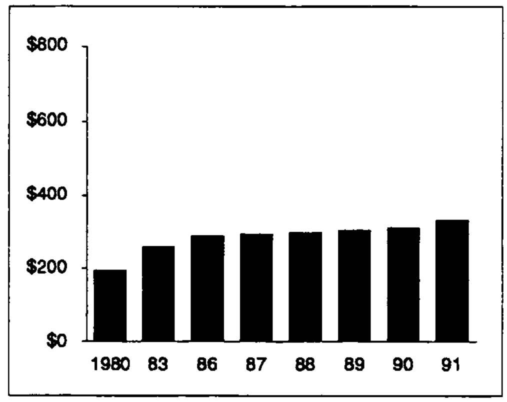


Average Profitability, 1985-89	
Expense Ratios (1990):	
Stock	*NA*
Nonstock	*NA*
State Fund	*11.0%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	13.5
Frequency of Medical Claims (per 100,000 workers)	
rank (of 40 states)	
Average Benefit Costs	
rank (of 40 states)	
Maximum Temporary Disability Weekly Benefit (1991)	$334
rank (of 51 states)	38

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

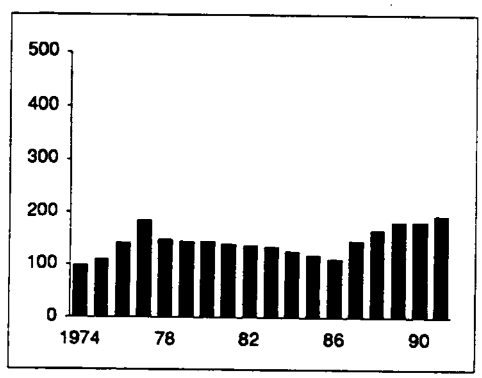


Are Disability Benefit Levels Indexed?	Yes
Temporary Disability as Percentage of State AWW	99%
rank (of 51 states)	24
Ave. Incurred Indemnity Cost for Temp. Disability Claim	$1,411
rank (of 42 states)	NA
Utilization of Temp. Total Disability (per 100,000 workers)	
rank (of 42 states)	
Waiting Period (days)	4
Average Incurred Indemnity of Fatalities	
rank (of 42 states)	
NSWI Worker Safety Score (out of 116 possible)	21

6.2.36 OHIO

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Exclusive*
State Fund Percentage of Insured Market (1990)	*100%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Exclusive Fund*
NCCI or Independent Rating Bureau	*Exclusive Fund*
Market Share of Top Three Private Companies (1990)	*53.6%*
Loss Ratio (1990):	
Private Companies	*NA*
State Fund	*115%*
Dividend Ratio (1990):	
Private Companies	*NA*
State Fund	*0.0%*
Premium Rate Index (1990)	*3.81*
rank (of 51 states)	*25*
Index of Premium Change (1990 cumulative value)	*183*
rank (of 44 states)	*NA*

Index of Premium Change, 1974-1992
1974=100

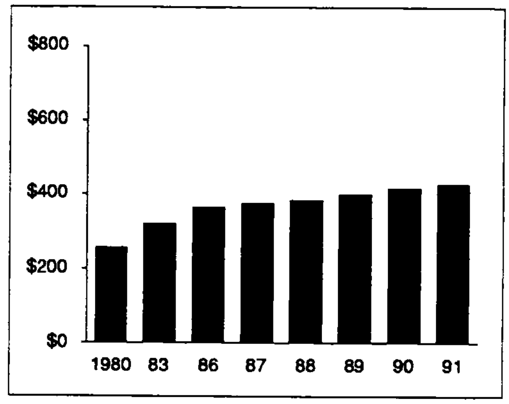


Average Profitability, 1985-89	
Expense Ratios (1990):	
Stock	*NA*
Nonstock	*NA*
State Fund	*9.7%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*15.5*
Frequency of Medical Claims (per 100,000 workers)	
rank (of 40 states)	
Average Benefit Costs	
rank (of 40 states)	
Maximum Temporary Disability Weekly Benefit (1991)	*$428*
rank (of 51 states)	*16*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

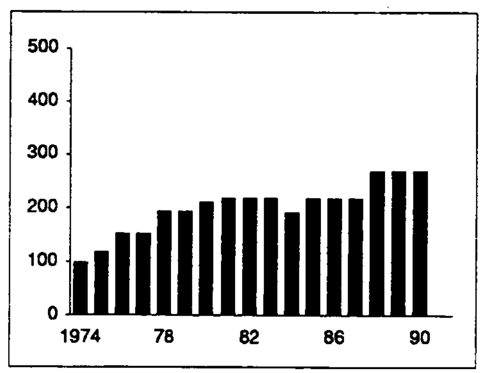


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*101%*
rank (of 51 states)	*13*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	
rank (of 42 states)	
Utilization of Temp. Total Disability (per 100,000 workers)	
rank (of 42 states)	
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	
rank (of 42 states)	
NSWI Worker Safety Score (out of 116 possible)	*55*

6.2.37 OKLAHOMA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Elected*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*37%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*26.3%*
Loss Ratio (1990):	
Private Companies	*103%*
State Fund	*113%*
Dividend Ratio (1990):	
Private Companies	*2.8%*
State Fund	*0.0%*
Premium Rate Index (1990)	*3.55*
rank (of 51 states)	*28*
Index of Premium Change (1990 cumulative value)	*271*
rank (of 44 states)	*21*

Index of Premium Change, 1974-1992
1974=100

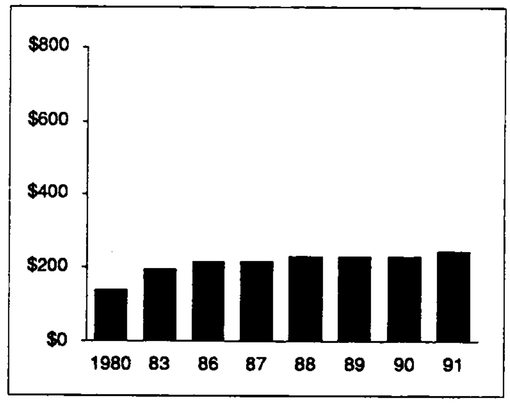


Average Profitability, 1985-89	*6.16%*
Expense Ratios (1990):	
Stock	*32.7%*
Nonstock	*27.0%*
State Fund	*13.8%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*9.75*
Frequency of Medical Claims (per 100,000 workers)	*9,743*
rank (of 40 states)	*25*
Average Benefit Costs	*$352*
rank (of 40 states)	*17*
Maximum Temporary Disability Weekly Benefit (1991)	*$246*
rank (of 51 states)	*48*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

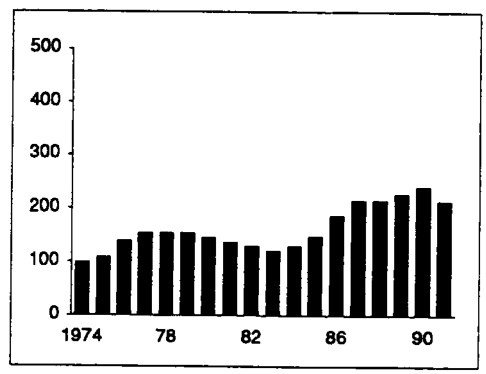


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*66%*
rank (of 51 states)	*48*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$2,565*
rank (of 42 states)	*4*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,171*
rank (of 42 states)	*42*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$97,251*
rank (of 42 states)	*24*
NSWI Worker Safety Score (out of 116 possible)	*53*

6.2.38 OREGON

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*31%*
Assigned Risk Plan Percentage of Total Market	*10%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Loss Costs*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*56.4%*
Loss Ratio (1990):	
Private Companies	*64%*
State Fund	*90%*
Dividend Ratio (1990):	
Private Companies	*3.8%*
State Fund	*11.0%*
Premium Rate Index (1990)	*5.65*
rank (of 51 states)	*8*
Index of Premium Change (1990 cumulative value)	*240*
rank (of 44 states)	*12*

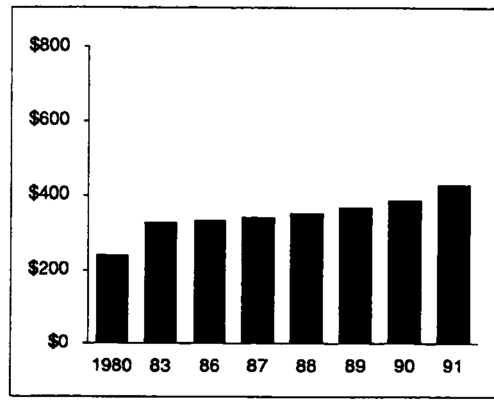
Index of Premium Change, 1974-1992
1974=100



Average Profitability, 1985-89	*1.58%*
Expense Ratios (1990):	
Stock	*25.7%*
Nonstock	*20.0%*
State Fund	*32.1%*

COMPENSATION BENEFITS	
Compliance with National Commission 19 Essential Recommendations (1989)	*13.75*
Frequency of Medical Claims (per 100,000 workers)	*15,726*
rank (of 40 states)	*1*
Average Benefit Costs	*$779*
rank (of 40 states)	*2*
Maximum Temporary Disability Weekly Benefit (1991)	*$430*
rank (of 51 states)	*15*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

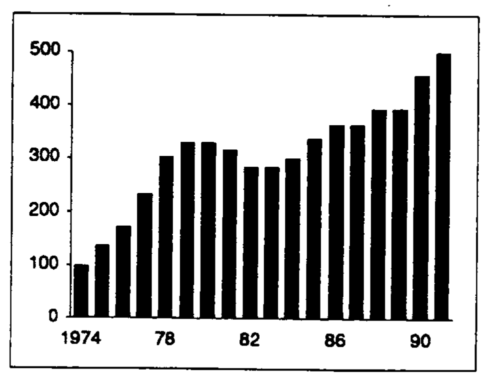


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*104%*
rank (of 51 states)	*9*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,548*
rank (of 42 states)	*23*
Utilization of Temp. Total Disability (per 100,000 workers)	*3,479*
rank (of 42 states)	*2*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$201,326*
rank (of 42 states)	*8*
NSWI Worker Safety Score (out of 116 possible)	*63*

6.2.39 PENNSYLVANIA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*10%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*Independent*
Market Share of Top Three Private Companies (1990)	*28.2%*
Loss Ratio (1990):	
Private Companies	
State Fund	*98%*
Dividend Ratio (1990):	
Private Companies	
State Fund	*24.4%*
Premium Rate Index (1990)	*3.98*
rank (of 51 states)	*20*
Index of Premium Change (1990 cumulative value)	*458*
rank (of 44 states)	*41*

Index of Premium Change, 1974-1992
1974=100

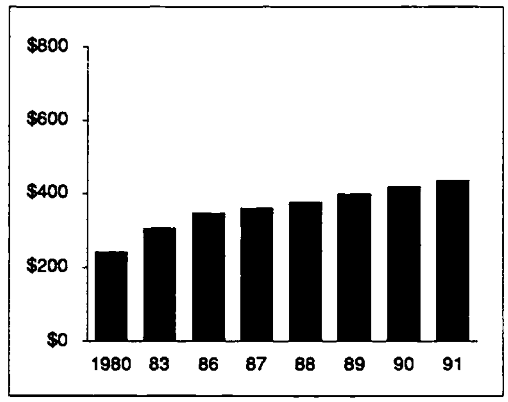


Average Profitability, 1985-89	*9.26%*
Expense Ratios (1990):	
Stock	
Nonstock	
State Fund	*20.0%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*13*
Frequency of Medical Claims (per 100,000 workers)	
rank (of 40 states)	
Average Benefit Costs	
rank (of 40 states)	
Maximum Temporary Disability Weekly Benefit (1991)	*$436*
rank (of 51 states)	*11*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

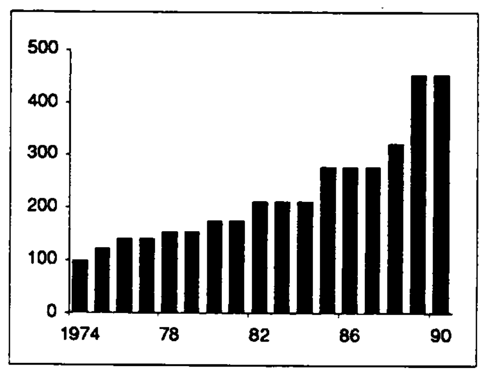


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*101%*
rank (of 51 states)	*14*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$3,903*
rank (of 42 states)	*2*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,953*
rank (of 42 states)	*18*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$248,913*
rank (of 42 states)	*4*
NSWI Worker Safety Score (out of 116 possible)	*55*

6.2.40 RHODE ISLAND

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*Eff 1991-2*
Assigned Risk Plan Percentage of Total Market	*80%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Loss Costs*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*59.0%*
Loss Ratio (1990):	
Private Companies	*144%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*0.8%*
State Fund	*NA*
Premium Rate Index (1990)	*5.77*
rank (of 51 states)	*7*
Index of Premium Change (1990 cumulative value)	*454*
rank (of 44 states)	*40*

Index of Premium Change, 1974-1992
1974=100

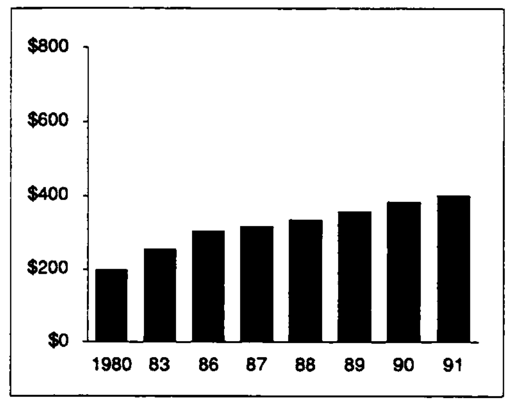


Average Profitability, 1985-89	*-15.30%*
Expense Ratios (1990):	
Stock	*32.4%*
Nonstock	*26.7%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*13.5*
Frequency of Medical Claims (per 100,000 workers)	*8,862*
rank (of 40 states)	*37*
Average Benefit Costs	*$618*
rank (of 40 states)	*6*
Maximum Temporary Disability Weekly Benefit (1991)	*$403*
rank (of 51 states)	*24*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

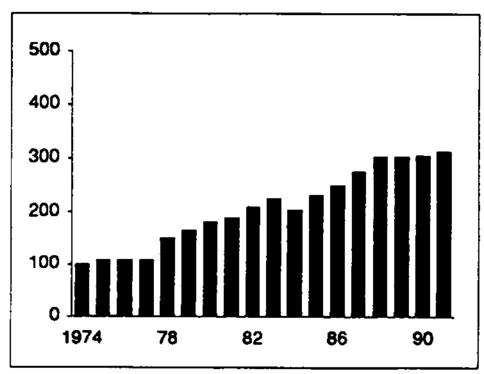


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*98%*
rank (of 51 states)	*30*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,088*
rank (of 42 states)	*38*
Utilization of Temp. Total Disability (per 100,000 workers)	*2,674*
rank (of 42 states)	*6*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$194,421*
rank (of 42 states)	*10*
NSWI Worker Safety Score (out of 116 possible)	*59*

6.2.41 SOUTH CAROLINA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*Eff 1990*
Assigned Risk Plan Percentage of Total Market	*26%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*34.6%*
Loss Ratio (1990):	
Private Companies	*87%*
State Fund	*110%*
Dividend Ratio (1990):	
Private Companies	*2.8%*
State Fund	*0.0%*
Premium Rate Index (1990)	*3.22*
rank (of 51 states)	*35*
Index of Premium Change (1990 cumulative value)	*306*
rank (of 44 states)	*26*

Index of Premium Change, 1974-1992
1974=100

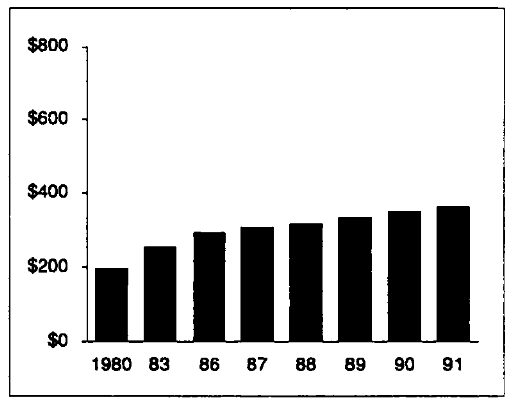


Average Profitability, 1985-89	*6.28%*
Expense Ratios (1990):	
Stock	*31.0%*
Nonstock	*25.3%*
State Fund	*5.7%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*11*
Frequency of Medical Claims (per 100,000 workers)	*10,546*
rank (of 40 states)	*17*
Average Benefit Costs	*$228*
rank (of 40 states)	*33*
Maximum Temporary Disability Weekly Benefit (1991)	*$364*
rank (of 51 states)	*33*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

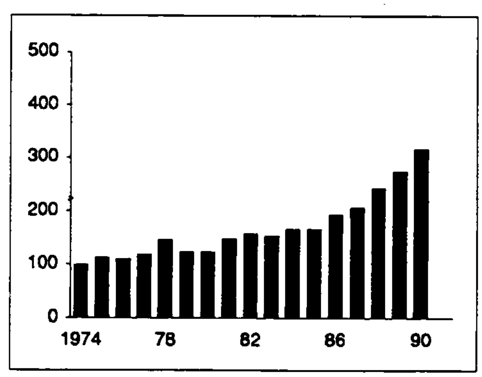


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*101%*
rank (of 51 states)	*15*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,757*
rank (of 42 states)	*12*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,051*
rank (of 42 states)	*44*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$42,730*
rank (of 42 states)	*42*
NSWI Worker Safety Score (out of 116 possible)	*26*

6.2.42 SOUTH DAKOTA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*23%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*24.5%*
Loss Ratio (1990):	
Private Companies	*83%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*2.6%*
State Fund	*NA*
Premium Rate Index (1990)	*3.06*
rank (of 51 states)	*37*
Index of Premium Change (1990 cumulative value)	*318*
rank (of 44 states)	*30*

Index of Premium Change, 1974-1992
1974=100

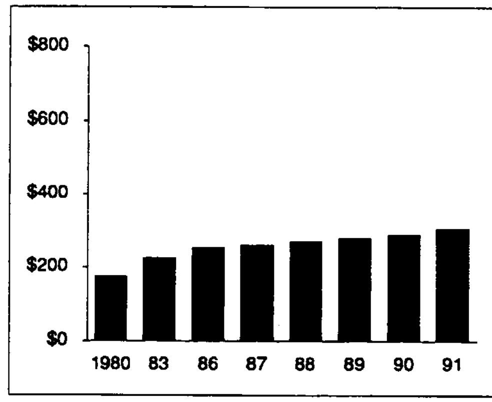


Average Profitability, 1985-89	*1.54%*
Expense Ratios (1990):	
Stock	*28.1%*
Nonstock	*22.4%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*13.25*
Frequency of Medical Claims (per 100,000 workers)	*9,415*
rank (of 40 states)	*27*
Average Benefit Costs	*$233*
rank (of 40 states)	*31*
Maximum Temporary Disability Weekly Benefit (1991)	*$308*
rank (of 51 states)	*41*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

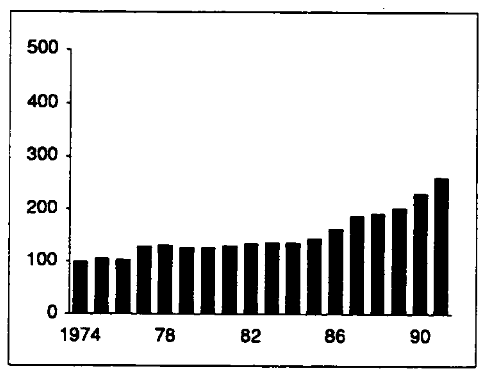


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*99%*
rank (of 51 states)	*25*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,892*
rank (of 42 states)	*11*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,324*
rank (of 42 states)	*39*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$196,922*
rank (of 42 states)	*9*
NSWI Worker Safety Score (out of 116 possible)	*25*

6.2.43 TENNESSEE

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*27%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*30.8%*
Loss Ratio (1990):	
Private Companies	*90%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*2.3%*
State Fund	*NA*
Premium Rate Index (1990)	*3.34*
rank (of 51 states)	*32*
Index of Premium Change (1990 cumulative value)	*231*
rank (of 44 states)	*9*

Index of Premium Change, 1974-1992
1974=100

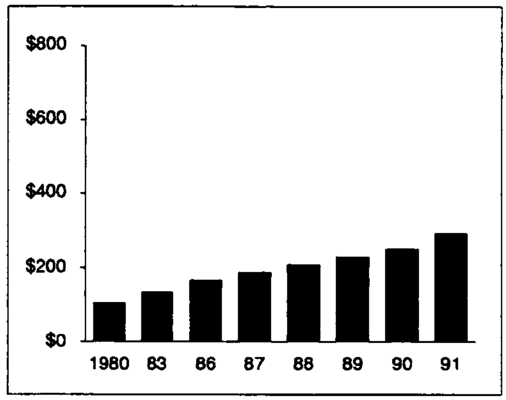


Average Profitability, 1985-89	*-0.12%*
Expense Ratios (1990):	
Stock	*30.0%*
Nonstock	*24.3%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*8.5*
Frequency of Medical Claims (per 100,000 workers)	*9,770*
rank (of 40 states)	*23*
Average Benefit Costs	*$229*
rank (of 40 states)	*32*
Maximum Temporary Disability Weekly Benefit (1991)	*$294*
rank (of 51 states)	*43*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

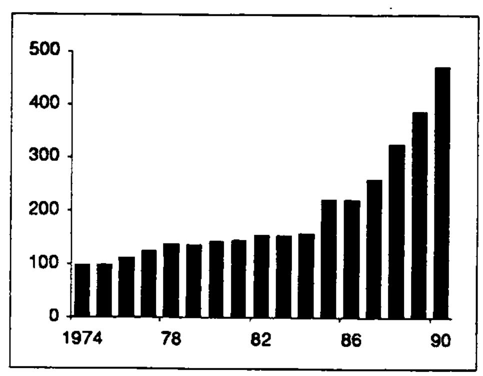


Are Disability Benefit Levels Indexed?	*No*
Temporary Disability as Percentage of State AWW	*72%*
rank (of 51 states)	*43*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,486*
rank (of 42 states)	*27*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,427*
rank (of 42 states)	*35*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$55,963*
rank (of 42 states)	*38*
NSWI Worker Safety Score (out of 116 possible)	*24*

6.2.44 TEXAS

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*Eff 1991-2*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*No*
Type of Ratemaking Law	*Administered Pricing, no deviations*
NCCI or Independent Rating Bureau	*State Authority*
Market Share of Top Three Private Companies (1990)	*26.8%*
Loss Ratio (1990):	
Private Companies	*94%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*1.9%*
State Fund	*NA*
Premium Rate Index (1990)	*6.46*
rank (of 51 states)	*2*
Index of Premium Change (1990 cumulative value)	*473*
rank (of 44 states)	*43*

Index of Premium Change, 1974-1992
1974=100

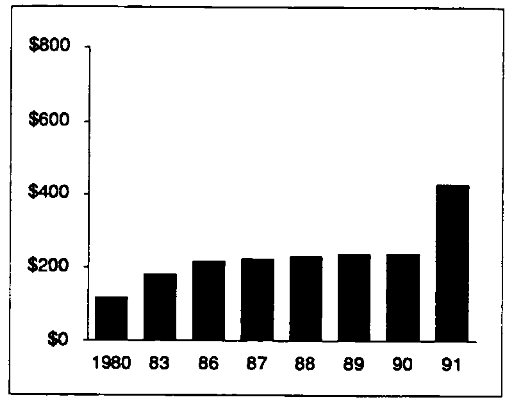


Average Profitability, 1985-89	*-10.90%*
Expense Ratios (1990):	
Stock	*29.6%*
Nonstock	*23.9%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	9.5
Frequency of Medical Claims (per 100,000 workers)	
rank (of 40 states)	
Average Benefit Costs	
rank (of 40 states)	
Maximum Temporary Disability Weekly Benefit (1991)	$428
rank (of 51 states)	17

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

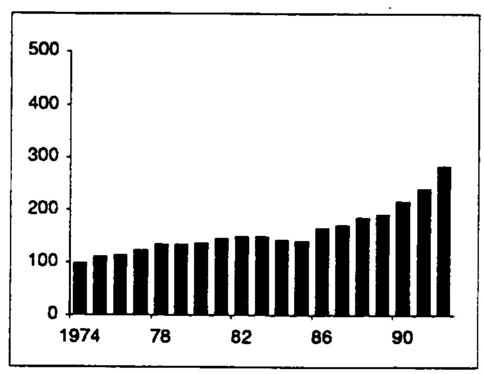


Are Disability Benefit Levels Indexed?	No
Temporary Disability as Percentage of State AWW	102%
rank (of 51 states)	11
Ave. Incurred Indemnity Cost for Temp. Disability Claim	$0
rank (of 42 states)	0
Utilization of Temp. Total Disability (per 100,000 workers)	1,510
rank (of 42 states)	31
Waiting Period (days)	7
Average Incurred Indemnity of Fatalities	$0
rank (of 42 states)	0
NSWI Worker Safety Score (out of 116 possible)	72

6.2.45 UTAH

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Competitive*
State Fund Percentage of Insured Market (1990)	*63%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*23.9%*
Loss Ratio (1990):	
Private Companies	*96%*
State Fund	*93%*
Dividend Ratio (1990):	
Private Companies	*2.2%*
State Fund	*0.0%*
Premium Rate Index (1990)	*2.34*
rank (of 51 states)	*46*
Index of Premium Change (1990 cumulative value)	*216*
rank (of 44 states)	*7*

Index of Premium Change, 1974-1992
1974=100

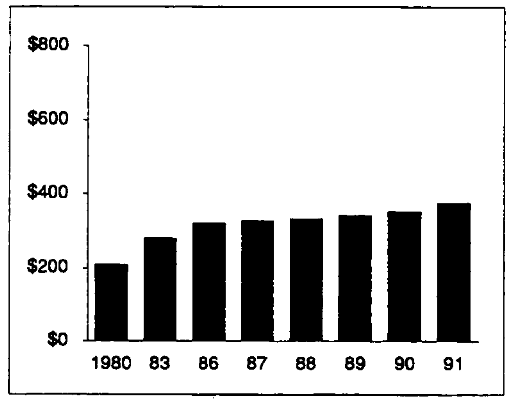


Average Profitability, 1985-89	*11.80%*
Expense Ratios (1990):	
Stock	*33.6%*
Nonstock	*27.9%*
State Fund	*16.7%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*12*
Frequency of Medical Claims (per 100,000 workers)	*13,447*
rank (of 40 states)	*3*
Average Benefit Costs	*$201*
rank (of 40 states)	*37*
Maximum Temporary Disability Weekly Benefit (1991)	*$378*
rank (of 51 states)	*32*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

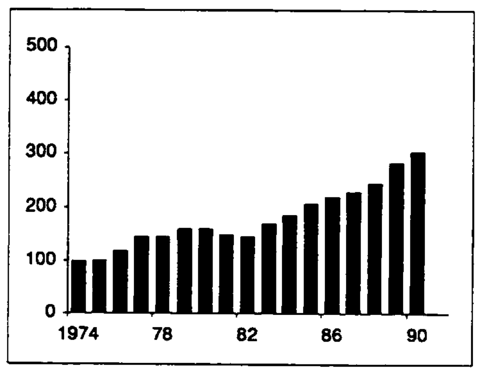


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*99%*
rank (of 51 states)	*26*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,337*
rank (of 42 states)	*30*
Utilization of Temp. Total Disability (per 100,000 workers)	*2,038*
rank (of 42 states)	*16*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$101,865*
rank (of 42 states)	*21*
NSWI Worker Safety Score (out of 116 possible)	*26*

6.2.46 VERMONT

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*36%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Advisory Rates*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*34.2%*
Loss Ratio (1990):	
Private Companies	*91%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*2.4%*
State Fund	*NA*
Premium Rate Index (1990)	*2.88*
rank (of 51 states)	*40*
Index of Premium Change (1990 cumulative value)	*305*
rank (of 44 states)	*24*

Index of Premium Change, 1974-1992
1974=100

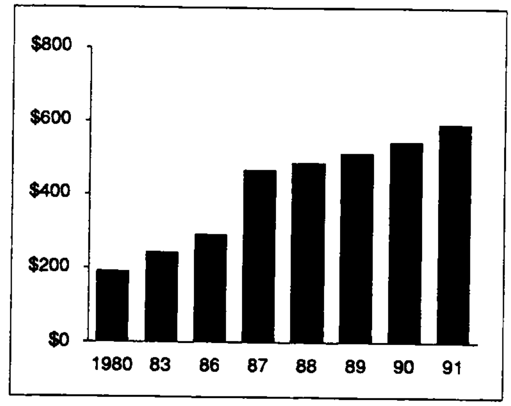


Average Profitability, 1985-89	*6.50%*
Expense Ratios (1990):	
Stock	*27.9%*
Nonstock	*22.2%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*15.25*
Frequency of Medical Claims (per 100,000 workers)	*9,587*
rank (of 40 states)	*26*
Average Benefit Costs	*$226*
rank (of 40 states)	*34*
Maximum Temporary Disability Weekly Benefit (1991)	*$592*
rank (of 51 states)	*6*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

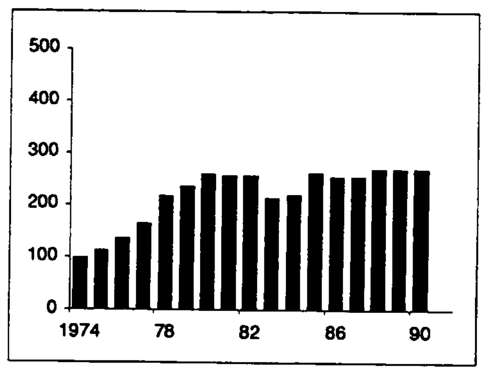


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*148%*
rank (of 51 states)	*3*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,285*
rank (of 42 states)	*32*
Utilization of Temp. Total Disability (per 100,000 workers)	*2,247*
rank (of 42 states)	*13*
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	*$109,217*
rank (of 42 states)	*19*
NSWI Worker Safety Score (out of 116 possible)	*38*

6.2.47 VIRGINIA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*18%*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, with deviations*
NCCI or Independent Rating Bureau	*NCCI*
Market Share of Top Three Private Companies (1990)	*24.3%*
Loss Ratio (1990):	
Private Companies	*88%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*5.0%*
State Fund	*NA*
Premium Rate Index (1990)	*2.19*
rank (of 51 states)	*49*
Index of Premium Change (1990 cumulative value)	*269*
rank (of 44 states)	*20*

Index of Premium Change, 1974-1992
1974=100

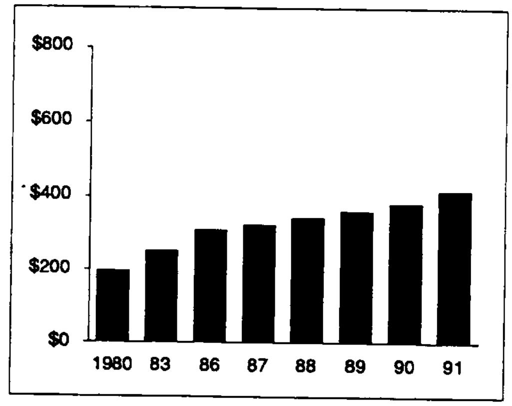


Average Profitability, 1985-89	*7.50%*
Expense Ratios (1990):	
Stock	*27.7%*
Nonstock	*22.0%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*10.5*
Frequency of Medical Claims (per 100,000 workers)	*9,143*
rank (of 40 states)	*33*
Average Benefit Costs	*$238*
rank (of 40 states)	*30*
Maximum Temporary Disability Weekly Benefit (1991)	*$418*
rank (of 51 states)	*20*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

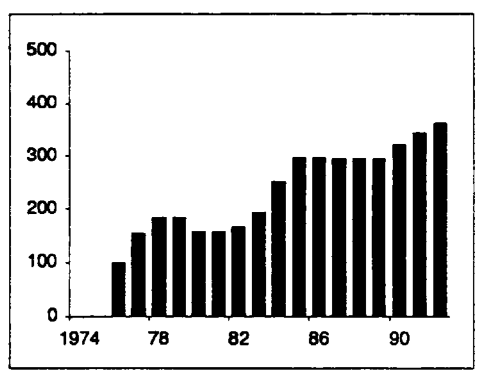


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*98%*
rank (of 51 states)	*31*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$1,559*
rank (of 42 states)	*21*
Utilization of Temp. Total Disability (per 100,000 workers)	*1,337*
rank (of 42 states)	*38*
Waiting Period (days)	*7*
Average Incurred Indemnity of Fatalities	*$70,071*
rank (of 42 states)	*34*
NSWI Worker Safety Score (out of 116 possible)	*60*

6.2.48 WASHINGTON

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Elected*
INSURANCE AND RATEMAKING	
State Fund	*Exclusive*
State Fund Percentage of Insured Market (1990)	*100%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Exclusive Fund*
NCCI or Independent Rating Bureau	*Exclusive Fund*
Market Share of Top Three Private Companies (1990)	*78.3%*
Loss Ratio (1990):	
Private Companies	*NA*
State Fund	*116%*
Dividend Ratio (1990):	
Private Companies	*NA*
State Fund	*0.0%*
Premium Rate Index (1990)	*3.92*
rank (of 51 states)	*23*
Index of Premium Change (1990 cumulative value)	*321*
rank (of 44 states)	*NA*

Index of Premium Change, 1974-1992
1974=100

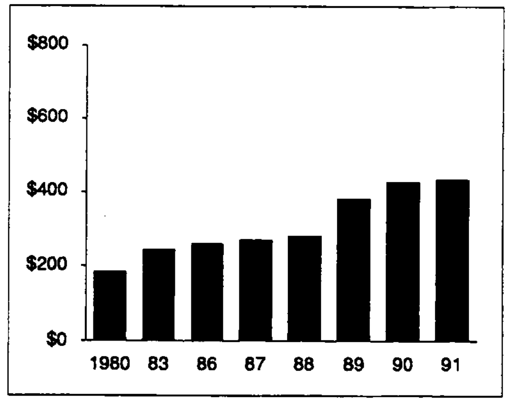


Average Profitability, 1985-89	
Expense Ratios (1990):	
Stock	*NA*
Nonstock	*NA*
State Fund	*16.8%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*13*
Frequency of Medical Claims (per 100,000 workers)	*11,921*
rank (of 40 states)	*NA*
Average Benefit Costs	
rank (of 40 states)	
Maximum Temporary Disability Weekly Benefit (1991)	*$436*
rank (of 51 states)	*12*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

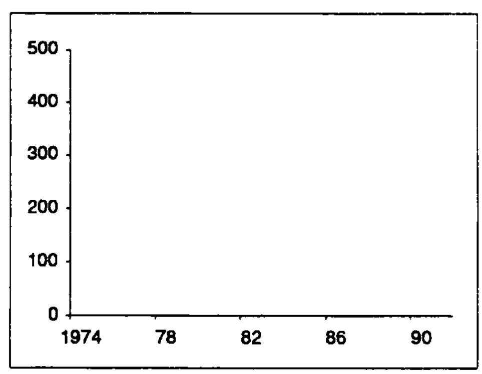


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*100%*
rank (of 51 states)	*20*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	
rank (of 42 states)	
Utilization of Temp. Total Disability (per 100,000 workers)	
rank (of 42 states)	
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	
rank (of 42 states)	
NSWI Worker Safety Score (out of 116 possible)	*55*

6.2.49 WEST VIRGINIA

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Exclusive*
State Fund Percentage of Insured Market (1990)	*100%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Exclusive Fund*
NCCI or Independent Rating Bureau	*Exclusive Fund*
Market Share of Top Three Private Companies (1990)	*61.8%*
Loss Ratio (1990):	
Private Companies	*NA*
State Fund	*157%*
Dividend Ratio (1990):	
Private Companies	*NA*
State Fund	*0.0%*
Premium Rate Index (1990)	*2.30*
rank (of 51 states)	*48*
Index of Premium Change (1990 cumulative value)	
rank (of 44 states)	

Index of Premium Change, 1974-1992
1974=100

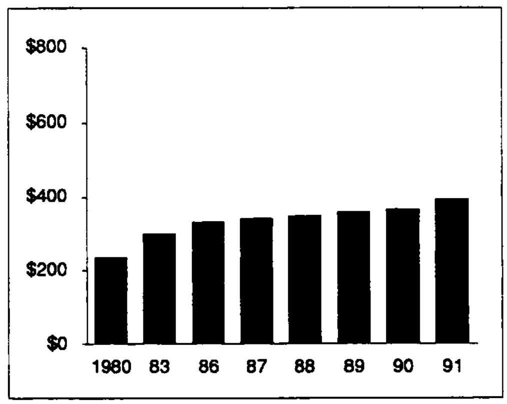


Average Profitability, 1985-89	
Expense Ratios (1990):	
Stock	*NA*
Nonstock	*NA*
State Fund	*7.3%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*13.75*
Frequency of Medical Claims (per 100,000 workers)	
rank (of 40 states)	
Average Benefit Costs	
rank (of 40 states)	
Maximum Temporary Disability Weekly Benefit (1991)	*$394*
rank (of 51 states)	*27*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

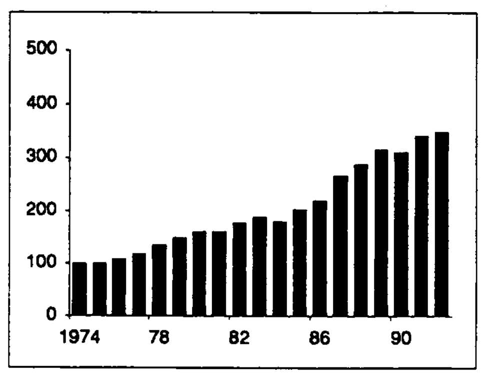


Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*99%*
rank (of 51 states)	*27*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	*$2,703*
rank (of 42 states)	*NA*
Utilization of Temp. Total Disability (per 100,000 workers)	
rank (of 42 states)	
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	
rank (of 42 states)	
NSWI Worker Safety Score (out of 116 possible)	*47*

6.2.50 WISCONSIN

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*None*
State Fund Percentage of Insured Market (1990)	*NA*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*Yes*
Type of Ratemaking Law	*Administered Pricing, no deviations*
NCCI or Independent Rating Bureau	*Independent*
Market Share of Top Three Private Companies (1990)	*24.3%*
Loss Ratio (1990):	
Private Companies	*65%*
State Fund	*NA*
Dividend Ratio (1990):	
Private Companies	*5.9%*
State Fund	*NA*
Premium Rate Index (1990)	*2.99*
rank (of 51 states)	*38*
Index of Premium Change (1990 cumulative value)	*312*
rank (of 44 states)	*27*

Index of Premium Change, 1974-1992
1974=100

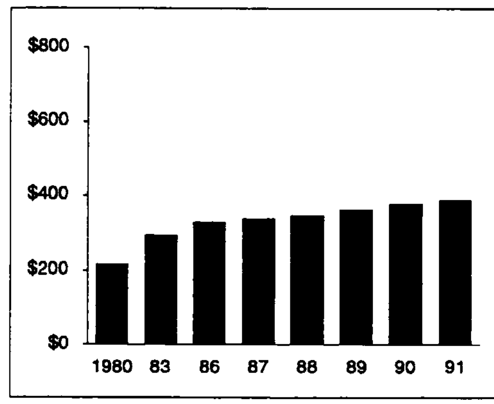


Average Profitability, 1985-89	*7.28%*
Expense Ratios (1990):	
Stock	*27.6%*
Nonstock	*21.9%*
State Fund	*NA*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	15
Frequency of Medical Claims (per 100,000 workers)	11,249
rank (of 40 states)	11
Average Benefit Costs	$242
rank (of 40 states)	28
Maximum Temporary Disability Weekly Benefit (1991)	$388
rank (of 51 states)	29

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)

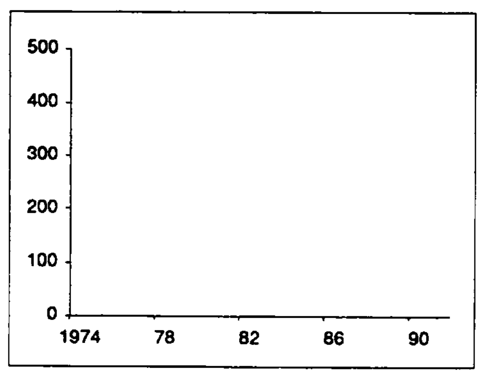


Are Disability Benefit Levels Indexed?	Yes
Temporary Disability as Percentage of State AWW	99%
rank (of 51 states)	28
Ave. Incurred Indemnity Cost for Temp. Disability Claim	$1,180
rank (of 42 states)	34
Utilization of Temp. Total Disability (per 100,000 workers)	2,630
rank (of 42 states)	8
Waiting Period (days)	3
Average Incurred Indemnity of Fatalities	$83,170
rank (of 42 states)	30
NSWI Worker Safety Score (out of 116 possible)	58

6.2.51 WYOMING

BACKGROUND	
Elected or Appointed Insurance Commissioner	*Appointed*
INSURANCE AND RATEMAKING	
State Fund	*Exclusive*
State Fund Percentage of Insured Market (1990)	*100%*
Assigned Risk Plan Percentage of Total Market	*NA*
Self-Insurance Allowed?	*No*
Type of Ratemaking Law	*Exclusive Fund*
NCCI or Independent Rating Bureau	*Exclusive Fund*
Market Share of Top Three Private Companies (1990)	*60.8%*
Loss Ratio (1990):	
Private Companies	*NA*
State Fund	*114%*
Dividend Ratio (1990):	
Private Companies	*NA*
State Fund	*0.0%*
Premium Rate Index (1990)	*2.47*
rank (of 51 states)	*44*
Index of Premium Change (1990 cumulative value)	
rank (of 44 states)	

Index of Premium Change, 1974-1992
1974=100

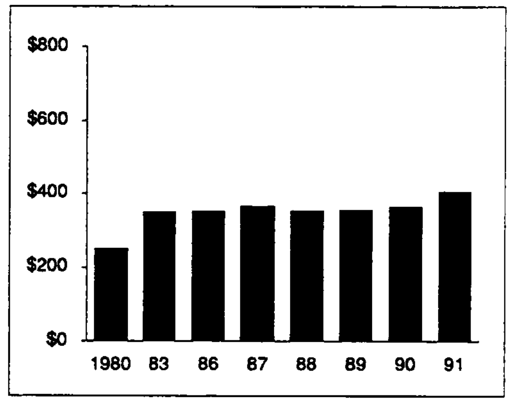


Average Profitability, 1985-89	
Expense Ratios (1990):	
Stock	*NA*
Nonstock	*NA*
State Fund	*4.3%*

COMPENSATION BENEFITS

Compliance with National Commission 19 Essential Recommendations (1989)	*10*
Frequency of Medical Claims (per 100,000 workers)	
rank (of 40 states)	
Average Benefit Costs	
rank (of 40 states)	
Maximum Temporary Disability Weekly Benefit (1991)	*$407*
rank (of 51 states)	*22*

Maximum Temporary Disability Weekly Benefit (1980, 1983, 1986-1991)



Are Disability Benefit Levels Indexed?	*Yes*
Temporary Disability as Percentage of State AWW	*98%*
rank (of 51 states)	*32*
Ave. Incurred Indemnity Cost for Temp. Disability Claim	
rank (of 42 states)	
Utilization of Temp. Total Disability (per 100,000 workers)	
rank (of 42 states)	
Waiting Period (days)	*3*
Average Incurred Indemnity of Fatalities	
rank (of 42 states)	
NSWI Worker Safety Score (out of 116 possible)	*12*

6.3 TAXES AND ASSESSMENTS

The Reporting Guide Book for the Annual Calls for Experience issued by the National Council on Compensation Insurance effective January 1, 1990, provides a summary on a state by state basis as to the additional taxes and assessments that must be paid by the insurance companies to the states.

A Taxes and Assessments Exhibit 6.3 has been developed in order to clarify the taxes and assessments associated with each state. The exhibit identifies the state, type of payment, how collected and includes losses in submission.

As an example, California indicates a maximum of $70,000 in no dependency death cases or the unpaid balance is paid to the second injury fund assessment. An additional amount is paid to the Insurance Commissioner Regulatory Trust Fund and there is a maximum of $500 in each fiscal year.

The State of California compensation law states that in connection with certain types of injury a specified amount shall be paid into special funds (e.g., a Second Injury Fund), and that such amounts are in addition to the compensation payable to the injured worker or his dependents, then the combined total amounts shall be reported as incurred indemnity losses. Any special payments to the state, that is assessed on total premium writings, shall not be reported as losses. In summary, special funds or assessments are reported as incurred losses only when the assessment is levied on certain types of injuries.

The State of California Second Injury Fund is involved when a second permanent partial injury, which added to an existing permanent partial disability, results in a 70% or more permanent disability.

