

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE.

The meeting was called to order by Chairman Donald Dahl at 9:00 a.m. on January 24, 2003 in Room 521-S of the Capitol.

All members were present except: Representative Donald Betts, Unexcused
Representative Bob Grant, Unexcused
Representative Joe Humerickhouse, Unexcused
Representative Todd Novascone, Excused
Representative Bob Grant, Unexcused
Representative Doug Patterson, Unexcused
Representative Rick Rehorn, Unexcused

Committee staff present: Jerry Ann Donaldson, Kansas Legislative Research Department
Rena Jefferies, Revisor of Statutes
June Evans, Secretary

Conferees appearing before the committee: Commissioner Sandy Praeger
Dick Cook, Kansas Insurance Department
Sabrina Wells, Kansas Insurance Department

Others attending: See Attached Sheet

The Chairman called the meeting to order at 9:00 a.m.

Sandy Praeger, Kansas Insurance Commissioner, gave a briefing on Second Injury-Workers' Compensation Fund stating the Commissioner has the responsibility for the administration of this fund.

The Department's Workers' Compensation Program has annual expenditures of approximately \$4.0 million. Paramount among this program's goals are: (1) defending claims against the fund to minimize fund expenditures, and (2) evaluating the future potential liability of the fund to minimize state fee assessments.

1993 legislation eliminated second-injury claims with accident dates after July 1, 1994. The fund does, however, have ongoing responsibility for certification cases and insolvent employer cases. The open caseload has been reduced from 9,527 in 1994 to 4,030 in 2002. This trend will continue with the department's dedicated oversight and management of this fund. This fund is being phased out (Attachment 1).

Dick Cook, Workers Compensation, Kansas Insurance Department, stated the direct earned premiums are starting to increase since coming down after 1993. In 1995 premiums went from a pure priced administered type of rating system where the National Council on Compensation Insurance (NCCI) provided prices for rates for every insurance company to use, to a loss cost figure which made it much more competitive. Loss cost is the loss of any claim in the loss adjustment expenses. The other portion of that is the carriers expense provision which is the loss cost multiplier. Take the loss cost multiplier times the loss cost and that gives the final rate the insurance companies use. In 1995, when the system was changed, insurance rates were more competitive and premiums came down even more. From 1995 through 2000, direct earned premiums came down. Premiums are tied to the economy and the economy was doing well. Now the investment market has gone down; the cost of claims have gone up, consequently the insurance companies are raising their rates. We are starting to see workers compensation insurance being more costly. Last year's data shows \$291M in premiums written by the insurance carriers in the state of Kansas. Anticipated premiums this year are \$300M plus. On top of that we have about \$47M in the group funded pool that the Insurance Department administers. The Division of Workers Compensation handles the self-insured market which is probably about another \$200M. All totaled about \$550M. The combined ratio is important to insurance companies; going above 1 or 1.5 companies usually do not make any money. This is offset with investment income. Investments are down. If carriers can't make money off of their investments and their combined ratio is up above 1.20, they have fiscal problems which necessitates a raise in premiums. The Kansas Assigned Risk Plan is growing this

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE at 9:00 a.m. on January 24, 2003 in Room 521-S of the Capitol.

year. It is anticipated to be \$50M this year. About four years ago it was about \$18M which was the lowest it had been for a number of years. There are concerns about workers compensation. Carriers are not making money on their investments like they have in the past so they are trying to make money off of their underwriting profits; therefore, they have to raise rates. The reinsurance market was hit heavy because of the 9-11 disaster and now it is hard to get reinsurance.

Tom Burgess requested bill introduction concerning liens.

Representative Ruff moved and Representative Yoder seconded to introduce a bill concerning civil procedures; relating to liens; filing time. The motion carried.

The meeting adjourned at 9:35 a.m.. The next meeting will be January 27.



Kansas Insurance Department

Sandy Praeger COMMISSIONER OF INSURANCE

TO: Representative Donald Dahl, Chairperson
and Members
House Committee on Commerce and Labor

FROM: Sandy Praeger, Kansas Insurance Commissioner

DATE: January 24, 2003

SUBJECT: Second Injury – Workers' Compensation Fund

Chairman Dahl and Committee Members, I appreciate the opportunity to share with you the status of the Workers' Compensation Fund. This fund has historically also been known as the "Second-Injury" Fund. Pursuant to K.S.A. 44-566a(b) the Commissioner of Insurance has responsibility for the administration of this Fund.

