

Approved AVP Date 2-9-90

MINUTES OF THE House COMMITTEE ON Labor & Industry

The meeting was called to order by Representative Arthur Douville at  
Chairperson

9:08 a.m./~~p.m.~~ on January 30, 1990 in room 526-S of the Capitol.

All members were present except:

- Representative Crumbaker - Excused
- Representative Gomez - Excused
- Representative Patrick - Excused
- Representative Schauf - Excused

Committee staff present:

- Jerry Donaldson - Legislative Research Department
- Jim Wilson - Revisor of Statutes' Office
- Kay Johnson - Committee Secretary

Conferees appearing before the committee:

- Ron Todd - Assistant Commissioner, Insurance Department

The meeting was called to order at 9:08 a.m. by the Chairman, Representative Arthur Douville. Mr. Todd addressed the committee regarding the Workers Compensation Fund and distributed a handout, attachment #1, which focused on the following:

1. The percent of overall benefits paid by the Workers Compensation Fund during fiscal year 1987, 1988 and 1989.
2. The input of the Workers Compensation Fund Assessment on overall workers compensation rates.
3. A review of the attorneys fees paid by the Workers Compensation Fund during fiscal year 1987, 1988 and 1989. A discussion of the Insurance Department position concerning the advantages and disadvantages of in-house versus the current practice of contractual representation of the Workers Compensation Fund.
4. Suggested measures to limit the liability exposure of the Workers Compensation Fund.

Mr. Todd then introduced Jim Villamaria who is replacing Chris Cowger as an attorney handling the Fund.

Chairman Douville asked Mr. Todd to state the purpose of the Fund. He responded that it was designed so there would be a state fund to pay workers compensation benefits that an employer would normally pay if a 2nd injury was a result of a previous injury. It was designed to encourage the employment of handicapped people.

Regarding the Experience Rating Plan, Representative Green asked if an employer had no claims would he still have a rate increase based upon other employer claims. Mr. Todd responded yes.

Representative Webb, referring to page 1, attachment #1, asked if the 42% increase in active cases involving the Fund wasn't excessive. With better equipment, safer working conditions, etc., shouldn't the trend be that less people are injured on the job? Robert Anderson, Director, Division of Workers Compensation, responded that there has not truly been a dramatic increase in the number of accidents but rather, employers have been educated to report all accidents, even the most minor, and there has been a decrease in lost work time and hospital time. The 42% increase can be attributed to employers willingness to hire handicapped employees and transfer liability to the Workers Compensation Fund.

Chairman Douville asked what percentage of total benefits are being paid by the Fund? How much has it increased over the years and to what extent does it increase the cost to the employer? Mr. Todd explained that he would have to get those figures together. The last page of attachment #1 indicates \$23 million as the FY 1989 expenditure from the Fund. Representative O'Neal clarified that overpayments, insolvent employer costs, administrative costs, attorney fees, etc. are all included in the \$23 million. If it was a 2nd Injury Fund total it would be a pure figure.

Representative Hensley concurred with Representative Webb's concern over the increase in active cases against the Fund. Requiring "Form 88" was discussed as an option to reducing liability to the fund. Currently, it is optional and indicates knowledge by the employer.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Labor & Industry,  
room 526-S, Statehouse, at 9:08 a.m./~~p.m.~~ on January 30, 1990.

Representative Cribbs questioned "Form 88" and how it pertains to Boeing. Director Anderson responded that it is the Notice of Handicapped Employee form and out of 25,000 employees Boeing has 9,000 that have "Form 88" on file. Representative Cribbs asked if the employee is injured again, is he being hired back. Director Anderson responded that to the best of his knowledge yes, at Boeing the employee is being hired back with accomodations just as the Workers Compensation Act intended.

Representative Whiteman asked Mr. Todd how many attorneys does the Fund contract with now. He responded approximately 60.

In summary, Chairman Douville asked Mr. Todd if he felt the utilization of the Fund was helping employers to hire handicapped employees. He responded yes.

The meeting adjourned at 9:57 a.m. The next meeting of the committee is scheduled for Wednesday, January 31, 1990 at 9:00 a.m. in room 526-S.



MEMORANDUM

TO: The Honorable Arthur Douville  
Chairman  
House Labor, Industry and Small Business Committee

FROM: Ron Todd  
Assistant Commissioner

SUBJECT: Testimony Before the House Labor, Industry and Small Business  
Committee, Concerning the Workers Compensation Fund.

DATE: January 30, 1990

In accordance with your request my testimony concerning the Workers Compensation Fund will focus on the following:

1. The percent of overall benefits paid by the Workers Compensation Fund during Fiscal year 1987, 1988 and 1989.
2. The input of the Workers Compensation Fund Assessment on overall workers' compensation rates.
3. A review of the attorneys fees paid by the Workers Compensation Fund during fiscal year 1987, 1988 and 1989. A discussion of the Insurance Department position concerning the advantages and disadvantages of in-house versus the current practice of contractual representation of the Workers Compensation Fund.
4. Suggested measures to limit the liability exposure of the Workers Compensation Fund.

Respectfully submitted,

Ron Todd  
Assistant Commissioner

JKV:jc  
LE/2760

Each of the topics outlined will be addressed in the order identified.

- 1) Percentage of total benefits paid each year by the Fund is shown in the attached exhibits. See Exhibit #1.
- 2) Fund assessment on workers' compensation rates. See Exhibit #2.

Attorneys fees--advantages and disadvantages of in-house versus contractual representation of the Fund. In a memorandum prepared November 13, 1989 to Commissioner Bell, this specific issue was addressed. I have included the pertinent part of that memorandum for your review and will incorporate it into this discussion. I believe it accurately supports the position that the hiring of in-house counsel is not a cost saving measure. As you can see, it appears not only would such a measure be cost ineffective, but it would not be in the best interests of the Workers' Compensation Fund or the State, from an effective legal representation standpoint.

#### Workers' Compensation Fund

It appears that switching from the use of outside attorneys to in-house counsel to defend the Workers' Compensation Fund would result in:

1. Increased expenditures to the Fund; and,
2. Loss of expertise which current counsel maintains.

In Legislative Post Audit's 1988 report, Legal Services for State Agencies, it was indicated that the Insurance Department might be able to save \$200,000 annually by employing in-house attorneys. That report was based on FY 1987 data. Since that time the number of active cases involving the Fund has grown substantially from 2,955 to 4,170, an increase of 42%. Attorney fees paid in FY 1989 as compared to those paid in FY 1987 have grown more moderately from \$1,953,605 to \$2,356,858, an increase of 21%. As a result of the significant increase in case load, it would now require many more attorneys and clerical support to defend these cases in-house than it would have two years ago. The projected annual cost for employing such in-house personnel as the attached exhibit shows is \$2,471,792. Rather than possibly achieving a savings of \$200,000 by switching to in-house counsel, it now appears that such a change would increase expenditures by an estimated \$115,000. This additional cost is based strictly on a comparison between outside attorney fees and overhead costs associated with employing staff attorneys. It does not take into consideration additional claim payments we believe would be incurred as a result of using less experienced counsel.

Virtually all of the outside attorneys which the Fund presently employs have a minimum of five years of workers' compensation experience. In addition, several have been employed by the Fund for over 10 years and a few have been used by the Department since it began administering the Fund in 1974. As we have contended in past years, the Insurance Department in hiring staff attorneys would likely be forced to hire individuals with little or no workers' compensation experience. As these attorneys gained the experience necessary to successfully defend the Fund, it is envisioned we would lose a large share of them to the private sector. The continued use of inexperienced attorneys would undoubtedly lead to increased claim payments from the Fund.

