

Approved March 19, 1992  
Date

MINUTES OF THE Senate COMMITTEE ON Labor, Industry and Small Business

The meeting was called to order by Alicia L. Salisbury at  
Chairperson

1:00 ~~am~~/p.m. on March 4, 19<sup>92</sup> in room 313-S of the Capitol.

All members were present except:

Members present: Senators Ehrlich, Feleciano, Martin, Morris, Oleen, Petty,  
Salisbury, Sallee, Strick and Thiessen

Committee staff present:

Jerry Donaldson, Legislative Research Department  
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

William Hagar, President, National Council on Compensation Insurance, Boca  
Raton, Florida

**Presentation by National Council on Compensation Insurance on Insurance  
Economics and Workers Compensation Pricing**

The Chairman called the joint committee meeting of the Senate Labor,  
Industry and Small Business, House Labor and Industry and House Insurance  
committees to order, and introduced William Hagar, President, NCCI.

Mr. Hagar introduced Michael Taylor, Director, Government, Consumer and  
Industry Affairs, NCCI, St. Louis, Missouri; Everette Brookhart, Sr.  
Vice-President, NCCI, Agoura Hills, California; and Michael Dubin, Regional  
Actuary, NCCI, Agoura Hills, California.

Mr. Hagar stated NCCI filed last week for a 31.4% increase with the  
Insurance Commissioner. They are currently conducting a closed claims study  
requested by Insurance Commissioner Ron Todd. The study should be completed  
in early April at which time he would be available to report to the  
Legislature.

Mr. Hagar testified that workers compensation reform must be  
substantive; it must be real; and it must directly address the cost drivers.  
"Window dressing" reform won't do a thing; it will simply lead everybody to  
believe that reform has been accomplished and costs will continue to go  
through the roof.

Mr. Hagar conducted a slide presentation on "Workers Compensation Crisis  
and Solutions", see Attachment 1. He listed as cost drivers, 1. increasing  
medical costs, 2. the ever expanding definition of job-related injuries, 3.  
attorney involvement, 4. rapidly increasing cost of wage claims and 5. system  
fraud. He suggested three solutions, 1. raise the price, 2. reduce cost  
through reform and 3. price increase plus reforms. He said the key points of  
the Colorado reform bill that virtually eliminated a 36% rate indication for  
1991 are 1. stricter definition of permanent total disabilities, 2.  
impairment ratings based on AMA guidelines, 3. mandated mediation for certain  
disputes, and 4. implements timeline for certain disputes.

Discussion followed Mr. Hagar's slide presentation.

The Committee meeting was adjourned at 2:30 p.m.

GUEST LIST

COMMITTEE: LABOR, INDUSTRY & SMALL BUSINESS

DATE: March 4, 1992

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
JOHN SALISBURY	TOPEKA	SALISBURY SUPPLY
RAY RATHERT	TOPEKA	KS. INS. DEPT.
Jim Mlynek	TOPEKA KS	OK JOHNSON ELEC.
JOEL Cochran	TOPEKA	NAT'L ELECTRICAL CONTRACTORS ASSN.
Kurt Carlson	TOPEKA	DHR / Work Camp
MARY GOODMAN	TOPEKA	KASIB
Gary Counselman	TOPEKA	KCA
JOE FURSANIC	TOPEKA	KCA
DAN MORGAN	KC	Builders' Assn / AGC
DON McNEELY	TOPEKA	KANSAS MOTOR CAR DEALERS
Larry Skaffek	TOPEKA	KANSAS Hosp. Assoc
Ralph Ferris	TOPEKA	K R H A
GEORGE PUCKETT	WICHITA / TOPEKA	KS RESTAURANT & HOSPITALITY ASSOCIATION
Larry Sederstrom	Overland Park	Zurich-American Ins. Group
JIM OLIVER	TOPEKA	PIAK
LM CORNISH	<sup>Topoka</sup> Kasson P/C Campus	KS Assn of P/C
Fred Carman	TOPEKA	Revisions Office
Patty Pindarus	Leawood	Fortis, Corp.
M. J. Hawwa	Gen Trench	Cog-Journal
Kim Vickers	Topoka	Intem (Kan)
Terry Leatherman	TOPEKA	KCCI
LARRY MAGILL	TOPEKA	IIAK
James W McBride	TOPEKA	MEADE INS
Dick Brock	"	Ins Dept
Kevin Robertson	TOPEKA	KS Lodging Assn

GUEST LIST

COMMITTEE: LABOR, INDUSTRY & SMALL BUSINESS

DATE: March 4, 1992

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
George Welch	Topeka	St. Self Ins. Fund
Mitch Wulfekoth	Topeka	McLullagh Washers & Labels
Bob Totten	Topeka	Ks Contractors Assn.
D. WAYNE ZIMMERMAN	OLATHE	PROF. REHABILITATION MANAGEMENT, INC
BRAD Smart	Topeka	AIA
JANET STUBBS	"	HBAK
Kevin Woods	Topeka	K.A.C.
Anne Smith	Topeka	Ks. Assoc. of Counties
Art Garam	Lee	KS CPA Deacons
Bill Morrissey	Topeka	DHR/Work Comp
Richard W. W. W.	Topeka	GLA
Keith W. W.	Ks. Ins Dept.	
Bill Mitchell	Alliance Ins Co	Hutchinson
PETE FRIEDMANN	SCHAUMBURG, IL.	ALLIANCE OF AMERICAN INSURERS
ALAN COBB	W. d. l. t. e	KS Assoc For Sm. Bus
DON LISKA	TOPEKA	CHURCHILL TRUCK LINES
MARY E. TURKINGTON	Topeka	Ks. Motor Vehicle Assn
Karin Blomquist	Salina	Ks. Cur. Ins.
Margaret Gartner	Topeka	NCCI
Doc T. W.	Wichita	The Palomares Co.
MARK BERTELS	Wichita	FORTIS CORTI
RICHARD THOMAS	TOPEKA	DHR WORK COMP

# **WORKERS COMPENSATION CRISIS AND SOLUTIONS**

By William Hager, President NCCI  
Prepared for  
Workers Compensation Testimony  
Topeka, Kansas  
March 4, 1992

*Attachment 1-1*

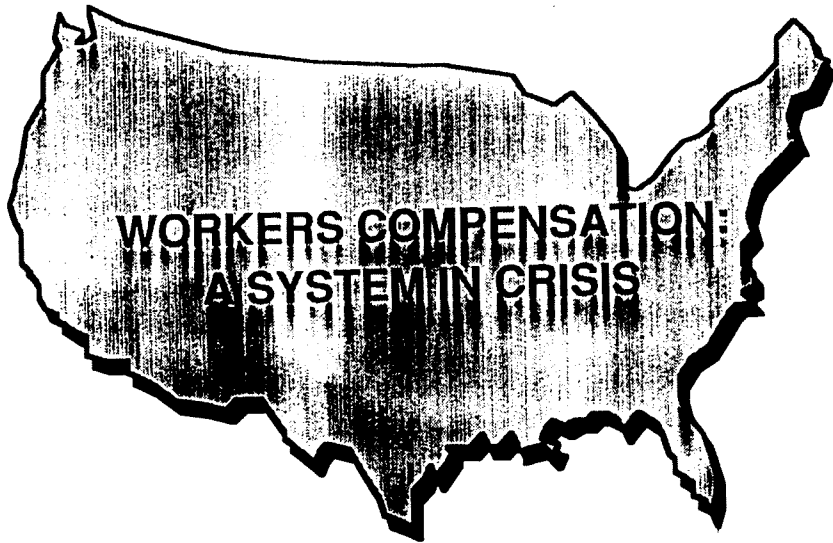
*At 9:24 AM  
3/4/92*

SECTION 1: DATA COLLECTION AND DATA QUALITY

MAJOR FINDING#1

NCCI PROCESSES ALL DATA ACCURATELY

- AGGREGATE RATEMAKING
- CLASS RATEMAKING
- EXPERIENCE RATING
- DETAILED CLAIM INFORMATION



NCCI

1

SECTION 1: DATA COLLECTION AND DATA QUALITY

OVERALL ASSESSMENT

- REPORT IS ACCURATE AND FAIR
- MOST IMPORTANT FINDING IS THAT NCCI DATA IS ACCURATE
- FINDINGS RELATED TO POLICIES, PROCEDURES AND SYSTEMS ARE CRITICAL . . . BUT, ANTICIPATED AND ACCURATE
- REPORT RECOGNIZES MANY OF OUR INITIATIVES TO CORRECT DEFICIENCIES . . . BUT, DID NOT FORMALLY EXAMINE

NCCI

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*Attachment 1-2*  
*1/24/03*  
*9/4/92*



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CONCLUSIONS AND RECOMMENDATIONS

“NCCI RATEMAKING SYSTEM STRIVES TO BE AS ACCURATE AS REASONABLY POSSIBLE AND MUST THEREFORE BE COMPLICATED.”  
 “UNFORTUNATELY, THIS RESULTS IN A PROCESS THAT EVEN ACTUARIES FIND TIME-CONSUMING TO UNDERSTAND IN DETAIL.”