The Department's Workers' Compensation Program has annual expenditures of approximately \$4.0 million. A relatively small staff of legal and accounting personnel performs the functions associated with paying claims to employees for injuries resulting from compensable accidents and to employers as reimbursement for wrongfully paid claims and shared liability cases.

Paramount among this program's **goals** are the following:

1. Defending claims against the fund to minimize fund expenditures, and
2. Evaluating the future potential liability of the fund to minimize state fee assessments imposed on the insurance market.

The Committee may recall that 1993 Legislation eliminated second-injury claims with accident dates after July 1, 1994. The Fund does however have ongoing responsibility for certification cases and insolvent employer cases.

Over the past few years, the open caseload has been reduced from 9,527 in 1994 to 4,030 in 2002. Through my dedicated oversight and management of this Fund, I am confident that this trend will continue.

Other statistics related to the fund:

- Attorneys' fees paid from the fund in 1994 totaled \$4.3 million. In 2002, only \$284,441 was paid in attorneys' fees from the Workers' Compensation Fund.
- The cost of litigating a claim has consistently declined from \$455.91 per open case to \$70.58 in 2002.
- Total compensation paid has significantly decreased from \$27.6 million in 1994 to just over \$2.0 million in 2002.

The following information pertains to the status of the workers' compensation rate and market conditions in Kansas:

- The Department authorized two new carriers to write workers' compensation insurance in Kansas last year. According to our most recent records there are approximately 250 companies writing Kansas workers' compensation insurance.
- There are currently 15 active group-funded workers' compensation pools in Kansas. It is estimated that these groups will generate \$47.0 million in annual premium.
- The National Council on Compensation Insurance (NCCI) estimates that there are approximately 54,600 voluntary and assigned risk market employers paying \$300.0 million in annual Kansas workers' compensation premium.
- The most recent rate filing, effective January 1, 2003, is estimated to result in an overall 1.9% increase, which equates to a \$5.7 million increase to Kansas employers. The approved rates were reduced almost \$6.2 million from the rates originally filed by NCCI due to an amendment of the assigned risk premium data used in the filing.
- We completed the second year of a four-year contract for the NCCI, Liberty Insurance Corporation and Continental Western Insurance Company servicing the Kansas Workers' Compensation Insurance (KWCI) Plan. In 2000, bids were reviewed for operation of the KWCI Plan and a contract was awarded to NCCI, Liberty Insurance Corporation and Continental Western Insurance Company to service the KWCI Plan for the next four years. The KWCI Plan's annual

premium is about \$52.0 million, and the policy count is around 13,000.

- The KWCI Plan peaked during 1993 with approximately \$143.0 million in annual premium and 21,000 policies.
- NCCI's 2000 Policy Year Underwriting Results Experience valued as of December 31, 2001 shows the Kansas combined ratio, combination of loss ratio, expense ratio and dividend ratio, to be 120.6%. This figure does not include investment income. Anticipating a 6.0% average return on investment, the carriers would probably still lose \$14 on every dollar of earned premium. The 1999 policy year combined ratio was 121.6%.



Kansas Insurance Department

Sandy Praeger COMMISSIONER OF INSURANCE

Key KID Staff Members

Robert Tomlinson—Assistant Insurance Commissioner. Bob served 10 years in the Kansas House of Representatives, where he served as House Insurance Committee Chairman. He is a former principal, special education teacher and counselor. Bob lives in Roeland Park.

Jerry Wells—Director of Government Affairs. Jerry is the former executive director the Koch Crime Institute and is a former Douglas County District Attorney. He lives in Lawrence.

John Campbell—Chief Legal Counsel. John most recently served as Senior Deputy Attorney General for the State of Kansas.

Scott Holeman—Communications Director. Scott served in the same capacity for Kansas House Speaker Kent Glasscock and for the Kansas Department of Revenue. He lives in Lawrence.

Neil Woerman—Director of Information Technology. Neil previously served as Director of Budget and Special Projects for Kansas Attorney General Carla Stovall. He lives in Topeka.

Karen Rippel—Assistant to the Commissioner. Karen is the former Executive Assistant to Senate President Dave Kerr. She lives in Topeka.

Jim Welch—Director of Consumer Assistance. Jim is a former Senior Deputy Attorney General in the Kansas Attorney General's Office, where he specialized in consumer protection issues. He also served for many years as Shawnee County Assistant District Attorney. He lives in Topeka.