The following is Exhibit 6.3, Taxes and Assessments for all states listed in alphabetical order:

EXHIBIT 6.3
TAXES AND ASSESSMENTS

STATE	TYPE OF PAYMENT	HOW COLLECTED	INCLUDE AS LOSSES IN SUBMISSION
AL	1. City Taxes	Tax on premium	No
	2. Second Injury Fund	$100 in each death case	Yes
	3. Insurance Guaranty Assoc.– W.C. Account	Tax on premium	No
AK	1. Second Injury Fund	$10,000 in no-dependency death cases	Yes
		5% of all disability losses	Yes
	2. Ins. Guaranty Assoc.– W.C. Account	Tax on premium	No
AZ	1. Workers' Compensation and Occupational Disease Tax (Administrative Fund)	Tax on premium	No
	2. Workers' Compensation and Occupational Disease Tax (Special Fund)	Tax on premium	No

EXHIBIT 6.3 - Continued

STATE	TYPE OF PAYMENT	HOW COLLECTED	INCLUDE AS LOSSES IN SUBMISSION
AR	1. W.C. Fund Tax	Tax on premium	No
	2. Second Injury Fund	$500 in no-dependency death cases	Yes
		Tax on premium	No
	3. Death and Permanent Total Disability Trust Fund	$500 on no-dependency death cases	Yes
		Tax on premium	No
	4. Property & Casualty Insurance Guaranty	Tax on premium	No
CA	1. Second Injury Fund Assessment	$70,000 in no-dependency death case or unpaid balance	No
	2. Insurance Commissioner Regulatory Trust Fund	Shall not exceed $500 in each fiscal year	No
CO	1. Major Med. Ins. Fund	Tax on premium	No
	2. Subsequent Injury Fund	$15,000 in no-dependency death cases	Yes
		Balance of $15,000 which is not paid to partial dependents in partial dependency cases	Yes
	3. Insurance Guaranty Assoc. W.C. Account	Tax on premium	No
CT	1. W.C. Rehabilitation Division	Assessment on paid losses	No
	2. Second Injury and Compensation Assurance Fund	Assessment on paid losses	No
	3. Administration Costs of W.C. Commissioner's Office	Assessment on paid losses	No
	4. Division of Worker Education	Assessment on paid losses	No
	5. Insurance Guaranty Assoc. Workers Compensation Acct.	Tax on premium	No
DE	1. Second Injury Fund	Tax on premium	No
	2. W.C. Administration Cost Assessment	Assessment on paid losses	No
	3. Insurance Guaranty Assoc	Tax on premium	No
DC	1. Dept of Labor– D.C. Special Fund	$5,000 in no-dependency death cases prior to 7/26/82	Yes
		Assessment on paid losses	No
	2. D.C. Special Fund	$5,000 in no-dependency death cases occurring after 7/26/82	Yes
	3. D.C. Administration Fund	Assessment on paid losses	No
	4. Insurance Guaranty Assoc.– W.C. Account	Tax on premium	No

EXHIBIT 6.3 - Continued

STATE	TYPE OF PAYMENT	HOW COLLECTED	INCLUDE AS LOSSES IN SUBMISSION
FL	1. General Administration Tax	Tax on premium	No
	2. Special Disability (Second Injury) Fund	Tax on premium	No
	3. Insurance Guaranty Assoc. Act–W.C. Account	Tax on premium	No
GA	1. County & Municipal Corporation Tax	Tax on premium	No
	2. W.C. State Board Tax	Tax on premium	No
	3. Subsequent Injury Trust Fund	In no-dependency death cases, one-half of what would be payable to a dependent or $10,000, whichever is less	Yes
		Assessment on paid losses	No
	4. Insurers Insolvency Pool–W.C. Account	Tax on premium	No
HI	1. Special Compensation Fund (Secondary Injury Fund)	Balance between weekly benefits paid out and the total of $8,775 for each death case where dependent's benefits terminate	Yes
		Balance not paid in P.T. and P.P. cases when claimant dies leaving no dependents	Yes
		$8,775 in no-dependency death cases	Yes
		Tax on premium	No
	2. Insurance Guaranty Assoc.	Tax on premium	No
ID	1. Industrial Rehabilitation Fund	Tax on premium	No
	2. Industrial Special Indemnity Fund (Second Injury Fund)	5.0% of all benefits or other considerations, except total temporary disability, and medical benefits	Yes
	3. Industrial Administration Fund	Tax on premium	No
	4. Insurance Guaranty Assoc. W.C. Account	Tax on premium	No
IL	1. Insurance Guaranty Fund	Tax on premium	No
	2. Second Injury Fund	Assessment on indemnity paid losses	No
	3. Compensation Rate Adjustment Fund	Assessment on indemnity paid losses	
IN	1. Second Injury Fund	Assessment on indemnity paid losses	No
	2. Safety Ed. & Training Bureau	Assessment on indemnity paid losses	No
	3. Insurance Guaranty Assoc.–W.C. Account	Tax on premium	No
	4. Residual Asbestos Injury Fund	Assessment on indemnity paid losses	No

EXHIBIT 6.3 - Continued

STATE	TYPE OF PAYMENT	HOW COLLECTED	INCLUDE AS LOSSES IN SUBMISSION
IA	1. Insurance Guaranty Assoc.	Tax on premium	No
	2. Second Injury Fund	$2,000 in dependency death cases	Yes
		$5,000 in no-dependency death cases	Yes
		Between 50% to 100% of death benefits payable to a dependent who is an alien not residing in the U.S. at the time of death of employee	Yes
KS	1. W.C. Fund (formerly Second Injury Fund)	$18,500 in no-dependency death cases	Yes
		Assessment on paid losses	No
	2. W.C. Administration Expenses	Assessment on paid losses	No
	3. Insurance Guaranty Assoc.	Tax on premium	No
KY	1. Special Fund Assessment– Part 1	Tax on premium	No
		Assessment on "adjusted costs"	No
	2. Special Fund Assessment Part 2 (Ky. Reinsurance– Assoc.)	Assessment on "adjusted costs"	No
	3. Insurance Guaranty Assoc.	Tax on premium	No
LA	1. Insurance Rating Commission	Tax on premium	No
	2. Second Injury Fund	Tax on premium	No
	3. Office of W.C. Administration Assessment	Assessment on paid losses	No
	4. Insurance Guaranty Assoc.	Tax on premium	No
ME	1. Second Injury Fund	100 times the avg. weekly wage in Maine for no-dependency death cases	Yes
	2. Safety Education and Training Fund	Assessment on indemnity paid losses	No
	3. Employment Rehabilitation Fund	Assessment on paid losses	No
	4. Occupational Safety Loan Fund	Tax on 1984 premium (one time assessment)	No
	5. Insurance Guaranty Assoc.	Tax on premium	No
MD	1. Subsequent Injury Fund	5% of awards for permanent disability and death including disfigurement and mutilation	Yes
	2. Maryland Insurance Guaranty Assoc.	Tax on premium in the event of insolvency	No
	3. W.C. Commission	Tax on insured payroll	No
	4. Uninsured Employers' Fund Board	1% of awards for permanent disability and death	Yes

EXHIBIT 6.3 - Continued

STATE	TYPE OF PAYMENT	HOW COLLECTED	INCLUDE AS LOSSES IN SUBMISSION
MA	1. Attorney General Tax	Tax on premium	No
	2. Second Injury Fund	Assessment on paid losses	No
		$1,000 on no-dependency death cases	Yes
		Schedule injuries: balance not paid when employee dies leaving no specified survivors	Yes
		$500 on each dependency death case	Yes
	3. Division of Insurance Operating Tax	Tax on premium	No
	4. Department of Industrial Accidents	Tax on premium	No
MI	1. Single Business Tax	Tax on premium	No
	2. Second Injury Fund	Assessment on indemnity paid losses	No
	3. Silicosis, Dust Disease, and Logging Industry Comp. Fund	Assessment on indemnity paid losses	No
	4. Safety Education and Training Board	Assessment on indemnity paid losses	No
	5. Property and Casualty Guaranty Association	Tax on premium	No
MS	1. W.C. Administration Expense Fund	Assessment on indemnity paid losses	No
	2. Second Injury Fund	$300 in dependency death cases	Yes
		$500 on no-dependency death cases	Yes
	3. Insurance Guaranty Assoc.–	Tax on premium	No
MO	1. Work. Comp. Tax	Tax on premium	No
	2. Second Injury Fund	Assessment on paid losses	No
	3. Insurance Guaranty Assoc.– W.C. Account	Tax on premium	No
MT	1. Workers Compensation Administration Fund	Tax on premium	No
	2. Industrial Rehabilitation Fund	Assessment on indemnity paid losses	No
	3. Subsequent Injury Fund	Assessment on indemnity paid losses	No
	4. Uninsured Employers' Fund	$1,000 on death cases	Yes
	5. Casualty and Property Insurance Guaranty Assoc.	Tax on premium	No
NE	1. Second Injury Fund	Tax on premium	No
	2. Vocational Rehabilitation Fund	Tax on premium	No
	3. Property & Liability Ins. Guaranty Assoc.–W.C. Acct.	Tax on premium	No

EXHIBIT 6.3 - Continued

STATE	TYPE OF PAYMENT	HOW COLLECTED	INCLUDE AS LOSSES IN SUBMISSION
NH	1. W.C. Administration Fund	Assessment on paid losses	No
	2. Special Fund for Active Cases	Assessment on paid losses	No
	3. Special Fund for Second Injuries	Assessment on total paid losses	No
	4. Insurance Guaranty–W.C. Acct.	Tax on premium	No
NJ	1. W.C. Tax	Tax on premium	No
	2. Second Injury Fund Tax	Assessment on paid losses	No
	3. W.C. Security Fund Tax	Tax on premium	No
	4. Bureau Tax	Tax on premium	No
	5. Ins. Fraud Prevention Act	Tax on premium	No
NM	1. Subsequent Injury Fund	Assessment on indemnity paid losses	No
		$1,000 in no-dependency death cases	Yes
	2. Property & Casualty Ins. Guaranty Assoc.–W.C. Acct.	Tax on premium	No
NY	1. Mutual W.C. Sec. Fund	Tax on premium	No
	2. Stock W.C. Security Fund	Tax on premium	No
	3. Insurance Dept. Expenses	Tax on premium	No
	4. Workers Comp. Board Expenses	Assessment on indemnity paid losses	No
	5. Special Disability (Second Injury) Fund	Assessment on indemnity paid loses	No
	6. Reopened Case Fund	$3,000 in no-dependency death cases where injuries causing death occurred after 9-1-78	Yes
		Assessment on indemnity paid loses	No
		Where injury causing death sustained on or after 9-1-78 and total amount of benefits is less than $5,000 exclusive of funeral benefits, payments are made to the fund equal to the difference between the sum of $5,000 and actual payments made to the deceased employee's dependents, exclusive of funeral benefits	Yes
	7. Vocational Rehabilitation Fund	$2,000 in no-dependency death cases	Yes
	8. Franchise Tax	Tax on premium	No

EXHIBIT 6.3 - Continued

STATE	TYPE OF PAYMENT	HOW COLLECTED	INCLUDE AS LOSSES IN SUBMISSION
NC	1. Stock or Mutual W.C. Security Fund	Tax on premium	No
	2. Second Injury Fund	Minor Member–$50 on permanent loss or loss of use cases	Yes
		Major Member–$200 on cases of at least 50% permanent loss or loss of use	Yes
OK	1. W.C. Administration Fund	Tax on premium	No
	2. Special Indem. Fund	3% of Permanent Total and Permanent Partial payments	Yes
	3. Special Occupational Health & Safety Fund	(3/4 of 1%) of Total W.C. losses excl. medical and temp. total	Yes
	4. Property and Casualty Ins. Guaranty Fund–W.C. Acct.	Tax on premium	No
OR	1. Workers Compensation Administrative Fund	Tax on premium	No
	2. Insurance Guaranty Assoc.	Tax on premium	No
PA	1. W.C. Security Fund	Tax on premium	No
	2. Subsequent Injury Fund	Assessment on paid losses	No
	3. W.C. Admin. Fund	Assessment on paid losses	No
	4. W.C. Supersedeas Fund	Assessment on paid losses	No
RI	1. Second Injury Fund	Tax on premium	No
		$750 in no-dependency death cases	Yes
	2. Dr. John E. Donley Rehabilitation Center Fund (Curative Center Fund)	Tax on premium	No
		$750 in no-dependency death cases	Yes
	3. Annual Workers Compensation Tax	Tax on premium	No
	4. Insurers' Insolvency Fund–W.C. Account	Tax on premium	No
SC	1. W.C. Tax	Tax on premium	No
	2. Second Injury Fund	Commuted amount for each death case	Yes
		Assessment on paid losses	No
	3. Insurance Guaranty Assoc.–W.C. Account	Tax on premium	No
SD	1. Second Injury Fund (Subsequent Injury Fund)	Assessment on paid losses	No
		$500 in no-dependency death cases	Yes
	2. Insurance Guaranty Assoc. W.C. Account	Tax on premium	No

EXHIBIT 6.3 - Continued

STATE	TYPE OF PAYMENT	HOW COLLECTED	INCLUDE AS LOSSES IN SUBMISSION
TN	1. Second Injury Fund	$150 in compensable death cases prior to 7/1/85	Yes
		$15 in Permanent Partial cases prior to 7/1/85	Yes
		50% of the premium tax collected as of 7/1/85	Yes
	2. Occupational Safety & Health Act	Tax on premium	No
	3. Insurance Guaranty Assoc. W.C. Account	Tax on premium	No
TX	1. State Board of Insurance Maintenance Tax	Tax on premium	No
	2. Industrial Accident Board	Tax on premium	No
	3. Second Injury Fund	Full death benefits in no-dependency cases, not to exceed 360 weeks of compensation	Yes
	4. Property & Casualty Ins. Assoc.—W.C. Account	Tax on premium	No
UT	1. Work Comp. Tax	Tax on premium	No
	2. Second Injury Fund	Tax on premium	No
	3. Casualty Guaranty Assoc.—W.C. Account	Tax on premium	No
	4. Uninsured Employers' Fund	Tax on premium	No
VT	1. Second Injury Fund	$500 in no-dependency death cases	Yes
	2. Property & Casualty Insurance Guaranty Assoc.—W.C. Ins. Account	Tax on premium	No
VA	1. Maintenance Fund Tax	Tax on premium	No
	2. Uninsured Employer's Fund	Tax on premium	No
	3. Second Injury Fund	Tax on premium	No
	4. Insurance Guaranty Assoc.—W.C. Ins. Account	Tax on premium	No

EXHIBIT 6.3 - Continued

STATE	TYPE OF PAYMENT	HOW COLLECTED	INCLUDE AS LOSSES IN SUBMISSION
WI	1. W.C. Administration Assessment	Assessment on indemnity paid losses	No
	2. Second Injury Fund	$7,000 in loss or total impairment of a hand, arm, foot, leg, or eye	Yes
	3. Children's Additional Death Benefit Fund	$5,000 in all death cases leaving one or more persons wholly dependent for support	Yes
		$5,000 and the difference between the death benefit payable to a person wholly dependent and the death benefit payable to a person partially dependent, in all death cases leaving one or more persons partially dependent, with the combined total not to exceed 100% of amount payable for total dependency	Yes
		80% of death benefits which would have paid if there had been dependents in no-dependency death cases	Yes
	4. Insurance Security Fund	Tax on premium	No
USL&HW	1. Special Fund	$5,000 in no-dependency death cases	Yes
		Assessment on paid losses	No

Special Note:

United States Longshoremen and Harbor Workers (USL&HW) Act Liability is defined as coverage under the Workers' Compensation Act for all employees in the maritime industry who perform their function in navigable U.S. waters, including dry docks, wharves, piers, and other places for docking. Excluded are the master and crew of the ship, and any individual involved in loading, unloading, or repairing of a ship whose weight is less than 18 tons.

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SECTION 7.0

WORKERS' COMPENSATION STATE BENEFITS COMPARATIVE ANALYSIS OF SYSTEMS

SECTION 7.0

WORKERS' COMPENSATION STATE BENEFITS COMPARATIVE ANALYSIS OF SYSTEMS

7.1 BENEFIT LEVELS

California is generally considered to be a high cost, low benefit state. Recent data tends to confirm this finding. In this section, we look at various measures of benefit levels.

7.1.1 TEMPORARY TOTAL DISABILITY

The most widely compared workers' compensation benefit is that paid to injured workers when they are temporarily and totally disabled. Exhibit 7.1, "Temporary Total Disability, Maximum Weekly Benefits, 1980" and Exhibit 7.2, "Temporary Total Disability, Maximum Weekly Benefits, 1991" compare California to other states on the maximum weekly benefits for temporary disability in 1980 and 1991. In 1980, California ranked 39th of 51 jurisdictions (states and D.C) on this benefit, paying $154 per week. At the present (1991), California ranks 37th, paying $336 per week. While this appears to be a relatively constant ranking, during much of the 1980s, California's rank fell to as low as 48th among the states with a $224 weekly benefit maximum payable from 1984 through 1989. Exhibit 7.3, "Maximum Temporary Disability Benefit as % of State Average Weekly Wage, 1991" views the benefits levels as a percentage of the state average weekly wage. Because California is a relatively high wage state, this measure drops California back to 45th among 51 jurisdictions on the amount of lost wages replaced by workers' compensation temporary disability benefits.

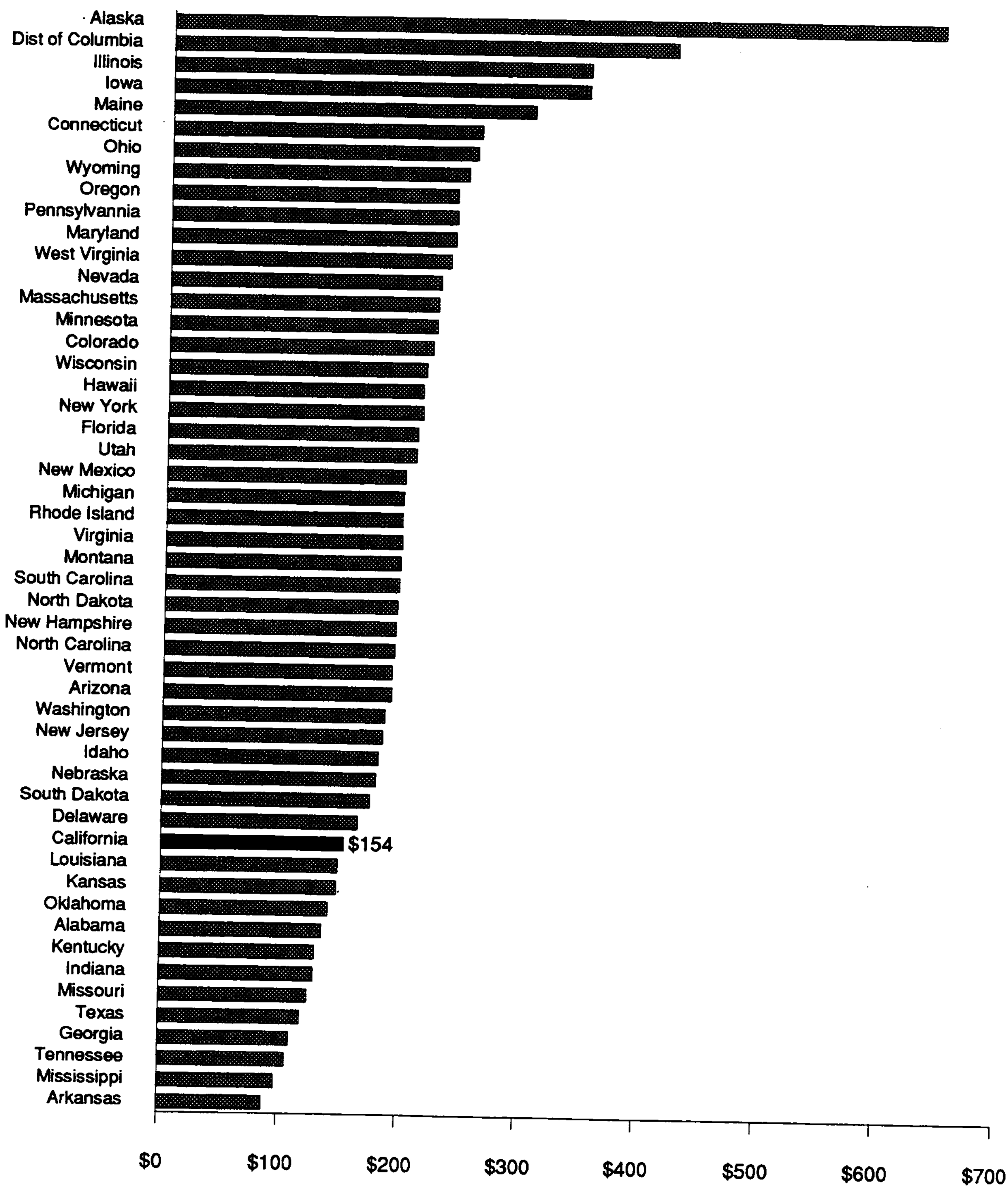
7.1.2 SCHEDULED INJURIES

Another gross measure of benefit levels is the amount of money that goes to an injured worker for a specific type (or *scheduled)* injury. Exhibit 7.4 "Scheduled Injuries: Income Benefits for Hand, 1980" and Exhibit 7.5 "Scheduled Injuries: Income Benefits for Hand, 1991" show income benefits payable for loss of use of a hand in the various states during 1980 and 1991. Again, California ranks in the bottom half of states on this measure. In 1980, California ranked 33rd among 46 states; in 1991, its rank had improved somewhat to 28th of 44 states reporting. Exhibit 7.6 "Scheduled Injuries: Income Benefits for Hearing Loss in One Ear, 1980" and Exhibit 7.7 "Scheduled Injuries: Income Benefits for Hearing Loss in One Ear, 1991" show the same gross benefit payable in the case of hearing loss in one ear. In 1980, California ranked 39th of 42 states reporting, paying $3,157 in benefits for loss of hearing in one ear. By 1991, California ranked 35th of 40 states on this measure of permanent disability benefits, paying $6,335.

Exhibits 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, and 7.7 commence on the following pages:

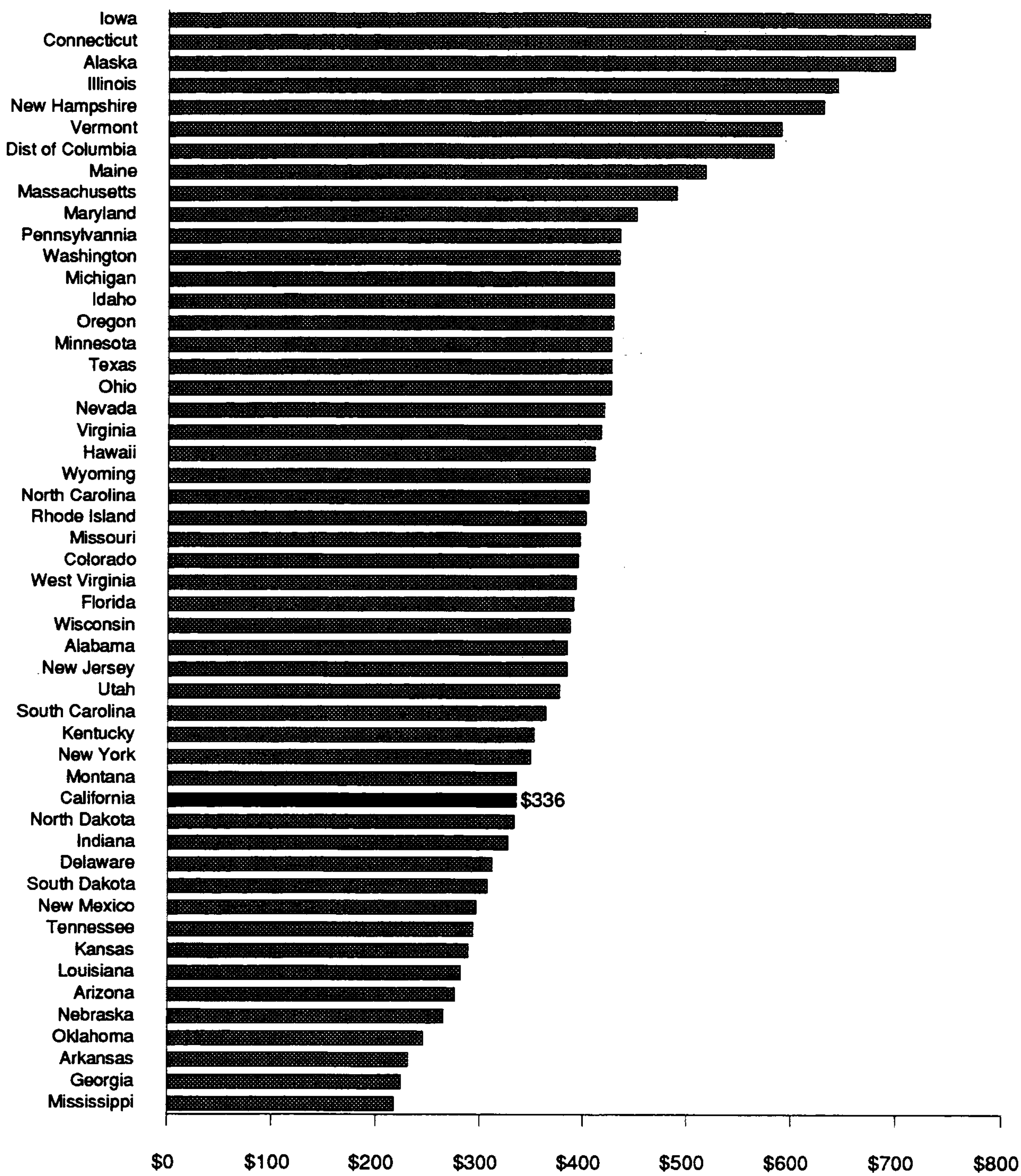
Exhibit 7.1, Page II-7.0-2
Exhibit 7.2, Page II-7.0-3
Exhibit 7.3, Page II-7.0-4
Exhibit 7.4, Page II-7.0-5
Exhibit 7.5, Page II-7.0-6
Exhibit 7.6, Page II-7.0-7
Exhibit 7.7, Page II-7.0-8

EXHIBIT 7.1
TEMPORARY TOTAL DISABILITY
MAXIMUM WEEKLY BENEFITS
1980



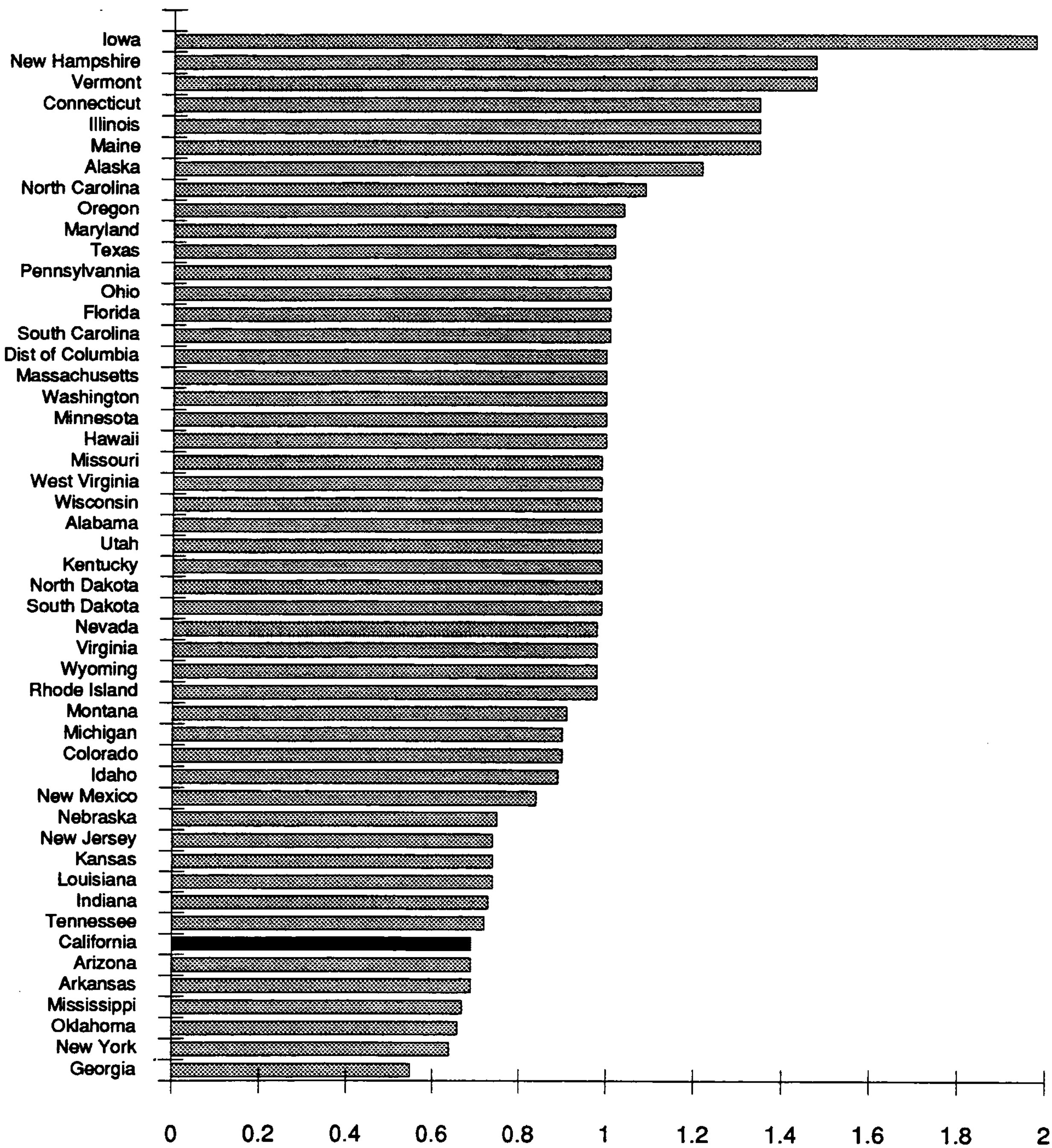
Source: U.S. Chamber of Commerce

EXHIBIT 7.2
TEMPORARY TOTAL DISABILITY
MAXIMUM WEEKLY BENEFITS
1991



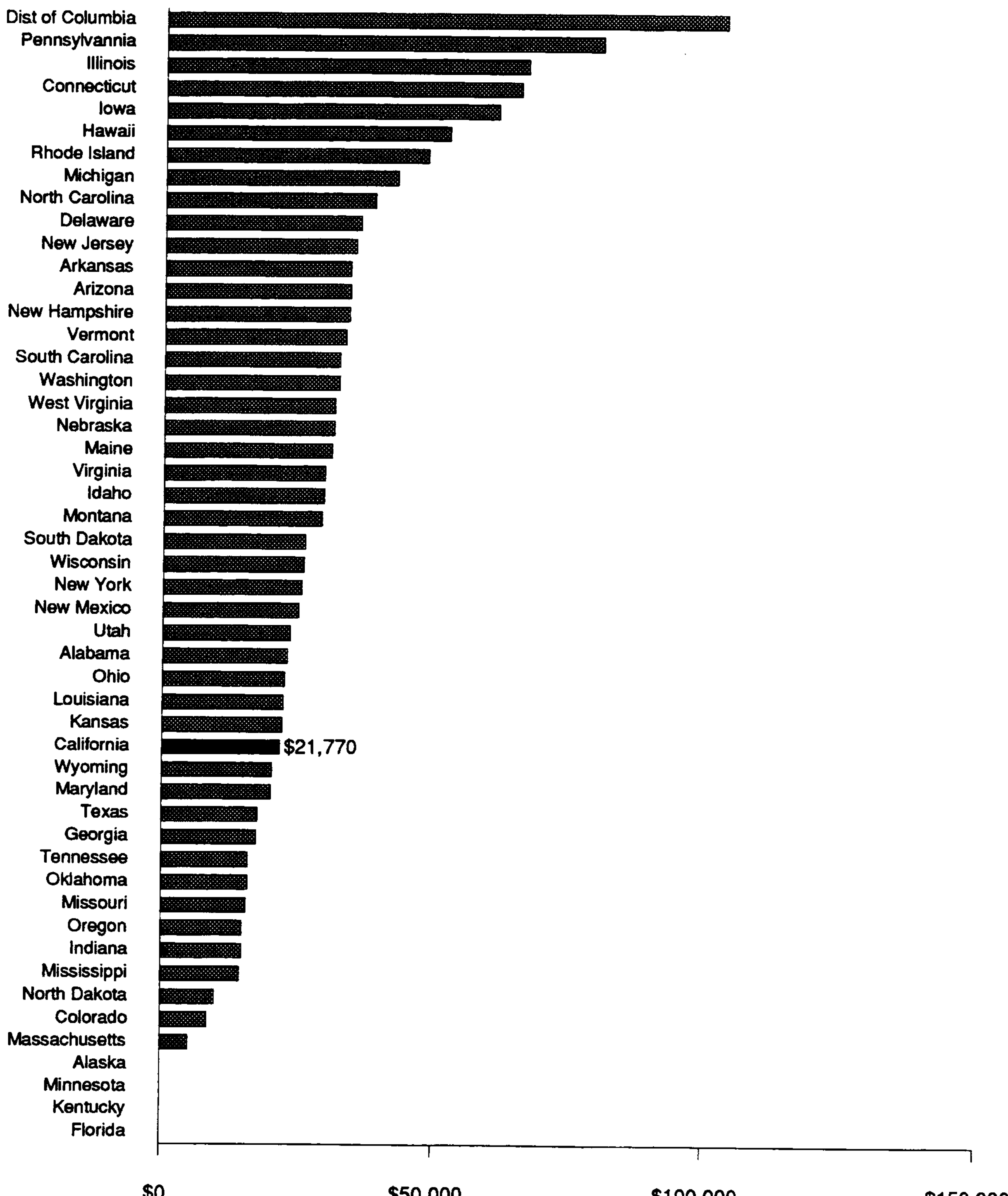
Source: U.S. Chamber of Commerce

EXHIBIT 7.3
MAXIMUM TEMPORARY DISABILITY BENEFIT AS % OF STATE AVERAGE WEEKLY WAGE
1991



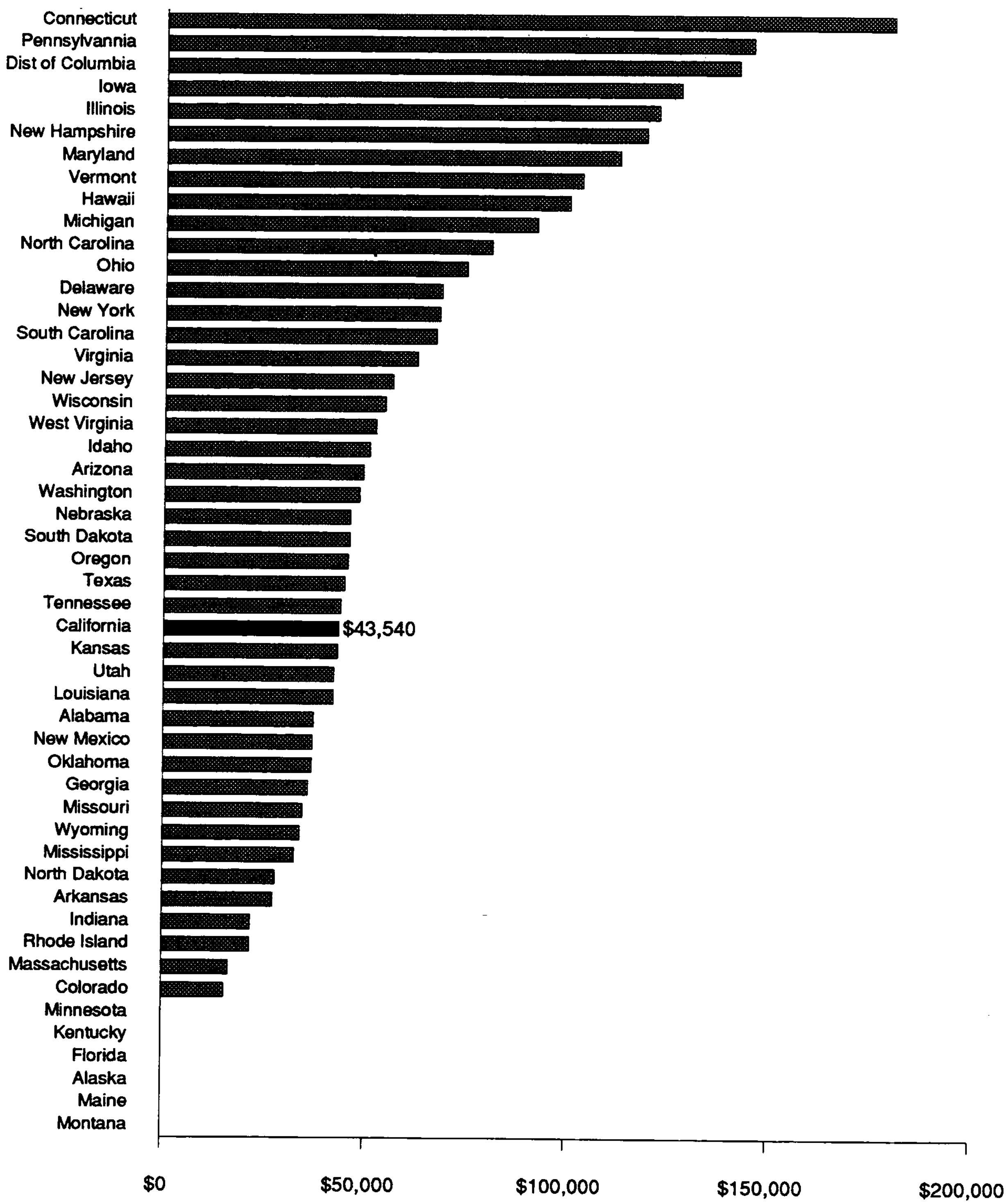
Source: AFL-CIO

EXHIBIT 7.4
SCHEDULED INJURIES:
INCOME BENEFITS FOR HAND
1980



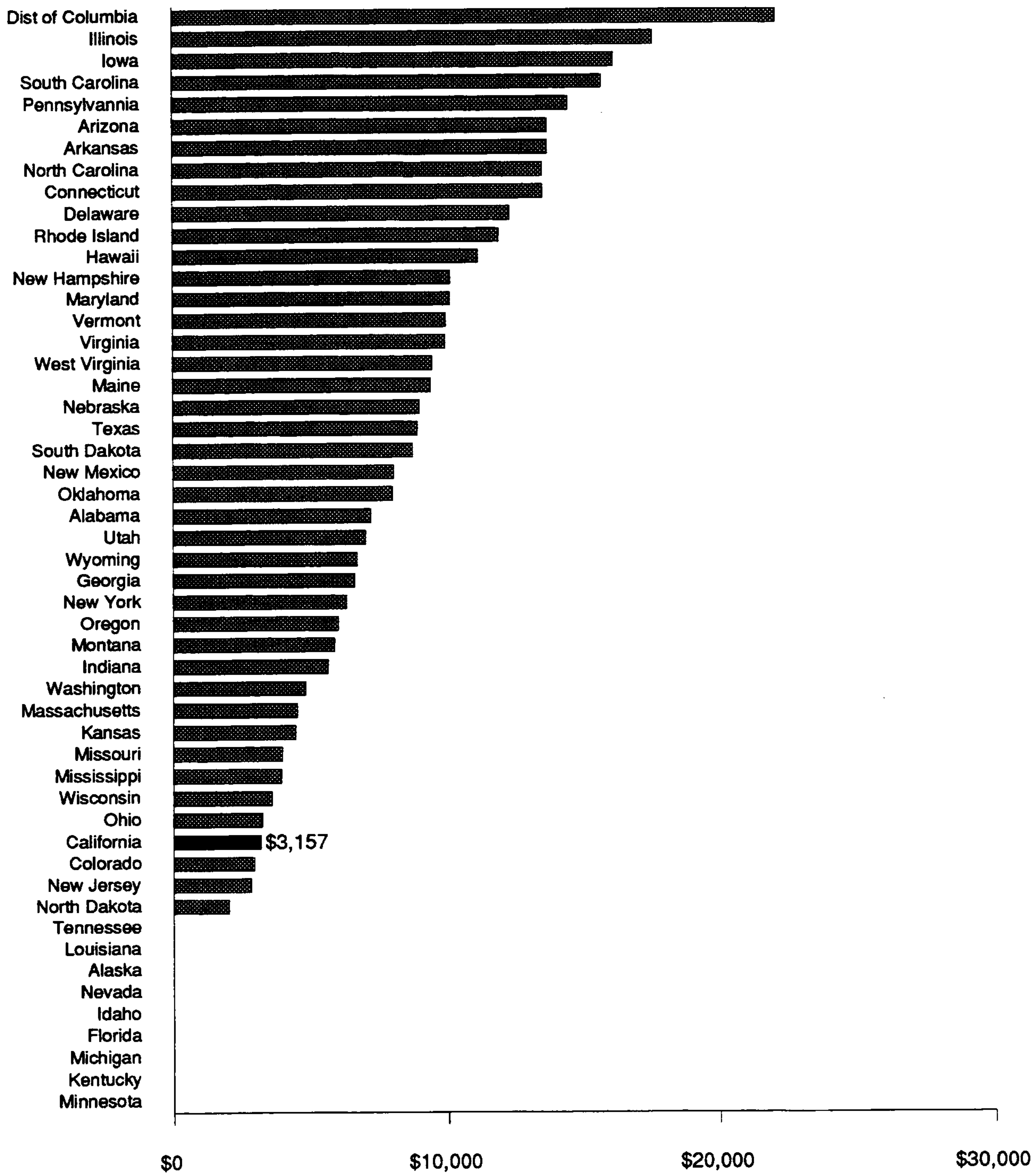
Source: U.S. Chamber of Commerce

EXHIBIT 7.5
SCHEDULED INJURIES: INCOME BENEFITS FOR HAND
1991



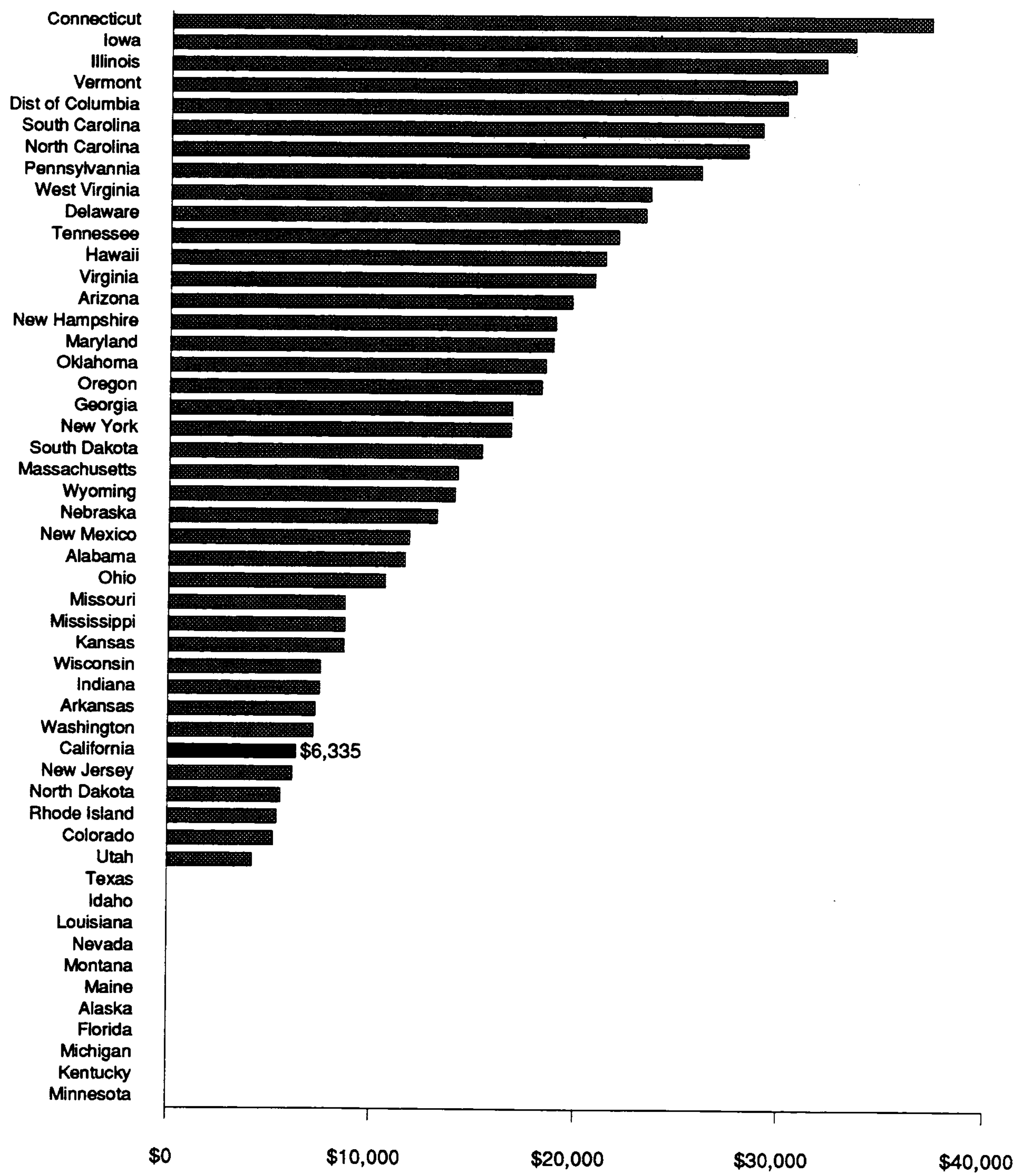
Source: U.S. Chamber of Commerce

EXHIBIT 7.6
SCHEDULED INJURIES:
INCOME BENEFITS FOR HEARING LOSS IN ONE EAR
1980



Source: U.S. Chamber of Commerce

EXHIBIT 7.7
SCHEDULED INJURIES:
INCOME BENEFITS FOR HEARING LOSS IN ONE EAR
1991



Source: U.S. Chamber of Commerce

7.2 UTILIZATION OF BENEFITS

7.2.1 MEDICAL BENEFITS

Exhibit 7.8, "Frequency of all Medical Claims, Per 100,000 Workers (Insured Employers), 1987" identifies the utilization of the medical care benefit in the various states, as a measure of number of medical claims per 100,000 workers working for insured employers. Nationally, approximately 1 in 10 workers has a medical claim each year. California's rate in 1987 was just over 1 in 8 workers. Among a sample of 40 states that reported such information for 1987 to the National Council on Compensation Insurance, California ranked 5th, surpassed only by Oregon, Maine, Utah, and New Hampshire. (Exhibit 7.8 is located on Page II-7.0-10).

7.2.2 PERMANENT PARTIAL DISABILITY

Exhibit 7.9, "Frequency of PPD Claims Per 100,000 Workers (Insured Employers), 1987" shows a similar frequency utilization for Permanent Partial Disability claims among workers of insured employers. California ranked second amongst the states on this measure for 1987, with a rate of 1,456 cases per 100,000 workers. This rate was more than double the national average of 646 cases. Only Oregon had a higher rate of permanent disability claims, according to information published by NCCI. (Exhibit 7.9 is located on Page II-7.0-11).

7.3 COSTS PER CLAIM

7.3.1 PERMANENT PARTIAL DISABILITY

Exhibit 7.10, "Average Incurred Indemnity Cost per PPD Claim (Insured Employers), 1987" indicates that while California had a high frequency of permanent disability claims, it was significantly below the national average in terms of average costs per permanent disability claim. Among 42 states reporting for 1987, California ranked 29th, with an average incurred indemnity cost of about $20,000, compared to a national average of nearly $30,000 per case. (Exhibit 7.10 is located on Page II-7.0-12).

7.3.2 MEDICAL BENEFITS

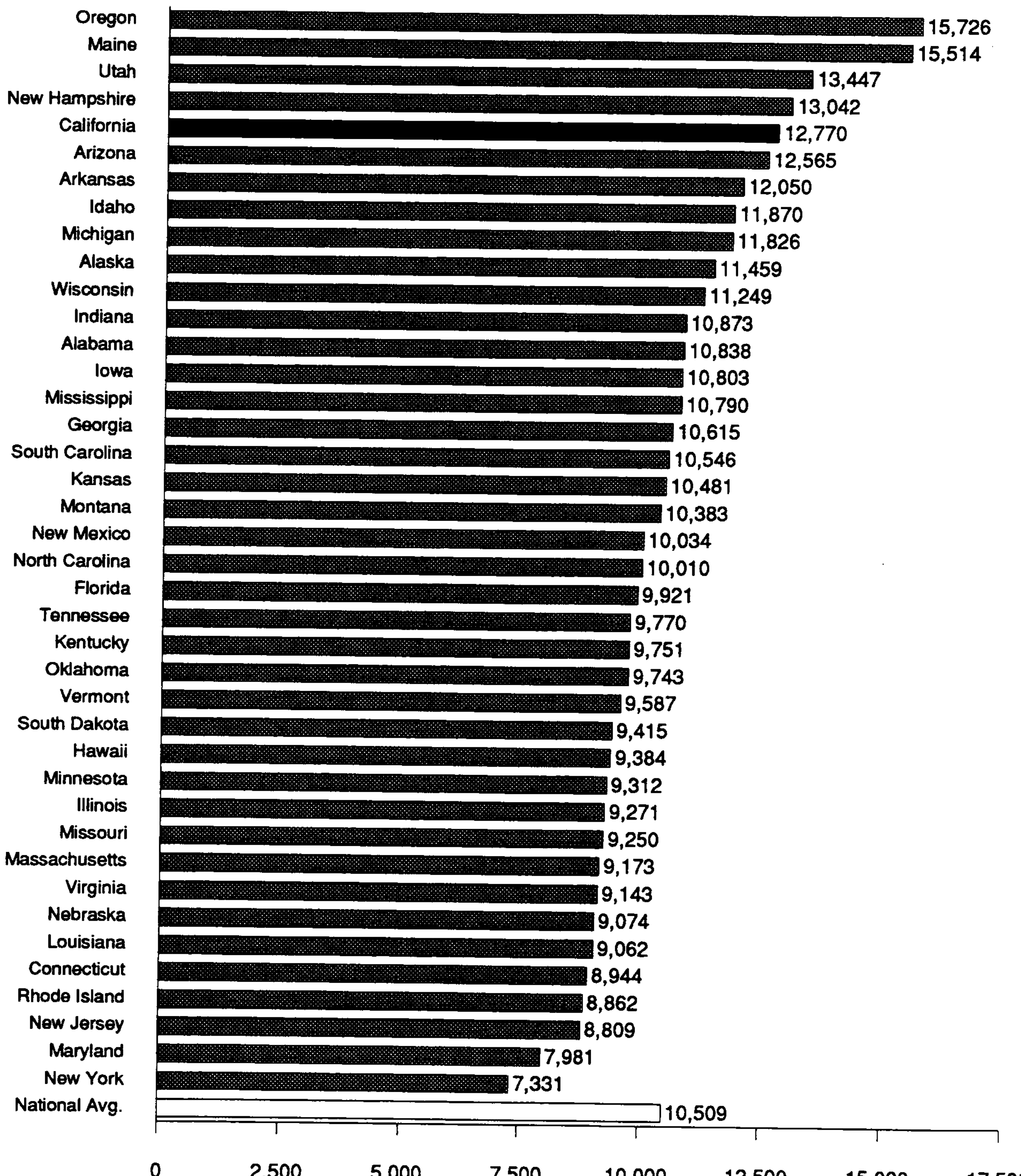
Exhibit 7.11, "Average Incurred Medical Costs per Claim (Insured Employers), 1987" identifies the average incurred medical cost per claim in 1987 of 40 states reporting information to NCCI. California ranked seventh in this category, with per claim medical costs approaching $2,000. This compares to a national average of about $1,400 per claim. (Exhibit 7.11 is located on Page II-7.0-13).