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# WHAT IS WORKERS COMPENSATION?

COMPENSATION FOR WORK-RELATED INJURIES AND DISEASES, INCLUDING:

- WAGE REPLACEMENT
- UNLIMITED MEDICAL COSTS
- REHABILITATION BENEFITS
- SURVIVOR BENEFITS

# HISTORICAL OVERVIEW

1972 COST → \$93  
 1987 COST → \$430  
 1990 COST → \$500

PER EMPLOYEE



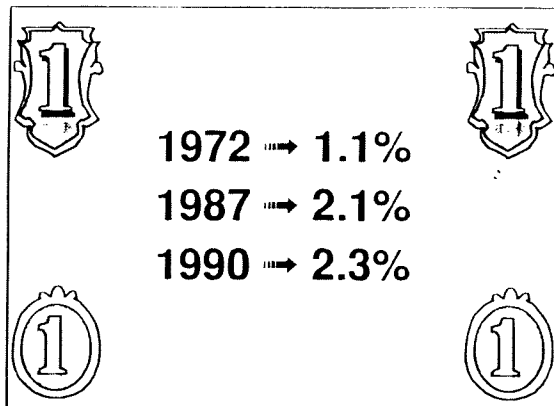
5



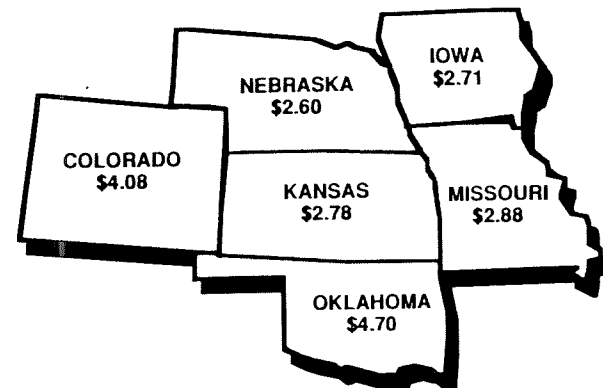
6



## W.C. COST AS PERCENT OF PAYROLL



## AVERAGE EARNED RATES PER \$100 OF PAYROLL



7



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*Attachment 1-3  
 3/14/92  
 J.S. + J.B.*

# INTERSTATE VARIATIONS IN AVERAGE COSTS OF MANUAL RATES FOR 44 TYPES OF EMPLOYERS

STATE	JULY 1, 1987		JULY 1, 1988		JULY 1, 1989	
	MANUAL RATES	RANK AMONG 47 STATES	MANUAL RATES	RANK AMONG 47 STATES	MANUAL RATES	RANK AMONG 47 STATES
COLORADO	2.283	15	2.708	12	3.073	11
IOWA	1.317	37	1.515	37	1.624	37
KANSAS	1.167	42	1.371	41	1.475	39
MISSOURI	1.289	38	1.373	40	1.432	41
NEBRASKA	1.113	44	1.113	44	1.233	45
OKLAHOMA	1.766	28	2.113	25	2.059	27

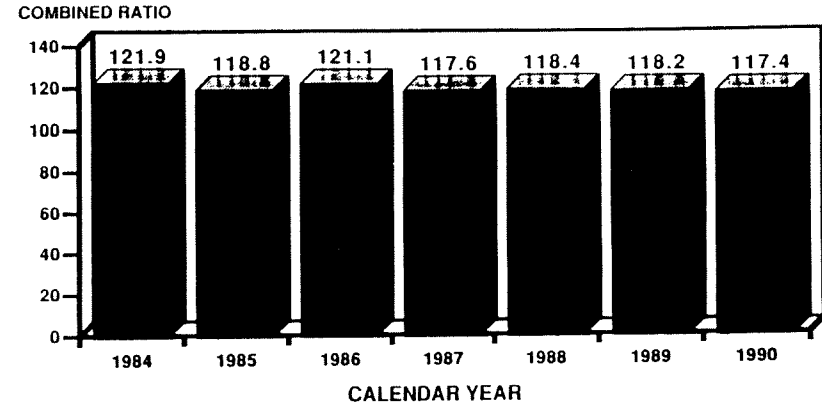
NOTE: THE NATIONAL AVERAGE IS A WEIGHTED MEAN; WEIGHTS ARE EACH STATE'S TOTAL NONAGRICULTURAL EMPLOYMENT IN 1986, 1987, 1988, OR 1989.

SOURCE: JOHN BURTON'S WORKERS' COMPENSATION MONITOR



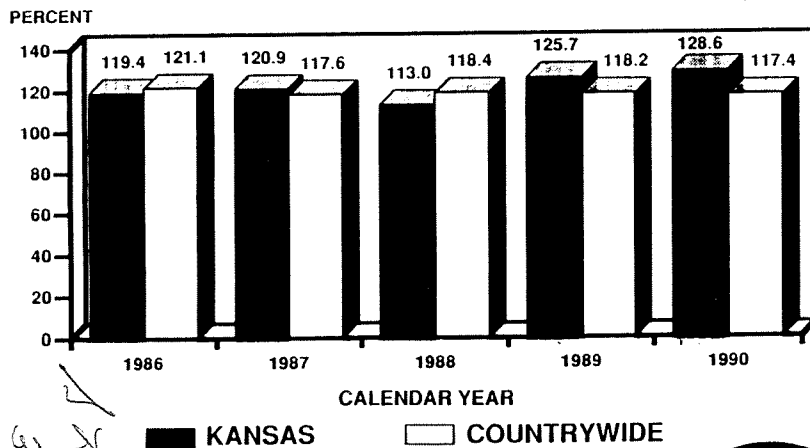
9

# INDUSTRY TOTALS WORKERS COMPENSATION COMBINED RATIO



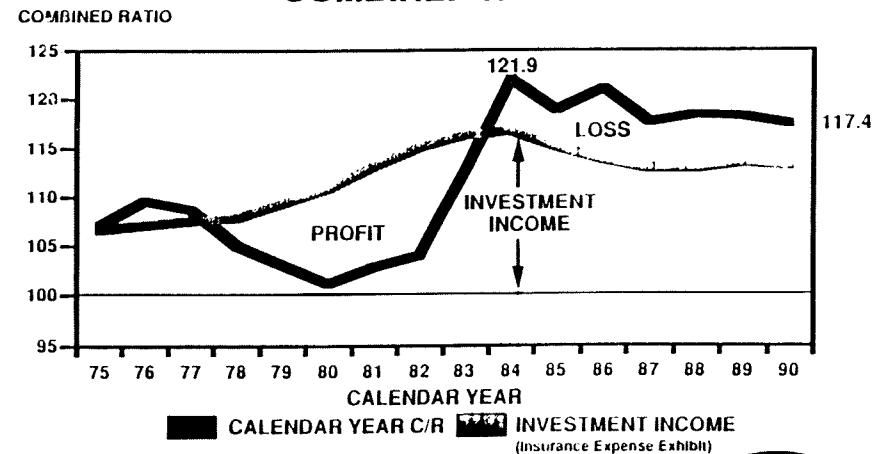
10

# KANSAS CALENDAR YEAR COMBINED RATIOS



11

# INDUSTRY TOTALS WORKERS COMPENSATION COMBINED RATIO

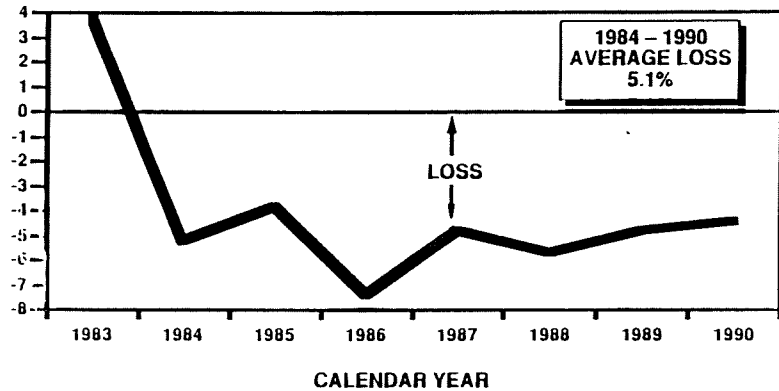


12

*Attachment 14  
A & B  
3/4/92*

## OPERATING GAIN/LOSS % OF EARNED PREMIUM

OPERATING G/L PERCENTAGE



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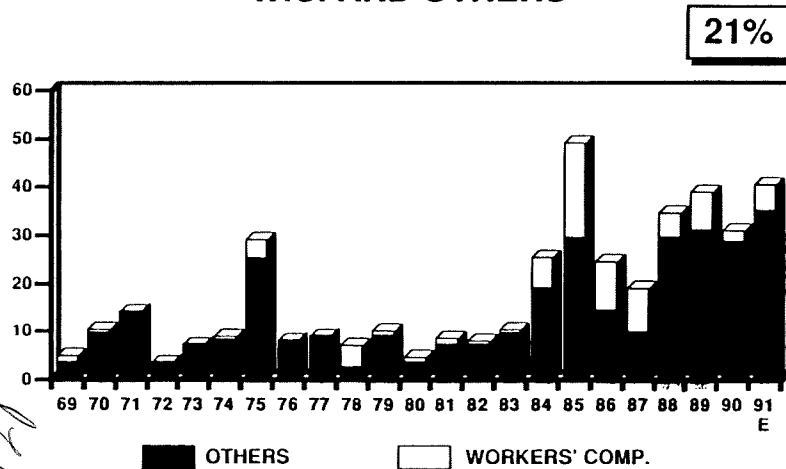
## TEXAS EMPLOYERS' INSURANCE ASSOCIATION SURPLUS 12/31/82=\$110,955,000