4) Latest statistical data regarding FY 1990 Workers' Compensation Fund disbursements. See Exhibit #4.

5) A pragmatic approach to the reduction of expenditures by the Workers' Compensation Fund.

#### OPTIONS

The first option for the reduction of the Workers' Compensation Fund expenditures is found at K.S.A. 44-566. That statute defines the term "handicapped employee" as it is used in establishing liability to the Worker's Compensation Fund. That statute provides that in order for the Fund to be assessed liability in any individual case, a "handicapped employee" must have suffered an injury.

At present, perhaps seventy percent (70%) or more of the cases in which the Fund is involved include a "handicapped employee" as that term is defined by K.S.A. 44-566(b)17, which defines "handicapped employee" as one having:

Any other physical impairment, disorder or disease, physical or mental, which is established as constituting a handicap in obtaining or in retaining employment.

The sixteen listed diseases or conditions which precede this "catch-all" definition are all quite specific, and name such conditions as epilepsy, cardiac disease, arthritis, amputated limbs, and other physical deformities. However, many of the cases which involve significant liability for the Fund fall under the catch-all definition. In fact, most of the back injury cases (which comprise perhaps two-thirds of the Fund's case load), in which the Fund is involved only involve a "handicapped employee" as that term is defined by K.S.A. 566(b)17.

Therefore, if the legislature were to eliminate the catch-all definition, and define a "handicapped employee" as an employee having one of the sixteen enumerated conditions, the Fund's liability would be diminished considerably.

Another option for reducing the Fund's liability would be elimination of the Fund involvement in cases involving (1) uninsured, insolvent employers; (2) for reimbursement of amounts paid voluntarily or pursuant to a preliminary Order, later reversed; or (3) for reimbursement of amounts paid pursuant to an Award, reversed on appeal. K.S.A. 44-566(e)(2)(3). It is my understanding that Director of Workers' Compensation, Robert Anderson, discussed this topic during his testimony before the committee on January 23, 1990. Of these three areas of Fund liability, the Fund is involved in the greatest number of cases and incurs the greatest liability in situations where the employer is uninsured and financially unable to pay compensation. Such cases often involve substantial expense, and recovery by the Fund from such employers is limited. In addition, the number of such cases has increased dramatically in recent years, from 22 new cases in 1982 to 61 new cases in FY 1989.

Although liability for amounts paid voluntarily or pursuant to preliminary Orders, later reversed, and amounts paid under an Award, reversed on Appeal are not a

substantial portion of the Fund's budget, elimination of any liability to the Fund in these cases would certainly result in savings to the Fund.

An indirect reduction of the Fund's budget could be achieved through amendment of K.S.A. 44-566a(f), which permits the Court to award attorney fees to the Fund, in cases where the Fund is found not to be liable. At present, the statute says the Court may assess the Fund's attorney's fees against the respondent. This has been interpreted strictly by the courts, resulting in few assessments of attorney fees to the Fund.

If the legislature were to mandate that fees be assessed to the Fund in all cases where the Fund is held not liable the effect would hopefully be twofold. First, the Fund would immediately be repaid a substantial amount of attorney fees incurred in those cases where it is ultimately found to have no liability. Second, as respondents (and their attorneys) become aware of potential liability for the Fund's attorney fees, the Fund's case load would be decreased, resulting in both liability and operational cost reductions.

In addition, such a change would not undermine the legislative purpose of the Fund, rewarding those respondents who are entitled to the benefit of the Fund, and penalizing those who seek improper benefit from the Fund.

Another indirect reduction of the Fund's liability could be achieved through changes to K.S.A. 44-567, which specifies the conditions under which an employer may benefit from the Fund's "handicapped employee" provisions. At present, that statute requires the employer to prove that a "handicapped" employee was injured, and that the employer "knowingly" hired or retained the employee. That burden of proof may be met by presenting "any evidence sufficient to maintain the employer's burden of proof with regard thereto." The courts have held that a preponderance of the evidence is sufficient. Leiker v. Manor 203 Kan. 906 (1969).

If the legislature were to change this burden to require "clear and convincing" evidence, rather than a "preponderance," the Fund would again benefit. Presumably, such a change would result in the Fund escaping liability in a number of cases and eventually result in a reduction of the budget. This change in the burden of proof requirement would only exist with respect to the employers burden against the Workers' Compensation Fund. The injured worker would receive the same benefits, only from the employer instead of the Fund. However, such a change would undoubtedly face legal challenges at the appellate level and doubtless result in little immediate results. The beneficial results of this type of change would probably not be realized for a number of years.

More immediate results might be achieved through a rather simple legislative change, also to K.S.A. 44-567. This statute formerly required the filing of a Notice of Handicapped Employee, a "Form 88", to support Fund liability. That requirement was in effect before July 1, 1974, and from July 1, 1977 to June 30, 1979. During those time periods, the liability of the Fund was certainly restricted by this requirement.

Were the legislature to reenact this requirement, both the number of cases involving the Fund and the cost of litigating those cases would be affected.

Certainly, previous experience indicates the Fund would be implead in far fewer cases. Also, the requirement would eliminate all issues between the respondent and the Fund, presumably resulting in reduced litigation and its associated costs.

Elimination of this theory would certainly reduce the Fund's case load, simplify many litigated cases, and result in savings to the Fund.

Another possible amendment to K.S.A. 44-567 which would result in decreased liability to the Fund would be to change either the contribution section, K.S.A. 44-567(a)(B) or the "but-for" section, K.S.A. 44-567(a)(A).

Options with regard to these sections might include:

1. Eliminating either of the two sections.
2. Limiting contributions to an arbitrary ceiling (50% to 75%, perhaps).
3. Fixing contribution in any case at an arbitrary percentage. (i.e., 50%).
4. Reducing contributions for any costs except disability benefits.
5. Any combination of the above.

Although certainly not exhaustive, the foregoing list contains the most viable options for reduction of Fund liability through legislative intervention. Unfortunately, an accurate estimate of the net effect of any of the above changes is impossible, particularly since a number of significant changes regarding liability under the Workers' Compensation Act were implemented on July 1, 1987, and their precise effects remain undetermined at present. However, should the legislature wish to reduce Fund liability, the options are numerous and varied. Absent significant legislative changes, the options for reducing Fund liability are few.

#### RECOMMENDATIONS

All of the above alternatives would reduce the Workers' Compensation Fund's expenditures. Additionally, all of the above are administratively feasible; however, reinstating the Form 88 requirement or elimination of the "catch-all" provision within the definition of handicapped employee along with careful consideration of the other options would seem to be the most practical approach.

#### FISCAL IMPACT

All of the above alternatives would reduce the expenditures of the Workers' Compensation Fund, but unavailable statistical data would be necessary in order to give an exact amount of the reduction.

LE/6801



44. The mailing of any written notice or report required by this subsection (d) in a stamped envelope within the prescribed time shall comply with the requirements of this subsection.

45. The director shall provide by regulation for the forms of written notices and reports required by this subsection (d).