7.4 TOTAL COST

Exhibit 7.12, "Annual Incurred Benefit Costs per Worker (Insured Employer), 1987" helps to summarize Exhibits 7.8, 7.9, 7.10 and 7.11 by identifying the ultimate costs of benefits in the workers' compensation system. It shows the annual incurred benefit costs per worker for insured employers for 1987. This graph shows that overall, California ranks high among the states (8th among 40 reporting to NCCI) in terms of the amount of medical and indemnity benefits paid. This amount is nearly 50% above the average of states. Thus, it appears that the California's workers' compensation system pays relatively low benefits in a relatively high number of cases, with the result being a comparatively high average incurred benefit cost per worker. (Exhibit 7.12 is located on Page II-7.0-14).

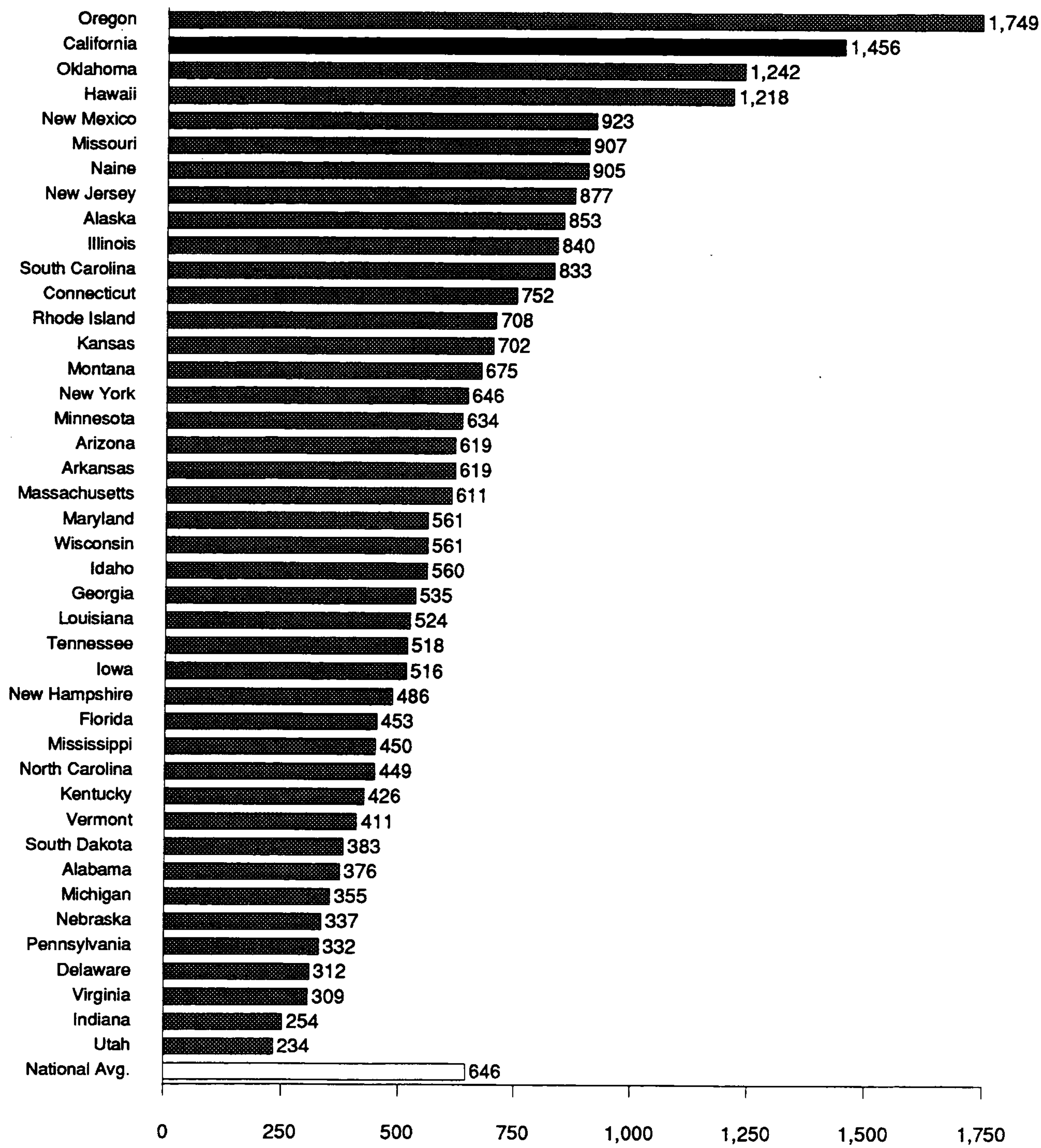
Exhibits 7.8, 7.9, 7.10, 7.11 and 7.12 commence on the following pages.

EXHIBIT 7.8
FREQUENCY OF ALL MEDICAL CLAIMS
PER 100,000 WORKERS (INSURED EMPLOYERS)
1987



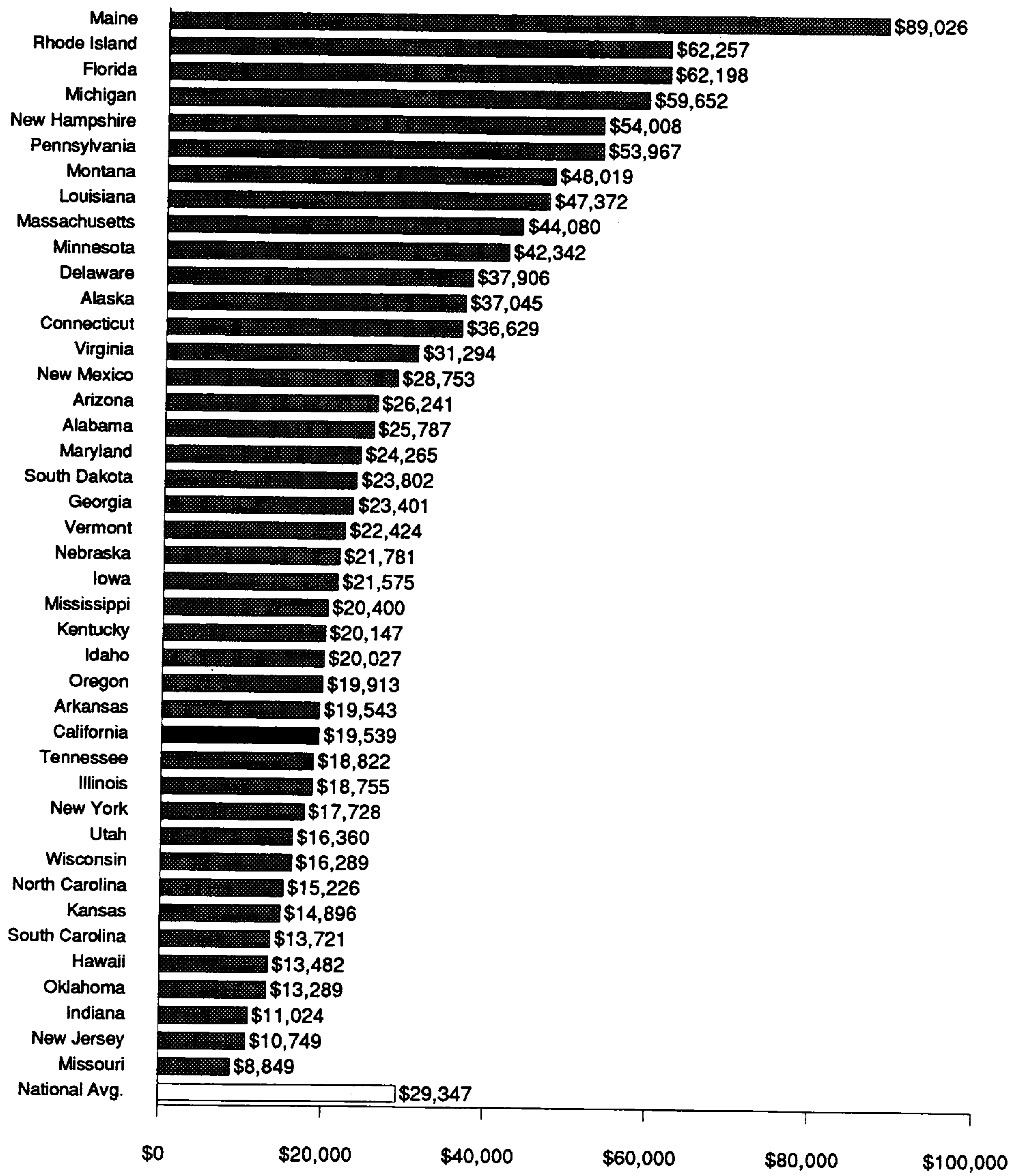
Source: NCCI 1990 and 1991 Annual Statistical Bulletins

EXHIBIT 7.9
FREQUENCY OF PPD CLAIMS
PER 100,000 WORKERS (INSURED EMPLOYERS)
1987



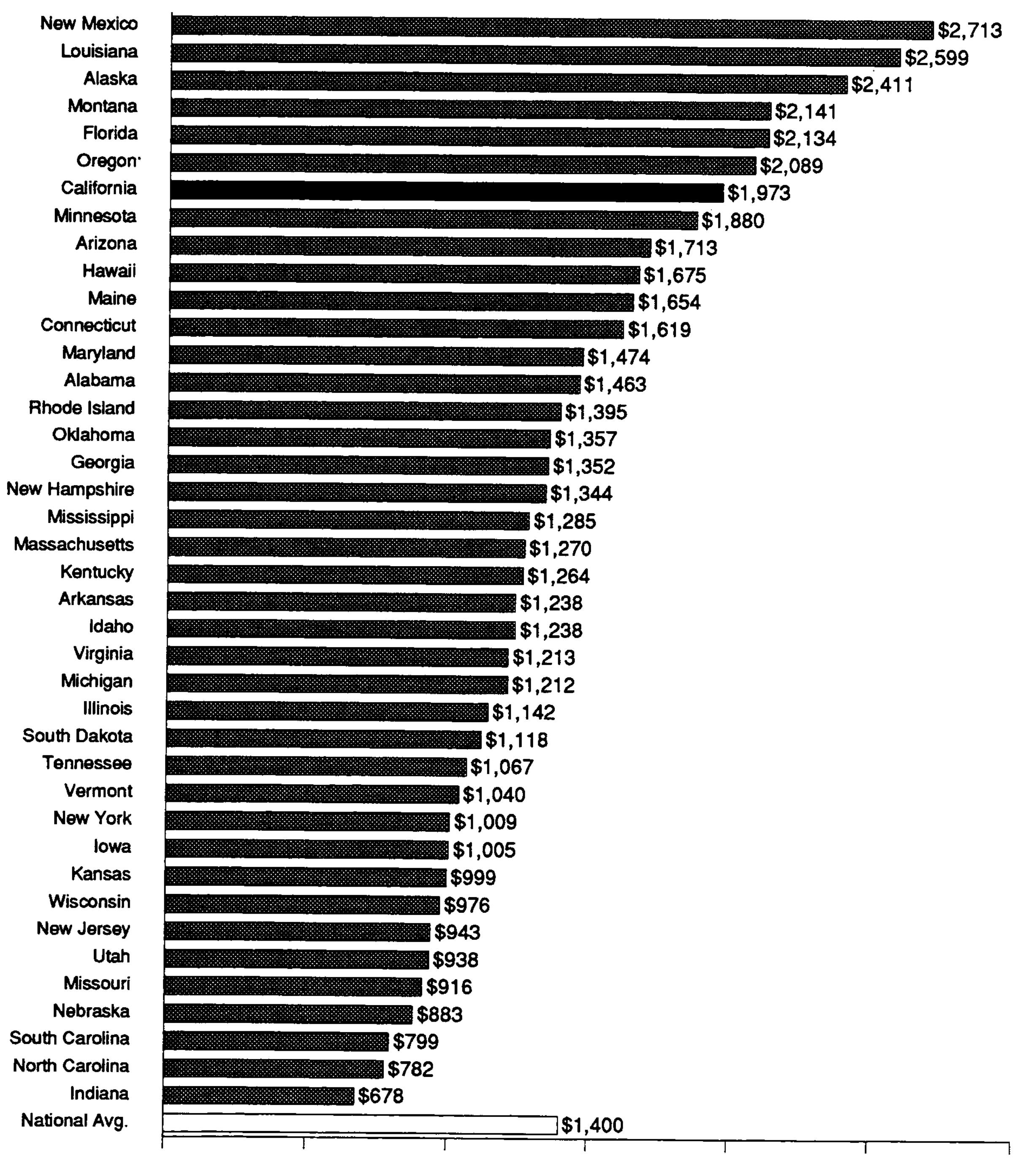
Source: NCCI 1990 and 1991 Annual Statistical Bulletins

EXHIBIT 7.10
AVERAGE INCURRED INDEMNITY COST PER PPD CLAIM (INSURED EMPLOYERS)
1987



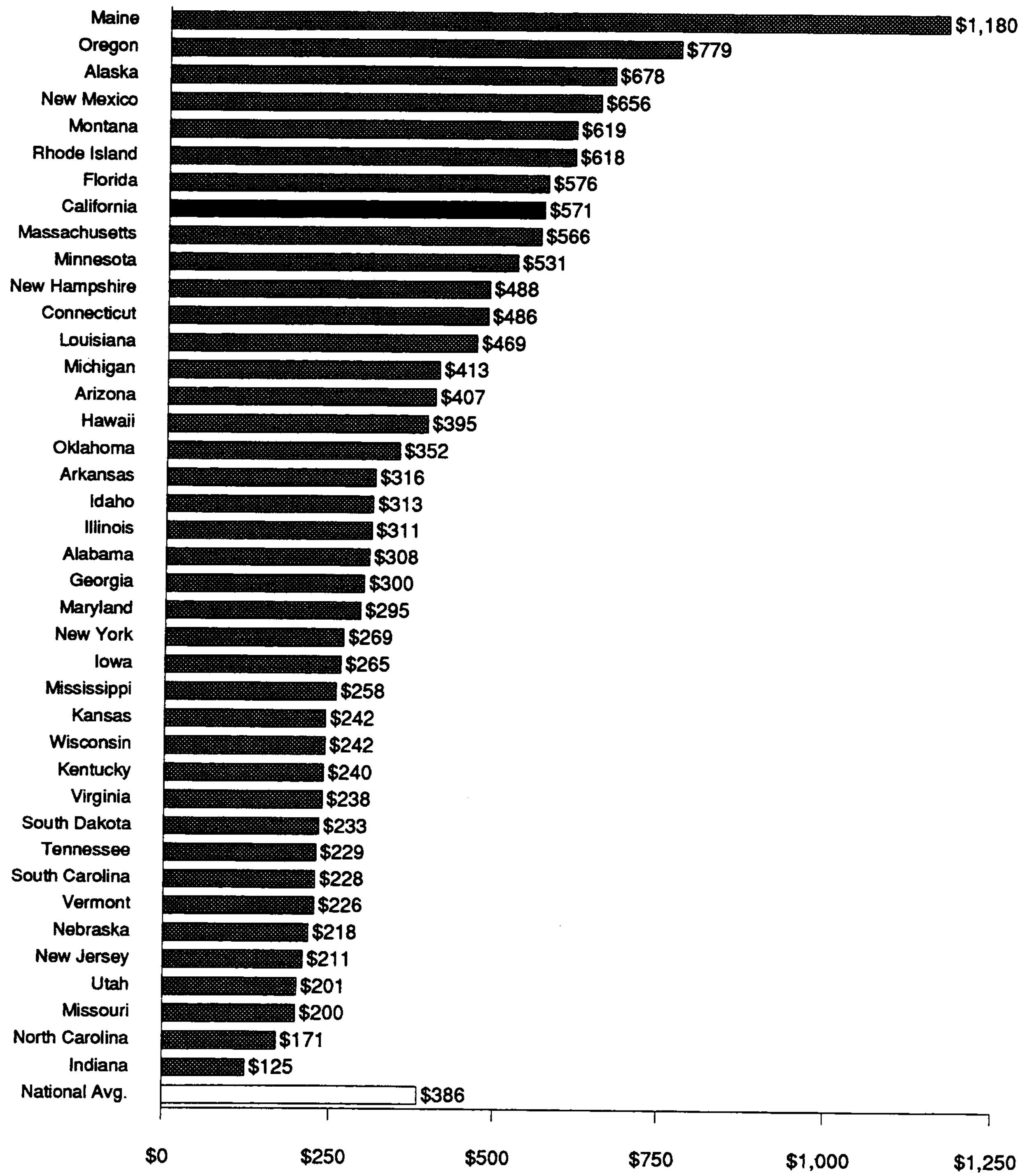
Source: NCCI 1990 and 1991 Annual Statistical Bulletins

EXHIBIT 7.11
AVERAGE INCURRED MEDICAL COSTS PER CLAIM (INSURED EMPLOYERS) 1987



Source: NCCI 1990 and 1991 Annual Statistical Bulletins

EXHIBIT 7.12
ANNUAL INCURRED BENEFIT COSTS
PER WORKER (INSURED EMPLOYER)
1987



Source: NCCI 1990 and 1991 Annual Statistical Bulletins

7.5 PROFITABILITY

The National Association of Insurance Commissioners (NAIC) publishes an annual report that attempts to gauge the profitability of each line of insurance for each state. In NAIC's analysis, "profit" is what is left of the sum of premiums and investment income after loss costs and all expenses (including dividends) are subtracted. While the data is subject to interpretation, it does provide a basis for comparing the profitability of a single line of insurance by state. Exhibit 7.15, "Total Profit on Workers' Compensation by State 1989" located on Page II-7.0-17, shows the ranking for total profit on workers' compensation lines by state. For the six exclusive state funds (Nevada, Ohio, North Dakota, Washington, West Virginia, and Wyoming), this profitability probably refers to excess or other special coverages provided by private insurers. This chart shows that "profit" in the 1989 calendar year ranged from a rate of 49.2% of earned premium in North Dakota, to a low of -36.2% of earned premium in Maine.

Exhibit 7.13, "Profitability" and Exhibit 7.14, "Profitability of Workers' Compensation Line by State Regulatory Structure, 1985-1990, Excluding State Funds" summarizes the states by dividing them into four categories (the exclusive state funds are excluded):

A. States with Administered Pricing with no Deviations*(Administered Pricing - No Deviations)*

B. States with Administered Pricing allowing deviations*(Administered Pricing with Deviations)*

C. States with Open Competition with Bureau filing fully developed advisory rates *(Advisory Rates including expenses)*

D. States with Open Competition with Bureau filing loss costs only *(Loss costs)*

The trends are not clear. In 1985, profitability was highest among states using "loss costs" and those using "administered pricing with deviations allowed." In 1989, states allowing deviations from administered rates still had a profit advantage, while those using loss costs or advisory rates had the lowest profits.

EXHIBIT 7.13
PROFITABILITY

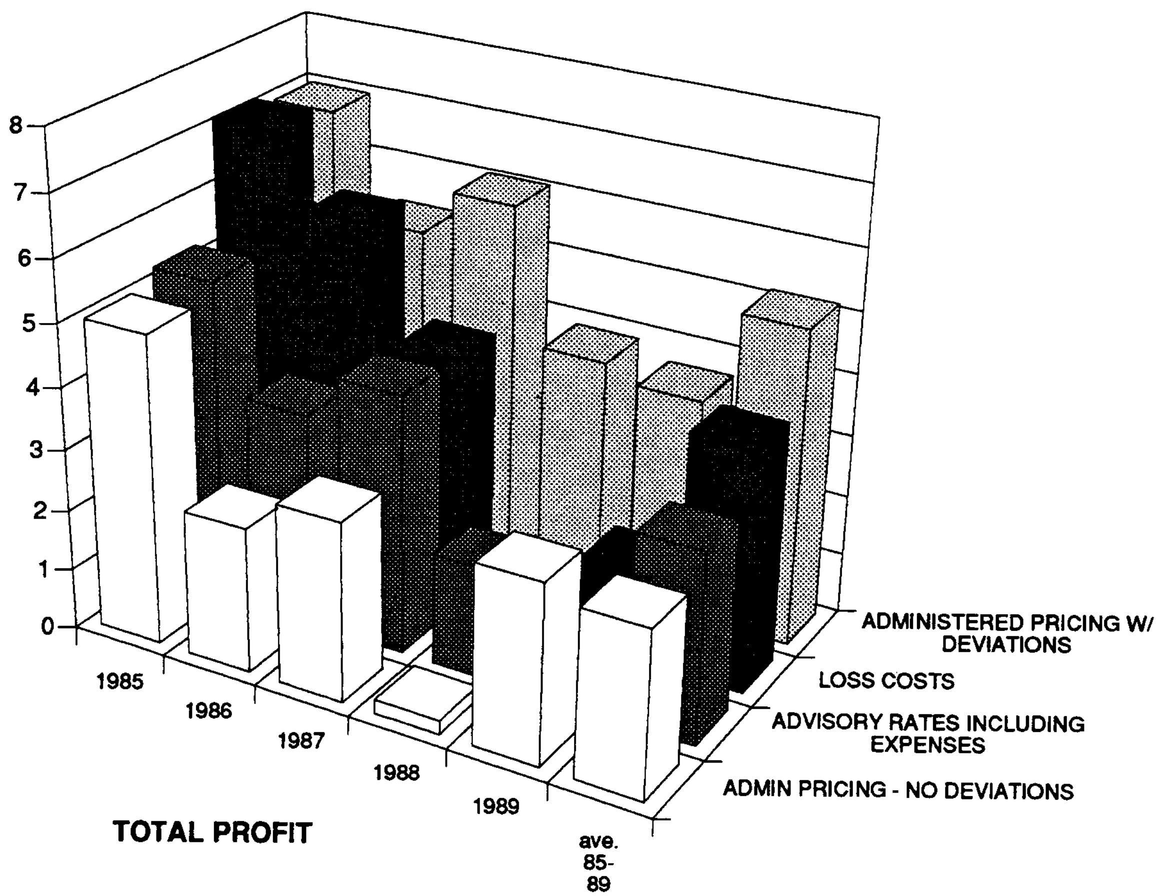
Category	Total Profit 1985	1986	1987	1988	1989	Average 85-89
Admin pricing, no deviations	5.0	2.4	2.9	0.2	2.9	2.7
Admin pricing, with deviations	7.0	5.3	6.0	3.9	3.6	5.2
Advisory Rates including expenses	5.3	3.5	4.2	1.8	0.7	3.1
Loss Costs	7.2	6.0	4.2	0.9	1.5	3.9

These results are not conclusive because the variations within categories may be as great as variations between them. For instance, the category of "Administered pricing with no deviations" includes both New Jersey, a relatively high profit state, and Texas, a very low (or negative) profit state, among the five states.

Exhibit 7.16, "Workers' Compensation Profitability Results, California and Countrywide, 1985-1989" compares California workers' compensation profitability with the countrywide figures for several years. These show that while the results were worsening nationally in the late 1980s, the results were very good in California.

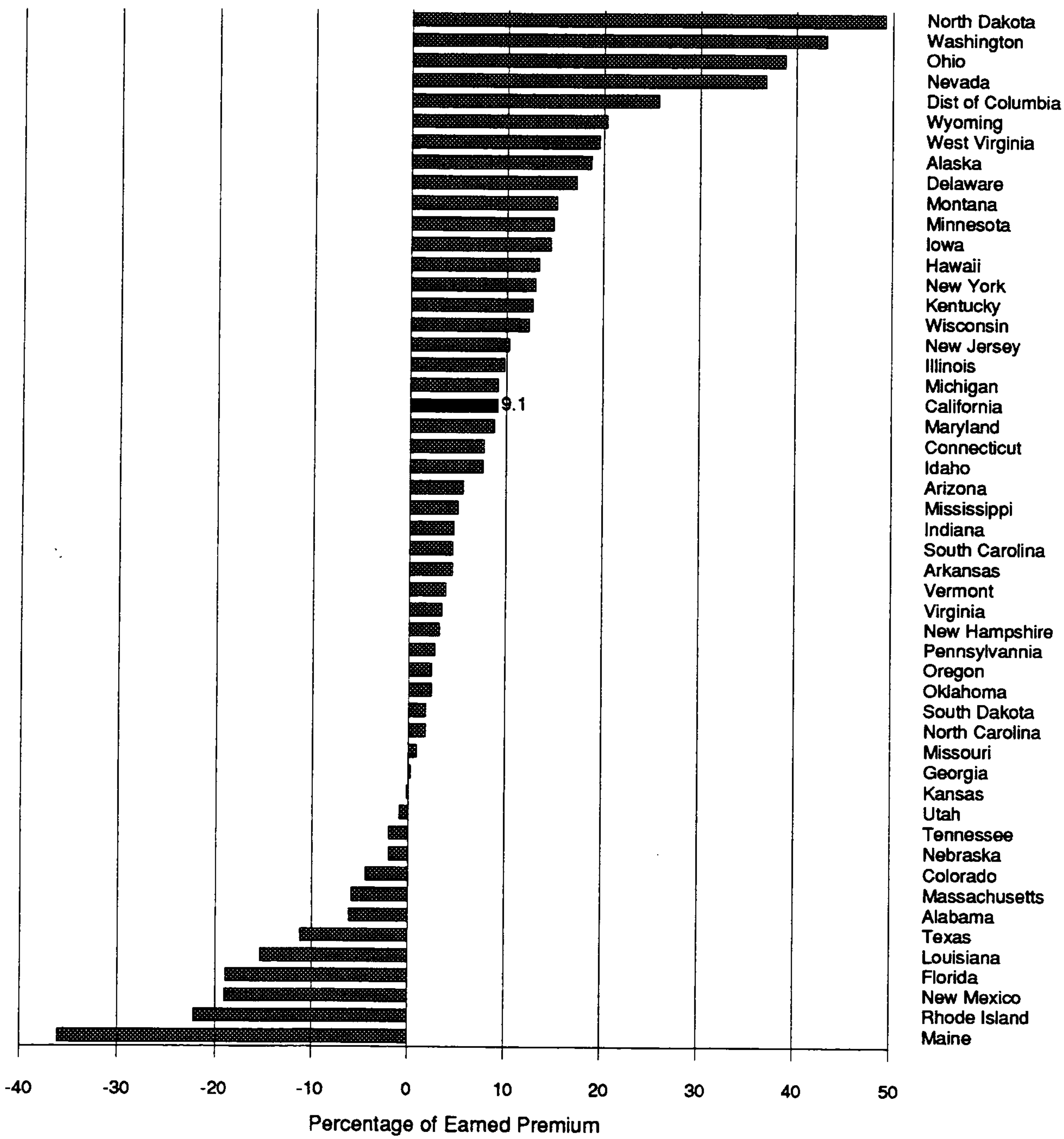
Exhibits 7.15 and 7.16 commence on the following pages:

EXHIBIT 7.14
PROFITABILITY OF WORKERS' COMPENSATION LINE
BY STATE REGULATORY STRUCTURE
1985-1990
EXCLUDING STATE FUNDS



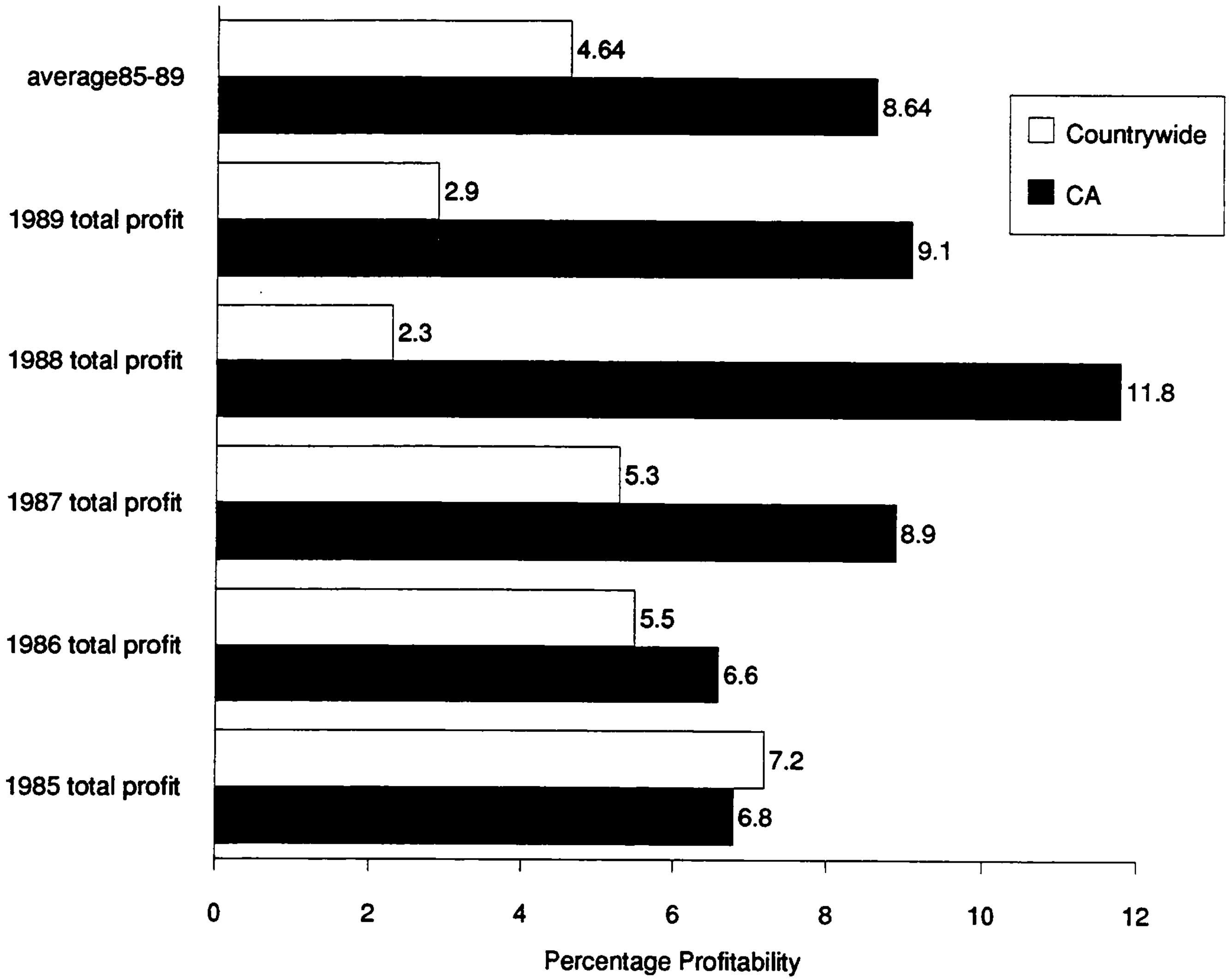
Source: NAIC Report on Profitability by Line by State

EXHIBIT 7.15
TOTAL PROFIT ON WORKERS' COMPENSATION BY STATE
1989



Source: National Association of Insurance Commissioners

EXHIBIT 7.16
WORKERS' COMPENSATION PROFITABILITY RESULTS
CALIFORNIA AND COUNTRYWIDE
1985-1989



Source: NAIC

7.6 ASSIGNED RISK PLANS

While the State Compensation Insurance Fund (SCIF) provides coverage on a voluntary basis, it also acts as the insurer of last resort in California. Although the state fund is not obligated to accept all employers that private insurers are unwilling to cover, the fund rarely declines coverage to an employer that seeks a workers' compensation policy. Assigned risk pools are established to provide coverage to employers that are unable to secure coverage on a voluntary basis. In the states where these pools were available, the pools accounted for 5% to 15% of the workers' compensation premium in the early and mid 1980s. In more recent years, these pools have accounted for more than 20% of the workers' compensation premium.

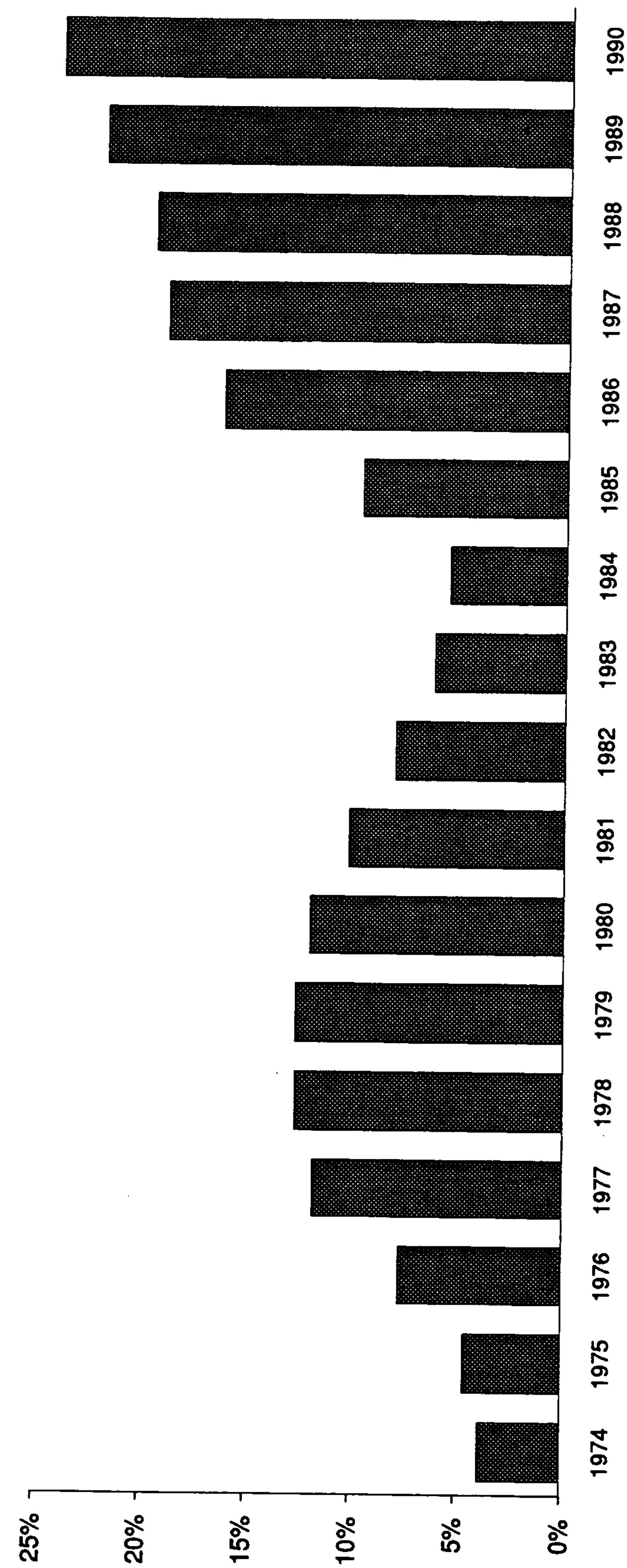
Exhibit 7.17, "Residual Market Share Totals for 33 States 1974-1990", located on the following page shows the cyclical nature of the assigned risk market nationally in workers' compensation. When the market is profitable, assigned risk pools are reduced in size, and when profits are low, assigned risk pools increase in size.

Exhibit 7.18, "California State Compensation Insurance Fund Market Share, 1974-1990", is located on page II-7.0-21. This exhibit depicts the market share for California's Assigned Risk Plan equivalent, the State Compensation Insurance Fund.

A Milliman and Robertson, Inc. report indicated that in 1980, the involuntary sector accounted for 13.7% of the workers' compensation insurance market in other states. This decreased to 5.8% in 1984 and increased to 25.3% in 1990. The results suggest that workers' compensation coverage on a voluntary basis has been available to a larger share of California premium than the experience in other states.

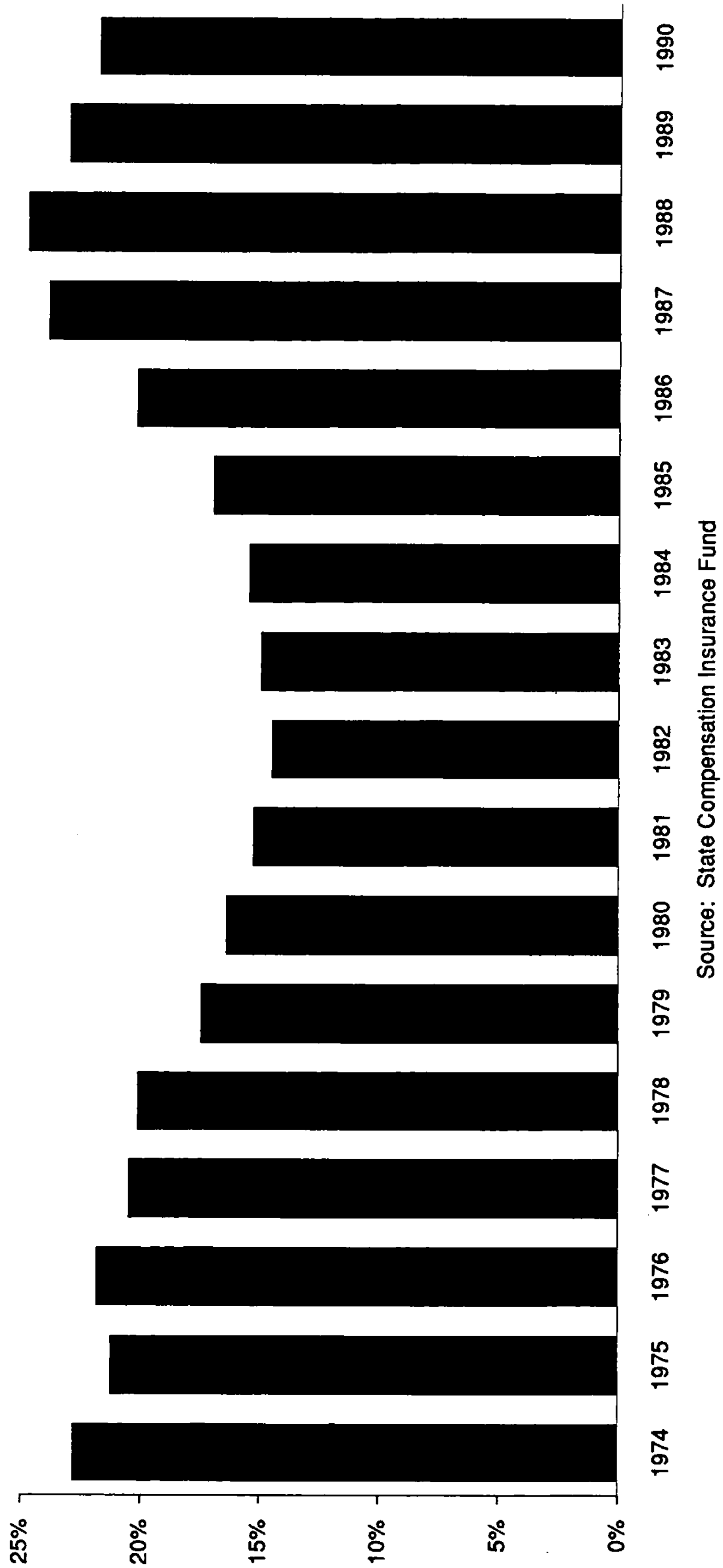
Exhibits 7.17 and 7.18 commence on the following pages.

EXHIBIT 7.17
RESIDUAL MARKET SHARE TOTALS FOR 33 STATES
1974-1990



Source: NCCI 1991 Management Summary

EXHIBIT 7.18
CALIFORNIA STATE COMPENSATION INSURANCE FUND MARKET SHARE
1974-1990

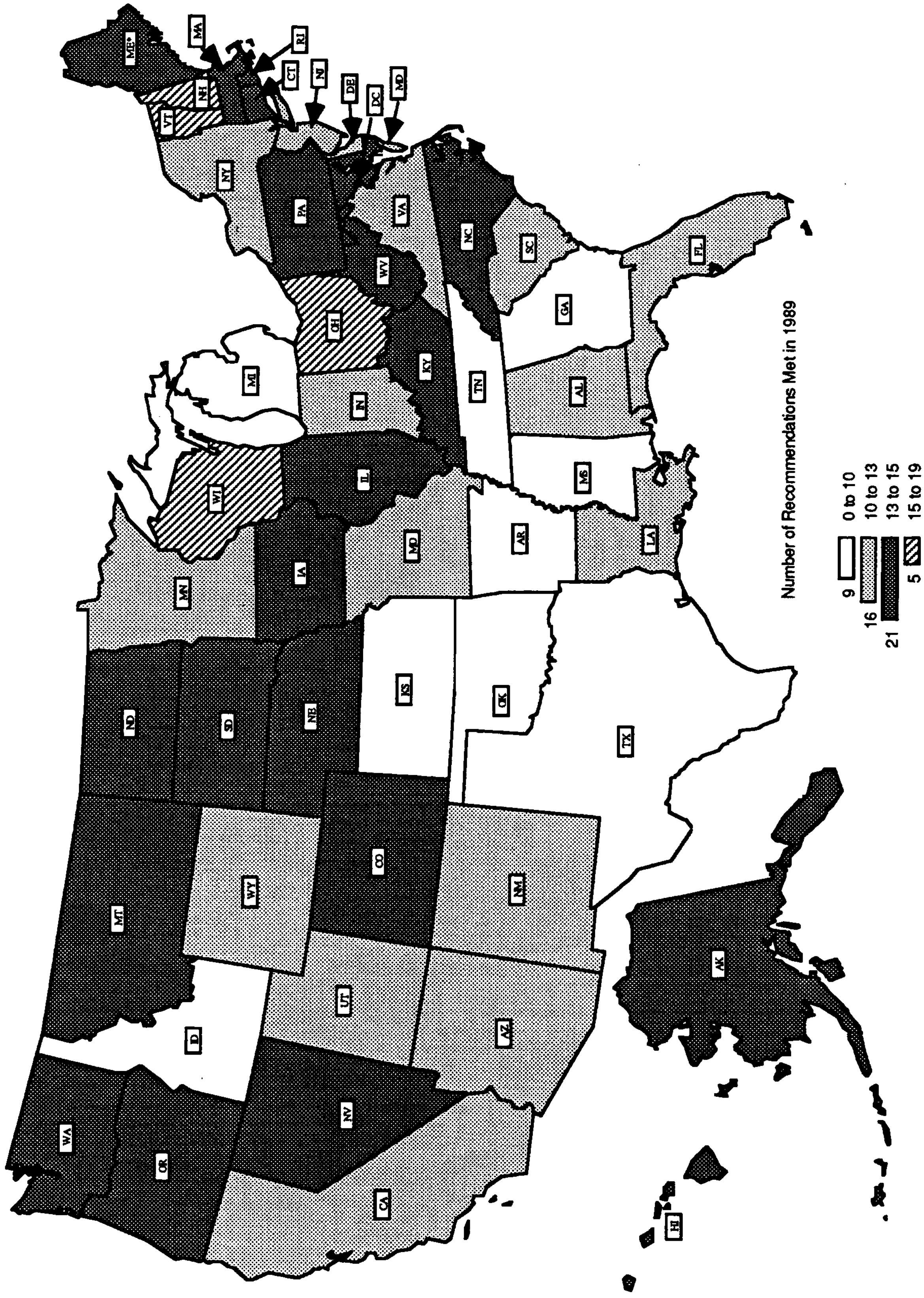


7.7 COMPLIANCE WITH ESSENTIAL RECOMMENDATIONS OF THE NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS

In its 1972 report mandated by the Occupational Safety and Health Act, the National Commission on State Workmen's Compensation Laws strongly urged that states voluntarily meet 19 essential recommendations related to benefits or risk the imposition of federal minimum standards. While there was initial movement toward meeting the standards, the progress has virtually ceased in the states. Most changes in state laws that related to the "essentials" took place during the 1970s. From 1976 to 1981, for example, 25 states improved while 11 backtracked. Between 1981 and 1989, more states backtracked on their commitment (11 states) than moved closer to meeting the recommendations (10 states). On average, in 1989 states met 12.25 of the recommendations. Only one state, New Hampshire, currently comes close to complete compliance, while 9 states meet less than 10 of the recommendations. California currently meets 12 of the recommended standards and has remained at that level since 1981. The following Exhibit 7.19, "Compliance with 19 Essential Recommendations" shows the distribution of compliance across the 50 states and the District of Colombia.

Exhibit 7.19 is located on the following page.

EXHIBIT 7.19
COMPLIANCE WITH 19 ESSENTIAL RECOMMENDATIONS



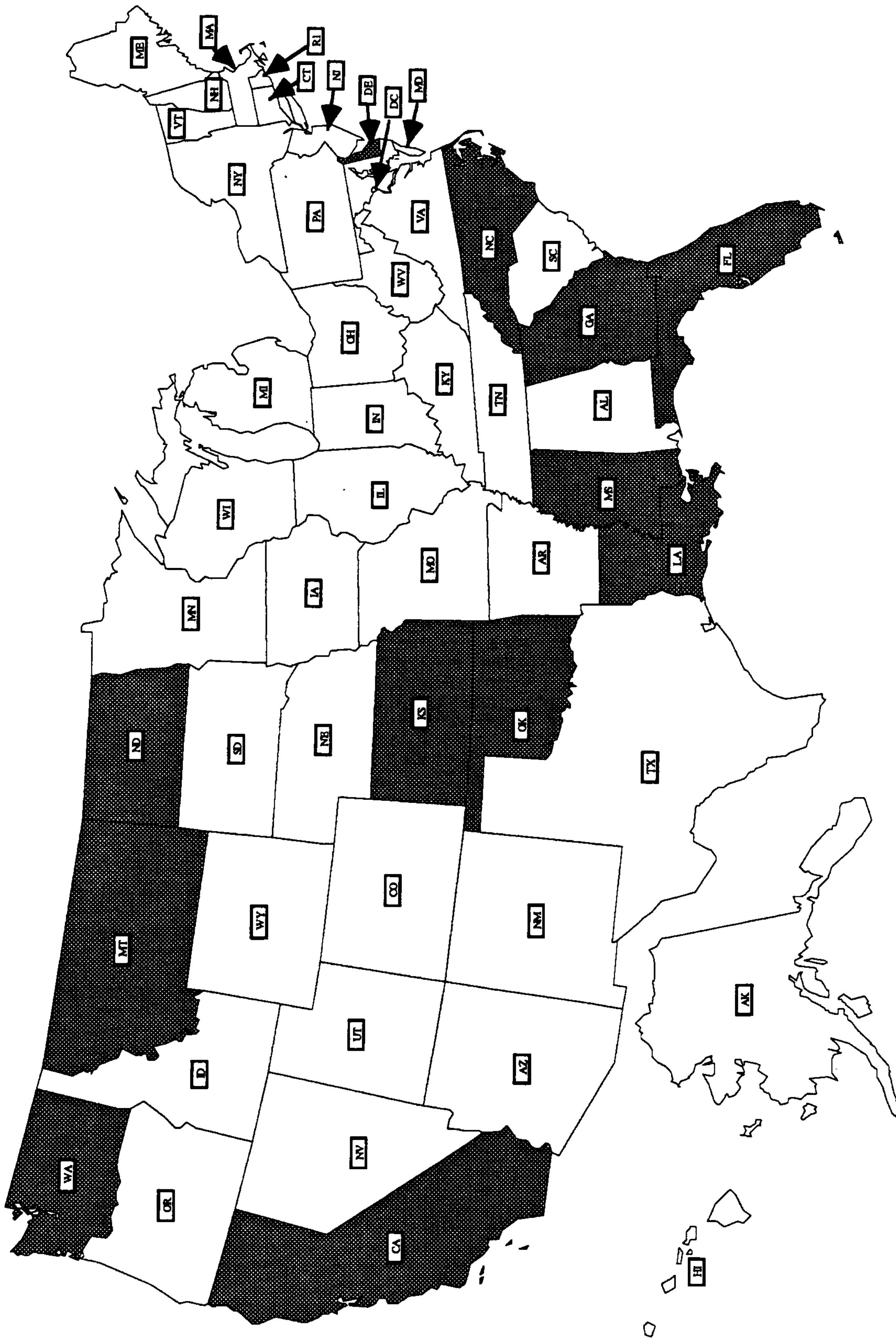
Source: U.S. Dept of Labor

7.8 ELECTED OR APPOINTED INSURANCE COMMISSIONER

The state insurance commissioner is usually responsible for approving workers' compensation premium rates, or for reviewing and approving deviations from set rates. In 12 states, the commissioner is elected, while in the other 38 the commissioner is appointed by the Governor. The passage of Proposition 103 in 1988 made the office of Commissioner an elected position in California. Georgia and Louisiana are currently the only two states in which there is both an elected commissioner and an open rating law for workers' compensation. The following Exhibit 7.20, "States with Elected Insurance Commissioners" shows the distribution of elected and appointed insurance commissioners across the 50 states and the District of Colombia.