Deann Tiede—Human Resources Director. She is a former Human Resource Specialist at the Kansas Department of Administration and was also Assistant to the Chief of Staff for Governor Bill Graves. She lives in Topeka.



Kansas Insurance Department

Sandy Praeger COMMISSIONER OF INSURANCE

FY 2001 Fact Sheet

Total fees, taxes and assessments collected by the Kansas Insurance Department in FY 2001: \$86,522,119

Total tax dollars contributed to the State General Fund in FY 2001: \$68,027,621

Total workers compensation paid in calendar year 2001 to Kansas employees who re-injured a previous injury in the workplace: \$3,302,712

Insurance dollars recovered for Kansas consumers in FY 2001: \$8,947,856

Total number of consumer complaints filed and closed in FY 2001: 7,511

Fraud unit investigation opened in 2001:	121
Total fraud cases closed in 2001:	107
Cases submitted for prosecution in 2001	0
Criminal cases filed in 2001	0

Summary of Insurance companies doing business in Kansas:

	Kansas based	Non-Kansas Based	Kansas Fraternal Societies	Total Companies
Life	12	627	30	669
Fire and Casualty	31	920	0	951
HMO	17	1	0	18
TOTAL	60	1,548	30	1,638

FY 2001 Statewide Firefighters Relief Fund: \$5,518,463

Agents licensed Statewide:
21,900 (Resident)
33,768 (Non-resident)

Sandy Praeger
Commissioner of Insurance

THE KANSAS WORKERS COMPENSATION FUND

K.S.A. 44-566(a)

January 16, 2003

Year End Report
2002

I. General Information

A. Nature & Purpose

The purpose of the Workers' Compensation Fund is to encourage the employment of persons handicapped as a result of specific impairments by relieving employers, wholly or partially, of workers' compensation liability resulting from compensable accidents suffered by these employees. K.S.A. 44-567(a). *Morgan v. Inter-Collegiate Press*, 4 Kan. App. 2d 319, 606 P.2d 479 (1980).

Responsibility for payments from and administration of the Fund lies with the Commissioner of Insurance. K.S.A. 44-566a(b).

B. Coverage

There are three basic areas of coverage for employers and employees under the Kansas Workers' Compensation Fund. The first is second injury coverage, the second is insolvent/uninsured employers, and the third is reimbursement to employers on an overpayment of benefits.

1. Second Injury

In order for an employer to be relieved of liability by the Kansas Workers' Compensation Fund, either in whole or in part, the employer must establish that it hired or retained a handicapped employee after acquiring knowledge of the preexisting handicap or that the employee intentionally misrepresented the existence of the handicap.

The statutes and case law broadly construe handicap. Second injury cases are broken down into "but for" and contribution cases.

a) "But For" Cases

K.S.A. 44-567(a)(1) provides:

Whenever a handicapped employee is injured or is disabled or dies as a result of an injury which occurs prior to July 1, 1994, and the administrative law judge awards compensation therefor and finds 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; and

Assuming the employer has the requisite knowledge of the employee's handicap, recovery from the workers' compensation fund is 100% pursuant to this section. This test is whether the injury or resulting disability, not the accident, probably or most likely would not have occurred "but for" the preexisting impairment. *Barke v. Archer Daniels Midland Co.*, 223 Kan. 313, 573 P.2d 1025 (1978). Medical evidence is not required to establish a "but for" case against the fund.

b) Contribution Cases

K.S.A. 44-567(a)(2) provides:

subject to the other provisions of the workers compensation act, whenever a handicapped employee is injured or is disabled or dies as a result of an injury and the administrative law judge finds 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 administrative law judge shall determine in a manner which is equitable and reasonable 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.

If the handicapped employee's impairment contributes causally to the injury or disability, the Workers' Compensation Fund may be liable for a portion of the compensation and benefits awarded to the claimant. The apportionment of the award is based on the amount of disability attributable solely to the second injury and the extent that the preexisting impairment contributed to the second injury.

2. Insolvent/Uninsured Employers

K.S.A. 44-532a states:

(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 payments to be made to the employee in accordance therewith.

The Workers' Compensation Fund may be required to pay benefits to injured workers where the employer has no insurance and is financially unable to pay compensation to the injured worker or in situations where the employer cannot be located to pay such compensation. The Fund currently has approximately 507 open insolvent employer cases. There have been 851 cases in this area since 1990.