**44-532a. Liability of workers' compensation fund for uninsured insolvent employers; cause of action against such employers.** (a) If an employer has no insurance to secure the payment of compensation as provided in subsection (b) (1) of K.S.A. 44-532 and amendments thereto, and such employer is financially unable to pay compensation to an injured worker as required by the workmen's compensation act, or such employer cannot be located and required to pay such compensation, the injured worker may apply to the director for an award of the compensation benefits, including medical compensation, to which such injured worker is entitled, to be paid from the workers' compensation fund. If the director is satisfied as to the existence of the conditions prescribed by this section, the director may make an award, or modify an existing award, and prescribe the payments to be made from the workers' compensation fund as provided in K.S.A. 44-569 and amendments thereto. The award shall be certified to the commissioner of insurance, and upon receipt thereof, the commissioner of insurance shall cause payment to be made to the employee in accordance therewith.

(b) The commissioner of insurance, acting as administrator of the workers' compensation fund, shall have a cause of action against the employer for recovery of any amounts paid from the workers' compensation fund pursuant to this section. Such action shall be filed in the district court of the county in which the accident occurred or where the contract of employment was entered into.

**44-534. Proceedings; time limitations.** (a) Whenever the employer, workman or insurance carrier cannot agree upon the workman's right to compensation under the workmen's compensation act or upon any issue in regard to workmen's compensation benefits due the injured workman thereunder, the employer, workman or insurance carrier may apply in writing to the director for a determination of the benefits or compensation due or claimed to be due. The application shall be in the form prescribed by the rules of the director and shall set forth the substantial and material facts in relation to said claim. The director shall forthwith mail a certified copy of said application to the adverse party and proceed, upon due and reasonable notice to the parties which shall not be less than twenty (20) days, to hear all evidence in relation thereto and to make findings concerning the amount of compensation, if any, due to the employee.

(b) No proceeding for compensation shall be maintained under the workmen's compensation act unless an application for

a hearing is on file in the office of the director within three (3) years of the date of the accident or within two (2) years of the date of the last payment of compensation, whichever is later.

**44-534a.** Preliminary hearing; application; notice; medical and temporary total disability compensation; reimbursement from workers' compensation fund. (a) After filing an application for a hearing pursuant to K.S.A. 44-534 and amendments thereto, the employee may make application for a preliminary hearing, in such form as the director may require by rules and regulations, on the issues of the furnishing of medical treatment and the payment of temporary total disability compensation. At least seven days prior to filing an application for a preliminary hearing, the employee shall notify the employer of the employee's intent to file such an application and shall confirm such notice by letter. Upon receipt of an application for such a preliminary hearing, the director shall give seven days' written notice by mail to the employer of the date set for such hearing. Such preliminary hearing shall be summary in nature and shall be held by the director or an administrative law judge in any county designated by the director or administrative law judge, and the director or administrative law judge shall exercise such powers as are provided for the conduct of full hearings on claims under the workmen's compensation act. Upon a preliminary finding that the injury to the employee is compensable and in accordance with the facts presented at such preliminary hearing, the director or administrative law judge may make a preliminary award of medical and temporary total disability compensation to be in effect pending the conclusion of a full hearing on the claim. The decision in such preliminary hearing shall be rendered within five days of the conclusion of such hearing. No such preliminary findings or preliminary awards shall be appealable by any party to the proceedings, and the same shall not be binding in a full hearing on the claim, but shall be subject to a full presentation of the facts.

(b) If compensation in the form of medical benefits or temporary total disability benefits has been paid by the employer or the employer's insurance carrier pursuant to a preliminary award entered under this section and the amount of compensation so awarded is reduced or totally disallowed upon a full hearing on the claim, the employer and the employer's insurance carrier shall be reimbursed from the workers' compensation fund established in K.S.A. 44-566a and amendments thereto, for all amounts of compensation so paid which are in excess of the amount of compensation that the employee is entitled to as determined in the full hearing on the claim. The director shall determine the amount of compensation paid by the employer or insurance carrier which is to be reimbursed under this subsection, and the director shall certify to the commissioner of insurance the amount so determined. Upon receipt of such certifica-

tion, the commission shall make to the employee in accordance with the provisions of this act.

**44-535.** Where death of an injured workman occurs within the time of the commencement of proceedings against him, the date of the accident shall be the date of the death.

**44-536.** All claims for compensation shall be rendered in the order of the employee or dependent, in the order of the date of the accident and after providing partial disability benefits in excess of two hundred and fifteen dollars under the provisions of this act.

(b) All claims for compensation shall be rendered in the order of the employee or dependent, in the order of the date of the accident and after providing partial disability benefits in excess of two hundred and fifteen dollars under the provisions of this act.

(c) No compensation shall be made for partial disability benefits in excess of two hundred and fifteen dollars under the provisions of this act.

(d) No compensation shall be made for partial disability benefits in excess of two hundred and fifteen dollars under the provisions of this act.

three (3) years of the date of the accident, if the date of the accident is later than the date of the injury. The commissioner of insurance shall cause payment to be made to the employer or the employer's insurance carrier in accordance therewith.

44-535. When the right to compensation accrues. The right to compensation shall be deemed in every case, including cases where death results from the injury, to have accrued to the injured workman or his dependents or legal representatives at the time of the accident, and the time limit in which to commence proceedings for compensation therefor shall run as against him, his legal representatives and dependents from the date of the accident.

44-536. Attorneys' fees; limitations. (a) With respect to any and all proceedings in connection with any initial or original claim for compensation, no claim of any attorney for services rendered in connection with the securing of compensation for an employee or his or her dependents, whether secured by agreement, order, award or a judgment in any court shall exceed twenty-five percent (25%) of the amount of compensation recovered and paid, in addition to actual expenses incurred, and subject to the other provisions of this section. Except as hereinafter provided in this section, in death cases, total disability and partial disability cases, the amount of an attorney's fees shall not exceed twenty-five percent (25%) of the sum which would be due under the workmen's compensation act for four hundred fifteen (15) weeks of permanent total disability based upon the employee's average gross weekly wage prior to the date of the accident and subject to the maximum weekly benefits provided in K.S.A. 44-510c.

(b) All attorneys' fees in connection with the initial or original claim for compensation shall be fixed pursuant to a written contract between the attorney and the employee or his or her dependents, and every attorney, whether the disposition of the original claim is by agreement, settlement, award, judgment or otherwise, shall file his or her contract with the director who shall approve said contract only if it is in accordance with all provisions of this section. Any contracts for attorneys' fees not in excess of the limits provided in this section and approved by the director shall be enforceable as a lien on the compensation due or to become due.

(c) No attorneys' fees shall be charged with respect to compensation for medical expenses, except where an allowance is made for proposed or future treatment as a part of a compromise settlement.

(d) No attorneys' fees shall be charged in connection with any temporary total disability compensation unless the payment of such compensation in the proper amount is refused, or unless such compensation is terminated by the employer and the payment of such compensation is obtained or reinstated by the

44-561. Reserves. No insurance carrier shall write any insurance against liability hereunder unless it maintains such reserves as are required by law, or in the absence thereof such reserves as may be required by the commissioner of insurance the power to require and regulate which is hereby vested in said commissioner of insurance.

44-562. Reports to insurance commissioner; inspection. Every insurance carrier writing insurance for liability hereunder, or the liability of employers rejecting this act, shall report to the commissioner of insurance, in accordance with such rules as he may adopt, such information as he may at any time require for the purpose of determining the solvency of the carrier or the fairness, reasonableness and adequacy of its rates, and for such purposes the commissioner of insurance may inspect the books and records of such carriers and examine its officers, agents and servants under oath.