Exhibit 7.20 is located on the following page.

EXHIBIT 7.20
STATES WITH ELECTED INSURANCE COMMISSIONERS



Source: 1991 Insurance Legislative Fact Book and Almanac

7.9 STATE COMPENSATION INSURANCE FUNDS

Twenty five states now either have state compensation insurance funds in operation or have authorized their startup. Most state funds were begun in the early years of workers' compensation, but since 1983, six states - Minnesota, Rhode Island, New Mexico, Texas, Louisiana and Maine - have begun or authorized these funds. These newer funds are or will be "competitive" with private insurance companies. The most recent funds have been welcomed by many private insurance companies as a means of reducing their exposure in states that they perceive allow inadequate workers' compensation premium rates. The newest funds have been created in states experiencing high ratios of losses and expenses to premiums, and states with large assigned risk pools. The introduction of a state fund may be a mechanism by which the state takes over some of the financial responsibility of these pools.

Six states do not allow private insurance companies to write workers' compensation and maintain "exclusive" state funds. These states are Washington, Nevada, Wyoming, North Dakota, Ohio and West Virginia. Exclusive funds also operate in every Canadian province, Puerto Rico and Guam. State funds are the largest writer of compensation coverage in every state in which they do business except for Pennsylvania and Minnesota. The South Carolina fund is unique in that it offers coverage for governmental units only.

California has had a state fund since 1913 when workers' compensation was made mandatory. California's fund is the "insurer of last resort" and functions both in the voluntary market and instead of an assigned risk plan. Since its first year of operation, California's state fund has been the largest writer of workers' compensation coverage in the state. Exhibit 7.21, "State Funds" indicates the distribution of competitive and exclusive state funds across the 50 states and the District of Columbia.

Exhibit 7.21 is located on the following page.

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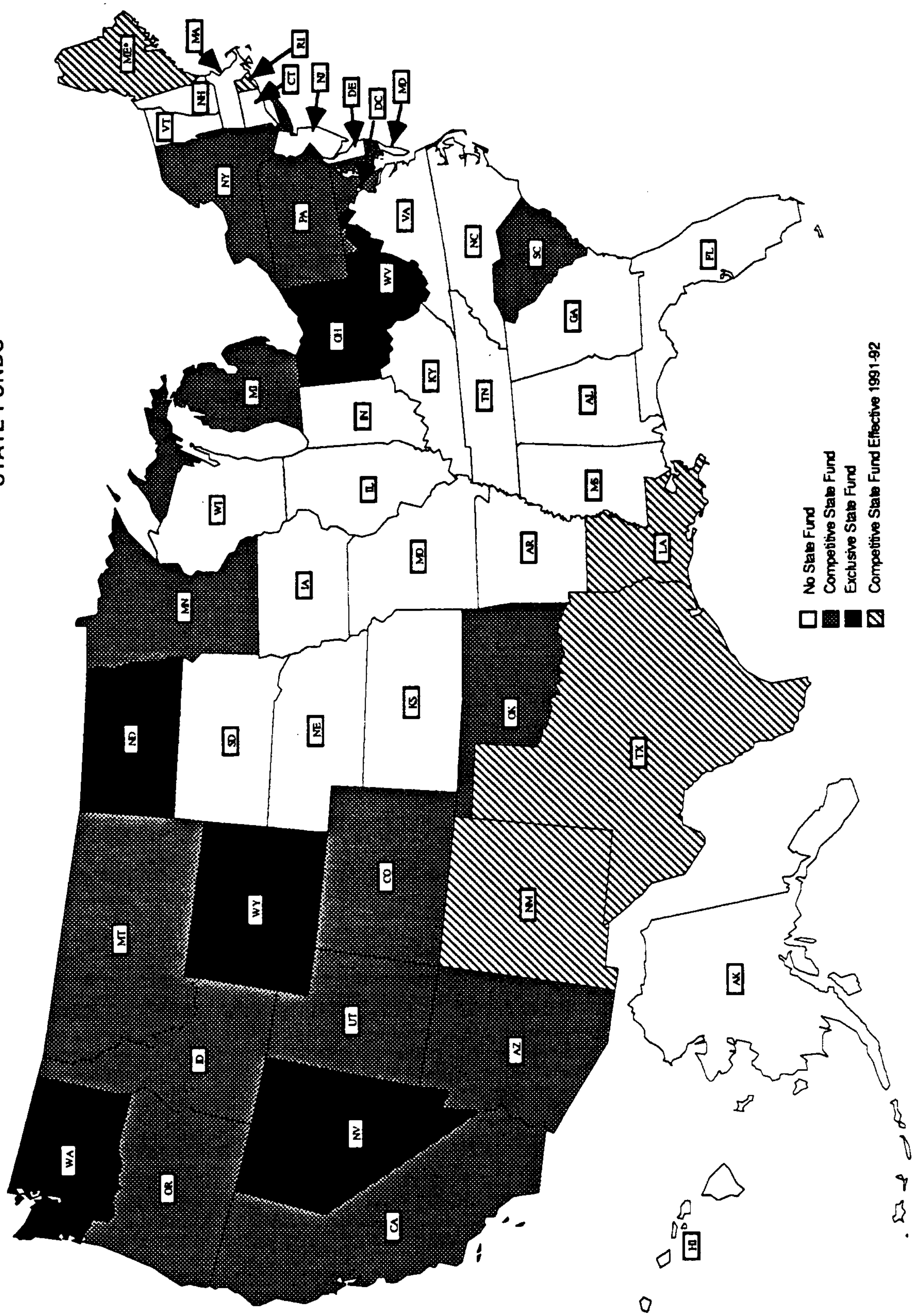
EXHIBIT 7.21
STATE FUNDS



Source: AASCIF and BNA

SECTION 8.0

WORKERS' COMPENSATION ANALYSIS OF EXCLUSIVE STATE FUNDS EXPERIENCE

SECTION 8.0

WORKERS' COMPENSATION ANALYSIS OF EXCLUSIVE STATE FUNDS EXPERIENCE

8.1 INTRODUCTION

Currently six states, several U.S. Territories, and nearly all the Canadian provinces utilize exclusive state (or territorial/provincial) funds. The six states are Washington, Ohio, West Virginia, North Dakota, Nevada, and Wyoming. Puerto Rico and the Virgin Islands also have exclusive funds. In states with exclusive state funds, private insurers are prohibited from selling workers' compensation insurance (except for a few special sublines such as aggregate excess insurance). The state of Oregon had an exclusive fund until 1965, when it began to allow "three way" coverage (private insurance, competitive state fund, and self-insurance). No new exclusive state funds have been created since the establishment of the North Dakota Fund in 1919.

Exclusive state funds have advantages and disadvantages. Partisans claim exclusive state funds have lower administrative costs, provide more pricing flexibility, keep money generated by premiums in state, assure availability of coverage for all employers, are more committed to servicing employers and injured workers, and provide more integral loss control programs. Detractors maintain that political intervention results in financial instability and excessive bloated bureaucracies, intertemporal inequality among policyholders, misguided safety incentives for employers, and poor service. Ultimately, due to a lack of comparative studies, advocating one system over the other appears to be more a matter of economic and political interests and less a question of empirical evidence.

8.2 POLITICS AND EXCLUSIVE STATE FUND FINANCING

The actuarial study performed for the Commission by AIS Risk Associates, Inc. (AIS) concluded that by industry financial standards, exclusive state funds in general fared poorly in comparison with competitive state funds. These traditional measures include the premium to surplus ratio, reserve to surplus ratio, operating profit ratio, change in surplus, premium balances to surplus and others. In one report, an association of private insurers claimed that one competitive state fund and three exclusive state funds were technically insolvent, using the criteria of liabilities exceeding assets.[1]

The American Association of State Compensation Insurance Funds (AASCIF) has questioned the appropriateness of using a number of the above standards when assessing the financial solvency of state funds. Concerning insolvency, while admitting that these funds would be considered technically insolvent were they private companies, no state fund has ever been taken over by a regulatory agency or ever needed state funds to cover state fund losses. AASCIF contends that, on the other hand, numerous private companies have become insolvent and ceased operations, leaving the rest of a state's insurers to absorb the costs.[2]

AIS Risk Associates noted the large variability among the results within the two categories of exclusive state funds and competitive funds. Not all exclusive state funds failed the tests applied by AIS, nor did all the competitive state funds pass the tests.[3] One state, Washington, either met or almost met most of the traditional standards used, including premium to surplus, change in writings, investment yield, change in surplus, and liabilities to liquid assets.

This large variability in financial soundness within categories of rate-making systems also occurs with states using ratemaking systems of various levels of competitiveness. It is clear that individual state systems within each category have had difficulty managing the general crisis that beset workers' compensation due to medical cost inflation and the growth of occupational diseases. In its study of alternative ratemaking Systems, Milliman and Robertson, Inc. found that a majority of regulators and insurers surveyed believed that legislative and regulatory climate ultimately determined the viability of any one particular workers' compensation system.[4] This insight appears to apply to the exclusive state funds as a group as well.

Exclusive state funds as a whole appear to be in worse financial condition than non-exclusive fund states because different criteria are sometimes used for ratemaking. In exclusive fund states, rate setting is based not only on actuarial considerations of keeping an insurance system solvent, but on political considerations, such as a desire to promote economic growth during the short term. As shown by Milliman and Robertson, Inc. in its study of net costs done for the Commission, as a group since 1983 rates have been significantly lower among exclusive state funds than other ratemaking system categories.[5]

Exhibit 8.1, "Index of Premium Change, Five of Six Exclusive State Funds" (located on the facing page) indicates one reason why Washington is in better financial shape that the other exclusive state funds: Washington has raised its rates more consistently. The other states kept their rates close to 1974 or 1980 levels. By 1989, most of these states were obligated to begin catching up. North Dakota, for example, embarked on a five-year plan in 1989 to achieve rate adequacy after almost a decade of stagnating and even decreasing rates.[6]

Utilizing such a different set of pricing criteria does not necessary imply irresponsible behavior on the part of exclusive state funds. For the better part of a century these six exclusive state funds have fulfilled their workers' compensation liabilities and obligations. As AASCIF argues,

> "For legitimate public policy reasons, such as to stimulate business growth, a ratemaking body can safely choose in an exclusive state, where there is no danger of individual company insolvency, to hold down rates in the near term."[7]

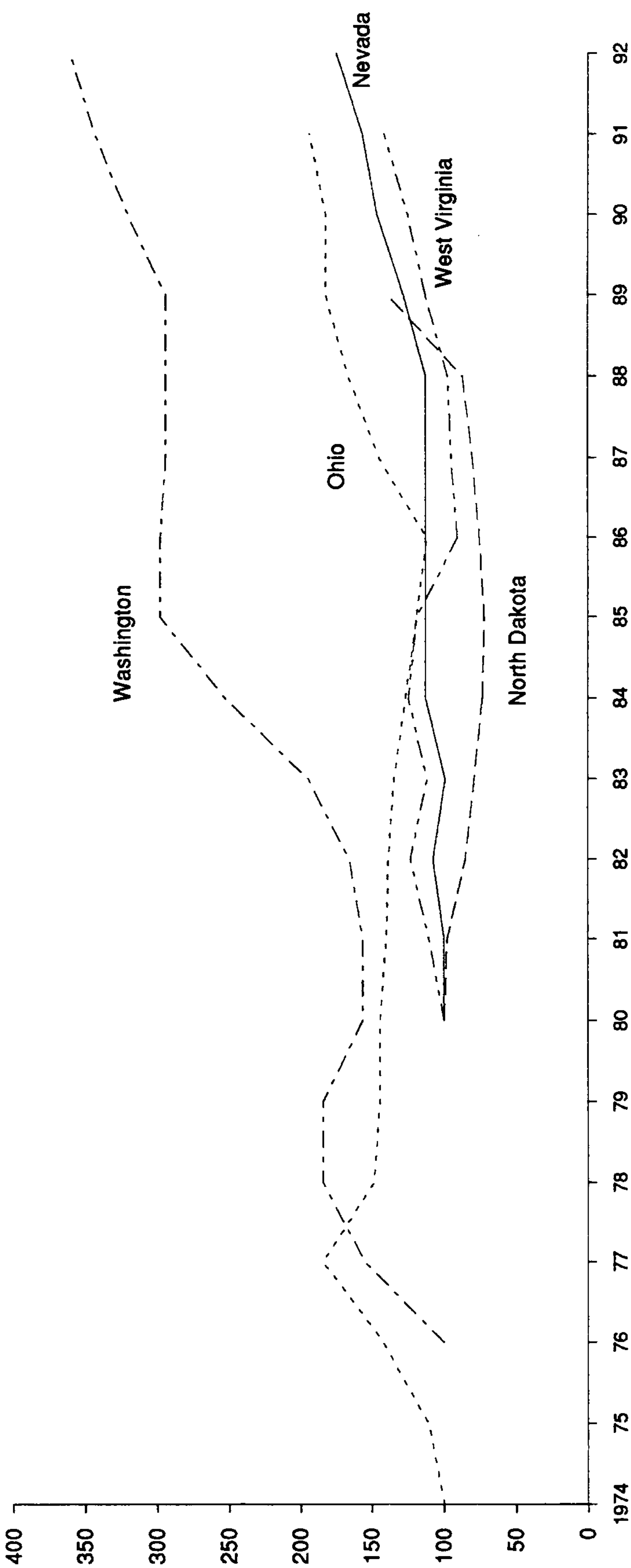
Eventually, rates will have to be increased to cover both current and past liabilities, a process, as mentioned above, which appears to be underway in most of the six states.

From the employer or worker perspective, "losses" are benefits. The high loss ratios of over 100% that characterize exclusive state funds means that over 100% of the premium dollar is being returned in the form of benefits. It is possible to maintain a loss ratio over 100% and avoid a deficit through the earning of investment income. From 1986-1990 the exclusive state funds had an average loss ratio of 142%, with a range of 116% to 281%. The average for competitive state funds was 92%, with a range of 63% to 159%. For private insurers countrywide, a comparable figure is 80%-85%.[8] The figure for California private insurers is 66%. This shows that on the average, exclusive state funds return more of the premium in the form of benefits than either competitive state funds or private carriers. A problem develops, however, when losses and expenses exceed total net income (after dividends), which includes premiums and investment income. When this occurs, as in five of the six exclusive state funds in 1990, a deficit exists. The difference has to be made up in increased rates or cost containment measures.

In the case of Ohio, a recent external evaluation blames "political" management as responsible for putting one of the world's largest single line insurance carriers over $2 billion behind in its liability obligations. The McKinsey and Company report, the basis for the current restructuring of the Ohio system, singles out "political control" of the administrative structure. This political control forced

> "management to focus its attention on reducing the cost of inputs (information systems, training, personnel) rather than fundamentally correcting the resulting outputs (grossly inadequate and unresponsive services and high claims costs)".[9]

EXHIBIT 8.1
INDEX OF PREMIUM CHANGE
FIVE OF SIX EXCLUSIVE STATE FUNDS



Source: Washington Dept. of Labor and Industry; North Dakota 13th Biennial Report; AIS Risk Consultants

Cutting back on infrastructure as a cost containment measure contributed to poor rate management, resulting in sometimes exorbitant rates and rate volatility within individual classifications. Rate modifiers such as experience rating have been slow to respond to improvements in accident records, creating the possibility of reducing incentives for safety prevention. The McKinsey report concludes that the problem was not the existence of an exclusive state fund, nor rates which do not keep up with losses in the short term, but rather management by political appointees instead of career insurance bureaucrats which resulted in poor claims management and services.

These political interventions occur in non-exclusive states as well, often with similar results. As a heavily regulated industry, workers' compensation by its essence is subject to political pressure from the private insurance industry, business, and politicians. In December, 1991, California's Insurance Commissioner John Garamendi rejected an 11.9% rate request in part because the Rating Bureau had not sufficiently justified the filing, but also in part because of the burden it would impose on California businesses in a time of recession. Similar arguments have been made around the country, and private insurers have been vociferous in their complaints concerning alleged rate suppression. It may well be, however, that exclusive fund states are better able to weather these cyclical periods of insurance downturn and rate inadequacy and thus avoid the instability that has plagued such states as Texas, Rhode Island, and Maine.

In economic terms, it is difficult to measure whether the economies of the six exclusive fund states are worse off because of earlier rate suppression. Business may be better or worse off. Suppressing rates during one period of economic recession may allow businesses to pay workers' compensation costs when they can better afford it. On the other hand, sudden increases in rates to cover past losses may hurt businesses, and if economic recovery is not at hand, eventual rate increases may be just as burdensome to business. In Ohio, it was apparently not rate suppression that hurt business and put the state at a possible competitive disadvantage with neighboring states, but rather poor experience rating procedures, an inefficient claims management procedure, and political management that precluded effective reform.

One possible economic benefit from an exclusive state fund is that the revenue generated by premiums and investment may remain within the state. The amount of money is sizeable: the six exclusive state funds generated over $1 billion in investment income in 1990. Premiums can be invested with the goal of boosting the state economy; in states with private insurers, those investments may go out of state. Further, state funds normally do not pay federal taxes, thus returning this money directly to policyholders.

One concern that has been raised concerning ratemaking in exclusive state funds involves intertemporal equity. Rate suppression in the short term will be borne by general raises for all businesses in the future who will be paying for losses perhaps not incurred by them. The level of inequity will vary with the length of rate suppression and the rate of entry and exit of businesses into the exclusive fund state. No study has been done to show the magnitude of this inequity in exclusive state funds. In Ohio, the McKinsey report did not mention this issue.

8.3 EXCLUSIVE STATE FUNDS AND ADMINISTRATIVE EXPENSES

In testimony before the Commission, a representative from the Alliance of American Insurers maintained that without the discipline of the market, exclusive state funds have less incentive to reduce expenses. It was posited that it is "well-documented" that public enterprise has a tendency to become a "haven for excessive and expensive bureaucracy built on patronage."[10] Exclusive state funds on average, however, have lower overhead (expenses) than both competitive state funds and private insurers. AIS Risk Associates shows that the 1986-1990 average expense ratio for all competitive state funds was 19%; for California State Fund it was 17%; and for the six exclusive state funds it was 8%. By contrast, in calculating the minimum rate, California private insurers are currently allowed 32.8% expense ratios.[11] By removing transaction costs such as marketing and commissions, and by not taking profits, exclusive state funds can provide a similar service as private insurers at a lower price. These savings, otherwise consumed by the insurer and the transaction process, can be significant and can result in either lower rates to businesses or higher benefits to injured workers. In this case, an exclusive state fund may result in lower prices to employers than in a semi-competitive market, given the substantial transactions costs as well as others such as the expense incurred by employers seeking to inform themselves of alternative policies.

8.4 QUALITY OF CLAIMS MANAGEMENT

Eliminating competition among insurers may bring some disadvantages. Private insurers have argued that quality of service has served as a mode of competition in California. Since exclusive state funds face no competition, it is argued that they have little incentive to provide adequate services to employers and injured workers. The low expense ratios cited above may hide overtaxed and insufficient infrastructure. State government oversight in the case of Ohio led to an overemphasis on cutting administrative expenses — 6% of the costs in the system — while ignoring the claims costs, the other 94%. The results were an insufficient infrastructure and grossly overworked claims adjusters. The McKinsey report alluding to the above, recommended doubling the administrative budget of the Ohio state fund as part of its restructuring effort. The McKinsey report estimated that for each dollar committed to the doubling of the Administrative budget, the state fund would save $10 in claims costs. One suspects that some of the high employee/policy ratios for some exclusive fund states provided by AIS Risk Associates hide similar problems: quantitative efficiency, but poor quality, ultimately resulting in higher costs to the system. There is no systematic evidence showing that quality of claims management is either better or worse in exclusive fund states as compared to non-exclusive fund states.

The benefits of competition in non-exclusive fund states, may not be spread evenly among all employers. Competition in workers' compensation may vary with size of employer. For California, a survey done by the California Workers' Compensation Institute in 1990 showed that employers with premiums of over $100,000 were almost twice as likely to have changed workers' compensation carriers in the last five years as those employers with premiums under $15,000.[12] The majority of policyholders are small employers who often face a seller's market. Competition is less likely to occur for this submarket because small employers may have access to less information on alternatives than a large employer; the small employer policies are less attractive to private insurers than large employer policies; and large employers have negotiating power against the private insurers (a more level playing field). It is difficult to show empirically, however, that this relative lack of competition results in poorer service.

One clear benefit provided by an exclusive state fund is guaranteed availability for all employers. In non-exclusive fund states, private insurers may pick and choose their customers; those employers unable to find coverage due to a poor claims history, small size, or geographical location, could turn either to a competitive state fund required to cover them or a residual market at sometimes substantially higher rates than the voluntary market. The crisis in availability can be seen in the growth of the residual market in the latter half of the 1980s. This uncertainty of coverage and the resultant need for a residual market is eliminated by the existence of the exclusive state fund.

8.5 EXCLUSIVE STATE FUNDS AND SOCIAL RESPONSIBILITY

Theoretically, since the profit motive is removed, social responsibility or service to both injured workers and employers could be the first priority of an exclusive fund. There is no solid evidence, however, that regulators in exclusive fund states are inherently more socially responsible than regulators in other states, or that exclusive state funds will necessarily be more concerned about safety and injury prevention. An exclusive state fund could favor employers over workers (by cutting benefits, ignoring worker safety, etc. thus lowering costs to employers at expense of injured worker).

The participation of organized labor in the policy making of exclusive state funds can be formalized, however. This is true in at least two states, Nevada and Ohio, where the workers' compensation systems are overseen by boards composed of labor and management representatives. Washington has an advisory board with similar labor/management composition. In this scenario, the weight of the private insurance industry formally excluded from the political environment, and other special interest groups who make money off the workers' compensation transaction, such as trial lawyers and physicians, might have less influence over policy. The terms of the workers' compensation debate would thus change, with the system responding to the interests of the primary stakeholders, workers and employers, instead of middlemen. For this reason, and others, organized labor tends to support the existence and creation of exclusive state funds.

8.6 LOSS CONTROL SERVICES AND COMMITMENT TO INJURY PREVENTION

Detractors of exclusive state funds contend that the ratemaking process that results in inadequate rate in the short term reduces incentives provided by the ratemaking process to invest in workers' safety.[13] This may be partially true; the true value of increase in loss costs will not be passed on to the employer in the short term. All of the six exclusive fund states, however, use experience rating, and four use retroactive rating. Both of these mechanisms are designed to give incentives to some employers to take an interest in work place safety. As shown by AIS Risk Associates, the requirements for participation in experience rating programs are much lower in exclusive fund states than in states that have competitive state funds. This has the effect of extending safety incentives through experience rating to smaller policyholders. The McKinsey report showed that in Ohio experience rating was poorly implemented, thus possibly discouraging incentives for safety. There is no evidence to suggest, however, that systematic differences exists between the safety effectiveness of rate modifiers in exclusive funds as compared to non-exclusive fund states.

Exclusive state funds may have other advantages in the area of loss control. Conceivably they could better coordinate accident prevention and merit rating programs and control enforcement of safety law by coordinating activities with state occupational health and safety agencies.[14] For example, in the state of Washington, the state OSHA and the exclusive state fund are part of the same agency, the Department of Labor and Industries. Two exclusive state funds, however, West Virginia and Wyoming, do not provide accident prevention services, which are supplied by other regulatory agencies.[15]

Further, economies of scale may be important in the provision of loss control services. The bigger an insurer is, the more that can be invested in specialization in certain loss control areas, such as ergonomics. This would be likely to better the chances of small employers to receive loss control services. In states such as Washington, these services are free of charge to employers that request them. Two states, Washington and Nevada, are well known as leaders in the field for their extensive state-run rehabilitation facilities.

FOOTNOTES

1 Alliance of American Insurers, "Workers' Compensation State Funds: Are They Really Cheaper" 1989.

2 American Association of State Compensation Insurance Funds, "State Compensation Insurance Funds: The Best Alternative" 1990, p. 8.

3 See Exhibit AIS-14, in AIS Risk Associates, "Actuarial Report Comparing the Operations of Exclusive and Competitive Workers' Compensation State Funds" January 24, 1992, prepared for the California Workers' Compensation Rate Study Commission.

4 Milliman and Robertson, Inc., "California Rate Study Commission: Alternative Ratemaking Systems" January, 1992, prepared for the California Workers' Compensation Rate Study Commission.

5 Milliman and Robertson, Inc., "An Analysis of Net Costs of Workers' Compensation Insurance" January, 1992, prepared for the California Workers' Compensation Rate Study Commission.

6 North Dakota Workers' Compensation Bureau, "Employers' Newsletter" April 24, 1989.

7 AASCIF, "State Compensation Insurance Funds: The Best Alternative" 1990, p. 47.

8 AIS Risk Associates, p. 5.

9 McKinsey and Company, "Restructuring the Workers' Compensations System in Ohio to Become a Distinctive Public Asset" September, 1991, p. 8 (mimeograph).

10 Roger Lawson, Alliance of American Insurers, "California Minimum Rate Law," April 8, 1991, p. 10.

11 See Exhibit AIS-6, in AIS Risk Associates. The California private insurer percentage, currently set by statute.

12 Milliman and Robertson, Inc., "An Evaluation of the Competitiveness of California Workers' Compensation", December, 1991, prepared for the Alliance of American Insurers.

13 See, for example, the testimony of Roger Lawson, Alliance of American Insurers, "California Minimum Rate Law," April 8, 1991, p. 10.

14 Texas Research League, *An Examination of Selected Insurance Issues in the Texas Workers' Compensation System* A Report to the Joint Select Committee on Workers' Compensation, 1988, pp. 40-1.

15 AIS Risk Associates, p. 15.

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SECTION 9.0

WORKERS' COMPENSATION SERVICE CAPABILITIES

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WORKERS' COMPENSATION SERVICE CAPABILITIES

9.1 INTRODUCTION

Workers' Compensation is the oldest form of social insurance in the United States, the first to provide economic security for working men and women. In the event of a job injury, an employee is entitled to all necessary medical care, without deductible, co-insurance or other contribution. If the injury results in disability, the employee receives partial but tax-free replacement of lost wages at the employer's expense. Other employer paid benefits - vocational rehabilitation, re-employment services and payments to surviving dependents in the event of death - complete the income protection objective. Effective management of workers' compensation claims includes a continuous monitoring of the injured workers' progress - from injury through medical treatment, rehabilitation and return to employment.

9.1.1 BACKGROUND

There is no question that accidents are costly to industry and society. The practical and moral aspects of accident prevention are interrelated, because accidents result both in a waste of labor and resources and in physical and mental anguish. Without a deterrent to counter this waste of labor and resources, the number of accidents and injuries would have challenged the imagination. Once enlightened industrial management had accepted the responsibility of preventing accidents, the next step was Workers' Compensation Laws. This "new" line of thinking held the employer responsible for a share of the economic loss suffered by the employee because of an accident on the job. There was a rather short step from this to the realization that a large proportion of accidents could be prevented and that the same industrial information that could produce vast quantities of goods could also be used for accident prevention. Industry soon discovered that efficient production and safety were related. From this beginning grew the Safety Movement, as it is known today.

In recent years, there has been extensive legislation mandating safety in the workplace. The most prominent legislation was the enactment of the Occupational Safety and Health Administration (OSHA) by the U. S. Department of Labor. The subsequent CAL/OSHA refinement of safety legislation has provided a mandate of standards as well as supportive technical services for the employer. Most recent legislation has included the adoption of California Senate Bill 198 which mandates that an Illness and Injury Prevention Program be in place. This must be an active program to be effective.

The following section outlines the services available from insurance companies, insurance brokers/agents and finally, the responsibilities of the employers and employees in the area of workers' compensation.

9.2 INSURANCE COMPANIES

9.2.1 PREVENTIVE SERVICES

Insurance companies, through their loss control departments, are capable of providing many services that can be included in an employer's Injury and Illness Prevention Program. The following is an overview of the most typical services available through a major workers' compensation insurance carrier:

A. Supervisor/Management Training Programs can be provided to create and increase the safety awareness of top and middle management within an organization. The program would spell out supervisory responsibilities and accountability, the cost of insurance and accidents, the involvement in problem solving, top management support and monitoring of the safety program, and how there should be an on-going inspection of the premises to identify hazardous conditions. Accident investigation and the proper reporting format will also be explained to the supervisors and managers so the claims will be reported to the proper parties in a timely manner.

B. Employee Education and Training Programs can be prepared to compliment employee orientation, explain process changes and provide continuous training for the work force. Some specific employee training programs could be back strain prevention, defensive driving of motor vehicles, the proper operation of forklifts, how to lift properly and the mandatory use of safety guards on equipment.

C. A Safety Committee Program could be established to guide and modify the safety program. This committee should be composed of representatives from top management, personnel, finance, facilities maintenance, supervision and definitely safety. This committee would be involved in the review of the facts of the workers' compensation claims so hazardous conditions can be identified and corrective action taken.

D. A Safety Incentive Program would be established which would promote safety awareness. This should be a very simple program and all employees must have an equal chance to win. It must be kept in mind that the main objective is safety awareness and intense competition cannot be established between departments as there is always a possibility of not reporting claims in order to win the safety contest.

E. Assistance in developing hiring practices which would require written applications, assuring completed reference checks, pre-employment physical examinations, a clear description of the job and its requirements and making sure that the applicant is suited for the position he is being considered to fill.

F. A Return to Work Program should be considered so injured employees can return to work when allowed to do so by their treating physician. This will allow them to return to gainful employment sooner by working in a light duty position or a modified job.

G. Video filming services are available from many insurance companies. It is more effective for retraining and new employee orientation to have videos to show how the job should be properly performed to avoid any type of accident and resulting injury.

H. Industrial hygiene specialists are also available from many insurance companies. Industrial hygiene has been defined as "that science and art devoted to the anticipation, recognition, evaluation, and control of those environmental factors or stresses, arising in or from the workplace, which many cause sickness, impaired health and well being or significant discomfort and efficiency among workers or among the citizens of the community.

I. Promotional Brochures are available from the insurance companies to display on the company bulletin boards. In addition to the posters there are pamphlets that can be distributed, stuffers for paycheck envelopes, and other periodic safety information that would highlight a given problem. All of these items continue to emphasize the safety awareness to the employees.

9.2.2 BENEFIT SERVICES

The primary responsibility of an insurance carrier that provides Workers' Compensation coverage in the State of California is the prompt payment of benefits to an injured employee. The claims representative must communicate on a regular basis with the employee and employer to insure that the injured employee receives the proper medical care and that the employer is working to have the employee return to work in a modified job position or in a light duty program. Other services available from the insurance company workers' compensation claims management area include, but are not limited to:

A. The claims representative meeting with the employer on a periodic basis to review the status of the outstanding workers' compensation claims and to discuss plans to conclude the claims.

B. Reliable up-to-date loss runs provided to the employer.

C. Quality legal representation provided to represent the employer in those cases where litigation cannot be avoided.

D. The rehabilitation director coordinates all rehabilitation contacts and establish a rehabilitation program with the injured employee when appropriate.

E. The claims representative along with loss control representatives meets with the safety committee to discuss the facts of a particular accident.

F. Medical cost containment starts with the initial phases of the claim, therefore, the medical treatment must be managed to insure that the employee is obtaining the proper medical treatment. This can be accomplished through close communication with the employee and the claims representative.

In addition, to the major items, other claims benefit services are comprehensive loss analysis and working with the employer to have the employee return to work as soon as possible, even in a modified position or light duty.

9.3 INSURANCE BROKERS/AGENTS

9.3.1 PREVENTIVE SERVICES

One of the key responsibilities of an insurance broker/agent is to recommend and place the employer's insurance with the insurance company that best suits the employer's needs on the basis of service and price. An effective broker/agent will have excellent relationships with underwriters that are knowledgeable about the employer's business. The broker/agent must be able to analyze the reputation, financial status and past performance of the insurance carriers. In addition, the following services should be provided by the broker/agent:

A. Coordinating the insurance companies services and the broker/agents provided services to the benefit of the employer and employees.

B. Providing loss control services when the insurance carriers do not have the capabilities or are unwilling to do so.

C. Maintain open lines of communication between the employer and the insurance company especially the loss control and claims department.

9.3.2 BENEFITS SERVICES

The insurance broker/agent works as the coordinator between the employer and the insurance companies representatives, frequently providing many of the following benefit services:

A. The broker/agent must establish claims reporting procedures and insure the prompt reporting of injuries to the insurance company claims representatives.

B. The broker/agent must monitor the progress of a claim and be available to assist the employer and employee at any time.

C. Many brokers offer the opportunity to have structured settlement specialists assist the claims representative in concluding a large, long-term disability claim. This is accomplished through the purchase of an annuity for the benefit of the injured employee or the dependent survivors.

D. Medical cost containment is another area in which the broker/agent can work with the employer and the insurance company to control abuses within the system, namely, skyrocketing medical costs. Medical cost containment strategies include fee schedule/reasonable and customary compliance, preferred provider organizations, hospital and doctor bill audits, utilization review and assistance in overall case management.

E. It is essential that there are no language barriers between the insurance claims representatives, broker claims representatives and the injured employee.

9.4 EMPLOYER INVOLVEMENT

9.4.1 PREVENTIVE MEASURES

There must be a commitment on the part of top management to provide a safe workplace for the employee. The process starts with employee selection and employee training. The following are loss control opportunities appropriate for employer initiation:

A. Individuals should be selected that are capable and willing to perform the necessary tasks of the job. They must be properly trained to perform the job in a safe manner.

B. The employer and employee must have an active safety program. This can only be accomplished with training and continued reinforcement of how to work in a safe manner.

C. Once an area is identified as a hazardous condition, the employer must immediately respond taking corrective action to prevent an injury.

D. The employee must be aware of the procedure to notify the employer of an accident an injury.

9.4.2 BENEFIT COORDINATION

Once employer management is aware of an injury to an employee, the claim must be reported immediately to the workers' compensation insurance company. This allows the insurance company claims representative to immediately contact the injured employee and coordinate the activities of the Workers' Compensation claim in the following manner:

A. The employer has the responsibility to provide medical facilities for the employee and the employee must be aware of their existence so that prompt and proper medical attention can be provided.

B. The employer must maintain communications with the employee and the claims representative so there can be an early return to work provided the treating physician releases the injured employee to a modified job or temporary light duty work.

9.5 EMPLOYEE RESPONSIBILITIES

9.5.1 PREVENTION ACTIVITIES

The employee also has responsibility in an effective injury and illness prevention program as follows:

A. The employee must cooperate with the employer and other loss control representatives who have worked to provide a safe environment for the employee.

B. The employee must perform the duties of the job in a safe manner by observing and adhering to all safety procedures.

C. The employee also has the responsibility to report unsafe work areas to the employer.

D. The employee must support and take an active part in the safety program.

9.5.2 BENEFIT COOPERATION

It is the responsibility of the injured employee to report the claim to the proper personnel within the organization and to cooperate with the medical treatment facilities. This is necessary to activate the claims handling and payment process as well as providing medical treatment in order that the injured employee will recover and be able to return to work. A cooperative injured employee with an effective benefit coordination process should normally be able to return to work quickly, thus returning to full income with the employer as opposed to the partial allowance of temporary disability payments.

9.6 OUTSIDE AGENCIES

9.6.1 BROAD RANGE OF AVAILABLE SERVICES

Information and assistance is available to employers and employees from many outside agencies that are ready and able to assist in solving various workers' compensation problems. The following is a partial list of available outside agency services:

A. The Occupational Safety and Health Administration (OSHA) of the U. S. Department of Labor and the CAL/OSHA Consultation Service is available to help employers provide safer workplaces for employees and to reduce losses resulting from accidents and injuries.

B. OSHA and CAL/OSHA are also available to assist in the development of the Injury and Illness Prevention Program which is now mandated for every employer in this State.

C. The Department of Insurance will respond to complaints on the part of employees of improper handling of claims. In fact the Department of Insurance has a hotline which will respond to all consumer complaints.

D. Trade associations are willing to work with their members to provide safety information on any particular problem. Many times these safety associations have conducted studies to address problems that are common in their particular industry.

E. Professional consultants and privately owned or endowed laboratories are available on a fee basis for a concentrated study of a specific problem or for a plant-wide or company-wide survey, which may be undertaken to identify and catalog individual environmental exposures.

F. Specialty services now offer assistance in the area of ergonomics. This is really human factors engineering and has proved to be very effective. For example, the five main factors with which human factors engineers work are:

   1. Selection of workers
   2. Training of workers
   3. Operating rules, procedures and instructions
   4. Design of equipment
   5. Design of the environment

G. The National Safety Council also is a recognized resource in the area of accident prevention.

H. Risk management consultants provide assistance in working with employers to identify a specific problem and then to work with them to solve the problem monitoring whatever corrective action has to be accomplished in order to eliminate the problem. Risk management consultants can also assist the employer in premium audits, claims audits, reserve review, and assisting the employer in understanding the experience modification factors and various dividend plans that are available.

9.7 GOVERNMENT REGULATIONS

9.7.1 INSURANCE INDUSTRY BENEFIT

The development of federal laws concerning health and safety has definitely provided the workers' compensation insurance company, employer and employee tangible command over health and accident control. In many cases, the government agencies provide services which frequently are similar to those formerly provided by insurance carriers. There is a significant benefit to the insurance industry through the development of government standards concerning health and accident control. There appears to be on-going confusion as to what is considered appropriate for an insurance company to provide for loss control services as mandated law.

9.7.2 EVOLUTION OF GOVERNMENT REGULATIONS

Prior to 1971, governmental regulations of safety and health matters had been largely the concern of state agencies. There was little uniformity of application of codes and standards from one state to another and almost no enforcement proceedings were undertaken against violators of those standards. Some states adopted as guidelines the threshold limit values for exposure to toxic materials as recommended by the American Conference of Governmental Industrial Hygienists. Enforcement of those guidelines, however, was minimal.

The federal government has some safety and health standards for its contractors and for the stevedoring industry. Enforcement of those standards rested with the Bureau of Labor Standards in the U. S.

Department of Labor. Although there were thousands of federal contractors, the inspection and enforcement activities were limited because of limited budget and staff assigned by the U. S. Department of Labor.

During the last decade, Congress has enacted four new safety and health laws. These legislation efforts are having a significant impact on industrial hygiene activities in the United States. These laws are:

A. Public Law 91-596, December 29, 1970, the Occupational Safety and Health Act of 1970 or popularly known as OSHA.

B. Public Law 91-173, December 30, 1969, Federal Coal Mine Health and Safety Act.

C. Public Law 89-577, September 16, 1966, Federal Metal and Nonmetallic Mine Safety Act.

D. Public Law 91-173, November 9, 1977, Federal Mine Safety & Health Act of 1977.

9.7.3 THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

The Occupational Safety and Health Administration (OSHA) came into existence officially on April 28, 1971, the date the Williams-Steiger Occupational Safety and Health Act became effective. This organization was created by the Department of Labor to discharge the Department's responsibilities assigned by the Act.

Major Authorities, Functional Areas and Responsibilities

The Act grants the Secretary of Labor the authority, among other things, to promulgate, modify and revoke health and safety standards; to conduct inspections and investigations and to issue citations, including proposed penalties; to require employers to keep records of safety and health data; to petition the courts to restrain imminent danger situations; and to approve or reject state plans for program under the Act. The Secretary's authority includes the right of access to records of other federal agencies and a shared responsibility with other federal agency heads for the adequacy of programs in the organizations reporting to them.

The Act authorizes the Secretary to have the Department of Labor conduct short-term training of personnel involved in performance of duties related to their responsibilities under the Act, and, in consultation with the Department of Health, Education and Welfare to provide training and education to employers and employees. The Secretary and his designees are authorized to consult with employers, employees and organizations regarding prevention of injuries and illnesses. The Secretary, after consultation with the Secretary of Health, Education and Welfare, may grant funds to the states for identification of program needs and plan development, experiments, demonstrations, administration and operation of programs. In conjunction with the Secretary of Health, Education and Welfare, the Secretary is charged with developing and maintaining a statistics program for occupational safety and health.

Major Duties Delegated by the Secretary of Labor

In establishing the Occupational Safety and Health Administration, the Secretary of Labor delegated to the Assistant Secretary for Occupational Safety and Health the authority and responsibility for safety and health programs and activities of the Department of Labor, including responsibilities derived from:

A. Occupational Safety and Health Act of 1970.

B. Walsh-Healey Public Contracts Act of 1936, as amended.

C. Service Contract Act of 1945,

D. Public Law 91-54 of 1969 (construction safety amendments)

E. Public Law 85-742 of 1958 (maritime safety amendments)

F. National Foundation on the Arts and Humanities Act of 1965

G. Federal safety program under 5 U.S.C. §7902.

The delegated authority includes responsibility for organizational changes for coordination with other officials and agencies having responsibilities in the occupational safety and health area and for contracting.

At the same time, the Commissioner of the Bureau of Labor Statistics was delegated the authority and given the responsibility for developing and maintaining an effective program for collection, compilation and analysis of occupational safety and health statistics, providing grants to the states to assist in such statistics, and coordinating functions with the Assistant Secretary for Occupational Safety and Health.

The Solicitor of Labor is assigned responsibility for providing legal advice and assistance to the Secretary and all officers of the Department in the administration of statutes and Executive orders relating to occupational safety and health. In enforcing the Act's requirements, the Solicitor of Labor also has the responsibility for representing the Secretary in litigation before the Occupational Safety and Health Commission, and, subject to the control and direction of the Attorney General, before the federal courts.

OSHA General Duties and Obligations

The OSHA Act sets out two duties for employers and one for employees. The general duty provisions are:

A. Furnish to each employee a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.

B. Comply with the occupational safety and health standards under the Act.

C. Each employee shall comply with occupational safety and health standards and all rules, regulations and orders issued pursuant to the Act which are applicable to his own actions and conduct.

The greatest potential impact of these provisions may be in the area of health. Determination of excessive exposures requires tests with proper instrumentation. Evaluation of the test data requires individuals who, by experience and judgment, are qualified in the field of industrial hygiene.

The interpretation of the general duty clause for providing safety and healthful working environment adds new dimensions to the protection of employee health. Control of health exposures oftentimes involves costly and sophisticated engineering systems.

9.7.4 OSHA KEY PROVISIONS

Some of the key provisions of the Act are:

A. Empower the Secretary of Labor (through the Occupational Safety and Health Administration) to issue safety and health regulations and standards which have the force and effect of law.

B. Establish federal supervision of current state program to achieve more uniform state inspection under federal standards.

C. Provide procedures for investigating alleged violations, at the request of any employee or his representative, issuing citations and assessing monetary penalties.

D. Assure, insofar as possible, that every employee has safe and healthful working conditions.

E. Require employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required in the various safety and health standards to be monitored or measured.

F. Establish a National Institute of Occupational Safety and Health (NIOSH) with the same "right of entry" as OSHA representatives, to undertake health studies of alleged hazardous conditions and to develop criteria to support revisions of, or recommendations to OSHA for new health standards.

G. Create a federal effort to establish new rules and regulations to govern new or anticipated hazards to health and safety.

The Labor Department regulations dealing with OSHA are published in Title 29 of the *Code of Federal Regulations* (C.F.R.) as:

29. C.F.R. Part 1910 - General Industry Standards
29. C.F.R. Part 1915 - Maritime Standards
29. C.F.R. Part 1926 - Construction Standards

9.7.5 OSHA STANDARDS

Health standards are promulgated under the OSHA Act by the Labor Department with technical advice for the National Institute for Occupational Safety and Health in the Department of Health, Education and Welfare. A review of OSHA's standards-setting process will be helpful in understanding how regulations are derived.

Most of the safety and health standards now in force under the OSHA Act for general industry were promulgated 30 days after the law went into effect on April 28, 1971 as 29 C.F.R. Part 1910 of Labor Department regulations (Title 29). They represented a compilation of material authorized by the Act from existing federal standards and national consensus standards (ANSI and NFPA). These, with some amendments, remain the body of standards under OSHA Act.

The Act prescribes procedures for use by the Secretary of Labor in promulgating regulations. It is of special interest that the 1986 ACGIII threshold limit values for exposures to toxic materials and harmful agents have been adopted in the regulations, and have the effect of law. Although procedures are given for measuring exposure levels to specific standards promulgated by the Department of Labor, professional skills, and judgements are still required, however, in applying the intent of the many aspects of the Act in safe-guarding workers' health.

9.7.6 OSHA CATEGORIES

OSHA standards consist of the four following categories:

Design Standards. Examples of these detailed design criteria are the ventilation design details contained in Section 1910.94 of the initial standards. The major fault with such standards is that they

overlook the fact that although engineering details are empirical, health and safety standards cannot be stated in terms of absolute numbers.

Performance Standards. Such standards are the threshold limit values (TLVs) of the American Conference of Governmental Industrial Hygienists which are contained in Section 1910-1000. A performance standard states the objective which must be obtained and leaves the method by which it is reached up to the employer.

Vertical Standards. A vertical standard applies to a particular industry, with specifications that relate to individual operations. Section 1910-261 (Subpart R) of the initial or early standards is in this category - it applies only to pulp, paper and paperboard mills.

Horizontal Standards. A horizontal standard is applicable to all workplaces and relates to broad areas, such as Sanitation (§1910.141) or Walking and Working Surfaces (Part 1910 Sub-part D).

9.7.7 NEW OSHA STANDARDS DEVELOPMENT

The development of new standards is a continuing process. The National Institute of Occupational Safety and Health provides information and data in the area of health hazards, but the final authority for promulgation of the standards remains with the Secretary of Labor.

The preceding information was developed from the *Fundamentals of Industrial Hygiene,* 2nd Edition, National Safety Council.

9.8 SURVEY FINDINGS

9.8.1 NATIONAL SAFE WORKPLACE INSTITUTE STUDY

An article in the January 20, 1992 issue of *Business Insurance* highlighted the study released by the National Safe Workplace Institute indicating that California had scored 81 out of a possible 116 points in its safe workplace poll. The article indicates that California's score reflects the fact that it has made workplace safety a priority and has addressed the components of occupational injury and illness prevention more than any other state. Even though California scored highest in the NSWI rankings for workplace safety with 40 out of a possible 50 points for prevention, its Workers' Compensation costs are the second highest in the nation, also according to this study. The article further states that, in comparison to other states, California recognizes more kinds of injuries as eligible for coverage. California is also a very "litigious state". This article did not take into consideration any impact of SB 198 (Injury/Illness Prevention Program) on workplace injury experience which effect, if any, will not be measured until later in 1992.

9.8.2 INSURANCE CARRIER SPONSORED TREATMENT STUDY

On January 14, 1992 Gregory Johnson, Ph.D. and Alex Swedlow on behalf of Industrial Indemnity released a study on Workers' Compensation abuses by physicians. The Industrial Indemnity sponsored study focused on three (3) medical services, i.e., physical therapy, magnetic resonance imaging and CAT scans as well as psychiatric testing and evaluation. Two major areas of concern were addressed: 1) the frequency of provider ownership and investment on referral patterns on California Workers' Compensation and 2) the economic impact of this phenomenon.