3. Reimbursement

Reimbursement pursuant to K.S.A. 44-556(d), K.S.A. 44-534a(b), and K.S.A. 44-569(c) all encompass paying a respondent for money expended during a workers' compensation case that should not have been paid for a variety of reasons.

These amounts are certified to the Director of Workers' Compensation and then paid by the Fund with no litigation or involvement by the Workers' Compensation Fund before being ordered to pay.

C. Future Liability

Pursuant to legislation enacted July 1, 1993, the Kansas Workers' Compensation Fund has no liability for any dates of accident after July 1, 1994, in the second injury category of coverage. In October of 1996, the Fund received a favorable decision on this issue from the

Kansas Court of Appeals. *Shain v. Boeing*, 22 Kan. App. 2d 913 (1996), held that the Fund has no liability for claims arising after July 1, 1994. Please refer to page ten under Legislative Issues, Post-July 1, 1994 cases. The Fund remains liable for uninsured/insolvent employers and reimbursement cases.

II. Financial

A. *Financial Overview*

The Workers' Compensation Fund was created and exists pursuant to K.S.A. 44-566a and receives its funding from assessments against insurance carriers and self-insurers pursuant to K.S.A. 44-566a(b). Prior to April 1998, the Fund received payments from employers where an employee was killed in an otherwise compensable accident, but in which there were no eligible dependents pursuant to K.S.A. 44-570 (non-dependent death).

Receipt Analysis

FY2002

Assessment Receipts	\$ 398,206.28
Gen. Fund Entitlement	0.00
Fine and Penalties Receipts	\$57,877.27
Misc. Reimbursements	<u>\$189,811.20</u>
TOTAL RECEIPTS	\$645,894.75
Previous Year Carryover	\$23,703,441.74
Canceled Checks	<u>22,702.53</u>
TOTAL FUNDS AVAILABLE	\$33,778,262.76

FY2001

Assessment Receipts	\$3,163,437.63
Gen. Fund Entitlement	0.00
Fine and Penalties Receipts	\$67,075.00
Misc. Reimbursements	<u>\$72,200.15</u>
TOTAL RECEIPTS	\$3,302,712.78
Previous Year Carryover	\$25,881,339.91
Canceled Checks	<u>84,360.82</u>
TOTAL FUNDS AVAILABLE	\$29,268,413.51

FY2000

Assessment Receipts	\$9,073,811.89
Gen. Fund Entitlement	0.00
Non-Dependent Death Receipts	0.00
Misc. Reimbursements	<u>\$306,161.96</u>
TOTAL RECEIPTS	\$9,379,979.95
Previous Year Carryover	\$24,340,025.34
Canceled Checks	<u>58,257.47</u>

Disbursement of Expenditures

FY 2002

Administrative Costs	1.14%
Compensation Costs	44.27%
Vocational Rehabilitation	.06%
Medical Costs	41.15%
Other Operating Expenses	7.12%
Attorney Fee Expenses	<u>6.26%</u>
	<u>100%</u>
Outside Counsel	\$284,441.41

FY 2001

Administrative Costs	.77%
Compensation Costs	50.61%
Vocational Rehabilitation	.42%
Medical Costs	35.56%
Other Operating Expenses	6.76%
Attorney Fee Expenses	<u>5.88%</u>
	<u>100%</u>
Outside Counsel	\$320,857.71

FY 2000

Administrative Costs	.85%
Compensation Costs	50.07%
Vocational Rehabilitation	.36%
Medical Costs	37.86%
Other Operating Expenses	5.33%
Attorney Fee Expenses	<u>5.53%</u>
	<u>100%</u>

TOTAL FUNDS AVAILABLE \$33,778,262.76

Outside Counsel \$425,528.94

FY1999

Assessment Receipts \$7,561,070.07
Gen. Fund Entitlement 0.00
Non-Dependent Death Receipts 0.00
Misc. Reimbursements \$15,370.82
TOTAL RECEIPTS \$7,576,440.89
Previous Year Carryover \$28,239,375.86
Canceled Checks 30,623.18
TOTAL FUNDS AVAILABLE \$35,846,439.93

FY1999

Administrative Costs .78%
Compensation Costs 57.09%
Vocational Rehabilitation .53%
Medical Costs 31.57%
Other Operating Expenses 3.41%
Attorney Fee Expenses 5.81%
100%
Outside Counsel \$722,493.29