YEAR	NET WRITTEN PREMIUM (M)	COMBINED RATIO
1983	188	127
1984	206	120
1985	222	132
1986	297	113
1987	169	114
1988	122	128
1989	76	146
1990	-BROKE-	---
1983-1989	\$1,279	123

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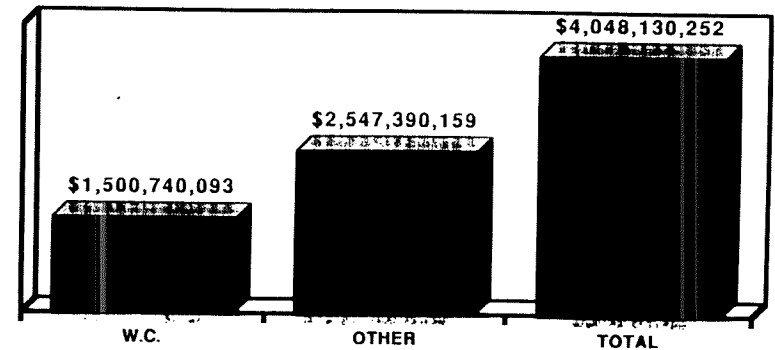
## PROPERTY/CASUALTY INSOLVENCIES W.C. AND OTHERS



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## GUARANTY FUND COSTS NCCI EST.—1969-1989



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SOURCE: AM BEST

SOURCE: AM BEST

*Michaelmont 1-5  
8/14/92  
K.O. JB*



# RESIDUAL MARKET RESULTS

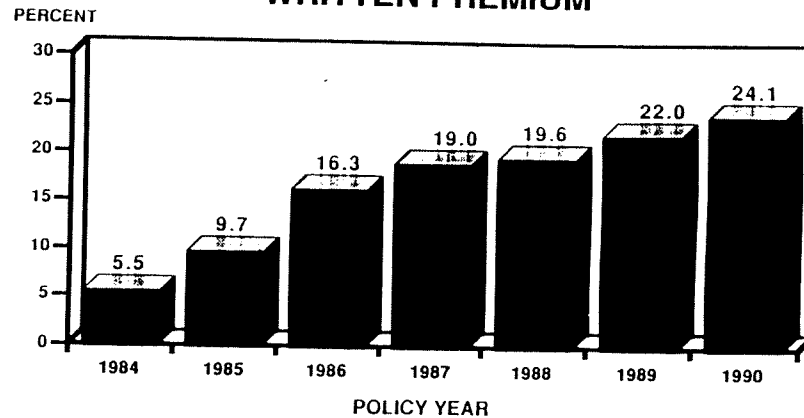


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# RESIDUAL MARKET SHARE

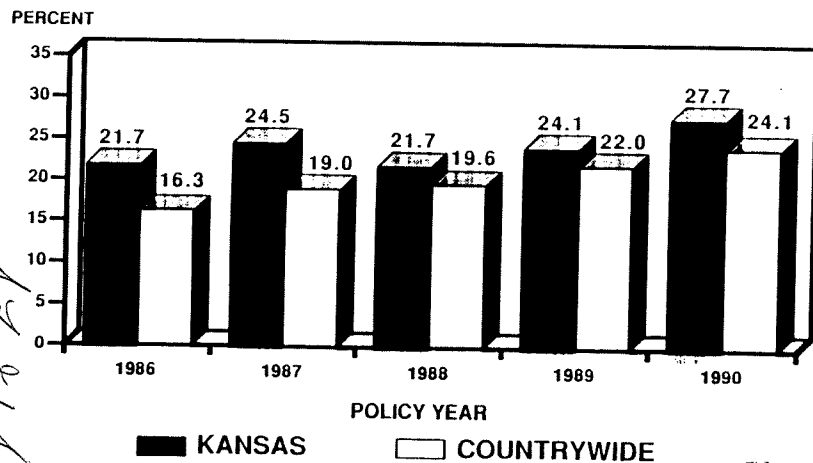
## POOL PREMIUM AS A PERCENTAGE OF DIRECT WRITTEN PREMIUM



18



# RESIDUAL MARKET SHARE

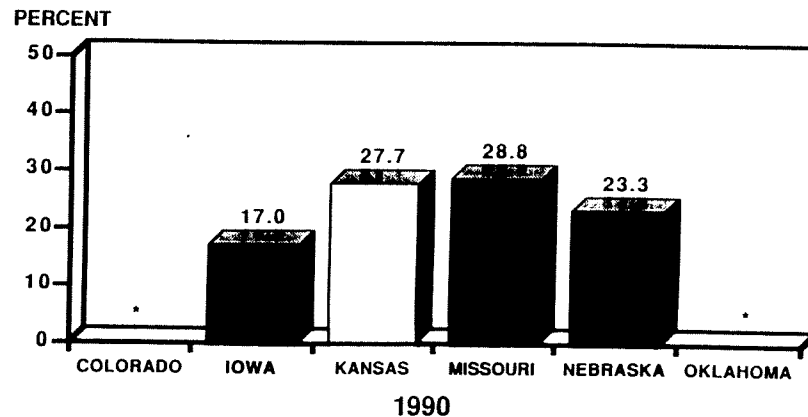


19



# RESIDUAL MARKET SHARE

## CALENDAR YEAR



1990

\* NA DUE TO STATE FUNDS

SOURCE: MANAGEMENT SUMMARY

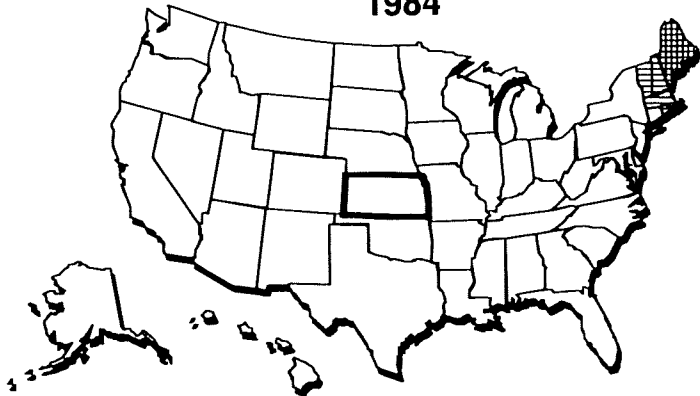
20



Attachment 1-6  
 3/4/92  
 J. J. ...

# RESIDUAL MARKET SHARE

1984



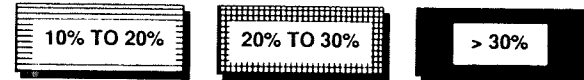
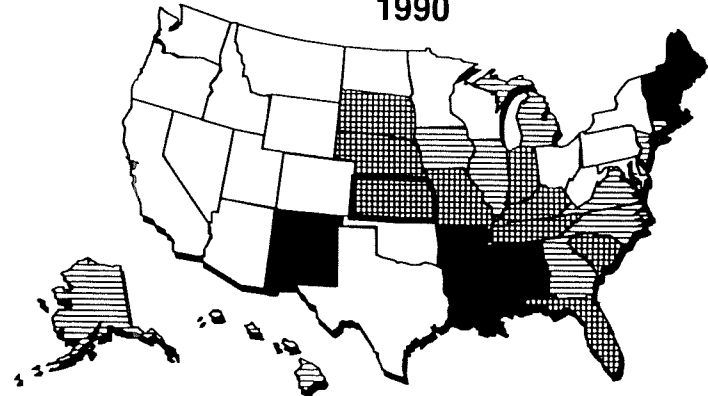
ALL OTHER STATES EITHER HAVE MARKET SHARES LESS THAN 10% OR HAVE POOLS THAT ARE NOT ADMINISTERED BY NCCI.