The authors' conclusion as to overall impact on the Workers' Compensation was that within physical therapy, diagnostic imaging and psychiatric services, an estimate of $356,000.00 or 10% is added to California Workers' Compensation medical bills in excessive costs. The authors have identified one of the major cost drivers of the Workers' Compensation system as being referral for profit and have concluded that physicians should not be in the business of profiting purely from their ability to refer patients to outside facilities.

9.8.3 WORKERS' COMPENSATION LITIGATION COSTS, 1990

The direct expense of litigation in the California Workers' Compensation program totalled $1.5 billion in 1990 according to the latest Institute study. Total litigation costs increased over 500% during the 1980's and more than doubled in last five (5) years. (California Workers' Compensation Institute [CWCI] Published Research Notes)

9.8.4 MEDICAL STRESS CLAIMS IN WORKERS' COMPENSATION - INCIDENT & TRENDS

Mental stress is the fastest growing type of Workers' Compensation claim in California. According to the Division of Labor statistics and research, the number of Workers' Compensation claims for mental stress increased nearly 700% between 1979 and 1988. (California Workers' Compensation Institute [CWCI] Published Research Notes)

9.8.5 PHYSICIANS' FEES, 1989

The cost of medical care - physicians' fees, hospital charges and other paramedical services - is the largest single expense in the California Workers' Compensation system. Medical treatment of injured workers today accounts for 43% for the total cost of claims incurred by employers, or $2.3 billion in 1989 levels. Of this amount, nearly two-thirds is paid to "physicians - doctors of medicine, osteopathic and chiropractic practitioners, psychiatrists, dentists and others health providers" - whose fees are governed by the official medical fee schedule promulgated by the division of Workers' Compensation, the State administrative agency. (California Workers' Compensation Institute [CWCI] Published Research Notes)

9.8.6 EMPLOYERS' VIEW OF CALIFORNIA WORKERS' COMPENSATION

This report to the Industry reviews the results of structured interviews of 800 insured employers. The report discusses employer perception concerning the California Workers' Compensation system and specifically looks at the role of policyholders as consumers and their relationship to their Workers' Compensation insurer. (California Workers' Compensation Institute [CWCI] Published Research Notes)
The key findings are as follows:

A. The vast majority of employers rate their satisfaction with the Workers' Compensation system as average or above - but those who know the most about the system are the most dissatisfied.

B. Policyholders believe the biggest problems with the system are compensation of off-the-job injuries, frequency of stress and back claims and excessive attorney involvement.

C. Employer concerns about the Workers' Compensation system center around four (4) key areas. All policyholders tie cost issues to major system problems and almost all are troubled by fraud. Three of every four employers say the benefit structure discourages employees from returning to work and four in ten note some dissatisfaction with insurer's services.

D. Eighty percent of employers are satisfied with insurer claim handling and believe their insurer handles their claims effectively either all or most of the time.

E. Insurers generally receive high marks when communication is good and payments timely, but poor claim handling and communication deficiencies are the most common sources of problems.

F. One employer in five says insurers do not do enough to fight questionable claims.

G. Insurers are not the primary focus of policyholder concern. Despite some apprehension about excess insurer profits and high claims cost estimates, employers view fraud, litigation and medical treatment expense as the key cost drivers.

H. Policyholders agree most strongly that, "Lawyers should be prohibited from getting involved in a claim until it is clear that the employee and the employer cannot resolve the dispute themselves."

9.9 SMALL EMPLOYER SERVICE CONSIDERATIONS

It is generally assumed that small companies with fewer than one hundred (100) employees have proportionally more work injuries than large corporations. However, since many small companies have not been accurately recording and reporting their experience, it is difficult to establish any valid ratio comparing work injury experience. However, it is safe to say that companies, large or small, that ignore systematic safety effort will, in the main, have more than their proportional share of work accidents and injuries.

The seriousness of the small enterprise problem has been widely recognized for many years and the workers' compensation insurance company has only provided marginal services, however the National Safety Council has devoted much effort to meeting it. Some promising steps have been taken to increase small establishment participation in the organized safety movement, principally through the establishment of liaison between the National Safety Council and the trade associations representing many small companies.

Certain aspects of the small company problem can be stated with assurance:

A. The small establishment may not need or cannot employ specialized safety personnel to deal with the accident problem.

B. The number of accidents in a significant amount of time or the financial position of many small concerns make it difficult to convince them that spending the money necessary for proper equipment, layout, guarding and other elements is important.

C. Managers of small operations are harried by a host of problems in all fields. Seldom do managers have the expertise nor can time be found for proper study of accidents and their causes.

D. In small units, statistical measures of performance are unreliable, so that it is difficult to produce clear-cut evidence as the cost of accidents versus the effectiveness of accident prevention work. In other words, a small operation may have, by luck, a good or a bad accident record over a few years, whether or not its safety program is sound.

These real and serious obstacles to progress are not, of course, excuses for failure to try to prevent accidents. The trade association approach offers some genuine hope for improvement on a group basis.

(The preceding information was developed from the *Accident Prevention Manual for Industrial Operations, Volume I, Administration and Programs*, 8th Edition, National Safety Council.)

9.10 CONCLUSIONS

Over the last three years, the legislative changes have modified the California Workers' Compensation system more drastically than at any time since its inception. Workers' compensation insurance companies and their policyholders certainly have a new set of loss control management and claims reduction opportunities.

There is a definite need for communication between the employer, insurance company and insurance broker/agent. Many times what the employer needs and wants is available, however, being unaware of who or what to request for assistance in problem solving stands in the way.

The development of federal laws (Occupational Safety and Health Administration - OSHA) concerning health and safety has definitely provided the workers' compensation insurance company, employer and employee tangible command over health and accident control. In many cases, the government agencies provide services which frequently are similar to those formerly provided by insurance carriers. There is a significant benefit to the insurance industry through the development of government standards concerning health and accident control. There appears to be on-going confusion as to what is considered appropriate for an insurance company to provide for loss control services and what measures are mandated by law.

Competition in the insurance marketplace has demanded that the insurance companies provide all the necessary support services and assistance to the employer. The employer must communicate the awareness for safety to the employees. The employees must be responsive to the loss prevention programs and safety plans so everyone can work together in utilizing the services available from the insurance companies and insurance broker/agent.

It is evident that the loss control services available to the small employer are frequently limited in scope because of the lack of premium contribution to operating expenses of the insurance carrier. The large insured frequently has many options of broad support services concerning both claims administration and loss control management. With the broad services provided by the insurance brokerage community, it is possible to purchase "unbundled" services for both the insured and self-insured workers' compensation employer.

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SECTION 10.0

CALIFORNIA WORKERS' COMPENSATION AVAILABILITY

SECTION 10.0

CALIFORNIA WORKERS' COMPENSATION AVAILABILITY

10.1 NUMBER OF INSURANCE COMPANIES IN CALIFORNIA

In California, workers' compensation coverage is available to practically every employer. In 1990, 251 insurance companies provided workers' compensation coverage for employers in the state. The total direct net premiums written were $6,641,754,998. This does not include the premium in the State Compensation Insurance Fund or the entities that self-insure their workers' compensation liabilities. The premium in the State Fund was $1,859,194,776. The total direct net premiums written for the insurance companies and the State Compensation Insurance Fund was $8,500,949,774.

10.1.1 EVALUATING THE SIZE OF THE MARKET

The three measures used to evaluate the size of the California workers' compensation insurance market are:

A. Level and increase in employment

B. Level and increase in premium

C. The number of property/casualty insurance groups providing coverage

The exposure base for workers' compensation insurance is total payroll, and therefore total employment is one way to evaluate the size of the market. From 1980 to 1990, the number of employees on non-farm payrolls increased from 10,040,000 to 12,873,000. This is a 28.2% change compared to a 22% change for the United States. The only state reporting a larger percentage of change was Florida at 45%.

Also for the period from 1980 to 1990 the direct earned premium for property and casualty insurance companies increased from $2,497,109,000 to $6,599,173,000. This is a 164.3% increase compared to a 119.8% increase for the United States. Currently, California accounts for approximately 20% of the U.S. workers' compensation premium. The above figures are for private-insurers only and does not include self-insurance programs and the State Compensation Insurance Fund.

The number of insurance company groups that provided workers' compensation coverage in California has also increased from 1986 to 1990. In 1990, there were 142 insurance company groups providing workers' compensation coverage in California. According to A.M. Best Company, Executive Data Services, the number of insurers writing workers' compensation coverage in California increased more than in Florida, Illinois, Oregon, Michigan, New York or Texas. This would suggest that insurance companies viewed California as a more desirable market in which to write workers' compensation insurance.

10.1.2 INSURANCE GROUPS AND NON-GROUP COMPANIES

Exhibit 10.1, "California Workers' Compensation Insurance Companies" provides the names of all the insurance companies that wrote workers' compensation business in California in 1990. The exhibit is in alphabetical order by company groups and non-group companies. The direct premiums written are listed for each company within a group with a group total. The exhibit includes the State Compensation Insurance Fund. Exhibit 10.1 begins on Page II-10.0-2.

EXHIBIT 10.1
CALIFORNIA WORKERS' COMPENSATION INSURANCE COMPANIES

COMPANY GROUPS AND NON-GROUP COMPANIES	1990 Direct Premiums Written	Total Group
ACMAT		0
ACSTAR Insurance Company	--	
Aetna Life & Casualty Group		170,406,358
Aetna Casualty & Surety Co. of America	$128,694,957	
Aetna Casualty & Surety Co. of Illinois	24,062,594	
American Re-Insurance Company	--	
The Automobile Ins Co. of Hartford, Conn.	8,567,349	
Farmington Casualty Company	560,967	
The Standard Fire Insurance Company	8,520,491	
AIM Insurance Group		0
AIM Insurance Company	--	
Allendale Group		29
Affiliated FM Insurance Company	29	
Appalachian Insurance Company	--	
Allianz Insurance Group		54,085,689
Allianz Insurance Company	54,066,867	
Allianz Underwriters Insurance Company	18,822	
ALLIED Group		1,082,442
ALLIED Mutual Insurance Company	1,082,442	
Allstate Insurance Group		81,070,882
Allstate Indemnity Company	4,842,707	
Allstate Insurance Company	29,888,863	
Northbrook Indemnity Company	24,275,716	
Northbrook National Insurance Company	946,927	
Northbrook Property and Casualty Insurance Co	21,116,669	
Amerco (Nevada)		2,027,560
Republic Western Insurance Co. (Canada)	2,027,560	
American Eagle Insurance Company	249,292	
American Financial Insurance Group		21,702,987
Agricultural Insurance Company	313,937	
American Alliance Insurance Company	49,783	
American National Fire Insurance Company	18,378,444	
Great American Insurance Company	2,960,823	
Transport Insurance Company	--	
American Hardware Insurance Group		6,045,338
American Hardware Mutual Insurance Company	6,045,338	
American Indemnity Group		0
Texas General Indemnity Company	--	

EXHIBIT 10.1 - Continued

COMPANY GROUPS AND NON-GROUP COMPANIES	1990 Direct Premiums Written	Total Group
American International Group		430,415,317
AIU Insurance Company	(8,502)	
American Home Assurance Company	116,652,427	
American Int'l Surplus Lines Insurance Co.	10,000	
Birmingham Fire Insurance Company of PA	7,099,297	
Commerce and Industry Insurance Company	340,831	
Granite State Insurance Company	7,187,184	
The Insurance Company of the State of PA	7,428,692	
Lexington Insurance Company	--	
National Union Fire Insurance Co. of Pittsburgh	288,353,062	
New Hampshire Insurance Company	3,352,326	
American Mutual Companies		0
American Policyholders' Insurance Company	--	
Amerisure Companies		3,163,991
Michigan Mutual Insurance Company	3,163,991	
Aon Corporation Group		14,872
Virginia Surety Company, Inc.	14,872	
Argonaut Group		126,318,199
Argonaut Insurance Company	124,652,281	
Argonaut-Midwest Insurance Company	1,665,918	
Argonaut-Southwest Insurance Company	--	
The Atlantic Mutual Companies		22,767,774
Atlantic Mutual Insurance Company	2,277,115	
Centennial Insurance Company	20,490,659	
Baldwin & Lyons Group		1,441,607
Protective Insurance Company	1,441,607	
Berkshire Hathaway Inc. Group		13,679,285
Cypress Insurance Company	11,660,989	
National Indemnity Company	21,388	
National Liability and Fire Insurance Co.	1,996,908	
Redwood Fire and Casualty Insurance Co.	--	
California Casualty Group		85,073,091
California Casualty & Fire Insurance Company	9,447,944	
California Casualty General Insurance Company	13,031,044	
California Casualty Indemnity Exchange	59,193,279	
California Casualty Insurance Company	3,400,824	
California Comp Insurance Company	188,056,343	

EXHIBIT 10.1 - Continued

COMPANY GROUPS AND NON-GROUP COMPANIES	1990 Direct Premiums Written	Total Group
California Consumers Insurance Group		40,039
Canadian Insurance Company	40,039	
California Indemnity Insurance Group		88,896,627
California Indemnity Insurance Company	88,896,627	
Commercial Casualty Insurance Company	--	
Capital Holding Corp. Group		131
Worldwide Underwriters Insurance Company	131	
C.E. Heath Comp & Liability Insurance Company	52,007,304	
Central Mutual (Ohio) Group		65,578
All American Insurance Company	627	
Central Mutual Insurance Company	64,951	
The Central National Group		0
Central National Insurance Co. of Omaha	--	
The Protective Nat'l Insurance Co. of Omaha	--	
Certified Grocers of California, Ltd.		8,713,037
Springfield Insurance Company, Inc.	8,713,037	
Chiyoda Fire & Marine Insurance Company	(347)	
Chrysler Corporation		331,368
Chrysler Insurance Company	331,368	
Chubb Group of Insurance Companies		43,270,035
Chubb Insurance Company of NJ	--	
Federal Insurance Company	12,112,943	
Great Northern Insurance Company	--	
Northwestern Pacific Indemnity Company	15,234	
Pacific Indemnity Company	29,403,601	
Sea Insurance Company Limited (US Branch)	6,928	
Sun Insurance Office Limited (US BRanch)	668,177	
Vigilant Insurance Company	1,063,152	
Church Mutual Insurance Company	3,248,305	

EXHIBIT 10.1 - Continued

COMPANY GROUPS AND NON-GROUP COMPANIES	1990 Direct Premiums Written	Total Group
CIGNA Group		261,672,116
Allegiance Insurance Company	1,012	
Allied Insurance Company	--	
Alaska Pacific Assurance Company	--	
Bankers Standard Insurance Company	1,727	
California Union Insurance Company	--	
Century Indemnity Company	213,608	
CIGNA Fire Underwriters Insurance Company	205,794	
CIGNA Insurance Company	2,764,859	
CIGNA Property and Casualty Insurance Co.	42,138,826	
Illinois Union Insurance Company	--	
Indemnity Insurance Company of North America	388,212	
Insurance Company of North America	55,097,675	
Pacific Employers Insurance Company	160,860,272	
Teachers Insurance Company	131	
Cincinnati Financial Corporation		214,315
Cincinnati Insurance Company	214,315	
Citation Insurance Company	52,367,465	
CNA Insurance Companies		314,858,163
American Casualty Company of Reading, PA	173,843	
CNA Casualty of California	67,820,745	
Continental Casualty Company	16,644,474	
National Fire Insurance Company of Hartford	452,687	
Transcontinental Insurance Company	15,089,603	
Transportation Insurance Company	214,458,042	
Valley Forge Insurance Company	218,769	
Colonia Insurance Group		0
Colonia Insurance Company (US Branch)	--	
Commercial Union Insurance Companies		2,971,981
American Employers' Insurance Company	(33,684)	
Commercial Union Insurance Company	2,945,910	
The Employers' Fire Insurance Company	64,633	
The Northern Assurance Company of America	(4,878)	
Commind Insurance Company	489,839	

EXHIBIT 10.1 - Continued

COMPANY GROUPS AND NON-GROUP COMPANIES	1990 Direct Premiums Written	Total Group
Continental Insurance Companies		142,577,828
Boston Old Colony Insurance Company	71,994	
Casualty Insurance Company	--	
Commercial Insurance Company of Newark, NJ	38,950	
The Continental Insurance Company	28,054,394	
Fidelity and Casualty Company of New York	13,402,315	
Firemen's Insurance Co. of Newark, NJ	195,296	
Glens Falls Insurance Company	3,939	
Kansas City Fire and Marine Insurance Company	50,081,037	
Mayflower Insurance Company, Ltd.	25,782	
Niagara Fire Insurance Company	6,050,979	
Workers' Comp. and Indemn. Co. of California	44,653,142	
Covenant Mutual Group		0
Covenant Mutual Insurance Company	--	
Crum and Forster Insurance Companies		384,117,124
All West Insurance Company	23,993	
California Insurance Company	--	
Industrial Indemnity Company of the Northwest	436,943	
Industrial Indemnity Company	377,601,303	
International Insurance Company	284,790	
International Surplus Lines Insurance Co.	--	
Industrial Underwriters Insurance Company	16,885	
The North River Insurance Company	4,038,645	
United States Fire Insurance Company	1,653,678	
Westchester Fire Insurance Company	60,887	
CUNA Mutual Insurance Group		3,323,828
CUMIS Insurance Society, Inc.	3,323,828	
Dodson Insurance Group		1,412,301
Casualty Reciprocal Exchange	1,412,301	
Eagle Insurance Group		8,837,163
Pacific Eagle Insurance Company	8,837,163	
Eagle Pacific Insurance Company	21,489,013	
Electric Mutual Group		8,323,699
Electric Mutual Liability Insurance Company	8,323,699	
Employers Insurance of Texas Group		3,201,381
Employers Casualty Company	3,201,381	
Employers Mutual Companies		185,358
Employers Mutual Casualty Company	185,358	

EXHIBIT 10.1 - Continued

COMPANY GROUPS AND NON-GROUP COMPANIES	1990 Direct Premiums Written	Total Group
Employers Re Group		0
Puritan Insurance Company	--	
Evanston Group		0
Evanston Insurance Company	--	
Farmers Insurance Group		72,711,483
Mid-Century Insurance Company	36,216,030	
Truck Insurance Exchange	36,495,453	
Federated Mutual Group		189,591
Federated Mutual Insurance Company	189,591	
Federated Rural Electric Insurance	18,546	
Fidelity & Deposit Group		2,312
Fidelity and Deposit Company of Maryland	2,312	
Fireman's Fund Insurance Companies		242,733,540
American Automobile Insurance Company	12,237,594	
The American Insurance Company	6,825,686	
Associated Indemnity Corporation	74,069,314	
Chicago Insurance Company	--	
Fireman's Fund Insurance Company	51,487,813	
Fireman's Fund Insurance Company of Ohio	21	
Fireman's Fund Insurance Company of Texas	--	
National Surety Corporation	98,113,112	
San Francisco Reinsurance Company	--	
Florists' Mutual Group		2,989,036
Florists' Mutual Insurance Company	2,989,036	
Fremont General Group		386,291,508
Beaver Insurance Company	23,008,778	
Comstock Insurance Company	--	
Fremont Compensation Insurance Company	264,186,103	
Fremont Indemnity Company	--	
Pacific Compensation Insurance Company	99,096,627	
GEICO Corp. Group		75,730
GEICO General Insurance Company	--	
Government Employees Insurance Company	75,730	
General Accident Insurance Group		18,947,385
General Accident Insurance Company of America	18,947,385	
Golden Eagle Insurance Company		115,178,824
Golden Eagle Insurance Company	115,178,824	

EXHIBIT 10.1 - Continued

COMPANY GROUPS AND NON-GROUP COMPANIES	1990 Direct Premiums Written	Total Group
Grain Dealers Group		132
Grain Dealers Mutual Insurance Company	132	
GRE Insurance Group		35,417
Atlas Assurance Company of America	35,417	
Greater New York Group		300,763
Greater New York Mutual Insurance Company	300,763	
Green Tree Group		8,678
American Loyalty Insurance Company	8,678	
The Hanover Insurance Companies		1,860,345
Hanover Insurance Company	1,860,345	
Harco National Insurance Company	(10,556)	
Hartford Insurance Group		174,974,999
Hartford Accident and Indemnity Company	14,757,647	
Hartford Casualty Insurance Company	269,877	
Hartford Fire Insurance Company	52,738	
Hartford Insurance Company of the Midwest	(103)	
Hartford Underwriters Insurance Company	159,875,738	
Twin City Fire Insurance Company	19,102	
Hawaiian Insurance Group		0
The Hawaiian Insurance & Guaranty Company, Ltd.	--	
Highlands Insurance Group		59,524,192
Highlands Insurance Company	8,801,548	
Highlands Underwriters Insurance Company	50,722,644	
Home Insurance Companies		91,151,494
City Insurance Company	1,088,461	
The Home Indemnity Company	31,387,502	
The Home Insurance Company	58,675,508	
The Home Insurance Company of Illinois	--	
The Home Insurance Company of Indiana	23	
ICW Group		14,183,523
The Explorer Insurance Company	143,163	
Insurance Company of the West	14,040,360	
Indiana Lumbermens Mutual Insurance Company	--	
Insurance Company of Maryland	--	
John Deere Insurance Group		2,888,866
John Deere Insurance Company	2,888,866	

EXHIBIT 10.1 - Continued

COMPANY GROUPS AND NON-GROUP COMPANIES	1990 Direct Premiums Written	Total Group
John Hancock Group		9,908,357
John Hancock Indemnity Company	--	
Unigard Insurance Company	2,017,036	
Unigard Security Insurance Company	7,891,321	
Kemper National Insurance Companies		231,398,395
American Manufacturers Mutual Insurance Co.	39,337,027	
American Motorists Insurance Company	89,233,114	
American Protection Insurance Company	2,984,007	
Lumbermens Mutual Casualty Group	99,844,247	
Lawrence Insurance Group		298,629
United Community Insurance Company	298,629	
Liberty Mutual Insurance Companies		399,821,709
Liberty Insurance Corporation	4,406,225	
Liberty Mutual Fire Insurance Company	390,319,020	
Liberty Mutual Insurance Company	5,096,464	
Lincoln National Group		15,178,100
American Economy Insurance Company	5,563,030	
American States Insurance Company	9,615,070	
American States Insurance Company of Texas	--	
Lincoln National Specialty Insurance Company	--	
Lumbermen's U/W Alliance	412,392	
Majestic Insurance Company	6,252,716	
McM Corp Group		0
Occidental Fire and Casualty Company of NC	--	
Mead Reinsurance Corporation	--	
Midwest Employers Casualty Co.	665,114	
Motors Insurance Group		(5)
MIC Property & Casualty Insurance Corp.	(5)	
Mutual Risk Management, Ltd.		31,354,585
Legion Insurance Company	31,354,585	
National American Insurance Company	1,199,696	
National American Insurance Company of California	41,123,298	
National Automobile & Casualty Insurance Company	--	

EXHIBIT 10.1 - Continued

COMPANY GROUPS AND NON-GROUP COMPANIES	1990 Direct Premiums Written	Total Group
National Farmers Union Casualty Group		108,672
National Farmers Union Property and Casualty Co.	108,672	
Nationale-Nederlanden Group		0
Peerless Insurance Company	--	
Nationwide Group		144,538,267
Employers Insurance of Wausau A Mutual Co.	62,933,033	
Nationwide General Insurance Company	30	
Nationwide Mutual Fire Insurance Company	3,918,908	
Nationwide Mutual Insurance Company	68,664,065	
Nationwide Property and Casualty Insurance Co.	704	
Wausau Underwriters Insurance Company	9,021,527	
Nippon Fire & Marine Insurance Company	2,045,672	
Nobel Insurance Group		0
Atlantic Casualty and Fire Insurance Co.	--	
Northwestern National Insurance Group		20,067,682
Compass Insurance Company	--	
Northwestern National Casualty Company	58,583	
Northwestern National Insurance Company	(37,381)	
Pacific Automobile Insurance Company	1,454,000	
Pacific National Insurance Company	18,592,480	
Ohio Casualty Group		38,800,263
American Fire and Casualty Company	45,970	
The Ohio Casualty Insurance Company	10,654,636	
West American Insurance Company	28,099,657	
Old Republic Group		21,545,209
Bituminous Casualty Corporation	4,205	
Bituminous Fire and Marine Insurance Company	--	
International Business & Merc. Reassur. Co.	52,187	
Old Republic Insurance Company	21,488,817	
Orion Capital Companies		55,292,214
The Connecticut Indemnity Company	3,774,806	
Employee Benefits Insurance Company	51,691,444	
The Fire and Casualty Ins Co of Connecticut	(207,651)	
Security Insurance Company of Hartford	33,615	
Pacific Rim Assurance Company	81,270,837	
Pacific States Casualty Company	64,798,897	
Paula Insurance Company	34,973,991	

EXHIBIT 10.1 - Continued

COMPANY GROUPS AND NON-GROUP COMPANIES	1990 Direct Premiums Written	Total Group
Penn Central Group		342,869,846
Republic Indemnity Company of America	342,869,846	
Petroleum Casualty Company	518,551	
Preferred Risk Group		3,915,319
Preferred Risk Mutual Insurance Company	3,915,319	
Primerica		4,568,865
Gulf Insurance Company	4,568,865	
Select Insurance Company	--	
Progressive Insurance Group		256,716
National Continental Insurance Company	256,716	
Prudential of America Group		1,575,820
Gibraltar Casualty Company	--	
Prudential Commercial Insurance Company	336,347	
Prudential-LMI Commercial Insurance Company	1,239,473	
PW Goup, Inc.		55,636
Providence Washington Insurance Company	55,636	
Ranger Insurance Group		53,850
Ranger Insurance Company	53,850	
Red Shield Insurance Company	--	
Reliance Insurance Group		70,119,981
Planet Insurance Company	5,753,899	
Reliance Insurance Company	61,728,044	
Reliance Insurance Company of Illinois	--	
Reliance National Insurance Company	825,658	
United Pacific Insurance Company	1,812,380	
River Oaks, Inc.		49,476
Tri-Star Insurance Company	49,476	
The Royal Insurance Group		16,852,230
American and Foreign Insurance Company	42,678	
Globe Indemnity Company	1,313,223	
Newark Insurance Company	37,336	
Royal Indemnity Company	3,271,487	
Royal Insurance Company of America	11,672,542	
Safeguard Insurance Company	514,964	

EXHIBIT 10.1 - Continued

COMPANY GROUPS AND NON-GROUP COMPANIES	1990 Direct Premiums Written	Total Group
SAFECO Insurance Companies		58,002,410
First National Insurance Company of America	3,697,129	
General Insurance Company of America	38,604,307	
SAFECO Insurance Company of America	15,697,458	
SAFECO Surplus Lines Insurance Company	3,516	
St. Paul Companies, Inc.		23,507,977
St. Paul Fire and Marine Insurance Company	18,867,061	
St. Paul Guardian Insurance Company	26,167	
St. Paul Mercury Insurance Company	4,614,749	
St. Paul Surplus Lines Insurance Company	--	
Select Insurance Company	--	
Seneca Insurance Company	32	
Siebels Bruce Group		(14,267)
Consolidated American Insurance Company	--	
South Carolina Insurance Company	(14,267)	
Sentry Insurance Group		16,257,644
Middlesex Insurance Company	--	
Sentry Insurance A Mutual Company	16,257,644	
The Signature Group		0
Forum Insurance Company	--	
Skandia U.S. Holding Group		14,911,967
Great States Insurance Company	14,911,967	
Valley Insurance Company	NA	
State Compensation Insurance Fund	1,859,194,776	
State Farm Group		40,153,952
State Farm Fire and Casualty Company	40,153,952	
Sumitomo Marine & Fire Insurance Company	(9,364)	
Superior National Insurance Group, Inc.		91,858,551
Superior National Insurance Company	91,858,551	
Tokio Marine & Fire Group		21,668,119
Houston General Insurance Company	201,094	
The Tokio Marine & Fire Ins. Co Ltd. (US Branch)	21,465,878	
Trans Pacific Insurance Company	1,147	
Topa Equities Group		1,243,683
Topa Insurance Company	1,243,683	

EXHIBIT 10.1 - Continued

COMPANY GROUPS AND NON-GROUP COMPANIES	1990 Direct Premiums Written	Total Group
Transamerica Corporation Group		318,665,582
Fairmont Insurance Company	190,388,085	
Transamerica Countrywide Insurance Company	6,854	
Transamerica Indemnity Company	82,724	
Transamerica Insurance Company	120,482,880	
Transamerica Premier Insurance Company	7,705,039	
Travelers Group		193,395,011
The Charter Oak Fire Insurance Company	(91,685)	
The Phoenix Insurance Company	389,533	
The Travelers Indemnity Company of America	(52,029)	
The Travelers Indemnity Company of Illinois	157,793,471	
The Travelers Indemnity Company of RI	146,573	
The Travelers Indemnity Company	20,741,493	
The Travelers Insurance Company (Acc Dept)	14,467,655	
Unicare Insurance Company	64,799,187	
United Grocers Group		236,469
United Employers Insurance Company	236,469	
United States Fidelity & Guaranty Group		25,664,495
Fidelity & Guaranty Insurance Underwriters, Inc.	29,015	
United States Fidelity & Guaranty Company	25,635,480	
Utica National Insurance Group		13,510,451
Graphic Arts Mutual Insurance Company	5,005,273	
Utica Mutual Insurance Company	8,505,178	
Vanliner Insurance Company	270,587	
Western Growers Insurance Company	12,947,630	
Western International Insurance Company	--	
Westfield Companies		239
Ohio Farmers Insurance Company	684	
Westfield Insurance Company	(445)	
Winterthur Swiss Group		0
Blue Ridge Insurance Company	--	
Republic Insurance Company	--	
Republic Underwriters Insurance Company	--	
Vanguard Insurance Company	--	
Vanguard Underwriters Insurance Company	--	
W.R. Berkley Corporation Group		0
Admiral Insurance Company	--	

EXHIBIT 10.1 - Continued

COMPANY GROUPS AND NON-GROUP COMPANIES	1990 Direct Premiums Written	Total Group
Yasuda Fire & Marine Insurance Co. Ltd.		12,672,490
Yasuda Fire & Marine Insurance Co. of America	12,672,490	
Zenith National Insurance Group		210,616,009
CalFarm Insurance Company	356,361	
Zenith Insurance Company	210,259,648	
Zurich Insurance Group - United States		85,234,649
American Guarantee and Liabiltiy	7,775,915	
American Zurich Insurance Company	6,033	
Assurance Company of America	116,272	
Maryland Casualty Company	6,299,477	
Northern Insurance Company of New York	236,578	
Universal Underwriters Insurance Company	2,158,300	
Valiant Insurance Company	28,203	
Zurich American Insurance Company of Illinois	155	
Zurich Insurance Company	68,613,716	
TOTAL DIRECT PREMIUMS WRITTEN	8,500,949,774	

Sources: NAIC
A.M. Best Company

10.2 MARKET STRUCTURE

In December of 1991 a report was prepared by Milliman & Robertson, Inc. for the Association of California Insurance Companies and the American Insurance Association. This report provided an evaluation of the competitiveness of the California workers' compensation insurance market. As a part of the research, they evaluated the structure of the California workers' compensation insurance market. This was accomplished by analyzing the nature of the product in the workers' compensation insurance market, entry/exit barriers, the size of this market and market concentration measures. They defined the California market as a "workably competitive" market in the sense that market conditions produced the desirable outcomes of competition without necessarily meeting all the strict requirements of the theoretical economic model. The following points summarize their findings concerning the structure of the California workers' compensation insurance markets:

A. The basic product is a standardized insurance policy.

B. Information on policy coverage and the participants to the insurance transaction (e.g., insurers, employers, agents) is available from public agencies and private organizations.

C. There was sufficient amount of entry into the California workers' compensation market between 1986 and 1990. The number of insurance groups providing coverage increased 12.7%.

D. Market concentrations for this market are below standards that would suggest a lack of competition, and below the concentration observed in other workers' compensation and non-insurance markets.

10.2.1 INSURANCE COMPANIES ENTERING THE WORKERS' COMPENSATION MARKET

Exhibit 10.2, "Insurance Companies Entering Workers' Compensation Market 1985-1990" lists the insurance companies that have become members of the Workers' Compensation Insurance Rating Bureau in California from 1985 to 1990.

EXHIBIT 10.2
INSURANCE COMPANIES ENTERING WORKERS' COMPENSATION MARKET
1985-1990

1990

Alaska National Insurance Company
Albany Insurance Company
Atlas Assurance Co. of America
Winterthur Reinsurance Corp. of America

1989

California Consumers Insurance Company
Dorinco Reinsurance Company
Eagle West Insurance Company
Great Central Insurance Company
Great States Insurance Company
Mercantile and General Reinsurance Company (The)
Progressive Casualty Insurance Company
Springfield Insurance Company

1988

American Eagle Insurance Company
Atlantic Casualty & Fire Insurance Company
California Indemnity Insurance Company
Copenhagen Reinsurance Company of America (The)
Design Professionals Insurance Company
Monterey Insurance Company
National American Insurance Company
Pacific Eagle Insurance Company
Phoenix Reinsurance Company
Recapital Reinsurance Corporation
RLI Insurance Company
Star Insurance Company
Transamerica Reinsurance Company
United Community Insurance Company
United Employers Insurance Company
Van Liner Insurance Company

1987

Casualty Insurance Company
Chrysler Insurance Company (The)
Cincinnati Insurance Company
Commind Insurance Company
Federated Rural Electric Insurance Corporation
Five Star Insurance Company
Folksamerica Reinsurance Company (The)
Frankona Reinsurance Company
Fremont Compensation Insurance Company
Gamma Reinsurance Company
Great Lakes Reinsurance Company (The)
Hartford Insurance Company of the Midwest
Metropolitan Reinsurance Company
M L Oates Insurance Company
Omaha Property and Casualty Insurance Company
Pacific Rim Assurance Company (The)
Pacific Security Insurance Company
Prudential Commercial Insurance Company
Tri-Star Insurance Company
Workers' Compensation & Indemnity Company of California
ZNAT Insurance Company

1986

CalFarm Insurance Company
Canadian Insurance Company of California (The)
Ennia Reinsurance Company of America
Farmington Casualty Company
New Zealand Reinsurance Company of America (The)
Potomac Insurance Company of Illinois
Resolute Reinsurance Company

United Community Insurance Company
Western Growers Insurance Company
Williamsburg National Insurance Company

1985

AIM Insurance Company
Explorer Insurance Company (The)
Fidelity and Deposit Company of Maryland
Industrial Insurance Company
Insurance Corporation of Hannover
National American Insurance Company of California
Red Shield Insurance Company
Universal Security Insurance Company
Zurich American Insurance Company of Illinois

10.2.2 WORKERS' COMPENSATION INSURANCE RATING BUREAU MEMBERSHIP

Exhibit 10.3, "Workers' Compensation Insurance Rating Bureau Membership" shows the number of insurance companies that were members of the California Workers' Compensation Insurance Rating Bureau from 1985-1990.

EXHIBIT 10.3
WORKERS' COMPENSATION INSURANCE RATING BUREAU MEMBERSHIP

1990	439
1989	438
1988	437
1987	437
1986	430
1985	433

10.3 OPTIONAL DIVIDEND PLANS

10.3.1 AVAILABILITY OF DIVIDEND PLANS

Many optional dividend plans are available to employers in California. The plans become a part of the Workers' Compensation Policy. These plans return premium dollars to the employers based on its loss experience and the profitability of the insurance company. These plans provide an incentive for the employer to maintain an active safety program in order to reduce its workers' compensation claims.

10.3.2 DIVIDEND PLAN FACTORS

The estimated annual or deposit premium is determined by multiplying the payroll by the rates for the various classification of workers. This establishes the manual premium and the experience modification factor is considered to establish the standard premium.

A. The retention factor is the percentage of the premium that is retained by the insurance company to cover its general expenses consisting mainly of administration, commissions, underwriting and home office overhead expenses.

B. The incurred but not reported (IBNR) losses factor is a calculation to establish what losses have occurred that have not been reported during the policy period.

C. The loss development factor (LDF) is a factor that is used to establish the ultimate cost of that claim.

D. The loss conversion factor (LCF) is a factor applied to the reserves to determine the cost of adjusting the claim.

E. Loss limitation option is available to put a maximum on a severe claim for purposes of dividend determination.

F. The recapture provision allows the insurance company at the time of a future dividend calculation to obtain a return of dividends previously paid.

10.3.3 DIVIDEND CALCULATION TIMING

Typically at the time of the first dividend calculation, depending on the loss experience, there is a premium return to the employer. At the time of the second dividend calculation, which would be twelve months later, the losses develop and a premium due the insurance company is the net result. With the provisions of the recapture provision, the insurance company can request a return of dividends previously paid to the insured.

The dividend determination and timing varies extensively and the enclosed exhibits provide the time period and the amounts payable at each time. The dates to keep in mind are:

A. There should be an audit immediately after the <u>expiration</u> of the annual policy.

B. The losses will be valued <u>six months after the expiration</u> of the policy and reported to the Workers' Compensation Insurance Rating Bureau for the determination of the experience modification factor.

C. The dividend plans are <u>valued at various times</u> and the amount payable will fluctuate due to loss development.

Ultimately, the employer will pay for its own losses under a dividend plan up to the maximum of the standard premium. There is a retrospectively rated program available, however, it is not used extensively in this state. The main difference between a retro program and the dividend program is that the dividend program protects the employer against any swing beyond 100% of the standard premium, whereas the retro plan would allow the employer to be obligated to pay more than the standard premium in the event of adverse loss experience for the policy year.

All insurance companies have a minimum premium before they will offer the dividend or the retrospective rated plans. This does prohibit small employers from taking advantage of the plans and they must purchase a guaranteed cost program.

10.3.4 ONE YEAR DIVIDEND PLANS

Exhibit 10.4, "California Workers' Compensation Plans One Year Dividend Plans" is an example of the various factors and possibilities available for a one year dividend plan. The factors were defined in Section 10.3.2.

The majority of the policyholders that include a dividend plan in the workers' compensation program select the one year dividend plan. Exhibit 10.4 is located on the following pages, Page II-10.0-20 through Page II-10.0-22.

10.3.5 TWO YEAR DIVIDEND PLANS

Exhibit 10.5, "California Workers' Compensation Plans Two Year Dividend Plans" is an example of a two year dividend plan. Particular attention should be paid to the dividend determination and timing involved in calculating a dividend involving two years of workers' compensation loss experience. A high loss ratio during the first year of the two year dividend plan will greatly reduce, or very possibly eliminate dividend possibilities in both years even though the second year of the dividend plan does have very favorable loss experience. Exhibit 10.5 is located on Page II-10.0-23.

10.3.6 THREE YEAR DIVIDEND PLANS

Exhibit 10.6, "California Workers' Compensation Plans Three Year Dividend Plans" is an example of provisions available on a three year dividend plan and how the loss experience of each year is considered in the various adjustments. Please note that the fifth dividend calculation occurs 72 months after the inception of the policy. Exhibit 10.6 is located on Page II-10.0-24.

EXHIBIT 10.4
CALIFORNIA WORKERS' COMPENSATION PLANS
ONE YEAR DIVIDEND PLANS

Terms	Company A	Company B	Company C
Estimated Annual Premium	$143,200	$218,430	$143,257
Retention Factor	33.1%	37.1%	32.9%
Incurred but not reported (IBNR) losses factor	None	None	6%
Loss Development Factor (LDF)	None	8.5%	None
Loss Conversion Factor (LCF)	1.2	1.15	1.1
Loss Limitation	$300,000	None	None
Recapture Provision	Yes	No	No
Dividend Determination and Timing	Losses valued 18 months after inception 100% of Dividend released 24 months after inception Two (2) subsequent dividend adjustments at 12 month intervals Losses valued 12 months after initial valuation date The loss valuation date coincides with the date the losses are reported to the Rating Bureau	Losses valued and dividend calculated 21 months after expiration 100% of dividend is payable 22 months after expiration	Losses valued and dividend calculated 15 months after expiration 100% of dividend payable 18 months after expiration

EXHIBIT 10.4 - Continued

Terms	Company D	Company E	Company F
Estimated Annual Premium	$1,640,811	$251,602	$143,000
Retention Factor	3.6%	20.5%	24.0%
Incurred but not reported (IBNR) losses factor	7.5% 1st Adj. 5.0% 2nd Adj. 0% 3rd & subseq. Adj.	None	None
Loss Development Factor (LDF)	None	None	8.5%
Loss Conversion Factor (LCF)	1.15	1.15	1.15
Loss Limitation	None	None	None
Recapture Provision	Yes	No	No
Dividend Determination and Timing	Losses valued 6 months after expiration	Losses valued 15 months after expiration	Losses valued and dividend calculated 18 months after expiration
	100% of dividend payable 10 months after expiration	75% of dividend paid 15 months after expiration	100% of the dividend paid within 30 days of calculation
	Losses are valued and dividends calculated annually thereafter	Losses recalcualted and balance of dividend paid 27 months after expiration	

EXHIBIT 10.4 - Continued

Terms	Company G
Estimated Annual Premium	$275,150
Retention Factor	29.5%
Incurred but not reported (IBNR) losses factor	None
Loss Development Factor (LDF)	None
Loss Conversion Factor (LCF)	1.2
Loss Limitation	None
Recapture Provision	No
Dividend Determination and Timing	Losses valued 6-8 months after expiration and following a retrospective adjustment 33% of the dividend will be paid within 30 days The second calculation will be made 12 months after the first, following the retrospective adjustment 66% of the dividend will be paid. The final adjustment will be made 12 months after the second and 100% of the dividend will be paid. One year Retro Par Plan-Preferred

EXHIBIT 10.5
CALIFORNIA WORKERS' COMPENSATION PLANS
TWO YEAR DIVIDEND PLANS

Terms	Company A	Company B
Estimated Annual Premium	$143,257	$218,430
Retention Factor	33.6%	26.8%
Incurred but not reported (IBNR) losses factor	None	None
Loss Development Factor (LDF)	10% Subject to earned min. premium limit of $150,000	5.9% at the last calculation
Loss Conversion Factor (LCF)	1.15	1.15
Loss Limitation		
Recapture Provision	None	

Dividend Determination and Timing

MONTHS FROM EXPIRATION OF THE POLICY

OPTION I:

Schedule	Loss Valuation	Dividend Calculation	Dividend Payment	Amount Paid
1st	12th month	14th month	15th month	60 %
2nd	24th month	26th month	27th month	75 %
3rd	36th month	38th month	39th month	100 %

Note: A 10% LDF will not be applied on dividend calculations (Subject to a two year minimum premium of $150,000).

OPTION II:

Schedule	Loss Valuation	Dividend Calculation	Dividend Payment	Amount Paid
1st	12th month	14th month	15th month	75 %
2nd	24th month	26th month	27th month	100 %

Note: The 10% LDF will be applied on Dividend Calculations. (10 % of first year premium only on 1st calculation; 10 % of second year premium only applied on 2nd calculation)

Company B:

The losses are valued and dividend calculated at the end of 9, 21, & 33 months after expiration of the first policy year.

The first calculation will be for the first year and 40% of the dividend will be paid.

The second and third calculations combine both years premium and losses and pay 60% and 100% respectively, less all previously paid dividends.

EXHIBIT 10.6
CALIFORNIA WORKERS' COMPENSATION PLANS
THREE YEAR DIVIDEND PLANS

Terms	Company A	Company B
Estimated Annual Premium	$143,200	$143,257
Retention Factor	25.5%	24.8%
Incurred but not reported (IBNR) losses factor	None	4%
Loss Development Factor (LDF)	None	None
Loss Conversion Factor (LCF)	1.20	1.10
Loss Limitation	$300,000	None
Recapture Provision	None	None
Dividend Determination and Timing	Losses are valued at 18 months after inception of the first policy year and 4 subsequent valuations at 12 month intervals 1st Dividend - 24 months after inception 50% 2nd Dividend - 36 months after inception 50% 3rd Dividend - 48 months after inception 75% 4th Dividend - 60 months after inception 75% 5th Dividend - 72 months after inception 100% The 2nd thru 5th calculations are based on the cumulative totals of the loss experience and premium.	Losses are valued at 15 months after expiration of each policy year. 100% of the declared dividend is paid 90 days after each evaluation. On the 1st adjustment, dividends (as a percent of first year premium) are calculated using the loss ratio of the 1st & 2nd year policies combined. On the 2nd adjustment, dividends (as a percent of the 1st and 2nd year policies combined) are calculated using the loss ratio of all 3 years combined. On the 3rd adjustment, dividends (as a percent of 3 year premium) are calculated using the loss ratio of all 3 years combined. The 3rd adjustment is final unless there is a recalculation agreement. On the 2nd & 3rd adjustments the dividend is reduced by any previous payments.

10.4 MARKET SHARE

10.4.1 TOP 100 INSURANCE GROUPS/COMPANIES

In 1990, the top 50 insurance groups, providing workers' compensation coverage in the State of California, wrote 96.2% of the direct written premium for a total of $6,404,584,000. Exhibit 10.7, "Market Share by Insurance Group Direct Premium Written ($000s) 1976-1990" provides a listing of the company groups and non-group companies. In 1990, the largest group concentration was by the American International Group with a 6.5% market share. This is well below any industry standards and guidelines for market concentration. Exhibit 10.7 provides the cumulative market share for 1990 for the insurance groups/companies starting with the insurance group that had the largest market share. The exhibit also includes the market share percentages from 1976 through 1990. Exhibit 10.7 is located on pages, Page II-10.0-26 through Page II-10.0-33.

10.4.2 INSURANCE COMPANIES WITHIN THE TOP 3 GROUPS

American International Group
- American Home Assurance Company
- American Int'l Surplus Lines Insurance Co.
- Burmingham Fire Insurance Company of PA
- Commerce and Industry Insurance Company
- Granite State Insurance Company
- The Insurance Company of the State of PA
- National Union Fire Insurance Co. of Pittsburgh
- New Hampshire Insurance Company

Liberty Mutual Insurance Companies
- Liberty Insurance Corporation
- Liberty Mutual Fire Insurance Company
- Liberty Mutual Insurance Company

Fremont General Group
- Beaver Insurance Company
- Fremont Compensation Insurance Company
- Pacific Compensation Insurance Company

10.4.3 MARKET CONCENTRATION

One measure used to evaluate concentration of market is the Herfindahl-Hirschman Index (HHI), which is defined as the sum of the squared market shares of all firms. The Justice Department merger guidelines rely on the HHI to evaluate the impact of the merger or acquisition on a market. The Justice Department considers a post-merger index greater than 1,800 to be a highly concentrated market and thus reason for a closer review of the proposed action. An index between 1,000 and 1,800 suggests that additional information is necessary, especially if the merger increases the index by more than 100 points. Markets with indices below 1,000 are considered substantially unconcentrated and mergers are generally permitted. The California HHI has been approximately 350.