FY1998

Assessment Receipts \$21,386,891.41
Gen. Fund Entitlement 0.00
Non-Dependent Death Receipts \$166,500.00
Misc. Reimbursements \$197,222.48
TOTAL RECEIPTS \$21,750,613.89
Previous Year Carryover \$25,391,737.96
Canceled Checks 163,709.24
TOTAL FUNDS AVAILABLE \$47,306,061.09

FY1998

Administrative Costs .81%
Compensation Costs 63.15%
Vocational Rehabilitation .50%
Medical Costs 28.12%
Other Operating Expenses 2.04%
Attorney Fee Expenses 5.38%
100%
Outside Counsel \$1,015,579.60

FY1997

Assessment Receipts \$26,640,951.56
Gen. Fund Entitlement 0.00
Non-Dependent Death Receipts \$154,000.00
Misc. Reimbursements \$200,045.43
TOTAL RECEIPTS \$29,994,996.99
Previous Year Carryover \$26,980,038.72
Canceled Checks 224,121.52
TOTAL FUNDS AVAILABLE \$54,199,187.23

FY1997

Administrative Costs .89%
Compensation Costs 62.28%
Vocational Rehabilitation .80%
Medical Costs 28.02%
Other Operating Expenses 1.62%
Attorney Fee Expenses 6.39%
100%
Outside Counsel \$1,825,810.17

FY1996

Assessment Receipts \$33,010,078.80
Gen. Fund Entitlement 0.00
Non-Dependent Death Receipts \$203,500.00
Misc. Reimbursements \$170,378.94
TOTAL RECEIPTS \$33,383,957.74
Previous Year Carryover \$31,469,560.82
Canceled Checks 246,193.51
TOTAL FUNDS AVAILABLE \$65,099,712.27

FY1996

Administrative Costs .88%
Compensation Costs 64.20%
Vocational Rehabilitation .90%
Medical Costs 24.96%
Other Operating Expenses 1.00%
Attorney Fee Expenses 8.06%
100%
Outside Counsel \$3,053,561.45

FY1995

Assessment Receipts \$42,352,785.43
Gen. Fund Entitlement 0.00
Non-Dependent Death Receipts 0.00
Misc. Reimbursements 154,600.63
TOTAL RECEIPTS \$42,507,386.06
Previous Year Carryover 37,515,761.63
Canceled Checks 193,152.69
TOTAL FUNDS AVAILABLE \$80,216,300.38

FY1995

Administrative Costs 9.62%
Compensation Costs 62.93%
Vocational Rehabilitation 1.12%
Medical Costs 25.79%
Other Operating Expenses 0.54%
100.00%
Outside Counsel \$4,241,869.88

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FY1994	
Assessment Receipts	\$63,951,643.95
Gen. Fund Entitlement	0.00
Non-Dependent Death Receipts	92,500.00
Misc. Reimbursements	<u>207,845.97</u>
TOTAL RECEIPTS	\$64,251,989.92
Previous Year Carryover	16,716,488.98
Canceled Checks	<u>0.00</u>
TOTAL FUNDS AVAILABLE	\$80,968,478.90

FY1993	
Assessment Receipts	\$47,987,400.35
Gen. Fund Entitlement	0.00
Non-Dependent Death Receipts	64,750.00
Misc. Reimbursements	<u>139,334.49</u>
TOTAL RECEIPTS	\$48,191,484.84
Previous Year Carryover	1,587,744.72
Canceled Checks	<u>42,541.31</u>
TOTAL FUNDS AVAILABLE	\$49,821,770.87

FY1992	
Assessment Receipts	\$35,961,471.11
Gen. Fund Entitlement	0.00
Non-Dependent Death Receipts	166,500.00
Misc. Reimbursements	<u>162,906.20</u>
TOTAL RECEIPTS	\$36,290,877.31
Previous Year Carryover	14,390.64
Canceled Checks	<u>20,392.62</u>
TOTAL FUNDS AVAILABLE	\$36,325,660.57

FY1991	
Assessment Receipts	\$17,030,545.83
Gen. Fund Entitlement	3,930,000.00
Non-Dependent Death Receipts	129,500.00
Misc. Reimbursements	<u>94,490.41</u>
TOTAL RECEIPTS	\$21,184,536.24
Previous Year Carryover	3,758,996.78
Canceled Checks	<u>22,563.44</u>
TOTAL FUNDS AVAILABLE	\$24,966,096.46