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# RESIDUAL MARKET SHARE

1990



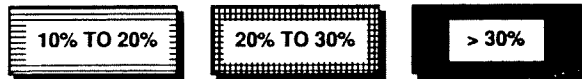
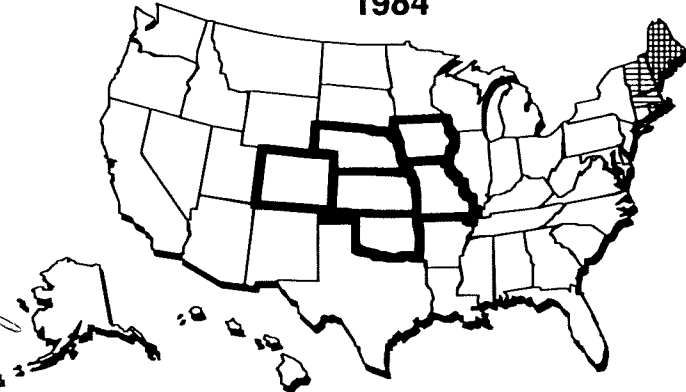
ALL OTHER STATES EITHER HAVE MARKET SHARES LESS THAN 10% OR HAVE POOLS THAT ARE NOT ADMINISTERED BY NCCI.



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# RESIDUAL MARKET SHARE

1984



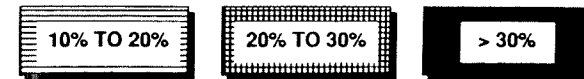
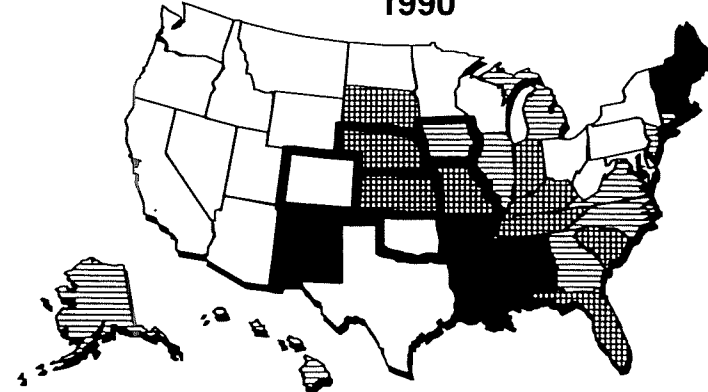
ALL OTHER STATES EITHER HAVE MARKET SHARES LESS THAN 10% OR HAVE POOLS THAT ARE NOT ADMINISTERED BY NCCI.



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# RESIDUAL MARKET SHARE

1990



ALL OTHER STATES EITHER HAVE MARKET SHARES LESS THAN 10% OR HAVE POOLS THAT ARE NOT ADMINISTERED BY NCCI.

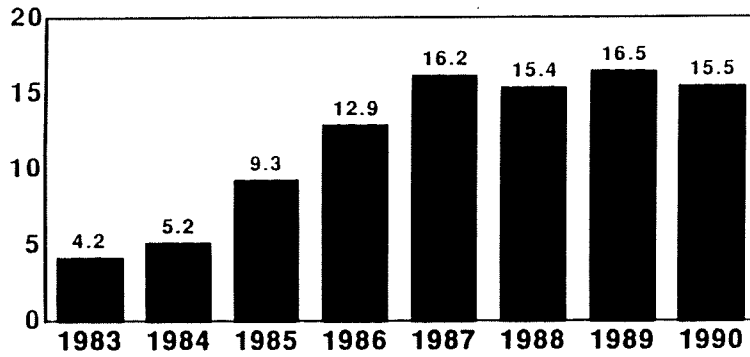


24

Attachment 1-7  
3/4/92  
J.S.G. / J.S.S.

# RESIDUAL MARKET BURDEN

PERCENT

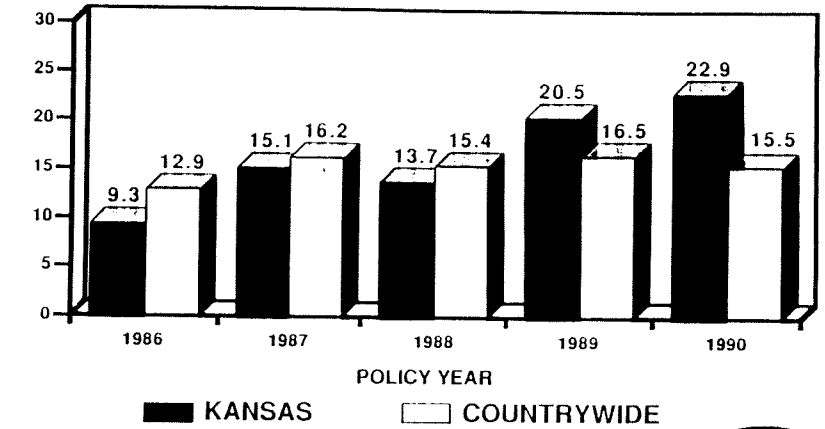


NCCI

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# RESIDUAL MARKET BURDEN

PERCENT



POLICY YEAR

■ KANSAS □ COUNTRYWIDE

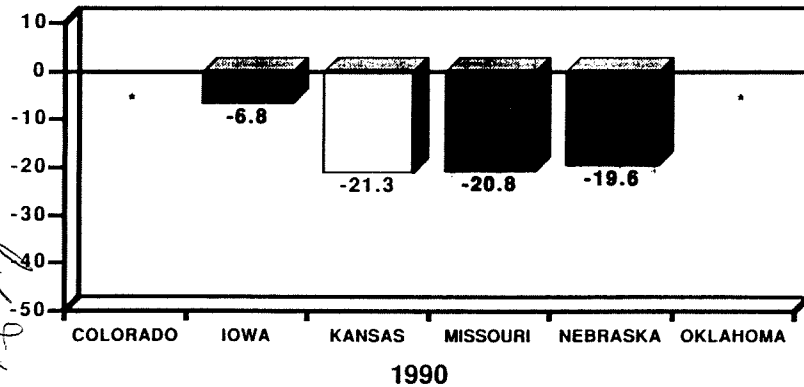
NCCI

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# RESIDUAL MARKET BURDEN

POLICY YEAR

PERCENT



N/A DUE TO STATE FUNDS

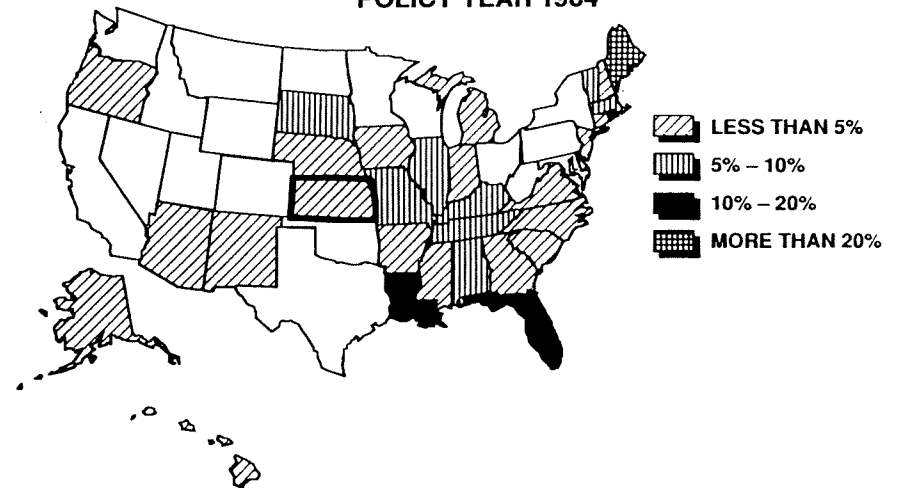
SOURCE: MANAGEMENT SUMMARY

NCCI

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# RESIDUAL MARKET BURDEN

POLICY YEAR 1984

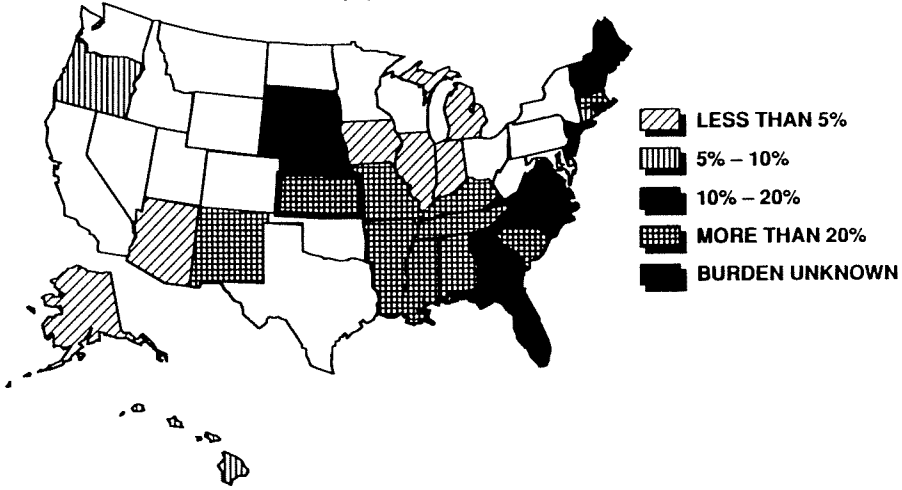


NCCI

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*Attchment 1-8  
3/14/92  
JAG*