44-563. Violation of act. For any violation of the provisions of this act the commissioner of insurance may suspend or revoke the authority of any insurance carrier to do business in this state. If any insurance carrier fails or delays to pay any compensation finally determined to be due, the commissioner of insurance shall hear the complaint, and if such failure is without reasonable excuse he may revoke or suspend the authority of such carrier to do business in this state, and in a proper case may apply for the appointment of a receiver for such carrier.

44-564. Liability for injury laws not repealed. Nothing in this act shall be construed to amend or repeal K.S.A. 66-235, 66-236, 66-237, 66-238, 66-239, 66-240 and 66-241.

44-565. Invalidity of part. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed the act, each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more of the same shall be declared unconstitutional.

44-566. Workers' compensation fund to facilitate employment of handicapped workmen; definitions. For the purposes of the workmen's compensation act, the following terms are defined as follows:

(a) "Member of the body" means an eye, arm, hand, leg or foot.

(b) "Handicapped employee" means one afflicted with or subject to any physical or mental impairment, or both, whether congenital or due to an injury or disease of such character the impairment constitutes a handicap in obtaining employment or would constitute a handicap in obtaining reemployment if the

employee shall  
to any of the

1. Epilepsy
2. Diabetes
3. Cardiac
4. Arthritis
5. Amputation
6. Loss of more than 7
7. Residual
8. Cerebral
9. Multiple
10. Parkinson's
11. Cerebellum
12. Tuberculosis
13. Silicosis
14. Psychosis
15. Loss of body:
16. Any
17. Any physical or cap in obt-

44-586a  
from abol  
entitlement  
tions again  
attorneys'  
the work  
fund creat  
1982. the  
moneys f  
compens  
out of the  
injuries  
award or  
fund. Th  
administ  
from the  
the direc  
approve  
persons  
insuran  
ture the  
sation f  
by  
certify  
amount

employee should become unemployed and the handicap is due to any of the following diseases or conditions:

1. Epilepsy;
2. Diabetes;
3. Cardiac disease;
4. Arthritis;
5. Amputated foot, leg, arm or hand;
6. Loss of sight of one or both eyes or a partial loss of vision of more than 75% bilaterally;
7. Residual disability from poliomyelitis;
8. Cerebral palsy;
9. Multiple sclerosis;
10. Parkinson's disease;
11. Cerebral vascular accident;
12. Tuberculosis;
13. Silicosis or asbestosis;
14. Psychoneurotic or mental disease or disorder established by medical opinion or diagnosis;
15. Loss of or partial loss of the use of any member of the body;
16. Any physical deformity or abnormality;
17. Any other physical impairment, disorder or disease, physical or mental, which is established as constituting a handicap in obtaining or in retaining employment.

44-586a. Same; fund created; transfer of funds and liability from abolished fund; annual assessment and state general fund entitlement; administration by commissioner of insurance; actions against fund, parties and settlements; liabilities of fund; attorneys' fees. (a) There is hereby created in the state treasury the workers' compensation fund. The workmen's compensation fund created by this section is hereby abolished, and on July 1, 1982, the director of accounts and reports shall transfer all moneys in the workmen's compensation fund to the workers' compensation fund. All amounts which are required to be paid out of the workmen's compensation fund for liability arising from injuries occurring prior to July 1, 1982, whether reduced to award or not, shall be paid out of the workers' compensation fund. The commissioner of insurance shall be responsible for administering the workers' compensation fund; and all payments from the workers' compensation fund shall be upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner of insurance or a person or persons designated by the commissioner. The commissioner of insurance annually shall report to the governor and the legislature the receipts and disbursements from the workers' compensation fund during the preceding fiscal year.

(b) (1) Each September the commissioner of insurance shall certify, with the commissioner's annual budget request, the amount of state general fund entitlement of the workers' com-

compensation fund for the ensuing fiscal year. Such entitlement shall be equal to the sum of the amounts paid from the workers' compensation fund during the preceding fiscal year in payment of awards made to handicapped employees in accordance with the provisions of K.S.A. 1982 Supp. 44-569 and amendments thereto, including attorney fees, less the sum of the amounts deposited during the preceding fiscal year to the credit of the workers' compensation fund in accordance with the provisions of K.S.A. 1982 Supp. 44-570 and amendments thereto, except that no state general fund entitlement for a fiscal year shall be more than \$4,000,000. For the purpose of providing funds to meet and pay awards made to handicapped employees, within appropriations therefor, there shall be transferred not later than July 1 each year, or more frequently by appropriation acts of the Legislature, from the state general fund to the workers' compensation fund, the amount certified by the commissioner of insurance to be the entitlement of the workers' compensation fund from the state general fund, or a part thereof followed by supplemental certifications to complete the entitlement for each such fiscal year, subject to the limitation of a total amount of \$4,000,000 for any such fiscal year.

(2) On July 1 each year, the commissioner of insurance shall impose an assessment against all insurance carriers, self-insurers and group-funded workers' compensation pools insuring the payment of compensation under the workmen's compensation act, the proceeds of which shall be credited to the workers' compensation fund. The total amount of each such assessment shall be equal to an amount sufficient, in the opinion of the commissioner of insurance, to pay all amounts, including attorney fees and costs, which may be required to be paid from such fund during the current fiscal year, less amounts required to be transferred from the state general fund to the workers' compensation fund. The total amount of each such assessment shall be apportioned among those upon whom it is imposed, such that each is assessed an amount that bears the same relation to such total assessment as the amount of money paid or payable in workers' compensation claims by such insurance carrier, self-insurer or group-funded workers' compensation pool in the immediately preceding calendar year bears to all such claims paid or payable during such calendar year. Not later than September 1 each year, the commissioner of insurance shall notify all such insurance carriers, self-insurers and group-funded workers' compensation pools of the amount of each assessment imposed under this subsection on such carrier, self-insurer or group-funded workers' compensation pool, and the same shall be due and payable on the October 1 following.

(3) The commissioner of insurance shall remit all moneys received by or for such commissioner under this subsection to the state treasurer. Upon receipt of any such remittance the state

treasurer shall  
treasury to the  
(c) Whence  
liable for the  
workmen's com  
the capacity of  
such proceeds  
compensation  
deemed impi  
notice of the  
asserted again  
commissioner  
be made a pa  
A copy of the  
all other part  
The direct  
workers' com  
director has  
indicate inv  
(d) The  
administrator  
ments of an  
compensati  
men's comp  
(e) The  
(1) Paym  
ance with  
amendmen  
(2) pay  
ployee wh  
ployee's e  
1982 Supp  
(3) rein  
suant to  
amendmen  
and amen  
44-569 and  
and amen  
(4) any  
(f) If it  
not liable  
fees inclu  
sessed as  
pensation  
Supp. 44  
g) If  
the work  
shall be  
and pay

treasurer shall deposit the entire amount thereof in the state treasury to the credit of the workers' compensation fund.

(c) Whenever the workers' compensation fund may be made liable for the payment of any amounts in proceedings under the workmen's compensation act, the commissioner of insurance, in the capacity of administrator of such fund, shall be impleaded in such proceedings and shall represent and defend the workers' compensation fund. The commissioner of insurance shall be deemed impleaded in any such proceedings whenever written notice of the proceedings setting forth the nature of the liability asserted against the workers' compensation fund, is given to the commissioner of insurance. The commissioner of insurance may be made a party in this manner by any party to the proceedings. A copy of the written notice shall be given to the director and to all other parties to the proceedings.