FY1990	
Assessment Receipts	\$17,137,820.37
Gen. Fund Entitlement	4,000,000.00
Non-Dependent Death Receipts	55,500.00
Misc. Reimbursements	<u>177,766.44</u>
TOTAL RECEIPTS	\$21,371,086.81
Previous Year Carryover	3,767,063.29
Canceled Checks	<u>2,485.56</u>
TOTAL FUNDS AVAILABLE	\$25,140,635.66

FY1994	
Administrative Costs	11.01%
Compensation Costs	63.58%
Vocational Rehabilitation	1.28%
Medical Costs	23.51%
Other Operating Expenses	<u>0.62%</u>
	100.00%

Outside Counsel \$4,343,495.23

FY1993	
Administrative Costs	12.36%
Compensation Costs and Vocational Rehabilitation	65.26%
Medical Costs	21.62%
Other Operating Expenses	0.76%
Refunds	<u>0.00%</u>
	100.00%

Outside Counsel \$3,837,959.67

FY1992	
Administrative Costs	10.96%
Compensation Costs	68.36%
Medical Costs	19.98%
Other Operating Expenses	0.70%
Refunds	<u>0.00%</u>
	100.00%

Outside Counsel \$3,579,980.88

FY1991	
Administrative Costs	11.45%
Compensation Costs	69.49%
Medical Costs	18.10%
Other Operating Expenses	0.96%
Refunds	<u>0.00%</u>
	100.00%

Outside Counsel \$2,645,923.33

FY1990	
Administrative Costs	12.15%
Compensation Costs	66.93%
Medical Costs	19.91%
Other Operating Expenses	0.97%
Refunds	<u>0.04%</u>
	100.00%

Outside Counsel \$2,402,730.45

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Included in Administrative Costs are attorney's fees, deposition costs, court costs, investigation fees, medical reports, funeral costs.

III. Tail Liability/Actuarial Report

A. *Estimate of Kansas Workers' Compensation Fund's Liability*

Because of the nature of workers' compensation cases, it is impossible to be certain as to the specific dollar amount of tail liability. For litigated cases that have left future medical open, liability on behalf of the Fund will continue until the claimant's death. In addition, liability for insolvent/uninsured employers remains active even after July 1, 1994. The reimbursement statutes also remain in effect.

B. *Actuarial Report of 6/30/94*

Former Commissioner Ron Todd requested that Casualty Actuaries, Inc., complete an estimate of the Kansas Workers' Compensation Fund unfunded liability. The report was received in December of 1994.

The president of the actuarial company summarized the findings of the report in a May 18, 1995 letter. His findings were that over the remaining life of the Fund, the best estimate of liability was:

1. Implied Claims	\$174,808,000
2. Offset for Date Purge	50,787,000
3. Potential Claims	<u>64,304,000</u>
Total Unpaid Liability	\$289,899,000

This figure is a "best estimate" and is on the low end of a medium liability range from \$264,842,000 to \$313,258,000. Our liability for this upcoming year will be over \$40 million. Anticipated payout would be through the year 2014.

There were two problems with the information provided by the Insurance Department that was used by Casualty Actuaries, Inc., to come to these conclusions. The first was that there were several purges of the computer information on Workers' Compensation without a hard copy being kept anywhere. This made it impossible to determine what the liability had been during those years, thus creating a gap in the information used to determine future liability. The second problem was that the company was provided incorrect information from the Insurance Department's database when the computer started adding columns instead of printing separately. This was discovered and was compensated for early in the process.

IV. Legislative Issues

A. *Status of Post-July 1, 1994 Cases*

As of 1/15/98, the Kansas Workers' Compensation Fund has virtually eliminated all July 1, 1994 cases that had been previously open. This is based on the impleadings that have included a date of accident.

The Workers' Compensation Fund's position has always been that the clear intent of the legislature was to limit second injury Fund liability to accidents occurring prior to July 1, 1994.

B. *Fund Dismissal*

There are four recognized ways to settle Fund liability in a case. The first is an award pursuant to K.S.A. 44-569. Second is a joint petition and stipulation pursuant to K.A.R. 51-3-16. Third is a settlement hearing. Finally is a blanket dismissal by the parties. In addition to these, former Senator Mike Harris sponsored a time limit for prosecuting a case against the Fund. If no action has been taken against the Fund by the other parties within a given time period, the Administrative Law Judge has the authority to dismiss the Fund with prejudice upon motion by the Fund.

V. Conclusion

The Commissioner of Insurance has been and will continue to be committed to improving the administration of the Kansas Workers' Compensation Fund in all areas of concern.