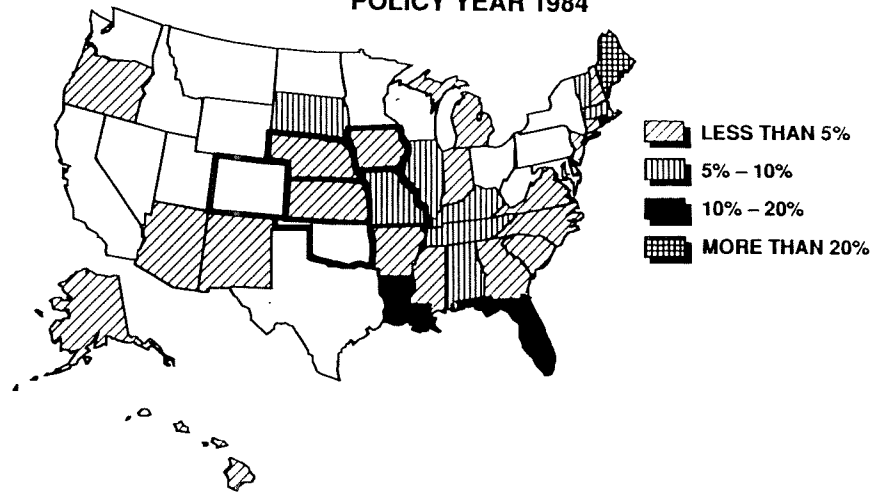
**RESIDUAL MARKET BURDEN**  
POLICY YEAR 1990



**NCCI**

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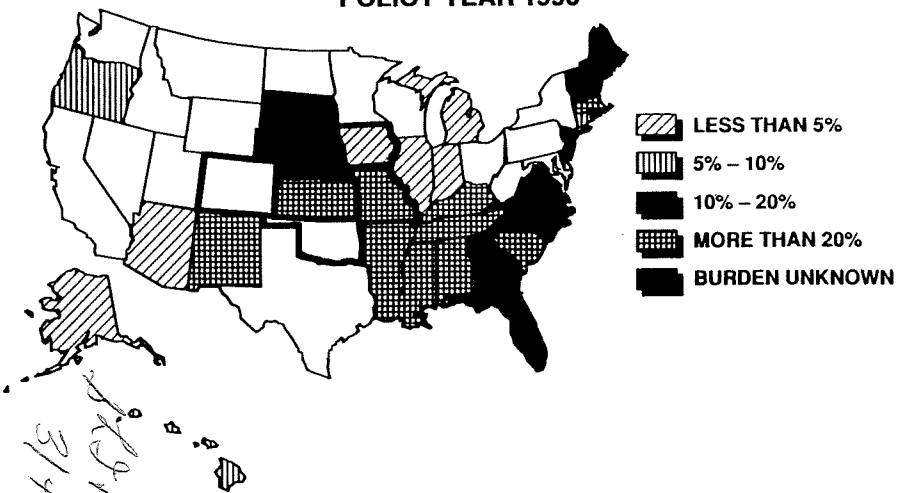
**RESIDUAL MARKET BURDEN**  
POLICY YEAR 1984



**NCCI**

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**RESIDUAL MARKET BURDEN**  
POLICY YEAR 1990

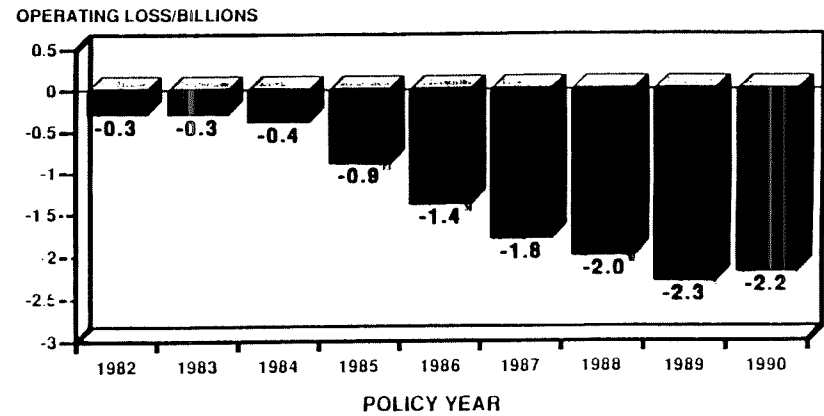


**NCCI**

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*Attachment 1-9  
8/21/88  
3/4/92*

**RESIDUAL MARKET OPERATING GAIN/LOSS**  
ALL POOLS AS OF 6/30/91

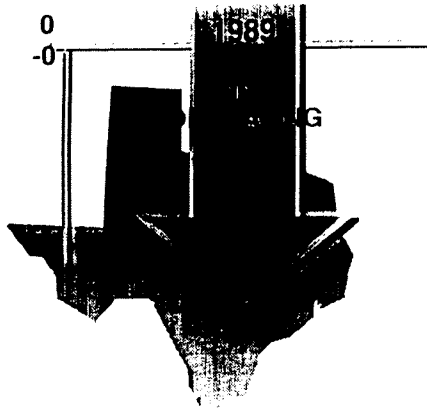


**NCCI**

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# TEXAS POOL

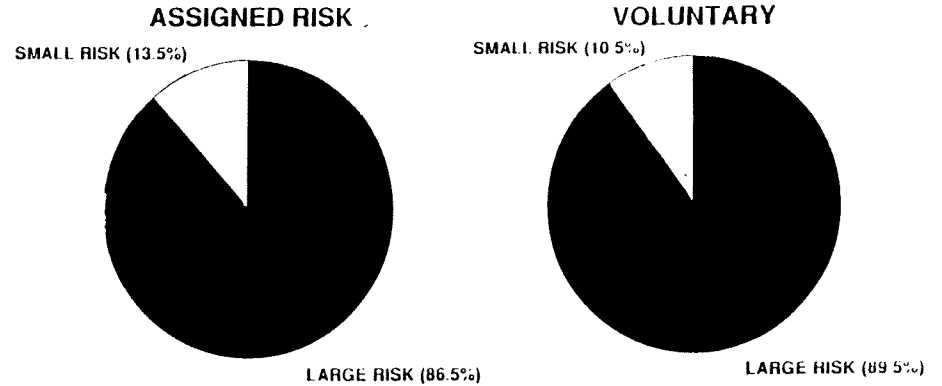
-  ONE LINE
-  ONE POOL
-  ONE STATE
-  ONE YEAR



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# DISTRIBUTION OF PREMIUM BY SIZE OF RISK ASSIGNED RISK VS. VOLUNTARY MARKET



BASED ON LATEST UNIT STATISTICAL PLAN DATA AVAILABLE IN 1991. EXCLUDES STATE FUNDS AND INTERSTATE RISKS. SMALL RISKS ARE RISKS WITH PREMIUM LESS THAN THE EXPERIENCE RATING THRESHOLD.

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# FIVE LARGEST CLASSES BY STATE BASED ON PREMIUM VOLUME POLICY YEAR 1990

KANSAS		COUNTRYWIDE	
CLASS CODE	DESCRIPTION	CLASS CODE	DESCRIPTION
7219	TRUCKING	7219	TRUCKING
8829	CONVALESCENT OR NURSING HOME	9097	RESTAURANTS
6235	OIL OR GAS WELL	8829	CONVALESCENT OR NURSING HOME
5506	STREET OR ROAD CONSTRUCTION	5645	CARPENTRY CONSTRUCTION
3507	AGRICULTURE MACHINERY MFG.	8833	HOSPITAL PROFESSIONAL EMPLOYEES

*W/ adjustment 7/10*  
*8/19 + 8/13*  
*3/4/92*

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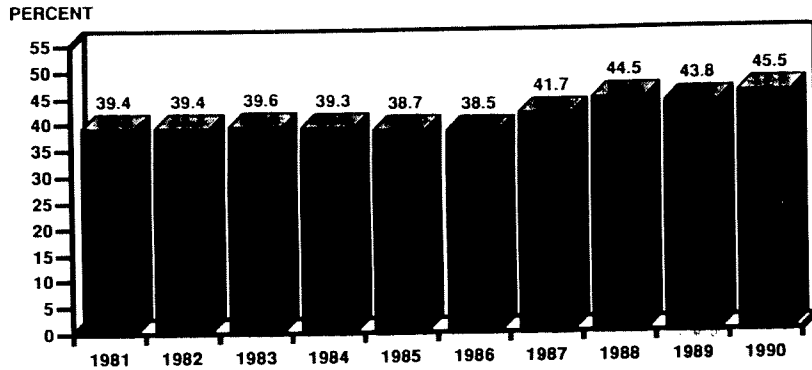
# WHAT'S DRIVING THESE SYSTEM COSTS?