The director or administrative law judge shall dismiss the workers' compensation fund from any proceeding where the director has determined that there is insufficient evidence to indicate involvement by the workers' compensation fund.

(d) The commissioner of insurance, in the capacity of administrator of the workers' compensation fund may make settlements of any amounts which may be payable from the workers' compensation fund with regard to any claim under the workmen's compensation act, subject to the approval of the director.

(e) The workers' compensation fund shall be liable for:

(1) Payment of awards to handicapped employees in accordance with the provisions of K.S.A. 1982 Supp. 44-569 and amendments thereto;

(2) payment of workers' compensation benefits to an employee who is unable to receive such benefits from such employer's employer under the conditions prescribed by K.S.A. 1982 Supp. 44-532a and amendments thereto;

(3) reimbursement of an employer or insurance carrier pursuant to the provisions of K.S.A. 1982 Supp. 44-534a and amendments thereto, subsection (d) of K.S.A. 1982 Supp. 44-556 and amendments thereto, subsection (c) of K.S.A. 1982 Supp. 44-569 and amendments thereto and K.S.A. 1982 Supp. 44-569a and amendments thereto; and

(4) any other payments or disbursements provided by law.

(f) If it is determined that the workers' compensation fund is not liable as described in subsection (e) of this section, attorney fees incurred by the workers' compensation fund may be assessed against the party who has impleaded the workers' compensation fund other than impleadings pursuant to K.S.A. 1982 Supp. 44-532a and amendments thereto.

(g) The legislature shall provide for the implementation of the workers' compensation fund as provided in this section and shall be responsible for ensuring the fund's adequacy to meet and pay claims awarded against it.

44-567. Same; relief from or apportionment of liability for subsequent injuries to handicapped workmen; proof of knowledge of impairment required; presumptions; commissioner of insurance to be impleaded. (a) An employer (1) who operates within the provisions of the workmen's compensation act (2) who knowingly employs or retains a handicapped employee, as defined in K.S.A. 44-566 and amendments thereto, shall be relieved of liability for compensation awarded or be entitled to an apportionment of the costs thereof as follows:

(A) Whenever a handicapped employee is injured or is disabled or dies as a result of an injury and the director awards compensation therefor and finds that the injury, disability or the death resulting therefrom probably or most likely would not have occurred but for the preexisting physical or mental impairment of the handicapped employee, all compensation and benefits payable because of the injury, disability or death shall be paid from the workers' compensation fund.

(B) Subject to the *other* provisions of the *workmen's workers* compensation act, whenever a handicapped employee is injured or is disabled or dies as a result of an injury and the director finds that the injury probably or most likely would have been sustained or suffered without regard to the employee's preexisting physical or mental impairment but the resulting disability or death was contributed to by the preexisting impairment, the director shall determine in a manner which is equitable and reasonable ~~and based upon medical evidence~~ the amount of disability and proportion of the cost of award which is attributable to the employee's preexisting physical or mental impairment, and the amount so found shall be paid from the workers' compensation fund.

(b) In order to be relieved of liability under this section, the employer must prove either that the employer had knowledge of the preexisting impairment at the time the employer employed the handicapped employee or that the employer retained the handicapped employee in employment after acquiring such knowledge. The employer's knowledge of the preexisting impairment may be established by any evidence sufficient to maintain the employer's burden of proof with regard thereto. If the employer, prior to the occurrence of a subsequent injury to a handicapped employee, files with the director a notice of the employment or retention of such employee, together with a description of the handicap claimed, such notice and description of handicap shall create a presumption that the employer had knowledge of the preexisting impairment. *If the employer files a written notice of an employee's preexisting impairment with the director in a form approved by the director therefor, such notice establishes the existence of a reservation in the mind of the employer when deciding whether to hire or retain the employee.*

knowingly: (1) Miss  
such an impairment  
employee has not in  
that such employee  
compensated in damage  
injury or disease: is  
had any employee  
prior accident. inj  
employee does no  
impairment. disab  
misrepresents or  
reasonably related

(d) An employ  
pensation awarded  
apportionment of  
unless the employ  
in the capacity of  
fund. to be imp

amendments ther  
nsation to be aw  
disabled or ha  
oyee's claim to

l hearing whet

(e) Amendme  
here a handica  
aims compensa  
effective date of

(f) The total a  
e the amount  
4-503a, 44-510

ments thereto.  
more than the a  
ments thereto.

44-569. Sam  
capped workm  
commissioner o  
sufficient; reim  
director shall  
disabled unde  
amendments th  
forth the amou  
worker was et  
injury in the m  
and shall in a  
amount due t  
compensation  
pensation fun  
size of which  
director at th



(c) Knowledge of the employee's preexisting impairment or handicap at the time the employer employs or retains the employee in employment shall be presumed conclusively if the employee, in connection with an application for employment or an employment medical examination or otherwise in connection with obtaining or retaining employment with the employer, knowingly: (1) Misrepresents that such employee does not have such an impairment or handicap; (2) misrepresents that such employee has not had any previous accidents; (3) misrepresents that such employee has not previously been disabled or compensated in damages or otherwise because of any prior accident, injury or disease; (4) misrepresents that such employee has not had any employment terminated or suspended because of any prior accident, injury or disease; (5) misrepresents that such employee does not have any mental, emotional or physical impairment, disability, condition, disease or infirmity; or (6) misrepresents or conceals any facts or information which are reasonably related to the employee's claim for compensation.

(d) An employer shall not be relieved of liability for compensation awarded nor shall an employer be entitled to an apportionment of the costs thereof as provided in this section, unless the employer shall cause the commissioner of insurance, in the capacity of administrator of the workers' compensation fund, to be impleaded, as provided in K.S.A. 44-566a and amendments thereto, in any proceedings to determine the compensation to be awarded a handicapped employee who is injured or disabled or has died, by giving written notice of the employee's claim to the commissioner of insurance prior to the first full hearing where any evidence is presented on the claim.

(e) Amendments to this section shall apply only to cases where a handicapped employee, or the employee's dependents, claims compensation as a result of an injury occurring after the effective date of such amendments.

(f) The total amount of compensation due the employee shall be the amount for disability computed as provided in K.S.A. 44-503a, 44-510 to 44-510g, inclusive, and 44-511, and amendments thereto, and in no case shall the payments be less nor more than the amounts provided in K.S.A. 44-510c and amendments thereto.

44-569. Same; awards for subsequent injuries to handicapped workmen; apportionment of amounts due; duties of commissioner of insurance; employer's liability when fund insufficient; reimbursement from fund. (a) In the event that the director shall find and determine that a worker has become disabled under circumstances set forth in K.S.A. 44-567 and amendments thereto, the director shall make an award setting forth the amount due, if any, from the employer by whom the worker was employed when the worker received subsequent injury in the manner and form by which the award shall be paid, and shall in addition thereto make an award setting forth the amount due to the employee to be paid from the workers' compensation fund. All awards paid out of the workers' compensation fund shall be payable in payments, the number and size of which shall be set forth by the director in the award. The director at the director's option is authorized to approve lump

sum settlements with and lump sum payments from the workers' compensation fund.

(b) The director, within 30 days from the date of the making of the award, shall deliver to the commissioner of insurance a certified copy of the same and thereafter the commissioner of insurance shall cause payment to be made from the workers' compensation fund to the employee in harmony with the award.