EXHIBIT 10.7
MARKET SHARE BY INSURANCE GROUP
DIRECT PREMIUM WRITTEN ($000s)
1976-1990

1990 RANK	COMPANY/GROUP	DIR PREM WRITTEN 1990	CUM MKT SHR 1990	MARKET SHARE 1990	1989	1988	1987	1986	1985 RANK	DIR PREM WRITTEN 1985	MARKET SHARE 1985	1984	1983	1982	1981
1	AMERICAN INT'L GROUP	430,415	6.5%	6.5%	5.9%	5.6%	5.8%	5.0%	12	111,608	3.0%	2.1%	2.1%	2.1%	2.1%
2	LIBERTY MUTUAL GROUP	399,822	12.5%	6.0%	6.4%	7.3%	7.7%	7.2%	3	230,960	6.2%	5.5%	4.9%	5.9%	6.1%
3	FREMONT GENERAL GROUP	386,292	18.3%	5.8%	6.8%	6.8%	7.8%	8.6%	2	231,960	6.3%	5.9%	5.9%	6.3%	6.5%
4	CRUM & FORSTER COS	384,117	24.1%	5.8%	6.1%	6.7%	7.3%	7.2%	1	258,167	7.0%	7.2%	6.7%	6.9%	6.3%
5	PENN CENTRAL GROUP	342,870	29.2%	5.1%	4.9%	4.6%	4.9%	4.3%							
6	TRANSAMERICA CORP GROUP	318,666	34.0%	4.8%	4.8%	4.6%	4.6%	3.9%	34	27,636	0.7%	0.6%	0.7%	0.6%	0.6%
7	CNA INSURANCE COMPANIES	314,858	38.7%	4.7%	3.8%	4.1%	3.1%	2.8%	15	87,611	2.4%	1.9%	1.6%	1.2%	1.6%
8	CIGNA GROUP	261,672	42.6%	3.9%	4.6%	5.7%	5.6%	4.9%	4	196,504	5.3%	5.6%	6.4%	6.4%	9.2%
9	FIREMAN'S FUND COMPANIES	242,734	46.2%	3.6%	3.6%	3.6%	4.0%	4.0%	8	154,751	4.2%	5.4%	6.0%	5.8%	5.9%
10	KEMPER NATIONAL INS CO	231,398	49.7%	3.5%	3.6%	3.5%	2.6%	2.5%	14	98,679	2.7%	1.8%	2.0%	1.7%	2.0%
11	ZENITH NATIONAL INS GRP	210,616	52.9%	3.2%	3.1%	3.1%	3.0%	3.0%	10	132,637	3.6%	3.8%	4.1%	3.6%	3.5%
12	TRAVELERS INSURANCE GRP	193,395	55.8%	2.9%	3.3%	3.2%	4.1%	3.9%	7	157,424	4.2%	3.7%	3.8%	4.2%	3.6%
13	CALIFORNIA COMP INS CO	188,056	58.6%	2.8%	1.0%	0.5%	0.6%	0.7%							
14	HARTFORD INSURANCE GRP	174,975	61.2%	2.6%	2.5%	3.0%	2.9%	3.2%	11	125,294	3.4%	3.3%	3.6%	3.0%	3.1%
15	AETNA LIFE & CAUALTY GRP	170,406	63.8%	2.6%	2.5%	2.9%	3.1%	3.9%	9	142,633	3.8%	3.7%	3.7%	3.5%	3.1%
16	NATIONWIDE GROUP	144,538	66.0%	2.2%	2.8%	2.8%	2.6%	2.7%	6	174,204	4.7%	4.2%	3.7%	3.5%	3.7%
17	CONTINENTAL INS COS	142,578	68.1%	2.1%	2.1%	2.3%	1.8%	1.5%	22	56,859	1.5%	0.9%	1.3%	1.4%	1.7%
18	AGRONAUT INS GROUP	126,318	70.0%	1.9%	1.7%	1.4%	1.4%	1.7%							
19	GOLDEN EAGLE INS CO	115,179	71.7%	1.7%	1.6%	1.3%	0.8%	0.2%	56	6,412	0.2%	0.1%	--	--	--
20	SUPERIOR NAT'L INS COS	91,859	73.1%	1.4%	1.1%	0.9%	0.7%	0.4%	92	209	0.0%	--	0.0%	0.0%	0.0%
21	HOME INSURANCE COMPANIES	91,151	74.5%	1.4%	1.2%	1.4%	1.1%	1.3%	23	50,645	1.4%	1.5%	1.2%	1.1%	1.1%
22	CII FINANCIAL GROUP	89,386	75.8%	1.3%	1.1%	0.3%	--	--							
23	ZURICH INS GROUP - US	85,235	77.1%	1.3%	1.6%	1.4%	1.1%	1.2%	32	29,004	0.8%	0.9%	0.9%	0.9%	0.8%
24	CALIF CAS INDEMN GROUP	85,073	78.4%	1.3%	1.4%	1.8%	2.0%	1.8%	21	57,214	1.5%	1.5%	1.5%	1.7%	1.6%
25	PACIFIC RIM ASSUR GRP	81,271	79.6%	1.2%	0.7%	0.3%	0.0%	--							
26	ALLSTATE INSURANCE GROUP	81,071	80.8%	1.2%	1.5%	1.6%	1.7%	1.3%	26	41,107	1.1%	1.2%	0.6%	0.3%	0.3%
27	FARMERS INSURANCE GROUP	72,711	81.9%	1.1%	1.1%	1.2%	1.3%	1.2%	27	39,519	1.1%	0.9%	1.0%	1.3%	1.5%
28	RELIANCE INSURANCE GROUP	70,120	83.0%	1.1%	1.1%	0.8%	0.7%	0.7%	29	30,299	0.8%	0.9%	0.8%	0.5%	0.5%
29	UNICARE INSURANCE CO	64,799	84.0%	1.0%	1.2%	0.9%	0.9%	0.9%	36	25,753	0.7%	0.6%	0.6%	0.5%	0.4%

EXHIBIT 10.7 - Continued

MARKET SHARE BY INSURANCE GROUP DIRECT PREMIUM WRITTEN ($000s)

1990 RANK	COMPANY/GROUP	1980 RANK	DIR PREM WRITTEN 1980	MARKET SHARE 1980	1979	1978	1977	1976
1	AMERICAN INT'L GROUP	20	44,478	1.9%	1.0%	1.2%	1.0%	0.7%
2	LIBERTY MUTUAL GROUP	4	14,525	6.0%	6.1%	6.8%	7.4%	6.6%
3	FREMONT GENERAL GROUP	2	157,401	6.6%	6.5%	6.5%	6.4%	4.9%
4	CRUM & FORSTER COS	5	140,634	5.9%	6.0%	6.1%	6.7%	7.5%
5	PENN CENTRAL GROUP							
6	TRANSAMERICA CORP GROUP	36	16,137	0.7%	0.7%	0.7%	0.6%	0.6%
7	CNA INSURANCE COMPANIES	17	45,001	1.9%	1.9%	1.5%	1.3%	1.3%
8	CIGNA GROUP							
9	FIREMAN'S FUND COMPANIES	6	133,386	5.6%	6.5%	7.4%	7.7%	8.3%
10	KEMPER NATIONAL INS CO	16	45,775	1.9%	1.3%	1.7%	1.5%	1.2%
11	ZENITH NATIONAL INS GRP	9	83,707	3.5%	3.5%	3.1%	4.3%	4.1%
12	TRAVELERS INSURANCE GRP	10	83,098	3.5%	3.5%	3.4%	3.8%	6.4%
13	CALIFORNIA COMP INS CO							
14	HARTFORD INSURANCE GRP	11	72,882	3.1%	2.6%	2.9%	2.6%	3.0%
15	AETNA LIFE & CAUALTY GRP	8	86,242	3.6%	3.5%	3.8%	3.6%	3.3%
16	NATIONWIDE GROUP							
17	CONTINENTAL INS COS	22	35,034	1.5%	1.8%	1.8%	2.0%	2.5%
18	AGRONAUT INS GROUP							
19	GOLDEN EAGLE INS CO							
20	SUPERIOR NAT'L INS COS							
21	HOME INSURANCE COMPANIES	25	24,087	0.1%	1.7%	0.9%	1.6%	1.5%
22	CII FINANCIAL GROUP							
23	ZURICH INS GROUP - US	32	17,883	0.7%	0.8%	0.8%	0.9%	0.8%
24	CALIF CAS INDEMN GROUP	18	44,953	1.9%	1.7%	1.7%	1.8%	2.0%
25	PACIFIC RIM ASSUR GRP							
26	ALLSTATE INSURANCE GROUP	45	8,036	0.3%	0.4%	0.7%	1.2%	1.1%
27	FARMERS INSURANCE GROUP	19	44,590	1.9%	2.1%	2.2%	2.1%	2.0%
28	RELIANCE INSURANCE GROUP	42	13,238	0.6%	0.5%	0.5%	0.6%	0.6%
29	UNICARE INSURANCE CO	48	5,461	0.2%	--	--	--	--

EXHIBIT 10.7 - Continued

MARKET SHARE BY INSURANCE GROUP - DIRECT PREMIUM WRITTEN ($000s)

1990 COMPANY/GROUP RANK	DIR PREM WRITTEN 1990	CUM MKT SHR 1990	MARKET SHARE 1990	1989	1988	1987	1986	1985 RANK	DIR PREM WRITTEN 1985	MARKET SHARE 1985	1984	1983	1982	1981
30 PACIFIC STATES CASUALTY	64,799	85.0%	1.0%	0.8%	0.8%	0.6%	0.4%	47	10,627	0.3%	0.2%	0.0%	--	--
31 HIGHLANDS INSURANCE GRP	59,524	85.9%	0.9%	0.7%	0.5%	0.5%	0.3%	54	6,975	0.2%	0.1%	0.1%	0.1%	0.1%
32 SAFECO INSURANCE COS	58,002	86.8%	0.9%	1.0%	1.1%	1.0%	0.8%	43	19,044	0.5%	0.0%	0.4%	0.4%	0.5%
33 ORION CAPITAL COMPANIES	55,292	87.6%	0.8%	1.6%	1.7%	1.5%	1.3%	18	72,365	2.0%	2.1%	1.8%	1.5%	1.4%
34 ALLIANZ GROUP	54,086	88.4%	0.8%	0.6%	0.6%	0.6%	0.6%	31	29,447	0.8%	0.9%	0.8%	0.9%	1.0%
35 CITATION INS CO (CA)	52,367	89.2%	0.8%	0.8%	0.9%	0.8%	0.7%	37	23,857	0.6%	0.3%	0.1%	0.0%	--
36 CE HEALTH COMP & LIAB	52,007	90.0%	0.8%	0.5%	0.4%	0.2%	--							
37 CHUBB GROUP OF INS COS	43,270	90.6%	0.6%	0.6%	0.7%	0.9%	1.1%	25	47,305	1.3%	1.2%	0.9%	0.8%	0.7%
38 NAT AMERICAN INS CAL	41,123	91.2%	0.6%	0.4%	0.2%	0.1%	0.0%							
39 STATE FARM GROUP	40,154	91.8%	0.6%	0.6%	0.6%	0.7%	0.7%	38	22,963	0.6%	0.6%	0.5%	0.5%	0.5%
40 OHIO CASUALTY GROUP	38,800	92.4%	0.6%	0.7%	0.7%	0.8%	0.9%	35	26,567	0.7%	0.6%	0.5%	0.6%	0.6%
41 PAULA INSURANCE CO	34,974	92.9%	0.5%	0.5%	0.5%	0.5%	0.6%	41	21,315	0.6%	0.6%	0.7%	0.7%	0.7%
42 LEGION INSURANCE CO	31,355	93.4%	0.5%	0.3%	0.1%	--	--							
43 EAGLE INSURANCE GRP	30,326	93.9%	0.5%	0.4%	0.3%	0.3%	0.3%	51	8,395	0.2%	--	--	--	--
44 UNITED STATES F&G GRP	25,664	94.3%	0.4%	0.6%	0.7%	0.6%	0.7%	40	21,555	0.6%	0.6%	0.6%	0.7%	1.0%
45 ST PAUL GROUP	23,508	94.7%	0.4%	0.2%	0.1%	0.2%	0.2%	46	12,337	0.3%	0.5%	0.4%	0.3%	0.3%
46 ATLANTIC MUTUAL COS	22,768	95.0%	0.3%	0.4%	0.2%	0.1%	0.1%	66	2,456	0.1%	0.1%	0.1%	0.1%	0.1%
47 AMERICAN FINANCIAL GRP	21,703	95.3%	0.3%	0.4%	0.6%	1.1%	1.3%	5	181,900	4.9%	3.8%	3.6%	3.7%	3.7%
48 TOKIO MAR & FIRE GROUP	21,668	95.6%	0.3%	0.3%	0.2%	0.2%	0.2%	49	8,973	0.2%	0.2%	0.2%	0.4%	0.3%
49 OLD REPUBLIC GROUP	21,545	95.9%	0.3%	0.7%	0.4%	1.1%	0.7%	63	3,107	0.1%	0.0%	0.0%	0.0%	0.0%
50 NORTHWESTERN NAT'L GROUP	20,068	96.2%	0.3%	0.4%	0.3%	0.2%	0.3%							
TOTAL ABOVE 50 COMPANIES	6,404,584		96.2%	95.6%	95.2%	95.3%	91.2%							
TOTAL ALL OTHER COS	255,838		3.8%	4.3%	4.5%	5.5%	8.7%							
TOTAL COS ON LISTS II & III														
TOTAL INDUSTRY	6,660,425		100.0%	100.0%	100.0%	100.0%	100.0%							
NATIONAL AGENCY COMPANIES	3,503,189		52.6%	54.2%	55.7%	56.5%	55.5%							
STATE AGENCY COMPANIES	2,228,575		33.5%	30.4%	20.6%	26.4%	27.9%							
DIRECT WRITERS	928,661		13.9%	15.4%	17.0%	17.1%	16.6%							

EXHIBIT 10.7 - Continued

MARKET SHARE BY INSURANCE GROUP DIRECT PREMIUM WRITTEN ($000s)

1990 RANK	COMPANY/GROUP	1980 RANK	DIR PREM WRITTEN 1980	MARKET SHARE 1980	1979	1978	1977	1976
30	PACIFIC STATES CASUALTY							
31	HIGHLANDS INSURANCE GRP	63	2,014	0.1%	0.1%	0.2%	0.3%	0.5%
32	SAFECO INSURANCE COS	39	14,691	0.6%	0.5%	0.5%	0.6%	0.5%
33	ORION CAPITAL COMPANIES							
34	ALLIANZ GROUP	24	25,006	1.0%	1.1%	0.8%	0.4%	--
35	CITATION INS CO (CA)							
36	CE HEALTH COMP & LIAB							
37	CHUBB GROUP OF INS COS	31	18,618	0.8%	0.8%	0.9%	1.1%	1.5%
38	NAT AMERICAN INS CAL							
39	STATE FARM GROUP	38	15,768	0.7%	0.7%	0.7%	0.7%	0.5%
40	OHIO CASUALTY GROUP	37	15,987	0.7%	0.7%	0.7%	0.6%	0.6%
41	PAULA INSURANCE CO	33	17,658	0.7%	0.7%	0.7%	0.6%	0.5%
42	LEGION INSURANCE CO							
43	EAGLE INSURANCE GRP							
44	UNITED STATES F&G GRP	23	29,995	1.3%	1.5%	1.6%	1.4%	1.3%
45	ST PAUL GROUP	43	8,978	0.4%	0.4%	0.4%	0.4%	0.6%
46	ATLANTIC MUTUAL COS	68	1,348	0.1%	0.1%	0.0%	0.0%	0.0%
47	AMERICAN FINANCIAL GRP	7	90,858	3.8%	3.9%	3.8%	3.9%	3.9%
48	TOKIO MAR & FIRE GROUP	47	6,308	0.3%	0.2%	0.2%	0.2%	0.1%
49	OLD REPUBLIC GROUP	98	41	0.0%	0.0%	0.0%	0.0%	0.0%
50	NORTHWESTERN NAT'L GROUP							

EXHIBIT 10.7 - Continued

MARKET SHARE BY INSURANCE GROUP - DIRECT PREMIUM WRITTEN ($000s)

1990 RANK	COMPANY/GROUP	DIR PREM WRITTEN 1990	CUM MKT SHR 1990	MARKET SHARE 1990	1989	1988	1987	1986	1985 RANK	DIR PREM WRITTEN 1985	MARKET SHARE 1985	1984	1983	1982	1981
51	GENERAL ACC GROUP	18,947	0.3%	0.3%	0.2%	0.2%	0.1%	0.1%	59	5,072	0.1%	0.1%	0.1%	0.1%	0.1%
52	EMPLOYERS RE GROUP	18,607	0.6%	0.3%	0.3%	0.4%	0.5%	0.4%	48	9,347	0.3%	0.1%	0.1%	0.2%	0.3%
53	ROYAL INSURANCE GROUP	16,852	0.9%	0.3%	0.5%	1.0%	1.5%	1.9%	17	77,269	2.1%	2.1%	2.1%	2.5%	2.2%
54	SENTRY INSURANCE GROUP	16,258	1.1%	0.2%	0.2%	0.2%	0.2%	0.2%	52	7,865	0.2%	0.2%	0.3%	0.3%	0.3%
55	LINCOLN NATIONAL GROUP	15,178	1.3%	0.2%	0.3%	0.3%	0.2%	0.2%	61	4,548	0.1%	0.1%	0.1%	0.1%	0.1%
56	SKANDIA US HOLDINGS GRP	14,912	1.5%	0.2%	0.1%	0.0%	0.1%	0.1%							
57	ICW GROUP	14,184	1.7%	0.2%	0.2%	0.1%	0.0%	0.4%	24	49,830	1.3%	1.4%	1.5%	1.4%	0.7%
58	BERKSHIRE HATHAWAY	13,679	1.9%	0.2%	0.3%	0.3%	0.4%	0.5%	42	20,326	0.5%	0.7%	0.8%	0.7%	0.8%
59	UTICA NATIONAL GROUP	13,510	2.1%	0.2%	0.2%	0.1%	0.1%	0.2%	62	4,403	0.1%	0.2%	0.3%	0.3%	0.2%
60	WESTERN GROWERS INSURANCE	12,948	2.3%	0.2%	0.2%	0.2%	0.2%	--							
61	YASUDA FIRE & MARINE	12,672	2.5%	0.2%	0.1%	0.1%	0.1%	0.0%	71	1,422	0.0%	0.0%	0.0%	--	--
62	UNIGARD INSURANCE GROUP	9,908	2.6%	0.1%	0.2%	0.3%	0.4%	0.4%	45	15,389	0.4%	0.5%	0.7%	0.8%	0.7%
63	SPRINGFIELD INSURANCE CO	8,713	2.7%	0.1%	0.1%	--	--	--							
64	ELECTRIC MUTUAL GROUP	8,324	2.8%	0.1%	0.2%	0.2%	0.2%	0.1%	58	5,829	0.2%	0.2%	0.2%	0.2%	0.2%
65	MAJESTIC INSURANCE CO	6,253	2.9%	0.1%	0.2%	0.2%	0.2%	0.2%							
66	AMERICAN HARDWARE MUT GRP	6,045	3.0%	0.1%	0.1%	0.1%	0.1%	0.1%	70	2,185	0.1%	0.1%	0.1%	0.1%	0.0%
67	PRIMERICA GROUP	4,569	3.1%	0.1%	0.1%	0.1%	0.1%	0.1%							
68	PREFERRED RISK GROUP	3,915	3.2%	0.1%	0.1%	0.1%	0.1%	0.1%	67	2,299	0.1%	0.1%	0.1%	0.1%	0.1%
69	CUNA MUTUAL INSURANCE GRP	3,324	3.3%	0.0%	0.0%	0.0%	0.0%	0.0%	74	1,079	0.0%	0.0%	0.0%	0.0%	0.0%
70	CHURCH MUTUAL INSURANCE	3,248	3.3%	0.0%	0.0%	0.0%	0.0%	0.0%	79	687	0.0%	0.0%	0.0%	0.0%	0.0%
71	EMPLOYERS CASUALTY GRP TX	3,201	3.4%	0.0%	0.2%	0.2%	0.2%	0.3%	55	6,862	0.2%	0.2%	0.2%	0.2%	0.2%
72	AMERISURE INSURANCE COS	3,164	3.4%	0.0%	0.0%	0.0%	0.0%	0.0%	83	464	0.0%	0.0%	0.0%	0.0%	0.0%
73	FLORISTS' MUTUAL GROUP	2,989	3.5%	0.0%	0.0%	0.0%	0.0%	0.0%	82	478	0.0%	0.0%	0.0%	0.0%	0.0%
74	COMM UNION INSURANCE COS	2,972	3.5%	0.0%	0.1%	0.1%	0.1%	0.1%	57	6,102	0.2%	0.5%	0.8%	0.8%	0.9%
75	JOHN DEERE GROUP	2,889	3.6%	0.0%	0.0%	0.0%	0.0%	0.0%	93	146	0.0%	0.0%	0.0%	0.0%	0.0%
76	REPUBLIC WESTERN INS	2,090	3.6%	0.0%	0.1%	0.1%	0.0%	0.0%							
77	NIPPON FIRE & MAR USB	2,046	3.7%	0.0%	0.0%	0.0%	0.0%	0.0%	99	83	0.0%	0.0%	0.0%	0.0%	0.0%

EXHIBIT 10.7 - Continued

MARKET SHARE BY INSURANCE GROUP DIRECT PREMIUM WRITTEN ($000s)

1990 RANK	COMPANY/GROUP	1980 RANK	DIR PREM WRITTEN 1980	MARKET SHARE 1980	1979	1978	1977	1976
51	GENERAL ACC GROUP	51	4,361	0.2%	0.2%	0.2%	0.3%	0.2%
52	EMPLOYERS RE GROUP							
53	ROYAL INSURANCE GROUP	21	41,121	1.7%	1.7%	1.8%	1.8%	2.0%
54	SENTRY INSURANCE GROUP	44	8,543	0.4%	0.4%	0.3%	0.3%	0.3%
55	LINCOLN NATIONAL GROUP	62	2,331	0.1%	0.1%	0.1%	0.0%	0.0%
56	SKANDIA US HOLDINGS GRP							
57	ICW GROUP							
58	BERKSHIRE HATHAWAY	28	20,976	0.9%	1.0%	1.6%	1.9%	1.1%
59	UTICA NATIONAL GROUP	50	4,691	0.2%	0.1%	0.1%	0.1%	0.2%
60	WESTERN GROWERS INSURANCE							
61	YASUDA FIRE & MARINE							
62	UNIGARD INSURANCE GROUP	35	17,321	0.7%	0.5%	0.4%	0.4%	0.4%
63	SPRINGFIELD INSURANCE CO							
64	ELECTRIC MUTUAL GROUP	54	3,946	0.2%	0.0%	0.2%	0.2%	0.1%
65	MAJESTIC INSURANCE CO							
66	AMERICAN HARDWARE MUT GRP	60	2,568	0.1%	0.1%	0.1%	0.1%	0.1%
67	PRIMERICA GROUP							
68	PREFERRED RISK GROUP	65	1,805	0.1%	0.1%	0.1%	0.0%	0.0%
69	CUNA MUTUAL INSURANCE GRP							
70	CHURCH MUTUAL INSURANCE							
71	EMPLOYERS CASUALTY GRP TX							
72	AMERISURE INSURANCE COS							
73	FLORISTS' MUTUAL GROUP	84	225	0.0%	0.0%	0.0%	0.0%	0.0%
74	COMM UNION INSURANCE COS	30	19,256	0.8%	0.7%	0.6%	0.7%	0.9%
75	JOHN DEERE GROUP	96	79	0.0%	0.0%	0.0%	0.0%	0.0%
76	REPUBLIC WESTERN INS							

EXHIBIT 10.7 - Continued

MARKET SHARE BY INSURANCE GROUP - DIRECT PREMIUM WRITTEN ($000s)

1990 RANK	COMPANY/GROUP	DIR PREM WRITTEN 1990	CUM MKT SHR 1990	MARKET SHARE 1990	1989	1988	1987	1986	1985 RANK	1985 DIR PREM WRITTEN	MARKET SHARE 1985	1984	1983	1982	1981
78	HANOVER INSURANCE COS	1,860	3.7%	0.0%	0.0%	0.1%	0.0%	0.0%	30	29,792	0.8%	0.8%	0.6%	0.5%	0.6%
79	PRUDENTIAL OF AMER GRP	1,576	3.7%	0.0%	0.0%	0.0%	0.0%	0.1%							
80	BALDWIN & LYONS GROUP	1,442	3.7%	0.0%	0.0%	0.0%	0.0%	0.0%	69	2,240	0.1%	0.0%	0.0%	0.0%	0.0%
81	DODSON INSURANCE GROUP	1,412	3.7%	0.0%	0.0%	0.0%	0.0%	0.0%	87	359	0.0%	0.0%	--	--	--
82	TOPA INSUANCE CO	1,244	3.7%	0.0%	0.0%	0.0%	0.0%	0.0%	97	112	0.0%	0.0%	0.0%	0.0%	0.0%
83	NATIONAL AMERICAN INS	1,200	3.8%	0.0%	0.0%	0.0%	0.0%	--							
84	ALLIED INSURANCE GROUP	1,082	3.8%	0.0%	0.0%	0.0%	0.0%	0.1%	73	1,105	0.0%	0.0%	0.0%	0.0%	0.1%
85	MIDWEST EMPLOYERS CAS	665	3.8%	0.0%	0.0%	0.0%	0.0%	--							
86	PETROLEUM CASUALTY	519	3.8%	0.0%	0.0%	0.0%	0.0%	0.0%	77	769	0.0%	0.1%	0.0%	0.1%	0.0%
87	LUMBERMEN'S UNDRG AL	412	3.8%	0.0%	0.0%	0.0%	0.0%	0.0%	75	893	0.0%	0.0%	0.0%	0.0%	0.0%
88	CHRYSLER INSURANCE CO	331	3.8%	0.0%	0.0%	0.0%	--	--							
89	GREATER NY GROUP	301	3.8%	0.0%	0.0%	0.0%	0.0%	0.0%	90	220	0.0%	0.0%	0.0%	0.0%	0.0%
90	LAWRENCE INSURANCE GROUP	299	3.8%	0.0%	0.0%	--	--	--							
91	VANLINER INSURANCE CO	271	3.8%	0.0%	0.0%	0.0%	--	--							
92	PROGRESSIVE GROUP	257	3.8%	0.0%	0.0%	0.0%	0.0%	0.0%							
93	AMER EAGLE INSURANCE (TX)	249	3.8%	0.0%	0.0%	--	--	--							
94	UNITED EMPLOYERS INS	239	3.8%	0.0%	0.0%	--	--	--							
95	CINCINNATI FINANCIAL GRP	214	3.8%	0.0%	0.0%	0.0%	--	--							
96	FEDERATED MUTUAL GROUP	190	3.8%	0.0%	0.0%	0.0%	0.0%	0.0%	91	209	0.0%	0.0%	0.0%	0.0%	0.0%
97	EMPLOYERS MUTUTAL GROUP	185	3.8%	0.0%	0.0%	0.0%	0.0%	0.0%	89	234	0.0%	0.0%	0.0%	0.0%	0.0%
98	NAT FARMERS UN CAS GRP	109	3.8%	0.0%	0.0%	0.0%	0.0%	0.0%	100	81	0.0%	0.0%	0.0%	--	--
99	GEICO CORP GROUP	76	3.8%	0.0%	0.0%	0.0%	0.0%	0.0%	96	113	0.0%	0.0%	0.0%	0.0%	0.0%
100	CENTRAL MUTUAL OHIO GRP	66	3.8%	0.0%	0.0%	0.0%	0.0%	0.0%	80	530	0.0%	0.0%	0.1%	0.1%	0.1%

EXHIBIT 10.7 - Continued

MARKET SHARE BY INSURANCE GROUP DIRECT PREMIUM WRITTEN ($000s)

1990 RANK	COMPANY/GROUP	1980 RANK	1980 DIR PREM WRITTEN 1980	MARKET SHARE 1980	1979	1978	1977	1976
77	NIPPON FIRE & MAR USB	91	105	0.0%	0.0%	0.0%	--	--
78	HANOVER INSURANCE COS							
79	PRUDENTIAL OF AMER GRP	80	337	0.0%	0.0%	0.0%	0.0%	--
80	BALDWIN & LYONS GROUP							
81	DODSON INSURANCE GROUP							
82	TOPA INSUANCE CO							
83	NATIONAL AMERICAN INS							
84	ALLIED INSURANCE GROUP							
85	MIDWEST EMPLOYERS CAS							
86	PETROLEUM CASUALTY	75	535	0.0%	0.0%	0.0%	0.1%	0.0%
87	LUMBERMEN'S UNDRG AL							
88	CHRYSLER INSURANCE CO							
89	GREATER NY GROUP	95	89	0.0%	0.0%	0.0%	0.0%	0.0%
90	LAWRENCE INSURANCE GROUP							
91	VANLINER INSURANCE CO							
92	PROGRESSIVE GROUP							
93	AMER EAGLE INSURANCE (TX)							
94	UNITED EMPLOYERS INS							
95	CINCINNATI FINANCIAL GRP							
96	FEDERATED MUTUAL GROUP							
97	EMPLOYERS MUTUTAL GROUP	100	26	0.0%	0.0%	0.0%	0.0%	0.0%
98	NAT FARMERS UN CAS GRP							
99	GEICO CORP GROUP	94	90	0.0%	0.0%	0.0%	0.0%	--
100	CENTRAL MUTUAL OHIO GRP	66	1,682	0.1%	0.1%	0.1%	0.1%	0.1%

10.4.4 MARKET SHARE BY INSURANCE COMPANY

Exhibit 10.8, "Largest Workers' Compensation Companies in California in 1990" lists the top 42 insurance companies that provided workers' compensation coverage in California in 1990. The exhibit is in descending order by direct premiums written. Also listed are the direct premiums earned, dividends paid, direct losses paid and direct losses incurred by the 42 companies that wrote the largest volume of direct premiums written.

The rank listings for direct premiums earned, dividends paid, direct losses paid and direct losses incurred will vary as the direct premiums written is the basis for the comparison. In some instances, the amount paid is less than the top rank companies, therefore, it was not noted.

The State Compensation Insurance Fund is by far the largest insurance company in the state. It ranks number one for all categories.

Exhibit 10.8 is on the facing page.

EXHIBIT 10.8
LARGEST WORKERS' COMPENSATION COMPANIES IN CALIFORNIA IN 1990

INSURANCE COMPANY	DIRECT PREMIUMS WRITTEN		DIRECT PREMIUMS EARNED		DIVIDENDS PAID		DIRECT LOSSES PAID		DIRECT LOSSES INCURRED	
	PREMIUM	RANK	PREMIUM	RANK	DIVIDENDS	RANK	LOSSES	RANK	LOSSES	RANK
SCIF	1,859,194,776	1	1,836,478,695	1	331,186,988	1	1,069,415,436	1	1,552,275,306	1
Liberty Mutual Fire Ins. Co.	390,319,020	2	390,358,314	2	112,673,611	2	235,857,764	2	283,244,448	3
Industrial Indemnity Co.	377,601,303	3	389,801,056	3	58,947,551	3	198,989,290	3	284,176,761	2
Republic Indem. Co. of America	342,869,846	4	339,826,371	4	55,391,485	4	138,091,651	4	190,949,414	4
National Union Fire Ins. Co.	288,353,062	5	276,766,982	5	(1)		126,044,095	5	186,910,892	5
Fremont Comp. Ins. Co.	264,186,103	6	260,894,729	6	22,917,546	9	119,069,553	7	147,852,003	7
Transportation Ins. Co.	214,458,042	7	184,169,957	10	30,176,854	6	82,024,770	9	137,989,346	8
Zenith Ins. Co.	210,259,648	8	207,625,601	7	22,963,784	8	81,101,513	11	107,547,967	12
Fairmont Ins. Co.	190,388,085	9	194,998,554	8	11,502,748	18	119,304,331	6	136,399,976	9
California Comp. Ins. Co.	188,056,343	10	185,024,074	9	3,925,068	42	40,371,922	24	113,266,981	10
Pacific Employers Ins. Co.	160,860,272	11	167,275,981	11	21,123,437	10	100,516,871	8	110,138,994	11
Hartford Underwriters Ins. Co.	159,875,738	12	105,533,370	18	(2)		(2)		54,574,900	25
Travelers Indem. Co. of Illinois	157,793,471	13	150,102,722	12	24,594,448	7	58,698,291	14	166,807,974	6
Aetna Casualty & Surety Co.	128,694,957	14	122,469,018	13	10,915,009	20	82,024,028	10	73,342,755	18
Argonaut Ins. Co.	124,652,281	15	115,195,663	15	12,682,109	14	55,153,092	18	77,165,786	16
Transamerica Ins. Co.	120,482,880	16	120,773,329	14	11,747,013	17	35,714,054	27	69,085,092	19
American Home Assurance Co.	116,652,427	17	113,758,157	16	8,160,607	28	53,560,994	19	92,230,238	13
Golden Eagle Ins. Co.	115,178,824	18	113,256,616	17	6,840,745	33	42,218,473	22	67,074,164	21
Lumbermens Mutual Casualty Co.	99,844,247	19	94,948,960	21	(2)		20,773,887	41	67,705,711	20
Pacific Comp. Ins. Co.	99,096,627	20	99,669,495	19	9,404,138	25	55,429,130	17	62,258,510	22
National Surety Corp.	98,113,112	21	92,335,360	22	9,666,612	23	41,427,910	23	52,958,182	26
Superior National Ins. Co.	91,858,551	22	89,474,194	23	(2)		33,907,894	28	56,034,095	24
American Motorists Ins. Co.	89,233,114	23	99,401,626	20	32,665,160	5	74,821,232	12	87,256,493	14
California Indemnity Ins. Co.	88,896,627	24	85,032,290	25	(1)		(2)		44,851,450	30
Pacific Rim Assurance Co.	81,270,837	25	78,886,353	27	(2)		20,773,571	42	45,848,539	29
Associated Indemnity Corp.	74,069,314	26	70,026,562	29	9,175,723	26	52,541,274	21	43,837,894	32
Nationwide Mutual Ins. Co.	68,664,065	27	67,525,541	30	11,962,943	15	29,812,029	35	41,414,447	33
Zurich Ins. Co.	68,613,716	28	71,660,261	28			24,749,560	39	44,310,567	31
CNA Casualty of California	67,820,745	29	63,686,538	32	11,456,808	19	(2)		50,851,751	28
Unicare Ins. Co.	64,799,187	30	87,995,222	24	10,791,000	21	31,664,131	31	51,175,319	27
Pacific States Casualty Co.	64,798,897	31	67,422,819	31	(2)		31,246,707	32	56,603,849	23
Employers Ins. of Wausau (Mutual)	62,933,033	32	83,960,359	26	8,780,904	27	56,515,156	15	85,636,519	15
Reliance Ins. Co.	61,728,044	33	62,207,524	33	6,171,469	34	28,005,989	38	41,108,343	34
Calif Casualty Indemnity Exch.	59,193,279	34	58,128,734	35	18,559,999	11	31,032,647	34	(2)	
Home Ins. Co.	58,675,508	35	58,700,652	34	(2)		(2)		35,150,317	37
Ins. Co. of North America	55,097,675	36	(2)		(1)		31,779,415	30	(2)	
Allianz Ins. Co.	54,066,867	37	51,472,487	40	4,428,668	40	(2)		33,160,933	39
Citation Ins. Co.	52,367,465	38	51,549,227	39	5,087,830	39	28,236,981	36	(2)	
CE Heath Comp. & Liab. Ins. Co.	52,007,304	39	53,961,670	37	(2)		(2)		31,392,135	41
Employee Benefits Ins. Co.	51,691,444	40	57,260,939	36	8,134,968	29	55,819,017	16	73,391,300	17
Firemans Fund Ins. Co.	51,487,813	41	51,207,696	41	(2)		31,081,510	33	41,024,540	35
Highlands Underwriters Ins. Co.	50,722,644	42	(2)		6,948,926	32	(2)		33,166,384	38

Footnotes:

(1) No dividends paid
(2) Amount paid is less than ranked companies

Source: Underwriters Report

10.4.5 RATIOS TO DIRECT PREMIUMS WRITTEN

Exhibits 10.9 through 10.12 show the percentage of the direct premiums earned to direct premiums written, dividends paid to direct premiums paid and direct premiums earned, and the same for direct losses paid and direct losses incurred.

10.4.6 DIRECT PREMIUMS EARNED

Exhibit 10.9, "Direct Premiums Earned" shows the percentage of Direct Premiums Earned to Direct Premiums Written. For example, the State Compensation Insurance Fund, in 1990, had earned premiums which were 98.8% of the direct premiums written. This would indicate that the insurance company collected adequate estimated premium at the start of the policy and as a result of audits no additional premium was due in fact, premium credits could have been issued.

The majority of the insurance companies have percentages between 95% and 105%. This indicates that the proper estimate of payroll is being made at the inception of the policy and the audit at the expiration of the policy does not generate a large additional or return premium.

Exhibit 10.9 is on the facing page.

EXHIBIT 10.9
DIRECT PREMIUMS EARNED

DIRECT PREMIUMS EARNED		RANK	% DIRECT PREMIUMS WRITTEN
SCIF	1,836,478,695	1	98.8
Liberty Mutual Fire Ins Co.	390,358,314	2	100.0
Industrial Indemnity Co.	389,801,056	3	103.2
Republic Indemnity Co. of America	339,826,371	4	99.1
National Union Fire Insurance Co.	276,766,982	5	96.0
Fremont Compensation Insurance Co.	260,894,729	6	98.8
Zenith Insurance Co.	207,625,601	7	98.7
Fairmont Insurance Co.	194,998,554	8	102.4
California Compensation Insurance Co.	185,024,074	9	98.4
Transportation Insurance Co.	184,169,957	10	85.9
Pacific Employers Insurance Co.	167,275,981	11	104.0
Travelers Indemnity Co. of Illinois	150,102,722	12	95.1
Aetna Casualty & Surety Co.	122,469,018	13	95.1
Transamerica Insurance Co.	120,773,329	14	100.0
Argonaut Insurance Co.	115,195,663	15	92.4
American Home Assurance Co.	113,758,157	16	97.5
Golden Eagle Insurance Co.	113,256,616	17	98.3
Hartford Underwriters Insurance Co.	105,533,370	18	66.0
Pacific Compensation Insurance Co.	99,669,495	19	100.0
American Motorists Insurance Co.	99,401,626	20	111.4
Lumbermens Mutual Casualty Co.	94,948,960	21	95.0
National Surety Corp.	92,335,360	22	94.1
Superior National Insurance Co.	89,474,194	23	97.4
Unicare Insurance Co.	87,995,222	24	135.7
California Indemnity Insurance Co.	85,032,290	25	95.6
Employers Insurance of Wausau (Mutual)	83,960,359	26	133.4
Pacific Rim Assurance Co.	78,886,353	27	97.0
Zurich Insurance Co.	71,660,261	28	104.4
Associated Indemnity Corp.	70,026,562	29	94.5
Nationwide Mutual Insurance Co.	67,525,541	30	98.3
Pacific States Casualty Co.	67,422,819	31	104.4
CNA Casualty of California	63,686,538	32	93.7
Reliance Insurance Co.	62,207,524	33	100.7
Home Insurance Co.	58,700,652	34	100.0
California Casualty Indemnity Exch.	58,128,734	35	98.2
Employee Benefits Insurance Co.	57,260,939	36	110.7
C.E. Health Comp. & Liab. Insurance Co.	53,961,670	37	103.7
Hartford Accident & Indemnity Co.	52,126,876	38	353.2
Citation Insurance Co.	51,549,227	39	98.4
Allianz Insurance Co.	51,472,487	40	95.2
Fireman's Fund Insurance Co.	51,207,696	41	99.4
Kansas City Fire & Marine Insurance Co.	50,889,395	42	101.6

10.4.7 DIVIDENDS PAID

Exhibit 10.10, "Dividends Paid" shows the Dividends Paid as a percent of Direct Premiums Paid and Direct Premiums Earned.

Dividends cannot be guaranteed at the inception of the policy as they must be authorized by the Board of Directors of the Insurance Company and the dividends can only be paid on the surplus generated by premiums in California.

Exhibit 10.10 is on the facing page.

EXHIBIT 10.10
DIVIDENDS PAID

DIVIDENDS PAID		RANK	% DIRECT PREMIUMS PAID	% DIRECT PREMIUMS EARNED
SCIF	331,186,988	1	17.8	18.0
Liberty Mutual Fire Ins Co.	112,673,611	2	28.9	28.9
Industrial Indemnity Co.	58,947,551	3	15.6	15.1
Republic Indemnity Co. of America	55,391,485	4	16.2	16.3
American Motorists Insurance Co.	32,665,160	5	36.6	32.9
Transportation Insurance Co.	30,176,854	6	14.1	16.4
Travelers Indemnity Co. of Illinois	24,594,448	7	15.6	16.4
Zenith Insurance Co.	22,963,784	8	10.9	11.1
Fremont Compensation Insurance Co.	22,917,546	9	8.7	8.8
Pacific Employers Insurance Co.	21,123,437	10	13.1	12.6
California Casualty Indem. Exchange	18,559,999	11	31.4	31.9
Kansas City Fire & Marine Ins. Co.	13,434,962	12	26.8	26.4
Hartford Accident & Indemnity Co.	13,380,870	13	90.7	25.7
Argonaut Insurance Co.	12,682,109	14	10.2	11.0
Nationwide Mutual Insurance Co.	11,962,943	15	17.4	17.7
Cigna Property & Casualty Ins. Co.	11,824,317	16	28.1	23.8
Transamerica Insurance Co.	11,747,013	17	9.7	9.7
Fairmont Insurance Co.	11,502,748	18	6.0	5.9
CNA Casualty of California	11,456,808	19	16.9	18.0
Aetna Casualty & Surety Co.	10,915,009	20	8.5	8.9
Unicare Insurance Co.	10,791,000	21	16.7	12.3
Northbrook Prop. & Casualty Ins. Co.	9,675,269	22	45.8	45.2
National Surety Corp.	9,666,612	23	9.9	10.5
General Insurance Co. of America	9,425,935	24	24.4	25.0
Pacific Compensation Insurance Co.	9,404,138	25	9.5	9.4
Associated Indemnity Corp.	9,175,723	26	12.4	13.1
Employers Ins. of Wausau (Mutual)	8,780,904	27	14.0	10.5
American Home Assurance Co.	8,160,607	28	7.0	7.2
Employee Benefits Insurance Co.	8,134,968	29	15.7	14.2
Pacific Indemnity Co.	7,405,411	30	25.2	27.4
U. S. Fidelity & Guaranty Co.	7,048,238	31	27.5	22.2
Highlands Underwriters Insurance Co.	6,948,926	32	13.7	14.0
Golden Eagle Insurance Co.	6,840,745	33	5.9	6.0
Reliance Insurance Co.	6,171,469	34	10.0	10.0
West American Insurance Co.	5,977,267	35	21.3	20.3
American Manufacturers Mutual Co.	5,803,416	36	14.8	18.5
California Casualty General Ins. Co.	5,746,144	37	44.1	46.0
Travelers Indemnity Co.	5,119,203	38	24.7	24.7
Citation Insurance Co.	5,087,830	39	9.7	9.9
Allianz Insurance Co.	4,428,668	40	8.2	8.6
Electric Mutual Liability Insurance Co.	4,332,968	41	52.1	52.1
California Compensation Ins. Co.	3,925,068	42	2.1	2.1

10.4.8 DIRECT LOSSES PAID

Exhibit 10.11, "Direct Losses Paid" shows the percentage of Direct Losses Paid to Direct Premiums Written and Direct Premiums Earned.

This ratio is developed just on the losses that have been reported as paid and does not include the amount that has been reserved for future claim payments.

The percentages have remained generally consist among the large writers of workers' compensation insurance.

Exhibit 10.11 is on the facing page.

EXHIBIT 10.11
DIRECT LOSSES PAID

DIRECT LOSSES PAID		RANK	% DIRECT PREMIUM WRITTEN	% DIRECT PREMIUM EARNED
SCIF	1,069,415,436	1	57.5	58.2
Liberty Mutual Fire Ins Co.	235,857,764	2	60.4	60.4
Industrial Indemnity Co.	198,989,290	3	52.7	51.0
Republic Indemnity Co. of America	138,091,651	4	40.3	40.6
National Union Fire Insurance Co.	126,044,095	5	43.7	45.5
Fairmont Insurance Co.	119,304,331	6	62.7	61.2
Fremont Compensation Ins. Co.	119,069,553	7	45.1	45.6
Pacific Employers Insurance Co.	100,516,871	8	62.5	60.1
Transportation Insurance Co.	82,024,770	9	38.2	44.5
Aetna Casualty & Surety Co.	82,024,028	10	63.7	67.0
Zenith Insurance Co.	81,101,513	11	38.6	39.1
American Motorists Insurance Co.	74,821,232	12	83.8	75.3
Hartford Accident & Indemnity Co.	65,484,722	13	443.7	125.6
Travelers Indem. Co. of Illinois	58,698,291	14	37.2	39.1
Employers Ins. of Wausau (Mutual)	56,515,156	15	89.8	67.3
Employee Benefits Insurance Co.	55,819,017	16	108.0	97.5
Pacific Compensation Ins. Co.	55,429,130	17	55.9	55.6
Argonaut Insurance Co.	55,153,092	18	44.2	47.9
American Home Assurance Co.	53,560,994	19	45.9	47.1
Beaver Insurance Co.	52,665,910	20	228.9	192.5
Associated Indemnity Corp.	52,541,274	21	70.9	75.0
Golden Eagle Insurance Co.	42,218,473	22	36.7	37.3
National Surety Corp.	41,427,910	23	42.2	44.9
California Compensation Ins. Co.	40,371,922	24	21.5	21.8
Truck Insurance Exchange	37,280,504	25	102.2	95.1
Travelers Indemnity Co.	36,427,239	26	175.6	175.5
Transamerica Insurance Co.	35,714,054	27	29.6	29.6
Superior National Insurance Co.	33,907,894	28	36.9	37.9
Cigna Property & Casualty Ins. Co	31,926,641	29	75.8	64.4
Insurance Co. of North America	31,779,415	30	57.7	62.8
Unicare Insurance Co.	31,664,131	31	48.9	36.0
Pacific States Casualty Co.	31,246,707	32	48.2	46.3
Fireman's Fund Insurance Co.	31,081,510	33	60.4	60.7
California Casualty Indem. Exch.	31,032,647	34	52.4	53.4
Nationwide Mutual Insurance Co.	29,812,029	35	43.4	44.1
Citation Insurance Co.	28,236,981	36	53.9	54.8
Kansas City Fire & Marine Ins. Co	28,232,668	37	56.4	55.5
Reliance Insurance Co.	28,005,989	38	45.4	45.0
Zurich Insurance Co.	24,749,560	39	36.1	34.5
Paula Insurance Co.	21,120,471	40	60.3	61.4
Lumbermens Mutual Casualty Co.	20,773,887	41	20.8	21.9
Pacific Rim Assurance Co.	20,773,571	42	25.6	26.3

10.4.9 DIRECT LOSSES INCURRED

Exhibit 10.12, "Direct Losses Incurred" shows the Direct Losses Incurred as a percentage of Direct Premiums Written and Direct Premiums Earned.

This exhibit illustrates the percentage of the written and earned premium that has been allocated to losses. The direct losses incurred would include paid losses and the reserves that had been established for future liabilities.

Exhibit 10.12 is on the facing page.

EXHIBIT 10.12
DIRECT LOSSES INCURRED

DIRECT LOSSES INCURRED		RANK	% DIRECT PREMIUMS WRITTEN	% DIRECT PREMIUMS EARNED
SCIF	1,552,275,306	1	83.5	84.5
Industrial Indemnity Co.	284,176,761	2	75.3	72.9
Liberty Mutual Fire Ins Co.	283,244,448	3	72.6	72.6
Republic Indemnity Co. of America	190,949,414	4	55.7	56.2
National Union Fire Insurance Co.	186,910,892	5	64.8	67.5
Travelers Indemnity Co. of Illinois	166,807,974	6	105.7	111.1
Fremont Compensation Insurance Co.	147,852,003	7	56.0	56.7
Transportation Insurance Co.	137,989,346	8	64.3	74.9
Fairmont Insurance Co.	136,399,976	9	71.6	69.9
California Compensation Ins. Co.	113,266,981	10	60.2	61.2
Pacific Employers Insurance Co.	110,138,994	11	68.5	65.8
Zenith Insurance Co.	107,547,967	12	51.2	51.8
American Home Assurance Co.	92,230,238	13	79.1	81.1
American Motorists Insurance Co.	87,256,493	14	97.8	87.8
Employers Ins. of Wausau (Mutual)	85,636,519	15	136.1	102.0
Argonaut Insurance Co.	77,165,786	16	61.9	67.0
Employee Benefits Insurance Co.	73,391,300	17	142.0	128.2
Aetna Casualty & Surety Co.	73,342,755	18	57.0	59.9
Transamerica Insurance Co.	69,085,092	19	57.3	57.2
Lumbermens Mutual Casualty Co.	67,705,711	20	67.8	71.3
Golden Eagle Insurance Co.	67,074,164	21	58.2	59.2
Pacific Compensation Insurance Co.	62,258,510	22	62.8	62.5
Pacific States Casualty Co.	56,603,849	23	87.4	84.0
Superior National Insurance Co.	56,034,095	24	61.0	62.6
Hartford Underwriters Insurance Co.	54,574,900	25	34.1	51.7
National Surety Corp.	52,958,182	26	54.0	57.4
Unicare Insurance Co.	51,175,319	27	79.0	58.2
CNA Casualty of California	50,851,751	28	75.0	79.8
Pacific Rim Assurance Co.	45,848,539	29	56.4	58.1
California Indemnity Insurance Co.	44,851,450	30	50.5	52.7
Zurich Insurance Co.	44,310,567	31	64.6	61.8
Associated Indemnity Corp.	43,837,894	32	59.2	62.6
Nationwide Mutual Insurance Co.	41,414,447	33	60.3	61.3
Reliance Insurance Co.	41,108,343	34	66.6	66.1
Fireman's Fund Insurance Co.	41,024,540	35	79.7	80.1
Mid-Century Insurance Co.	39,404,727	36	108.8	123.9
Home Insurance Co.	35,150,317	37	59.9	59.9
Highlands Underwriters Insurance Co.	33,166,384	38	65.4	66.9
Allianz Insurance Co.	33,160,933	39	61.3	64.4
Kansas City Fire & Marine Ins. Co.	31,586,149	40	63.1	62.1
C.E. Health Comp. & Liab. Ins. Co.	31,392,135	41	60.4	58.2
Workers' Comp. & Indem. Co. of Calif.	29,932,866	42	67.0	69.5

10.5 MEETING THE CHALLENGE

The loss ratio of an insurance company generally reflects the underwriting cycle. From the year 1926 to 1990, there have been nine distinct cycles in the property/casualty industry combined ratio. The insurance industry is currently in the midst of a tenth cycle and there is speculation as to whether the market will harden in 1992.