- INCREASING MEDICAL COSTS
- THE EVER-EXPANDING DEFINITION OF JOB-RELATED INJURIES
- ATTORNEY INVOLVEMENT
- RAPIDLY INCREASING COST OF WAGE CLAIMS
- SYSTEM FRAUD

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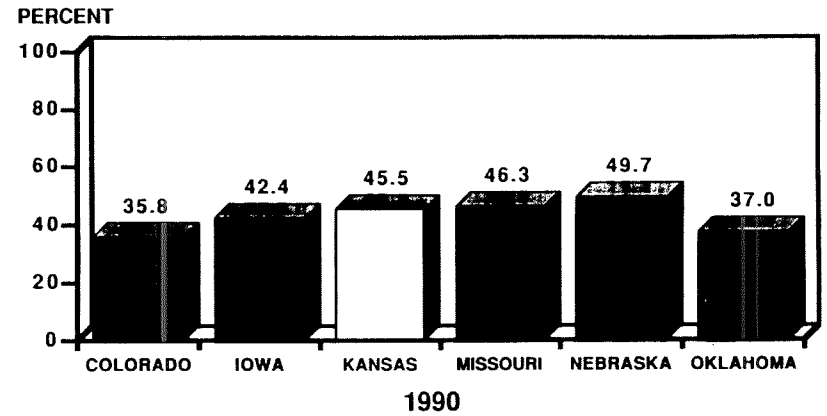
## KANSAS MEDICAL PERCENT OF CLAIM DOLLAR 1981-1990



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## MEDICAL PERCENT OF CLAIM DOLLAR



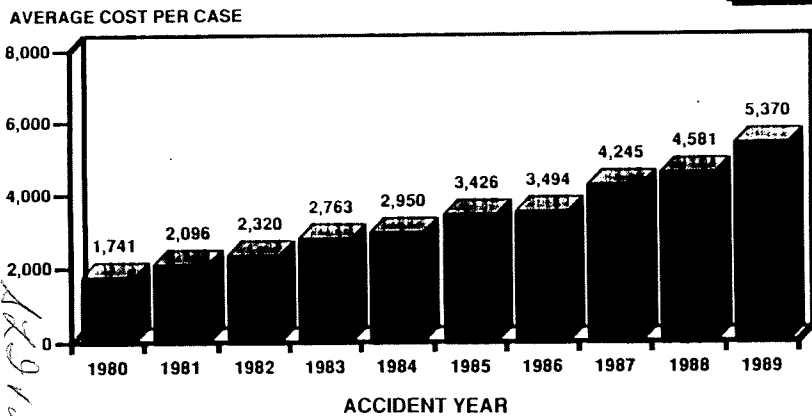
SOURCE: ANNUAL UPDATE OF CALENDAR-ACCIDENT YEAR  
UNDERWRITING RESULTS

NCCI

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## MEDICAL AVERAGE COST PER CASE DCI STATES

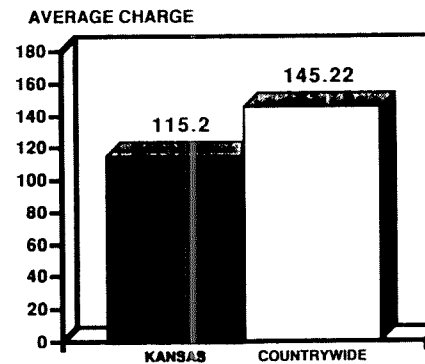
ANNUAL  
INCREASE  
+13%



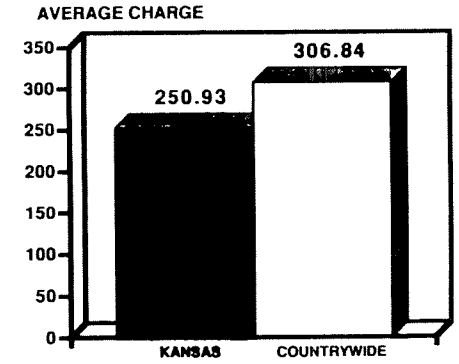
NCCI

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## AVERAGE SEMIPRIVATE DAILY HOSPITAL CHARGES



1980



1990

NCCI

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Attachment 1-11  
1/29/88  
3/4/92

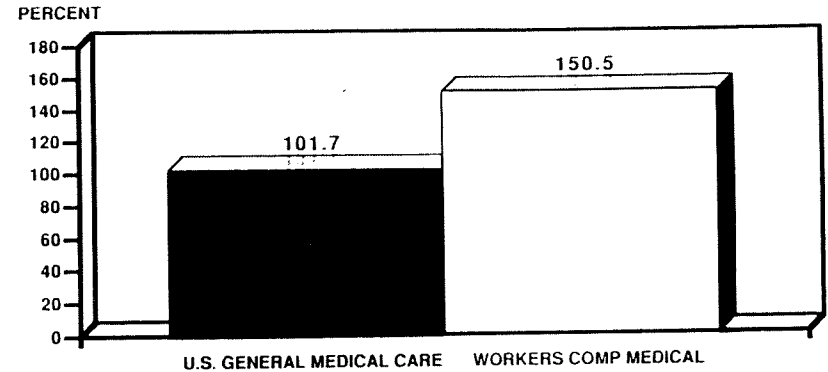
## HOSPITAL DAILY SERVICE CHARGES (INCREASE IN ONLY 1 YEAR 1988-1989)

	1988		1989	
	AVERAGE STAY (DAYS)	COST/DAY (\$)	AVERAGE STAY (DAYS)	COST/DAY (\$)
COUNTRYWIDE	7.3	590.95	7.3	641.99
KANSAS	7.9	474.51	7.9	509.82

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## GROWTH IN U.S. HEALTH CARE EXPENDITURES 1980-1987



SOURCE: JOHN F. BURTON, "BENEFITS AND COSTS CONTINUE TO CLIMB; LED BY HEALTH CARE PAYMENTS," *WORKERS' COMPENSATION MONITOR*, MARCH-APRIL, 1990.

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## MINNESOTA STUDY AVERAGE MEDICAL CLAIM

BLUES

WORKERS  
COMPENSATION

WHY DOES A COMP CLAIM COST TWICE AS MUCH?

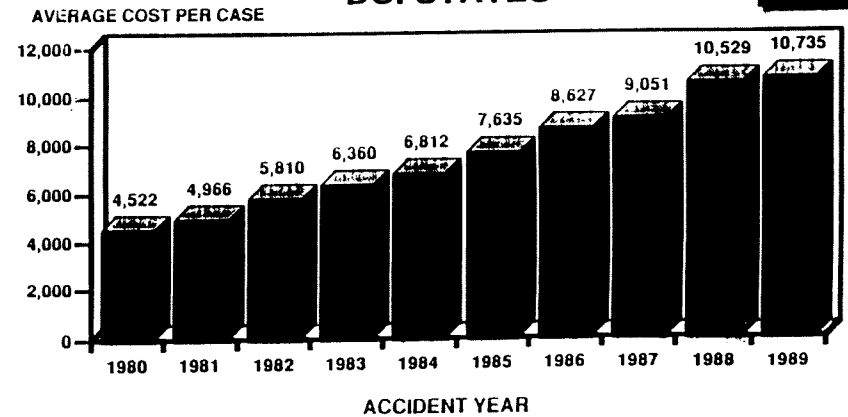
- COST SHIFTING
- COST SAVINGS NOT AVAILABLE FOR WORKERS COMPENSATION

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## INDEMNITY AVERAGE COST PER CASE DCI STATES

ANNUAL  
INCREASE  
+10%

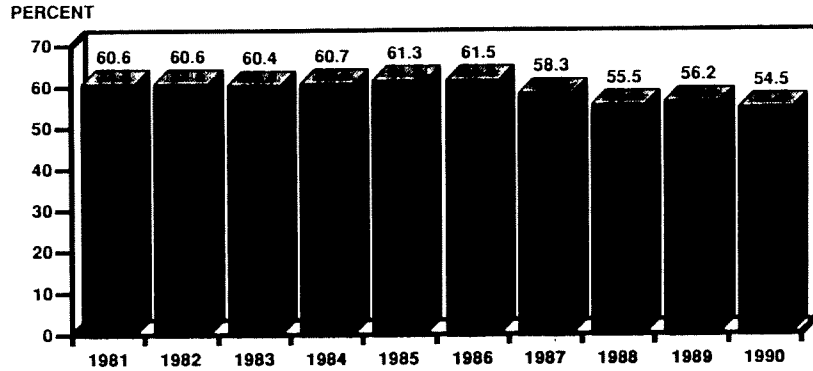


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Handwritten notes: 2/1-1/92, 3/1/92, 4/1/92