(c) Whenever the commissioner of insurance finds that there are insufficient funds in the workers' compensation fund to satisfy an award of compensation made to a worker from such fund, the commissioner of insurance shall give notice of this finding to the employer by whom the worker was employed when the worker sustained subsequent injury. Upon receiving such notice, the employer shall assume and become liable for the payment of compensation as provided in such award and until such time that the commissioner of insurance finds that there are sufficient funds in the workers' compensation fund for this purpose. The employer shall be reimbursed from the workers' compensation fund for all such payments of compensation which would have been paid from the workers' compensation fund. The commissioner of insurance shall determine the amount of compensation paid by the employer which is to be reimbursed under this subsection, and the amount so determined shall be paid to the employer from the workers' compensation fund.

(d) The director shall submit in the regular written report of the workers' compensation fund.

**44-569a.** Same; reimbursement from fund. Whenever in any proceedings on a claim for compensation the workers' compensation fund is a party respondent and the employer or insurance carrier has either voluntarily or by order of the director, paid disability compensation or furnished medical treatment for the injured worker, or done both, such employer or insurance carrier shall be entitled to reimbursement from the workers' compensation fund of such compensation or medical treatment, or both, to the extent the fund shall be determined to be liable for such disability compensation or medical treatment, or both. The employer or insurance carrier also shall be entitled to reimbursement from the workers' compensation fund as provided in K.S.A. 44-534a, and amendments thereto, subsection (d) of K.S.A. 44-556 and amendments thereto and subsection (c) of K.S.A. 44-569 and amendments thereto.

**44-570.** Same; employer's liability for no-dependent deaths; awards to fund; duties of commissioner of insurance; refund. (a) Every employer in the state of Kansas operating a trade or business under the provisions of the workmen's compensation act shall pay within 30 days after the award is made the sum of \$18,500 to the commissioner of insurance in every case where death results from the accident and where there are no depen-

dents who are  
compensation a

(b) The com  
received under  
any such remit  
amount thereof  
compensation

(c) Upon re  
shall transmit  
nissioner of i  
under the pro  
shown, or if p  
under such ci  
the commissio  
such payment  
insurance car

44-572. S  
awards. Any  
subject to re  
K.S.A. 44-52

44-573. F  
adopt and p  
deems nece  
the provisio  
sioner of in  
regulations  
for the pur  
fund and g  
rules and r  
statutes as  
Statutes A

44-574.  
tion laws.  
[\*] and the  
Kansas St  
suppleme  
known an  
Any refer  
containee  
Annotate  
compens

44-57  
state age  
sured as  
istration  
agency  
state, bu  
ical sub

dents who are entitled to compensation under the workmen's compensation act.

(b) The commissioner of insurance shall remit all moneys received under this section to the state treasurer. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the workers' compensation fund.

(c) Upon rendering an award under this section, the director shall transmit immediately a certified copy thereof to the commissioner of insurance. In case payment is, or has been made, under the provisions of this section and dependency later is shown, or if payment is made by mistake or inadvertence, or under such circumstances that justice requires a refund thereof, the commissioner of insurance is hereby authorized to refund such payment to the employer, or if insured, to the employer's insurance carrier.

44-572. Same; review; modification or cancellation of awards. Any award made under the provisions of this act shall be subject to review, modification or cancellation as provided by K.S.A. 44-528.

44-573. Rules and regulations; filing. The director may adopt and promulgate such rules and regulations as the director deems necessary for the purposes of administering and enforcing the provisions of the workmen's compensation act. The commissioner of insurance may adopt and promulgate such rules and regulations as the commissioner of insurance deems necessary for the purposes of administering the workers' compensation fund and group-funded workers' compensation pools. All such rules and regulations shall be filed in the office of revisor of statutes as provided by article 4 of chapter 77 of the Kansas Statutes Annotated or acts amendatory thereof.

44-574. Construction and citation of workmen's compensation laws. The provisions of sections 1 to 55, inclusive, of this act [\*] and the acts contained in articles 5 and 5a of chapter 44 of the Kansas Statutes Annotated and any acts amendatory thereof or supplemental thereto, shall be construed together and shall be known and may be cited as the "workmen's compensation act." Any reference in any of the statutes of this state to any of the acts contained in article 5 or 5a of chapter 44 of the Kansas Statutes Annotated shall be deemed to be a reference to the workmen's compensation act.

44-575. State workmen's compensation self-insurance fund; state agency defined; liabilities of fund; state agencies self-insured as single employer; administration by secretary of administration. (a) As used in K.S.A. 44-575 to 44-580, inclusive, "state agency" means the state, or any department or agency of the state, but not including the Kansas turnpike authority, any political subdivision of the state or the district court with regard to

KANSAS WORKERS' COMPENSATION FUND

Prepared by the Kansas Insurance Department

CASE LOAD SCHEDULED

Description	FY1989	FY1988	FY1987
Total Number of Impleadings	1,933	1,862	1,603
Total Number of Closed Cases	1,472	1,455	1,170

RECEIPTS ANALYSIS

	FY1989	(% of Total)	FY1988	(% of Total)	FY1987	(% of Total)
Assessment Receipts	\$22,595,122.13	(84.14)	\$17,983,751.16	(80.89)	\$ 6,542,599.05	(55.75)
General Fund Entitlement	\$ 4,000,000.00	( 14.9)	\$ 4,000,000.00	(17.99)	\$ 4,000,000.00	(34.07)
Non-Dependent Death Receipts	\$ 92,500.00	( .35)	\$ 136,131.02	( .62)	\$ 153,000.00	( 1.30)
Miscellaneous Reimbursements	\$ 147,187.64	( .55)	\$ 92,052.31	( .42)	\$ 127,846.50	( 1.08)
<b>TOTAL RECEIPTS</b>	<b>26,834,809.77</b>		<b>22,211,934.49</b>		<b>10,823,445.55</b>	
Previous Year Carryover Balance	9,124.65	( .03)	16,552.56	( .07)	908,156.20	( 7.73)
Previous Year Cancelled Checks	8,915.91	( .03)	3,241.52	( .01)	9,486.00	( .07)
<b>TOTAL FUNDS AVAILABLE</b>	<b>\$26,852,850.33</b>	<b>(100. )</b>	<b>\$22,231,728.57</b>	<b>(100. )</b>	<b>\$11,741,087.75</b>	<b>(100. )</b>

VE:llas  
5629  
TXTFMS

## EXPENDITURE ANALYSIS

	FY1989	(% of Total)	FY1988	(% of Total)	FY1987	(% of Total)
Disability Compensation	\$16,606,746.89	(71.94)	\$15,945,464.32	(71.75)	\$ 8,167,171.06	(69.66)
Work Assessment	7,045.49	( .03)				
Medical						
Doctor	178,962.07	( .78)	152,173.10	( .68)	97,933.13	( .84)
Hospital	227,380.78	( .99)	246,717.44	( 1.11)	163,295.83	( 1.39)
Drugs	21,318.57	( .09)	15,413.29	( .07)	6,509.09	( .06)
Misc. (braces, etc.)	25,337.12	( .11)	12,736.48	( .06)	11,957.03	( .10)
Other Services (mileage, etc.)	31,873.78	( .14)	12,994.80	( .06)	7,762.79	( .07)
Reimbursements to Insurance Co. (K.S.A. 44-569(a) and 44-569)	3,242,188.92	(14.04)	3,118,949.78	(14.04)	1,054,830.62	( 9.00)
Attorneys Fees	2,356,857.63	(10.2 )	2,330,799.05	(10.49)	1,953,605.41	(16.66)
Court Costs and Depositions						
Medical Reports, etc.	210,660.64	( .91)	233,153.07	( 1.05)	125,989.31	( 1.07)
Refunds	9,587.28	( .04)	50.00	( .00)	7,492.80	( .06)
Other Operating Expenses	167,810.87	( .73)	154,152.59	( .69)	127,988.12	( 1.09)
TOTAL EXPENDITURES	\$23,085,770.04	(100. )	\$22,222,603.92	(100. )	\$11,724,535.19	(100. )