In the January 1992 issue of *BEST's Review*, an article by Michael Pritula entitled, "Starting Over in Workers' Comp" suggested five characteristics that all insurance carriers will need to address:

A. Creating and shaping a "comp-focused" organization

B. Choosing market segments in which they can achieve superior value-added

C. Managing external consistencies superbly to control loss costs

D. Building skills in claims, loss control, underwriting and marketing

E. Measuring the performance of the business comprehensively

The key to successfully providing workers' compensation coverage in California in the 90's will be a "comp-focused" organization that will have successfully selected a market segment in which to provide excellent service to policyholders.

10.5.1 ADJUSTED LOSS RATIO BY INSURANCE GROUP

Exhibit 10.13, "Adjusted Loss Ratios by Insurance Group Ranked by Market Share" lists the top 100 companies/groups that provide Workers' Compensation Insurance in California. The exhibit shows the adjusted loss ratios in 5 year segments starting at 1976. The companies are ranked by direct premium written volume for the year 1990. It is interesting to note that the majority of the companies have a favorable loss ratio with the exception of occasional years where the loss ratio does exceed 100% and in fact goes to 383.3%. This is an isolated incident. The average loss ratio for the total industry for the companies writing workers' compensation coverage in California was 74.4%.

This exhibit shows the ranking in 1980 and 1985. Note there has been movement by the insurance groups in gaining and losing market share using 1990 as the benchmark. For example, the Transamerica Corporate Group, in 1980, ranked thirty-sixth (36th), in 1985, thirty-fourth (34th) and in 1990, they climbed to sixth (6th) place. Similarly, the American International Group in 1980, was ranked twentieth (20th), in 1985, they moved up to twelfth (12th) and in 1990, ranked as the number one group.

The Exhibit also identifies the groups that are relatively new in the workers' compensation insurance marketplace.

Exhibit 10.13, which consists of eight pages begins on the following page.

EXHIBIT 10.13
ADJUSTED LOSS RATIOS BY INSURANCE GROUP
RANKED BY MARKET SHARE

ADJUSTED LOSS RATIOS BY INSURANCE GROUP
RANKED BY MARKET SHARE

1990 RANK	COMPANY/GROUP	1990	1989	1988	1987	1986	5 YR AVG 1986-90	1985 RANK	1985	1984	1983	1982	1981	5 YR AVG 1981-85
1	AMERICAN INT'L GROUP	73.7%	84.2%	74.1%	85.2%	77.6%	78.7%	12	93.0%	93.6%	55.0%	61.3%	42.1%	73.1%
2	LIBERTY MUTUAL GROUP	101.2%	85.5%	79.5%	78.7%	91.9%	86.7%	3	99.1%	86.5%	84.6%	81.9%	78.8%	87.6%
3	FREMONT GENERAL GROUP	64.5%	61.9%	67.9%	76.0%	68.1%	67.6%	2	101.2%	68.1%	71.2%	61.0%	62.0%	74.7%
4	CRUM & FORSTER COS	85.8%	82.4%	64.5%	75.3%	75.9%	76.6%	1	98.4%	72.7%	74.0%	62.0%	43.4%	73.1%
5	PENN CENTRAL GROUP	67.1%	66.1%	73.8%	71.1%	66.3%	68.8%							
6	TRANSAMERICA CORP GROUP	70.6%	73.7%	67.1%	75.8%	64.0%	70.8%	34	80.0%	73.7%	69.2%	47.5%	53.6%	66.9%
7	CNA INSURANCE COMPANIES	91.1%	85.8%	73.4%	89.6%	100.2%	86.8%	15	95.0%	69.8%	62.0%	55.8%	62.2%	72.7%
8	CIGNA GROUP	72.6%	82.9%	77.7%	86.0%	67.4%	77.7%	4	58.2%	92.6%	91.2%	56.0%	39.7%	65.9%
9	FIREMAN'S FUND COMPANIES	73.6%	74.4%	82.0%	76.4%	114.9%	82.6%	8	104.9%	107.7%	70.6%	75.8%	68.3%	86.3%
10	KEMPER NATIONAL INS CO	90.5%	77.1%	60.6%	75.1%	79.5%	76.9%	14	64.2%	71.0%	70.8%	86.8%	54.9%	68.5%
11	ZENITH NATIONAL INS GRP	58.4%	57.2%	57.8%	53.6%	62.6%	57.8%	10	78.8%	72.6%	61.1%	47.2%	50.5%	64.2%
12	TRAVELERS INSURANCE GRP	91.2%	86.2%	111.9%	100.9%	98.7%	97.5%	7	79.1%	82.5%	62.9%	65.2%	73.3%	73.4%
13	CALIFORNIA COMP INS CO	62.5%	62.5%	72.6%	102.8%	88.4%	68.8%							
14	HARTFORD INSURANCE GRP	47.0%	75.7%	50.8%	85.0%	107.6%	70.5%	11	71.5%	72.0%	66.1%	50.4%	71.7%	67.4%
15	AETNA LIFE & CAUALTY GRP	68.4%	54.3%	99.2%	86.5%	83.1%	77.9%	9	97.5%	82.0%	98.9%	98.4%	90.5%	93.1%
16	NATIONWIDE GROUP	95.1%	85.3%	72.5%	82.4%	102.2%	86.9%	6	81.8%	71.3%	56.5%	68.9%	64.8%	70.5%
17	CONTINENTAL INS COS	74.2%	92.5%	56.7%	57.1%	139.5%	80.7%	22	87.5%	127.4%	63.7%	61.8%	66.2%	78.6%
18	AGRONAUT INS GROUP	74.5%	56.2%	80.5%	44.1%	77.7%	66.7%							
19	GOLDEN EAGLE INS CO	63.0%	67.4%	79.9%	83.3%	80.1%	70.7%	56	49.9%	57.5%	--	--	--	--
20	SUPERIOR NAT'L INS COS	64.7%	58.4%	66.5%	66.5%	53.0%	62.9%	92	55.5%	--	-99.9%	999.9%	511.3%	11.0%
21	HOME INSURANCE COMPANIES	54.4%	66.4%	56.1%	87.0%	48.8%	61.2%	23	62.7%	83.5%	53.8%	49.7%	104.3%	71.0%
22	CII FINANCIAL GROUP	53.5%	56.1%	69.8%	--	--	--							
23	ZURICH INS GROUP - US	55.1%	57.0%	81.2%	72.9%	104.6%	69.6%	32	98.1%	60.6%	56.9%	65.7%	73.2%	71.8%
24	CALIF CAS INDEMN GROUP	66.2%	63.9%	66.5%	83.9%	74.4%	71.4%	21	88.1%	80.0%	82.9%	71.2%	60.1%	77.4%
25	PACIFIC RIM ASSUR GRP	59.6%	59.4%	59.7%	52.9%	--	--							
26	ALLSTATE INSURANCE GROUP	58.7%	48.9%	72.2%	66.9%	89.7%	65.2%	26	97.6%	44.1%	20.6%	-24.4%	34.8%	53.0%
27	FARMERS INSURANCE GROUP	66.3%	75.7%	77.2%	90.7%	81.8%	77.9%	27	111.3%	97.5%	116.6%	75.7%	74.5%	95.6%
28	RELIANCE INSURANCE GROUP	72.9%	76.3%	54.4%	66.7%	133.8%	77.6%	29	78.8%	60.8%	64.1%	31.7%	67.6%	62.9%
29	UNICARE INSURANCE CO	66.3%	65.0%	63.1%	70.7%	74.3%	67.1%	36	78.2%	71.8%	46.5%	67.2%	62.5%	66.6%

EXHIBIT 10.13 - Continued

ADJUSTED LOSS RATIOS BY INSURANCE GROUP
RANKED BY MARKET SHARE

1990 RANK	COMPANY/GROUP	1980 RANK	1980	1979	1978	1977	1976	5 YR AVG 1976-80
1	AMERICAN INT'L GROUP	20	52.3%	81.1%	63.2%	60.2%	66.4%	64.3%
2	LIBERTY MUTUAL GROUP	4	73.8%	72.2%	90.9%	86.2%	92.0%	83.0%
3	FREMONT GENERAL GROUP	2	57.6%	58.2%	58.8%	47.4%	57.5%	56.1%
4	CRUM & FORSTER COS	5	51.6%	52.2%	62.7%	68.8%	75.9%	61.1%
5	PENN CENTRAL GROUP							
6	TRANSAMERICA CORP GROUP	36	42.4%	45.6%	55.5%	56.1%	43.7%	48.6%
7	CNA INSURANCE COMPANIES	17	63.5%	75.9%	82.2%	97.9%	143.2%	83.0%
8	CIGNA GROUP							
9	FIREMAN'S FUND COMPANIES	6	60.1%	74.0%	69.9%	52.8%	57.4%	63.3%
10	KEMPER NATIONAL INS CO	16	44.5%	73.2%	58.3%	54.8%	74.7%	58.4%
11	ZENITH NATIONAL INS GRP	9	53.4%	56.6%	57.3%	55.4%	58.9%	56.0%
12	TRAVELERS INSURANCE GRP	10	64.3%	92.3%	110.8%	56.4%	102.9%	85.3%
13	CALIFORNIA COMP INS CO							
14	HARTFORD INSURANCE GRP	11	60.1%	78.7%	71.7%	55.2%	58.4%	65.6%
15	AETNA LIFE & CAUALTY GRP	8	75.5%	74.8%	68.7%	69.4%	60.9%	71.0%
16	NATIONWIDE GROUP							
17	CONTINENTAL INS COS	22	70.9%	76.4%	53.3%	67.6%	102.9%	73.9%
18	AGRONAUT INS GROUP							
19	GOLDEN EAGLE INS CO							
20	SUPERIOR NAT'L INS COS							
21	HOME INSURANCE COMPANIES	25	79.3%	60.5%	80.0%	56.4%	53.2%	66.2%
22	CII FINANCIAL GROUP							
23	ZURICH INS GROUP - US	32	59.3%	72.1%	78.5%	52.3%	62.9%	65.5%
24	CALIF CAS INDEMN GROUP	18	57.1%	66.4%	71.0%	73.9%	92.4%	70.5%
25	PACIFIC RIM ASSUR GRP							
26	ALLSTATE INSURANCE GROUP	45	-12.1%	72.6%	63.7%	76.7%	96.8%	64.7%
27	FARMERS INSURANCE GROUP	19	58.1%	76.0%	70.0%	59.6%	89.1%	69.1%
28	RELIANCE INSURANCE GROUP	42	48.1%	50.4%	54.3%	61.6%	92.6%	60.2%
29	UNICARE INSURANCE CO	48	43.2%	--	--	--	--	--

EXHIBIT 10.13 - Continued

ADJUSTED LOSS RATIOS BY INSURANCE GROUP
RANKED BY MARKET SHARE

1990 RANK	COMPANY/GROUP	1990	1989	1988	1987	1986	5 YR AVG 1986-90	1985 RANK	1985	1984	1983	1982	1981	5 YR AVG 1981-85
30	PACIFIC STATES CASUALTY	87.5%	71.2%	56.7%	56.0%	66.6%	70.9%	47	64.3%	62.9%	69.0%	--	--	--
31	HIGHLANDS INSURANCE GRP	80.4%	64.7%	59.4%	65.5%	57.5%	69.0%	54	81.7%	67.8%	96.9%	73.2%	92.9%	82.2%
32	SAFECO INSURANCE COS	98.0%	111.5%	71.4%	96.0%	57.1%	88.3%	43	58.7%	52.1%	66.4%	96.6%	44.0%	61.1%
33	ORION CAPITAL COMPANIES	148.0%	79.9%	76.7%	78.6%	73.2%	87.9%	18	61.5%	65.8%	58.8%	55.2%	67.9%	62.1%
34	ALLIANZ GROUP	70.7%	77.9%	72.8%	74.0%	80.9%	74.5%	31	83.8%	54.5%	70.2%	72.6%	46.4%	64.6%
35	CITATION INS CO (CA)	63.8%	65.1%	65.7%	71.2%	60.7%	65.5%	37	65.7%	65.6%	55.9%	29.8%	--	--
36	CE HEALTH COMP & LIAB	59.5%	60.0%	61.8%	61.8%	--	--							
37	CHUBB GROUP OF INS COS	80.8%	60.1%	57.0%	100.3%	111.5%	82.4%	25	91.8%	77.4%	79.0%	66.2%	77.9%	81.4%
38	NAT AMERICAN INS CAL	54.9%	72.9%	383.3%	65.5%	162.7%	108.2%							
39	STATE FARM GROUP	51.5%	34.6%	30.3%	32.4%	73.9%	43.6%	38	103.1%	92.7%	54.6%	28.7%	59.4%	73.3%
40	OHIO CASUALTY GROUP	91.8%	66.9%	70.2%	80.4%	85.9%	78.9%	35	71.1%	66.5%	58.7%	41.6%	36.5%	57.3%
41	PAULA INSURANCE CO	63.9%	50.7%	59.7%	74.7%	78.4%	64.7%	41	114.7%	75.7%	68.3%	76.8%	60.5%	80.6%
42	LEGION INSURANCE CO	73.0%	62.6%	66.0%	--	--	--							
43	EAGLE INSURANCE GRP	59.0%	70.5%	24.7%	100.5%	57.2%	0.3%	51	92.5%	--	--	--	--	--
44	UNITED STATES F&G GRP	87.7%	85.3%	65.4%	94.9%	82.8%	82.1%	40	80.3%	63.2%	62.5%	111.3%	53.0%	71.7%
45	ST PAUL GROUP	90.1%	77.4%	44.4%	74.5%	157.2%	90.8%	46	145.8%	66.0%	57.7%	38.8%	75.5%	78.7%
46	ATLANTIC MUTUAL COS	76.4%	72.0%	59.2%	30.6%	135.6%	70.4%	66	91.8%	137.6%	132.6%	55.1%	-17.0%	83.0%
47	AMERICAN FINANCIAL GRP	98.5%	65.2%	102.6%	75.5%	124.8%	95.9%	5	60.5%	77.8%	72.4%	56.6%	53.4%	64.6%
48	TOKIO MAR & FIRE GROUP	105.9%	71.5%	84.2%	45.6%	79.7%	81.7%	49	80.5%	63.1%	86.1%	62.3%	96.3%	74.8%
49	OLD REPUBLIC GROUP	67.1%	91.6%	66.4%	63.6%	60.0%	70.4%	63	25.4%	148.3%	66.4%	9.1%	17.1%	44.0%
50	NORTHWESTERN NAT'L GROUP	87.8%	47.8%	89.4%	158.1%	142.0%	90.8%							
	AVERAGE ABOVE COMPANIES	74.3%	73.1%	72.6%	77.6%	83.2%	75.6%		82.5%	74.1%	62.3%	77.8%	65.2%	63.5%
	AVERAGE ALL OTHER COS	75.2%	68.1%	73.7%	91.3%	95.3%	81.9%							
	TOTAL INDUSTRY	74.4%	72.7%	72.7%	78.4%	84.3%	75.9%		84.7%	80.9%	71.0%	63.9%	60.0%	73.6%
	NATIONAL AGENCY COMPANIES	77.7%	78.3%	74.8%	83.2%	89.0%	79.9%		81.8%	81.8%	72.0%	64.8%	85.3%	73.1%
	STATE AGENCY COMPANIES	65.5%	63.7%	67.6%	69.5%	72.3%	67.1%		85.9%	81.0%	68.7%	59.8%	59.1%	72.4%
	DIRECT WRITERS	84.7%	72.2%	73.7%	77.3%	89.5%	78.9%		93.2%	77.1%	72.5%	70.7%	69.3%	78.6%

EXHIBIT 10.13 - Continued

ADJUSTED LOSS RATIOS BY INSURANCE GROUP
RANKED BY MARKET SHARE

1990 RANK	COMPANY/GROUP	1980 RANK	1980	1979	1978	1977	1976	5 YR AVG 1976-80
30	PACIFIC STATES CASUALTY							
31	HIGHLANDS INSURANCE GRP	63	69.3%	73.2%	48.0%	69.1%	63.3%	63.8%
32	SAFECO INSURANCE COS	39	59.3%	72.1%	78.5%	52300.0%	62.9%	65.5%
33	ORION CAPITAL COMPANIES							
34	ALLIANZ GROUP	24	65.3%	49.5%	62.8%	27.6%	--	--
35	CITATION INS CO (CA)							
36	CE HEALTH COMP & LIAB							
37	CHUBB GROUP OF INS COS	31	46.3%	67.8%	50.8%	62.7%	66.2%	58.9%
38	NAT AMERICAN INS CAL							
39	STATE FARM GROUP	38	57.6%	78.2%	87.3%	55.4%	66.0%	69.6%
40	OHIO CASUALTY GROUP	37	35.3%	49.3%	47.5%	47.5%	53.7%	45.2%
41	PAULA INSURANCE CO	33	55.0%	51.4%	51.8%	45.6%	46.9%	51.0%
42	LEGION INSURANCE CO							
43	EAGLE INSURANCE GRP							
44	UNITED STATES F&G GRP	23	67.2%	65.0%	55.6%	52.2%	63.7%	60.7%
45	ST PAUL GROUP	43	65.3%	107.2%	89.4%	79.2%	82.8%	83.9%
46	ATLANTIC MUTUAL COS	68	180.6%	53.3%	73.7%	81.9%	91.1%	99.9%
47	AMERICAN FINANCIAL GRP	7	60.0%	65.8%	58.3%	52.0%	67.1%	60.5%
48	TOKIO MAR & FIRE GROUP	47	94.4%	67.9%	75.2%	78.6%	132.9%	85.2%
49	OLD REPUBLIC GROUP	98	0.8%	0.0%	0.0%	--	0.0%	0.4%
50	NORTHWESTERN NAT'L GROUP							
	AVERAGE ABOVE COMPANIES		59.4%	63.9%	63.6%	1641.2%	69.0%	60.9%
	AVERAGE ALL OTHER COS							
	TOTAL INDUSTRY		59.8%	67.6%	68.0%	62.8%	73.7%	65.7%
	NATIONAL AGENCY COMPANIES		58.5%	70.4%	66.9%	60.1%	73.1%	65.2%
	STATE AGENCY COMPANIES		62.3%	57.7%	62.7%	58.9%	65.6%	61.1%
	DIRECT WRITERS		59.6%	73.8%	77.3%	74.1%	85.5%	73.1%

EXHIBIT 10.13 - Continued

ADJUSTED LOSS RATIOS BY INSURANCE GROUP
RANKED BY MARKET SHARE

1990 RANK	COMPANY/GROUP	1990	1989	1988	1987	1986	5 YR AVG 1986-90	1985 RANK	1985	1984	1983	1982	1981	5 YR AVG 1981-85
51	GENERAL ACC GROUP	79.2%	38.6%	60.4%	101.7%	84.2%	67.9%	59	122.7%	74.0%	54.8%	35.9%	34.3%	70.7%
52	EMPLOYERS RE GROUP	97.7%	25.7%	105.8%	83.5%	82.7%	79.5%	48	25.3%	33.2%	69.3%	43.2%	67.6%	49.0%
53	ROYAL INSURANCE GROUP	77.1%	116.5%	138.5%	124.8%	106.9%	119.0%	17	84.7%	87.3%	75.0%	65.3%	56.5%	74.5%
54	SENTRY INSURANCE GROUP	47.9%	56.8%	61.8%	60.3%	73.3%	57.9%	52	54.4%	70.2%	44.1%	69.9%	57.3%	59.1%
55	LINCOLN NATIONAL GROUP	83.5%	63.0%	77.1%	61.2%	73.8%	72.1%	61	52.9%	70.7%	51.6%	93.0%	41.1%	60.6%
56	SKANDIA US HOLDINGS GRP	54.5%	55.8%	51.9%	100.0%	72.4%	61.9%							
57	ICW GROUP	59.7%	32.6%	38.1%	-99.9%	73.1%	44.2%	24	93.0%	87.7%	62.9%	85.4%	54.3%	75.4%
58	BERKSHIRE HATHAWAY	86.4%	96.0%	80.7%	59.4%	85.3%	82.0%	42	65.1%	117.8%	57.9%	38.0%	50.1%	67.9%
59	UTICA NATIONAL GROUP	90.0%	71.9%	84.7%	88.0%	138.2%	92.4%	62	141.8%	81.0%	52.0%	63.6%	57.5%	70.2%
60	WESTERN GROWERS INSURANCE	70.2%	74.9%	65.7%	69.0%	--	--							
61	YASUDA FIRE & MARINE	75.2%	49.8%	17.4%	140.0%	40.5%	63.7%	71	105.4%	65.2%	125.1%	--	--	--
62	UNIGARD INSURANCE GROUP	46.4%	91.3%	68.9%	94.9%	129.5%	88.6%	45	71.3%	87.6%	73.6%	56.3%	65.0%	70.7%
63	SPRINGFIELD INSURANCE CO	61.1%	54.3%	--	--	--	--							
64	ELECTRIC MUTUAL GROUP	144.1%	74.8%	88.0%	83.5%	165.8%	99.1%	58	122.7%	74.0%	54.8%	35.9%	34.3%	70.7%
65	MAJESTIC INSURANCE CO	53.2%	86.2%	79.9%	77.9%	79.5%	76.9%							
66	AMERICAN HARDWARE MUT GRP	88.3%	60.3%	66.5%	62.1%	109.5%	77.2%	70	150.8%	52.5%	56.8%	49.8%	43.8%	81.5%
67	PRIMERICA GROUP	2.6%	46.7%	47.4%	71.0%	93.1%	52.4%							
68	PREFERRED RISK GROUP	78.9%	51.4%	47.9%	47.2%	57.7%	57.2%	67	56.1%	52.4%	63.6%	42.7%	32.9%	44.4%
69	CUNA MUTUAL INSURANCE GRP	48.8%	49.2%	114.2%	96.3%	107.1%	76.2%	74	73.3%	105.5%	62.5%	54.8%	66.4%	75.1%
70	CHURCH MUTUAL INSURANCE	38.3%	39.4%	54.4%	51.5%	61.9%	46.3%	79	62.9%	27.1%	0.0%	--	--	--
71	EMPLOYERS CASUALTY GRP TX	-22.3%	99.6%	59.3%	105.8%	56.6%	73.0%	55	77.1%	66.6%	47.6%	17.8%	11.7%	46.6%
72	AMERISURE INSURANCE COS	87.7%	68.8%	57.4%	999.9%	228.8%	93.0%	83	4.2%	97.6%	7.6%	96.4%	-99.9%	81.6%
73	FLORISTS' MUTUAL GROUP	68.6%	51.9%	61.1%	60.0%	61.7%	60.8%	82	95.4%	94.7%	43.8%	57.7%	99.0%	78.1%
74	COMM UNION INSURANCE COS	76.6%	-0.9%	263.7%	125.0%	999.9%	130.5%	57	84.7%	105.4%	62.4%	88.7%	48.6%	77.2%
75	JOHN DEERE GROUP	74.4%	76.4%	60.1%	73.7%	7.9%	66.9%	93	101.6%	14.8%	58.9%	-11.7%	-14.4%	35.5%
76	REPUBLIC WESTERN INS	140.0%	99.6%	64.7%	999.9%	0.0%	101.6%							
77	NIPPON FIRE & MAR USB	73.7%	55.8%	155.2%	81.6%	97.6%	90.4%	99	62.9%	106.2%	24.2%	25.5%	22.5%	53.8%

EXHIBIT 10.13 - Continued

ADJUSTED LOSS RATIOS BY INSURANCE GROUP
RANKED BY MARKET SHARE

1990 RANK	COMPANY/GROUP	1980 RANK	1980	1979	1978	1977	1976	5 YR AVG 1976-80
51	GENERAL ACC GROUP	51	84.8%	87.5%	81.1%	70.5%	80.0%	81.2%
52	EMPLOYERS RE GROUP							
53	ROYAL INSURANCE GROUP	21	62.7%	71.8%	66.6%	65.4%	70.0%	67.1%
54	SENTRY INSURANCE GROUP	44	36.9%	90.6%	84.2%	73.5%	55.5%	67.2%
55	LINCOLN NATIONAL GROUP	62	42.2%	79.2%	88.6%	73.4%	70.2%	70.3%
56	SKANDIA US HOLDINGS GRP							
57	ICW GROUP							
58	BERKSHIRE HATHAWAY	28	47.1%	13.2%	74.8%	57.9%	68.2%	54.2%
59	UTICA NATIONAL GROUP	50	39.7%	79.7%	103.9%	72.4%	109.8%	74.3%
60	WESTERN GROWERS INSURANCE							
61	YASUDA FIRE & MARINE							
62	UNIGARD INSURANCE GROUP	35	37.9%	54.4%	23.3%	54.4%	79.9%	46.2%
63	SPRINGFIELD INSURANCE CO							
64	ELECTRIC MUTUAL GROUP	54	33.7%	105.9%	67.9%	54.3%	185.1%	73.6%
65	MAJESTIC INSURANCE CO							
66	AMERICAN HARDWARE MUT GRP	60	64.7%	74.3%	66.3%	37.3%	63.4%	62.4%
67	PRIMERICA GROUP							
68	PREFERRED RISK GROUP	65	49.3%	43.5%	46.8%	40.3%	44.6%	45.6%
69	CUNA MUTUAL INSURANCE GRP							
70	CHURCH MUTUAL INSURANCE							
71	EMPLOYERS CASUALTY GRP TX							
72	AMERISURE INSURANCE COS							
73	FLORISTS' MUTUAL GROUP	84	30.0%	70.5%	85.7%	63.0%	48.6%	56.2%
74	COMM UNION INSURANCE COS	30	46.4%	71.3%	77.9%	67.0%	74.5%	65.5%
75	JOHN DEERE GROUP	96	-40.0%	-6.3%	82.9%	45.5%	42.7%	38.2%
76	REPUBLIC WESTERN INS							

EXHIBIT 10.13 - Continued

ADJUSTED LOSS RATIOS BY INSURANCE GROUP
RANKED BY MARKET SHARE

1990 RANK	COMPANY/GROUP	1990	1989	1988	1987	1986	5 YR AVG 1986-90	1985 RANK	1985	1984	1983	1982	1981	5 YR AVG 1981-85
78	HANOVER INSURANCE COS	58.7%	15.7%	72.8%	101.8%	93.4%	69.5%	30	79.7%	58.4%	53.0%	82.8%	43.4%	64.1%
79	PRUDENTIAL OF AMER GRP	35.7%	-11.9%	-66.9%	225.2%	310.0%	134.0%							
80	BALDWIN & LYONS GROUP	27.4%	65.9%	97.3%	46.0%	71.7%	59.4%	69	150.8%	52.5%	56.8%	49.8%	43.8%	81.5%
81	DODSON INSURANCE GROUP	28.5%	-27.5%	31.4%	36.7%	72.1%	34.5%	87	69.9%	74.8%	--	--	--	--
82	TOPA INSUANCE CO	60.6%	55.1%	43.9%	96.9%	206.4%	78.9%	97	261.4%	--	33.9%	4.5%	10.1%	150.0%
83	NATIONAL AMERICAN INS	43.3%	-0.4%	140.7%	--	--	--							
84	ALLIED INSURANCE GROUP	38.6%	15.4%	39.7%	44.2%	121.5%	56.9%	73	106.0%	25.5%	74.8%	60.2%	58.7%	65.1%
85	MIDWEST EMPLOYERS CAS	66.5%	65.0%	65.0%	65.0%	--	--							
86	PETROLEUM CASUALTY	51.1%	49.3%	-99.9%	81.3%	88.6%	0.0%	77	40.4%	43.7%	68.4%	24.1%	72.7%	55.3%
87	LUMBERMEN'S UNDRG AL	117.9%	-8.8%	99.2%	40.7%	86.6%	52.8%	75	28.6%	92.4%	97.7%	31.6%	51.5%	58.4%
88	CHRYSLER INSURANCE CO	100.7%	65.2%	75.0%	--	--	--							
89	GREATER NY GROUP	105.8%	85.4%	47.0%	-99.9%	81.3%	88.6%	90	100.5%	-99.0%	27.3%	211.6%	84.1%	82.2%
90	LAWRENCE INSURANCE GROUP	42.3%	0.0%	--	--	--	--							
91	VANLINER INSURANCE CO	50.1%	80.3%	82.1%	--	--	--							
92	PROGRESSIVE GROUP	41.8%	33.0%	61.8%	15.7%	--	43.4%							
93	AMER EAGLE INSURANCE (TX)	0.0%	0.0%	--	--	--	--							
94	UNITED EMPLOYERS INS	55.4%	51.7%	--	--	--	--							
95	CINCINNATI FINANCIAL GRP	150.4%	156.2%	999.9%	--	--	--							
96	FEDERATED MUTUAL GROUP	41.6%	41.4%	50.6%	51.3%	16.4%	40.7%	91	136.4%	17.5%	2.7%	-44.1%	165.7%	100.8%
97	EMPLOYERS MUTUTAL GROUP	13.8%	-32.5%	14.5%	69.5%	148.6%	40.2%	89	129.2%	74.8%	46.6%	169.0%	3.6%	86.3%
98	NAT FARMERS UN CAS GRP	18.8%	-33.4%	206.4%	98.0%	279.2%	110.0%	100	30.3%	595.6%	82.6%	--	--	--
99	GEICO CORP GROUP	126.5%	49.8%	3.5%	-49.7%	46.3%	32.9%	96	17.3%	13.0%	-65.2%	0.7%	-0.2%	-3.8%
100	CENTRAL MUTUAL OHIO GRP	-99.9%	-27.4%	13.7%	-19.3%	105.0%	11.0%	80	102.4%	49.1%	60.7%	44.4%	80.1%	62.9%

EXHIBIT 10.13 - Continued

ADJUSTED LOSS RATIOS BY INSURANCE GROUP
RANKED BY MARKET SHARE

1990 RANK	COMPANY/GROUP	1980 RANK	1980	1979	1978	1977	1976	5 YR AVG 1976-80
77	NIPPON FIRE & MAR USB	91	12.0%	56.0%	0.0%	--	--	--
78	HANOVER INSURANCE COS							
79	PRUDENTIAL OF AMER GRP	80	26.8%	53.4%	54.1%	3.7%	--	--
80	BALDWIN & LYONS GROUP							
81	DODSON INSURANCE GROUP							
82	TOPA INSUANCE CO							
83	NATIONAL AMERICAN INS							
84	ALLIED INSURANCE GROUP							
85	MIDWEST EMPLOYERS CAS							
86	PETROLEUM CASUALTY	75	45.2%	44.1%	84.0%	41.6%	21.1%	56.4%
87	LUMBERMEN'S UNDRG AL							
88	CHRYSLER INSURANCE CO							
89	GREATER NY GROUP	95	93.1%	64.1%	33.2%	38.4%	88.3%	61.0%
90	LAWRENCE INSURANCE GROUP							
91	VANLINER INSURANCE CO							
92	PROGRESSIVE GROUP							
93	AMER EAGLE INSURANCE (TX)							
94	UNITED EMPLOYERS INS							
95	CINCINNATI FINANCIAL GRP							
96	FEDERATED MUTUAL GROUP							
97	EMPLOYERS MUTUTAL GROUP	100	-52.6%	17.5%	41.9%	159.7%	18.9%	34.5%
98	NAT FARMERS UN CAS GRP							
99	GEICO CORP GROUP	94	0.1%	0.1%	23.0%	0.0%	--	--
100	CENTRAL MUTUAL OHIO GRP	66	57.4%	55.0%	38.6%	58.6%	69.9%	55.5%

10.6 PROFITABILITY

For 1990, the countrywide operating return was -4.4% and the California return was 2.6%. For the ten year period, the operating return averaged -1.1% for the United States and 2.6% for California. Relying on data collected by the Workers' Compensation Rating Bureau and from the A.M. Best Company, Milliman & Robertson, Inc. found that the total returns for California workers' compensation insurance were between 5.5% and 18.9% over a ten year period and that the ten year average was 10.9%.

10.7 COST DRIVERS WITHIN THE SYSTEM

Many factors have contributed to the increased cost of the workers' compensation insurance in California. Fraud is a major cost driver, excessive medical treatment has greatly increased the cost of the medical benefits, the recognition of stress claims and the cost associated with investigating these types of claims has greatly increased the cost of compensation insurance, unnecessary and excessive litigation has also contributed to the increase, and the increased administration costs due to recent reform legislation all have contributed to the increased cost of workers' compensation insurance. California is considered one of the high cost/low benefit states.

California ranks eighth (8th) among 43 states, in the United States, at 148.8% of the United States average, for the cost of benefits per 100,000 workers for employers who purchase workers' compensation insurance. These figures are based on the NCCI, 1991, Annual Statistical Bulletin. This further substantiates the previous statement that California is considered a high cost/low benefit state.

10.8 CONCLUSIONS

A. There is an ample number of insurance companies willing to provide workers' compensation coverage in California.

B. No one carrier has an excessive market share in the workers' compensation line of coverage. No carrier is highly concentrated, which means there is not a lack of competition.

C. Market stability must be maintained in the state. Downward pricing due to cut throat competition must be avoided as well as upward pricing due to collusive pricing also must be avoided. Efforts must be made to avoid or flatten the cyclical nature of the insurance market place.

D. The workers' compensation system must maintain overall cost control:

1. Insurer Profits - adequate but not excessive
2. Medical Expenses - reasonable and necessary only
3. Attorney Fees - reduced legal involvement
4. Litigation Costs - fewer cases going to hearing
5. Insurer Expenses - eliminate unnecessary expenses

These conclusions are supported by the findings in the following reports:

A. *An Evaluation of the Competitiveness of the California Workers' Compensation Insurance Market* prepared for the Association of California Insurance Companies and the American Insurance Association. The report was prepared by David Appel, Ph.D., Philip S. Borda, Ph.D. and David Burbon of Milliman and Robertson, Inc. The report was dated December, 1991.

B. The other report is entitled, *A Reevaluation of the California Workers' Compensation Rating Law* prepared by Alfred E. Hofflander, Ph.D., Blaine F. Nye, Ph.D. and Patrick H. Sullivan, D.B.A. of the Stanford Consulting Group. The report is dated January 31, 1992.

SECTION 11.0

WORKERS' COMPENSATION SELF-INSURANCE

SECTION 11.0

WORKERS' COMPENSATION SELF-INSURANCE

11.1 SELF-INSURANCE OVERVIEW

An attractive financial alternative to purchasing insurance for certain qualified large employers in the State of California, for both public and private sector, is to self-insure their workers' compensation programs. In effect these employers become their own "insurance companies" and assume the liabilities related to workers' compensation on behalf of their employees.

There are a number of justifiable reasons for the larger employer to become a workers' compensation self-insured which include, but are not limited to the following:

A. Cost savings are achieved by eliminating insurance company overhead as well as sales commission and insurance brokerage fees

B. Cash flow advantages since claims are paid as they occur and reserves need not be paid in advance

C. More effective coordination with other types of employee compensation and benefits

D. There is more incentive for loss control and implementation/maintenance of effective safety plans

E. Significant cash flow advantages (the result of elimination of advanced premium payments and retention of claim Funds that are not paid in full for several years)

F. Reduced administrative expenses which result in increased program savings

G. Normally a claims expense reduction as the result of improved experience through effective loss control management

H. Increased management control over the claims administration process.

The "textbook" criteria for self-insurance is that the entity be large enough to sustain a reasonably stable loss pattern. The larger the exposure, the less the claims cost will vary.

Testimony received by this Commission from many large self-insured public and private employers emphasized that the fundamental reasons behind the move to self-insurance included:

It would be more cost effective to self-insure.

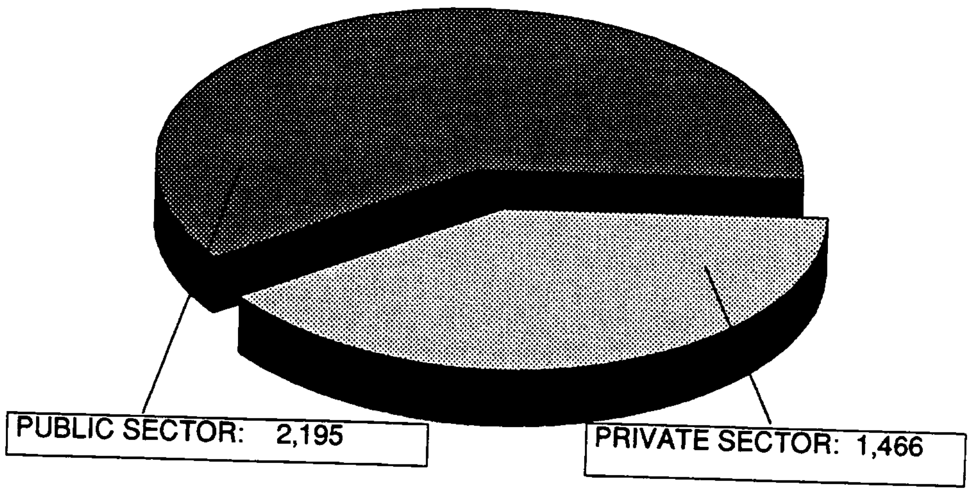
It would give them greater control over their claims program.

Increased program safety incentives with improved loss control results.

11.2 CALIFORNIA'S SELF-INSURANCE PROGRAM

California has the largest worker's compensation self-insurance program in the nation, both for its private and public sector members. Currently, California has 1,466 active private self-insurers and 2,195 active public self-insurers totalling 3,661 self-insured entities. Exhibit 11.1, "Make Up of 3,661 Self-Insured Entities" depicts a graphic illustration of the split between the public and private sector of the California Workers' Compensation self-insured community.

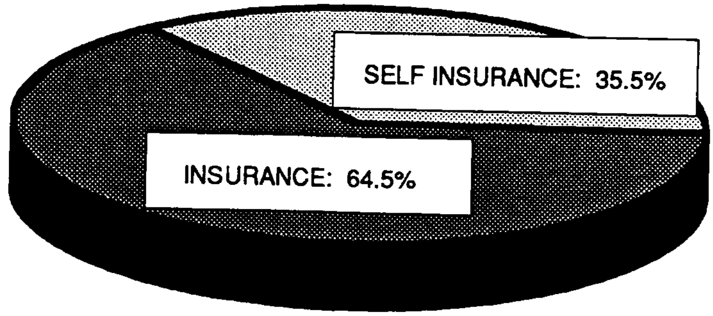
EXHIBIT 11.1
MAKE UP OF 3,661 SELF-INSURED ENTITIES



(Source: Office of Self-Insured Plans, Statistics Effective October, 1991)

The Division of Workers' Compensation (User Funding Assessment) estimates that the percentage of total employer payroll which is covered by self-insured employers in California is 35.5%. See Exhibit 11.2, "Total Employer Payroll in California".

EXHIBIT 11.2
TOTAL EMPLOYER PAYROLL IN CALIFORNIA

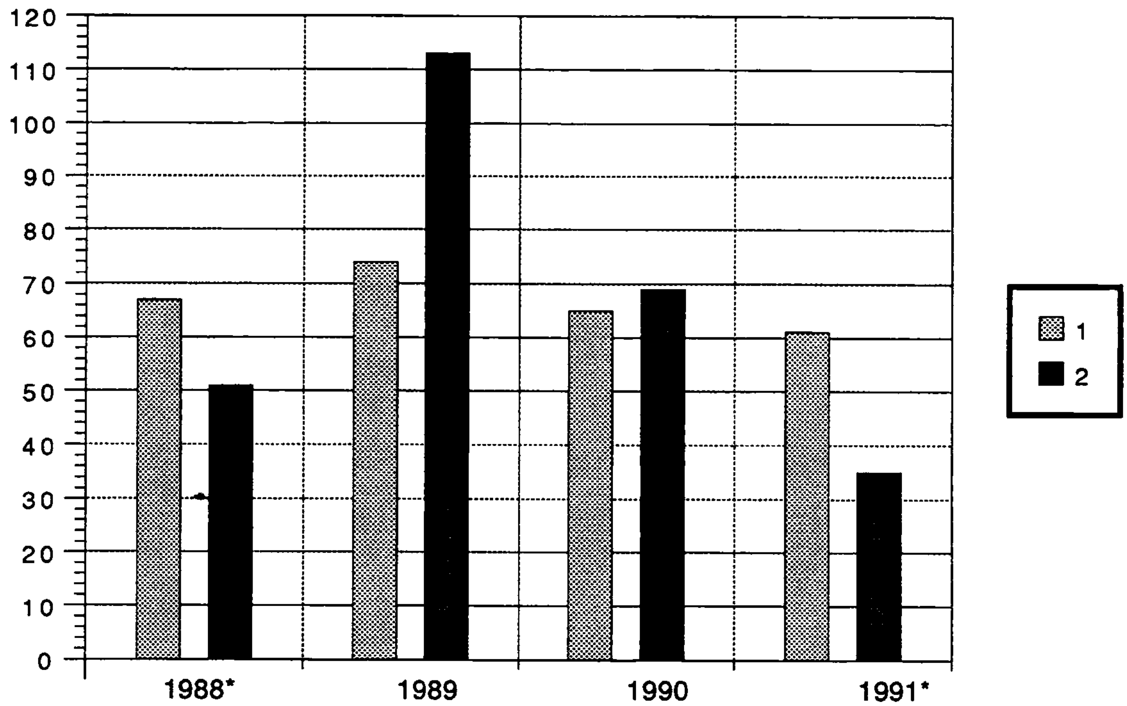


11.3 IMPACT OF SELF-INSURANCE

The Commission received testimony from Mr. Mark Ashcraft, Manager of the Office of Self-Insurance Plans, State of California. He testified that over the years there has been a steady "trickle" of applications to self-insure; there has never been a mass movement into self-insurance.

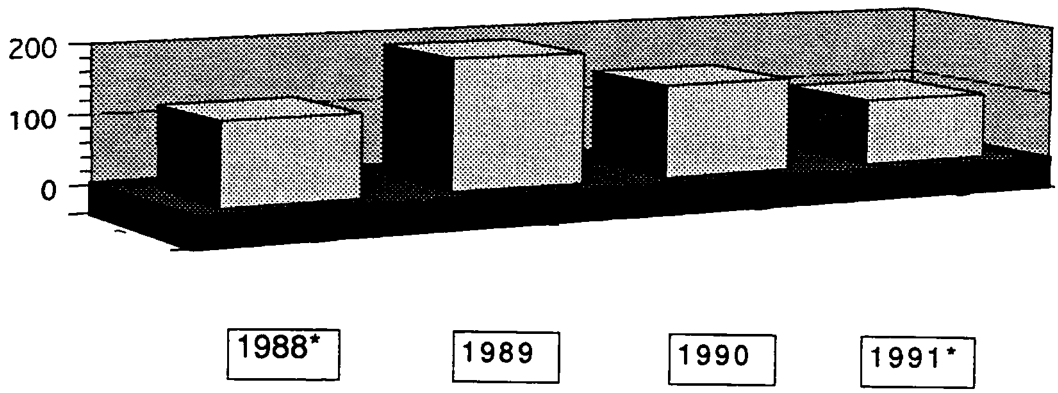
From 1988 (when accurate statistics began to be maintained) to 1991 there were an estimated 535 applications filed with the Office of Self-Insurance Plans. Refer to the following Exhibit 11.3, "Applications for Self-Insurance Filed Annually" and Exhibit 11.4, "Total Self-Insurance Applications Filed Annually".

EXHIBIT 11.3
APPLICATIONS FOR SELF-INSURANCE FILED ANNUALLY



Explanation:
1. Equals new applications filed.
2. Equals existing applications (subsidiaries, etc.)
* Represents partial year 1988 and 1991 filing activities.

EXHIBIT 11.4
TOTAL SELF-INSURANCE APPLICATIONS FILED ANNUALLY



Explanation:
* Represents partial year application filing activity.

11.4 REQUIREMENTS FOR BECOMING SELF-INSURED

For an entity to become self-insured, it must apply to the State of California, Office of Self-Insurance Plans. The criteria used to determine if the application will be granted includes:

11.4.1 FINANCIAL STRENGTH TO PAY NORMAL AND CATASTROPHIC CLAIMS

The basic financial guidelines for an organization considering self-insurance include:

A. $2.2 million shareholder's equity

B. Average net profits of $300,000 per year for the last five (5) years

C. Working capital or cash flow to adequately meet its current obligations

D. Shareholders' equity equal to 30% of total assets

The preceding criteria represent basic guidelines and establish a minimum financial "picture" of the self-insured company. The State Office of Self-Insurance Plans will evaluate any application that is filed with it and there are times when an entity will be granted certification even if all of the above requirements are not met.

The purpose of these guidelines is not to apply a rigid set of rules, failing which, one cannot self-insure. Rather, it provides a focus so that an entity seeking to self-insure can better estimate the financial strength necessary to assume this liability.

(In cases where the financial structure of the self-insurer is marginal, the State of California Director may suggest excess insurance coverage and require a certificate evidencing the purchase of an excess policy.)

11.4.2 COMPETENT ADMINISTRATION OF THE BENEFIT DELIVERY SYSTEM

With the advent of the 1989 Workers' Compensation Reform Act, both insurers and self-insurers were subject to audit by the Office of Benefit Assistance and Enforcement (OBAE) to determine if benefits to injured workers were promptly and properly paid.

There is no distinction between the scope of benefits provided by an insurance company or a self-insured employer. The standards applied by OBAE are the same for both.

The State of California sponsors an examination to certify the competency of workers' compensation claims examiners who handle claims. This is often referred to as the "Administrator's Exam" and is given twice a year by the Office of Self-Insurance Plans. A person holding such a certificate must be present in every third party administrator's office or self-administered program office that issues benefits to injured workers. Additionally, the administrative agency must be licensed as a third party administrator.

The recommended caseload *(number of claims handled by a claims examiner at any one time)* should not exceed 200 files per examiner. With the advent of the Workers' Compensation Reform Act this number has dropped even lower from 120 to 150.

11.4.3 EFFECTIVE SAFETY AND HEALTH PROGRAM

The Office of Self-Insurance Plans requires an evaluation of the applicant's overall safety and health program. A compliance inspection by a private, independent, registered professional safety engineer is part of the application process. Compliance with CAL/OSHA and the new safety and health legislation, Senate Bill 198 is confirmed and accepted as a mandatory minimum threshold for effective safety program compliance.

11.5 ADDITIONAL REQUIREMENTS FOR SELF-INSURANCE

Bond Requirements: A minimum of $200,000 or 125% of the self-insurer's expected future liabilities for payment of compensation. The Director of the Office of Self-Insurance Plans may increase this requirement when the situation justifies it. The deposit may be in the form of a surety bond or other approved securities. A letter of credit is also acceptable.

Fees, taxes and payments: Each application must be accompanied by a non-refundable filing fee based on the number of employees, which ranges between $25 and $100. Penalty of 10% is automatic for failure to pay the fee.