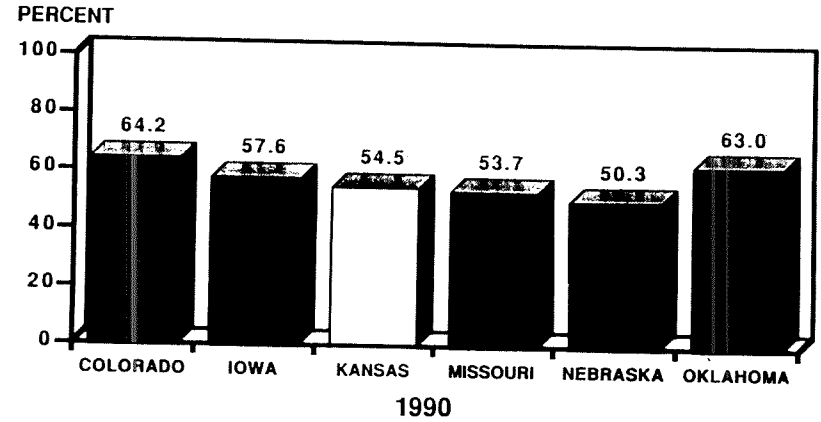
## KANSAS INDEMNITY PERCENT OF CLAIM DOLLAR 1981-1990



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## INDEMNITY PERCENT OF CLAIM DOLLAR

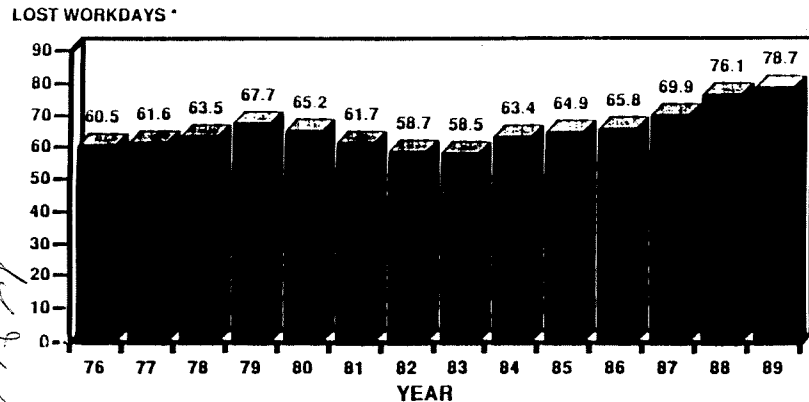


SOURCE: ANNUAL UPDATE OF CALENDAR-ACCIDENT YEAR UNDERWRITING RESULTS

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## OCCUPATIONAL INJURIES LOST WORKDAYS



PER 100 FULL-TIME WORKERS, PRIVATE SECTOR  
BUREAU OF LABOR STATISTICS

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## FREQUENCY BY INJURY TYPE (PER 100,000 WORKERS)

STATE	POLICY PERIOD	FATAL	PERM. TOTAL	PERM. PARTIAL	TEMP. TOTAL	MEDICAL
COLORADO	3/86-2/87	9	22	639	2,050	10,949
IOWA	3/87-2/88	6	3	516	2,275	10,803
KANSAS	1/87-12/87	8	4	702	1,343	10,481
MISSOURI	1/86-12/86	7	1	907	1,872	9,250
NEBRASKA	2/86-1/87	5	6	337	1,192	9,074
OKLAHOMA	6/86-5/87	14	8	1,242	1,171	9,743

SOURCE: NCCI ANNUAL STATISTICAL BULLETIN, 1991 EDITION

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Attached to 1-13  
 3/14/92  
 A.S.



## DISTRIBUTION OF INCURRED BENEFITS BY INJURY TYPE

STATE	POLICY PERIOD	LAW LEVEL	FATAL %	PERM. TOTAL %	PERM. PARTIAL %	TEMP. TOTAL %	MEDICAL %
COLORADO	3/85-2/87	8/1/89	4.0	4.4	58.3	3.5	29.8
IOWA	3/86-2/88	7/1/90	4.3	2.9	43.2	9.2	40.4
KANSAS	1/86-12/87	7/1/90	4.2	1.6	42.6	9.1	42.5
MISSOURI	1/85-12/86	8/28/90	4.8	1.0	43.5	12.7	38.0
NEBRASKA	2/85-1/87	7/10/90	4.1	4.1	39.7	9.9	42.2
OKLAHOMA	6/85-5/87	9/1/90	3.7	3.5	48.2	8.2	36.4

STATUTORY AND ADMINISTRATIVE DIFFERENCES AMONG JURISDICTIONS ARE REFLECTED IN THE DISTRIBUTION.

SOURCE: NCCI ANNUAL STATISTICAL BULLETIN, 1991 EDITION



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## AVERAGE COST PER CASE BY INJURY TYPE

STATE	POLICY PERIOD	FATAL (\$)	PERM. TOTAL (\$)	PERM. PARTIAL (\$)	TEMP. TOTAL (\$)	MEDICAL (\$)
COLORADO	3/86-2/87	186,043	224,863	43,114	972	1,372
IOWA	3/87-2/88	191,342	260,701	21,757	1,090	1,005
KANSAS	1/87-12/87	103,709	58,704	14,896	1,669	999
MISSOURI	1/86-12/86	136,805	129,027	8,849	1,284	916
NEBRASKA	2/86-1/87	112,236	120,707	21,781	1,543	883
OKLAHOMA	6/86-5/87	97,251	143,305	13,289	2,565	1,357

SOURCE: NCCI ANNUAL STATISTICAL BULLETIN, 1991 EDITION



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## INCREASED LITIGATION

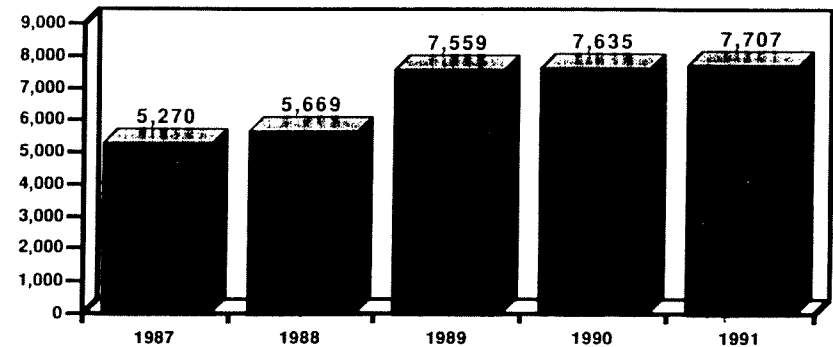
- EVER-EXPANDING DEFINITION OF JOB-RELATED INJURIES
- ATTORNEY INVOLVEMENT
- INCONSISTENT COURT OPINIONS
- ADVERSARIAL PROCEEDINGS
- FRAUD

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## KANSAS

### LITIGATED CASES IN WORKERS COMPENSATION



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*Oct 1-14*  
*3/4/92*  
*4/9/92*

# THREE SOLUTIONS

1. RAISE THE PRICE
2. REDUCE COST THROUGH REFORM
3. PRICE INCREASE PLUS REFORMS

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## COLORADO

EFFECTIVE DATE:	12/1/85	12/1/86	12/1/87	1/1/89	6/1/90
INDICATION:	11.1%	18.8%	23.7%	13.8%	28.3%

THE ENACTMENT OF SB218 VIRTUALLY ELIMINATED A 36% RATE INDICATION FOR '91.

THE 8/1/91 PENDING FILING REFLECTS NO CHANGE (0%) IN LOSS COSTS.

*Attachment 175*  
*1-29-18*  
*3/4/92*

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# NCCI'S ROLE IN REFORM PROCESS

- USE OF DATA AND HISTORICAL STUDIES FOR ANALYSES OF COST FACTORS IN EACH STATE
- PROVIDE A CENTRAL INFORMATION SOURCE TO ADDRESS STATE-SPECIFIC COST GENERATORS
- ASSIST IN DEVELOPING POSSIBLE LANGUAGE FOR USE IN LEGISLATIVE OR RULE CHANGES
- PRICE THE EFFECT OF PROPOSED AND ENACTED LEGISLATIVE MEASURES

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## COLORADO

### KEY POINTS OF THE REFORM BILL (SB218) EFFECTIVE 7/1/91

- STRICTER DEFINITION OF PERMANENT TOTAL DISABILITIES.
- IMPAIRMENT RATINGS TO BE BASED ON AMA GUIDELINES.
- MANDATES MEDIATION FOR CERTAIN DISPUTES.
- IMPLEMENTS TIMELINE FOR CERTAIN DISPUTES.