VE:llas  
5629  
TXTFMS

Effect of 2nd Injury Fund and  
Directors Assessments on Workers' Compensation Rates

1989	Filing was not approved; however, a decrease of 0.1 % was proposed.
1988	+ 5.8 %
1987	+ 2.6 %
1986	- 3.6 %

Note:

Rating effect of only the 2nd Injury Fund Assessment is unknown; however, it would be responsible for the major part of the rating impact attributable to the assessments.

PROJECTED COST TO EMPLOY IN-HOUSE WORKERS' COMPENSATION FUND ATTORNEYS  
 (Offices located throughout the State)

13

1. Non Recurring Expense (initial purchase of equipment)

(1) Office Equipment

<u>Item</u>	<u>Quantity</u>	<u>Price</u>	<u>Total Cost</u>
Attorney Desk	1	\$ 360	\$ 360
Attorney Chair	1	250	250
Steno Desk	1	250	250
Steno Chair	1	150	150
Personal Computer and Software	1	3,090	3,090
Work Station for Personal Computer	1	100	100
Dictating Machine	1	250	250
Transcribing Machine	1	375	375
Typewriter	1	480	480
Adding Machine	1	95	95
File Cabinet	4	200	800
Bookcase	1	160	160
Storage Cabinet	1	220	220
Side Chairs	2	85	170
Lobby Chairs	1	85	85
Telephone and Installation	1	135	<u>135</u>

SUB TOTAL

\$2,125/Attorney  
 \$4,980/Secretary

(2) Library

<u>Item</u>	<u>Quantity</u>	<u>Price</u>	<u>Total Cost</u>
Set of K.S.A.	1	\$ 374	\$ 374
Shepards Citations	1	215	215
Set of Kansas Reports	1	5,702	5,702
Dictionary			
(Medical)	1	60	60
(Legal)	1	50	15
(Regular)	1	10	<u>10</u>

SUB TOTAL: For offices maintaining one, two or three attorneys \$ 6,376/Office  
 SUB TOTAL: For offices maintaining six or seven attorneys \$12,752/Office  
 SUB TOTAL: For offices maintaining twelve attorneys \$19,128/Office

	<u>Offices Maintaining One, Two or Three Attorneys</u>	<u>Offices Maintaining Six or Seven Attorneys</u>	<u>Offic Maintain Twelve Attorneys</u>
2. <u>Annual Expense</u>			
Rent and Utilities	\$ 9,188	\$14,700	\$28,800
Photocopying	1,128	3,636	4,500
Telephone	8,880	17,760	35,520
Recurring Office Supplies	1,500	2,700	5,300
Travel	<u>2,000</u>	<u>4,000</u>	<u>8,000</u>
SUB TOTAL	\$22,696	\$42,796	\$82,170

Salary Expense:

Attorney Salary (per year)	\$ 34,806
Attorney Fringe Benefits (per year)	7,424
Secretary Salary (per year)	17,994
Secretary Fringe Benefits (per year)	5,390

GRAND TOTAL	<u>First Year</u>	<u>Annual</u>
Topeka Office/Headquarters (seven attorneys and three secretaries)	\$ 451,125	\$ 408,558
Kansas City Office:		
Wyandotte County Office (six attorneys and two secretaries)	378,406	342,944
Johnson County Office (six attorneys and two secretaries)	378,406	342,944
Wichita/Hutchinson Office (twelve attorneys and four secretaries)	746,964	682,416
Great Bend Office (three attorneys and one secretary)	190,501	172,770
Dodge City Office (two attorneys and and one secretary)	146,146	130,540
Chanute Office (three attorneys and one secretary)	190,501	172,770
Garden City Office (two attorneys and one secretary)	146,146	130,540
Salina Office (one attorney and one secretary)	<u>101,791</u>	<u>88,310</u>
	<u>\$2,729,986</u>	<u>\$2,471,792</u>



Workers' Compensation Fund Statistical Information

Number of Impleadings Involving  
the Workers' Compensation Fund

<u>Fiscal Year</u>	<u>Number</u>	<u>Percentage Increase</u>
1984	1,194	
1985	1,260	+ 6%
1986	1,405	+12%
1987	1,603	+14%
1988	1,862	+16%
1989	1,966	+ 6%
1990 (Estimated)	2,128	+ 8%

Active Cases Against the  
Workers' Compensation Fund

<u>At the End of Fiscal Year</u>	<u>Number</u>
1984	1,711
1985	2,027
1986	2,515
1987	2,955
1988	3,068
1989	3,806
1990 (Estimated)	4,522

Monthly Payments Made From the  
Workers' Compensation Fund

<u>At the End of Fiscal Year</u>	<u>Number</u>	<u>Total Amount of Monthly Payments</u>	<u>Average Monthly Payment Per Case</u>
1984	137	\$ 37,682	\$275
1985	151	44,367	294
1986	227	79,610	351
1987	248	102,717	414
1988	301	132,531	440
1989	330	143,615	435
1990 (Through Jan. 1990)	341	148,822	436

Awards Against the Workers'  
Compensation Fund by Fiscal Year

<u>Fiscal Year in which Awards were Made</u>	<u>Number of Awards</u>	<u>Average Amount of Award</u>
1984	542	\$12,837
1985	486	12,616
1986	540	16,072
1987	788	14,967
1988	836	14,932
1989	1,059	14,014

Individual Awards Against the Workers'  
Compensation Fund by Fiscal Year

<u>Fiscal Year</u>	<u>Between \$50,000 and \$74,999</u>	<u>Between \$75,000 and \$99,999</u>	<u>\$100,000</u>
1984	17	1	
1985	9	5	
1986	15	19	5
1987	14	23	2
1988	25	11	
1989	29	12	

Percentage of Impleadings that Resulted  
in Awards Being Made Against  
the Workers' Compensation Fund  
(Extracted from Closed Claim Reports)

<u>Cases Closed in Fiscal Year</u>	<u>Number of Impleadings</u>	<u>Number of Awards</u>	<u>Percentage of Impleadings Resulting in Awards</u>
1984	1,114	719	65%
1985	951	490	52%
1986	924	468	51%
1987	1,127	639	57%
1988	1,455	1,037	71%
1989	1,466	1,058	72%
1990 (Through Nov. 1989)	540	338	63%

Expenditures by Fiscal Year  
Made From the Workers' Compensation Fund

<u>Fiscal Year</u>	<u>Actual Expenditures</u>	<u>Expenditures if Sufficient Funding had been Available</u>
1984	\$11,456,146	\$ 9,300,000
1985	7,925,477	7,925,477
1986	9,195,940	9,195,940
1987	11,724,536	15,324,536
1988	22,222,594	18,622,594
1989	23,076,182	23,076,182
1990 (Estimated)	21,500,000	21,500,000