Reporting Requirements: A self-insurer must file an annual report which describes (1) the claims paid - indemnity and medical; (2) future liability on open claims; (3) average number of employees and total wages for each adjusting location and (4) a list of all open indemnity claims.

The application process takes an average of three to four months. Excess workers' compensation coverage is not required in California, and at the present time, aggregate excess insurance can not be purchased in California from an admitted California insurer.

Subsidiaries of a corporate entity must file a separate application which must be approved on its own merits. A company desiring to self-insure must self-insure all its California divisions or departments, but can elect not to self-insure any or all of its subsidiary companies.

Group self-insurance by non-affiliated companies is disallowed under California regulation, with the exception of public sector employers only. These "joint power authorities", as they are often called, have the same powers that their individual member agencies have, but they must comply with the filing requirements of the Office of Self-Insurance Plans.

11.6 SELF-INSURERS SECURITY FUND

The Self-Insurers' Security Fund (SISF) is similar in purpose to the California Insurance Guarantee Association (CIGA) (Insurance Code section 1063). CIGA covers workers' compensation policies and would pay for losses if a carrier went bankrupt through assessments to other carriers.

Similarly, the private self-insured community collectively guarantees the liabilities of all other private self-insurers via SISF. All private self-insurers are members of SISF and pay assessments to fund the liabilities of other self-insurers who may become bankrupt or otherwise unable to fund their liabilities.

Public self-insurers do not fit into the SISF mechanism. Nor are they required to post a security deposit as the private self-insurers are. This disparity in treatment may be due, in part, to the nature of the public entity and the likelihood of its continued existence and funding by local taxpayers.

Many public self-insurers are members of joint powers authorities (JPA) which operate as a pooling mechanism for these public entities. The majority of JPA's fund their pools based on actuarial analysis of all known claims, plus the anticipated "incurred but not reported" claims. Testimony was received by this Commission from Ms. Wendy Johnson, Principal of Pacific Actuary and a consulting actuary for CSAC, a large JPA representing county governments. She testified as to the methodology used to fund the pools and the considerations that are examined in making various decisions concerning the funding parameters. Other testimony was received from Mr. John Wilson, Executive Director of the School's Excess Liability Fund and Mr. Jerry Stockett, Director of Risk Management for the Association of California Water Agencies JPIA, both of whom addressed self-insurance in a general way and their concerns as the General Manager / Executive Director of a public agency pool.

11.7 PROGRAM ADMINISTRATION

A significant benefit of workers' compensation self-insurance is the degree of control which may be exercised over the claims administration process. Traditionally, under a fully insured program, the investigation and settlement of claims and establishment of appropriate reserves are on a case-by-case basis and remain the responsibility of the insurer.

11.7.1 ADVANTAGES OVER INSURED PROGRAM

Frequently, with insured programs there are a number of activities within the scope of claims management that transpire without input from the employer. The following is a list of disadvantages under the traditionally insured program which normally do not exist in a self-insured workers' compensation program:

A. Claims are paid that should have been contested

B. Settlements are made without consulting the employer

C. Injured employees do not return to work as soon as they should

D. Excessive or inadequate reserves are established

E. Itemized statements of losses are poorly prepared

Claim adjusters on day-to-day claims administration are seldom aware of premium and rating plans applicable to a specific insured. From an overall management standpoint, large cash flow experience rated programs involving retrospective or other loss sensitive rating arrangements lack incentives for an insurer to control or reduce claims.

11.7.2 SERVICE COMPANY UTILIZATION

The success of a workers' compensation self-insured program is often dependent upon how effective claims supervision and loss control activities are administered. Different types of servicing agencies are willing and able to act as a third party administrator (TPA) and are equipped to provide a wide variety of services for the self-insured employer. Purchase of additional services should involve more than simply replacing what an insurer previously was responsible for.

Following are just a few of the benefits offered by qualified workers' compensation service companies:

A. Occupational safety training

B. Occupational disease control

C. Air and water pollution surveys

D. Claims investigation, settlement and defense

E. Loss statistical reporting

F. OSHA surveys

G. Noise and vibration surveys

H. Physical and vocational rehabilitation

I. Industrial hygiene surveys

All of the preceding services are certainly not necessary under a typical workers' compensation self-insured program. Certainly, the correct combination of services is essential if the program is to be effective from the standpoint of service and expense containment. In addition, certain self-insured services can be performed in-house by the employer. Larger workers' compensation self-insurers frequently manage their own claims and provide their own comprehensive loss control services.

Certain insurers are willing to provide "unbundled" services and, thus, serve as a claims management firm for a self-insured. In addition, certain insurers can provide a complete package program which includes claims administration, loss control and excess insurance.

In many cases, the larger insurance brokerage firms are able to provide effective self-insurers with workers' compensation "unbundled" services. Specific areas of focus include claim review, reserving analysis and loss control management.

11.8 STATISTICAL DATA

At the present time there is no one agency that collects data for insured and self-insured entities. When one looks at insurance data, the primary source in California is the Workers' Compensation Insurance Rating Bureau (WCIRB).

The WCIRB is a rate making body for the insurance industry and is supported by the insurance carriers. The main data collection tool is the "Unit Statistical Report" which covers loss data related to an insurance policy over a three (3) year period of time. There are various job classifications which define similar job duties and pool these classifications for purposes of the rate making structure.

Self-insurance does not utilize the "unit statistical report" methodology and is not concerned with job classifications, or other rate making methods. There is no minimum rate law or premium in self-insurance (although many JPA pools assess their members a "premium"). In reality, this amount is that member's projected proportion of the overall pool risk.

Each self-insurer funds its own losses. It reports these losses on an annual basis to the Office of Self-Insurance Plans.

At the present time there is great disparity between these Self-Insurance Annual Reports and the Unit Statistical Report. The data contained in both is different as to scope and content.

The Manager of the Office of Self-Insurance Plans for the State of California has suggested several ways in which the statistics gathered by the office of Self-Insurance Plans and the WCIRB can become more uniform. His suggestions include:

A. Expand the WCIRB mandate to include self-insurers (to be treated as "insurance carriers"), and collect a fee to support the WCIRB self-insurance data collection;

B. Create an equivalent to the WCIRB for self-insurers with some type of "unit statistical report" to this new body;

C. Expand the Self-Insurers' Security Fund's (SISF) area of responsibility to include this statistical function; or

D. Expand Self-Insurance Plans' functions (State Department) to include the statistical function.

These suggestions are subject to debate as to which would be the proper course. It would be prudent to have all information concerning workers' compensation losses and expenses, dollars spent and reserved, etc., located in one statistical pool. Such information would better enable the State of California to identify problem areas and develop efficient and precise methods of tracking relevant data.

(The information contained in this section was prepared in cooperation with Mr. Mark Ashcraft, State of California Office of Self-Insurance Plans, who provided statistical and other reference materials. *Workers' Compensation Outlook*, published by The John Liner Organization, served as a technical reference.)

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SECTION 12.0

WORKERS' COMPENSATION AGGREGATE EXCESS INSURANCE

SECTION 12.0

WORKERS' COMPENSATION AGGREGATE EXCESS INSURANCE

12.1 ISSUE BACKGROUND

On September 24, 1991, SB 2650 was approved by the Governor. This bill amended Section 11746 of the Insurance Code as it related to the responsibilities of the Workers' Compensation Rate Study Commission. In addition to evaluating the ratemaking process, in its entirety, the Commission was directed to analyze:

> "...whether public self-insured employers should be permitted to purchase aggregate excess insurance from insurers admitted to transact workers' compensation insurance in California and whether Section 703.5 should be modified or repealed."

To this end, the Commission heard testimony during its monthly public meetings from a variety of public and private sector employers, insurance carriers and other interested parties. The content of this testimony will be discussed later in this section of the Staff Report.

12.1.1 Insurance Code

Exhibit 12.1, "Insurance Code Section 703.5" provides an excerpt of the Code for review. Specifically, item (a) has been emphasized as to the relationship of purchasing workers' compensation aggregate excess insurance in the State of California.

EXHIBIT 12.1
INSURANCE CODE SECTION 703.5

Insurance Code section 703.5 provides:

> "Any person, including but not limited to persons licensed or certificated under this code or exempted from regulation under this code, who as a part of any business advertises as, or holds himself out as, qualified to advise the public concerning insurance or qualified to administer workmen's compensation for employers and who in connection with or as part of any such business also, with or without consideration, (a) <u>suggests or recommends to an employer, or advises an employer, that the employer purchase aggregate excess or aggregate stop-loss workmen's compensation insurance, or (b) names or suggests to an employer, or advises an employer of, a nonadmitted insurer from whom such aggregate excess or aggregate stop-loss workmen's compensation insurance might be purchased, is guilty of a misdemeanor</u>." (Emphasis added)

12.1.2 Sweeping Code Prohibition

This code section makes it a crime to discuss the purchase of aggregate excess insurance or aggregate stop-loss coverage by risk management professionals, third party administrators or other insurance professionals. Such a sweeping prohibition may violate the rights and privileges granted under the First Amendment of both the United States and the California Constitutions. Placing the constitutional argument aside, there does not appear to be good rationale for the existence of this code section from a public policy standpoint. When this statute was passed, the climate of the times was different: the coverage provided by workers' compensation insurance was different and self-insurance was not as predominant as it is today (one-third of the workers' compensation marketplace). The guarantee funds were not in existence for self-insurance, and regulations were not as defined as they are now.

Furthermore, this workers' compensation insurance code provision is unique in the United States, in fact California and Ohio are the only states with such a restrictive provision concerning the purchase of additional insurance protection by the employer. It is inconceivable to prohibit insurance brokerage firms, agents and direct writers from advising clients of sound risk and insurance management practices when this is a method of doing business in all other states (except Ohio). The existence of insurance codes which preclude an insurance consumer from adequate excess coverage beyond the risk bearing capacity is virtually non-existent in the United States with this exception.

12.2 COVERAGE DEFINITION

Currently, in California, it is possible to purchase Workers' Compensation excess coverage with a specific limit amount. Aggregate excess coverage would also serve a beneficial role in implementing an effective risk management program. However, in the State of California the coverage is currently not allowed. The following is a summary of the definitions concerning "specific excess coverage" and "aggregate excess coverage":

12.2.1 SPECIFIC EXCESS COVERAGE DEFINITION

With specific excess coverage, the self-insurer assumes a predetermined amount and dollar limit of the <u>loss (retention)</u> arising out of any <u>one (single) occurrence</u>. The excess insurer indemnifies the self-insurer for any losses in excess of the retention level up to the dollar limit of the specific excess insurance policy.

A typical arrangement is to have a $1 million to $5 million limit per occurrence in excess of a self-insured retention of $250,000. As the first million dollars of specific excess insurance will cover most exposures, increasing the limit to $2 million or to $5 million to protect against a catastrophic loss problem or occupational disease exposure is generally a practical consideration. Obviously, the increase in cost will reflect the amount of the self-insured retention level, type of business, prior loss experience as well as other pertinent underwriting considerations.

The specific coverage involves serious disadvantage for the self-insurer due to the fact that it only responds to individual (single occurrence) losses that penetrate into the threshold of coverage area. It would be possible for a self-insurer in a workers' compensation program with specific excess coverage to incur a large number of serious claims involving both a frequency (number) and severity (expense) problem. Due to the fact that the threshold of coverage was not penetrated, the specific excess coverage would not provide any financial relief to the self-insurer.

12.2.2 AGGREGATE EXCESS COVERAGE DEFINITION

Aggregate excess insurance protects against excessive as well as single and/or multiple catastrophic loss experience by providing <u>a cap on loss possibilities for the entire policy term</u>. Aggregate limit of liability is a provision in an insurance contract limiting the maximum liability of an insurer for a series of losses in a given time period, i.e. a one year policy period for the insurance contract. This maximum limit of liability is payable by an insurance carrier to the policyholder during any given policy period.

Aggregate excess coverage is generally written to cover losses which exceed the self-insured retention level thus penetrating the threshold of aggregate excess insurance coverage. The aggregate excess coverage provides financial protection for a series of adverse losses as well as individual catastrophes. The coverage is for a policy period accumulation of all claims which penetrate the threshold of coverage.

The premium rating or development normally is a percentage of the manual premium. The manual premium is what the insurance company would charge before developing discounts, dividends or participation. There are a number of acceptable methods of determining aggregate excess insurance premiums and the method of calculating is different from one insurer to another. It is not unusual for the premium calculation either to reflect or not reflect experience rating charges or credits.

The aggregate coverage can be written by the insurer providing specific excess coverage. Often, this is done through the use of a single policy. The retention and limits of the specific excess coverage will be reflected in the underwriting and rating of the aggregate excess insurance.

12.2.3 Workers' Compensation Lacks Limit of Liability

The standard workers' compensation policy does not contain any specific limit of liability with respect to the workers' compensation obligations of an employer, although specific limits are applicable to the employer's liability section of the coverage. Without the benefit of aggregate excess insurance coverage the employer is exposed to loss potentials far greater than what can be construed to be within the normal financial risk bearing magnitude range of capabilities.

In case of a catastrophic accident, (i.e., earthquake), series of losses or occupational disease problem, it is possible to exhaust all of the specific excess coverage and pay losses far higher than ever contemplated. Excess aggregate coverage would provide a financial cap over a pre-determined catastrophic range of possible financial loss exposures and the self-insured workers' compensation program.

12.3 ANALYSIS OF WITNESS TESTIMONY

During the course of the Commission meetings, testimony was received from interested witnesses concerning the need for aggregate excess insurance. Virtually all of the participating witnesses would be considered workers' compensation stakeholders. This testimony was received from:

John Wilson
Schools' Excess Liability Fund

Jerry Stockett
Association of California Water Agencies

Joe Markey
California Self-Insurers' Association

Joan Spiegel
Lucky Stores

Wendy Johnson
Actuary on behalf of C.S.A.C

Mark Ashcraft
State of California

No testimony was given from insurance carriers, their representatives or other related organizations. No rationale was offered in support of this particular code section.

During the testimony, several witness hypothesized as to the rationale that went into this legislation. This included:

A. If such coverage were available, there would be a mass exodus from the insurance marketplace into self-insurance

B. Employers would be less likely to be concerned about safety because this coverage was in place

C. Such coverage would undermine the structure of the current rate structure

Each of these issues will be analyzed based on testimony received and evidence presented to the Commission.

12.3.1 MOVEMENT FROM INSURANCE TO SELF-INSURANCE

It has been periodically alleged that permission to purchase aggregate excess insurance coverage in California would result in a mass exodus from the workers' compensation insured marketplace. This has not been true in other states nor is it anticipated in California. In the first place, many other states require self-insured entities to purchase aggregate excess insurance. It is viewed as a prudent risk management device to cap losses and secure the payment of benefits. Lack of coverage availability has not restricted those companies that wanted to make the move from insurance to self-insurance.

Secondly, there has not been a mass exodus into self-insurance. Those companies that consider self-insurance do so mainly from a cash flow point of view -- they are large enough that it makes economic "sense" to pay their own losses and obtain the benefit of the cash flow.

12.3.2 SAFETY

There was no evidence submitted to support the argument that a self-insured employer would be less likely to be concerned about safety if it purchased aggregate excess insurance.

The recently adopted Senate Bill 198 requires employers to formulate and implement as well as maintain an active injury prevention program. This new legislation provides for an effective employer safety program with definite organizational guidelines as well as legal remedy and penalties for non-compliance.

12.3.3 COVERAGE WOULD UNDERMINE CURRENT RATE STRUCTURE

This "fear" has not been supported by any evidence and this has not been the situation in all the other states which permit aggregate excess insurance. A considerable amount of testimony was received from insurance carriers and their representatives, and none of their presentations included any comments, concerns, fears or predictions about the effect within California if Insurance Code section 703.5 were repealed.

12.4 RISK MANAGEMENT CONSIDERATIONS

It is an accepted professional risk management practice to provide a method of financially capping losses over normally anticipated probable maximum loss as a result of a fortuitous event. Pure risk exposures, in the case of comprehensive general liability insurance, purchase of excess coverage in the form of an umbrella program is an on-going practice. The practice of providing an excess umbrella liability program over the primary insurance is a routine and customary practice. Normally, the excess umbrella involves the scope of coverage and is a "following form" (nearly identical) coverage arrangement. The evolution of this concept has progressed to the personal lines market to the point that many individuals purchase a separate personal umbrella liability policy over their existing homeowners and auto policies.

In the area of property insurance, it is possible, in a multiple property location schedule, to employ blanket insurance protection which provides excess benefits to the insured. This is a standard method of providing maximum insurance limits greater than any single scheduled location, yet still interfacing with the scheduled property values payable to any one loss occurrence.

Providing a cap of insurance coverage over workers' compensation is a normal practice in virtually every state with the exception of California and Ohio. In these two states, it is not legal to purchase admitted workers' compensation aggregate excess insurance.

In California, which is subject to moderate to severe seismic activity, it would seem prudent for the employer to have the option to secure financial protection in the form of workers' compensation aggregate excess insurance, particularly in the case where they have a concentration of self-insured employees in one area subject to a single catastrophic loss exposure event.

In addition, the employer has other major areas of exposure concerning a need for aggregate excess insurance. These areas include, but are not limited to the perils of occupational disease or an unusual series of severe losses.

12.5 REQUIREMENT OF AGGREGATE EXCESS INSURANCE

A number of states require workers' compensation aggregate excess coverage for self-insurers. States, reportedly requiring excess aggregate coverage include, but are not necessarily limited to:

Iowa
Louisiana
Massachusetts
Maine
Montana
Rhode Island

In addition, requirements for aggregate excess insurance for certain categories and sizes of workers' compensation self-insurers exist in the following states:

Arkansas
Hawaii
Indiana

In California, it would seem prudent not only to permit the purchase of workers' compensation aggregate excess insurance, but to require it in certain high financial risk categories of self-insurers for the protection of the employee as well as the investor. It would be judicious to complete a feasibility study to consider requiring workers' compensation aggregate excess for certain State of California categories and designated size of self-insurers. Other than the State of California, Ohio remains the only other state to prohibit purchase of workers' compensation aggregate excess insurance.

12.6 AGGREGATE EXCESS MARKETS

Currently, the insurance code stipulates that workers' compensation aggregate excess may only be purchased from insurance carriers which are non-admitted in the California insurance marketplace. In addition, the subject non-admitted coverage may be purchased from a direct writer or through a non-California insurance brokerage firm.

This restriction of only allowing non-admitted insurance has made it necessary for both public and private sector entities to rely on companies normally not permitted to do business in California. Furthermore, this restriction complicates the issue of solvency by the fact that in the event of a catastrophe the self-insured cannot rely on the California Insurance Guarantee Association.

The admitted workers' compensation carriers already doing business in the State of California for the most part have a proven record of financial stability. The primary workers' compensation insurance business in California is written by forty-two (42) insurance companies including the State Fund representing a market share of approximately 85%. The current legislation precludes these proven carriers from participating in the warranted market activities of providing the aggregate insurance.

The traditional excess and re-insurance markets should be available to insure workers' compensation aggregate excess insurance in California. This would be the traditional way of handling excess insurance.

It is assumed that the aggregate excess coverage for workers' compensation could be written similar to the umbrellas on a layered basis for general liability insurance. This would provide for a large market of admitted workers' compensation carriers in California to participate as well as obtaining protection from the California Insurance Guarantee Association for the employee.

12.7 CONCLUSIONS

When this statute was passed, the climate of the times was different: the coverage provided by workers' compensation insurance was different and self-insurance was not as predominant as it is today (one-third of the workers' compensation marketplace.) The guarantee funds were not in existence for self-insurance nor were regulations as defined as they are now.

It would seem that if there was a reason for this legislation at one time, it is no longer a valid one. Quite the contrary, this legislation prohibits discussion and purchase of a prudent piece of insurance in today's marketplace. Brokers cannot advise employers and employers cannot seek this market for fear of committing a misdemeanor. Such a restriction seems outmoded and impractical, at best.

It is suggested that the following recommendations be considered:

1. It is recommended that the insurance code be modified to allow all workers' compensation self-insured employers (public and private) to purchase workers' compensation aggregate excess insurance. Further, that the market available to workers' compensation self-insured employers would consist of those insurance carriers permitted (admitted) to transact workers' compensation in the State of California, subject to review by the Department of Insurance and benefits of the California Insurance Guarantee Association.

2. It is recommended that a feasibility study might be considered requiring workers' compensation aggregate excess insurance for certain categories and designated sizes of workers' compensation self-insured employers.

Exhibit 12.2, "Legislation Recommended for Reform" represents the subject legislation which is recommended for revision:

EXHIBIT 12.2
LEGISLATION RECOMMENDED FOR REFORM

703.5 Advertisement concerning insurance or qualification to administer workers' compensation for employers; advising employers; misdemeanor

Any person, including, but not limited to persons licensed or certificated under this code or exempted from regulation under this code, who as a part of any business advertises as, or holds himself out to as, qualified to advise the public concerning insurance or qualified to administer workmen's compensation for employers and who in connection with or as part of any such business also, with or without consideration, a)suggests or recommends to an employer or advised an employer, that the employer purchase aggregate excess or aggregate stop-loss workmen's compensation insurance, or b) names or suggests to an employer, or advised an employer of, a non-admitted insurer from whom such aggregate excess or aggregate stop-loss workmen's insurance might be purchased, is guilty of a misdemeanor.

(Added by Stats. 1965, c. 1296, p. 3181, § 1.)

Cross References

Misdemeanor

Defined, see Penal Code, § 17.

Punishment, see Penal Code, §§ 19, 18a.

Library References

Insurance Key 30. C.J.S. Insurance § 89.

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SECTION 13.0

WORKERS' COMPENSATION DEDUCTIBLE OPTION

SECTION 13.0

WORKERS' COMPENSATION DEDUCTIBLE OPTION

13.1 DEDUCTIBLE OPTION OVERVIEW

Recently several major workers' compensation insurance companies have introduced large deductible workers' compensation plans. They have requested approval of such plans from insurance regulatory bodies of nearly every state. To date, approximately thirty five (35) states have approved this relatively new approach to workers' compensation insurance. The Department of Insurance in the State of California has not approved any of the plans filed by the insurance companies.

Under a large deductible plan, the insurance company initially charges the insured an upfront handling fee which includes the carriers expenses for overhead, profit, taxes, bureau fees and the like. The insured agrees to reimburse the carrier for losses up to the amount of the deductible that is selected by the policyholder. The carrier retains the responsibility for management and payment of all claims from the first dollar. Typically, a cash deposit is required to fund current claim payments and an irrevocable letter of credit (LOC) is required to fund ultimate future claim payments. The plans filed by the major insurance companies have generally involved a minimum deductible of $100,000 and a minimum annual premium of $500,000.

13.2 EMPLOYER ADVANTAGES

The advantages to the employer considering a deductible plan in lieu of a fully insured workers' compensation program include the following:

A. The policyholder reimburses the insurance company only for losses which are actually paid. This will result in a more favorable cash flow pattern for the policyholder. The only upfront costs would be the handling fees.

B. The policyholder would not have to pay many of the insurer taxes and assessments on the claim reimbursement portion of the workers' compensation claim.

C. The claims administration function would remain with the insurance company and the policyholder would not have to arrange for claims administration or provide claims administration in house.

D. The policyholder would receive the benefit of assistance in the areas of safety, loss prevention and loss control from the insurance carrier.

E. The policyholder does not have to consider purchasing excess insurance to cover statutory obligations in the event of a catastrophic situation as the workers' compensation policy provided by the insurance company would provide these statutory benefits.

F. The plans allow the policyholder to remain in or return to the insurance system where well established regulatory and guaranty mechanisms afford maximum benefit security to insured workers.

13.3 STATE REGULATORY RESPONSES

To date, the various state regulatory bodies have given large deductible plans a mixed reception. In 1990, the Division of Insurance for the State of Missouri issued a High Deductible Position Statement in response to several carriers questioning their disapproval of the various high deductible workers' compensation filings received.

The Division's final paragraph in its position statement was:

> "Because of the availability of retrospective rating plans and a self-insurance program to Missouri employers, we do not feel that the high deductible filing should be approved hastily without considering all of the potential problems. We feel that the attention of both us as regulators and the carriers might be more properly directed toward workers' compensation reform, depopulation of the residual market, and increased emphasis on several efficiencies in the residual market."

In California, the Workers' Compensation Insurance Rating Bureau in an October, 1991 meeting discussed a large deductible plan filed by a member carrier with the Department of Insurance. The Department of Insurance had requested the Bureau's advice regarding the proposed plan and after meeting with the member carrier, the Bureau contacted the Classification and Ratings Committee on how to comply with the Department of Insurance request. With regard to the issue of "large deductible plans" in California, the Committee agreed that the concept merited further consideration and directed the staff to place this matter on the agenda for the next meeting.

No "large deductible plan" has been approved by the Department of Insurance in the State of California.

13.4 OPPORTUNITIES FOR THE SMALL EMPLOYER

A "deductible plan" approach would be both attractive and workable for the small to medium sized employers in California. The large deductible would have to be reduced to the range of $10,000 to $25,000 for the small employer and then possibly go to $50,000 for a medium sized employer. Testimony has been presented that the small employer in California, with very few or no workers' compensation claims in the last several years, is subsidizing the policyholders that have had workers' compensation claims.

The deductible plan approach combined with the safety groups could provide an opportunity to obtain the advantage of the volume purchasing power of the safety group and the benefit of having an excellent claims history.

The major factors to be considered would be:

A. The employer must have an established history of no claims or small medical only claims.

B. The employer must be financially sound and capable of meeting the financial requirements of the deductible.

C. An active and documented safety program which would clearly demonstrate the efforts of the employer in maintaining a loss free record.

D. The deductible could be on a specific loss or an aggregate loss basis, the rate credit would have to reflect the deductible that is selected.

13.5 CONCLUSIONS

Consideration must be given to the small and medium sized employers that have had an excellent claim history for many years. Due to their size, they cannot establish credibility on their own. Workers' compensation reform must include relief for small employers so they can compete in their field of expertise and remain in California.

There would still be a need for the assigned risk plan as this concept would only be available to the established employers that have a superior claim history and are financially sound, thereby being able to reimburse the carrier as the losses are paid.

The regulatory bodies must decide if the concept is contrary to state laws. If they are, then consideration must be given to modifying the state's statutes to permit deductible rating plans. This concept could be part of the reform of workers' compensation as it appears likely to generate improvement in the overall situation.

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APPENDICES

APPENDIX A

THE CONSTITUTIONAL MANDATE
CALIFORNIA WORKERS' COMPENSATION SYSTEM

The following constitutional mandate is an extract from the Constitution of the State of California[1], applicable to the State of California Workers' Compensation system:

> "A complete system of workers' compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all workers and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workers in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment, full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management of a State compen- sation insurance fund; full provision for otherwise securing the payment of compensation, and full provision for vesting power, authority, and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character..."

[1] California Constitution, Article XIV, Section 4.

APPENDIX.A

APPENDIX B

WORKERS' COMPENSATION RATE STUDY COMMISSION MANDATE INSURANCE CODE SECTION 11746 CHAPTER 892 OF THE LAWS OF 1989; AMENDED BY CHAPTER 1308 OF LAWS OF 1990.

The Commission shall evaluate, in its entirety, the present workers' compensation insurance ratemaking process and the relative effectiveness of workers' compensation insurance ratemaking systems in other states, and other similar matters affecting workers compensation insurance ratemaking as the commission deems appropriate. The commission shall include an analysis of all aspects of the current system by which minimum rates are established in California, including an analysis of the extent to which this system fosters or discourages competition between insurers. It shall include an analysis of the states which use an exclusive state fund to provide workers' compensation insurance to employers, and the advantages and disadvantages of establishing an exclusive state fund in California. It should also include an analysis of whether the functions currently performed by a licensed rating organization should instead be performed by the Department of Insurance. It shall also include an analysis of whether public self-insured employers should be permitted to purchase aggregate excess insurance from insurers admitted to transact workers' compensation insurance in California and whether Section 703.5 should be modified or repealed.

The commission shall consider in its evaluation the extent to which the present California workers' compensation ratemaking systems and proposed alternatives meet the following goals:

(a) Provides appropriate and expeditious claim services to injured employees.

(b) Assures security of the payment of benefits from the insurer to injured workers.

(c) Provides financial incentives to insured employers to maintain safe operations.

(d) Provides the lowest net cost to insured employers consistent with the protection and services provided and the losses and expenses incurred.

(e) Provides a fair and equitable distribution of the costs of the system to insured employers reflecting, to the extent consonant with sound principles of insurance, the actual losses and expenses of individual employers.

(f) Encourages availability of insurance to all sizes and classifications of employers to assure a stable, predictable, and competitive insurance market.

(g) A reasonable rate of return.

APPENDIX C

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS
ALTERNATIVE MODEL WORKERS' COMPENSATION COMPETITIVE RATING ACT
1983 PROCEEDINGS

The following alternative model of a workers' compensation competitive rating system is an extract from the Volume I - 1983 Proceedings of the National Association of Insurance Commissioners. Ms. Peggy Schmitt served as Editor of the 1983 NAIC Proceedings. The following "Act" was formulated during the NAIC's Winter Annual Meeting held at the Loews Anatole Hotel, Dallas, Texas on November 28 - December 3, 1982.

The NAIC alternative model of Workers' Compensation Competitive Rating Act commences on the following page:

Alternative Model Workers' Compensation
Competitive Rating Act

Table of Contents.

Section 1. **Purposes.**

The purposes of this Act are:

(1) To prohibit price fixing agreements and other anticompetitive behavior by insurers;

(2) To protect policyholders and the public against the adverse effects of excessive, inadequate or unfairly discriminatory rates;

(3) To promote price competition among insurers so as to provide rates that are responsive to competitive market conditions;

(4) To provide regulatory procedures for the maintenance of appropriate data reporting systems;

(5) To improve availability, fairness and reliability of insurance;

(6) To authorize essential cooperative action among insurers in the ratemaking process and to regulate such activity to prevent practices that tend to substantially lessen competition or create a monopoly; and

(7) To encourage the most efficient and economic marketing practices.

Section 2. Definitions.

(1) "Advisory organization" means any entity which either has two or more member insurers or is controlled either directly or indirectly by two or more insurers and which assists insurers in ratemaking related activities. Two or more insurers having a common ownership or operating in this state under common management or control constitute a single insurer for purpose of this definition. Advisory organization does not include a joint underwriting association, any actuarial or legal consultant, any employee of an insurer or insurers under common control or management or their employees or manager.

(2) "Classification system" or "classification" means the plan, system, or arrangement for recognizing differences in exposure to hazards among industries, occupations or operations of insurance policyholders.

(3) "Competitive market" means a market which has not been found to be noncompetitive pursuant to section 4.

(4) "Expenses" means that portion of any rate attributable to acquisition, field supervision, and collection expenses, general expenses, and taxes, licenses, and fees.

(5) "Experience rating" means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit or unity modification.

(6) "Loss trending" means any procedure for projecting developed losses to the average date of loss for the period during which the policies are to be effective.

(7) "Market" means the interaction between buyers and sellers of workers' compensation insurance within this state pursuant to the provisions of this Act.

(8) "Noncompetitive market" means a market for which there is a ruling in effect pursuant to section 4 that a reasonable degree of competition does not exist.

(9) "Pure premium rate" means that portion of the rate which represents the loss cost per unit of exposure including loss adjustment expense.

(10) "Rate" means the cost of insurance per exposure base unit, prior to any application of individual risk variations based on loss or expense considerations, and does not include minimum premiums.

(11) "Residual market mechanism" means an arrangement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance which may be afforded applicants who are unable to obtain insurance through ordinary methods.

(12) "Statistical plan" means the plan, system or arrangement used in collecting data.

(13) "Supplementary rate information" means any manual or plan of rates, classification system, rating schedule, minimum premium, policy fee, rating rule, rating plan, and any other similar information needed to determine the applicable premium for an insured.

(14) "Supporting information" means the experience and judgment of the filer and the experience or data of other insurers or organizations relied on by the filer, the interpretation of any statistical data relied on by the filer, descriptions of methods used in making the rates, and any other similar information required to be filed by the commissioner.

Section 3. Scope of Application.

This Act applies to workers' compensation insurance and employers' liability insurance written in connection therewith.

Section 4. Competitive Market.

A competitive market is presumed to exist unless the commissioner, after hearing, determines that a reasonable degree of competition does not exist in the market and the commissioner issues an order to that effect. Such an order shall expire no later than one year after issue. In determining whether a reasonable degree of competition exists, the commissioner may consider relevant tests of workable competition pertaining to market structure, market performance and market conduct.

Section 5. Rate Standards.

(1) General. Rates shall not be excessive, inadequate or unfairly discriminatory.

(2) Excessiveness.

(a) Competitive market. Rates in a competitive market are not excessive.

(b) Noncompetitive market. Rates in a noncompetitive market are excessive if it is likely to produce a long run profit that is unreasonably high for the insurance provided or if expenses are unreasonably high in relation to services rendered.

(3) Inadequacy. Rates are not inadequate unless clearly insufficient to sustain projected losses and expenses and the use of such rates, if continued, will tend to create a monopoly in the market.

(4) Unfair Discrimination. Unfair discrimination exists if, after allowing for practical limitations, price differentials fail to reflect equitably the differences in expected losses and expenses. A rate is not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expenses, or like expenses but different loss exposures, so long as the rate reflects the differences with reasonable accuracy.

Section 6. Payment of Dividends.

(1) Nothing herein prohibits or regulates the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, but in the payment of such dividends there shall be no unfair discrimination between policyholders.

(2) A plan for the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers is not considered a rating plan or system.

(3) It is an unfair trade practice to make the payment of a dividend or any portion thereof conditioned upon renewal of the policy or contract.

Section 7. Rating Criteria.

In determining whether rates comply with the excessiveness standard in a noncompetitive market, the inadequacy standard and the unfair discrimination standard, the following criteria shall apply:

(1) Basic factors in rates. Due consideration may be given to past and prospective loss and expense experience within and outside of this state, to catastrophe hazards and contingencies, to events or trends within and outside of this state, to loadings for leveling premium rates over time or for dividends or savings to be allowed or returned by insurers to their policyholders, members or subscribers, and to all other relevant factors, including judgment.

(2) Expenses. The expense provisions included in the rates to be used by an insurer shall reflect the operating methods of the insurer and, so far as it is credible, its own actual and anticipated expense experience.

(3) Profits. The rates may contain provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of profit, consideration should be given to all investment income attributable to premiums and the reserves associated with those premiums.

Section 8. Uniform Administration of Classifications; Reporting of Rates and Other Information.

(1) Every workers' compensation insurer shall adhere to a uniform classification system and uniform experience rating plan filed with the commissioner by an advisory organization designated by the commissioner and subject to his disapproval. An insurer may develop subclassifications of the uniform classification system upon which a rate may be made; provided, however, that such subclassifications must be filed with the commissioner 30 days prior to their use. The commissioner shall disapprove subclassifications if the insurer fails to demonstrate that the data thereby produced can be reported consistent with the uniform statistical plan and classification system.

(2) The commissioner shall designate an advisory organization to assist him in gathering, compiling and reporting relevant statistical information. Every workers' compensation insurer shall record and report its workers' compensation experience to the designated advisory organization as set forth in the uniform statistical plan approved by the commissioner.

(3) The designated advisory organization shall develop and file manual rules, subject to the approval of the commissioner, reasonably related to the recording and reporting of data pursuant to the uniform statistical plan, uniform experience rating plan, and the uniform classification system. Every workers' compensation insurer shall adhere to the approved manual rules and experience rating plan in writing and reporting its business. No insurer shall agree with any other insurer or with an advisory organization to adhere to manual rules which are not reasonably related to the recording and reporting of data pursuant to the uniform classification system or the uniform statistical plan.

Section 9. Filing of Rates and Other Rating Information.

(1) Filings as to Competitive Markets. In a competitive market, every insurer shall file with the commissioner all rates and supplementary rate information which are to be used in this state, except as provided in Section 8. Such rates and supplementary rate information shall be filed not later than 30 days after the effective date. An insurer may adopt by reference, with or without deviation, the rates and supplementary rate information filed by another insurer. If the commissioner finds, after a hearing, that an insurer's rates require closer supervision because of the insurer's financial condition or unfairly discriminatory rating practices, the insurer shall file with the commissioner at least 30 days before the effective date, all such rates and such supplementary rate information and supporting information as prescribed by the commissioner. Upon application by the filer, the commissioner may authorize an earlier effective date.

(2) Prefiling in a Noncompetitive Market. In a noncompetitive market every insurer shall file with the commissioner all rates and supplementary rate information which are to be used in this state, except as provided in Section 8. Such rates and supplementary rate information and supporting information required by the commissioner shall be filed at least 30 days before the effective date. Upon application by the filer, the commissioner may authorize an earlier effective date.

(3) Rates filed pursuant to this section shall be filed in such form and manner prescribed by the commissioner. In a noncompetitive market, whenever a filing is not accompanied by such information as the commissioner has required under this section, the commissioner shall so inform the insurer as soon as possible and the filing shall not be deemed to be made until the information is furnished.

(4) Filings Open to Inspection. All rates, supplementary rate information and any supporting information for risks filed under this Act shall, as soon as filed, be open to public inspection at any reasonable time. Copies may be obtained by any person on request and upon payment of a reasonable charge.

Section 10. Uniform Experience Rating Plan.

The experience rating plan shall contain reasonable eligibility standards, provide adequate incentives for loss prevention, and shall provide for sufficient premium differentials so as to encourage safety.

Section 11. Disapproval of Rates.

(1) Timing of Disapproval.

(a) A rate may be disapproved at any time subsequent to the effective date.

(b) A rate subject to prefiling under section 9 may also be disapproved before the effective date.

(c) A rate for a residual market in which insurers are mandated by law to participate shall not become effective until approved by the commissioner, as provided in section 18.

(2) Bases of Disapproval.

(a) The commissioner may disapprove a rate if the insurer fails to comply with the filing requirements under section 9.

(b) The commissioner shall disapprove a rate for use in a competitive market if he finds that the rate is inadequate or unfairly discriminatory under section 5.

(c) The commissioner shall disapprove a rate for use in a noncompetitive market if he finds that the rate is excessive, inadequate or unfairly discriminatory under section 5.

(3) Disapproval Procedure: Order: Interim Rates.

(a) Disapproval procedure.

(i) If the commissioner finds that a reasonable degree of competition does not exist in a market in accordance with section 4 he may require that the insurers in that market file supporting information in support of existing rates. If the commissioner believes that such rates may violate any of the requirements of this Act, he shall call a hearing prior to any disapproval.

(ii) If the commissioner believes that rates in a competitive market violate the inadequacy or unfair discrimination standard in section 5 or any other applicable requirement of this Act, he may require that the insurers in that market file supporting information in support of existing rates. If after reviewing the supporting rate information, the commissioner continues to believe that the rates may violate these requirements he shall call a hearing prior to any disapproval.

(iii) The commissioner may disapprove, without hearing, rates prefiled pursuant to section 9 that have not become effective. However, the insurer whose rates have been disapproved shall be given a hearing upon a written request made within 30 days after the disapproval order.

(iv) Every insurer or advisory organization shall provide within this state reasonable means whereby any person aggrieved by the application of its filings may be heard on written request to review the manner in which such rating system has been applied in connection with the insurance afforded or offered. If the insurer or advisory organization fails to grant or reject such request within 30 days, applicant may proceed in the same manner as if the application had been rejected. Any party affected by the action of such insurer or advisory organization on such request, may within 30 days after written notice of such action, appeal to the commissioner who, after a hearing held upon not less than 10 days' written notice to the appellant and to such insurer or advisory organization, may affirm, modify or reverse such action.

(b) If the commissioner disapproves a rate, the commissioner shall issue an order specifying in what respects it fails to meet the requirements of this Act and stating when within a reasonable period thereafter such rate shall be discontinued for any policy issued or renewed after a date specified in the order. The order shall be issued within 30 days after the close of the hearing or within such reasonable time extension as the commissioner may fix. Such order may include a provision for premium adjustment for the period after the effective date of the order for policies in effect on such date.

(c) Whenever an insurer has no legally effective rates as a result of the commissioner's disapproval of rates or other act, the commissioner shall on request of the insurer specify interim rates for the insurer that are high enough to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by him. When new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds of less than $10 per policyholder shall not be required.

Section 12. Monitoring Competition.

In determining whether or not a competitive market exists, pursuant to section 4, the commissioner shall monitor the degree of competition in this state. In doing so, he shall utilize existing relevant information, analytical systems and other sources: cause or participate in the development of new relevant information, analytical systems and other sources; or rely on some combination thereof. Such activities may be conducted internally within the insurance department, in cooperation with other state insurance departments, through outside contractors and/or in any other appropriate manner.

Section 13. Licensing Advisory Organizations.

(1) License Required. No advisory organization shall provide any service relating to the rates of any insurance subject to this Act, and no insurer shall utilize the services of such organization for such purposes unless the organization has obtained a license under paragraph (3).

(2) Availability of Services. No advisory organization shall refuse to supply any services for which it is licensed in this state to any insurer authorized to do business in this state and offering to pay the fair and usual compensation for the services.

(3) Licensing.

(a) Application. An advisory organization applying for a license shall include with its application:

(i) A copy of its constitution, charter, articles of organization, agreement, association or incorporation, and a copy of its bylaws, plan of operation and any other rules or regulations governing the conduct of its business:

(ii) A list of its members and subscribers:

(iii) The name and address of one or more residents of this state upon whom notices, process affecting it or orders of the commissioner may be served;

(iv) A statement showing its technical qualifications for acting in the capacity for which it seeks a license; and

(v) Any other relevant information and documents that the commissioner may require.

(b) Change of Circumstances. Every advisory organization which has applied for a license shall notify the commissioner of every material change in the facts or in the documents on which its application was based. Any amendment to a document filed under this section shall be filed at least 30 days before it becomes effective.

(c) Granting of License. If the commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy, and technically qualified to provide the services proposed, and that all requirements of law are met, he shall issue a license specifying the authorized activity of the applicant. He shall not issue a license if the proposed activity would tend to create a monopoly or to substantially lessen competition in the market.

(d) Duration. Licenses issued pursuant to this section shall remain in effect until the licensee withdraws from the state or until the license is suspended or revoked. The commissioner may at any time, after hearing, revoke or suspend the license of an advisory organization which does not comply with the requirements and standards of this Act.

Section 14. Insurers and Advisory Organizations; Prohibited Activity.

(1) No insurer or advisory organization shall make any arrangement with any other insurer, advisory organization or other person which has the purpose or effect of restraining trade unreasonably or of substantially lessening competition in the business of insurance.

(2) No insurer shall agree with any other insurer or with an advisory organization to adhere to or use any rate, rating plan, other than the uniform experience rating plan, or rating rule except as needed to comply with the requirements of section 8.

(3) The fact that two or more insurers, whether or not members or subscribers of an advisory organization, use consistently or intermittently, the same rates, rating plans, rating schedules, rating rules, policy forms, rate classifications, underwriting rules, surveys or inspections or similar materials is not sufficient in itself to support a finding that an agreement exists.

(4) Two or more insurers having a common ownership or operating in this state under common management or control may act in concert between or among themselves with respect to any matters pertaining to those activities authorized in this Act as if they constituted a single insurer.

Section 15. Advisory Organizations: Prohibited Activity.

In addition to other prohibitions contained in this Act, except as specifically permitted under section 16, no advisory organization shall:

(1) Compile or distribute recommendations relating to rates that include expenses (other than loss adjustment expenses) or profit.

(2) File rates, supplementary rate information or supporting information on behalf of an insurer.

Section 16. Advisory Organizations: Permitted Activity.

Any advisory organization in addition to other activities not prohibitied, is authorized to:

(1) Develop statistical plans including class definitions.

(2) Collect statistical data from members, subscribers or any other source.

(3) Prepare and distribute pure premium rate data, adjusted for loss development and loss trending, in accordance with its statistical plans. Such data and adjustments should be in sufficient detail so as to permit insurers to modify such pure premiums based on their own rating methods or interpretations of underlying data.

(4) Prepare and distribute manuals of rating rules and rating schedules that do not contain any rules or schedules including final rates or permitting calculation of final rates without information outside the manuals.

(5) Distribute information that is filed with the commissioner and open to public inspection.

(6) Conduct research and collect statistics in order to discover, identify and classify information relating to causes or prevention of losses.

(7) Prepare and file policy forms and endorsements and consult with members, subscribers and others relative to their use and application.

(8) Collect, compile and distribute past and current prices of individual insurers if such information is made available to the general public.

(9) Conduct research and collect information to determine the impact of benefit level changes on pure premium rates.

(10) Prepare and distribute rules and rating values for the uniform experience rating plan. Calculate and disseminate individual risk premium modifications.

(11) Assist an individual insurer to develop rates, supplementary rate information or supporting information whenn so authorized by the individual insurer.

Section 17. Advisory Organizations: Filing Requirements.

Every advisory organization shall file with the commissioner every pure premium rate, every manual of rating rules, every rating schedule and every change or amendment or modification of any of the foregoing proposed for use in this state no more than 30 days after it is distributed to members, subscribers or others.

Section 18. Residual Market Mechanism.

All insurers authorized to write workers' compensation and employers' liability insurance shall participate in a plan providing for the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods. A plan shall be submitted for the commissioner's approval within 60 days of the effective date of this Act. The rates, supplementary rate information and policy forms to be used in such a plan and any future modification thereof must be submitted to the commissioner for approval at least 30 days prior to their effective date. Such rates shall reflect residual market experience to the extent it is actuarially appropriate.

The commissioner shall disapprove any filing that does not meet the requirements of section 5. A filing shall be deemed to meet such requirements unless disapproved by he commissioner within 30 days after the filing is made. In disapproving a filing made pursuant to this section, the commissioner shall have the same authority and follow the same procedure as in disapproving a filing pursuant to section 11. The designated advisory organization may make and file the plan of operation, rates, rating plans, rules, and policy forms under this section.

Section 19. Examinations.

(1) The commissioner may examine any insurer, advisory organization or residual market mechanism as he deems necessary to ascertain compliance with this Act.

(2) Every insurer, advisory organization and residual market mechanism shall maintain reasonable records of the type and kind reasonably adapted to its method of operation containing its experience or the experience of its members including the data, statistics or information collected or used by it in its activities. These records shall be available at all reasonable times to enable the commissioner to determine whether the activities of any advisory organization, insurer or association comply with the provisions of this Article. Such records shall be maintained in an office within this state or shall be made available to the commissioner for examination or inspection at any time upon reasonable notice.

(3) The reasonable cost of an examination made pursuant to this section shall be paid by the examined party upon presentation of a detailed account of such costs.

(4) In lieu of any such examination the commissioner may accept the report of an examination by the insurance supervisory official of another state, made pursuant to the laws of such state.

Section 20. Penalties.

(1) The commissioner may, if he finds that any person or organization has violated any provision of this Act, impose a penalty of not more than one thousand dollars ($1,000) for each such violation but if he finds such violation to be willful he may impose a penalty of not more than ten thousand dollars ($10,000) for each such violation. Such penalties may be in addition to any other penalty provided by law.

(2) For purposes of this section, any insurer using a rate for which the insurer has failed to file the rate, supplementary rate information, or supporting information, as required by this Act, shall have committed a separate violation for each day such failure continues.

(3) The commissioner may suspend or revoke the license of any advisory organization or insurer which fails to comply with an order of the commissioner within the time limit specified by such order, or any extension thereof which the commissioner may grant.

The commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

No penalty shall be imposed and no license shall be suspendedor revoked except upon a written order or the commissioner, stating his findings, made after hearing.

Section 21. Judicial Review.

(1) Any order, regulation or decision of the commissioner made after a hearing shall be subject to judicial review in accordance with (cite applicable provision of state Civil Practice Act).

(2) Upon request of any insurer or organization to which the commissioner has directed an order made without a hearing, the commissioner shall grant a hearing within 20 days of such request. Within 15 days after such hearing, the commissioner shall affirm, reverse or modify the previous action, specifying the reasons therefor.

Section 22. Severability.

If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 23. Effective Date.

The provision of the Act shall become effective one year after enactment.

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