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## MONTANA

1984	17%
1985	15%
1986	53%

### REFORM

1987	-12%
1988	13%
1989	10%
1990	-3%
1991	9%

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## OREGON REFORM

- INCREASES MEDICAL COST CONTROL PROGRAMS
- ESTABLISHES MORE OBJECTIVE CRITERIA FOR DETERMINING COMPENSABILITY
- TIGHTENS STANDARDS FOR RATING DISABILITIES
- REQUIRES PANEL OF MEDICAL ARBITERS TO SETTLE IMPAIRMENT DISPUTES
- INCREASES SAFETY REQUIREMENTS
- INCREASES MONITORING AND ACCOUNTABILITY

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## OREGON

### AVERAGE CHANGE IN ADVISORY PURE PREMIUMS

JANUARY 1989	5.2%
JANUARY 1990	6.1%

### JULY 1990 REFORM

JANUARY 1991	-12.2%
JANUARY 1992	-11.0%

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## NCCI KANSAS CLAIMS SURVEY MAJOR AREAS OF CONCERN REFLECTED IN RESPONSES

### COVERAGE OF LAW

- SYSTEM DECENTRALIZED, UNCONTROLLED AND INCONSISTENT. ALJ DECISIONS OFTEN INCONSISTENT WITH DIRECTORS' RULINGS.
- PRELIMINARY HEARINGS ARE A PROBLEM. APPEALS RE TTD NOT ALLOWED. ANOTHER HEARING NECESSARY TO TERMINATE BENEFITS.
- MAJORITY OF CASES TAKEN TO HEARING WITH UNFAVORABLE OUTCOME TO INJURED WORKER ARE APPEALED TO DIRECTOR AND TO DISTRICT COURT. DISTRICT COURT IS NOT BOUND BY ANY PRIOR ADMINISTRATIVE DECISIONS.
- FOR APPELLATE COURT TO OVERTURN DISTRICT COURT DECISIONS, THERE MUST BE PROOF THAT THERE IS NOT SUBSTANTIVE EVIDENCE TO SUPPORT FINDINGS OF DISTRICT COURT.

SOURCE: SEPTEMBER 1991—13 CARRIERS PLUS ONE SERVICE PROVIDER.  
(CARRIERS WROTE IN EXCESS OF 66% OF W.C. IN KANSAS IN 1989.)

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*Oct 1-16*  
*3/14/92*  
*J. J. G. B.*

## NCCI KANSAS CLAIMS SURVEY MAJOR AREAS OF CONCERN REFLECTED IN RESPONSES

### COVERAGE OF LAW (CONTINUED)

- OVERALL INCREASE IN COSTS FROM INSTITUTION OF MANDATORY VOCATIONAL REHABILITATION AND THE SUPREME COURT DECISION IN HUGHES vs. ISLAND CONTAINER (DECISION REQUIRES CONSIDERATION OF BOTH REDUCTION OF ABILITY TO WORK IN OPEN MARKET [THIS INFLATES SETTLEMENT VALUE OF CASES] AND ABILITY TO EARN COMPARABLE WAGES).
- IMPAIRMENT DETERMINATIONS BY ALJs ARE TOO SUBJECTIVE.
- COURTS HAVE NOT SETTLED QUESTIONS RE DATE OF ACCIDENT FOR CUMULATIVE TRAUMA INJURIES.
- DECISION IN LOVE vs. McDONALD'S RESTAURANT WILL MAKE IT EASIER TO MEET TEST FOR TRAUMATIC NEUROSIIS.

SOURCE: SEPTEMBER 1991—13 CARRIERS PLUS ONE SERVICE PROVIDER.  
(CARRIERS WROTE IN EXCESS OF 66% OF W.C. IN KANSAS IN 1989.)



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## NCCI KANSAS CLAIMS SURVEY MAJOR AREAS OF CONCERN REFLECTED IN RESPONSES

### INCOME BENEFITS

- TTD ADJUSTED ANNUALLY (BASED ON STATE'S AVERAGE WEEKLY WAGES) = WORKER'S WAGE AT TIME OF INJURY + AVERAGE OF OVERTIME FOR 26 WEEKS PRECEDING THE INJURY. THE VALUE OF FRINGE BENEFITS DISCONTINUED BY THE EMPLOYER MUST ALSO BE INCLUDED IN THE AWW COMPUTATIONS.
- INTENT OF REVISED DEFINITION OF PERMANENT PARTIAL TO ENCOURAGE RETURN TO WORK AND VOCATIONAL REHABILITATION HAS BEEN ERODED BY AWS—SUPREME COURT. ALSO, NO CAP ON TIME ALLOWED TO PREPARE VOCATIONAL REHABILITATION PLAN APPROVAL. (TT BENEFITS CONTINUE THROUGH REHABILITATION PROGRAM).
- TWO-PRONG TEST FOR PPD (LOSS OF LABOR MARKET ACCESS AND LOSS OF EARNING CAPABILITY) WILL CONTINUE TO RAISE INCOME BENEFITS SIGNIFICANTLY.

SOURCE: SEPTEMBER 1991—13 CARRIERS PLUS ONE SERVICE PROVIDER.  
(CARRIERS WROTE IN EXCESS OF 66% OF W.C. IN KANSAS IN 1989.)



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## NCCI KANSAS CLAIMS SURVEY MAJOR AREAS OF CONCERN REFLECTED IN RESPONSES

### MEDICAL BENEFITS

- A FEE SCHEDULE APPROVED DURING LAST LEGISLATIVE SESSION HAS NOT BEEN USED.
- ALTHOUGH EMPLOYER HAS RIGHT TO CHOOSE PHYSICIAN, EMPLOYEE CAN GO TO THE DOCTOR OF HIS CHOICE, BUT IS HELD TO \$350 UNAUTHORIZED CARE LIMIT. (ALJs REPORTEDLY AUTHORIZE FREELY.)
- CHIROPRACTOR AND USE OF PAIN CLINICS—MAJOR CONTRIBUTORS TO COST INCREASES.

SOURCE: SEPTEMBER 1991—13 CARRIERS PLUS ONE SERVICE PROVIDER.  
(CARRIERS WROTE IN EXCESS OF 66% OF W.C. IN KANSAS IN 1989.)



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## NCCI KANSAS CLAIMS SURVEY MAJOR AREAS OF CONCERN REFLECTED IN RESPONSES

### VOCATIONAL REHABILITATION

- NO REGARD TO ELIGIBILITY STANDARDS FOR VOCATIONAL ASSESSMENTS. ASSESSMENTS LONG DRAWN-OUT PROCESS.
- TESTIMONY OF REHABILITATION PROFESSIONALS INFLATE WORK DISABILITY SETTLEMENTS.
- WORKER MAY BE DUE BOARD, LODGING AND TRAVEL TO \$3,500 PER WEEK FOR 36 WEEKS IF NECESSARY TO MOVE RESIDENCE IN ORDER TO PARTICIPATE IN REHABILITATION PLAN.
- THE GENERALLY DEPRESSED ECONOMY HAS GENERATED A CLIMATE FOR EXTENSIVE VOCATIONAL REHABILITATION RETRAINING PLANS.

SOURCE: SEPTEMBER 1991—13 CARRIERS PLUS ONE SERVICE PROVIDER.  
(CARRIERS WROTE IN EXCESS OF 66% OF W.C. IN KANSAS IN 1989.)



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*Attachment 1-19*  
*3/4/92*  
*829185*

# NCCI KANSAS CLAIMS SURVEY

## MAJOR AREAS OF CONCERN REFLECTED IN RESPONSES

### ATTORNEY REPRESENTATIVE

- ATTORNEY FEES PAID BY CLAIMANT AS PERCENT OF RECOVERY GENERALLY 25%—ADMINISTRATIVE COSTS CHARGED TO EMPLOYER.
- ATTORNEY INVOLVEMENT COMES EARLY IN CASES, EVEN WHERE BENEFITS ARE PAID AND THE CASE IS UNCONTESTED.

## THE TIME FOR REFORM IS NOW

- ☞ REFORM MUST BE REAL
- ☞ IT MUST BE STATE-SPECIFIC
- ☞ SHALLOW REFORM IS WORSE THAN NO REFORM

SOURCE: SEPTEMBER 1991—13 CARRIERS PLUS ONE SERVICE PROVIDER.  
(CARRIERS WROTE IN EXCESS OF 66% OF W.C. IN KANSAS IN 1989.)



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*Att # 1-18*  
*3/4/92*  
*J&G JFB*