RN:crle  
1095

40

WORKERS' COMPENSATION REPORT FOR DECEMBER, 1989

TO: JIM VILLAMARIA, ATTORNEY  
FROM: PAM FINK & VERLENE EVANS, ACCOUNTANTS

Work Comp Fund Balance	\$16,977,304.95
Deposits	60,727.89
Compensation	1,245,008.20
Medical	301,214.91
Court Reporting	13,988.60
Attorney Fees	223,498.84
Other Operating	15,087.33
Work Assessments	5,089.46
Refunds	<u>4,508.43</u>
Balance on December 31, 1989	\$15,229,637.07
Total December Expenditures	\$1,808,395.77
Other Operating Expense Limits	\$213,935.00
Expenses to Date	<u>74,192.88</u>
Balance	\$139,742.12
90 YTD Comp Expense	\$6,501,259.10
90 YTD Medical Expense	1,909,440.70
90 YTD Court Reporter Expense	97,961.52
90 YTD Attorney Fee Expense	1,104,913.95
90 YTD Other Operating Expense	74,192.88
90 YTD Work Assessment	18,237.61
90 YTD Refund	<u>4,508.43</u>
90 YTD All Expense	\$9,710,514.19
90 Beginning Balance	\$ 3,767,063.29
90 Appropriation	4,000,000.00
90 YTD Deposits	17,173,087.97
90 YTD Expenses	<u>9,710,514.19</u>
December 31, 1989 Fund Balance	\$15,229,637.07

New Cases For December

Non-Dependent Death	1
Insolvent Employer	5
Reimbursement	0
Second Injury	<u>164</u>
	170

New Cases YTD

Non-Dependent Death	7
Insolvent Employer	39
Reimbursement	2
Second Injury	<u>1,016</u>
	1,064

Closed Cases For December

Non-Dependent Death	14
Insolvent Employer	10
Reimbursement	3
Second Injury	<u>139</u>
	166

Closed Cases YTD

Non-Dependent Death	15
Insolvent Employer	24
Reimbursement	6
Second Injury	<u>661</u>
	706

act

WORKERS' COMPENSATION REPORT FOR NOVEMBER, 1989

TO: CHRIS COWGER, ATTORNEY  
FROM: PAM FINK & VERLENE EVANS, ACCOUNTANTS

Work Comp Fund Balance	\$18,597,287.76
Deposits	81,909.79
Compensation	1,122,543.14
Medical	333,646.02
Court Reporting	21,109.59
Attorney Fees	206,839.62
Other Operating	15,153.83
Work Assessments	2,600.40
Refund	-0-
Balance on November 30, 1989	<u>16,977,304.95</u>
Total November Expenditures	1,701,892.60
Other Operating Expense Limits	213,935.00
Expenses to Date	<u>59,105.55</u>
Balance	154,829.45
90 YTD Comp Expense	5,261,448.41
90 YTD Medical Expense	1,608,225.79
90 YTD Court Reporter Expense	78,775.41
90 YTD Attorney Fee Expense	881,415.11
90 YTD Other Operating Expense	<u>59,105.55</u>
90 YTD Work Assessment	13,148.15
90 YTD Refund	-0-
90 YTD All Expense	<u>7,902,118.42</u>
90 Beginning Balance	3,767,063.29
90 Appropriation	4,000,000.00
90 YTD Deposits	17,112,360.08
90 YTD Expenses	<u>7,902,118.42</u>
November 30, 1989 Fund Balance	<u>16,977,304.95</u>

New Cases for November

Non-Dependent Death	1
Insolvent Employer	5
Reimbursement	0
Second Injury	163
	<u>169</u>

New Cases YTD

Non-Dependent Death	6
Insolvent Employer	34
Reimbursement	2
Second Injury	852
	<u>894</u>

Closed Cases for November

Non-Dependent Death	0
Insolvent Employer	3
Reimbursement	0
Second Injury	91
	<u>94</u>

Closed Cases YTD

Non-Dependent Death	1
Insolvent Employer	14
Reimbursement	3
Second-Injury	522
	<u>540</u>

WORKERS' COMPENSATION REPORT FOR OCTOBER, 1989

TO: CHRIS COWGER, ATTORNEY  
 FROM: VERLENE EVANS, ACCOUNTANT

Work Comp Fund Balance	\$17,685,391.53
Deposits	3,425,247.52
Compensation	1,610,604.91
Medical	631,928.92
Court Reporting	20,271.84
Attorney Fees	228,578.50
Other Operating	16,441.44
Work Assessments	5,525.68
Refund	-0-
Balance on October 31, 1989	<u>18,597,287.76</u> ✓
Total October Expenditures	2,513,351.29 ✓
Other Operating Expense Limits	213,935.00
Expenses to Date	<u>43,951.72</u>
Balance	<u>169,983.28</u> ✓
90 YTD Comp Expense	4,138,905.27
90 YTD Medical Expense	1,274,579.77
90 YTD Court Reporter Expense	57,665.82
90 YTD Attorney Fee Expense	674,575.49
90 YTD Other Operating Expense	<u>43,951.72</u>
90 YTD Work Assessment	<u>10,547.75</u>
90 YTD Refund	-0-
90 YTD All Expense	<u>6,200,225.82</u>
90 Beginning Balance	3,767,063.29
90 Appropriation	4,000,000.00
90 YTD Deposits	17,030,450.29
90 YTD Expenses	<u>6,200,225.82</u>
October 31, 1989 Fund Balance	<u>18,597,287.76</u> ✓

New Cases for October

Non-Dependent Death	3
Insolvent Employer	7
Reimbursement	1
Second Injury	195
	<u>206</u>

New Cases YTD

Non-Dependent Death	5
Insolvent Employer	29
Reimbursement	2
Second Injury	<u>689</u>
	725

Closed Cases for October

Non-Dependent Death	0
Insolvent Employer	4
Reimbursement	1
Second Injury	127
	<u>132</u>

Closed Cases YTD

Non-Dependent Death	1
Insolvent Employer	11
Reimbursement	3
Second-Injury	<u>431</u>
	446

Exhibit #6

<u>Fiscal Year</u>	<u>Number of New Cases</u>	<u>Number of Closed Cases</u>
1974	39	*
1975	155	*
1976	475	*
1977	618	259
1978	451	490
1979	363	346
1980	430	357
1981	828	448
1982	916	559
1983	1018	1054
1984	1194	1127
1985	1260	959
1986	1405	929
*1987	1603	1170
1988	1862	1455
1989	1933	1472

\*Ran out of money

LE/6802

	<u>Expenditures from Fund</u>	<u>State General Fund Transfer</u>
FY 1975	\$ 212,375	\$ 86,940
FY 1976	519,971	73,696
FY 1977	571,937	101,204
FY 1978	1,463,247	222,092
FY 1979	2,060,308	501,523
FY 1980	2,392,003	1,624,747
FY 1981	4,005,884	1,799,457
FY 1982	4,416,221	3,047,776*
FY 1983**	6,056,503	2,642,346*
FY 1984	11,456,146	4,000,000
FY 1985	7,921,862	4,000,000
FY 1986	10,000,000	4,000,000
FY 1987*	11,724,539	4,000,000
FY 1988**	22,222,604	4,000,000
FY 1989	23,085,770	4,000,000

\*Ran out of money (\$3,652,974) outstanding

\*\*Assessment includes \$3,652,974 owed from previous year

LE/6803